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TOWN OF LEXINGTON  
DECISION OF THE BOARD OF APPEALS  
TOWN CLERK  
LEXINGTON MA

Subject Property: 307 Wood Street/1 Katahdin Drive  
Applicant: Princeton Properties  
Owner: CLPF-Katahdin Woods LP  
Meeting Date: May 22, 2014

A public meeting was duly held, on May 22, 2014, in the Town Office Building, on the request of Princeton Properties, for a determination, by the Board of Appeals (Board or ZBA), that certain REVISIONS to the previously approved COMPREHENSIVE PERMIT are INSUBSTANTIAL in nature and that no new public hearing is required to allow the revisions.

Board members acting on the request: Martha C. Wood, Jeanne K. Krieger, Edward D. McCarthy, Leo P. McSweeney and David G. Williams.

Administrative Staff Present: David George, Zoning Administrator, Dianne Cornaro, Administrative Clerk, and Fred Lonardo, Building Commissioner.

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**Findings and Decision:**

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**Findings:**

1. The applicant, Princeton Properties, is the agent for property owned by CLPF-Katahdin Woods LP. Said property is located at 307 Wood Street/1 Katahdin Drive and is more particularly described in a deed recorded in the Middlesex South District Registry of Deeds Book 48159 Page 89.
2. The site is located in a zoning district classified under the Town of Lexington Zoning Bylaw as RO (One-Family Dwelling) zoning district.
3. The present use of the property is a multi-family apartment complex.
4. On March 19, 1987 the Board granted a Comprehensive Permit, under Mass. General Law Chapter 40B, §§20-23.
5. The applicant submitted the following information to the Board in connection with the request that certain changes be considered insubstantial:
  1. Excerpts, consisting of 3 sheets, of applicable CH 40B regulations relative to process to determine that changes are insubstantial, delivered by email dated May 13, 2014.

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2. Letter Princeton Properties to ZBA, dated May 15, 2014, delivered by email dated May 15.
3. Copy of the March 19, 1987 ZBA Comprehensive Permit decision, delivered by email dated May 15.
4. Landscape Diagram showing listing proposed replacement trees and showing the location of such trees, unattributed and undated, delivered by email dated May 21, 2014.
5. Landscape Overview showing existing landscape conditions, unattributed and undated, delivered by email dated May 21, 2014.
6. Email exchange dated May 21, 2014 relative to answers to Board questions about type of trees to be removed, and details of proposed trees.
6. The applicant proposes to modify the landscape plan approved with the Comprehensive Permit to allow the removal and replacement of 29 trees at the site.
7. Modifications to the landscape plan are not subject to the Tree Bylaw.
8. Under Mass. Gen. L. CH 40B, Comprehensive Permit, the Board has the authority to determine whether changes to a previously allowed plan are insubstantial in nature. If the Board determines the changes to be insubstantial then the changes can occur without requiring a new public hearing.
9. The applicant sought, through its petition, zoning relief from the Zoning Bylaw (Bylaw), CH 135 of the Code of the Town of Lexington, § 135-9.2.2.4 and applicable CH 40B regulations to allow the above listed modifications for the following reasons:

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29 trees, planted 27 years ago, need to be removed and replaced because some of trees closest to the buildings have died and some have become overgrown to the extent that they block the use of the balconies and decks and hang on portions of the structure. The 29 trees to be removed will be replaced with the same number of trees. The replacement trees will be located in approximately the same location as the existing trees. The proposed replacement trees will have minimum caliper of 2 inches and a height of 6-8 feet. The trees need to be this height because the trees will be planted on a slope. The smaller caliper trees better acclimate than larger trees when planted on a slope. The replacement trees will be arbor vitae, dogwood, and flowering cherry in place of Hemlock and invasive Norway maple. There will be no change to the number of housing units

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or changes to any of the other site plan elements, except for the removal and replacement of the described 29 trees. Based on the above, the Board can determine that the changes to the landscape plan are insubstantial as that term is defined under the CH. 40B regulations.

- 10. The Board can find that the above listed changes to the Comprehensive Permit are insubstantial in accordance with the Zoning Bylaw (Bylaw), CH 135 of the Code of the Town of Lexington, § 135-9.2.2.4 and applicable Mass. Gen. L. CH 40B regulations for the following reasons:

The changes are insubstantial for the reasons listed in Finding 9, above.

**Decision:**

On a motion duly made and seconded, the Board voted 5-0 to determine that the REVISIONS to the Comprehensive Permit are INSUBSTANTIAL and that no new public hearing is required. Such determination was made in accordance with the Zoning Bylaw (Bylaw), CH 135 of the Code of the Town of Lexington, § 135-9.2.2.4 and applicable Mass. Gen. L. CH 40B regulations subject to the following:

- 1. Tree replanting shall start by June 15, 2014.
- 2. Tree replanting shall be completed by July 15, 2014.
- 3. The applicant shall provide an 'As Built' tree replanting plan, stamped by a Commonwealth of Massachusetts certified Landscape Architect, within seven days of the completion of tree replanting, or in the alternate the applicant shall send to the Zoning Administrator a letter prepared by the Landscape Contractor who installed the trees, attesting to the fact that the Landscape Contractor's firm removed the trees and replaced the trees with the species identified and in the areas shown on the Planting Plan referenced as "Tree Planting Site Layout," prepared for Katahdin Woods, dated June 2, 2014.
- 4. After the tree replacement has been completed, the Landscape Contractor shall contact the Zoning Administrator to request an inspection of the new plantings by the Zoning Administrator or party on his behalf.

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LEXINGTON BOARD OF APPEALS' DECISION:

Hearing Date: May 22, 2014

This constitutes the record of the decision of the Lexington Board of Appeals relative to:

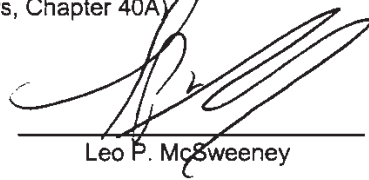
Subject Property: 1 Katahdin Drive

Petitioner/s: Attorney Jeffrey Brown, Princeton Properties

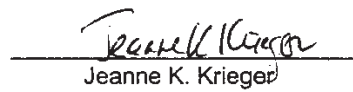
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BOARD OF APPEALS OF LEXINGTON (acting under the Lexington Zoning Bylaw, Lexington General Town Bylaws, and Massachusetts General Laws, Chapter 40A)


  
David G. Williams

  
Leo P. McSweeney

  
Edward D. McCarthy

  
Jeanne K. Krieger

  
Martha C. Wood, Chairwoman

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LEXINGTON, MA

I, Dianne L. Cornaro, Department Clerk of the Board of Appeals, certify that copies of the decision have been filed with the Lexington Town Clerk.

  
Dianne L. Cornaro, Administrative Clerk

No variance, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, or that if it is a variance which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the petition for the variance accompanied by the certification of the city or town clerk stating the fact that the permit granting authority failed to act within the time prescribed, and no appeal has been filed, and that the grant of the petition resulting from such failure to act has become final, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant.