

TOWN OF BOXFORD  
BOARD OF APPEALS

BL 195  
PG 361

NOTICE OF DECISION  
ON VARIANCE, SPECIAL PERMIT, OR APPEAL

Applicant Douglas R. Conn, Trustee Date January 28, 1991  
Case No. 418  
Owner Same Address 491 Maple Street, Unit #304  
Danvers, MA

Premises Affected "Andrews Farm" - 94 Lockwood Lane Realty Trust and 15 Silverbrook Road Realty Trust, 24.7 Acres, more or less, located between Silverbrook Road and I-95, Topsfield and Boxford, MA.

Members of Board who sat on hearing: Carlyle W. Thomas, Donald E. Houser, Robert H. Clewell

Alternates Present: Stephen J. Kokkins, Douglas Stuart

Referring to the above application so as to permit amendment of the Comprehensive Permit of 2/1/90 (Case #402) to substitute Local Initiative Program (LIP) for HOP and reduce the number of affordable units from 18 to 15, with no other changes.

After a public hearing on January 24, 1991

the Board of Appeals at its meeting on January 24, 1991

VOTED TO Permit an Amendment to the Comprehensive Permit as defined by M.G.L., Chapter 40-B(Chapter 774 of the Acts of 1969)subject to the following conditions, safeguards and limitations on time or use, if any: \_\_\_\_\_

See other side;

	<u>NAME</u>	<u>VOTE</u>
Vote of Individual Members:	<u>Carlyle W. Thomas</u>	<u>yes</u>
	<u>Donald E. Houser</u>	<u>yes</u>
	<u>Robert H. Clewell</u>	<u>yes</u>

Received and Filed at Town Clerk's Office, Boxford, Massachusetts on 1/31/91 by F.H.V.

11:00 A.M.

(See Other Side)

NOTICE OF DECISION (Cont.)

Findings of fact in support of decision:

At their January 24, 1991, meeting duly advertised, posted and with abutters notified, the Boxford Board of Appeals with Chairman Thomas and Members Houser and Clewell sitting, and Alternates Kokkins and Stuart present, heard as Case #418 the December 19, 1990, application of Douglas R. Conn for amendment of the Comprehensive Permit granted February 1, 1990, (as Case #402) to allow necessary changes to permit the substitution of "Local Initiative Program (LIP)" for "Housing Opportunity Program (HOP)" and a reduction from 18 to 15 the number of "affordable" units in the Applicant's approved 60-unit Andrews Farm development with entrances at 94 Lockwood Lane in Topsfield and 15 Silverbrook Road in Boxford, with all dwellings in the latter town.

Attorney Mark Favaloro appeared in behalf of the Applicant and submitted letters supporting the project from the Boxford Board of Selectmen (January 22, 1991), the Boxford Housing Partnership (January 16, 1991) and the Boxford Planning Board (January 3, 1991). He also provided a copy of a Stipulation of Dismissal (undated) re: Civil Action 90-551, signed by representatives of the developer, the Board of Appeals and the Appellants to clarify the current standing of the Comprehensive Permit.

He pointed out that the lack of funding for the HOP program made the LIP program more workable, but that the reduction in allowable prices of the affordable units (as well as the continued deterioration of the real estate market) necessitated the decrease from 18 to 15 (25% to 20% of total units). However, a corollary benefit to the Town results from an approximately 25% reduction in the nominal profit of the developer and competitively lowered building costs so that the market priced units could be offered at prices some 20% lower than originally planned.

It was suggested that, although the affordable units would no longer be subsidized, particularly attractive financing might be offered because, in the event of a default, there would be a dozen other prospects eager to purchase at the low prices.

Attorney Favaloro noted that the Board of Appeals (acting in behalf of the Planning Board) would shortly be asked to sign a Tri-partite Agreement with the developer and financing agency in a form already approved by Town Counsel. In reply to an inquiry whether this would

**APPEAL:** You are hereby notified that you have the right to appeal the above decision to the Court and any appeal must be made pursuant to General Laws Chapter 40A, Section 17, as amended, and must be filed within 20 days after the date of filing this decision with the Town Clerk.

(Continued)

create liability for the Town, he stated that to the contrary this would assure the availability of funds in the event that for any reason the developer failed to complete the work as specified. The exact mechanism for the determination of compliance was not established at this time. He also pointed out that from time to time the developer would be coming to the Board for approval (for recording) of "as built plans" to verify lot lines - particularly those passing through buildings - and that Paragraph 18 of the Comprehensive Permit made provision for the latter. He expressed the opinion that, although neither of these things would require a public hearing, they must be done in a posted, open meeting. To expedite matters, a special meeting was scheduled for Wednesday, February 6, 1991, at 8:30 a.m. at the Town Hall.

No one at the hearing offered any objection to the proposed amendment, and at their January 3, 1991, meeting the Planning Board voted 6 to 1 to support it.

Therefore, on January 24, 1991, the Board VOTED UNANIMOUSLY

to permit the amendment of the February 1, 1990, Comprehensive Permit for the Andrews Farm Development as follows:

(i) Paragraph 5 is deleted and replaced with the following:

Construction is to be upon successive lots, starting at the Silverbrook end, with the proportion of approximately 25% subsidized units maintained at all times.

(ii) Paragraph 15 is deleted and replaced with the following:

The Subdivision shall be developed pursuant to the conditions of the Massachusetts Housing Financing Agency (MHFA), "Site Approval Letter" dated October 5, 1989 and to the requirements of the Local Initiative Program (LIP) or any successor program, together with all conditions and requirements imposed thereunder.

(iii) Paragraph 16 is deleted and replaced with the following:

Nothing in the foregoing is intended to prevent further changes in the plans and procedures if they are acceptable to MHFA and LIP and are mutually agreed by the Applicant and this Board to be necessary or desirable as the project progresses.