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TOWN OF CONCORD

BOARD OF APPEALS

TOWN HOUSE

Please take notice that in the matter of the PETITION of CONCORD HOUSING TRUST, INC., under MGL Chapter 40B, for a Comprehensive Permit to build three units of affordable housing at 129 Old Bedford Road, Concord, Massachusetts, the Board of Appeals has this day rendered a decision GRANTING said petition, and the record therein has this day been filed with the Town Clerk, Town House, Concord, Massachusetts. Appeals, if any, shall be made pursuant to Section 17 of the Zoning Act, Chapter 40A of the Massachusetts General Laws, and shall be filed within 20 days after the date of this notice.

Julian Carlson
CLERK, BOARD OF APPEALS

June 16, 2006
DATE

Returns

PETER B. FARROW
69 PLEASANT STREET
CONCORD, MA 01742

TOWN OF CONCORD

BOARD OF APPEALS

The Petition of Concord Housing Trust, Inc., under MGL Chapter 40B, for a Comprehensive Permit to build three units of affordable housing at 129 Old Bedford Road, Concord, Massachusetts.

RECORD OF PROCEEDINGS

The Petitioner, Concord Housing Trust, Inc., P O Box 43, Concord, Massachusetts, filed with the Board of Appeals on January 31, 2006, a petition, copy of which is hereto annexed.

The Board determined that the following constituted the parties interested in the petition and the owners of all property affected thereby, as they appear upon the most recent tax list, viz:

Gerard J. & Anne N. Burke
Robert E. & Christina H. Paul
Heritage Pool & Racquet Club Inc.
Town of Concord
Town of Concord, Dept. of Natural Resources

The Board set the 9th day of March, 2006 at 8:00 P.M. as the time, and the Hearing Room, Town House, Concord, Massachusetts as the place of the public hearing upon said petition. The hearing was opened on March 9, 2006, and continued to April 13, 2006, May 11, 2006, and June 8, 2006.

The following notice was published in *THE CONCORD JOURNAL* in the issues of February 23, 2006 and March 2, 2006, and a copy of said notice was sent by mail to each of the aforementioned parties in interest and property owners:

ZBA/129 OLD BEDFORD RD.
LEGAL NOTICE
Board of Appeals
Public Hearing

A public hearing of the Concord Zoning Board of Appeals will be held on Thursday, March 9, 2006, in the Hearing Room of the Town House, Monument Square, Concord, Massachusetts, at 8:40 P.M. on an application by Concord Housing Trust, for a Comprehensive Permit under Massachusetts General Laws Chapter 40B to construct four affordable homes at 129 Old Bedford Road.

AD#10988623
Concord Journal 2/23, 3/2/06

A hearing on said petition was held at the time and place above specified.

The following persons appeared in support of the appeal:

NANCY CONWAY, 138 BAKER AVENUE

The following person appeared in opposition thereto:

CHRISTINA H. PAUL, 141 OLD BEDFORD ROAD
TIM FRANCO, 159 OLD BEDFORD ROAD
DAN COFFEY, 177 OLD BEDFORD ROAD
DORCAS MILLER, 75 WHITE AVENUE

The Planning Board reported its action on the matter as follows:

See letter of April 13, 2006.

The Board thereupon took the following action:

VOTED: To grant a Comprehensive Permit, pursuant to MGL Chapter 40B, to Concord Housing Trust, Inc. ("CHT") for the construction of three (3) dwelling units at 129 Old Bedford Road based on the plans submitted by the applicant and signed by Ms. Cookman on June 8, 2006, and subject to the following conditions:

1. The project shall be constructed in conformance with the following plans of record:

Samiotes Consultants, Inc.
Ten Central Street
Framingham, MA 01701

Plan of Land in Concord, Massachusetts prepared for Concord Housing Trust by Samiotes Consultants dated 01-24-06

Existing Conditions Plan, X-1.1, scale: 1"=20', dated March 17, 2005

Layout and Materials Plan, C-1.1, scale: 1"=20', dated April 4, 2006

Drainage and Utilities Plan, C-2.1, scale: 1"=20', dated April 4, 2006

Grading Plan, C-3.1, scale: 1"=20', April 4, 2006

Details, C-4.1, March 17, 2005

Details, C-4.2, March 17, 2005

Linea 5, Inc.

