

CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD
Wednesday February 8, 2023 6:30 P.M.
VIA ZOOM WEB CONFERENCE

MINUTES

1) **Call to Order of Regular Meeting.**

Chairman Stephen DeFeo called the meeting to order at 6:30 pm and read the following statement into the record:

Pursuant to Chapter 186 of the General Laws, An Act Relative to Extending Certain State of Emergency Accommodations, this meeting/public hearing will be conducted via remote means. For this meeting, members of the public who wish to watch the meeting may do so on their televisions by turning to Comcast Xfinity Channel 8 or Verizon FiOS Channel 32 or view on a computer or cell phone via LIVE Stream on <https://www.methuentv.org/methuen-government-tv-live-stream/> No in-person attendance of members of the public will be permitted, and public participation in any public hearing conducted during this meeting shall be by remote means only. If the public would like to participate in the public hearing, please email your questions/comments by noon on the meeting day to kbcowell@ci.methuen.ma.us. The questions/comments will be read during the proceedings and responded to accordingly. Members of the public who wish to speak during the public hearing can register here: <https://www.methuentv.org/govmeet/> by noon on the meeting day.

2) **Roll Call.**

Members in Attendance

Stephen DeFeo, Chairman	Present
Michael Comei, Secretary	Present
Brian Boes, member	Present
Ronald Hatem, member	Absent
Neal Hunter, member	Present
Shadi Kassis, member	Present
Heather Plunkett, member	Present

Others in Attendance

Kathleen Colwell, Director of Planning
Nancy Hudson, Community Development Confidential Secretary
Carolyn Murray, Special Counsel for the Community Development Board
Petitioners and Representatives of Petitioners

3) **Acceptance of the Minutes.**

a) January 11, 2023

MOTION: Brian Boes moved to accept the meeting minutes of January 11, 2023.

SECOND: Heather Plunkett

DISCUSSION: None

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

4) **Consent Agenda.**

For the record there was nothing on the Consent Agenda.

5) **Zoning Issues:**

For the record there were no Zoning Issues.

6) **Form A Plans.**

For the record there were no Form A Plans.

7) **6:30 PUBLIC HEARING:** 4 Broadway – Special Permit for a drive-through

Chairman Stephen DeFeo read the legal notice into the record.

Attorney Arthur Broadhurst, representative of the applicant explained that the applicant was proposing to build a 2,265 square foot Starbucks at the corner of Chase Street and Broadway. This pad in the plaza was already approved for a different fast food restaurant that was never built. The site meets all the required parking for zoning. They are seeking a Special Permit for a drive through window and a second Special Permit to serve food before 6:00 am. They are proposing drive through hours of 5:00 am – 10:00 pm and interior hours of 5:00 am – 8:00 pm. They met with the neighborhood group who were amenable to those hours.

Nick Facendola of Level Design Group, engineer for the applicant, presented the Site Plan. He explained that he worked on this site when the entire property was permitted about 10 years ago. The site consists of three buildings, two existing buildings and the main strip mall type building with multiple tenants that is approximately 54,000 square feet. There is also an existing bank with a drive through window that is 2,265 square feet in size. They are seeking a permit for the development of this previously permitted pad site for a Starbucks. The bank and the restaurant originally permitted for this site were each 3,200 square feet. Subsequently, there had been a modification to the Site Plan whereby the bank building was increased to just under 5,000 square feet for use as a medical building and included some modifications to the originally approved parking layout. Employee only parking spaces were permitted in the rear of the main building. To date the spaces have not been striped but they

Approved by the Community Development Board 06/14/2023
will be part of the development of the Starbucks. Some of the changes to the approved Site Plan include:

- Reduction in the building footprint of 935 square feet
- The drive thru aisle has been modified to allow for additional drive through queuing and a pass through aisle.
- The parking configuration around the building has been modified to provide an outdoor patio seating area.
- The handicapped parking spaces have been relocated to the south side of the building.
- The dumpster pad location has been relocated from a parking island adjacent to Chase Street to be adjacent to the drive through aisle.
- The reduction of parking spaces is offset by the reduction in the size of the building and the 9 employee spaces located at the rear of the main building.
- The routing of the water, gas and electric has been modified to provide connections to the proposed utility room.

There will be two entrances to the drive through that will merge to a single lane. There will be signage and menu boards and ordering kiosks in the drive through area. There will be all new landscaping consisting of low lying shrubs along the building perimeter. The curbing around the building will be precast concrete curb and the remainder of the curb around the perimeter of the site will be bituminous pavement curbing, which exists at the property today. Traffic flow will remain the same. All the existing entrances will be maintained. The main entrance is off of Broadway and the secondary entrance is off of Chase Street. There are also two entry and exit points at Stafford Street. The only change to the existing Site Plan is a curb modification behind the main building to add a parking space. The site received a zoning variance in 2014 for a reduction in parking which requires them to maintain 230 parking spaces, which they are providing. The utilities will be connected to existing stubs which were installed when the site was developed. Gas and electric will be connected to the nearest utilities at the front of the site. Very minimal grading will be done to make sure they move all of the water adequately around the drive through. There are no proposed modifications to the existing stormwater system.

Neil Hunter asked where Starbucks would receive deliveries.

Mr. Facendola responded that there are no loading facilities. They receive small deliveries in the front of the building from a box truck or other small vehicle.

Chairman Stephen DeFeo opened the floor for public participation.

Kathleen Colwell read a letter into the record from the Methuen Arlington Neighborhood dated January 19, 2023. She also noted that the project received approval from the Zoning Board of Appeals with limitations on the hours as noted by Attorney Broadhurst earlier.

Attorney Broadhurst stated that they would take a look at the problem with the grading at the entrance, as requested in the letter.

The following person spoke in favor of the project.

Linda Soucy, 14 Kirk Street: Ms. Soucy is in favor of the project with the conditions agreed to at their neighborhood meeting. She noted the location of the dumpster and asked if it would be enclosed.

Mr. Facendola responded that the dumpster would be enclosed with a decorative block style enclosure or fencing other than chain link.

For the record, nobody else spoke in favor.

For the record, nobody spoke in opposition.

Chairman DeFeo entertained a motion to close the public hearing.

MOTION: Michael Comei so moved.

SECOND: Neal Hunter

DISCUSSION: None

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

MOTION: Michael Comei moved to approve the Special Permit for a Drive Through with hours of operation of 5:00 am to 10:00 pm with the condition that the dumpster enclosure is not chain link fencing.

SECOND: Heather Plunkett

DISCUSSION: None

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

8) **CONTINUED PUBLIC HEARING: 269 Broadway & 2 Osgood Street – Methuen Center Smart Growth Overlay District Plan Approval (Deadline: 02/22/23)**

Meer Cousens, engineer for the applicant outlined the updates to the plan since the last meeting. The only item left to submit is a traffic impact report which is forthcoming.

Ms. Cousens recollected that at the last meeting the Board expressed concern about the number of on site parking spaces for the development. They are proposing 18 residential units, so according to the Zoning Ordinance, they are required to provide one parking space per unit plus one guest parking space per five spaces, for a total of 22 spaces required to comply with the residential component. They are providing 19 parking spaces on the property. To address the parking concern from the Board, they have purchased a parcel at 52 Osgood Street, which is a 24 space parking lot, which is located approximately 500 feet to the west of the project site. Three of the spaces on that lot will be designated for the exclusive use of the proposed development. They will now fully comply with the requirement for the residential portion of the mixed use building. They are still requesting a waiver for the required six spaces for the commercial portion. She pointed out that there are six on street public parking spaces directly adjacent to the site on Broadway, as well as approximately 170 public parking spaces within a 500 foot radius.

To address the Fire Captain's concern about the side setback, they revised the building size to increase the southern side setback from 2.9 feet to 6.3 feet. They have also revised the plan to provide additional privacy features from the abutting properties. They have added a 6 foot high fence and arborvitae along the southern property line. Additionally, the balconies on the southern face of the building have been eliminated.

