

**ZONING BOARD OF APPEALS**  
TOWN OFFICES/BUCKLEY CENTER  
AVON, MASSACHUSETTS 02322-1496  
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TOWN OF AVON

2023 JUL 31 P 2:34

TOWN CLERK

**June 28, 2023**

Mr. Kevin Foster, Chairman announced that the Zoning Board of Appeals will be conducted via hybrid participation. Mr. Kevin Foster, Chair called the meeting to order at 7: p.m. Each Board member acknowledged their presence at the meeting by responding in the affirmative during the roll call.

The following were present:

Appeals Board Members: Kevin Foster, Edward Mekjian, Jeffrey Tibnam, Chuck Comeau

Members not present: Carl Walker, Gerri Picardi

Visitors: Brian Dunn, President/Project Director of MBL Land Development & Permitting, Corp.; Paul Cusson, Delphic Associates; Muhamad Itani, Rami Itani, Brian Winner, Town Council; Lynne McKenney, Recording Secretary

Abutters: Pam Pacheco, Danny Nguyen, Judith Leggitt, Robert Pillarella, Linda & Owen Carrel, Tracy & Tony Pavao, and Richard Jordan via Zoom.

**Continued Public Hearing:  
Case # 22-7, 253 Page Street**

The Public Hearing for Case # 22-7, 253 Page Street, Windsor Heights, LLC opened at 7:20 p.m.

Kevin Foster, Chair read in the public hearing notice below:

Notice is hereby given that a Public Hearing will be resumed in the Town Offices, Town of Avon, Massachusetts on **Wednesday, June 28, 2023, at 7:15 pm** to hear the below petition requesting a Comprehensive Permit under M.G.L. 40B. The hearing will be held at the Avon Town Hall, 65 East Main St. Avon, MA. Please visit <https://www.avon-ma.gov/node/63/agenda/2022> for updates on hybrid participation and Covid protocols.

**Case # 22-7** Petitioner, Windsor Heights, LLC by Muhammad Itani, Manager of 253 Page Street, Avon, MA. originally requested approval of a Comprehensive Permit under M.G. L. 40B, at 253 Page Street, and known as Assessors Map C6, Block 1, Plot 4, Avon, Massachusetts for 24 condominium units, in which 6 units (25%) would be designated as affordable units for median income applicants. Notice of Public Hearing for that project was published in The Brockton Enterprise on October 31, 2022, and November 8, 2022. Since the public hearing opened on November 15, 2022, the Petitioner has revised its proposal to 12 single-family homes in which 3 units (25%) will be designated as affordable.

Materials relative to this matter may be viewed by appointment prior to the hearing at Town Offices or found on the Town Website via <https://www.avon-ma.gov/zoning-board-appeals/pages/windsor-heights-0> the following link:

## AVON ZONING BOARD OF APPEALS

Kevin Foster, Chairman

*Ad placement in The Brockton Enterprise on June 20, 2023 and June 27, 2023*

Kevin Foster, Chair read in the Avon Board of Health memo dated June 28, 2023. The following comments in regards to the development of Windsor Heights located at 253 Page Street.

- The applicant shall be responsible for trash removal and should encourage recycling amongst residents.
- There shall be a deed restriction on each unit that corresponds to what the septic system was designed for.
- The Board of Health has not received any new septic plans for twelve single-family homes. The applicant shall meet all requirements of 310 CMR 15.000 and follow the required permitting processes. In the proposed layout, it does appear that all twelve homes will tie into one leaching field. The Board of Health would request that each dwelling has an individual septic tank. We also ask the Zoning Board of Appeals to require a third party to review the septic plans prior to final submission to the Avon Board of Health. Due to time constraints and manpower in the Avon Board of Health, a third party review would significantly assist in the approval process.

Paul Cusson from Delphic Associates discussed the road will be constructed by the Avon Rules and Regulations for it to be considered a town road. The applicant decided to move forward with the twelve single family houses of which three will be affordable houses. There will not be a septic system for each house. Explanation to come. Ed discussed the water issue and student impact on schools. Paul Cusson discussed studies regarding the number of school-aged children. Muhammed Itani discussed the school impact study. Paul Cusson and Muhammed Itani explained that they are open for negotiations. The intention is to have 6 four bedrooms and 6 three bedrooms. Brian Dunn, MBL Land Development discussed that the market determines the number of bedrooms. Paul Cusson explained that there will be a sidewalk and the driveways will be 22" wide.

