



CITY OF NEWTON, MASSACHUSETTS

City Hall
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Ruthanne Fuller
Mayor

ZONING BOARD OF APPEALS
Brenda Belsanti, Zoning Board Clerk

MEETING MINUTES

Wednesday, September 27, 2023.

7:00 p.m.

HYBRID

Board Members Present: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder (remote), Jennifer Pucci, and Denise Chicoine (alternate)

Staff Present: Brenda Belsanti, ZBA Clerk; Jonah Temple, Deputy City Solicitor (remote); Katie Whewell, Director of Current Planning; and Cat Kemmett, Senior Planner.

A public hearing of the Newton Zoning Board of Appeals was held a hybrid meeting on Wednesday, September 27, 2023, at 7:00 p.m. on the following petitions:

1. **#04-23** Toll Bros. Inc., requesting a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, to construct a six-story all-residential development with 244 residential units on 5.82 acres of land located at 528 Boylston Street in the SR1, SR2 Zoning Districts. The proposal includes 61 affordable units and 385 parking stalls.

Agenda Item 1: 1. #04-23 Toll Bros. Inc., requesting a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, to construct a six-story all-residential development with 244 residential units on 5.82 acres of land located at 528 Boylston Street; 0, 502-504, 516 Boylston Street; 0 Hagan Road; and 24-26, 32-34 Hurley Place in the SR1, SR2 Zoning Districts. The proposal includes 61 affordable units and 385 parking stalls. Sitting Members: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, Jennifer Pucci, and Denise Chicoine (alternate)

Documents Submitted:

1. Revised Civil Plans August 21, 2023.
2. Revised Architectural Plans dated August 18, 2023.
3. Shadow Studies dated August 18, 2023.



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4. Revised Landscape Plan dated August 18, 2023.
5. Photometric Plan dated August 18, 2023.
6. Landscape Graphics dated August 18, 2023.
7. Fire Truck Turn Exhibits dated August 21, 2023.
8. TDM Plan dated August 29, 2023.
9. Drainage Report dated August 21, 2023.
10. Packet of compiled emails, letters, and comments from the public.
11. ZBA Memo from Planning with peer review attachments dated September 20, 2023.

Testimony:

Attorney Stephen Buchbinder, Schlessinger & Buchbinder, 1200 Walnut Street, Newton, representing the petitioner Toll Bros. for a potential development at 528 Boylston Street, Newton pursuant to M.G.L Chapter 40B reviewed the documents submitted and presented a 3D model of the proposed plan.

Tom Schultz, architectural team, 50 Commandant's Way, Quincy, presented the new design based on some of the comments from the previous meeting. There is a reduction in units and parking and a change in roof lines, height, and massing. He reviewed seasonal views of the proposed build from the surrounding neighborhoods were shown and shadow studies,

Steve Martorano, Bohler Engineering, 45 Franklin Street, Boston, presented landscape design including multi-use path, stormwater feature and basin, plantings, and Rte. 9 frontage.

Robert Michaud, Managing Principal, MDM Transportation Consultants, 28 Wood Road, Marlborough, reviewed the peer review reports he received and presented his response to vehicular and pedestrian traffic issues, trip counts, upcoming MA DOT projects, parking, and traffic patterns.

Attorney Buchbinder concluded the presentation.

Alan Mountjoy, Principal NBBJ, 1 Center Plaza, Boston, is pleased with the new design and



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presented a PowerPoint including the topics of scale and sizing of the build, pedestrian walkways, vehicular and pedestrian safety, shielding of mechanical systems/roof height, stormwater enhancements, connectivity, and sidewalk improvements. He also presented improvements that could be made to Paul Brook.

Jeff Maxtutis, BETA Group, 315 Norwood Park South, Norwood, presented a PowerPoint presentation regarding the traffic data study, trip generation, site traffic patterns, deliveries, crash analysis, future conditions, entering/exiting to and from site, driveway locations, crosswalk locations, parking, and future weave-in analysis.

Cat Kemmett, Planner, City of Newton Planning Department, reviewed information that should be received in future meetings such as stormwater, conservation, and TDM as well as peer review requests.

Jennifer Pucci stated that she appreciated all of the new information presented. Asked to clarify what level of affordability and how many units will be provided with the decrease of units. She would also like more information regarding of traffic safety with the school schedule and traffic impacts at those time as well as the streets through the abutting neighborhood. She is looking forward to the stormwater studies.

Will Adams, Toll Bros., stated they are committed to 20% of the 50 affordable units to be 50% AMI with the remaining at 80% AMI. Two and three-bedrooms have been increased, but not sure what the final unit mix will be.

