

**TOWN OF LEICESTER**

ZONING BOARD of APPEALS  
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**ZBA Commissioners**

Jim Buckley, Chair  
James Reinke, Vice-Chair  
Kurt Parliment, Clerk  
Vaughn Hathaway, Member  
Richard Johnston, Alternate

**Zoning Board of Appeals Meeting Minutes**

**Date:** January 25, 2023

**Time:** 6:00PM

**Location:** Leicester Town Hall – Meeting Room 3

**Commissioners Present:** Jim Buckley (Chair), James Reinke (Vice-Chair), Kurt Parliment, Vaughn Hathaway, Richard Johnston

**Others Present:** Alaa Abusalah, Town Planner/ Director of Inspectional Services

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TOWN CLERK'S OFFICE  
LEICESTER, MASS.

**Order of Business**

**1. Public Hearing, Special Permit, 778 Main Street (SP23-01)**

Special permit for work within the Water Resources Protection Overlay District (WRPOD),  
Applicant: Charlton Road Reality, LLC.

**2. Public Hearing, Special Permit (continued), 651 Main Street (22-07)**

Special Permit for work within the Water Resources Protection Overlay District, Applicant: 651  
Main Street, LLC.

**3. Public Hearing, Special Permit (continued), 42 Tobin Road (22-08)**

Special permit for limited frontage lot. Applicant: Dandison Roberts

**4. General Discussion/Miscellaneous**

**5. Adjourn**

Mr. Buckley calls meeting to order

**1. Public Hearing, Special Permit, 778 Main Street (SP23-01)**

Mr. Parliment reads the hearing notice into the record.

Mr. Jim Bernardino from CMG Engineering presents for the applicant Charlton Road Reality, LLC. They are proposing a multi-family development, the property is approx. 3.2 acres, with an existing, two (2) story, residential building, and an accessory building in the back. At the front of the property approx. 32,600 square feet lay within the Water Resource Protection Overlay District (WRPOD) requiring a special permit. Their plans meet the requirements of not more than 30% of the property being impervious within the WRPOD, their plan is at 29.8% impervious area. The

development consists of three (3) buildings housing 25 apartment style units and has a parking area with 64 parking spots, the parking lot is within the impervious area.

With their revisions, over the past year or so, they have implemented a “Best Management Practices.” One of the things they have done is about 11,000SF of pervious pavement will be used in the parking area, this will allow more water to flow into the ground, unlike traditional pavement. They also have developed a comprehensive storm water collection, conveyance, treatment, and infiltration plan, to mitigate stormwater runoff and to replicate the existing conditions for ground water replenishment.

They have been in front of the Planning Board twice already and have been working with Kevin Quinn of Quinn Engineering to address all his concerns and comments. They have since received a follow up memo from Mr. Quinn stating that all comments have been addressed to his satisfaction and he has no further comments. He (Mr. Quinn) has stated that he has no reason or factor that would preclude the ZBA from approving the Special Permit.

They are continuing to work with the Planning Board on comments and questions from the PB and the public. They will be in front of the PB again on February 8<sup>th</sup> and the Conservation Commission again soon after that.

**Mr. Buckley:** Asked for any correspondence.

**Ms. Abusalah:** States they have not gotten anything from abutters and nothing new from Mr. Quinn. She did receive comments from Leicester Police stating that they had no concerns or comments.

**Mr. Hathaway:** Asked how will the parking lines be delineated and how will they be refreshed when they wear away?

**Mr. Bernardino:** There will be limited pavement marking and there will be a property manager that will oversee maintaining the entire property to include the parking area. This will include vacuuming of the pervious pavement to keep the area clean, since traditional sweepers cannot be used on this type of pavement, and to ensure that the parking area is re-lined as needed. There are no assigned spots currently, but they are still working with the Planning Board, and they do have excess parking above the requirements. The operation and management plan follows what the state requires. Maintenance logs will be kept and available at the request of the town.

**Mr. Johnston:** Asks if these are rentals and if there is any plan to make any of the condos or anything?

**Mr. Bernardino:** They are all rentals and there are no plans other than that right now.

**Mr. Johnston:** Would like to see some kind of documentation that all of these conditions would carry through to any future owners.

