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TOWN OF CONCORD

BOARD OF APPEALS

TOWN HOUSE

Please take notice that in the matter of the PETITION of PERIOD REALTY TRUST, GUY P. DIGIOVANNI, TRUSTEE, under M.G.L. Ch. 40B, for a Comprehensive Permit to allow the construction of 80 units of rental housing with 25% affordable at 247 Laws Brook 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.

Janet G. Manzelli
CLERK, BOARD OF APPEALS

January 10, 2003
DATE

Return to:

COMINS & NEWBURY LLP
9 DAMON MILL SQUARE - SUITE 4D
CONCORD, MA 01742

TOWN OF CONCORD

BOARD OF APPEALS

The Petition of Period Realty Trust, Guy P. DiGiovanni, Trustee, for a Comprehensive Permit under M.G.L. Ch. 40B to allow the construction of 80 units of rental housing, with 25% affordable, at 247 Laws Brook Road.

RECORD OF PROCEEDINGS

On or about March 22, 2002, Period Realty Trust, Guy P. DiGiovanni, Trustee (the "Applicant") 144 Sudbury Road, Concord, Massachusetts, applied for a Comprehensive Permit, pursuant to MGL Chapter 40B, to construct a multi-use rental development to be located at 247 Laws Brook Road.

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:

Jun Uramatusu Smith
Town of Concord Department of Natural Resources
Francis J. & Dorothy G. Sullivan
Joseph D. Tiano & Nancy L. Anselmo & Sally A. Curro
Sarah Boring Satterthwaite

The Board set the 11th day of April, 2002, at 8:00 P.M. as the time, and the Meeting Room at 141 Keyes Road, Concord Massachusetts, as the place of the public hearing upon said petition. The hearing was continued to May 9, in the Town House Hearing Room, June 13, in the Alcott School Auditorium, July 11, August 22, September 12, October 10 and November 14 in the Concord-Carlisle High School Auditorium, when a vote was taken on the application.

The following notice was published in *THE CONCORD JOURNAL* in the issues of March 28 and April 4, and a copy of said notice was sent by mail to each of the aforementioned parties in interest and property owners:

ZBA/PUBLIC HEARING 4/11/02
LEGAL NOTICE
BOARD OF APPEALS
TOWN OF CONCORD
141 KEYES ROAD
MEETING ROOM

The Board of Appeals will hold a public hearing on Thursday, April 11, 2002 at 8:00 P.M. in the Meeting Room at 141 Keyes Road, Concord, Massachusetts, on petitions for variations, applications for special permits or appeals from decisions of the Building Inspector. A public meeting for a work session will be held at 7:30 P.M. **INFORMATION IN SUPPORT OF EACH AGENDA ITEM MAY BE REVIEWED AT THE BOARD OF APPEALS OFFICE, 141 KEYES ROAD, MONDAY THROUGH FRIDAY, 8:30 A.M. TO 4:30 P.M.**

1. Vincent Bartolomeo, under Sections 5.3, 6.2 and 11.6, to amend an existing Special Permit for a home occupation at 5 Byron Street.
2. Middlesex School, under Sections 5.4.4 and 11.6, for a Special Permit for temporary use of three tents on the school campus during Alumni Weekend on May 10 and 11 at 1400 Lowell Road.
3. Brian Kilcoyne and Martha Livingston, under Section 11.4.2, with an appeal from a decision of the Building Inspector denying the creation of an additional dwelling unit at 284 Central Street.
4. Daniel and Juliana Coles, under Sections 5.3.4 and 11.6 for a Special Permit to stable horses on less than five acres at 350 College Road.
5. Charles and Christina Stolper, under Sections 5.3.4 and 11.6 for a Special Permit to stable up to four horses on less than five acres at 761 Lowell Road.
6. David Murray, under Sections 7.1.2, 7.1.4 and 11.6 for an amendment to an existing Special Permit to extend a nonconforming structure or use at 48 Lexington Road.