Brian Winner, Town Counsel previously explained that the project has substantially changed since the public hearing notice was advertised. The applicant obtained an updated certified abutter list and advertised an updated public hearing notice describing the new project. The updated public hearing notice was sent through certified mail to the abutters. Brian Winner, Town Counsel stated that moving forward, this would reset the Zoning Board of Appeals members who can vote on the project. The Zoning Board of Appeals members agree with this decision.



Moving forward the project will have to go through peer review and will need to be updated through the Massachusetts Housing Authority regarding the number of affordable units. The ZBA members agreed that the applicant may proceed with sending the updated plans to the Town of Avon's engineer (JDE, Civil, Inc.) for peer review. Brian Winner, Town Counsel will write the agreement.

Chuck Comeau made a motion for the applicant to consult with JDE, Civil, Inc., seconded by Edward Mekjian. No discussion on the motion. A roll call vote was taken. Vote unanimous. The motion carries.

The board members discussed the following:

- Lot size (3.5 acres (152, 460) of which 140, 460 is buildable)
- Cul-de-sac size 40' wide x 422'
- Length of the road (422')
- Parking spaces (24 outside); garage?
- Sanitation
- Set back from the street 20'
- Width of roadway; width of street opening
- Traffic engineer, Ron Mueller involvement
- Check into multi-family Zoning By-Law
- Roadway to be by subdivision standards
- An independent engineer will need to review
- 80% median income for 25% of units (3 units) 3-4 bedrooms (approx.. cost \$ 300,000)
- Other units (approx. 2500-3500 square feet) approx. cost (\$ 8-900,000)
- Data needed from school department regarding Avon students
- Service impact to the town (growth)
- HOA to set up drainage/landscaping/septic easement to septic tank

The Zoning Board of Appeals will further discuss the drainage easement; crosswalk; access to the septic, storm water treatment; water table; grades raised around the slab; retaining wall; traffic study; septic failure (HOA is responsible); line of site (check on actual numbers).

Questions/Concerns from Abutters:

Ms. Tracy Pavao and the abutters are concerned with the trucks having a time limit on when they are allowed to enter the sites. The board members discussed a time limit regarding this. This has been an ongoing issue with the current project at Joanna Estates on Page Street.

Mr. Carrell and the abutters are concerned with the water pressure. The water pressure is low in that area currently. They feel the project will make the water pressure worse. Mr. Carrell would like there to be a Water Study conducted. Mr. Carrell would like more information regarding Safe Harbor which refers to conditions under which a ZBA's decision to deny a comprehensive permit will qualify as consistent with local needs and not be overturned by the HAC, provided the conditions were met prior to the date that the comprehensive permit was filed with the ZBA.

Order of business for the next meeting agenda regarding Windsor Heights project:

- Questions regarding Safe Harbors
- Traffic report from an engineer

Edward Mekjian made the motion to continue the Public Hearing for Windsor Heights to July 31, 2023, at 6:30 p.m. per the applicant's request, seconded by Jeffrey Tibnam. No discussion on the motion. A roll call vote was taken. Vote unanimous. The motion carries.

**Warrant:**

A motion was made by Edward Mekjian to pay the warrant in the amount of \$ 1,780.00 to Mead Talerman & Costa, LLC professional services for Case # 22-3, Brave Estates; Case # 22-7, Windsor Heights; and Joanna Estates seconded by Jeffrey Tibnam. No discussion on the motion. A roll call vote was taken. Vote unanimous. The motion carries.

**Minutes:**

There were no meeting minutes approved.

The next Zoning Board of Appeals meeting is scheduled for July 25, 2023.

A motion was made by Edward Mekjian to adjourn the meeting at 9:11 p.m., seconded by Jeffrey Tibnam.

Approved by:



Kevin Foster, Member

**List of Documents**

- June 28, 2023, meeting agenda
- Site Plans – Windsor Heights