195 State Street

Boston, MA 02109

Proposed Site Plan, Scheme B, 129 Old Bedford Road, Concord Housing Trust, March 17, 2006

Proposed Building Plans, 129 Old Bedford Road, Scale: 1/8"=1'-0," March 9, 2006

Proposed Building Elevations, 129 Old Bedford Road, Scale 1/8"=1'-0," March 9, 2006

2. Any substantial deviation from these plans and/or documents shall require a modification of this Comprehensive Permit by the Zoning Board of Appeals as set forth in 760 CMR 31.03.
3. The development shall be limited to three dwelling units. Each dwelling unit shall be restricted for ownership and occupancy by households at or below eighty percent (80%) of the Boston area median household income (hereinafter, the affordable units).
4. The affordable units shall be available for ownership and occupancy as condominium units by qualified households for a period of not less than 99 years, and CHT shall restrict the subject property accordingly under a recorded affordable housing covenant approved by the Department of Planning and Land Management.
5. The selection of the owner-occupants for the affordable units shall be the responsibility of CHT in cooperation with the Town and shall be conducted by lottery in conformance to standards and requirements of the Department of Housing and Community Development of the Commonwealth of Massachusetts with a preference for Concord residents, children or parents of Concord residents, and employees of the Town of Concord to the extent permitted by law.
6. The dwelling units shall be connected to the public water and sewer facilities.

7. Prior to issuance of the building permit, the Applicant shall submit and receive approval of an Application for Water service.
8. Prior to the issuance of a building permit, the applicant shall submit to the Concord Water and Sewer Division an application for service for any proposed changes to the water and/or sewer service configurations of the addition of any new service pipes. Such an application shall include submittal of detailed utility design plans, including all existing and proposed utilities onsite. All applications must be in accordance with the eligibility requirements of the Division's Rules and Regulations for both water and sewer service. Any deviations from these Rules and Regulations must be approved by the Public Works Commission prior to issuance of a building permit. It is the applicant's responsibility to ensure these requirements have been met. The building permit may be issued prior to receipt of a service application approval letter from the Water and Sewer Division. However, construction of Water and Sewer utilities is not permitted until an approval letter has been issued and an inspection scheduled.
9. Prior to the issuance of a building permit for any project on Town sewer, the applicant shall submit to the Concord Health Division a Request for Title 5 Building Review (Form C) to determine the amount of the Sewer Improvement Fee. A Sewer Improvement Fee will be assessed for any project where the Health Division determines that there is an increase in the Title 5 flow on the property. The Sewer Improvement Fee must be paid in full prior to the issuance of the building permit, unless otherwise authorized by the Director of Public Works, pursuant to the Rules and Regulations.
10. All utility mains, services, and appurtenances shall be constructed in accordance with Town standards.
11. Prior to the issuance of a building permit, CHT shall provide the Planning Department, for review and written confirmation of compliance, three sets of revised plans showing the following:
 - a. location of installed sewer service connections;
 - b. confirmation of location of easement on adjoining land as conveyed to CHT;
 - c. landscaping plan showing type, size, and number of plantings;
 - d. residential scale, wall-fastened light fixtures, with details to be reviewed by Planning Staff for compliance with Zoning Bylaw;
 - e. electric/telephone/cable service located underground;