7. Tim McInerney and Betsy Eltonhead, under Sections 7.1.2, 7.1.4 and 11.6, for a Special Permit to change, extend or alter a nonconforming structure or use at 33 Conant Street.
8. The Secret Ingredient, Inc., under Sections 7.7, 7.7.2.12 and 11.6, to amend a Special Permit and Site Plan Approval with Relief from Parking to allow the removal of two existing parking spaces and to add an exterior deck for additional seating at the Back Alley Cafe, 12R Walden Street. (The Planning Board will consider its recommendation to the Board at its meeting on April 9, 2002.)
9. Nashawtic Country Club, under Sections 7.2, 7.3 and 11.6, for a Special Permit to perform work within the Flood Plain and Wetlands Conservancy Districts at 23-A Fitchburg Turnpike. (The Planning Board will consider its recommendation to the Board at its meeting on April 9, 2002.)
10. Period Realty Trust, under M.G.L. Ch. 40B, for a Comprehensive Permit to allow the construction of 80 units of rental housing with 25% affordable at 247 Laws Brook Road.
11. Dr. Joseph Arcidi d/b/a Concord Professional Realty, per M.G.L. Ch. 40A, Section 16, Repetitive Petitions, at 747 Main Street. (The Planning Board will consider whether specific and material changes have been made to the application and whether it consents to the reapplication at its meeting on April 9, 2002.)

THE BOARD RESERVES THE RIGHT TO CONTINUE THE HEARING ON ANY ITEM THAT HAS NOT BEEN ADDRESSED BY 11:00 P.M.

By order of Board of Appeals
Michael J. Fadden, Chairman

AD#813880
Concord Journal 3/28, 4/4/02

Hearings on said petition were held at the time and place above specified.
3

The following documents and exhibits were received during the public hearing and are hereby incorporated by reference in the decision:

Wetland Resource Plan, dated 10/16/01, revised 11/6/01 and 11/8/01
 Traffic Impact Study by BSC Group, January 2002
 Landscape plan, dated 3/9/02
 Site plans from C. Prentiss, D. Perley & G. Sanford, dated 10/16/01 and 2/27/02
 Warner Woods plans from P. DiMeo, dated 12/20/01, 1/14/02 and 3/13/02 (R-1 and A-1 – A-14
 Drainage Calculations from David Perley, dated 2/17/02
 Application from Period Realty Trust, dated 3/22/02
 Memo from Concord Public Works to E. Newman, dated 4/17/02
 Letter from Board to Town Boards requesting recommendations, dated 4/18/02
 Review from Building Department, dated 5/2/02
 Letter from Affordable Housing Committee to M. Fadden, dated 5/9/02
 Letter from Planning Board to M. Fadden, dated 5/9/02
 Letter from Concord Public Works to M. Fadden, dated 5/15/02
 Memo from M. Rasmussen to M. Fadden re: hiring independent consultant, dated 5/15/02
 Copy of memo to R. Engler from M. Jacobs, dated 5/16/02
 Letter from Aben & Associates to E. Newman, dated 6/12/02
 Letter from NRC to M. Fadden, dated 6/12/02
 Letter from Rizzo Associates to Board, dated 6/14/02
 Letter from Rizzo Associates to Board, dated 6/26/02
 Letter from R. Engler with letter from Middlesex Bank re: site approval, dated 7/27/02
 Peer Review from Mangel Associates, dated 8/7/02
 Letter from BSC Group to Board, dated 8/15/02
 Meeting notes from Rizzo Associates re: 8/22/02 meeting
 Peer Review from Mangel, dated 8/22/02
 Elevations from Mangel Associates, dated 8/22/02 and 9/12/02
 Letter from Rizzo Associates to Board, dated 9/4/02
 Letter from CPW to M. Rasmussen, dated 9/4/02
 Letter from J. Minty (Building Dept.) to M. Fadden (height calculations), dated 9/6/02
 Letter from Planning Board to M. Fadden, dated 9/12/02
 Copy of letter from NRC to Period Realty Trust, dated 9/16/02
 Memo from M. Jacobs to Board, dated 9/20/02
 Letter (recommendation) from Planning Board to M. Fadden, dated 10/9/02
 Letter from NRC to M. Fadden, dated 10/10/02
 Mass. DEP Order of Conditions, received 10/17/02
 Memo from M. Rasmussen to M. Fadden, dated 11/7/02
 Letter from R. Engler to M. Fadden, dated 11/7/02
 Letter from Anderson & Kreiger, dated 11/14/02
 Memo from M. Jacobs to Board, dated 11/14/02
 Landscape Plan from C. Prentiss, revised 11/21/02
 Letter from A. Kreiger, dated 12/2/02 including letters from T. Penfield and R. Marchetti
 Letter from Period Realty Trust, dated 12/23/02, re: extension of time for filing decision.

