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2019 FEB 21 AM 11:50 2019 FEB 21

**TOWN OF WENHAM  
ZONING BOARD OF APPEALS**

**RECORD AND DECISION**

**40 Hull Street, Habitat for Humanity**

**Comprehensive Permit pursuant to MGL c. 40B, S 20-23**

**LOCUS:** An 18,145 sq ft lot at 40 Hull Street, Wenham, MA (Wenham Assessor's Map 44 Lot 5).

**ZONING DISTRICT:** Residential Zoning District

**OWNERS:** Anita Coco, PO Box 671, Beverly, MA 01915

**PETITIONER:** Habitat for Humanity North Shore, 14 Park Street, Danvers MA 01923  
Donald Preston (the "Petitioner" or the "Developer")

**ENGINEER:** North Shore Design – Build  
22 Williams Street  
Beverly, MA 01915

**ARCHITECT** Deirdre M. Hall  
22 Williams Street  
Beverly, MA 01915

**DRAWINGS & REPORTS:** *(ALL INCORPORATED HEREIN BY REFERENCE)*

- A Purchase and Sale agreement between Anita Coco and Habitat for Humanity
- Quitclaim Deed from JCG Investments, LLC to Anita Coco recorded in the Southern Essex Registry of Deeds Book 36251 Page 518
- An Application to the Wenham Zoning Board of Appeals for a Comprehensive Permit with Project Description, Goals, Timeline, Budget and List of Waivers with Town Clerk date stamp of December 27, 2018.
- Project Eligibility Letter dated November 16, 2018 from the Department of Housing and Community Development addressed to Catherine Harrison, Chair, Wenham Board of Selectmen.
- A three (3) page Site Plan entitled New Duplex, 40 Hull Street Road, Wenham, Mass prepared for Habitat for Humanity North Shore, 14 Park Street, Danvers, MA 01923 Prepared by North Shore Design Build, 22 Williams Street, Beverly, MA 01915 with pages entitled and dated as follows:

<i>Sheet #/Plan Description</i>	<i>Plan Date</i>	<i>Recent Revision Date</i>
T-1.0 Title Page and Proposed Site Plan	Feb 11, 2019	Feb 19, 2019

T-1.1	Proposed Demolition and Excavation Site Plan with Erosion Control	Feb 11, 2019	Feb 19, 2019
T-1.2	Proposed Site Plan, Construction Completion Phase	Feb 11, 2019	N/A

- A six (6) page architectural plan entitled New Duplex, 40 Hull Street Road, Wenham, MA prepared for Habitat for Humanity North Shore, 14 Park Street, Danvers, MA 01923 Prepared by North Shore Design Build, 22 Williams Street, Beverly, MA 01915 with pages entitled and dated as follows:

<i>Sheet #/Plan Description</i>	<i>Plan Date</i>	<i>Recent Revision Date</i>
A-1.0 Proposed First Floor Plan	Jan 31, 2019	N/A
A-2.0 Proposed Second Floor Plan	Jan 31, 2019	N/A
A-3.0 Proposed Southerly Elevation	Jan 31, 2019	N/A
A-4.0 Proposed Northerly Elevation	Jan 31, 2019	N/A
A-5.0 Proposed Easterly and Westerly Elevations	Jan 31, 2019	N/A
A-6.0 Proposed Building Section and Masonry Materials	Jan 31, 2019	N/A

The Zoning Board of Appeals of the Town of Wenham, Massachusetts, held a Public Hearing on Thursday February 7, 2019 at 7:30 p.m. at the Wenham Town Hall, 138 Main Street. On the petition of Don Preston, Habitat for Humanity, North Shore, for a Comprehensive Permit pursuant to MGL Ch 40B S 20-23 for the construction of a two unit structure consisting of one (1) three bedroom unit and one (1) two bedroom unit at 40 Hull Street, Wenham (Assessor's Map 44 Lot 5). Both units are proposed to serve low income families in the 40-60% area median income range. Present at all hearing were the following members of the Board:

Anthony M. Feeherry (Chairman)  
Jeremy Coffey  
Evan Campbell (Associate Member)  
Dana Begin (Associate Member)

A notice of public hearing on this application was advertised as follows, a true copy of which is on file in the office of the Zoning Board of Appeals:

1. Published in *The Hamilton Wenham Chronicle*, a newspaper of general circulation in the Town of Wenham on Thursday January 24, 2019 and Thursday January 31, 2019.
2. Posted at the Town Clerk's office on January 16, 2019.
3. Mailed January 22, 2019 to the petitioner, abutters, owners of the land directly opposite the property in question on any public or private street or way, abutters to abutter within 300 feet of the subject property and to abutting Towns.