Brooke Lipsitt stated concern for the Rte. 9 frontage. She endorses the proposal made by Mr. Mountjoy to buffer the sidewalk from the roadway with plantings. She would prefer to see utilities underground instead of unattractive poles. Ms. Lipsitt noted the site to the neighbors to Hagan is 40 feet, but is unsure how tall the building is at that point and how it will relate to the neighbors. The seasonal views were from the street and not from the house or backyard of the neighbor. The rock outcroppings should be used as a landscape element.

Attorney Buchbinder stated the sidewalk is under the discretion of MA DOT and Mr. Michaud is



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in discussions with them. We would be happy to do more renderings from Hagan Road. There can be a discussion with the utilities, but they are generally hesitant to do such a small strip and it's very expensive – in the millions of dollars.

Denise Chicoine stated she appreciates the developer's collaborative approach and the peer reviewers reports. She asks how the change in the roof design will affect solar panels and will there be other measures to prevent the project from becoming a heat island.

Mr. Schultz stated that the roof design limits the amount of solar panels that can be installed. The lighter color of the roof will help with heat.

Betsy Sweet asked if the material for the path is permeable.

Mr. Schultz stated that the path is asphalt with gravel edging for runoff.

Stu Snyder stated that there seems to be an effort for this project to engage with Rte. 9 for pedestrians, but safety is a concern especially where the two driveways are located. He likes the multi-use path. Mr. Snyder has concerns about traffic spillover to the neighborhood. He states that he appreciates the developer working with MA DOT and there needs to be a large buffer on Rte. 9 for safety.

Chair Michael Rossi stated he agrees with the questions raised by the other members of the Board. He states he was struck by the pictures of the project from Hagan Road and that the project looks looming and enormous to him especially in the middle of single-family homes.

Public Comments:

Councilor Ryan, 21 Avery Path, Newton, stated that the project is too big for the size of the lot and would like to see the building get down to 4.5 story height like the Village Zoning. He is concerned about the stormwater and has seen the flooded basements and hopes the project will make stormwater runoff better for the neighborhood. Councilor Ryan would like the mitigation money to go to roads, traffic lights, sidewalks, and trees, but still feels there is a real issue for



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traffic safety especially at Parker Street and Rte.9. He would like to see a deeper level of affordability.

Councilor Lipof stated that as Chair of Land Use he always wants to find a way to yes, but feels that this lot is too small and tight for something this large. He stated that he could see 100 units and not a multi-story building, but a cluster of town houses. The massing is huge compared to the surrounding neighborhood. The flooding on Rte. 9 in this area is after every storm with cars slowing and going through the water right at the front of the property. He commends the developer making the changes they have, but it still makes him uncomfortable. Councilor Lipoff stated that he is asked by the public if any 40B has not been approved by the Board and that this is one that should be a no.

Councilor Kalis stated that he agrees with the other Councilors, but asked Attorney Buchbinder what project the TDM is being is compared to in Newton. The assessment of the Parker Street light seems optimistic, that he has worked with MA DOT, and would like to know what MA DOT is offering to improve that light. He would like specifics for the project. He stated he would like to know who is doing the weave-in capacity analysis. MDM seems optimistic, BETA seems more realistic in their assessments. He would like to see BETA do an assessment of Parker Street intersection. Councilor Kalis would like a push for deeper affordability.

Wendy Landon, 40 Old Field Road, Newton, stated she appreciates the efforts of the Board and developer for deeper affordability. She stated that BETA peer review proposed traffic egress and merge points includes Old Field Road as well as Sheldon Road which was the focus. The right hand turn from Old Field to Rte. 9 will be directly impacted by this development. Cars going eastbound traveling at a high speed will not expect pedestrians in this area and may not have time to react. Her concerns have been consistent for the year – safety, increased traffic, increased flooding, environmental concerns, and a significant negative impact to the neighborhood. NBBJ did a great job on their peer review. MA Housing states that it is important to mitigate the height and scale of the development to adjoining sites. Everything that has been proposed is not part of Chestnut Hill Square or Chestnut Hill Mall or Lifetime – this is a residential neighborhood on three sides and if you count across Rte.9 it is four sides. The massing to us is like the little house that stayed while all the skyscrapers went up. This development would be unprecedented on Rte. 9.



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This is a residential neighborhood on all sides. There will eventually be a project here, but it needs to fit in size-wise, safety-wise, it needs to fit into the neighborhood as Councilor Lipoff said. Less bulk, 75 units, and she feels everyone can come to an agreement for a project that makes sense for the site for all stakeholders.

