

Date: Monday, February 26, 2024  
To: Millbury Board of Appeals  
From: Steve Stearns  
Reference: **Waiver Justification Deficiencies | Rice Pond Village**

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This memo delves into the waiver requests concerning the proposed Chapter 40B Rice Pond Village project, juxtaposing them with our neighborhood's feedback. The purported justifications provided by the developers lack citation, supporting evidence, and merit, failing to align with the best public interests. These justifications, seemingly aimed at maximizing profits, blatantly disregard local and state regulations. Furthermore, they show no consideration for exacerbating existing public safety concerns, a fact conveniently ignored by the developers.

1. Rules and Regulations Governing Comprehensive Permit Applications in Chapter 40B, Section 3.12 Master Plan Consistency Report.

The Applicant is requesting a waiver because the Town does not have an up to date housing plan.

**The rationale put forth by the Town Planner and parroted by the developer's project engineer lacks credibility. Even if the town has failed to maintain a current housing plan, this proposed project remains inconsistent with both the neighborhood and the town on numerous fronts.**

2. Rules and Regulations Governing Comprehensive Permit Applications in Chapter 40B, Section 3.13.10 the requirement for stamped Architectural Floor and Elevation Plans.

The Applicant is requesting a waiver because those final plans will be provided at a later stage of permitting.

**Is the Millbury Board of Appeals expected to base its decision on a mere napkin sketch and simply trust that the developer will act appropriately? Based on our neighborhood's past experiences, it's evident that these developers lack credibility. Entrusting them would be a mistake and would entail neglecting the Millbury Board of Appeals' obligations to the town's residents.**

3. Rules and Regulations Governing Comprehensive Permit Applications in Chapter 40B, Sections 3.13.10.1 & 3.13.10.2 the requirement for Architectural Floor and Elevation Plans at a certain scale and the requirement of those plans for the proposed clubhouses and garages.

The Applicant is requesting a waiver because those plans will be provided at a later stage of permitting.

**Is the Millbury Board of Appeals expected to base its decision on a mere napkin sketch and simply trust that the developer will act appropriately? Based on our neighborhood's past experiences, it's evident that these developers lack credibility. Entrusting them would be a mistake and would entail neglecting the Millbury Board of Appeals' obligations to the town's residents.**

4. Zoning Bylaw Section 12.44(a) the requirement for contours at 1' intervals.

The Applicant is requesting a waiver because on a hilly site such as this a 1' contour interval doesn't add clarity. It only makes the plans hard to read.

**The site plan set provided by the developer's project engineer is inadequately presented, lacking 1-foot contours. Improved design documentation would resolve readability issues, or additional plan sheets could be added to better direct the attention of decision-makers. This is the same excuse provided by the developer's project engineer under the previous proposed plan for the same site.**

5. Zoning Bylaw Section 12.44(c) - the requirement for an isometric line drawing.

The Applicant requests a waiver as we don't have the means of producing this in-house.

**A viable solution to their issue could involve engaging a competent professional (hire a consultant) to generate the required plans. Alternatively, it is conceivable that the developers are hesitant to disclose the genuine implications of the site and its surroundings to the Millbury Board of Appeals or the residents.**

6. Zoning Bylaw Section 23 - the requirement for a special permit for multifamily housing in Suburban districts.

The Applicant is requesting this waiver to permit this development to provide necessary affordable housing.

**The developer's project engineer overlooks a crucial point in their response: multifamily dwellings are exclusively allowed in a Suburban II zoning district when access is provided “...from a major street as herein defined does not require use of a minor street substantially developed for single-family homes.” Rice Road falls below the standard of a minor road,**

**exhibiting various public safety concerns that the developers have failed to acknowledge, issues that their project will only worsen. Rice Road has served as a residential area for single-family homes for over six decades.**

7. Zoning Bylaw Section 23 - the requirement of lot size per unit in the Suburban II zoning district.

The Applicant is requesting this waiver to permit this development to provide necessary affordable housing.

**The proposed project significantly deviates from the density of the surrounding neighborhoods by a substantial margin and disregards their character of Chapter 40B. The proposed plans also diverge from the design guidelines outlined in Chapter 40B. Please refer to the previous submitted information on this topic for further details.**

8. Zoning Bylaw Section 23.32 - the requirement of a maximum building height of 30 feet.

This isn't consistent with the creation of multifamily housing and it results in the creation of much greater impervious cover than is proposed by the Applicant.

**The proposed project markedly differs from the height of the adjacent one- and two-story residences in the surrounding neighborhoods and town by a considerable margin, disregarding their typical character under Chapter 40B. Additionally, the proposed plans deviate from the design guidelines specified in Chapter 40B. The developers have made no effort to design buildings that adhere to the building typology, such as employing a stepped design or other techniques to harmonize with the surroundings. Furthermore, the developer has shown no inclination to consider making any alterations as mentioned in the Town Planner's memo. It's worth mentioning that Cobblestone Village Apartments and 19 Canal Street Apartments, constructed by these identical developers, are merely three stories tall, further highlighting the inconsistencies in their claims. Please refer to the previous submitted information on this topic for further details.**

9. Zoning Bylaw section 32.6 - One structure per lot.

The Applicant could create separate frontages and lots for the three buildings but it's a better design for parking layout and for traffic safety to have one lot with one entrance directly opposite Thomas Hill Road.

