



TOWN OF HOPKINTON

OFFICE OF
BOARD OF APPEALS

TOWN HALL
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HOPKINTON, MASSACHUSETTS 01748-3209

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October 27, 2003

Ronald Clark, Chairman
Board of Selectmen
Town of Hopkinton
18 Main Street
Hopkinton, MA 01748

**Re: Stagecoach Heights, LLC
Application for Comprehensive 40B Special Permit**

Dear Mr. Clark:

The Board of Appeals is currently engaged in public hearings on the application for a Comprehensive 40B Special Permit filed by Stagecoach Heights, LLC for property located off Wood Street in Hopkinton. On October 22, 2003, at the request of the Applicant, the public hearing was continued to January 28, 2004 at 8:00 PM.

Under Sections 20-23 of Chapter 40B of the Massachusetts General Laws, the Board of Appeals conducts a "comprehensive review" of the application, and has the power to issue all permits or approvals of all "local boards" within the town. However, once the Board of Appeals renders and files its decision with the Town Clerk, the Board of Appeals has no on-going responsibility with respect to the monitoring and administration of affordable housing within the town. This post-decision responsibility rests with the Board of Selectmen.

The applicant has suggested that a non-profit organization, Citizens' Housing and Planning Association (CHAPA), serve as the monitoring agent for the affordable units, and that the Board of Appeals include this as a condition of the Special Permit.

In correspondence to the Board of Appeals dated September 22, 2003, Robert Clark, Chairman of the Affordable Housing Task Force, stated that his committee supports Stagecoach's proposal to use CHAPA as the monitoring agent. He further states that "Once the Town of Hopkinton has funds available, we will have an in house person who will assume the monitoring of these affordable units. A position has already been created to accomplish this.

We feel that, in the absence of this, that CHAPA will be the most effective way to secure these units.”

The suggestion therefore appears to be that CHAPA assume full control and responsibility for these tasks via authority specified under a Special Permit issued by the Board of Appeals. Several members of the Board of Appeals have expressed significant concern that such an abrogation of responsibility to an entity not part of, or under the direct control of, the Town of Hopkinton is extremely unwise. Once this power is provided to CHAPA pursuant to a Special Permit, it may be difficult in the future to curtail CHAPA’s authority in the event that the Town and CHAPA do not see “eye to eye” on administrative matters.

A more prudent course of action would for the Board of Selectmen to formalize in-house procedures under which the Selectmen, or their designee, administer the affordable housing program. The Board of Appeals could then provide the Board of Selectmen with the necessary authority via the Special Permit. The Board of Selectmen could also, if it desired, retain the services of CHAPA. However, CHAPA would not have any “authority”, but merely serve at the pleasure of the Town under the direction of the Selectmen, or its designee. This is a critical distinction.

It is requested that the Board of Selectmen provide the Board of Appeals with detailed written comments on this issue. An explanation as to what the Town is currently doing to monitor and preserve the affordable housing units currently existing in town should be included in your comments. The Board of Appeals has already issued several Comprehensive 40B Special Permits, and it is critical that units created under these decisions be maintained and not lost to the market. Again, this monitoring responsibility is not the obligation of the Board of Appeals. If the Board of Selectmen has implemented written procedures under which the Town administers the affordable housing program, please include a copy of these procedures with your comments. If such procedures have not yet been adopted, it would be prudent for the Selectmen to draft proposed written procedures and coordinate implementation of these procedures with both the Board of Appeals (the special permit granting authority) and the Selectmen’s designee, if any. Consideration should be given to adoption of a standard deed rider which encompasses the Town’s requirements for post-decision administration of the affordable housing program. A standard deed rider can then be utilized under both the Comprehensive 40B Special Permit process, and under other affordable housing programs implemented by the Town. It is recommended that any procedures adopted by the Town clearly specify the responsibilities and authorities retained by the Selectmen, and those delegated to other Boards or Commissions.

In your comments, you are also requested to provide the Board of Appeals with specific recommendations as to what notices, controls, or other administrative provisions should be considered by the Board of Appeals for inclusion in the Stagecoach Comprehensive 40B Special Permit.

Ronald Clark, Chairman
Board of Selectmen
October 27, 2003
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I ask that you provide this information to the Board of Appeals by **January 14, 2004** so that the Board will have ample opportunity to review and study your comments prior to the next public hearing. I also request that you send a representative from the Board of Selectmen to the Board of Appeals January 28 public hearing so that we may make further inquiry. By copy of this letter, I ask that Mr. (Robert) Clark review your written comments and provide his board's input by January 21, 2004. I also request that Mr. (Robert) Clark attend the next public hearing so that the Board of Appeals may make further inquiry on this subject.

Thank you for your anticipated cooperation.

Very truly yours,

Wayne R. Davies,
Chairman

cc: Robert Clark, Chairman
Affordable Housing Task Force