Marie Fredrick, 144 Hagan Road, Newton, stated she is a direct abutter. This is a neighborhood of single-family homes. Hard working people that pay their taxes, that care about their neighbors, and many of whom have lived here 20, 30, 40, 50 years. I have known many of them for 20 years and have met hundreds more walking the neighborhood to discuss this project. They all support affordable housing and do not envy the Board and their decision, but everyone who knows this site says without hesitation the risk of building this project will impact the health and safety for all. Our neighbors want housing that is truly affordable that fits into the neighborhood while protecting the current homeowner's health and safety. The project as proposed the harm to the environment is clear with the loss of trees, the flooding issues are glaring, and safety issues are evident with the school streets with students walking, biking, and driving. One area that might not be obvious is the lack of privacy from added noise and lights. Light and noise pollution from a building of this size and is created by HVAC, garbage pickup, car headlights, deliveries, balconies, roof decks, pools, courtyards, etcetera. We examined many other recent projects of this same size and scale in Newton, but one thing they had in common was a greater ability to respect privacy for residential abutters from noise and artificial lighting. All these large projects had three sides abutting commercial or large businesses enabling the developer to protect the one side of residential abutters from noise and light whether it was with setbacks, location of parking, traffic flows, or buffers. One project had outside amenities overlooking the Charles River or another that used the building itself broken into pieces to give the tenants and abutters privacy with pools and play areas in the middle courtyard. This is one major difference with this site. The site is surrounded on four sides with single-family homes. Though attempts have been made there is no real good solution. If the HVAC system is on top of the building how will that impact the homes on Dudley Road which is east and above the project with constant humming. The south side of the project has an exposed raised pool courtyard and many balconies and hundreds of windows that will light up the night sky. The west side has entrances and exits to the parking garage and garbage pick-up. The shadow study shows the project will cast a shadow across Rte. 9 for most of the fall and winter seasons. The Peer Reviewer asked if the shadows will effect motorists visibility and if so, are there



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measures that would mitigate their impact such as additional street lighting. We hope the answer is decreasing the building height and not increasing artificial lights cast on Rte. 9 homes. We believe our community proposal as well as the many Peer Review changes will help decrease the risk the project will add to our neighborhood. As Rick Lipof said at the last ZBA meeting, “there is reason this site has always been a mulch pit”. The reason is this project outweighs the reward. Thank you for your time and consideration.

Stephen Farrell, 30 Winston Road, Newton, stated he is four minutes from the site. He stated his remarks do not negate the hard work put in by the developers, engineers, and architects. He has been engaged with the neighbors for nearly a year and it has been absolutely clear from the start that this project has enormous problems. As you have heard for months is that we are in no way opposed to this project because of its goal to bring more housing into the area. We are opposed to this project as it is presently constituted because it cannot solve these problems. Among other issues, it directly endangers the wetlands, encourages the flood plain, and will increase flooding. It’s mass and design are completely anti-esthetical to the neighborhood it proposes to join. It is not reasonably accessible to public transportation. For anyone who has spent ten minutes in the neighborhood it will dramatically increase the already overly congested traffic and safety problem particularly in a neighborhood that houses 3500 students every day which is ¼ of Newton’s school population. To remind us of what this project cannot solve these problems I return to our imminent Ward 8 At-Large Councilor Rick Lipof who has represented our Ward for 37 years. He is the current Vice-President of the City Council and Chair of the Land Use Committee. In private life Councilor Lipof has been in the real estate business for decades. Through his decades of personal and professional experience in real estate and as has said before and repeated today when the Councilor looks at this project on this site he says, “there is a reason this site has always been a mulch pit”. The access is horrific because of the Rte. 9 bridge. There are a lot of times projects don’t bring as much traffic as we think, but this project is extremely dangerous. He is extremely concerned about this project. This site is not right for six, seven, or more storied building. It just is not. This is just not the right project. The neighbors that speak want affordable housing and see something like 75-100 units. That is really what it should be. He is going out on a limb and saying he is against this project. The City Councilors state they do not have a vote in this, but they are all residents of Newton. They are experienced residents who have worked in housing issues. Conversation with residents asking Councilor Lipof to consider our concerns the good news is he



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did without reservation, and they are as correct and relevant now as they were two months ago. He supports the Councilor and his decisions completely and hopes the Board will encourage Toll Bros. to begin to work with this community on a project that will make sense and solve these problems.

Rachel White, 124 Hagen Road, Newton, stated she is a direct abutter to the project. She expressed her appreciation to the members of the Board who have raised concerns about the impact of the building on direct abutters and calling it the elephant in the room. Prior to the project being before the Board she invited members of the Toll Bros. team to her backyard, and many of you have also been to her backyard, to get a sense on how the project will impact her and those that live directly behind the project. When she first met with Toll Bros. she asked them if this was a project they would like to live next to or is this a project members of your team or members of the community would want to live or recommend to our loved ones and friends as a good place to live. The more people that can say yes to those questions honestly the better this project will be. We are nibbling around the edges at making it better. The multi-use path is an incredible enhancement to the residents of this project, and she commends the addition of it. As the neighbor directly next to it I would ask if there were a way that it could be moved slightly further away to protect the privacy in her backyard. Again, we are making these small incremental changes, and some are getting us slightly closer to able to answer yes to both of those questions, but we have so far to go.