**The developer's project engineer's response is subjective and lacks sufficient justification to warrant a waiver, particularly in light of the**

**neighborhood's previous responses outlined here and is inconsistent with the Suburban II zoning district.**

10. Zoning Bylaw section 33.2 - Parking requirements.

The Bylaw's requirement vastly exceeds the national standard cited by the Traffic Engineer in his report of 1.46 spaces per unit. The project's provision of 1.61 spaces per unit will exceed that standard and be only slightly below the provision of spaces at the Applicant's recent developments in Town which have had no issues with parking.

**A Class-A developer has publicly emphasized that parking for a Chapter 40B project should not fall below 1.7 parking spaces per unit. However, the developers of this proposed project seem to be employing a “cram and jam” approach and are seeking to rationalize it. Steven Venincasa essentially asserted this during the previous public hearing, maintaining that he should have sole discretion over determining the parking for his project.**

11. Subdivision Rules and Regulations section 6.17.4 - Size of drain pipes.

The Regulations require minimum 12 inch diameter drainage pipes but an 8 inch diameter HOPE pipe at a 2% slope can convey 1.8 cubic feet per second which is all that can enter a catch basin grate. So using 8 inch diameter pipes to convey flow from catch basins to drain manholes provides sufficient capacity.

**Once more, it appears these developers consider themselves exempt from the rules. Nonetheless, we will rely on the town's peer review engineer to ensure that the design meets compliance standards for the proper sizing of drainage infrastructure.**

In their ever-expanding list of request for waivers, Steven Venincasa, James Venincasa, and James Tetreault have omitted several essential waivers necessary for the evaluation of their proposed project, including, but not limited to:

12. Travel lanes within parking lots narrower than 32 feet, as specified in Section 6.7(6) of the Subdivision Rules and Regulations and Section 32.6 of the Zoning Bylaws.

The travel lane width appears to be determined more by what can fit between the buildings rather than being a carefully considered decision.

13. The pavement width of Rice Road is insufficient for the number of dwelling units, measuring below the mandated 32 feet, with a right-of-way width less than 60 feet, as stipulated in Section 6.7(6) of the Subdivision Rules and Regulations and Section 32.6 of the Zoning Bylaws.

14. Lack of a grass strip between Rice Road and the agreed-upon sidewalk on the north side of Rice Road as specified in the LIP agreement, a feature not depicted in any plans submitted to the town as stipulated in Section 7.5 of the Subdivision Rules and Regulations.
15. The development must adhere to the requirement for two means of access both into and out of the premises, as outlined in Section 6.7(4)(i) of the Subdivision Rules and Regulations, and also in Section 32.6 of the Zoning Bylaws.
16. According to 780 CMR 427.9 Fire Department Access Roadways, fire department access roadways must encompass two sides of the buildings to facilitate fire department access. The developers have incorporated grass strips with an open paver type in their revised site plans. However, we question whether this aligns with the intent and standards of a "roadway" outlined in 780 CMR 427.9.
17. The developer has proposed stormwater management infrastructure within the front and possibly rear setbacks without providing setback dimensions. Placement of stormwater drainage infrastructure within the front setback and potentially within the rear setback is not permitted. Case in point, on another one of their projects, Alstead Path, they were directed by the Millbury Planning Board to relocate the identical type of underground drainage infrastructure out of the front yard setback. Zoning bylaws are applicable townwide, so it's puzzling why they need to be repeatedly reminded of basic compliance measures. It is almost like it is a game to these developers.

Even though we are beyond the midpoint of the public hearing process for this Chapter 40B application, Steven Venincasa and James Venincasa have still not furnished the necessary documentation and information crucial for informed decision-making regarding the Chapter 40B application's outcome. The Millbury Board of Appeals must ensure that every single concern, whether raised by the board, town employee, peer reviewer, or the public, is thoroughly addressed and mitigated, whether raised in a public hearing or through correspondence submitted.

Each of these waiver requests ought to be rejected by the Millbury Board of Appeals, as none of their purported justifications serve the public interest, and their overall design deviates from the design guidelines established for Chapter 40B projects. Approval of this proposed Chapter 40B project would further aggravate known public safety issues, which the town would then be responsible for rectifying at the taxpayers' expense. It is imperative for the Town of Millbury to establish clear boundaries for these developers and enforce our local regulations to ensure accountability and prioritize public safety.

The proposed Chapter 40B Rice Pond Village project is inadequately planned, and the most critical public safety deficiencies remain unresolved.

The Millbury Board of Appeals must ensure accountability from these developers and uphold our local regulations, as mandated by the Massachusetts Executive Office of Housing and Livable Communities (EOHLC), given that the state will not intervene in this process. The Millbury Board of Appeals is the sole authority capable of granting waivers to these developers.