Tom Glavin, of LYF Architects discussed the changes made to the building.

- They have improved their landscaping plan and defined all of the vegetation.
- The windows on the south elevation have been eliminated on the upper 20' section of the building.
- Evergreen arborvitae has been added along the southern property line to provide screening from abutting properties.
- A 6' composite fence has been added along the southern property line.
- Existing deciduous trees on the surrounding abutting properties will provide additional screening during the summer months.
- All existing vegetation located at the southeast portion of the site will be kept to the maximum extent practicable
- The staircase on the ground floor has been moved to accommodate the increased side setback.
- The square footage of the units was adjusted when the depth of the building was adjusted.
- They added a brick veneer and darker bay windows to address the concerns of the Historic District Commission.
- The fourth story has been set back approximately seven feet from the face of the building.

The Board continued to have concerns about the parking.

Jim Hanley of Civil Design Consultants reminded the Board that at the initial meeting they provided evidence of parking throughout that neighborhood at public lots or along the street front. Overwhelmingly, there was still a concern about the parking. They have now found a way to address the concern as best as they can, based on the location that they have. He understands the concern, but they are now complying with the residential portion of the Zoning Ordinance. This will be using parking similar to how parking is used throughout all of downtown.

Heather Punkett stated that the problem is putting units in a small area.

Mr. Hanley responded that they are sympathetic to that but the challenge that they have is the economic challenge. They have a lot that has been vacant for a long time. In order to make this lot productive, there are certain financial realities that drive the size of the building and the parking that is required for it.

Michael Comei stated that he believes the parking must be on site to be considered compliant. He does not believe parking a block away is compliant with the Zoning ordinance.

Meera Cousens pointed to Section VIII.1.b of the Zoning Ordinance which allows for parking within 500 feet of the site in the Central Business District.

Chairman DeFeo responded that Section VIII.1.b.a says that parking for multi-family homes must be within 200 feet and this would be considered a multi-family home.

Mr. Hunter noted that this project is double the density that is allowed, and he has not heard the reasoning for the request for increased density.

Mr. Galvin responded that because four units are required to be affordable, they have a reduced income and the other units need to make up that cost for the cost of construction. Construction costs at this time are \$400 - \$500/ sq ft. This is a huge expense for the owner, and to do that, they really need the additional units.

Chairman DeFeo pointed out that waivers are not typically granted for economic reasons. He also noted that this Board cannot grant a waiver to reduce the required 25' Fire Lane. That is the jurisdiction of the Fire Chief. He expressed concern about the turning radius for the trash truck and the traffic congestion at the intersection of Broadway and Osgood Street, stating that the concern is not just the on site parking that is an issue, it's the density of the project. Waiving the density is not a good precedent for the Board to set.

Kathleen Colwell noted that an Affordable Housing Plan has been submitted, which will be sent in to DHCD if this project is approved.

Jim Hanley suggested that the Board could consider that because of the particular lot we are dealing with, the fact that it's been vacant for a long time, regardless of the uses that may go forward there some day, there would still be the same challenges, and because of the lot and the location, and the significant investment that the developer is willing to make in the City, there could be a public benefit to new construction on that site.

Chairman DeFeo responded that the overlay district is based on Chapter 40R, which looks at existing buildings, and saving an existing building might justify doubling the density. This is a new structure on vacant land.

Johan Lopez, developer, spoke for the record. He stated that he has done whatever he can to make this project work. He has done whatever he can to make the downtown better since he moved to Methuen twelve years ago. He took a high risk by purchasing this property, hoping that the City would be motivated to see something on the property and hoping he would get support because nobody has cared to do something on this corner in so many years. At this point he doesn't know what he can do to accommodate all the Boards and make something a reality. He said they have been working on this for four or five months. They made the changes that the Historic District Commission asked for and they supported those changes. He's wondering what this Board is looking for them to do on this site.