Sharon Greenstein, 16 Old Field Road, Newton, stated she is a direct abutter of the project. The neighbors are concerned that the proposed Toll Bros. project won't respect and protect Newton's own community standards as they apply to our neighborhood. The MA Housing preliminary approval of the Chapter 40B eligibility date February 1, 2023, states its expectations that local boards, officials, and members of the public are provided the opportunity to further review the project to ensure compliance with all applicable state and local standards and regulations. As proposed, 528 Boylston does not meet Newton's own newly proposed standards for rezoning such as building heights being capped at 4 ½ stories in main commercial areas with some exceptions for buildings with a higher percentage of affordable units. How can the project be approved with seven stories? This theme has resonated with several people tonight and she is sorry if she is repeating what others have said, but these are very important points. We disagree with the claim that commercial sites are relevant to the size and design of 528 Boylston. The project is not part of The Street, Chestnut Hill Mall, or Chestnut Hill Square. Rather it is bounded by single-family



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homes fully on all four sides. There are no other developments in Newton that this project can reasonably be compared to given the non-commercial nature of the property. The NBBJ design review identified several important issues that she would like to reiterate such as build on public and City input and support them. Respect and protect the adjacent residential neighborhood, keep buildings as far as possible from abutting neighbors, and reduce heights near residential neighborhoods. Setback and max site coverages should be respected. A couple of the recommendations regarding the scale and bulk of the building a maximum building façade along Boylston should not exceed Village Center 3 height of 4.5 stories and a stepping-down of massing as it goes down the hill to possibly a three-story elevation. This could help transition the height of the building to relate to abutting single-family houses on Old Field Road.

Bruce Jennings, 33 Duxbury Road, Newton, states he is directly across the street from the front entrance of Sam White's. He states he is not sure how the sound travels onto Hagan or Old Field Roads from the site, but in his backyard all he hears is the slamming of trailers, smells the bark mulch when it is dropped off, the dust in the summer months that comes across Rte. 9, and the sound from the site just goes across the street. Any change to that to that site would be a welcome change. He appreciates the Peer Review regarding the multi-use walking/bike path, the potential for the Paul Brook restoration, and all of these are positives the way that the property would look from Rte. 9 with the sideways and greenery and is a vast improvement over what is there now. Sam White's hours are supposed to be 7:00am in the morning and they have trucks coming in to drop off bulk materials at 5:30-6:00 in the morning. The slamming and constant beeping of the backing up of the trucks and front-end loaders. This in some capacity is a welcome change. He has lived at his address for 65 years, his entire life, and is very familiar with the site and used to walk through the property on his way to Newton South. He passes by the Avalons on Needham Street and Chestnut Hill and the new Trio building in Newtonville and he does not see a lot of traffic coming in and out of any of those places. He does not see the proposed development being a significant traffic burden and a lot of the information distributed tonight solidifies that fact that it isn't going to create a huge traffic issue. There are plenty of things that can be worked on and refined and made better, but he thinks having more affordable housing in the City is a very important thing. He is 100% for this improvement as he sees it.

Rob Sellers, 16 Old Field Road, Newton, stated he is an abutter and appreciates all the work



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everyone has done and it's an unenviable task to shape the community and the decisions the Board is making are very weighty and are going to have impacts on future generations of Newtonians. He stated that like many of the neighbors his wife and him have lived in the neighborhood for over 20 years and have raised two boys there. They have invested in the neighborhood community as well the community of Newton. He and his wife have served on the PTO, coached sports teams, led a Cub Scout pack, and volunteered for Newton causes. We have celebrated with our neighbors and supported them through hardships and tragedies. His neighbors have done similar and he believes that those investments is what makes Newton the community that it is and the place where all of us want to live. Ideally a developer would build affordable, long-term family homes on this site for a similar long-term investment in our community. At a minimum the neighborhood just asks that the project not compromise our community's safety, design, character, and environment. Over 1200 Newton voters and politicians share our concerns. Newton does not want to be an organization of no and we know something is going to be built at this site, so we wanted to proactively go out into the community and find a yes that we could agree to. He polled the petition signatories and they overwhelmingly indicated they would support an alternative smaller project vision for this site outside of a few that wanted no project at all. That vision is a maximum project size of 100,000 square feet and to put a limit on the container that would supersede anything planned right now. A maximum structure height of 36 feet, a minimum set back of 100 feet with a mature tree buffer, a design that fits in with the existing residential neighborhood size and massing, and perhaps 75 townhouse-style units. With a smaller alternative project safety and environmental risk would be decreased and would be building housing that families would want to raise their kids in years to come not just the people that live there, but also the tenants.

