

RECEIVED

Town Clerk-Dighton, MA

JUN 28 2023

Time: 11:11 *of*  
ZONING BOARD OF APPEALS  
By: Regular Meeting /Public Hearing

Wednesday, May 30, 2023, 2023

Old Town Hall

1111 Somerset Ave, Dighton, MA 02715

Zachary Caron, Chairman  
Gregory Logan, Vice Chairman  
Jonathan Gale, Clerk  
Susan Gray Pritchard, Member  
David Phillips, Member  
Alys Vincent, Member



*Video and audio of the meeting is available to watch on Comcast Local TV9 or on the Town of Dighton Planning & Land Use YouTube Channel.* (Please note, there was technical difficulties utilizing ZOOM and Cable Committee was not present.)

Meeting was called to order by Chairman Zachary Caron at 7:15 PM. Chairman Zachary Caron attended remotely.

The Pledge of Allegiance was recited.

The Board formally introduced themselves and determined the next meeting will be 7:00 PM, Tuesday, June 27, 2023.

PUBLIC HEARING: Special Permit: Jacqueline Dagraca Mota, 613 Park Street (Map 4, Lot 177)  
Voting members: Zachary Caron, Gregory Logan and Alys Vincent.

Chairman Zachary Caron opened the continued public hearing.

The Applicant, Jacqueline Dagraca, appeared before the Board seeking a special permit to renovate the garage into a preschool. Mrs. Dagraca is in the process of obtaining her license as director and lead teacher through the state and expects to have 20-25 children. Based on concerns relative to the shared driveway and parking from the last meeting, Mrs. Dagraca met with the Building Commissioner and the Fire Chief. It was determined that the pool will be removed from the site and replaced with a play area for the children, the shared driveway is sufficient for a fire apparatus in case of an emergency and the property has ample space for parking.

The following department responses were read into record: Building Commissioner email dated May 24, 2023 and Fire Chief Christopher Maguy email dated May 24, 2023 confirming no objection to the special permit.

Jonathan Gale noted, as ADA coordinator, that handicap signage and parking will be required. Ms. Dagraca assured Mr. Gale that this will be addressed.

Chairman Caron commended Ms. Dagraca in her due diligence in addressing the issues and concerns.

The three voting Board members expressed support for the special permit, as all safety concerns were addressed, no abutter objection was received and the preschool would be a benefit to the Town.

Zachary Caron motioned, Gregory Logan seconded to close the public hearing.

VOTE: ZACHARY CARON, CHAIRMAN

AYE

GREGORY LOGAN, VICE CHAIRMAN            AYE  
ALYS VINCENT, MEMBER                      AYE

Gregory Logan motioned, Alys Vincent seconded to approve the Special Permit of Jacqueline Dagraca Mota, 613 Park Street.

VOTE:            ZACHARY CARON, CHAIRMAN            AYE  
                     GREGORY LOGAN, VICE CHAIRMAN    AYE  
                     ALYS VINCENT, MEMBER                AYE

PUBLIC HEARING: Stonegate Landing, LLC, Westerly Side of Somerset Ave (Map 9), Modification of Comprehensive Permit Case #0-23

Voting members: Zachary Caron, Susan Gray Pritchard and David Phillips. Having missed the April 25, 2023, David Phillips notes that he has examined all evidence received of the said meeting and is comfortable to vote on this matter in accordance with the provisions of MGL Ch. 39, Section 23D.

Chairman Zachary Caron opened the public hearing. Vice Chairman Gregory Logan recused himself from the matter.

Richard Federoff of Stonegate Landing, LLC seeks to request a modification to the Comprehensive Permit as follows:

- Transfer of Phase B, of the Comprehensive Permit to a separate entity (Able Landing, LLC). Phase A has seven (7) lots remaining (5 market rate, 2 affordable units) left for completion.
- Submittal of proposed new architectural home plans (from 2-bedroom to 3-bedroom homes).
- Separation of liability between Phase A and Phase B.

Mr. Federoff appeared before the Board to provide a monthly status update and noted that he does not know why the proposed new developer and/or his representative is not present at tonight’s public hearing. In response to Lisa Paquette’s email to the Board dated March 26, 2023 regarding concerns of standing water on her lawn and seepage into the basement, Mr. Federoff would like to respond as follows:

1. As noted in her email, Lisa has been living at 947 Stonegate Landing since November 19, 2010. At closing she was provided a standard one-year builder Limited Warranty. That warranty included that the “BASEMENT WILL BE FREE OF WATER CAUSED BY SEEPAGE OCCURING DURING PERIODS OF NORMAL WATER CONDITIONS”. That was 12+ years ago.
2. An old rule in construction is the only way to keep water out of the basement, is to keep it away from the basement and the hard pack soils in Stonegate makes that especially important.
3. The seven pictures provided shows existing conditions at 947 Stonegate. Because overgrown plantings, the installation of a pool and a storage shed, water now flows towards the foundation not away.