Chairman DeFeo explained that we have a set of regulations and if a project fits the regulations, we move forward. The Board has the ability to waive some of the regulations, and if it makes sense, then the Board will move forward with waiving the regulations. What he is hearing from the Board members in this case is that there is an issue with the density and the parking. He said that the way he is reading the Zoning Ordinance for parking, it's 200 feet from the lot line, not 500 feet as Ms. Cousens stated.

Mr. Lopez responded that he made an investment to address the Board's concerns, because at the previous meeting, density was not brought up. Everyone was talking about parking. In his opinion, he addressed that.

Heather Punkett pointed out that Mr. Lopez could make the building smaller and be in full compliance without having to request waivers. She doesn't think that economic considerations are a good enough reason for the Board to grant waivers.

Mr. Hanley explained that there's a certain density required to obtain financing for the project. If the project is scaled back, they won't be able to create enough revenue to offset the costs. They have not structured this to maximize profit. What they heard from the Board previously is that the issue was parking, not density.

Kathleen Colwell noted that she received comments from the Engineering Department dated February 8, 2023 and from the Historic Planner dated February 7, 2023. She also noted that both the Community Development Board and the Historic District Commission had asked for a perspective on how a property on Ditson Place would be impacted. These revised plans have been sent out to the various City departments for review.

Chairman Stephen DeFeo opened the floor for public comment.

The following people spoke in opposition:

Brenda Haryslak, 8 Ditson Place: Ms. Haryslak stated that she had submitted two letters to the Board and asked that they be read into the record. She expressed the following concerns:

- A very large building is going to be put on two separate lots.
- Residents parking on Ditson Place

- Economic challenge of her selling her house
- 50 possible new neighbors
- The scope of this project is colossal.
- Trees will not prevent the encroachment into her privacy.

Chuck Haryslak, 8 Ditson Place: Mr. Haryslak stated that the letters were submitted quite a while ago and he thinks it's important to have those letters on the record. He heard accolades for the previous project before the Board tonight and he's not clear why Brenda's letters of opposition wouldn't be read into the record. Mr. Haryslak stated that the Board spoke a lot about economics tonight, but nobody seems to be concerned about the home that Brenda recently purchased. He added that he was told he bought in a business district, but this project only provides two retail spaces. He wanted to make clear that the Historic District Commission has not yet issued a Certificate of Appropriateness.

Kathleen Colwell read into the record, the correspondence from Brenda Haryslak dated November 15, 2022 and December 13, 2023. She noted that the Board had received copies of the correspondence in previous months.

The following person spoke in favor of the project:

Saba Hashem, 14 East Prospect Street: Mr. Hasham said he grew up and has lived his whole life in Methuen. He reviewed all of the plans. He said that this lot has been an eye sore for many years and he's in support of this project. He urged the Board to read the 48 page report that was created by the Boston Foundation, the Commonwealth Housing Task Force. This project provides the affordable housing that is needed, it will help our economy, increase the tax base for Methuen and bring people to the downtown. He also pointed out that there was more parking behind 276 Broadway, which is not even 80 feet away.

Chuck Haryslak, 8 Ditson Place: Mr. Haryslak asked what the rents would be for the market rate units and the affordable units.

Johan Lopez responded that the affordable unit rent is determined by the state, and it can change every year and the tenants must recertify every year.

Kathleen Colwell clarified that in the 40R district, 25% of the units must be set aside as affordable.

Mr. Haryslak pointed out that only four affordable units are being provided and wondered what the rents would need to be for the other 14 units to make up for the affordable units.

Mr. Lopez responded that the rents have not been determined yet. Any change that is made to the plan is relevant to the rents they can get in the market. Marbella Lofts started at \$1,400 per month for a one bedroom unit. Other units are \$1,900 and \$2,100. It depends on the square footage and other factors.

Mr. Haryslak expressed concern about the Aspen Environmental vans that have been parking on that site and where they would go. He also said there is a grave concern for the variances that were granted, that are set for reasons, as well as the point of setting precedent and the

point of privacy encroachment, putting something where it just doesn't belong is very valid and very relevant and those things need to be looked at even more so. These are there for a reason. They're there to protect other members of the community. This is one of those things that is meant to protect this area of Methuen in the Historic District. This building exceeds what the expectation should be, and it will change the face of what Methuen looks like right now.