Lucie Chansky, 259 Jackson Street, Newton, states she is across the street and near the Parker Street Bridge. She is concerned with Paul Brook which goes underneath her house and wonders if there will be an impact on her property if there is work done on the Brook. She asked if parking will be an extra fee for the tenants of the projects and is concerned that it will force the tenants to park on the neighborhood streets. She states the City should require that the parking be included in the rent for the tenants to encourage people to stay in the garage. Travelling from the East towards the Parker Street Bridge the residents of this project would have to turn left it is a blind turn. Cars would need to go beyond the bridge and crosswalk to see if anything is coming down Parker Street. It is very unsafe and increases the traffic there making it more unsafe for more people. She



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believes the project is way too big for the area.

Mike Weissel, 99 Hagan Road, Newton, stated he lives directly across the street from the proposed site and has lived there for 22 years. He also lives directly next to Paul Brook. Paul Brook passes both adjacent and under his property and the brook is open beginning in his backyard and all the way to the high school. He has concerns about flooding risk that exist in the neighborhood and changes to the water table. We need to protect the neighborhood and our homes that are adjacent to this site from further flooding risk. This summer's heavy rains, which he believes lasted eight days with an inch or more of rain, clearly show us what the future holds for flooding in the neighborhood and shows that the 100-year storm requirements on the maps from the state are significantly out of date. The slides in the package on pages 500-503 show the neighborhood experienced unprecedented flooding rains in his 22 years. Significant flooding on Rte. 9 at the intersection of Old Field Road and cars stranded from heavy rains at the intersections of Hagan and Old Field Roads and Hagan and Adeline Roads. All of these areas are within a few hundred yards of the proposed building site and all will be impacted by water management in and around the site. Paul Brook has become dangerously close to overflowing and changes to the site will likely exacerbate these issues. The NBBJ review suggested the removal of concrete barriers to increase the esthetics of the brook, but these barriers are the only thing protecting our neighborhood from the flooding of Paul Brook. The impact on the water table and the neighborhood today are unknown and need to be protected. When he moved into his house in 2001 the sump pump ran infrequently. Over the past 20 years due to changes in the water levels they were forced to install a professional sump pump system, battery back-up systems, and recently a generator to better protect his home. The sump pump runs almost continuously and he is not the only one along Hagan Road that has this same issue. There is massive amounts of water that are pumped from the houses every day. There are good reasons why this piece of property has not been developed along with the rest of the neighborhood over the past 100 years. Toll Bros. is proposing a massive project with 95,000 feet of impervious area with unknown impact to flooding in the neighborhood and we appeal to the Board to protect the natural watershed and protect our homes from flooding and the surrounding neighborhoods by right sizing this project.

Barry Bergman, 18 Walter Street, Newton, stated that a couple days after a recent rain storm he was walking down Marshfield Road and Lantern Lane and the sump pumps were still cranking



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away at the homes. To be fair it has been a very wet and hot summer and a preview of future summers thanks to climate change. The neighborhood north of Rte. 9 relies on effective drainage through Paul Brook and the wetlands at the site of the proposed 528 Boylston project. A December 6, 2022 Washington Post article investigating the accuracy of the FEMA flood maps found that ‘as climate change accelerates its increasing types of flooding that the maps aren’t built to include. These maps capture river and coastal flooding not inundation caused by intense bursts of rainfall. This is a particularly dangerous problem in the city where many porous surfaces have been paved over’. Climate change has also brought us rising temperatures. All across Newton developers are cutting down mature shade trees and replacing them with equal caliber inches of arborvitae which don’t absorb CO2 as well as deciduous trees. The site at 528 Boylston has a lot of mature deciduous trees and wetlands making it a particularly environmentally sensitive space. The loss of these will lead to one more parcel becoming an urban heat island which will only make us more susceptible to the effects of increased temperatures. It is the size of these impervious surfaces being built at 528 Boylston along with the loss of mature shade trees that he is concerned with. The homes on Old Field Road, Hagan Road, and Lantern Lane are some of the more affordable homes in Newton and are already dealing with the effects of climate change. These home need more protection from future flooding not less. In order to entice developers to build affordable housing as a fraction of a large housing development Chapter 40B allows them to override local zoning. It does not allow developers to cause environmental harm. When these housing developments pose an environmental threat to our neighborhood the City needs to step in and mitigate the damage. The footprint of this project needs to be reduced to protect the neighborhood from flooding and the loss of shade trees. He believes the number of total units should at least be reduced to 75 units. This scales back the size of impervious surfaces to better address flooding issues and the loss of shade trees and wetlands. We all want affordable housing, but we also need a healthy environment.