Letters were received in favor of the application from:

Richard W. Wheeler, dated 5/10/02
Richard Beinecke, undated
Terry Rothermel, dated 7/11/02
James Craig, dated 7/18/02

Letters were received in opposition to the application from:

Cynthia Katz, dated 4/1/02
Boo Butler, undated, received 4/4/02
Ted and Joanne Penfield, dated 4/5/02
Frances Papachristos, dated 4/7/02
Janet Rothrock and David Lebling, dated 4/9/02
Mary and Peter Rubel, dated 4/10/02
L. Shea, dated 4/13/02
Dick and Claire Greene, dated 4/20/02
Peter Grover, dated 5/3/02
Candace Wight, dated 5/3/02
Michele Pruett, dated 5/4/02
Elizabeth Brosens, dated 5/8/02
Rod and Joanne Loynd, dated 5/17/02
Barbara Levy and Steve Rozen, dated 6/24/02
Curtis Gekle, dated 8/7/02
Marcia Schloss, dated 8/23/02
J. de La Beaujardiere, dated 8/30/02
Richard Hollworth, dated 7/23/02 and 8/4/02
Sarah Satterthwaite, dated 9/5/02
Melvin and Pauline Stephens, dated 9/9/02
Susan Norman, dated 9/10/02
Chris Anderson, dated 9/10/02
Cynthia Katz, dated 9/11/02
Ted Penfield, dated 9/12/02, including testimony from the CARD organization
Robert Marchetti, dated 9/27/02
Ted Penfield, dated 10/8/02
Sally Bradford, dated 10/10/02
Sally Satterthwaite, dated 10/14/02
Robert Marchetti, dated 11/4/02

The following persons appeared in support of the appeal:

JOAN SULLIVAN
269 Laws Brook Road

VALERIE DIRENZO
227 Belknap Street

RICK BEINEKE
61 Lang Street

JACK McBRIDE
107 Spencer Brook Road

MOIRA WALSH
169 Thoreau Street

MARILYN NICKERSON
Wedgewood Common

NANCY CRONIN
216 Garfield Road

SALLY SATTERTHWITE
297 Laws Brook Road

ELLIE HORWITZ
32 Riverside Avenue

ERICA POWERS
1721 Wedgewood Commons

JOHN DIRUZZO
34 Conant Street

The following persons appeared in opposition thereto:

GERRY TOLMAN
365 Laws Brook Road

TED PENFIELD
57 Wright Road

BOB MARCHETTI
158 Wright Road

RICH HOLWORTH
30 Sunnyside Lane

JEAN-MARIE DE LA BEAUJARDIERE
42 Buckmaster Drive

NANCY SLATTERY LORCH
155 Hill Street

JAMES LYON
36 Hillside Avenue

PETER KAPLAN
199 Wright Road

SARAH BROZOWSKI
401 Border Road

ARLENE GIBSON
477 Laws Brook Road

PAT GUINEY
62 Wright Road

CHARLES CHRISTIAN
54 Maple Street

DON LEVITAN
Concord Greene

ERIN DECURTIS
111 Laws Brook Road

JOANNE LOYND
157 Wright Road

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

See letter of October 9, 2002.

The Board thereupon took the following action:

VOTED: To grant a Comprehensive Permit, under M.G.L. Chapter 40B to Period Realty Trust, Guy P. DiGiovanni, Trustee, for the construction of two (2) buildings, with up to a total of eighty (80) dwelling units at 247 Laws Brook Road, which shall be in substantial conformance with the following plans of record: "Warner Woods Development," prepared by Mangel Architects Incorporated and drawings submitted to the Board on December 12, 2002, and subject to all additional conditions contained in the decision, as follows:

1. The Project as constructed shall not exceed a total of 80 dwelling units. The Project authorized by this Permit is detailed on the Plans entitled "Warner Woods Development", prepared by Mangel Architects Incorporated and drawings submitted to the Board on December 12, 2002 depicting a reduction of 9'6" in height of both buildings and reduction of number of floors contained in each building but for living space which may be incorporated in gable areas of each building. The Plan, or any subsequent plan consistent with the Comprehensive Permit and having been approved by the Board of Appeals as an insubstantial change is hereby incorporated into this Decision by reference.
2. Twenty-five percent (25%) of all units constructed pursuant to this Permit shall be reserved for rental or lease by households at or below eighty (80%) percent of the Boston Primary Metropolitan Statistical Area median household income (or twenty percent if rented/leased by households at or below fifty percent (50%) of the Boston PMSA median household income) for a period 99 years, or for as long as the developer is not in full conformity with the Town's Zoning Bylaw, whichever is longer. The affordable units shall not be situated so as to segregate the affordable units from the market rate units.
3. Preference for the renting or leasing of 70% of the affordable units shall be given to Concord residents, children or parents of Concord residents, and/or employees of the Town of Concord, pursuant to a lottery or selection process that is reviewed and approved by the Board of Appeals and administered by the Applicant, with an annual report of renting or leasing activity submitted to the Concord Planning Division.
4. The number of units and number of affordable units of the Project shall consist of the following mix of unit types to be determined prior to the issuance of a building permit subject to and consistent with the terms of this Comprehensive Permit.
5. The under-building parking spaces shall be allocated at the same percentage as the unit mix (either 75:25 or 80:20). Parking spaces shall be allocated to units on a first come, first served basis and there shall be no more than one under-building parking space per unit (any additional spaces per unit shall be located within the exterior parking areas).
6. All units shall be connected to public water and sewer facilities at the Applicant's sole cost and expense.
7. **Prior to the issuance of any building permit**, the Applicant shall submit to the Building Inspector structural drawings for the project. All structural drawings shall be designed and certified by a professional structural engineer.
8. **Prior to the issuance of any building permit**, the applicant shall submit a final draft of a Regulatory Agreement regarding the rental and affordability of the development to the Board of Appeals for approval as to form by Town Counsel. The Regulatory Agreement shall contain, at a minimum, the following terms: The affordable units shall be restricted as affordable for 99 years, or for as long as the development is not in full compliance with the Town's Zoning Bylaw, whichever is longer, to households with less than 80% or 50% of the Boston PSMA of the Boston area median income. The Monitoring Agent

shall be identified in the Regulatory Agreement, with a copy of the agreement to be provided to the Town.

9. **Prior to the issuance of any building permit**, the applicant shall submit to the Fire Department for review two sets of stamped plans from a fire protection engineer for the fire alarm system.
10. **Prior to the issuance of any building permit**, the applicant shall have submitted a written agreement for construction and maintenance of the underground electric facilities with CMLP and shall have deposited adequate funds as required by CMLP.
11. **Prior to the issuance of any building permit**, the Applicant shall prepare and submit to the Engineering Division, a Stormwater Pollution Prevention Plan ("Prevention Plan") that addresses the control of runoff and sediment during construction. This Prevention Plan shall detail sediment controls to be used throughout each phase of the construction sequence. The Prevention Plan shall include the location of stockpiling areas, temporary stabilization of stockpiled materials, de-watering methods and specifications, procedures to monitor for and manage contaminated soil if detected, measures to temporarily stabilize exposed surfaces, and a contingency plan in the event that any contamination is encountered on the Site. The Plan shall reflect the installation and maintenance of a stone apron consisting of 6" or 20 pound stones with an apron at least 30' wide and 50' in length, to be used throughout all construction phases between all work areas and paved areas. Sediment tracked onto paved areas including the internal access drive and Laws Brook Road shall be swept at the conclusion of each construction day, until all work areas have been properly stabilized.
12. **Prior to the removal of any earth from the site**, the applicant shall provide to the Building Inspector, written notification of the volume of earth to be removed and approval from the Chief of Police as to the days and hours of operation, the trucking route and type of vehicle to be used on any street for removal of earth. This information shall be provided to the Building Inspector as least forty-eight (48) business hours prior to any removal of earth.
13. **Prior to the issuance of any building permit**, the Applicant shall submit to the Planning Division for approval a Tree Protection Plan that identifies any trees to remain and tree protection measures to be taken to insure that trees are not injured or damaged during construction. Any tree scheduled to remain that is removed or significantly damaged shall be replaced at a 2:1 ratio (minimum 3-inch caliper). The Applicant shall also submit to this Board, prior to the issuance of any building permit, a landscape elevation plan, depicting as-built landscape conditions proposed at time of initial occupation and at five (5) and ten (10) year grow out intervals.
14. **Prior to the issuance of any certificate of occupancy**, the Applicant shall submit documentation to the Engineering Division verifying that the project has complied with all applicable stormwater management requirements as specified by the Federal Clean Water Act National Pollution Discharge Elimination Systems (NPDES).

15. **Prior to the issuance of any certificate of occupancy**, the Applicant shall submit for review and approval to the Building Inspector a Snow Management Plan that includes a description of the use of de-icing chemicals and the plowing of all driveways, fire access ways and pedestrian exit walkways. Snow shall not be stockpiled within any emergency access ways or adjacent to any on-site fire hydrants or within wetland resource areas.
16. **Prior to the issuance of any certificate of occupancy**, the Applicant shall submit to the Building Inspector a certification from a professional engineer that the Project has been constructed in accordance with the approved structural drawings.
17. **Prior to the issuance of any certificate of occupancy**, the following improvements shall be completed to the satisfaction of the Town Engineer:
 - a) Driveway construction to binder course of pavement;
 - b) Installation of all utilities including electric, water, drainage, and sewage;
 - c) Rough grading and soil stabilization.
18. **Prior to the issuance of any certificate of occupancy**, all site work, including landscaping, shall be completed or an assignment of security by a passbook account in an amount approved by the Board of Appeals or such other form of security acceptable to the Board shall be submitted to the Town to assure completion of any site work which has not been completed. Said security may be reduced by the Board as work is completed.
19. **Prior to the issuance of any certificate of occupancy**, the Applicant shall submit to the Board of Appeals (or its designee) for review the local preference plan and the affirmative fair marketing plan.
20. **Prior to the issuance of any certificate of occupancy**, approval for a perpetual conservation restriction, similar in form to that provided under M.G.L. Ch. 184, section 31, shall be obtained for the balance of land contained within Parcel # 2274 and/or a perpetual trail easement to the benefit of the Town will be provided that will create a connection to adjacent Town-owned open space.
21. **Prior to the issuance of a final certificate of occupancy**, the applicant shall provide to the Building Inspector and the Engineering Division for review a Drainage Maintenance Program indicating that all on-site drainage structures and all paved areas on the Site will be cleaned and maintained at least two (2) times annually, once in the Fall and once in the Spring, and immediately after any chemical release equal to or greater than five (5) gallons. The Program shall include a maintenance schedule and the Applicant shall submit maintenance records to the Building Inspector as they are generated.

22. **Prior to the issuance of any final certificate of occupancy**, the applicant shall submit to the Building Commissioner, the Planning Division and the Fire Department an as-built site plan showing all structures, paving, utilities and the location of the Fire Department connections, fire hydrant(s) and "Fire Lane" striping as required by the Concord Fire Department. Additionally, the applicant shall submit this information to the Engineering Division in electronic format compatible with AutoCad 14.
23. **Prior to the issuance of a final occupancy permit**, the applicant shall comply with all Fire Department requirements, unless an alternative measure has been determined to be acceptable by the Fire Chief.
24. **Prior to the issuance of a final occupancy permit**, the applicant shall submit to the Building Inspector, all final Comprehensive Permit documents, including the conservation restriction and/or trail easement, said documents having been recorded with the South Middlesex Registry of Deeds.
25. **Prior to the issuance of any final occupancy permit**, the applicant shall provide a gift to the sidewalk fund in the amount of \$10,000-25,000 (this amount will provide a portion of the funding to replace the existing sidewalk on the northerly side of Laws Brook Road from the site to Rideout Playground, approximately 1400 feet) given the fact that recreational use for the development is not provided within the site but is available at Rideout playground.
26. **Prior to the issuance of a final certificate of occupancy**, appropriate vehicular/directional signage at the driveways shall be installed in locations that are acceptable to the Community Safety Officer and the Engineering Division.
27. **Prior to the issuance of a final certificate of occupancy**, the applicant shall complete a curb to curb overlay for that portion of the proposed sewer extension under the existing traveled way of Laws Brook Road.
28. **Prior to the issuance of a certificate of occupancy**, the Applicant shall coordinate with the Planning Division, Engineering Division and Community Safety Officer on improving the sight distances at the driveway of this Project to the degree that it is non-injurious to the character and aesthetic quality of the neighborhood. Trees over 6 inches DBH that may be scheduled to be removed as a result of sight distance improvements shall be flagged on the field prior to such removal, and the Community Safety Officer, Engineering Division and Planning Division shall confer on the need for such removal.
29. **Prior to the issuance of a certificate of occupancy**, the Applicant shall provide a crosswalk in a location acceptable to the Community Safety Officer and Engineering Division to the existing sidewalk on the north side of the Laws Brook Road. Safe pedestrian walkways (including a wider area within the sidewalk that will serve as a bus waiting area for children and walkways between buildings and connecting to Laws Brook Road) shall also be provided within the site.

30. Substantial changes, as determined by the Building Commissioner, shall be reviewed by the Board of Appeals for approval. Substantial changes shall include, but not be limited to, revisions which would result in:
 - (a) A relocation of the driveway by more than five feet;
 - (b) A relocation of a building by more than five feet (provided no building is located closer to the right-of-way than already proposed and no building shall be constructed within the right-of-way);
 - (c) Any increase of pavement area for parking or vehicular access by more than 500 s.f. in the aggregate; and,
 - (d) Any changes to the exterior building footprints, gross floor areas and exterior design treatments.
31. If in the future the Applicant wants to convert the units to condominiums, an amendment to the Comprehensive Permit from the Board of Appeals would be required. It is within the Board's purview to deny this type of request if the need for rental units is still a major factor in the community.
32. There shall be no on-site storage of fuels, oils, automotive fluids, fertilizers, pesticides, insecticides, herbicides, cleaning chemicals, and other hazardous materials of significant concern, other than household quantities for domestic use.
33. The Applicant shall be responsible for maintaining the proposed access and driveway as a private way, and shall be responsible for maintaining all improvements within the Project, including, but not limited to, drainage systems and structures, sewer system, water lines, the pavement surface, curbing, and other required utility improvements, in a satisfactory manner.
34. A dumpster shall be used during the building construction process to contain waste construction materials and debris.
35. Demolition and/or exterior construction activity shall be limited to Monday through Friday from 7 a.m. to 7 p.m. and Saturday 9 a.m. to 5 p.m.
36. A fully addressable alarm system shall be installed and monitored by a Master Box.
37. The water main, drainage and appurtenances shall be constructed in accordance with Town standards.
38. All landscaping shall be properly maintained in a healthy condition.
39. The applicant shall implement and/or follow all conditions specified in any Order of Conditions or Superceding Order of Conditions issued under the Wetlands Protection Act.

- 40. This Comprehensive Permit shall control the development of the Project and, to the extent of any inconsistency between this Comprehensive Permit and any other instrument, document or agreement delivered as part of the Application for this Permit, the terms, conditions and limitations of this Permit and the Regulatory Agreement incorporated by reference herein shall govern and control.
- 41. Pursuant to 760 CMR 31.08(5), this Comprehensive Permit may be transferred to a person or entity other than the Applicant only with the written approval of the Board of Appeals, which approval shall not be unreasonably conditioned, withheld and/or delayed.
- 42. If this Comprehensive Permit, which contains conditions satisfactory to the Applicant, and no appeal is taken on the Comprehensive Permit and Period Realty Trust is also successful in obtaining a Superceding Order of Conditions for the project from the DEP, which Superceding Order of Conditions contains conditions satisfactory to the Applicant, and no appeal, other than by the Applicant, is taken on the Superceding Order of Conditions, the Applicant shall impose, prior to the issuance of a final certificate of occupancy, a perpetual Conservation Restriction on Parcel 2084, owned by or under the control of the Applicant, running to the Town as grantee pursuant to the provisions of M.G.L. c. 184.
- 43. That any substantial deviation from these plans and/or documents shall require a modification of this Comprehensive Permit by the Board of Appeals as set forth in 760 CMR 31.30.

This Comprehensive Permit Decision shall not be in effect until a copy of this Decision, bearing the certification of the Town Clerk that twenty days have elapsed and no appeal has been filed, or, that if such appeal has been filed, that it has been dismissed or denied, and is recorded at the Middlesex South Registry of Deeds 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 fee for recording or registering shall be paid by the Owner or Applicant.

