

Brem-023-08.12.2014

**Town of Carlisle  
Planning Board**

# Memo

R E C E I V E D  
AUG 12 2014

TOWN CLERK-CARLISLE  
CHARLENE M. HINTON

**To:** Zoning Board of Appeals  
**From:** Planning Board  
**CC:** Town Clerk, David Freedman, Chair  
**Date:** August 12, 2014  
**Re:** Application for Comprehensive Permit by Lifetime Green Homes

---

Thank you for this opportunity to provide input on the application by Lifetime Green Homes for a Comprehensive Permit at 100 Long Ridge Road.

## Introduction

The Planning Board (PB) concurs with the statements by the Chair of the Zoning Board of Appeals (ZBA) that the application is incomplete. Therefore, in its initial response to the application for a Comprehensive Permit under Chapter 40B, the PB will limit itself to three main concerns: Water, Traffic, and Requested Waivers. The Board understands that when the application is more complete and peer review has been engaged, there will be subsequent opportunities for PB input on specifics of the plan.

### A. Water

The PB concurs with statements made by members of the ZBA at the hearing on July 28, 2014, that the interrelationship of water and septic — both within the development and between the proposed development and abutting properties — is the most critical issue with the proposed development.

The PB therefore concurs with the decision by the ZBA to engage a qualified hydrogeologist as a member of the peer review team and encourages the ZBA to require a thorough and detailed analysis of the potential impacts of this development on the water quality and quantity of Carlisle residents who may be affected by the development. As you well know, Carlisle does not have a backup public water supply, and given the extent to which the proposed project does not comply with the protective limitations of Carlisle's local regulations, it is critical that the ZBA and its peer reviewer require the applicant to demonstrate with precise data to a high degree of certainty that the project's density and design will not compromise the safety and integrity of abutters' drinking wells. Peer review should do its own confirmation of the integrity of and analysis of the data and should recommend specific changes or safeguards to ensure the safety of the water supply of both abutters and potential residents of the proposed development (including, as

applicable, surety bonds to mitigate any and all potential negative impacts on the health and safety of abutters).

The PB is in receipt of the memos from the Board of Health (BOH) and their communications with the DEP concerning the possible classification of the well or wells for the proposed project as a public water supply. As this is a fundamental threshold issue that could impact the density and thus the design of the project, the PB concurs with the recommendation of the BOH that the ZBA require the applicant to get an official determination from the DEP as soon as possible. The PB recommends that the ZBA heartily endorse the request of the BOH that it be directly involved in the discussions with representatives of the DEP that will lead to the determination.

Unless and until this issue is resolved, the ZBA may want to limit peer review of the application to the aspects of the project, if any, that are not dependent on this determination. The PB recommends that the ZBA documents any delays in the review of the core aspects of the project, especially if the design of the project changes significantly, in case a request for an extension of the time allocated for a decision becomes necessary.

## B. Traffic

The PB notes that the Knollwood subdivision, within which the proposed project is located, could not be built under current local regulations. Since Knollwood was permitted, Carlisle has tightened its regulations due to concerns about our on call Fire Department and to limit the number of dwellings that could be isolated should the single access road be blocked, which could easily happen in an emergency from a single fallen tree and with many types of emergency vehicles and those of residents trying to enter or exit the neighborhood. Knollwood has only one access point on the connector road (River Road), and thus, under current regulations, would be limited to 10 dwellings on a road of 1000 feet ending in a cul de sac. The single access road system currently serves 53 homes. With the proposed additional 19 homes and proposed dead-end roadway length added from the single access point on River Road, the development would have over 7 times the number of dwellings allowed under current regulations on a roadway over 4 times the length of single access roadway currently allowed.

The applicant stated at the hearing on July 28 that he has not done any traffic studies and acknowledged that they may demonstrate a problem with his proposed development. Again, this is a fundamental threshold issue that could affect the density and layout of the development. The PB concurs that the traffic study should be done at the appropriate time, after the reduced summer traffic period is over, and appreciates that in the meantime the applicant has offered to provide a proposed scope of services for a traffic study. The ZBA should insist that this be provided as soon as possible so that it can be reviewed by relevant local boards and departments and by peer review. As was noted by a member of the ZBA at the hearing, some aspects of the traffic study that are not tied to actual traffic counts may be able to be started sooner rather than later.