Janet Serman, 120 Church Street, Newton, stated she does not live near the project and already avoids Rte. 9 at all costs because it is one of the most horrible roadways in the City to get anywhere to and from on because it is always a nightmare traffic-wise. In addition to the arguments people have already voiced with are legitimate concerns – traffic, stormwater runoff, safety issues, light pollution and so forth this project sounds like a really bad idea. She stated that she wants to put the spotlight on above and beyond what the ZBA needs to make, but on the



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decision the voters need to make. We need to get rid of the people that keep voting for stuff that is bad for our residents. Whether it is the people representing us in Ward 8 or whether it is our State Senator or State Reps who put this horrible MBTA Communities Act that we are being held to change all of our zoning because of choices made by our State Reps and State Senators and she is fed up with government in general that is running the City. Now the Mayor found another \$80million so when are we going to wake up with what is really going on. She is disgusted with what is happening. She hopes you make good decisions for our residents and the people that live in this area are passionate about where they live and she honestly does not care about what the Ward 9 Councilors say about being supportive of this project being trimmed down in this location and hope they get the message that they should not be supported the VCODs in the other Villages because the City will have to bare the kind of growth your putting in and she is fed up.

Enrique Testa, 84 Adeline Road, Newton, stated he is not an immediate abutter, but shares the water table issue with the whole neighborhood. Listening to the Peer Reviews tonight he has two questions. The traffic consultant mentioned the multi-use path and then explained he would support an emergency road for emergency vehicles except that seems to create a connection between Rte. 9 and Hagan/Adeline Roads which is also the perfect shortcut for people wanting to avoid traffic. That is something in the past has been looked at as a negative so he would like to know if that is the plan to actually make that connection. The shadow study stated that even under the best conditions there would still be shadows over Rte. 9. He states he has specific concerns over the puddle that forms on Rte. 9 will now become frozen and become an ice-skating rink. He would like to know how that will be corrected. He also shares the same concerns as the prior speakers.

Michael Mindlin, 459 Dudley Road, Newton, stated he has been a resident of Newton for five years with his wife and three children all under age 10 years. Many concerns have been voiced around this project which he supports from stormwater to environmental to lack of diversity in housing. His comments are the traffic impact of this development. He views traffic as synonymous with safety and this project has a number of challenges which the Peer Reviewer highlighted from the substantial amount of information lacking from the study such as the roads leading to this project as well as the intersections the data that was used to gather the study is incredibly limited. One data point that does not sit well is assuming only 20% of the allotted cars



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will be used during rush hour. That is intellectually dishonest. There are 200 units, multi-family, its only assumed that this project will add 50 cars during rush hour is a gross underestimation of what will happen. The impact to adjacent roads – for instance Dudley Road – there is no sidewalk there. Every single car going down Dudley Road at speeds increasing and far exceeding speed limits represents a danger. There has been an uptick in pedestrian fatalities over the past couple of years and he does not want his family to become another statistic.

Victor Lee, 110 Nardell Road, Newton, stated that is concern is traffic, affordability, and safety and he will try not to repeat what has been said. We have talked for several weeks of not just Rte. 9 but the surrounding areas and anyone who drives around the area and to the schools know it's a particularly tricky area. If we are not doing a study yet or no intent to start doing a study of the surrounding area we are missing a huge part of the picture. This has not been a priority yet and that is concerning. There is this question about 40B and if we are being honest he does believe Toll Bros. is doing the best they can reasonably do, they have profit objectives they have to meet, and he gets it. At the same time by reducing the amount of units down that are affordable to 20-25% of the units instead of keeping the same amount, while they may be protecting their margins, it's not addressing the fundamental issue of building more affordable housing. What is the best way to achieve that? Are there other ways we can get to 20, 30, and possibly 40 different units potentially are affordable without having to get all the other ancillary implication of a building of this massing and size. This is the way to develop something that would never have passed prima fascia review had it been done through a non-40B exception. Is this the way to achieve the affordability objective and he states he does not believe so. From a safety perspective remember many years ago when Wegman's was being created down the road there was a feeling that it would be fine and there would be multiple ways of egress and they have a better setup than what has been proposed by Toll Bros. Even today Wegman's has to hire police officers to manage that entire stretch because it is untenable. They closed the back gates because it was blocking, damage, and a distraction to neighbors nearby. A lot of great ideas with good intentions have been put out there, but at the end of the day these are more ideals. Very good in concept, but not realistic to those of us that have lived here. Making some degree of progress, but it feels like we are just changing the color of lipstick on a pig. A pig that is just decaying. There needs to be a decision if this is a path we should be pursuing moving forward because you have heard universally that every person in this community does not believe this is a good project as constituted or suggested even with the



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changes being made. Good intentions are there, but we are the ones that will be left holding the bag at the end of the day.

