

**PLANTATION I AND II (ELIZABETH BROOK APARTMENTS) DECISION ON
INSUBSTANTIAL MODIFICATION**

**TOWN OF STOW
ZONING BOARD OF APPEALS**

Applicant: Stow Elderly Housing Corp.
22 Johnston Way, Stow, MA 01775

Owner: Historically the owner was proposed to be Plantation II Apartments LLC and Plantation Apartments Limited Partnership (identified on application: "c/o Stow Elderly Housing Corporation, 22 Johnston Way, Stow, MA 01775").

The owner will now be Applicant with a ground lease to an affiliate of Applicant as may be desirable to facilitate financing with low-income housing tax credits.

Locus: Historically the locus was 252 Great Road, 22 Johnston Way and property off Great Road
Assessor's Map U-11, Parcel 10
Assessor's Map U-11, Parcel 13-1
Assessor's Map R-22, Parcel 1A-B

The locus is now referred to as 252 Great Road, 18 and 22 Johnston Way and includes additional land acquired by the Applicant to serve as part of the well protection area. The current assessor's map references are:

Assessor's Map U-11, Parcel 10A-A1 (former Parcel A and Parcel A1)
Assessor's Map U-11, Parcel 13-1B3 (former Parcel B3 and Parcel B1)
Assessor's Map R-22, Parcel 1B-2 (former Parcel B2)
Assessor's Map U-11, Parcel 16 (additional land)
Assessor's Map U-10, Parcel 42 (Access Easement serving former Parcels B1 and B2)

Sitting: Mark Jones, Chairman, William Byron, Ernest Dodd, Andrew DeMore, Andrew Crosby, and David Hartnagel

Date of Vote: May 1, 2023

On August 10, 2017, the Stow Elderly Housing Corporation (SEHC or Applicant) submitted an application for a comprehensive permit for a project known as "Plantation II." Pursuant to G.L. c. 40B, ss. 20-23 and regulations thereunder, the Zoning Board of Appeals voted to grant the application for a comprehensive permit for "Plantation II, "subject to certain conditions contained in the permit decision" ("Plantation II decision"). Concurrently, the Board granted

modifications to a comprehensive permit issued in 1982 for the “Plantation I” development (“Plantation I modification”). The two decisions were filed with the Town Clerk on January 11, 2019.

On January 30, 2019, the Applicant appealed the Board’s Plantation I modification and Plantation II Decision to the Housing Appeals Committee. In these appeals, the Applicant sought removal of certain conditions in the Plantation II Decision alleged to render the project “uneconomic”; to impose local requirements and regulations unequally to subsidized housing; and to be “inconsistent with local needs.” The Applicant sought further amendments to the Plantation II decision to address inconsistencies between such decision and the Plantation I modification. By joint request, both appeals were remanded by the Housing Appeals Committee to the Board for public hearing on certain proposed modifications to the Plantation II project. The Applicant submitted revised plans, a narrative describing modifications requested, and other materials (“Remand Application” on March 12, 2020)

Public hearing on the Remand Application (Plantation I and II) opened on May 18, 2020, and closed on June 19, 2020. Following deliberations, the Board voted to grant the requested modifications to the project, and to issue new decisions for both Plantation I and Plantation II (together, the “Decisions on Remand” and each the “Plantation I Decision on Remand” and “Plantation II Decision on Remand.”). These new decisions incorporated the changes approved by the Board, and correct certain minor inconsistencies between the Plantation II decision and Plantation I modification. These new decisions superseded the Plantation II decision and Plantation I modification issued on January 30, 2019.

On November 14, 2022, the Applicant submitted an application for modification to combine the two Decisions on Remand with revised plans and a narrative describing the modifications requested and other materials (the “Modification Application”). With the passage of time and input from the abutters as well as the Massachusetts Department of Environmental Protection in connection with permitting applications for the wastewater treatment facility and new wells, the Applicant has concluded both that it is able to and that it is desirable to conduct the construction of the Plantation II development and the rehabilitation of the Plantation I project simultaneously under a single Combined and Revised Plantation I and Plantation II Decision of the Board.

