



2011 SEP -7 P 3:00

**ZONING BOARD OF APPEALS
DECISION ON APPLICATION FOR MODIFICATION OF
COMPREHENSIVE PERMIT PURSUANT TO G.L. c. 40B**

I. BACKGROUND

Applicant: Walden Woods, LLC

Project Location: Off Stenbeck Place – Assessors Map 45, Block 16, Parcel 30

Title reference: Book 19298, Page 34

Premises: All those certain parcels of land located at Stenbeck Place,
Assessors Map 45, Block 16, Parcel 30

On May 1, 2002, the Applicant submitted an application for a comprehensive permit for a project consisting of 28 two bedroom condominium units. After an extensive public hearing process the Board, on November 21, 2002 voted to grant the comprehensive permit with conditions. The Board's written decision was filed with the Scituate Town Clerk on January 16, 2003. Among the conditions included in the Board's decision was a condition, Condition # 49, providing that the comprehensive permit would expire one year from the date the decision became final if building permits were not issued on or before said date. The Board's decision (copy enclosed), filed with the Town Clerk on January 16, 2003 was timely appealed by the Applicant to the Housing Appeals Committee. Also, an abutter's appeal was timely filed in the Land Court, Misc. No. 287331. The Applicant's appeal was concluded, in the Applicant's favor, by the enclosed Housing Appeals Committee Decision On Stipulation, dated December 15, 2003. The Land Court dismissed the abutter's appeal by the enclosed Order Allowing Defendant's Second Renewed Motion To Dismiss, dated June 29, 2009. The abutter filed a timely Notice of Appeal which was withdrawn by the enclosed Withdrawal of Plaintiff's Notice of Appeals, dated September 9, 2009 which resulted in the enclosed Judgment entered by the Land. The abutter also appealed the Superseding Order issued by the Department of Environmental Protection for the project. The Adjudicatory hearing resulted in a decision, during the pendency of the Land Court appeal, favorable to the applicant, which was not further appealed by the abutter. As a result, the Comprehensive Permit issued by the Board of Appeals, as modified by the Housing Appeals Committee Decision On Stipulation, dated December 15, 2003, became final on September 9, 2009.

By letter, dated February 4, 2010, received by the Board February 5, 2010, the Applicant requested a modification of the Comprehensive Permit for an additional one year. The modification request was considered by the Board at a regularly scheduled meeting held

February 18, 2010 at the Scituate Town Hall. On that date the Board determined that the requested modification was not a substantial modification request and thereby, by regulation, approved.

By letter, dated July 18, 2011, received by the Board July 19, 2011, the Applicant requested a modification of the Comprehensive Permit for an additional eighteen months. The modification request was considered by the Board at a regularly scheduled meeting held August 18, 2011 at the Scituate Town Hall.

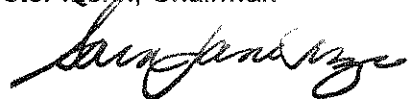
II. Decision

After due consideration of the modification request, the record of the proceedings and the materials submitted to the Board and the testimony received at the hearing from the Applicant's attorney, Robert L. Devin, and the interested citizens in attendance, the Board finds that the modification request is an insubstantial modification request. Pursuant to the applicable regulations, 760 C.M.R. 56.05(11)(b), by virtue of the foregoing finding, the comprehensive permit is deemed modified to incorporate the requested change. As a result, unless building permits are obtained on or before March 9, 2013, the comprehensive permit shall expire on said date.


SCITUATE ZONING BOARD OF APPEALS



Peter Morin, Chairman



Sara Trezise



John Hallin

Filed with the Town Clerk on: September 7, 2011.

Appeal of any decision of the Zoning Board of Appeals may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.