James Hanley stated that they have made their case and they hear where the Board is coming from. They would like to meet in the middle if that's possible but he's not sure that there's much wiggle room on their end. A lot of these challenges are specific to trying to work in a downtown area with small lots, older buildings, and tight setbacks. He thinks this project is worthy of consideration.

Kathleen Colwell stated that the applicant has granted the Board an extension of time in which to make a decision to April 30, 2023.

MOTION: Michael Comei moved to accept the extension of time to April 30, 2023.

SECOND: Heather Plunkett

DISCUSSION: None

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

MOTION: Michael Comei made a motion to continue the public hearing to March 15, 2023.

SECOND: Brian Boes

DISCUSSION: None

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

9) **New Business.**

- a) Set public hearing date:
i) Hampstead Street – definitive subdivision frontage waiver

The Board set the public hearing for March 15, 2023 at 6:30 pm.

Chairman DeFeo entertained a motion to take agenda item 10) **Old Business** a) 80 Myrtle Street out of order.

MOTION: Brian Boes so moved.

SECOND: Michael Comei

DISCUSSION: None

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

10) **Old Business.**

- a) 80 Myrtle Street -Definitive Subdivision Pursuant to the Final Judgment of the Land Court in the matter of Colchester Properties, LLC v. City of Methuen Community Development Board, Case No. 19 MISC 000185 (KTS)

For the record, Michael Comei attested that under the Mullin Rule, he was absent from the January 11, 2023 meeting, however he has watched the video of the meeting and reviewed all of the documents. He submitted a signed affidavit to the office.

Attorney Carolyn Murray stated that at the last meeting, the Community Development Board closed the public hearing and since then, we have been circulating a draft decision. She highlighted a few things in that draft decision.

- There is a lot of procedural history.
- The findings of fact are adopted from the Land Court decision, which would include the various LID techniques.
- Special Conditions of Approval include:
 1. The subdivision roadway shall remain private and be the responsibility of the applicant and then later, a Homeowners' Association to maintain it, repair it, and plow it.
 2. The stormwater and drainage structures shall remain privately owned by the applicant or a homeowners' association and privately maintained.

3. The applicant must submit an Operations and Maintenance Plan for all stormwater and drainage structures including the Contech unit, rain gardens and grass swales. The O & M plan shall include a provision that the grass swales and rain gardens shall not be filled in and shall be maintained. The final O & M plan for the project will be reviewed and approved by the Conservation Commission as the Stormwater Authority for the City.
4. The Master deed and individual unit deeds shall incorporate the O & M Maintenance Plan to put the owners on notice as to the proper maintenance of the Contech unit, rain gardens, and grass swales. The O & M Plan shall be recorded with the Subdivision Decision. The applicant or successor shall retain responsibility for the construction, maintenance, repair, and inspection of the stormwater and drainage structures.
5. The applicant shall form a Homeowners' Association and the Homeowners' Association shall assume responsibility for the stormwater and drainage structures from the applicant.
6. If the applicant delegates authority for maintenance to a property manager, the Board shall be provided with 24 hour contact information. The applicant shall provide the property manager with the O & M Plan.
7. All trash and recycling shall be the responsibility of the applicant or the Homeowners' Association.
8. The applicant or the Homeowners' Association will own and be responsible for maintaining the two open space parcels. Prior to occupancy the applicant shall submit a deed restriction in a form acceptable to the Board, preserving the two open space parcels in perpetuity.
9. Prior to building permit issuance, the Master Deed and an individual deed must be submitted for review and approval as consistent with the decision.
10. A list of the waivers that were granted was included.

Attorney Murray noted that one of the waivers was elimination of the sidewalks. She knows that it has been the practice of the Board, that when they waived construction of sidewalks in the past, they typically required a contribution to the sidewalk fund. She added that in the applicant's view, the Land Court ordered the waivers to be granted. The only other significant change from the earlier draft decision is for a form of security to be provided to make sure the road and the infrastructures in the road are built per the plan. Colchester has requested that the word reasonable is included so that the amount of the security is reasonable.

In response to Kathleen Colwell, Attorney Murray said that she believes there is an appeal period, but she doesn't believe it will be appealed, given that this has already gone to trial. If it is appealed, she believes it will be difficult to sustain an appeal, but she believes we are obligated to put the appeal language in the decision. She also stated that the decision states that the Conservation Commission is the stormwater authority for the Board and if they tweak the Operation and Maintenance Plan a little, the applicant will not have to come back to this Board for approval of the changes, unless there was a conflict with something in this Board's decision. She doesn't think there are any conditions in the decision that the Conservation Commission would disagree with.

Mr. Comei asked if trash pickup would be private.

Attorney Murray responded that they had added trash collection and disposal and recycling to the homeowner's association documents.

Chairman DeFeo noted that our Engineering Department plugs numbers into a formula to calculate bonds for the Board so the bond for this subdivision will be as reasonable as it is for every other subdivision before the Board.

Chairman DeFeo stated that the subdivision before the Board is a remand. The Board was directed by the Court to approve said subdivision. The Chair asked for a vote to approve the subdivision.

Attorney Murray responded that in her opinion, which is a reasonable way to calculate a bond and she believes that would be acceptable to Colchester.

Mr. Nechtem agreed that if a bond is calculated by way of a formula that is applied to every other subdivision in Methuen, they will not have a problem with that.

Chairman DeFeo stated that unless the Board has any objection, he agrees with Attorney Sheehan that the waiver for the sidewalks was directed by the court. Typically, the Board would ask for the requisite amount to go into the sidewalk fund.

Attorney Murray believes this is a slightly gray area where the grant of the waiver doesn't mean you can't ask for some sort of in kind payment. The court did order that the waivers be granted, but the court did say that the Board could impose any other reasonable conditions that are not inconsistent with the court's decision and did not in any way impact the 9 lot subdivision.

Chairman DeFeo noted that any contribution to the sidewalk fund is based on a formula that the Engineering Department applies, and the Board would use the City Engineer's calculation. He suggested that it be put in the bond and if it becomes a major sticking point, we can remove it from the bond.

Attorney Nechtem stated that depending on what the number is for the sidewalk fund contribution, is going to determine how strongly they object to it. They do object to a sidewalk fund contribution, as opposed to the other security. The judgement said nothing about having to pay for the sidewalk waiver.

Chairman DeFeo polled the Board. A yay vote is to add the sidewalk calculation to the bond and a nay vote is to omit it from the bond amount.

The Board all voted yay, explaining that the board has historically required a contribution with a sidewalk waiver. On a cul de sac, the Board typically requires a contribution for half of the cul de sac and the Board agreed that they should stay consistent. Additionally, the Board does not have the calculations for this project in front of them and they should get that number from the Engineering Department.

Kathleen Colwell noted that the road was 402 feet plus or minus. The Board would be looking for the cost of approximately 400 linear feet of sidewalk.

Attorney Murray stated that the only other issue is the open space parcels. We are putting in the decision that they will be labeled as not buildable lots. She also proposes a deed restriction be placed on them. Colchester feels that a deed restriction is not necessary.

Attorney Nechtem stated that Attorney Murray accurately put forth their position on the deed restriction, which they consider redundant because the restriction will be labeled on the plan.

Mr. Hunter stated that he would like a deed restriction put on the open space lots. The developer is getting that subdivision under the LID rules, and we should make sure the open space is well protected for the neighborhood.

The Board was in agreement that they would like to see a deed restriction for those reasons.

Attorney Nechtem stated that he had reviewed the additional edits and didn't find anything objectionable.

Kathleen Colwell wanted to make clear, and it's referenced in the decision, that the stormwater authority for the city is the Conservation Commission, so this project will be going forward next to the Conservation Commission, and they will be reviewing the stormwater for this project. The Operation and Maintenance Plan could change based upon their review. The final stormwater plan would fall under the review of the Conservation Commission. In theory, this project could be required to come back to this Board. She doesn't anticipate any issues, but it is subject to review and approval by the Conservation Commission.