Paul Stein, 8 Old Field Road, Newton, stated he is a direct abutter that has lived here for 27 years. He stated his main concern is the traffic and safety. The specs being brought to the table are just about the project. In the last couple of years the traffic increase on Rte. 9 has been great. Rte.9 is a state highway and now they want to put bike lanes on a state highway. You can't ride your bicycle on 128 or the MA Pike so why is it going to be allowed on Rte. 9. There is an accident outside his home on average 2-3 times per month. Not all are registered and not every time are the police called. If the affects of their studies are incorrect, they need to bring the correct information to the table and it needs to be done before moving on with the rest of the project.

Heidi Werner, 30 Hagen Road, Newton, stated she agrees with the other speakers. We have 1200 signatures against this development who expressed issues such as the environment, safety, and traffic. Her biggest concern is the safety of the students walking to and from the surrounding five schools with the current and overwhelming traffic and the reoccurring of accidents. Recently there were four accidents that she had seen in one week with three in one day right in the proposed development area. Most recently there was a four-car accident Eastbound on Rte. 9 by Parker Street and one car flipped and hit a pole. Another incident with an Amazon 18-wheeler who almost hit eight highschoolers on their way home at 3:50pm. It brought down an electrical pole, hit a car, dragged the wires, and was driving recklessly. She was almost hit with her dog tonight at 5:30pm at the Parker Street-Hagan Road crosswalk. One car stopped for me while another went around the other car and didn't see we were halfway through the crosswalk and almost hit us. The flashing light that was requested last January after someone almost died at that intersection was approved, but due to lack of funds it will not be installed until 2027. With a large, looming development we will be getting delivery trucks, construction trucks, and uber eats/grub hub deliveries. The lack of public transportation nearby and limited NewMo service the residents will need a car. This traffic study is not realistic. We live here. We see the overwhelming accidents. People drive the wrong way on the one-way streets and the wall-to-wall traffic every day. In addition, there is the constant flooding issues in the area and uncontrollable and intense weather patterns. Rte. 9 during a storm is dangerous. Building on wetlands and cutting down healthy trees is going to be devastating. She is curious why the Conservation Department has not been involved



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or weighed in at the beginning here. The overwhelming density will be quite upsetting to our community and safety is our biggest concern right now.

Shari Golden, 472 Waltham Street, West Newton, stated she finds this interesting since all the issues being raised here are similar to what residents are facing on the north side of the City. Rte. 9 is really intense and the traffic is getting worse. She is a realtor and is speaking for her clients. She sold them a house on Lantern Lane which is across the street from this development. Over the last year they have had problems with flooding and water. The water table is definitely low and it will only get worse. It needs to be examined and studied. There has also been a big problem with gas leaks. Over the years there has continued to be more gas leaks there. Infrastructure projects are needed. Sidewalks along Rte. 9 are insane. The project is too big and the discussion is a lot of what we are seeing and hearing with Dunstan East and everything going on the north side where you think we have transportation and transit, but we really don't. Good luck and lets all work together to really examine these projects. These development projects should not be products for the City they are plans and they need to be gentle with us. We are people here.

Margaret Zaleski, 11 Marshfield Road, Newton, stated that she has lived here for 40 years. Marshfield Road is a small street that runs parallel to Rte. 9 and is directly north of 528 Boylston Street. Flooding is a big issue in our neighborhood. We have underground streams that run north of us at a higher elevation, down through our properties, across Rte. 9 and into Paul Brook. We are very concerned given how much water we have here now. Any construction on this property is going to increase the flooding on the north side of Rte. 9. The ZBA should order engineering studies to determine whether or not any construction there is going to have a negative impact on her neighborhood. We are very concerned about the shadows this building is going to create. Often in the winter the sun makes the ice on the road softer and when you lose that sun you have to negotiate skidding across a frozen pond. Water collects on Rte. 9 right outside the project and are concerned that is a safety issue. There is also a concern of the shadows in general. When taking to neighbors they do not want their houses to be in shadow. A resident on the access road to Rte. 9 put up solar panels on his house and is very distressed to hear his house was going to be in shadow and the solar panels would not be working. So many people in the northeast are known to have seasonal affective disorder from not having access to the sun and to put these houses into a permanent winter shadow even if just for a few hours of the day seems wrong. She is also



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concerned about the noise and the light that will come from this building. This is a neighborhood that feels like a cozy little place to live and to have this bright light that will come from these windows way up high. We won't be able to look out our windows and see the stars anymore. There will just be too much light. Heat island was mentioned and she is concerned about that. Safety is the big thing. When they talked about this wonderful walkway they will put out front of the building on Rte. 9 and it will have all these plantings and everything, but there is a part of Rte. 9 that is not part of the project that people would have to walk to get to Langley or Parker Streets and no one is talking about developing those parts of the sidewalk that would make it walkable from the building to any of the transportation that is in the area. She is opposed to the development and encourage a vote against the current design.