Maintenance of a home, inside and out, is an endless task. The good news is that it is fixable. Mr. Federoff suggests that Ms. Paquette hire a skilled local landscaper.

In response to Paul Lemelin's email dated March 23, 2023, Mr. Federoff would like to respond as follows:

1. Mr. Lemelin purchased his home at 531 Eagle Terrace on October 2, 2014. The following winter Mr. Federoff was notified about potential mold in the attic. Upon investigation it was discovered that the insulation contractor extended the attic insulation into overhangs on both the front and rear of the house, effectively preventing air flow through the soffit up through the ridge vent and traps moisture in the attic. The matter was corrected by pulling the insulation back and removed mold that was present.
2. Mr. Lemelin states, "Without getting into too many not only has Richard not finished phase A he left many of our house(s) with problems that were all found within the first year, but he filed for bankruptcy at the time and thing were not fixed."
  - a. The above statement is simply not true. Mr. Federoff claims he has responded to all claims of a defect filed, in strict compliance with the one Limited Warranty given each homeowner at point of sale.
  - b. Mr. Lemelin states, "he filed for bankruptcy at the time and things were not fixed." Mr. Federoff did subsequently file for Chapter 11 Bankruptcy, but the initial filing was November 27, 2018. Four plus years after he purchase his house. Chapter 11 is often referred as "reorganization", a tool used by many businesses to provide protection from creditors, to provide time to make things right. Mr. Federoff successfully emerged from Chapter 11 on January 30, 2020.
3. Mr. Lemelin states, "He has no interest in finishing phase A. Mr. Federoff is only looking for and easy way to make some money by selling off Phase B to someone else. The issues are just going to continue year after year and Mr. Federoff is going to look for avenues to try make a quick buck and do the minimum possible."
  - a. In 2019, Mr. Federoff was in the process of constructing the now finished sewer pump station at a cost that exceeded Four Hundred Thousand (\$400,000.00) Dollars. The station went online March 2, 2021.
  - b. Subsequently Mr. Federoff removed the previously installed E-One pumps at 957, 969, 971, 973 and 975 Stonegate Landing and connected each home that flowed to the new station at a total cost of Thirty-Six Thousand (\$36,500.00) Dollars.
  - c. Since December 9, 2016, Mr. Federoff has constructed and sold three homes at Stonegate at 964, 981 and 983 Stonegate Landing Stonegate Landing. 964 Stonegate closed March 7, 2023, and 983 Stonegate closed March 31, 2023.
  - d. During the same time, Mr. Federoff has provided snow removal and salting of the roadways, grass cutting along the side of the roads, maintenance of the projects two entrances, paid taxes on common land, maintenance of the pump station since going online, and more.

Mr. Federoff noted the following:

- Playground: improvements to tables/benches and weeding, arranging an equipment inspection, working on removing the heavy equipment and obtaining insurance coverage and anticipates the playground to be opened in June.
- Curb cut on Somerset Avenue/Route 138: a copy of the previous permit from the DOT has been obtained, purchased 3 speed bumps and signs to address the entrance issue from

Somerset Avenue/Route 138.

- Has hired a paving company for road repairs.

Zachary Caron motioned, Jonathan Gale seconded to recess for 10 minutes to allow Zachary Caron to enter the meeting.

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|-------|------------------------------|-----|
| VOTE: | ZACHARY CARON, CHAIRMAN      | AYE |
|       | GREGORY LOGAN, VICE CHAIRMAN | AYE |
|       | JONATHAN GALE, CLERK         | AYE |
|       | SUSAN GRAY PRITCHARD, MEMBER | AYE |
|       | ALYS VINCENT, MEMBER         | AYE |

Chairman Zachary Caron entered and the meeting resumed.

Attorney Marguerite Mitchell noted the following significant concerns:

- The Applicant/Applicant’s representative (Able Landing, LLC) has not appeared before the Board although it is specifically stated in the Comprehensive Permit Rules that such failure to appear shall be grounds for dismissal and/or denial of the application. Since the Applicant/Applicant’s representative has not appeared questions relating to the bonding for Phase A and cost certification for Phase B are unanswered.
- At the last meeting the Board voted to expand the scope of services for the consulting engineer to review all of the infrastructure constructed in the development, including but not limited to the roadway, detention/retention basins, and grading for each lot, as well as, the water issues that exist at 947 Stonegate Landing and 531 Eagle Terrace. It does not appear that said engineer has received the request to expand the scope of services or the correct information needed to provide a cost estimate.