The members of the Board voted thereon as follows:

MICHAEL J. FADDEN	GRANTED
BOUZHA S. COOKMAN	GRANTED
C. WILLIAM BARRETT	GRANTED

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

The Board found that the Applicant is qualified to make this Application pursuant to 760 CMR 31.01 in that 1) the Applicant is a limited dividend organization within the meaning of General Laws, Chapter 40B, and is eligible to receive a subsidy under a state or federal affordable housing program after a Comprehensive Permit has been granted; 2) that the Middlesex Savings

Bank, a member institution under the Federal Home Loan Bank of Boston, using the New England Fund affordable housing program, will be the subsidizing agency within the meaning of the procedural regulations of the Massachusetts Housing Appeals Committee; and 3) that the applicant has "control of the site" sufficient to qualify it as a recipient of a Comprehensive Permit for this site.

The Town of Concord has not met the statutory minimum set for in M.G.L. c. 40B, Section 20 or 760 CMR 31.04, nor is affordable housing located on sites comprising one and one-half per cent 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 per cent of such land area, or ten acres, whichever is larger, in any one calendar year. The number of low or moderate income housing units in the Town of Concord constitutes less than ten per cent (10%) as reported in the latest decennial census of the town and reported by the Department of Housing & Community Development as of October 1, 2001.

The Board finds that the development, as proposed, and subject to the conditions contained in this Decision, is consistent with local needs within the meaning of General Laws, Chapter 40B, Section 20.

The subject property is Assessors Parcel #2274 in Concord, Massachusetts. The parcel contains approximately 9.2 acres of land, more or less. The Applicant also owns, or otherwise has control over another parcel of land, located on the northerly side of Laws Brook Road, represented by the Applicant to contain 6 acres of land, more or less, and shown as Assessors Parcel #2084. The property is located in a Residence C zone. Multi-family residential use is not an allowed use. Parcel #2084 is not part of the Comprehensive Permit in that it will not be developed as part of the Comprehensive Permit but is the subject of a condition of this Permit.

The Applicant's proposal calls for the development of no more than eighty (80) dwelling units on the subject property in two (2) detached buildings as depicted on the Plan submitted to the Board, which plans are material to this Board's decision.

The Board finds that the type of housing proposed is needed in the community and will provide housing alternatives to service a wide range of individuals and families.

As required by this decision each dwelling unit will be serviced by a public water supply and a public sewer connection. Concord's water and sewer department has indicated that sewer and water connections are available and, subject to the conditions contained in this Decision, are adequate to service each dwelling unit.

This Board requested and received written comments and oral presentations from boards and Town officials. The comments and presentations included, among other things, assessments of impacts to municipal services resulting from the proposed development.

The Applicant requested certain waivers from the Zoning Bylaw. Each of the following waivers is consistent with the public interest and granted by this Board:

1. To the extent necessary to provide parking for up to eighty (80) dwelling units, the Board grants the Applicant's waiver request to provide adequate parking spaces on the subject property for each dwelling unit.
2. To the extent necessary to comply with submitted plans upon which the Board's decision is based, a waiver of front yard setback.
3. A waiver to allow for multi-family use in a Residence C zone.
4. To the extent necessary and subject to the conditions contained here, a waiver of building height.
5. A waiver of the density requirements for the property.

The Board found that the applicant has identified the projects' impacts to wildlife and the methods to mitigate any impacts to wildlife.

This approval is further subject to the conditions enumerated above.

The Board further finds that the granting of this Comprehensive Permit is consistent with local needs, serves to protect the health and safety of the occupants of the proposed housing and the residents of the Town, promotes better site and building design in relation to the surroundings and preserves open space.

A TRUE COPY: ATTEST

Janet G. Mangelli
Clerk, Board of Appeals

January 10, 2003
Date

Filed with Town Clerk

TOWN OF CONCORD
BOARD OF APPEALS

THE BOARD OF APPEALS CERTIFIES as follows:

Name and Address of Owner: Period Realty Trust
144 Sudbury Road
Concord, MA 01742

Property Identification: 247 Laws Brook Road
Concord, Massachusetts
D32471-0599

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.

[Signature]
[Signature]
[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
January 31, 2003

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.

[Faint signature and stamp]