Pursuant to 760 CMR 56.05(11)(a), on May 1, 2023, the Board considered the following Insubstantial Changes to the Comprehensive Permit dated January 30, 2023¹:

Johnston Way

1. Add the following Paragraph 47A to the Comprehensive Permit:

“Nothing in this Decision, including without limitation Conditions 5, 6, 39F, G, K, and M, 44-47, 50 and 54, and Appx. B waiver of Bylaw Section 6.2.5 and 7.7.2, shall affect or supersede the easement or other property rights in Johnston Way held by the owner(s) of 11

¹ in order to resolve an appeal brought by certain abutters in Reynolds, et al., v. SEHC, et al., No. 2381 CV 0642 (Middlesex Superior Court).

Johnston Way [or other abutters to Johnston Way] by virtue of the Access Easement and Agreement recorded in the Middlesex South Registry of Deeds [or otherwise].

Single-Family House

1. Amend the last full sentence on page 5 of the Decision to read as follows:

“SEHC proposes to rent all thirty-seven new Plantation II apartments and the existing single-family house to low- or moderate-income households.”

2. Add the following sentence to footnote 2 on page 5 of the Decision:

“SEHC shall apply that affordability level to the house, as well.”

3. Amend Conditions 31 and 33 of the Decision as shown below below:

31. All thirty-seven new apartment units of the Plantation II component of the project **and the House** shall be affordable, in perpetuity, to individuals and/or families earning no more than 60% of area median income, as calculated pursuant to formulas determined by the U.S. Department of Housing and Urban Development (HUD) or DHCD. **~~For the avoidance of doubt, the House shall not be subject to any affordability restrictions with respect to the rental or sale of the House.~~** For the avoidance of doubt, the Plantation I component of the project shall continue with the affordability set forth in the original Plantation I decision. All thirty-seven new apartments **and the House** shall be subject to a permanent affordable housing restriction conforming to G.L. c. 184, ss. 31-33 and in a form acceptable to the Town, and recorded in the Registry of Deeds. **~~For the avoidance of doubt, the House shall not be subject to any affordability restrictions with respect to the rental or sale of the House.~~** For the avoidance of doubt, the Plantation I component of the project shall continue with the affordability set forth in the original Plantation I decision.

33. None of the apartment units of the Plantation II component of the Project **or the House** may be rented to anyone other than a qualified tenant as required by this Decision and consistent with the requirements of DHCD and other relevant state agencies governing the rental of below market rate units in a comprehensive permit project. To the extent allowed by law, the units shall be rented to persons meeting requirements for elderly housing or otherwise eligible for such housing. **~~For the avoidance of doubt, the House shall not be subject to any affordability restrictions with respect to the rental or sale of the House.~~** For the avoidance of doubt, the Plantation I component of the project shall continue with the affordability set forth in the original Plantation I decision with the affordable housing restriction as required by DHCD.


CONCLUSION


The above modifications to the Comprehensive Permit dated January 30, 2023 are determined to be insubstantial pursuant to 760 CMR 56.05(11)(a) by the Stow Zoning Board of Appeals at a meeting of the Board on May 1, 2023 pursuant to the following vote:


Jones: Yes.
Crosby: Yes.
DeMore: Yes.
Dodd: Yes.
Hartnagel: Yes.

**THIS CONCLUDES THE DECISION OF THE BOARD OF THE APPEALS.
SIGNATURES OF THE BOARD MEMBERS ARE FOUND IMMEDIATELY BELOW.**

STOW ZONING BOARD OF APPEALS


Mark Jones, Chairman


Andrew Crosby


Andrew DeMore


Ernest Dodd


David Hartnagel

DATE: June 5, 2023

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

I hereby certify that this is a true copy of the Decision on Insubstantial Modification rendered by the Board of Appeals and filed in the office of the Town Clerk on

June 14, 2023

Date: June 15, 2023

Attest:

Sandra E. Hathaway
Town Clerk

CERTIFICATION OF NO APPEAL:

I hereby certify that there has been no Notice of Appeal filed with the Town Clerk within 20 days of the filing of the Decision for the attached Decision on Insubstantial Modification for Plantation I and II (Elizabeth Brook Apartments).

Date:

Attest:

Town Clerk