Melanie Gerard, 32 Old Field Road, Newton, stated they are direct abutters to the site. In respect to safety, someone just recently mentioned an Amazon truck cutting through Old Field Road. This happened last week and my daughter was on the road half a block away from the Amazon truck that was cutting through the neighborhood to avoid traffic. She watched power lines fall down above her head with peers walking home for NSHS. Her life was in danger. Live wires fell down in front of her. A car was destroyed by this pole. There is no reason to assume this is an anomaly. This will continue if Rte. 9 traffic escalates which it will from a development like this. We all know that. She would like to rebut a comment that Sam White was a welcome departure because of the noise they create. She agrees with that wholeheartedly, but she is also concerned that a development of this size will bring its own level of noise pollution. Car alarms, light pollution, trash trucks, and beeping from Amazon trucks that we are not immune to those sounds as well the disruption to our community which is otherwise a very quiet neighborhood. Her backyard that abuts Sam White property right now has pools of water sitting there which freeze in the winter into nice ice-skating rinks for the kids in the neighborhood which are ponds to ducks right now and are piles of wetland. She does not understand why there will be an exception in this space for a development. She, her family, and immediate abutters are opposed to this project.

Daniel Herring, 77 Oakdale Road, Newton, stated due to the Brown Parents Night there were a lot of people who wanted to attend but could not. Affordable housing is about community and the developer has not really engaged with the community. They have not really asked for input and they do not seem to hear what we are asking for. He is disappointed with the site, scale, and the



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way the community is being treated by the developer.

Rick Levin, 48 Littlefield Road, Newton, was complimentary of the community speakers and the Board. Most everyone has serious, serious reservations and everyone has expressed extreme concern about the project including the revised project. The project is now at a crossroads and he believes a change in direction is needed. What is proposed is going down the wrong road and suggests in follow up meetings to hear from the City leadership and the Board on what they have heard from the community and what they believe should be the next steps.

Thom Theara, 12 Haynes Road, Newton, stated the neighbors are all united with a very high-water table. He stated he installed a dry well hoping it would solve all his water problems, but it is filled to the top most of the year. He is very concerned how tearing down trees and building parking lots and building a massive building is going to help at all for the neighborhood. He thinks it will make it far worse. Concerned about traffic and what it will do to Rte. 9 and the neighborhood. There are lots of cars zipping through to go to the high school all the time here. Concern over the multi-use path because as soon as people start living there and become voters in Newton they will put pressure on City Council to open up that multi-use path as an Adeline Road extension and come into the neighborhood instead of having to use Rte. 9 because Rte. 9 will be a mess. There are going to be accidents and probably fatalities and they will not want to live there going in and out of Rte. 9 they will want to go through our neighborhood.

Chair Rossi closed the public comment.

Ms. Lipsitt stated that she finds it very helpful when hearing from abutters and neighbors especially on a project as complicated as this one and the comments raised some additional questions for her. The neighbors brought up the subject of light pollution which has not been discussed before and is critical. The neighbor from Marshfield Road spoke of the abutter on the Rte. 9 access road and the solar panels and the effects on them. Shadows on the road are one thing, but shadows on somebody's solar panels is very concerning. Issues of sound impact on the neighbors needs to be investigated. Someone spoke of deciduous vs. evergreen trees with the water table and there is a tree waiver request in the packet, but the stormwater analysis should coordinate with landscape design to discuss how choices of plantings can have an effect on water



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there. Reading the reports NBBJ, BETA, and MDM seem to have three different analysis of the parking requirement for this project and she would like to see some sort of consensus. There is something about this building that is not only awfully big, but it does not feel residential in character in the middle of a residential neighborhood. Adding the gable helped a little, but there is still something that feels massive about it. When you look at the western side of it that has just been lopped off it is very tall wall that faces that faces the Old Field neighbors there is nothing gracious about it that feels like it belongs in a residential district. Design challenge for the architects.

Mr. Snyder stated that he is concerned about traffic impact on Dudley Road because there seems to be a considerable amount of people that would leave the project to Rte. 9 and then escape to Dudley Road. He is interested to see what the Peer Reviewer would have to say about it.

The next hearing for this project will be November 8, 2023.

Mr. Rossi concluded the meeting.

Adjourned 10:00 p.m.

ZBA DECISIONS can be found at www.newtonma.gov/ZBA