The Board noted that the Zoning Board of Appeals’ duty is to deal with the approval and/or modification of the Comprehensive Permit, not serve as a complaint department for a homeowner within the development. Said matters should be directed to the building department. The Board discussed considering closing the public hearing and denying the application due to the lack of interest of Able Landing, LLC, however, it appears that Mr. Federoff is making a concerted effort to correct issues within Phase A and the Board would like to see that go forward. Furthermore, as advised by Attorney Mitchell, because of the technical difficulties and the rescheduling of the public hearing due to posting requirements, it was determined that the matter should be continued to the next scheduled meeting.

Susan Gray Pritchard motioned, Zachary Caron seconded to continue the public hearing to June 7, 2023, 7:00 PM at the Old Town Hall.

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|-------|------------------------------|-----|
| VOTE: | ZACHARY CARON, CHAIRMAN      | AYE |
|       | DAVID PHILLIPS               | AYE |
|       | SUSAN GRAY PRITCHARD, MEMBER | AYE |

REVIEW/DISCUSS/ACT: Dighton Homes, LLC, for Dighton Woods Subdivision re: Release of Funds under the Performance Agreement

Voting Members: Zachary Caron, Susan Gray Pritchard and Aly Vincent

A letter dated May 25, 2023 from the Stormwater Committee was read into record releasing Dighton Woods from drainage problems located at 700 Main Street.

Attorney Marguerite Mitchell noted that there is some additional information required before the Board can release the funds. Said matter should be continued to the next meeting as Attorney Khoury is not present.

Zachary Caron motioned, David Phillips seconded to continue the matter to June 27, 2023.

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|-------|------------------------------|-----|
| VOTE: | ZACHARY CARON, CHAIRMAN      | AYE |
|       | DAVID PHILLIPS, MEMBER       | AYE |
|       | SUSAN GRAY PRITCHARD, MEMBER | AYE |

REVIEW/DISCUSS/ACT: Surplus Equipment Disposal

The Board read Office Manager Kerrie Easterday’s memorandum dated May 24, 2023 into record seeking to dispose file cabinets.

Zachary Caron motioned, David Phillips seconded to continue dispose surplus equipment: 2 HON 5 drawer file cabinets and 1 Steelmaster 5 drawer file Cabinet.

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| VOTE: | ZACHARY CARON, CHAIRMAN      | AYE |
|       | GREGORY LOGAN, VICE CHAIRMAN | AYE |
|       | JONATHAN GALE, CLERK         | AYE |
|       | SUSAN GRAY PRITCHARD, MEMBER | AYE |
|       | ALYS VINCENT, MEMBER         | AYE |

REVIEW/DISCUSS/ACT: Amend FY24 Budget: Board Member(s) Stipend

The Board read Office Manager Kerrie Easterday’s email dated May 3, 2023 seeking to grant the Board members a 2% increase for FY24 as recommended by the Town Administrator Michael Mullen and the Finance Committee. The Board had no objection.

Gregory Logan motioned, David Phillips seconded to approve the 2% increase for all members of the Zoning Board of Appeals for Fiscal Year 2024.

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|-------|------------------------------|-----|
| VOTE: | ZACHARY CARON, CHAIRMAN      | AYE |
|       | GREGORY LOGAN, VICE CHAIRMAN | AYE |
|       | JONATHAN GALE, CLERK         | AYE |
|       | SUSAN GRAY PRITCHARD, MEMBER | AYE |
|       | ALYS VINCENT, MEMBER         | AYE |

PUBLIC INPUT

None.

CORRESPONDENCE

None.

Approval of Meeting Minutes

Alys Vincent motioned, David Phillips seconded to approve the meeting minutes of May 25, 2023 and May 26, 2023.

|       |                              |     |
|-------|------------------------------|-----|
| VOTE: | ZACHARY CARON, CHAIRMAN      | AYE |
|       | GREGORY LOGAN, VICE CHAIRMAN | AYE |
|       | JONATHAN GALE, CLERK         | AYE |
|       | SUSAN GRAY PRITCHARD, MEMBER | AYE |
|       | ALYS VINCENT, MEMBER         | AYE |

Adjournment

David Phillips motioned, Alys Vincent seconded to adjourn at 9:15 PM.

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|-------|------------------------------|-----|
| VOTE: | ZACHARY CARON, CHAIRMAN      | AYE |
|       | GREGORY LOGAN, VICE CHAIRMAN | AYE |
|       | JONATHAN GALE, CLERK         | AYE |
|       | SUSAN GRAY PRITCHARD, MEMBER | AYE |
|       | ALYS VINCENT, MEMBER         | AYE |

Respectfully submitted,  
Kerrie J Easterday Office Manager  
Planning Board & Zoning Board of Appeals

**List of Documents Presented:**