

City of Waltham
Zoning Board of Appeals
January 10, 2026

The Zoning Board of Appeals held a public hearing at 7:00 P.M. on Tuesday, February 10, 2026 in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were John Sergi, Chair, and members Mark Hickernell, Matt Deveau, Glenna Gelineau and Stephen Taranto.

Mr. Sergi: Tonight we have one new case and we have a continued case, Case No. 2025-05, 455 Totten Pond Road, the Comprehensive Permit.

Tonight we have no minutes, so I think we will just jump into the new case, so if we can hear from the Petitioner or the Petitioner's representative on case 2026-01. If the clerk would please read the petition.

Mr. Sergi: May we hear from the petitioner, please?

Paul Yu, 719 Main Street, Waltham, MA.

Mr. Sergi: Before you are going to do the presentation, did you speak to the legal department about the format, the Findings of Facts and the Proposed Decision?

Mr. Yu: I spoke to the building commissioner.

Mr. Sergi: Okay. You didn't speak to the - - - Typically when someone presents a case here, they provide a Findings of Fact which are the facts of the case and then a

Proposed Decision supporting the decision to follow and your support to it. I guess we have the support and everything to it but I am not here tonight to rewrite this. I am not going to write up the Findings of Fact or the Decision. So I'm wondering - - - I don't know how the board feels about that.

Mr. Deveau: Cases like these we usually see legal representation by the petitioner and I don't think it's in your best interest to go forward without some kind of legal representation.

Mr. Yu: I concur with that.

Mr. Sergi: Okay. It looks like you did some good work in support but you also have an abutter. I don't know if you've read the letter that he put together.

Mr. Yu: I've met with them three times. I told him what I am doing with this project. He discussed with me his concern.

Mr. Sergi: Okay.

Mr. Yu: And I was going to address some of those concerns. I think it was mostly about the parking.

Mr. Sergi: You have some major issues here on your case. It would be good if you had some legal representation to walk you through some of it. That's just an opinion. It's your decision, but the other thing is the format of your presentation. It doesn't conform to what is in our application. I would suggest that you speak with our legal department and maybe get some examples of the Findings of Fact and a Proposed Decision.

You know, we'll continue it for you to a more convenient date. I would suggest you present it in the correct form.

Mr. Yu: Okay. So I just request for a continuance?

Mr. Sergi: Yes. We can make a motion to continue the case and you can gather your facts and put together the presentation and maybe you can consult with a legal representation if you like.

Mr. Yu: If I finish my what else you're saying I have some support that I want to carry out to you guys basically just go through the presentation and just because I lawyered it.

Mr. Sergi: What you should look at is get an example of a Findings of Fact and a Proposed Decision to go along with your brief. It looks like you put together, you know, this is what I call somewhat of a brief it's a memorandum but you may want to get an example of a brief as well so you outline the issues that you are presenting to us to make a decision on more clearly and the codes that we are looking for you to get a variance on and so forth.

Mr. Yu: Okay.

Mr. Doucette: You need to prove hardship is what we are looking for.

Mr. Sergi: So research hardship.

Mr. Yu: Okay.

Mr. Sergi: That's, you know, a suggestion. I mean we can continue it. I don't know how much time you might need. You tell me what you would like.

Mr. Yu: I would like to come back next week.

Mr. Sergi: It's President's Day, so we don't have a schedule on the 17th. We don't have anything on the 24th. Is everybody available on the 24th.

Mr. Doucette: Are you away?

Mr. Sergi: No, I'm away March 14th. I'm here on the 24th. This is February 24th I'm talking about.

Mr. Deveau: Yes.

(The board said they would be available on the 24th.)

Mr. Sergi: Are you sure you one week is sufficient time for you to put this thing together?

Mr. Yu: Yes. It sounds like the only thing what I sent to you as the Findings of Fact.

Mr. Sergi: You need three components. You need a brief, you outline the case the reasons for it, right. You need a Findings of Facts where you state all the facts that you're looking at and then your proposed decision. As I said you might want to go to the Legal Department and you might get some guidance.

Mr. Sergi: So we will continue this to February 24th. Is that agreeable?

Mr. Yu: Yes.

May I have a motion to continue this Case 2026-01 to February 24th to allow the petitioner to gather the facts in the case and presentation.

On motion of Mr. Taranto, seconded by Ms. Gelineau, the board voted to continue this case to February 24, 2026.

Roll call: Mr. Taranto, yes; Ms. Gelineau, yes Mr. Doucette, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Sergi: So we will see you here on the 24th.

Mr. Yu: Okay.

Mr. Sergi: Thank you. Cathy, hold on.

I would like to acknowledge a member in the audience, a new member of the ZBA, Cathy McMenimen who we welcome to the ZBA as an Associate Member. Cathy do you want to stand and be acknowledged?

(All the board members clapped in welcoming Cathy McMenimen to the board.)

Ms. McMeniman: I look forward to learning from all of you.

Mr. Sergi: The next case we are going to hear tonight is a continued case, Case 2025-05, 455 Totten Pond Road Comprehensive Permit.

So if we could hear from the Petitioner or the Petitioner's representative

Philip B. McCourt, 272 Bacon Street, Waltham representing the petitioner: I am here tonight with Co-Counsel, Valarie Moore, from Nutter and McClennen. She is here with us this evening to enlighten us and of course, we have Doug Ferguson who is the Petitioner's representative. But most importantly, we haven't been here since November so we have John Hession who will give a whole update because, as I say, just through various circumstances based on holidays and different circumstances, we haven't been here for several months.

So John will fill you in.

Mr. Sergi: We also got a slew of correspondence today from different city departments. I'm not you've seen it but - - -

Mr. McCourt: We did see it but we also got it at 5:15, so Valerie will probably speak to that later but we'll have to have time to review it.

Mr. Sergi: We have some representatives here.

Mr. McCourt: I saw them, Mr. Winn and different ones. Right.

Mr. Sergi: Okay. Thank you.

John Hession, VHB, 99 High Street, Boston: A lot has happened since we were here in November 18th as Phil mentioned. Unfortunately due to the holidays and scheduling we weren't here in December. I just want to acknowledge we were scheduled to be here January 6th but I believe the Chair had the flu. And then again on January 27th I had it too for about six days. And then another board member was absent on the 27th so we have had two continuances from January 6th from being here tonight.

I actually have my notes that I prepared to speak to on January 6th so I would like to start there and then it will evolve into some of the additional correspondence that we received in January, some of our responses to that and then some of the correspondence that we received today.

One of the big topics and I have watched the recordings of the 245-265 Winter Street hearings. So I'm just trying to stay in touch with what's being discussed because there's some areas where common areas are being discussed for both projects.

But it was back at that November hearing when the board asked us to look at the sidewalks on Totten Pond Road from our site and the Winter Street site to Lexington Street and the term that's been used is to fill in gaps and the original request was to look at installing sidewalk on both sides of Totten Pond Road for that distance. And we looked at it preliminarily and took into account the recently completed improvements at the rink at Prospect Hill Park. On the north side there's about 3100 linear feet of sidewalk that would need to be installed. On the south side - - -

Mr. Sergi: From Winter Street to - - -

Mr. Hession: From our site to - - -

Mr. Sergi: No, we wanted it from Winter Street to Wyman, that should be all continued and there's a lot of sidewalk already.