The PB also recommends that, given the safety concerns of the existing development on a single access way and its exacerbation by the proposed additional dead-end roadway length and additional homes, the ZBA require a clear demonstration, supported by data, that the development will be safe, beyond reference to a non-statutory standard quoted by the applicant that is apparently 10 times more lax than our local regulations. Should the traffic study demonstrate the need for a second access point to mitigate the increased danger, as described above, at this great distance from River Road, the PB encourages the ZBA to pursue with the applicant the potential second access.

The PB also notes that the applicant has created a self-imposed limitation on the proposed project by separating — through an ANR plan recently endorsed (031014) — part of the initial parcel into a separate building lot adjacent to the remaining parcel on which the applicant proposes to build his 40B.

### C. Requested Waivers

The PB concurs with the statements by the Chair of the Zoning Board of Appeals that the application is incomplete. In particular, the list of “Requested Waivers” provided by the applicant is completely at odds with the requirements in the ZBA’s Comprehensive Permit Rules (CPRs) that waiver requests be requested (1) “with particularity,” (2) with supporting documentation “how the purpose of the regulation would not be compromised should the waiver be granted,” and (3) “why the project would be uneconomic without said waiver” (VIII.3.01(h)).

1. “with particularity”
  - a. The applicant’s request for a waiver from the subdivision rules & regulations “in their entirety” is sweeping and general, as opposed to specific and with particularity.
  - b. The applicant’s justification that compliance with the subdivision rules & regulations would be redundant to the rules of the Carlisle ZBA is rendered meaningless by the later request that any waivers requested of any other local regulations that are repeated by the ZBA’s CPRs also be waived.
  - c. The applicant turns the waiver process — as established in the ZBA’s CPRs — on its head, as the final “General Waiver” request that any and all local regulations that are inconsistent with the proposed plan be waived.
2. “how the purpose of the regulation would not be compromised”
  - a. The applicant states: “Because the Project will follow the requirements of M.G.L. Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.” There are no specific development standards within M.G.L. Ch.40B regulations and guidelines that correspond to local development standards, so this statement is meaningless.
  - b. The best way to ensure that the intent of the subdivision rules and regulations will be met is for the project to comply with them. The applicant should be required to demonstrate that the intent of such local regulations will be met. Wherever the project will not comply, the applicant must explain how the purpose of the specific regulation would not be compromised by the granting a requested waiver.
3. “uneconomic” standard
  - a. The applicant’s repeated statement that providing any further information or making any changes in the project will render the project uneconomic suggests that the applicant will be unwilling to consider any changes to the project to respond to local concerns.
  - b. The PB concurs with the Chair of the ZBA that such uneconomic claims must be substantiated. However, the PB recommends that such justification not be required unless and until the ZBA develops an initial list of requested changes or conditions with which the applicant takes specific exception.
  - c. While nothing in State 40B guidelines requires that an applicant modify the project as initially proposed, they do establish that the 40B process works best where projects are not cast in stone and a developer is willing to modify the project in order to address community priorities and mitigate negative impacts. Given the many untested aspects of this project — from traffic to hydrogeology — which may indicate a need for revisions to the project — the PB encourages the applicant to start this process with a more open mind.

The PB regularly considers applications for developments that include, especially for large projects, a significant number of waiver requests, each of which is accompanied by a written statement as to why the waiver is needed and how the granting of the waiver would not be inconsistent with the purpose of the rule or regulation from which the waiver is being sought. The Board is then able to consider granting the waiver and whether to require any changes in the plan to reduce the need for a waiver, to limit the extent of the waiver, or to require mitigations to reduce the impact of the waiver, if granted. In order to protect health and safety of Carlisle residents, the PB encourages the ZBA to treat the application before it, including the waiver requests, in a manner more or less consistent with how other development applications are treated in Carlisle, subject of course to the limitations of the 40B statute.

R E C E I V E D  
AUG 12 2014

TOWN CLERK-CARLISLE  
CHARLENE M. HINTON