

**Zoning Board of Appeals
Executive Session Minutes
November 15, 2022**

Members present: Michael Main, David Peck, Edward Conroy and Kevin O'Reilly

Zoning Board of Appeals Alternates present: Peter Conner and Phil Ricardi

Town Staff present: Derek Brindisi, Town Manager; Brad Brothers, Assistant Town Manager; Lee Hartmann, Planning and Development Director, Jonathan Beder, Department of Public Works Director; Nick Mayo, Inspectional Services Director; Anthony Senesi, Administrative Assistant to the Select Board/Town Manager

Executive Session pursuant to G.L. c. 30A Section 21(a), clause 6, to consider the purchase, exchange, lease, or value of real property at 174 Colony Place (Lot 26-26 and 26-30 on Plat 104); if an open meeting may have a detrimental effect on the bargaining, negotiation, and the chair so declares.

The Select Board opened their meeting and voted by roll call to go into executive session.

In open session, Mr. Main declared that discussing purchase, exchange, lease, or value of real property at 174 Colony Place in open session would have a detrimental effect on the position of the Town. The Board to return to open session.

A roll call vote was taken: Mr. Main - yes, Mr. Peck - yes, Mr. Conroy - Yes, Mr. O'Reilly - yes, Mr. Conner - yes and Mr. Ricardi - yes.

Derek Brindisi, Town Manager, provided an overview of the issues related to the Claremont development project at 174 Colony Place. He indicated, according to Environmental Partners Engineering (EP), a recently provided report to the town manager's office depicts there is a 900,000 gallon per day FIRM capacity water deficit in the West Plymouth water zones. This water shortage possesses an immediate threat to public safety in the west plymouth water zone, which in turn, has an immediate impact upon the viability of the Claremont development (West Plymouth Water Zone) project going forward at 174 Colony Place. Given this new water deficit information, the town could be exposed to litigation by Claremont because of previous Claremont inquiries of water capacity, whereas the DPW Director had previously stated that the town had sufficient water to support the Claremont project.

Mr. Brindisi noted a short-term solution to the water problem facing the project would be to design and install a water booster pump station - which could be done in an estimated 2 years in a private/public partnership. As there is not the necessary real estate available on the developers land to build a water pump station, Mr. Brindisi presented considerations and options for a possible public/private partnership with Claremont Development in order to resolve the water issues specific to the development and to the benefit of the town. To be considered by the Zoning Board of Appeals and Select Board under an agreement specific to this project include:

1. Providing real estate owned by the town near the project at Colony Place for the design and build of a water booster pump station in order to satisfy the needs of the project and the west plymouth deficit. Providing real estate to the developer for the construction of the water station would also benefit the long term needs of the town as related to the ability to make use of an additional source of water supply for its North and West Zones - as was reflected in the report.
2. Claremont would be required to pay for the design and installation of the water booster pump station.

3. The town would not charge or assess Claremont any permit or connection fees associated with the project in return for Claremont funding the design and installation of the water pump booster station.
4. As part of any agreement, the town would also require Claremont to contribute an additional \$1 million to affordable housing for Lot 5A, the equivalent of \$50,000 per unit for 10% of the units.
5. At Claremont's discretion, a payment in lieu for affordable housing is applicable and desired on Lot 5B, the same \$50,000/unit of 10% will be used to calculate the affordable housing fee. By way of example, if 150-units are approved, the 10% or 15 units would have a contribution not to exceed \$750,000.
6. Affordable Housing distributions to be made in accordance with a mutually agreed upon MOU which will contemplate a four-phase development. \$30,000 will be funded at the time of issuance of a building permit for each phase with the balance being paid in 4 equal installments at issuance of a CO for each phase.

Mr. Brindisi explained that if the Town solely funded the booster station, based upon prevailing wage regulations, it would cost approximately \$4.5 million-\$4.7 million; whereas Claremont's engineers believe they could build a booster station would cost between \$2.5 million-\$2.7 million. . Mr. Brindisi stated that if the town is unable to work out a public/private partnership, the town would be forced to sponsor a \$4.5M article at spring town meeting in order to build a booster station on the shoulders of tax and rate payers.

Mr. Brindisi reminded both Boards of their roles in these negotiations: because this project requires a Special Permit, the ZBA is responsible for negotiating the payment in lieu of affordable housing and because of their role was Water Commissioner's the Select Board has the responsibility to approve water usage and fees. Mr. Brindisi stated the ZBA and SB must take into consideration the multitude of factors, including offering waivers of various fees related to the project in lieu of Claremont paying for the design, and construction of the water booster pump station. Any agreement by the parties regarding the waiver of fees would also require the SB, as Water Commissioners, to vote and approve the waiver of water connection fees for the Claremont project.

After the town manager's presentation, discussions and questions from the ZBA members involved any agreement between the parties including concessions regarding the affordable housing in the town of Plymouth, with members stating their desire for additional units and payments in lieu of housing by Claremont. Time was spent discussing the specifics of the amounts the ZBA wanted included in any agreement. ZBA members also asked particular questions about the amount of money Claremont was contributing to the water booster pump station versus the amount of fees the town was waiving. The town manager spent time detailing the costs incurred by Claremont in exchange for fees the town can waive related to the project. The town manager made use of an excel spreadsheet, detailing certain amounts of designated fees that can be waived, including applicable building, wiring and plumbing permits fees and water and sewer connection fees, etc.

A summary of topics discussed from the SB with the town manager included any alternative approach to the town building a Well for water vs. a booster station and the amount of time it would take for the town to build, including projected costs. The town manager estimated it would take 5-7 years for a new well to come into service, citing various reasons, if the town were to build its own well . Costs to the town to build its own well would be up to \$4.7 million and take considerably more time . Given the FIRM capacity deficit and the risk it poses, the Town Manager was concerned the time to construct a well would not be in the best interest of the residents in west plymouth water zone. It was further explained that the purpose of the partnership is to construct a water booster pump not only to address the immediate water

shortage, but it will also be a redundant system after an eventual well is constructed in years to come.

After the presentation by the town manager, and questions answered by him from the Boards, Ms. Cavacco made a motion for the Select Board as Water Commissioners to waive any water, sewer, and building fees for the 174 Colony Place (Lot 26-26 and 26-30 on Plat 104), 5A & 5B, contingent upon the Zoning Board of Appeals approval, seconded by Mr. Helm. A roll call vote was taken: Ms. Cavacco – yes, Mr. Mahoney - yes, Mr. Bletzer - Yes, Mr. Helm – yes.

No motions were made by the Zoning Board of Appeals.

Mr. Peck of the Zoning Board of Appeals moved for the Zoning Board of Appeals to conclude the executive session at 5:06 p.m. A roll call vote was taken: Mr. Main – yes; Mr. Peck – yes, Mr. Conroy – yes, and Mr. O'Reilly – yes.

Documents used by Derek Brindisi during his presentation to the SB and ZBA Boards included:(1) a draft memorandum agreement between the town of Plymouth and Claremont Development; and (2) an excel spreadsheet outlining costs and expenses related to the design, build, and construction of a water booster pump station, as well as associated fees that may be waived by the town related to any potential agreement.

Respectfully Submitted By: Anthony Senesi