- f. surveyed and labeled easement area that includes driveway and utilities to provide access to the 3 affordable housing units;
 - g. required zoning setbacks;
 - h. letter confirming that front lot may not use the driveway easement for access or extension of utilities.
12. Prior to construction, a ROW permit for Temporary Construction Access and Disturbance shall be issued from CPW-Engineering. Separate ROW permits shall be necessary for the installation of the proposed driveways, utilities, curb and berm, and sidewalks.
 13. Prior to the issuance of the certificate of occupancy, CHT shall submit to the Building Commissioner and the Planning Department as-built drawings and a plot plan showing all structures, paving and utilities. Additionally, CHT shall also submit this information in electronic format compatible with AutoCad 14.
 14. Prior to the issuance of the certificate of occupancy (or as promptly thereafter as seasonal conditions allow), CHT shall install all of the landscaping shown on the Proposed Site Plan Scheme B dated April 13, 2006. CHT commits to work with the Planning Department to consider additional landscaping or fencing proposals. Planning Staff shall inspect and confirm the final landscaping has been installed and is in a healthy condition prior to the issuance of the final certificate of occupancy.
 15. Prior to the issuance of the certificate of occupancy, any trees that are removed or significantly damaged, as determined by the Planning Director and/or the Tree Warden, that were designated to remain in place shall be replaced by CHT with deciduous shade trees of not less than 2.5 inches in caliper.
 16. Prior to issuance of a final certificate of occupancy, an Operations and Maintenance Plan for the stormwater system shall be submitted to the CPW-Engineering Division for review and approval. The plan should detail methods and schedule for maintenance and cleaning of the drain system.
 17. Prior to issuance of the certificate of occupancy, a copy of the recording information for an easement prepared and recorded that grants the purchasers of the 3 affordable housing units at 129 Old Bedford Rd. access rights over the driveway proposed for the easement area shall be submitted to the Building Commissioner.
 18. Prior to issuance of the certificate of occupancy, a maintenance agreement shall be submitted for review and approval by Planning Staff for

maintenance and plowing of the parking area and driveway, and maintenance of the stormwater system, by the homeowner's association. (The Town has the right to extend the driveway in the future.)

19. Not later than conveyance of each unit to the first owner-occupant, applicant shall submit for approval and record at the Middlesex Registry of Deeds permanent deed restrictions ensuring that the units can only be purchased by households at or below eighty percent (80%) of the Boston Primary Metropolitan Statistical Area median household income.
20. The homeowner's association documents shall include a provision that trash barrels and toys be stored in the sheds or another enclosed structure.
21. The Board of Appeals hereby waives the application fee for this zoning authorization and the building permit fee for the affordable dwelling units.
22. The term "CHT" as set forth herein shall mean Concord Housing Trust, Inc., a Massachusetts charitable corporation under MGL Chapter 180, its successors, and assigns.
23. CHT has requested, and the Board of Appeals has granted, the following waivers from local rules:

For the three new affordable units:

- a. Three-family dwelling in Residence A District on a lot comprising part of the subject property with an existing single family market rate home on a separate lot comprising the balance of the subject property.
- b. Lot Area of 20,000 square feet.
- c. Dimensional requirements to be as shown on Proposed Site Plan Scheme B dated April 13, 2006 filed with this decision.
- d. Access to Old Bedford Road by common driveway on easement being granted by the Town as authorized by the 2006 Town Meeting and as shown on Site Plan filed with this decision, with waiver of requirement of frontage on Old Bedford Road.
- e. Visitor parking along access easement, to be subject to Town rules and regulations for parking on public ways as such time as the Town determines such rules and regulations should apply.
- f. Accessory use regulations will apply separately to each dwelling unit.

For the existing single family market-rate home:

- a. Lot Area of 20,000 square feet.

Minor deviations from otherwise applicable local rules may be authorized by the Board of Appeals in the subsequent review and approval of final plans.

The members of the Board voted thereon as follows:

BOUZHA S. COOKMAN	GRANTED
ROBERTO M. BRACERAS	GRANTED
BRUCE MUELLER	GRANTED

The Board assigns the following as the reasons for the foregoing finding, ruling and decision:

On January 31, 2006 Concord Housing Trust, Inc. applied for a Comprehensive Permit, pursuant to MGL Chapter 40B, to construct four dwelling units in two duplex structures to be located at 129 Old Bedford Road, which was subsequently reduced to three dwelling units in one structure.

The following documents and exhibits related to the three unit proposal being approved by this decision were received during the public hearing and are hereby incorporated by reference in the decision:

Application of CHT for four units dated January 31, 2006

Proposed Site Plan Scheme B, 129 Old Bedford Road, Concord Housing Trust, prepared by Linea 5, Inc., dated April 13, 2006

Proposed Building Plans, 129 Old Bedford Road, Concord Housing Trust, prepared by Linea 5, Inc., dated March 9, 2006

Proposed Building Elevations, 129 Old Bedford Road, Concord Housing Trust, prepared by Linea 5, Inc., dated March 9, 2006

Plan of Land in Concord, Massachusetts prepared for Concord Housing Trust by Samiotes Consultants dated 01-24-06

Report of the Department of Planning & Land Management, dated April 13, 2006

CHT is qualified to make this application pursuant to 760 CMR 31.01 in that (a) it is a non-profit organization; (b) the project will be funded by Community Preservation Act funds voted by 2006 Town Meeting for low and moderate income housing; and (c) it has "control of the site" because it holds an option to purchase the subject property.