The public hearing was opened on February 7, 2019 and continued to Wednesday February 20, 2019 when it was closed.

### FINDINGS

- The property contains approximately 18,145 square feet and is in the Residential Zoning District. The property falls with Zone A on the FEMA Flood plain maps. There is currently a single family home on the site which has been vacant for over 2 years.
- The petitioner submitted plans as indicated above. These are the final plans upon which the decision is based.
- Based on the deed of ownership and the Purchase and Sale Agreement submitted the Board finds that the Petitioner meets the standards for site control to pursue this application.
- The Petitioner proposes to demolish the existing single family home and construct a two unit structure consisting of one (1) three bedroom unit and one (1) two bedroom unit. The two bedroom unit (Unit 1) will be a single story of approximately 875 sq feet, The three bedroom unit (Unit #2) will be a two story of approximately 1390 sq ft.
- The Board received comments from the following departments:
  - Gregory P. Bernard – Wenham Board of Health. Mr. Bernard was concerned about the ability to site a 5 bedroom septic system on the site. The Petitioner has submitted documentation indicating that they have permission from the Salem Beverly Water Board to utilize the sewer tie in to SBWB system.
  - Wenham DPW – No issues with DPW
  - Wenham Water Dept. – The property is served by the Salem Beverly Water Board.
  - Conservation Commission – The property is within the 100 foot buffer to wetlands which are located across the street. The Conservation Commission has required placement of erosion control on the site. Plans have been submitted satisfying that requirement.
- The units will be developed as condominiums and will establish a Homeowner's Association with Habitat for Humanity remaining as voting member in perpetuity. The Petitioner will supply the Board with copies of all Homeowner's Association Documents prior to obtaining final occupancy permits for either unit.
- The Petitioner has been awarded \$260,000 from the Town of Wenham Affordable Housing Trust and has submitted an application to the Wenham Community Preservation Committee for \$60,000 in funding.
- The Petitioner proposes that both units will be restricted in perpetuity for purchase by households whose annual incomes are within the 40-60% area median income range and one of the units will have a local preference for a household that lives, works or has children enrolled in school in Wenham.
- The proposed structure fits within the character of the neighborhood.
- There would be no additional traffic impact and the Board did not require a traffic study.
- The Petitioner proposes parking spaces adequate for the number of units.
- The Petitioner has agreed to work with the abutter at 40R Hull to install adequate screening and to address issues brought up in an email received by the Planning Coordinator on Thursday February 7, 2019 from Mr. Robert Maillet of 40R Hull Street.

## WAIVERS REQUESTED

- Zoning Bylaw Section 5.1 Dimensional Requirements Lot Size – Required 40,000 sq ft – proposed 18,145 sq ft
- Zoning Bylaw Section 5.1 Dimensional Requirements Frontage – Required 170 ft – Proposed – 139 ft
- Zoning Bylaw Section 5.2.4 –One Principal Structure per Lot – Proposed – 2 units

## DECISION

**Action on Application for a Comprehensive Permit for 40 Hull Street- Habitat for Humanity: APPROVED WITH CONDITIONS**

**VOTE:** (Yes) Anthony M. Feeherry (Chairman), (Yes) Jeremy Coffey, (Yes) Evan Campbell

Now, therefore, by a vote of 3 to 0, a supermajority vote, the Zoning Board of Appeals hereby approves the subject application for the Comprehensive Permit with approval of waivers as requested subject to the below Special Conditions:

## SPECIAL CONDITIONS

1. The Petitioner will submit documentation from the Salem Beverly Water Board confirming that the proposed project has the authority to connect to the Salem Beverly Water Board sewerage system. In the event that the Petitioner is unable to connect, a septic plan approved by the Wenham Board of Health shall be provided prior to obtaining any building permits.
2. The Petitioner shall submit confirmation from the owner of 40R Hull Street that they are satisfied with the proposed fencing at the rear of the property prior to obtaining occupancy permits for either unit.
3. No construction vehicles shall utilize the driveway to 40R Hull Street for access, parking, staging or any other use during the construction process without the permission of the owner of 40R Hull Street. If any damage does occur to the driveway leading to 40R Hull Street resulting from construction activity repairs will be made by the Petitioner prior to obtaining occupancy permits for either unit.
4. The Petitioner shall provide a copy of the Homeowner's/Condominium Association Trust Agreement to the Board prior to obtaining final occupancy permits for either unit.