**Mr. Bernardino:** Right now, their maintenance and operation plan just applies to the owner, but they can certainly make the change to the document that it conveys to any future owner.

**Mr. Johnston:** Has concerns about Waite Pond and would like to know if there are any plans to protect it.

**Mr. Bernardino:** Stated that in their submitted plans they do have precautions in place such as silt fencing and hay bales to prevent any runoff etc. from construction. They also have a landscape plan with permanent stabilization. They will also exceed the one-acre land alteration threshold, and will be providing a Storm Water Pollution Protection Plan in accordance with the Clean Water Act of 1972.

**Mr. Johnston:** Asked what the consistency of the pervious pavement will be?

**Mr. Bernardino:** The pavement has a different, larger, aggregate configuration. The pavement will be about 3"-4", with large voids allowing water to penetrate, then there will be several layers of other filtering materials before the water reaches the ground water.

**Mr. Johnston:** Are the structure affected by the flood hazard zone?

**Mr. Bernardino:** The buildings are outside the flood zone. That zone is zone A, which is a 100-year flood plan by FEMA. Zone A has no elevation with it, and they were as conservative as possible based on FEMA's map. They went to Waite Ponds spillway and took an elevation from that and the lowest elevation that they will be working in is at least 11 ½ feet above the flood zone.

**Mr. Buckley:** Asked if the site plan was an approved site Plan

**Mr. Bernardino:** The site plan has not been approved by the PB yet, but it has been "Peer reviewed" and all concerns have addressed at this point.

**Mr. Buckley:** Made the comment that if they issue a Special Permit now if any changes are made to the plan that affect the impervious area, then they would have to come back to the ZBA for review. He also asked if there were any calculations as to what the run-off is now and what it might be after.

**Mr. Bernardino:** Reviews historic data and shows that there is a reduction in "CFS" from 6.2 CFS to 4.96.

**Mr. Buckley:** Town by-laws say that maintenance is updated yearly and would like to know that they will be following that.

**Mr. Bernardino:** The maintenance and landscaping will be maintained, and they have a regular maintenance schedule that will be in place.

**Mr. Buckley:** Asked what the impervious area would be if they were NOT using the pervious pavement.

**Mr. Bernardino:** If pervious pavement was not used it would be a little over 60%

**Mr. Hathaway:** Asked what happened if a car leaks oil on the pervious portion of the parking lot?

**Mr. Bernardino:** There are low level sub drains, there will still be runoff from that, but they will collect in the aggregates mostly and that is why the vacuuming is used as opposed to sweeping. They also have filtration materials below the pavement and other planned drainage. There also won't be as high of a usage as at a store parking lot. If it is a continued concern of the board, they can add conditions to the lease prohibiting car maintenance in the parking area.

**Mr. Reinke:** Asks how pervious is the pavement? For example, will it act like soil and always be pervious.

**Mr. Bernardino:** When you look at the drainage design, they included a “curve area” number, for instance in a wooded area you usually have a 40% curve area meaning, you are always going to have about 40% runoff and the rest will infiltrate. The pavement has about a 45-60% curve on normal pavement it’s about 80-90%. They based their plans on 85%

**Mr. Reinke:** Is there a storm water plan for this parking area?

**Mr. Bernardino:** The site works as a whole; the parking lot is sloped so that water flows down to catch basins and other normal drainage systems.

**Mr. Weikle:** lives at 25 Waite Street, opposed for several reasons, including the exit street on to Waite Street and he is concerned about drainage, snow removal, and will not allow them on his property. He is also concerned about the maintenance because of the condition that it has been in up until now with the current owner.

**Mr. Entwistle:** Opposed. He has concerns about drainage, wetlands areas and flood zones despite FEMA’s 100-year flood plan. He is questioning how pervious the area will be.

**Mr. Reinke:** Just for clarity, the only part of the project in the WRPOD is the parking area, not Waite Pond. Waite Pond is a valid argument, but it is not part of this boards purview. He is also concerned that the pervious asphalt may not filter enough based on town by-laws. Contaminants are more likely to get into the water supply with the pervious material in the parking lot.

**Mr. Bernardino:** States that this is a suitable use for the type of material. It has more filtration than just a loose gravel. The DEP has approved this application and there have been no push back or comments from Quinn Engineering.

**Mr. Reinke:** Has serious concerns still with the parking area in the WROPD. He agrees it is a good idea on one side with the filtration, but he also feels that there will still too much sediment etc. that will flow into the limited water resources in the area. He does not believe that this is a good plan.

**Mr. Buckley:** While he does agree with Mr. Reinke’s concerns, after the review by Mr. Quinn at Quinn engineering, they received a memo stating that there will be no impact on the water supply in the area with the measures that they are taking. They have to rely on what the Engineers say. Should we reach back to the engineer and question him.

**Mr. Reinke:** While he respects the work by Mr. Quinn the decision is being made by residents that live in the area and see the daily impacts as they are now and can make a decision based on what they see day to day. He feels the consequences are too great if an accidental spill happens.

**Motion:** **Mr. Reinke** moves to **disapprove** the petition for work in WRPOD at 778 Main Street

**Second:** **Mr. Parliment**

**Discussion:** Mr. Reinke just reiterates his concerns.

**Vote:** 3-1-1 to disapprove the petition

Mr. Reinke, Mr. Parliment and Mr. Johnston voted to disapprove the petition

Mr. Hathaway voted to approve

Mr. Buckley abstained

**2. Public Hearing, Special Permit (continued), 651 Main Street (22-07)**

Continuance Requested

**Motion: Mr. Reinke**, Motion to continue the public hearing for 651 Main Street (22-07), to February 22, 2023 at 6PM

**Second: Mr. Parliment**

**Discussion: None**

**Vote: 4-0-1**

**3. Public Hearing, Special Permit (continued) ,42 Tobin Road (22-08)**

This hearing was continued from December 26, 2022. The board had requested that the petitioner provide some documentation.

The requested documents were:

- a. Denial Letter
- b. Certified Plot Plan with the structure, setbacks, and the driveway

All requested documents were provided to the board. The plot plan shows the setbacks and the driveway, which will be located on Tobin Rd. The plans meet the required setbacks, the house is 85' from the road so that so that meets the driveway requirements, and the driveway will be paved. Lot size requirements for the zone is 40,00 SF as long as it is serviced by water and sewer.

**Motion: Mr. Reinke**, Motion to approve the special permit for limited frontage at 42 Tobin Road

**Second: Mr. Parliment**

**Discussion: None**

**Vote: 5-0-0**

**Motion: Mr. Reinke** To adjourn

**Second: Mr. Johnston**

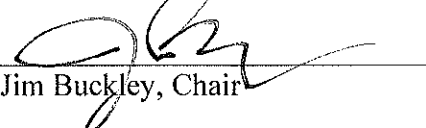
**Discussion: None**

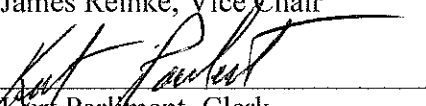
**Vote: 5-0-0**

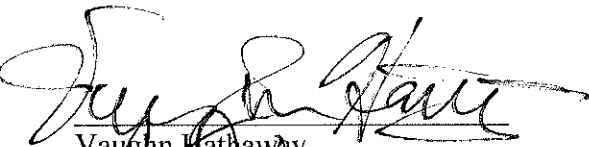
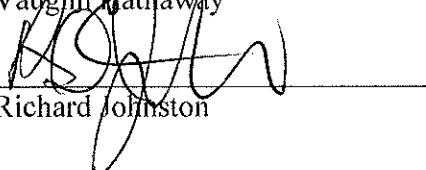
**Meeting Minutes Respectfully Submitted by:**  
**Donna K. Main, DIS Assistant**

**Date Approved:** 12/27/23

**Zoning Board of Appeals Signatures**

  
Jim Buckley, Chair

James Reinke, Vice Chair  
  
Kurt Parliment, Clerk

  
Vaughn Mathaway  
  
Richard Johnston