Kathleen Colwell asked if there would be a 20 day appeal period for this.

Attorney Murray stated that it was her opinion that it would be subject to the appeal period.

Chairman Stephen DeFeo asked for a vote to approve the subdivision.

MOTION: Brian Boes made a motion to approve the subdivision.

SECOND: Heather Plunkett

DISCUSSION: Michael Comei asked that the conditions discussed, the roadway to remain private, the sidewalk fund contribution and deed restrictions on the open space lots, to be included in the decision.

Chairman DeFeo stated that the Homeowners' Association documents will contain those conditions and the documents are being prepared by Colchester. We will review and approve them prior to endorsement of the plan.

Attorney Nechtem and Attorney Murray stated that the HOA documents are final, after some edits related to snow plowing and the rain gardens. They were sent to the department today.

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

MOTION CARRIES 6-0

MOTION: Brian Boes moved to authorize the Chair to endorse the decision on behalf of the Board based upon review of all the documents and they are acceptable to both parties.

Attorney Nechtem wanted his objection to the sidewalk fund contribution noted for the record.

SECOND: Michael Comei

DISCUSSION: None

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

MOTION CARRIES 6-0

9) New Business.

b) 18-20 Ayers Village Road- minor modification to site plan approval

Kathleen Colwell noted that the Board approved a Site Plan in 2020 that included a former greenhouse and a retail building related to the greenhouse as well as three contractor’s buildings in the back. Subsequently, an As-Built Plan was submitted, as required prior to occupancy. The As-Built Plan showed that there were potentially significant changes to the approved plan. The original plan had a septic system, which was replaced by connecting to the City sewer. In the location of the approved septic system, the area was paved and striped for a parking lot that does not meet our standards. There is only 15 feet between the parking spaces, and we require 20 feet, making it difficult to maneuver. Additionally, the Zoning Board’s approval, as well as this Board’s approval for the contractor’s yard specifically said that there would be no outside storage in the rear, and there is a lot of material from various

companies being stored in the fire lanes and all over the site. There are several concerns that it hasn't been built in accordance with the plan and there are issues that are difficult for this site. We have a letter from TEC which outlines their review of the issues as well as a letter from the Engineering Department. The Conservation Commission has already issued a Notice of Violation. We have been asking for a red line plan that shows what was approved on top to show what was built in order to make it clearer to see the differences. Several businesses are operating in the warehouses now and a sandwich shop, which is open in the front. If there are major changes, the Board has the option to decide whether a new public hearing needs to be opened or whether these changes are minor changes that can be approved by the Board. There are also a number of questions about the drainage system and the need for additional stormwater management, given the additional pavement. She noted that our enforcement is through the building department, and they have been reviewing this as well. She's not sure of the resolution for the parking lot. They will need to come back to the Board with something that meets our regulations. All the information has been sent to their engineer and they were waiting to take any steps until they had feedback from the Board.

Mr. Boes stated that he understands that the outside storage will be taken care of soon and they will be working on the other items.

Kathleen Colwell also noted that there are large trucks being stored on the Haverhill side of the property. There is a paving company running out of one of the contractor's buildings and accessing the Haverhill side from Methuen. We are looking to see if that impacts the site or the traffic.

Mr. Comei noted that was one of the concerns during the public hearing and the response was that if anything went into Haverhill would require a new public hearing.

Ms. Colwell informed the Board that typically if there is a minor modification to a plan, we ask the applicant's engineer to present the revised plans to the Board under New Business, not in a public hearing.

At the Board's request, Ms. Colwell will send correspondence to the applicant and the Building Inspector, outlining the items noted and request that they resolve them and come back to the Board at the March meeting, if possible.

c) 5 Pleasant Street & 275 Broadway Plan Approval– set bond prior to occupancy permit.