5. The Project shall comply with all Local Initiative Program requirements and any other conditions the Department of Housing and Community Development, in its role as Subsidizing Agency, may require as part of Final Approval under 760 CMR 56.04.
6. The Project shall consist of not more than two (2) units, all as shown on the Approved Plans. All of the units shall be affordable units and will be restricted in perpetuity for purchase by households whose annual incomes are within the 40-60% area median income range and one of the units will have a local preference for a household that lives, works or has children enrolled in school in Wenham.
7. All residential units approved under this Comprehensive Permit shall be single-family homeownership units and shall be owner occupied as primary residences and shall not be rented or leased for a duration of less than one year and shall not be rented or leased unless that is approved in advance of the rental by the Monitoring Agent.
8. The units shall each be restricted as affordable within the meaning of G.L. c.40B and the regulations and guidelines promulgated thereunder and shall be so restricted in perpetuity or for the longest period allowed by law and for so long as the Project does not conform to zoning requirements, whichever period is longer and the affordability component shall allow each of the units to be placed on the Subsidized Housing Inventory maintained by DHCD, with up to a 70% local preference, provided that the Town provides the necessary information required by DHCD, DHCD approves the implementation of the local preference, and provided that exercise of the preference shall not render the units SHI ineligible, in which case the local preference shall/shall not be exercised.
9. The Petitioner shall timely provide any confirmatory data to the Town, upon request, to support inclusion of all of the units in the Town's SHI when building permits and occupancy permits are issued.
10. The Deed Rider, known as Local Initiative Program Affordable Housing Deed Rider for Projects in Which Affordability Restrictions Survive Foreclosure, shall serve as the affordable housing deed restriction, enforceable by the Town of Wenham, requiring that the affordable units remain affordable in perpetuity. The Deed Rider shall be recorded to protect the continued availability of and requirement for the affordable units.
11. The Petitioner shall not receive any occupancy permit until evidence of the recording of such Deed Rider has been provided to the Board. The Petitioner shall not receive any occupancy permit until the Petitioner has executed and delivered and provided evidence of recording of a Regulatory Agreement to the Board in a form fully compliant with the requirements of G.L. c.40B.
12. Prior to the issuance of any building permits for the Project, and prior to the Petitioner's conveyance of any of the units in the Project, the Petitioner shall execute a Regulatory Agreement in a form acceptable to the Board and DHCD. The Regulatory Agreement shall provide among other things that:
  - a. The Affordable Units shall each be sold subject to a Deed Rider ensuring permanent affordability which shall be enforceable by the Wenham Housing Authority or the Town and their duly authorized agents;

13. The Monitoring Agent for the Project shall be provided for under the Regulatory Agreement, which shall be signed by the Town. The Town shall have all of the rights provided for by law to enforce affordability and limited dividend requirements.

We attest that this decision accurately reflects the Boards determinations.

Anthony M. Feecherry (Chairman)

Jeremy Coffey

Christopher Vance

Dana Begin (Associate Member)

Evan Campbell (Associate Member)

DATE: February 20, 2019

FILED WITH THE TOWNCLERK ON: February 20, 2019

Notice to Petitioners and Interested Parties on: \_\_\_\_\_

**Any appeal, by an aggrieved party, shall be filed within twenty days of the filing of this decision with the Town Clerk, in accordance with the requirements of G.L. c.40A, §17.**

I hereby certify that either: (i) 20 days have elapsed from the date this decision was filed with the Office of the Town Clerk and no notice of appeal was timely received; or (2) a notice of appeal was timely received and I have been afforded evidence that the appeal is final and affirmed the decision.

\_\_\_\_\_  
Wenham Town Clerk