Mr. Hession: What we had discussed, Totten Pond Road from our site all the way to Lexington Street, Piety Corner, on both sides. There's a new request I believe that was in the Traffic Engineer's comment today about providing sidewalk in the other direction to the ramps, so that's - - -

Mr. Sergi: That needs to be looked at too.

Mr. Hession: We looked at the Totten Pond Road. On the South side, there's about 3600 Linear Feet of sidewalk slightly more than I would not consider that gaps, filling in gaps. That's substantial distances where there's no sidewalk. And I know the conversation was that it should be split by the Winter Street project and this project.

Mr. Sergi: We acknowledged that by the way.

Mr. Hession: We also looked at 460 Totten Pond Road Anchor Line Partners' special permit. As part of their special permit they are required to install sidewalks on both sides of Totten Pond Road from their site down to Winter Street. So that project is adjacent but it is a condition. It's on the record, it's recorded. But in any event, what we looked at and what we included in the Draft Decision was we did a quick estimate for the north side of 3,331 linear feet, you know, around \$600,000.00 to install that sidewalk. If it was split between two projects it would be about \$300,000.00 a piece.

Mr. Sergi: That's on both sides?

Mr. Hession: That's just on the north bound side, I mean the north side which is both the Winter Street project and the 455 Totten Pond Road project which is on the north side of Totten Pond Road so it makes sense to install the sidewalk on the north side. So half of that 600 is about 300 and that has been proposed as a contribution in our Draft Decision that was submitted, I think officially, December 15th, our draft decision was submitted so there's a proposed contribution of \$300,000.00 to be dedicated towards that sidewalk construction and the vehicle for that donation would be through what we've suggested or proposed is through the Traffic Safety and Infrastructure. So we haven't had a chance to share our findings. You had asked us to look at it and we did. We rolled up our sleeves and looked at it and that's I think to condition a residential project for a sidewalk

on both side of a major road is probably a little excessive. So what we proposed is what we believe would be a fair contribution - - -

Mr. Sergi: There's a lot of development going on there so there will be a lot of pedestrians walking so we want to have a safe area. Did you at least look at the other side?

Mr. Hession: Ya, so the other side is longer. It's thirty-six hundred feet. I don't have the numbers, so it's got to be another \$700,000.00 for that. So it's a 1.3 - 1.4 Million Dollar project probably in that ballpark to do both sides of Totten Pond Road which again is significantly more than filling in some gaps.

Mr. Sergi: I know but you guys you know when combined there's a big impact to the infrastructure there and we want to make sure it's appropriate and can handle the pedestrian foot traffic. So, I mean I don't think it was out of line to ask and you know we'll digest what you are saying but I'm a little disappointed as to the response. I've got to say that.

Mr. Hession: Again, you asked us to look at it. We looked at it. We looked at it from the perspective of what should be appropriate and what this project can afford. We talked early on and often about through this review process about the pie or the bucket of money and where could things be expended. You know it can't be an open checkbook, I guess.

Mr. Sergi: No, I just want to be reasonable to the city and you know I want to make sure - - - -

Mr. Hession: I think that's why we wanted to lead off and share our thought process behind it.

Mr. Sergi: You're looking at it, don't get me wrong, okay.

Mr. Hession: I think we did put our best foot forward. That may not be everybody's agreement but we do appreciate the board looking at it and discussing it.

Mr. Sergi: All right. Thank you.

Mr. Hession: So, I mentioned, the next topic I want to touch on was the draft decision mentioned that was submitted on December 15th. A couple of topics that I want to touch on are things that are included in that Draft Decision is we have received at least as of that December 15th date, we have received comments and questions from the abutters at 300 Winter Street who are here tonight.

So we went back through their comments and requests and we've incorporated those requests into the draft decision that they included. I know we received a new letter- - -

Mr. Sergi: And the abutters are aware of - - -

Mr. Hession: Ya, and they reviewed I believe the draft decision. They submitted a new letter, actually Saturday the 7th and we've reviewed that and we have submitted a response to that today. So that's not included in what I am going to just share briefly right now but the previous of what's included in the draft decision, we've committed to a fence in the northeastern corner of our property which is near the children's play area that the neighbors had requested.

The proponent has agreed to install private driveway signage and some type of hatch pavement markings at the mouth of their driveway to indicate that it is a private driveway so that they don't have people accidentally turning into their property.

Mr. Sergi: I remember their request.

Mr. Hession: They had questions or requests regarding the construction site work noise mitigation and that's covered in Draft Condition F20. We've addressed that blasting procedures again was another request. That's covered in Draft Condition E-2. And there's a commitment that salt and chemical de-icing materials will not be used within a hundred feet of West Chester Brook which is the stream on the side of the property which will also be a condition of the Conservation Commission when we go before them.

Also, with the draft decision there was contained in the draft decision there's a proposal regarding the mixed affordability. There was as part of the transmittal letter there was an alternate proposal for the mixed affordability. Subsequently in mid January we received a comment letter from the Housing Department. I think it would be fair to say strongly recommending against the alternates. I'm not really going to talk about what the alternate was but in the draft decision there's a total of three hundred and forty units, twenty five percent will be affordable. That's eighty five total affordable, seventy two units are proposed at the eighty percent AMI, five units at the sixty percent AMI and eight units at sixty percent AMI with the VASH Vouchers.

Ms. Gelineau: So say that again. I'm sorry.

Mr. Hession: So seventy-two at eighty, five at sixty and then the eight at sixty are with the VASH vouchers which I know we discussed that in the past. I'm not the VASH expert of presenting what's contained in the Draft Decision.

I won't go through it but the alternate was more in lieu of the sixty percent units, there was more a higher number of seventy percent units, so at eighty, seventy, sixty percent mix and if the board is interested we can through that but that was transmitted with the Draft Decision guide.

And then also included in the Draft Decision where the proponents proposed contributions and it has been presented in the past that the contribution bucket is the \$1.4 Million Dollar number. The way that it's distributed and again it's the proponents, you know, proposal subject to discussion - \$350,000 to the Affordable Housing Trust Fund. As I mentioned earlier for the sidewalk on Totten Pond Road - \$300,000 on that to be paid through the Transportation Safety and Infrastructure Fund - \$300,000.00 to the Fire Department.

Mr. Sergi: You want to read Garvin's letter related to that. Maybe you can respond on that.

Mr. Hession: Ya, we did see his letter in January. So this is what was in the decision
- - -

Mr. Sergi: Ya, I'm sorry about that.

Mr. Hession: Oh, Garvin's letter, he wants both the sidewalk and the infrastructure fund but I guess that's something that we need to probably meet with Mr. Garvin and I think actually Joe Peznola. He may have suggested that a meeting be with Mr. Garvin and Bob Michaud, the Peer Review Consultant and our traffic engineer might be the best way to navigate final responses to that comment letter.

**Mr. Sergi: He brought up the other set of lights too down the street in front of the - -
- I guess we didn't consider that in the traffic study so you might want to - - -**

Mr. Hession: Right. So our traffic study was completed before the signal at the rink and Prospect Hill Park was completed but that signal is essentially, there used to be a pedestrian crossing signal, push button operated. That signal only provides signal

controlled access, left turns into the rink and for people exiting the rink or exiting Prospect Hill Park. There's no real trip generation, all those trips are on - - -

Mr. Deveau: Where are you getting that information, sir?

Mr. Hession: From reviewing the plans and doing the site visit. That's what the signal is controlling traffic entering into and exiting - - -

Mr. Deveau: It's a post signal.

Mr. Hession: It is a post signal - - -

Mr. Deveau: It's a post signal under Mass DOT but it has to be considered.

Mr. Hession: It's on green - - -

Mr. Deveau: It has to be considered. We would just ask that you revise or amend your traffic study to include that and allow us to make a decision if it's adequate. You're discounting it without even talking about it.

Mr. Hession: I am trying to describe what that signal - - -

Mr. Deveau: We know what that signal does and it's within a quarter mile of your site and it should be included in some type of traffic study.

Mr. Hession: We can address that probably as a memo addendum to the traffic study.

Mr. Sergi: Okay.

Mr. Hession: And Matt Keeley from our office, VHB, he is the Traffic Engineer on 455 and on the 245-265 Winter Street.

Mr. Sergi: We brought it up with him at the last two hearings.

Mr. Hession: Ya, we've talked about it a little bit. Mr. Garvin commented that he wants that new signal to be coordinated with the Winter Street signal. You know honestly the city just did that project this past year. If that was the appropriate fix, it probably should have been incorporated into the, and that may very well be our kind of our response to that but I don't want to sugar coat anything. That's a little revisionist thinking that it probably should have been done. And the sidewalk, the signals, it's just again the bucket - -
-

Mr. Deveau: It's just making it safe for everybody in the city. Let's not speak so cavalierly about safety.

Mr. Hession: I'm not speak cavalierly.

Mr. Deveau: It really does sound that you are speaking cavalierly but these are important things.

Mr. Hession: I apologize if that's the way - - -

Mr. Deveau: These are very important things.

Mr. Hession: It's important to us too.

Mr. Deveau: It doesn't sound like it.

Mr. Hession: We'll address it in comments back to Mr. - - -

I think I mentioned the Fire Department. We did receive an updated comment letter from Deputy Chief Grant. He just goes on to say that there's a need here and he doesn't define what that need is or recommend a contribution again. We proposed a contribution of - - -

Mr. Sergi: No, no. He did say what the need was. He said that with all of this, these new units coming into the area, it's probably appropriate to set up another fire station somewhere, so we'd have to locate one or find a location and I think he's looking for some sort of contribution to help the city establish that so they can provide the protection for the tenants as well.

Mr. Hession: But he didn't say you need to build a new fire station or you need to donate \$1.8 Million Dollars. It's open and so we had already included, it's unfortunate his letter didn't acknowledge the commitment or the proposed amount that was on - - -

Mr. Sergi: You really need to have a discussion with him as well. You need to spend some time with these guys.

Mr. Hession: We have been spending quite a bit of time. We've been at this for more than a year and we have met. The reason I keep this binder with me, this is every piece of correspondence incoming and outgoing in chronological order that we can go back and revisit anything with anybody but - - -

Mr. Sergi: And that can deal with safety, you know, appropriate fire response.

Mr. Hession: Right. The school department in the draft decision there is a proposed contribution of \$300,000 and the police Department of \$100,000. And actually, I believe if my math is right, that tallies up to \$1.35 Million and there was a couple of other, the post occupancy parking study and then something else that takes into account the other \$50,000.

So that's kind of everything up to what would have been January 6th.

Mr. Sergi: I mean, you're asking for 340 units, right? I mean do you think the market value of that property when it's finished will probably be around \$60 Million? My guess.

Mr. Hession: I don't know. I'm not a bank appraiser.

Mr. Sergi: I'm a banker so I deal with appraisals and all and I would say it could be \$60 Million or north of \$60 Million when you look at. So, I just want to throw that number out there.

Mr. Deveaux: There was a letter from Fire on January 6th stating that the professional opinion of the Waltham Fire Department, a new fire station will be necessary in this area to insure timely and effective response for fire medical and other emergencies. That was January 6th.

Mr. Hession: Right.

Mr. Sergi: I don't think I threw the whole burden on you - - -

Mr. Hession: No. That's how we interpret it.

Mr. Sergi: You guys have got to maybe talk and come up with a plan.

Mr. Hession: As I just stated that I do want to touch on just because of that. The Fire Department letter was dated January 6th. We didn't receive it until January 29th. So, and that's true of the DPW dated January 13th and we received on the 27th and then the Housing Department - - -

Mr. Sergi: I got five new letters today, so - - -

Mr. Hession: I know. But I think, just that we have been trying to be prudent and you know working hard to respond to these things but we could have easily, well, we weren't here on January 6th or the 27th so we are playing catch up here.

Mr. Sergi: Okay.

Mr. Hession: So, one of the letters that we did receive late this evening just before six o'clock was from Mr. Winn, the Engineering Department.

Mr. Sergi: Ya, he's here tonight.

Mr. Hession: We had received a comment letter from the Engineering Department dated January 13th. And I don't think we want to get into a back and forth on it. It appears from our response and Mr. Winn's response this evening, we have a difference of opinion on the sewer request in Totten Pond Road and I think, I'll acknowledge that we need to kind of iron that out but that we do believe that that was a new comment bolded that was in the January 13th letter and we've been working diligently, we received that letter on the 13th and we have reached out to the engineering department for more information data on the 20th and we have been back and forth and we just received an email yesterday from Brown & Caldwell who is the city's Sewer Modeling Consultant and we tried to take a quick look at that this morning but we still have some questions and we

have been attempting to get the appropriate data and information to be able to look at that section of sewer that's been identified as potentially needing replacement and, again, we're just not there yet.

Mr. Sergi: In layman's language my concern in this because I'm not an engineer but Mr. Winn is more qualified in this area but what I heard from him was that he just needed the right data to make the decision.

Mr. Hession: Right.

Mr. Sergi: So, I'm hoping that you guys give him the right data to make the decision.

Mr. Hession: We also need the data necessary to analyze, it's the city's system that we are trying to get data from the city and from Brown & Caldwell the Modeling Consultant. They sent us the sewer model for the entire City of Waltham and we have to try to decipher and break down just to this section of Totten Pond Road that's in question.

Mr. Sergi: I think there's a need there from what I can see to make sure that it's the pass and you're to handle this.

Mr. Hession: Our preliminary review of what we received yesterday afternoon from Brown and Caldwell is that some of the sections of sewer that's in question are flowing at about twenty five percent full today. So preliminary indications are that at least on some of the section that was identified and I do think that one of the things that we are not in agreement on is I think Mr. Winn is going to say that this has been something that's been asked for since last March. We can go back through our comment letters and response to comment letters but when we saw that comment and we reached out and it wasn't until January 21st or something that we were provided with the maps with the plans of the area.

Mr. Sergi: Now you have it, so you know, rise above it and get the right information that's all.

Mr. Hession: Right. I'm just trying to, it has been suggested that we have been part of our own problem with the ways but that may be true in some instances but I don't think it's true in this instance.

Mr. Sergi: But there still a lot of issues from all the departments that need to be addressed, so, I'm just - - -

Mr. Deveau: You're just trying to rush the Draft Decision down our throats. There's a lot of open questions.

Mr. Hession: So the last set of plans, stormwater report, everything we submitted was November 10th. It's February 10th. That's three months. We were supposed to be here on the 6th of January and again on the 27 of January and to receive four or five, you know, extensive comment letters the afternoon and evening of our hearing, I am just trying to demonstrate that we are trying and we have been trying diligently through this. There's a lot of things that need to be addressed. A lot of them are new.

Mr. Sergi: Now you've got a lot of the feedback. Now let's plow forward - - -

Mr. Hession: And that's what we have been trying to do all along and we'll continue to do that but - - -

Mr. Sergi: I think we are at that point so we should plow through.

Mr. Hession: Hopefully those are essentially the last comment letters and it's how we addressed those. And there may be some, you know, this is a 40B and we have requested, I know there's some of the recommendations not to grant a waiver but that's a recommendation from a technical staff department. That's ultimately the board's decision. So we may still want that waiver or request that waiver. I'm not saying that we will 100% be able to make all comments and questions go away but we will be able to have a final - - -

Mr. Sergi: I mean you're going to look into the logic behind it.

Mr. Hession: Right. So I touched on the January 13th letter from the engineering department. Other letters that we received in January was from Public Works. The primary comment on that was he was supporting the board's request for us to look at the sidewalk on Totten Pond Road.

Mr. Sergi: Well, the new one we got today I think he included some more.

Mr. Hession: That's the traffic engineer. So I'm just speaking to public works. Public Works they had maybe three comments but the primary comment was supporting the sidewalk on Totten Pond Road.

We received a pretty comprehensive letter from the Housing Department. They had clearly reviewed our draft decision. As I mentioned earlier, they paraphrased in layman's terms they kind of squashed the alternate affordability proposal and then the Fire Department, we've touched on that in the January 6th letter from Deputy Chief Grant. On the 6th on a letter from Darin Ferguson from the Davis Company, there's a response letter to those three letters that was submitted last Friday. And VHB had submitted a letter responding to the January 13th engineering department's comments last Friday also which Mr. Winn has responded to this evening. I sped read it when I got here and I think we're still a little bit apart and we'll work together to try to narrow that gap or clarify

everybody's position and then today we did receive letters. The first one today was from the building department and Darin did have a call with Mr. Bower and I think it would be fair to say that he has a couple of requests for a little bit more information that we will be able to provide to him and amongst a lot of the other comments it was more that he didn't know that he had a comment about pressurized stairwells and Darin shared with him that we had already gone through that with the Fire Department and that's included in our Draft Condition. He wasn't aware of all the other coordination that had gone on with other department heads.

Secondly today we received a letter from Mr. Garvin, Traffic Engineer. As I mentioned that we will probably try to schedule a meeting with Mr. Garvin, Bob Michaud and Mat Keeley from my office. And then just before 6 o'clock, we received Mr. Winn's letter from the engineering department. We'll look at that in more detail and be able to respond to that and then we received a pretty extensive memo and red line of the Draft Decision from the Law Department which I'll be on the site and have time. I printed it and I have it in my little finder clip here today but that's as far as I've got with that.

So with that, as we said there's a lot of information. We need time to go through that and have the opportunity to respond but there has been a lot of work. I am interested to read the Law Department's memo myself to see where we are apart on the draft decision.

Mr. Sergi: Okay.

Mr. Hession: Oh, I forgot to mention too or I did touch on it that on Saturday we received a letter from the abutters at 300 Winter and Darin, I'm not sure, did you send your response to the abutters?

Mr. Ferguson: Yes.

Mr. Hession: Okay and that was submitted to Pam and to the abutters late this afternoon.

Mr. Sergi: All right, I think we've got all the pieces here. We just got to wrangle them together, right?

Mr. Hession: Right. I am here for any questions that the board might have.

Mr. Sergi: Does the board have any further questions?

Steve? I look forward to having the importance of the public safety and fire comments, please.

Mr. Hession: Absolutely.

Mr. Sergi: Glenna?

Ms. Gelineau: No questions.

Mr. Sergi: Matt?

Mr. Deveau: No questions.

Mr. Sergi: Mark?

Mr. Hickernell: Not at this time.

Mr. Sergi: Okay. Thank you. At this time if we could hear from the City Solicitor, Michelle Learned and then I would like to hear comments from Mr. Winn since he is here.

My name is Michelle Learned, Assistant City Solicitor for the City of Waltham and your Counsel in this 40B action. So just quickly for the record I wanted to just identify the communications you have received so far from the departments.

You did receive this day, February 10, 2026 correspondence from the Engineering Department responding to the applicant's correspondence dated February 5, 2026 that was responding to his original submission to you, January 13, 2026. You've received from the City Traffic Engineer today February 10, 2026 his comments. You received today on February 10, 2026 the Building Department's comments. You received from the DPW Department on January 13, 2026. You received from the Fire Department correspondence on January 6, 2026. You received correspondence from the Housing Director on January 12, 2026 and I do point out that in addition to not rejecting the idea of your alternative proposal there is a rejection of the use of codifying the VASH Program into our Comprehensive Permit Decision and I can explain that as we go along.

Mr. Sergi: Okay.

Attorney Learned: And there was a response from the School Department a comment letter submitted August 18, 2025.

Just so that it's all clear on the record the various department submittals thus far, I do want to point out that the departments that had previously submitted correspondence to you before today's date have expressed a desire to respond to the applicant's February 5, 2026. I'd call it a rebuttal to their correspondence and I have asked them to review that and let us know where the points of the disagreement are or are not.

I suppose I just want to stress that the basic premise of what the city's position is is that there are 340 proposed units being added to this area and the main position that the city has been trying to express is that that addition of residents to a Limited Commercial Zone cannot put the city in a worse position than it stands today for traffic, for the sewerage, that's a big one here, for the shutting of water for stormwater, for infrastructure. There is a significant reduction of our parking requirements that is being asked for a waiver so from the normal two parking spaces down to I believe it's 1.25 that you are requesting. That will put more pedestrians in the area. The request from the Traffic Engineer and from the DPW Department to handle the sidewalks on that street is directly related to the harm that is caused by this construction, the proposed construction. And so the city's request for those sidewalks clearly satisfies that it has an essential nexus and rough proportionality to the impacts of the proposed development which is the Supreme Court of the United States requirement for any mitigation that is requested for permitted builds.

The applicant tells us that there is a 1.4 Million Dollar bucket of mitigation dollars to expend and then complains that, for example, the fire department hasn't given you a listed figure. But yet, still the cap that they are presenting to the board is a 1.4 Million Dollar figure. They have responded that to the very important issue regarding the capacity of the sewer line that will serve their property, their 340 units that they are putting residential units into a Limited Commercial Zone. They have indicated well, maybe we'll help with that but remember it's going to come out of the 1.4 Million Dollars that we previously offered. And that is just not acceptable. And I would suggest to the board that that is not acceptable.

The requests related to the sidewalks, making sure that the sewer capacity that your build is able to be - I mean that the sewage that your build will produce is able to be handled by the city sewer system has to be taken care of by the developer. And to argue about whether you knew March, 2025 or not, any construction, any building any

development knows that what you develop is going to have to take care of sewer capacity issues. So that was a given and if it got lost by your contractor, whoever you hired, I'm sorry, but it's always been with every development in the city that occurs, you have to know is the municipal services are going to be met.

So how is the water going to shed into streets? Is it going to go to our pipes illegally. These are like basic engineering concepts and issues that have to be resolved with every build. And so I point out that these are the priorities for the city and if they are not met and we are requesting that the work be done, not a monetary contribution to the work being done that the applicant do the work. If these are not met, I will be recommending to the board that you deny the application.

Mr. Sergi: In that regard, I just want to correct the statement I made to the applicant. I said \$60 Million in market value. The more I thought of it, \$60 Million is more the construction cost. This project in my mind would relatively be between a hundred and a hundred and fifty five million.

Mr. Deveau: More than that.

Mr. Sergi: The value, you know.

Attorney Learned: If I can just point out obviously in the law we have to talk about whether a request that the city makes will value the project as uneconomic or not. But what I point out is that this is not the first time we have handled 40B's in the City of Waltham. We are on our ninth now in the 2000's.

Mr. Sergi: What's unique about this is the density. I'm not saying this specific project. If this specific project was the sole being built in that area it would be one thing.

But there's one already built. This is the second and there is a third. There's over a thousand units being added in this just one small area.

Attorney Learned: Which is an excellent point. The point that I would also like to add is that these other 40B's and some of them very close to your time frame have done sewer repair installation. For example, 305 Winter Street did the entire installation in Winter Street for their project to be served. In addition to contributing money towards a fire truck. What I am trying to say is the other 40B's that have come into our community have been able to make significant contributions to address the harms that their builds were causing. And that is why we know that you're not at the point of the project being uneconomic. Because they came in at the same time and that presumably would mean their loans are at the same time, their rates are at the same time so that the percentage for example when we are asking for nineteen percent of the affordable housing units to be at the sixty percent AMI and you're only offering 15.3 percent. We know that another 40B applicant under very similar circumstances months away from your filing was able financially to provide that in addition to a greater amount of mitigation for the fire department and the Housing Trust Fund and the traffic mitigation. So we've seen what other 40B applicants have been able to provide. So that saying the 1.4 cap exists doesn't sit well. So I just point that out.

Ms. Gelineau: This is also one of the largest, right?

Attorney Learned: It is the second largest. Correct.

Ms. Gelineau: So others have paid a lot more. This is really substantially larger.

Mr. Sergi: Well we haven't come to the end of that.

Mr. Deveau: And I think this is the only one that they have actually added units after filing.

Attorney Learned: Correct. So my correspondence today that was submitted February 10th, 2026 goes through and outlines the changes that I made to the draft decision that they presented.

I do want to also point out when we said make your changes to the template to the past 40B that was approved by the board, we didn't expect routine language that has been contained in all of the 40B Comprehensive Permits issued by this board to be altered. So for example, the applicant has changed time frames so where we said that something needed to be done prior to the issuance of a building permit they changed it to occupancy permit. There are a lot of instances where language that is essential to how the city building department enforces 40B's consistently had been altered. So there are a lot times where what my edits do is simply put language back in that has been standard and used consistently in the Comprehensive Permits that have been issued by this board.

Mr. Deveau: In your opinion, what was the purpose of those changes? Why?

Attorney Learned: I mean, maybe it's better to ask the applicant. Maybe it's to have more money the longer period of time to space out - I don't know. I can't speak to what their reasoning is. I know our reasoning is essentially how everything is administratively handled. I mean, I was surprised, for example, we have a very low sign fee dollar amount which they were seeking to waive. The building department and you will see in his correspondence today pointed out this is how we track signs. This is how in our office, the process is tracked. There are annual sign fees that go and the State Building Code permits municipalities to charge a fee for the review that goes along with having to review a particular application.

That was just one that popped into my head but it seems like there are a lot of times that I think perhaps after reading our comments for the waivers that the applicant may choose to withdraw some of those waiver requests and we would like to give them the opportunity to do that.

I don't know if it's, I mean maybe I could briefly go over the specific points that have been made in my correspondence. Based on the housing director's correspondence - -

Mr. Sergi: I mean it's certainly on here right?

Attorney Learned: Ya. Just a quick summary. So in my correspondence, I did detail the specific page. So what I did was I accepted their changes from - so they had submitted a red lined to our template, right, which was the last adopted Comprehensive Permit for the Main Street. So what I did was I accepted all of their changes so that we had a clean document and then I provided tracked redlined changes to that. And a lot of those red lines as I said were putting things back in but I thought it made more sense so that you could see exactly what the city wanted put into this document. And most of the comments that I also provided direct comment bubbles to each. If you were reading the decision directly, much of the comment bubbles actually will duplicate this eleven page document that I supplied you with so that if you wanted to look at it side by side with the decision, you could.

So keeping mindful that this is the second largest proposed 40B, we used that large one the 369 unit and saw the percentage that they offered to be the 60% AMI units and that was 19%. And we made the request based on the Housing Director for that 19% to be offered here. So, it's not the same amount but it's based on the percentage.

Mr. Sergi: Correct.

Attorney Learned: So it's less number of units than the 369 units did but it's based on the same. And so I changed the figures back to that so that they can strongly consider that the Housing Department is looking for that 19%.

The second comment here, I want to point out is that the Housing Director is rejecting the idea of the VASH Vouchers. They're problematic for incorporation into the Comprehensive Permit. You might be able to use the VASH Voucher system outside of the literal incorporation into our permit but there are many legal problems with specifically identifying a program that could eventually not exist some day but also that sets up a system that actually discriminates against certain eligible veterans who might qualify for a larger unit especially when you were tying it to a two bedrooms instead of the possibility of having three bedrooms. And there is a state law that says it's 10% if you're going to have the veteran's preference. The City of Waltham has adopted essentially the language that the state law says and the way that they have set up the voucher program would possibly discriminate against veterans who otherwise would qualify.

I think the Housing Director did a very good job of explaining that in her correspondence to you. So I will leave the explanation to her but I wanted to let you know that I did eliminate the reference to any vouchers that are VASH Program vouchers.

I also note that we had a representative from the community who submitted correspondence to you, DiGregorio, I believe. As a representative of the veterans that are in Waltham he self-identifies as their representative. He was very active in trying to get the state law passed. He too was against the use of VASH Voucher Program.

On Page 2 of my correspondence, I mentioned certain items that are missed. The building inspector counted the parking spaces and he believes they're miscounted between how many are in the parking structure vs. how many are in the surface parking area. He

thinks that they are off by one. We are just asking that that all be worked out and addressed.

He also is concerned about the height of the building being a little greater on the east side than was represented. Ans again, that's an issue that they could work out and let us know what they think is going on there.

I did have, I want confirmation about the deed that they reference on Page 4 to just confirm there's no subsequent deeds in the chain of title. That's something that their attorney could just confirm.

On the bottom of Page 2, I point out in the waiver section just, again, if there are any waivers that they want to withdraw, they can certainly let us know. And then I go through waiver by waiver, comments that the various departments have made with respect to those waivers request. So, for example, a reference about waiver request 2B which deals with the I/I covenant and then they were kind of asking for the time frame to be changed. And that just can't occur. In the City of Waltham for all developments the covenant that binds the applicant to a particular I/I project has to be recorded at the Registry of Deeds prior to the issuance of the building permit. And then, the occupancy permits can be tied to the completion of the project but those are the two time frames. And that is just how the city handles it.

So waiver requests 3B and C are really dependent on resolving the engineering issues which there are some significant engineering problems right now. I will in a moment ask the city engineer who you have invited to be here tonight to just zero in on some of that. But right now the significant engineering issues appear to be the sewer capacity in Totten Pond Road and to handle their build not the city's problem. There's no problem there until construction of their build and the other 40B that is coming - 245-265 Winter Street. So

that to say that the general tax dollars of the City of Waltham taxpayers should be used to solve this development's problem is outrageous to me.

And then, the second major issue is the stormwater percentages that the applicant has put forward. We have 245-265 Winter Street and they have put forward significantly better reduction rates and we have just asked that they match those. And it's my understanding that our city engineer believes that it is capable of them that they have because there is no topography issues that are keeping them from doing this. That it is something that they could do and that the city is requesting.

On Waiver request 5B, the request to waive the permit process for excavating public ways. They had a request at some point that they didn't want to go to trench to trench after they do their work. They wanted to go from trench to middle of the road. That's not acceptable. All the other 40B's have done what the city standards require, so should they.

They even have a waiver request to not list in red where they are deviating from the city's requirements on their plans and that's not acceptable. When they are gone the building inspector is left with the responsibility of enforcing the Comprehensive Permit and having the plans tell the city what is okay because it was approved by the board in this process. It helps not only the land owner the developer but it helps the city in its enforcement efforts for the future. It's a very basic request for you to go back and put in red where your project is deviating from city requirements.

There are a number of things I don't necessarily have to go into but I'll skip to 13B which is just the building inspector had questions about how many 3.5 caliper trees are being provided and this is more, not that you won't grant that waiver request but to understand what waiver request is actually being asked. So to understand, this is the requirement and here's what we are proposing.

Then they asked for the traffic safety and infrastructure maintenance fund fee to just be waived and, again, no other 40B has had the traffic safety and infrastructure maintenance fund fee waived. And in fact in the areas that there weren't these problems and they significantly paid into the Traffic Safety and Infrastructure Maintenance Fee. And mind you that is directly linked to what's in excess of the gross square feet that is over the FAR that allowed. So it's directly tied to the construction of the development.

Ms. Gelineau: Attorney Learned, is it a formula or just a projected - - -

Attorney Learned: It is a formula and it is contained in Section 3.539 of the Zoning Ordinance of the city. It's not a difficult formula. They're allowed in a limited commercial zone an FAR .25. So anything above that based on the gross square footage of their build and then because it's residential, it's dollar per that square footage.

On Page 4, I duplicated that language which is part of the communication we got from the building department today from the city building inspector.

Mr. Sergi: I saw that.

Attorney Learned: At the top of Page 5, I addressed that the city traffic engineer specifically said on contributions, it shouldn't be money, it shouldn't be in lieu of the traffic fee which is if it was calculated correctly, and you guys certainly have the opportunity to double check the calculation is \$307,249 for the traffic safety and infrastructure and maintenance fund fee and that's whatever contribution that they were thinking about making they were presenting in lieu of that fee and we know from the other 40B's that have all been paid that mitigation fund fee but it didn't render their project or anything on it to pay that.

So in Waiver Request 27B, I do point out the city traffic engineers correspondence today is concerned about the alignment of the curb cuts for site access and he proposes and I think this is important for the board to look at he proposes some restrictions on entrance on Winter Street is a good idea so restricting entrance not on Totten Pond Road. He suggests exits on Totten Pond Road one with a right hand out only and so I think that is a method presented to insure that any queuing is handled on the site and not on Totten Pond Road. And I think it's important for the board as well as if the applicant wants to consider those suggestions.

I did insert the language for the condition also in the traffic section.

Again, there's a comment about the trees. On Page 6 again we talk about the sign permits. There is language that should be added back about certain sections of the zoning ordinance not being waived from and that's to make sure that there aren't signs that are overhanging into the public ways or the sidewalks. Again there's the VASH Program language has been eliminated. If I've mentioned something that's duplicated here, I'm not saying it out loud but it is contained in the decision.

I would just like to make sure that the applicant provide us with any and all revision dates, let's just double check that we have those.

There is a number 3 in the section titled Design and General Conditions. The applicant has some language about providing screening materials at the time of the building permit application and I think that this board really needs to know what they are proposing for screening materials before this board authorizes the issuance of a Comprehensive Permit. So we respectfully request that they do that now.

Again we are back to the number of units at 60%.

And this one is kind of a big one. They have removed the necessary language for the conditions surrounding what they are offering as a mitigation package. You're either offering it or you're not. So they changed some language that we usually have in our decisions when somebody is offering to contribute money or gifting that mitigation amount to the city. And they changed it to language of shall. And then saying, oh, well, we'll change it back later. You're either offering it or you're not so that the board understands what mitigation you are indeed offering the city. So I put that forward in each occasion where there is a proposed monetary contribution. I returned the language that has existed in all prior 40B Comprehensive Permits that have issued.

Mr. Sergi: Well that was a conscious decision they made to change that, sounds like.

Attorney Learned: Correct. I received an email from their attorney Jim Ward that represented that they were doing that with a line that said, oh, but if it's approved, we'll switch the language back. And that's not just how this board is able to consider what is the mitigation package that is offered by the applicant. So you're either offering it or you're not. And I suggest that what is offered the pot of 1.4 it is in addition to doing the necessary sewer work the same way that 305 Winter Street did to handle the sewerage that your build causes. Between the general tax dollars of the city and this developer it's easy to me to think who should handle those costs. And I would recommend unless that issue is solved, I will look at everything but as your counsel, I would recommend that this could be a reason that we, deny the application.

Mr. Sergi: Okay.

Ms. Gelineau: Can the city deny a building permit based on that?

Attorney Learned: After the fact? So what this does in the 40B context, this acts as all the permitting from all the various departments and the building inspector handles all

state building code issues through the actual building permit applications so we have to handle it on this end and then he will enforce this Comprehensive Permit. So we couldn't not address the issue and have him later address the issue.

And I acknowledge that there are some HAC which is the Housing Appeals Committee and that's where they would appeal a denial. That's where it goes. And I acknowledge that there are some cases that will say, you know, they quoted some language to you in their rebuttal to our engineering department and ultimately an issue that would be decided is whether the damage caused is that great enough to outweigh the regional need for affordable housing? And I would challenge why does the EOHLC get to craft that regulation to begin with, is a question I have and that I could legally challenge. But even in that context is it great enough to outweigh regional need for affordable housing? Well, yes. We are sitting under an administrative consent order and they are proposing a build with a sewer capacity problem that could cause sewerage overflow on Totten Pond Road which, A, could directly harm the residents, but, B, could put the city in a fine situation daily for violating the administrative consent order. So we would be weighing those two things in our evidence before HAC and then probably before a Superior Court and then after that, to the Appeals Court and to the SJC but this is an important enough issue to the City of Waltham to go that entire distance in the appellate process.

And now when we would be weighing regional need for affordable housing, well, let's look At Waltham who have granted eight or nine 40B's. We have met our 1.5% Safe Harbor and we may be really close to the 10% of housing unit Safe Harbor. So for our immediate Waltham, well, look we are providing affordable housing and how the regional areas defined would be left to be looked at. But when analyzing those two things, I would be ready to go to court on that. Um, I lost my train of thought.

Mr. Sergi: You have covered a lot. Do you want to touch on the fire and safety conditions?

Attorney: Ya, so as my comments explaining the tracked red lined edits to the document continue, they are essentially based on the department head's input through the correspondence that has been submitted to you.

Mr. Sergi: I think you have it. I mean, I looked at this and it looks like you incorporated all that.

Attorney Learned: So the I/I is answered. Oh, the city engineer had proposed that the sand issue be identified. It comes from his comment 8 of the city engineer's correspondence that was given 2/10/26 that it be described in whatever Notice of Intent the Petitioner must file with the Conservation Commission, that's my comment on Page 10.

Also on Page 10, the applicant's edit of curb to curb to curb to middle of the road that I spoke about earlier was returned to curb to curb and it's indicated that the city street opening curb cut and utility permit rules and regulations in the City of Waltham Standards details and Specifications have to be followed. That also controls when a contractor comes. They have to sign Indemnification Agreements. There's a lot involved with before they are allowed to dig up the public ways.

Mr. Sergi: They have to repair property.

Attorney Learned: Ya, and put it back to the condition that it was in.

Mr. Sergi: So it doesn't sink two months after it's done.

Attorney Learned: So to jump to the fire safety conditions there's a few things. A personal reference to the deputy fire chief has been eliminated and put back to the fire department. The language that's necessary for taking in an offered mitigation amount has

been returned and the fire department's communication to board that was 1/6/26 definitely details the impacts that the development have on the fire department. The board members have mentioned that before and this is also a serious concern for the City of Waltham. Again you're putting residential units into a limited commercial zone and putting demands on the fire services that did not exist before this. No need to build that fire department before and now you're asking the City of Waltham to use general tax dollars to solve the problem that your development is creating. And so when you say, oh, if I have to do the sidewalks we are going to eat the money out of the \$1.4 Million mitigation package. You're saying that \$1.4 is capped. I suggest that you rethink that.

And then on Page 11 which is the final page of my comments it does talk again about the requests of the DPW Director and the Traffic Engineer and these board members that will be voting whether to approve or deny about the sidewalks which is a priority again. The increase of pedestrians in that area is solely a product of the construction of your development and those issues need to be resolved by your development.

And I end with, remember we know what contributions and work other developers were able to do before a claim of it being uneconomic. And if you want us to go down that route and ask for the opening of the records to prove whether it's uneconomic or whether it's economic, maybe this will be the first time the city does that. And so you might want to consider that fact as well.

I do quickly want the city engineer to hop up here and just quickly address the very serious issue with respect to the sewer capacity problem that exists on Totten Pond Road.

Mr. Sergi: Thank you.

Bob Winn, City Engineer, 124 Chaffee Avenue, Waltham: Ya, so, just to clarify, the correspondence you received from me this evening, there's nothing new in there in terms of

our comments. It's just a response to sort of the disappointing non-response that we received from the applicant. So, we have had some meetings. I thought we were going in the right direction but maybe there's a not. I don't know. The fact that we did make this comment in March. It was part of our initial comments that we made on this development, the capacity analysis, so it was made there. We also had meetings in July to talk about it and to clarify things and to provide the consultant our sewer consultant did our sewer study, the model information they need and provided that contact information at that time. So they had all the information that they have needed so it's kind of disingenuous for them to say what they have said here tonight. But, besides that I think we really need to know because it's important obviously the capacity of the sewer. I hope the sewer is fine. Based on my preliminary analysis when things got a little more developed and I found out really what the flows were on Winter Street project, I looked a little more closely and I said, boy, it looks like we have a problem. So I hope it's okay but my preliminary calculations are showing it's not okay. So we really need this model completed to show us really what the numbers are and what it looks like and hopefully we don't have a problem. But I think we are going to have a problem and then they have to figure out what's the best way to fix the problem and get cross sharing and all that.

We're in the Administrative Consent Order with the EPA on our sewer system right now. So that's why we have the I/I program and we have to do the removals and so for me to sign off on anything, you know, even if it's approved here, I'm not going to sign off. Somebody way above my head is going to have to sign off on this because we will get in trouble with the EPA. So, it's a serious matter and it needs to get completed so I would just like a commitment from them, I didn't hear it yet this evening, that they are going to complete the model and submit it so that we review it.

Mr. Deveau: Can I ask you one question, Bob? As far as the information that they may give to you, how do we know that that's accurate? Do we now have to have our peer

review look at their methodology and results to determine if they are because the reason I am asking that question is because of the traffic issue that, hey, we didn't know about that.

Mr. Winn: I think it should be reviewed. I'll review it but I think it should be reviewed and I think that's a good idea.

The other issue that I had is the stormwater and again that's a continuing issue. Same thing it was on the initial comments in March and we did talk about it in July during our meetings. They're still not meeting the city requirements and as also I indicated in my previous comments and they're not even really coming close to the mitigation requirements that other 40B's have provided. So, again, based on our last meeting it seemed like they were going to move ahead and redo it but after these responses and what I've heard tonight I'm not sure they are going to do that. So I would also like to understand what they are planning to do on the stormwater side of things in the terms of looking at additional mitigation or are they saying, we've gone as far as we are going to go and that's it! So those are too main issues.

Mr. Sergi: Thank you for coming. I appreciate it.

Okay. So you heard the comments. So you'll talk directly. There's obviously a difference of opinion. I don't want to get into that here but all I need is a commitment. You've heard the two important issues that he needs. Obviously there's interpretation issues here so I need you guys to satisfy the city that you don't have a safety issue with the water, you know, that it's not a burden on the city or the surrounding areas.

Mr. Hession: Right. As I said earlier, a lot of these comments we just received today. We need to - -

Mr. Sergi: I don't want to go back and forth with that, okay!

Mr. Hession: We will be responding to every comment that's come up and provide and just to reiterate safety, you know, obviously the sewer capacity, the sidewalk issue, pedestrian safety. Those things are important to us. You know, there's been some comments that we aren't or that we've been disingenuous. I just want to put it on the record, as I stated earlier in my initial comments, we've been working diligently throughout this entire review process to respond - - -

Mr. Sergi: Well you made comments that the \$1.4 Million is a hard stop. When I calculate the numbers in my head on this project there's a good size profit margin here so I think there is some room over and above that \$1.4 Million. So that's just my thought.

Mr. Hession: We will be providing responses to all those comments that we received as we have in the past.

Mr. Sergi: Okay.

Mr. Deveaux: I think we have to extend.

Mr. Sergi: Right. But before we do that, I just want to hear if there are members in the audience. If there's anyone in the audience that wants to come up and make a comment, now is the time.

I know you have been here before if we can not repeat the same issues that we've heard because we've heard them.

Gang Xing : 300 Winter Street, Waltham: I am not going to repeat the issues I raised before but I do have two things I want to remind the board and also to the Developer. There's one thing, everybody talks about traffic but I want to emphasize the

traffic on Winter Street because the coming traffic and also already we have a lot of cars etc. We don't have any traffic control or monitoring system like a school zone, like a radar when someone's speeding, just a flash, so that people can be aware. I want to emphasize if you look at the snow and the road is already narrow. And if you pile up already sidewalk to me it's an adventure if I walk on the street. I walk from home and in the street and it is really scary.

Mr. Sergi: The sidewalk in the winter you know the city will eventually clear that.

Mr. Xing: Ya, but at this time there's a new mechanism of doing that. Another thing, those cars are just speeding. I just want to mention that.

Mr. Sergi: Okay.

Mr. Xing: Another thing I just want to mention and I appreciate the developer's response to our requests, etc, etc. etc but there's one thing we didn't mention before because we are going to build up the sidewalk on Totten Pond Road which is going to expose our back yard to the traffic on that sidewalk and people can literally go through our property to go to the Winter Street. That's our concern. So I raise this question to the developer. We need some kind of fence. It's not going to be big. It's not to be a hundred yards. It's just going to be maybe less than twenty feet or something. I will wish that the developer will consider this. Thank you.

Mr. Sergi: Okay. I have to acknowledge they are trying on that stuff.

Sean Chen, 300 Winter Street, Waltham: I mentioned my opposition to this project before. I will be maintaining the same opposition because project is too large for land that is too small coupling the existing 40B that opened last year and another one under consideration. So I'm still against the project.

I do want to add one quick additional information for the board. So in addition to what Solicitor Learned just mentioned that if there is an appeal process about 40B I also got a response from a recent public request from the Safe Housing Department that we are also at the 11.4% adding into the Main Street case that was approved last September. So we have more evidence that we are above the Safe Harbor. I just wanted to add that.

Mr. Sergi: You want to share that with our legal department.

Mr. Chen: Yes, I will send to Pam.

Mr. Sergi: Thank you. Okay we've got that part of the presentation done. Maybe we can talk about a continuance date.

Mr. Deveau: We need an extension of time first.

Mr. Sergi: Oh, we do need an extension of time?

Mr. Deveau: I think we do.

Valerie Moore, Nutter McClennen and Fish came forward: (She did not identify herself.) Well I think we should talk about what the continuance dates are because that will confirm what the extension looks like. What's the board's first availability in March?

Mr. Sergi: We could probably do the 10th.

Mr. Hickernell: That's not good.

Mr. Sergi: I'm not here from the 14th to the 20th. So that week is out.

Let me open it up to the board. I'm here on the 12th so I can do the 12th. Do you want to do it on a Thursday?

Ms. Gelineau: What did you say?

Mr. Sergi: Thursday, March 12 is everyone available?

All board members were available.

Mr. Sergi: How's that?

Ms. Moore: That works for us. Obviously we just received all the city solicitors comments today so we will be reviewing and responding to them. I haven't had a chance to read them yet. But I do want to make sure we note for the board that every project is different and the financing of every project is different so I don't think the board should be relying on its decisions on other 40B projects when considering our project. It's important that you need fact specific findings about the nature of this project because everything is different from - - -

Mr. Sergi: Well as the Solicitor said, if you want to go down that road we can. We just need that proof. So if you want to go down that road you are more than welcome to listen to you. I mean I am in banking. I know these projects. I think I have an idea of what the worth is when it's done and the cost involved.

Ms. Moore: We will make a decision based on what we see in the presented conditions that we received today. So at the March 12th meeting we can discuss that further.

Mr. Sergi: Between now and then, there's a lot of work that needs to be done with the city departments. So hopefully we have a commitment that you guys are going to address these directly. If you can't that's fine. Just tell us.

Mr. Deveau: Extend to March 31st is my recommendation.

Ms. Moore: I think March 13th is reasonable based on Attorney Learned's comments that based on our responses she could well be recommending that the board deny. I think having the 180 end promptly after the hearing on the 12th makes sense. At that point if we need to extend it further, we can but otherwise at that point the board does have forty days to deliberate so it's not as if that's your last opportunity to discuss it.

Mr. Sergi: So your inclination is that you may not be able to meet with some of those requirements?

Ms. Moore: I don't know yet. I haven't had a chance to review them.

Mr. Sergi: Well I mean you are positioning it to the 13th. That makes it easy for us too. We'll do the 13th if you like.

Ms. Moore: As I indicated if we need more time at that point and we think it's appropriate we can certainly extend it further, but I think we would like to keep it close in time to when the hearing is because if the board is considering a denial, then it's unnecessary to have it extend further than that.

Mr. Sergi: I think we consider denying all of them that is in front of so. So we look at approval or denying, so - - -

Ms. Moore: I appreciate that but I think this is the first time that you know that a representative of the city has appeared at the hearing and indicated that they are going to potentially be recommending denial of the project.

Attorney Learned: I don't think so.

Mr. Sergi: I want to acknowledge that you guys have done a lot of good work on this in getting it here,. So I am just asking you to take it over the finish line. You know, you've got a lot of comments. You're getting close to addressing them. It's up to you. We'll do it the 15th, that's fine.

Ms. Moore: Thank you.

Mr. Sergi: I need a motion.

On motion of Mr. Deveaux, seconded by Mr. Taranto, the board voted to continue this case to March 12, 2026 and extend the hundred and eighty days to March 13, 2026.

Roll call: Mr. Taranto, yes; Ms. Gelineau, yes; Mr. Deveaux, yes; Mr. Hickernell, yes and Mr. Sergi, yes.

Mr. Sergi: So we have extended the case until March 12 th. We'll see you back on the 12th. Thank you.

One more motion is in order.

**On motion of Mr. Deveau, seconded by Ms. Gelineau, the board voted to adjourn
at 8:50 P.M.**