Kathleen Colwell informed the Board that there are still a few outstanding items before occupancy, and they are looking to bond those items. In the 40R Zone the Community Development Board also has an architectural design review to look at and that piece is outstanding. They have submitted to the Board that they have approximately \$17,000 worth of work to do, including some painting and final landscaping. She noted that we are currently holding \$5,000 and she recommended that an additional \$20,000 to cover all of the remaining items on the civil side and authorize the chair to set the bond for the remaining architectural piece.

MOTION: Brian Boes moved to set the bond for an additional \$20,000 and to authorize the chair to set the bond for the remaining architectural items.

SECOND: Michael Comei

DISCUSSION: Mr. Hunter questioned whether they were ready for occupancy and noted that he saw that they were working on an exit door.

Kathleen Colwell responded that the Building Department still had a long list of items that needed to be addressed. Each department will weigh in.

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

d) 66 Calumet Road- extension of special permit for an unimproved way

Kathleen Colwell noted that this permit was granted in 2019 and the applicant is seeking an extension due to Covid and other issues. She recommends that the Board extend the permit for just cause for one year. She added that there have been no zoning changes since the permit was issued.

For the record, Chairman DeFeo left the meeting at 9:33pm.

MOTION: Michael Comei moved to extend the permit for one year to expire on December 24, 2023.

SECOND: Brian Boes

DISCUSSION: None

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Absent
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes

e) Any other new business

For the record there was no additional new business.

10) Old Business.

b) MBTA Communities -update

Kathleen Colwell informed the Board that City submitted an “Action Plan” on January 31, 2023 as required, and we have chosen Innes Associates as our consultant. We will be looking at several areas of the City for zoning changes to bring the City into compliance with that legislation.

For the record, Chairman Stephen DeFeo rejoined the Board at 9:35 pm.

c) Master Plan – update

Kathleen Colwell informed the Board that a successful community forum held on January 26th at the high school, and reminded everyone that there is a Master Plan page on the City website with continually updated information and ways to participate in the plan.

d) Any other old business

For the record there was no additional old business.

11) Correspondence.

For the record there was no additional correspondence.

12) Adjournment.

Kathleen Colwell pointed out that the March meeting would be held on March 15th, the third Wednesday of the month.

There being no further business before the Board, Chairman Stephen DeFeo entertained a motion to adjourn.

MOTION: Brian Boes so moved.

SECOND: Heather Plunkett

VOTE: UNANIMOUS

Roll Call

Stephen DeFeo	Yes
Michael Comei	Yes
Shadi Kassis	Yes
Brian Boes	Yes
Ronald Hatem	Absent
Neal Hunter	Yes
Heather Plunkett	Yes


Chairman Stephen DeFeo adjourned the meeting at 9:37 pm.

Respectfully Submitted,

Nancy P. Hudson
Community Development Confidential Secretary

***** NEXT REGULAR MEETING Wednesday March 15, 2023 *****

Pursuant to Chapter 186 of the General Laws, An Act Relative to Extending Certain State of Emergency Accommodations, this meeting/public hearing will be conducted via remote means. For this meeting, members of the public who wish to watch the meeting may do so on their televisions by turning to Comcast Xfinity Channel 8 or Verizon FiOS Channel 32 or view on a computer or cell phone via LIVE Stream on <https://www.methuentv.org/methuen-government-tv-live-stream/> No in-person attendance of members of the public will be permitted, and public participation in any public hearing conducted during this meeting shall be by remote means only. If the public would like to participate in the public hearing, please email your questions/comments by noon on the meeting day to kbcowell@ci.methuen.ma.us. The questions/comments will be read during the proceedings and responded to accordingly. Members of the public who wish to speak during the public hearing can register here: <https://www.methuentv.org/govmeet/> by noon on the meeting day.

 **Anyone needing an access accommodation to participate in City of Methuen programs or services, please contact Sandy Almonte, ADA/DEI Coordinator at 978-983-8680 or salmonte@ci.methuen.ma.us at least 2 weeks in advance, or 2 business days before any Board or Commission meeting. This notice is available in alternative formats upon request.**