The Town of Concord has not met the statutory minimum set forth in G.L. c. 40B, s. 20 or 760 CMR 31.04, nor is affordable housing located on sites comprising one and one-half percent or more of the total land area zoned for residential, commercial or industrial use. The development of affordable units consistent with this application will not result in the commencement of construction of such housing on sites comprising more than three tenths of one percent of such land area.

The subject property is Assessors Parcel #4185-2 in Concord, Massachusetts and contains approximately 46,648 s.f. The portion of the subject property on which the three new affordable units will be located (Parcel 1 on the Plan of Land) contains approximately 21,563 s.f., and the portion on which the existing single family residence will remain (Parcel 2 on the Plan of Land) contains approximately 25,085 s.f. The subject property is zoned Residence A as set forth in the Concord Zoning Bylaw.

The proposal by CHT calls for the development of three dwelling units on Parcel 1 within the subject property in a single building containing approximately 4,510 square feet. The front dwelling will have a floor area of 1,600 square feet, the middle dwelling unit will have a floor area of 1,400 square feet and the rear dwelling unit will have a floor area of 1,510 square feet. Each dwelling unit will contain three bedrooms.

As required in this decision, each unit will be serviced by a public water supply and public sewer connection.

Concord's water and sewer departments have indicated that the existing sewer main has adequate capacity to serve the proposed dwelling units and that connection has been authorized.

CHT will provide two parking spaces on the subject property for each dwelling unit, together with a storage shed.

Access to Old Bedford Road will be by easement on adjoining land owned by the Town as authorized at the 2006 Town Meeting.

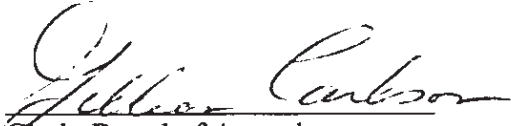
The Planning Board received comments from the following boards and officials of the Town which are summarized in its report to the Board of Appeals dated April 13, 2006: Fire Department, Community Safety Officer, CPW – Engineering, Building Commissioner, Public Health Administrator, Natural Resources Administrator and Planning Staff.

The Planning Board's report indicates that the development of this project would not endanger public health or safety or the environment, show design deficiencies, or impair critically needed open space, all subject to the conditions set forth above.

As proposed by CHT, each dwelling units will be restricted ownership and occupancy by households at or below eighty percent (80%) of the Boston area median household income.

The proposed development is consistent with local needs.

A TRUE COPY: ATTEST


Clerk, Board of Appeals

Date June 16, 2006

Filed with Town Clerk

Concord Housing Trust, Inc. 2006

TOWN OF CONCORD
BOARD OF APPEALS

THE BOARD OF APPEALS CERTIFIES as follows:

Name and Address of Owner: Gerald Burke

129 Old Bedford Road

Concord, Massachusetts 01742

Property Identification: 129 Old Bedford Road

Concord, Massachusetts 01742

10036/093

This application and all subsequent proceedings comply with the requirements of General Laws, Chapter 40A, Section 1, et seq., for the issuance of variances and permits. Copies of this decision and all plans referenced to herein have been filed with the Concord Planning Board and the Concord Town Clerk.

[Handwritten Signature]
[Handwritten Signature]
[Handwritten Signature]

I, ANITA S. TEKLE, Town Clerk for the Town of Concord, hereby certify that twenty (20) days have elapsed since the filing of this decision and no appeal has been filed, or, if filed, has been dismissed or denied.

Anita S. Tekle
July 7, 2006

An appeal from this decision shall be made pursuant to General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date of filing such decision or notice thereof in the office of the Town Clerk.

Forms: Sig. pg.