

**COMMITTEE ON SPECIAL PERMITS
MONDAY, MAY 23, 2022, at 5:42 p.m.
WOBURN CITY HALL
CITY COUNCIL CHAMBERS**

Voting members present: Chairman Richard Gately, Councilor Joanne Campbell, Councilor Charles Viola, Councilor Lou DiMambro, and Councilor Darlene Mercer-Bruen

Non-voting members present: President Michael Concannon, Councilor Jeffrey Dillon, and Councilor Joseph Demers. Absent: Councilor Robert Ferullo

Also present: Building Commissioner Thomas C. Quinn Jr.

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Reading and approval of meeting minutes of April 11, 2022: Motion made by Councilor Viola and seconded by Councilor Campbell to approve the minutes of the previous meeting; in favor, 5-0.

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Toll Brothers request for minor modification of special permit to allow for a temporary occupancy permit to issue while waiting for poles and removal of abandoned poles, at 120 Commerce Way: Representing Toll Brothers were Attorney Mark Salvati, Ketan Joshi and Catherine Herrera. Representing Eversource were Jacqueline Duffy and Brian Lozier. Attorney Salvati said he would like to submit correspondence detailing the time line for work at 120 Commerce Way. Motion made by Councilor Viola and seconded by Councilor Mercer-Bruen to receive and place on file a document from Attorney Salvati dated May 23, 2022, and entitled “120 Commerce Way Request for Minor Modification to Special Permit;” approved, 5-0. Attorney Salvati said the special permit states all landscaping must be finished prior to the issuance of an occupancy permit. He said there is a plan for the reconfiguration of utility poles, which he said has been submitted by Eversource. Motion made by Councilor Mercer-Bruen and seconded by Councilor Viola to receive and place on file a document from Eversource dated March 25, 2022, and entitled “Commerce Way Woburn Proposed Police Location;” approved, 5-0. Councilor Mercer-Bruen said condition #9 of the special permit for 120 Commerce Way states: “That no occupancy permit shall be issued temporary or permanent until all mitigation is complete, including sidewalks, traffic improvements and landscaping, with the exception of landscaping outstanding due to season and weather.” Mr. Lozier said four of the utility poles are out. He said they need to transfer the overhead wires. He said they need end poles. He said there is work scheduled for June 8. He said they will have to pull conduit and the job should take 24 hours. He said they met with Woburn DPW Supt. John Duran. He said all work should be completed by June 14. He said there were three street lights and they have to be transferred. Councilor Mercer-Bruen said she would like to hear from Commissioner Quinn. Chairman Gately said Comcast and Verizon are not here. He said this is upsetting because they were notified. Councilor Mercer-Bruen said she appreciates that Eversource is here. She said ultimately is it Toll Brothers which is responsible for complying with the terms of the special permit. She thanked Ms. Duffy and Mr. Lozier for being here. Mr. Joshi said he has been in

communication with Verizon and Comcast. He said he has been trying to get in touch with RCN. He said Verizon and Comcast have assured him they can perform the required work within two weeks. He said it will take a about a week's worth of work to finish the job. He said Toll Brothers has completed what is in their control. Councilor Mercer-Bruen said Toll Brothers is ultimately responsible for all of the work, whether it is in their control or not. Mr. Joshi said Toll Brothers has done everything they can control. Councilor Mercer-Bruen said she appreciates the effort, but the conditions of the special permit are there for a reason. She said the process is moving forward, which is a good thing. Mr. Joshi said the first thing they accomplished was the movement of the poles. He said that took the most amount of time, but they got that done. He said they could not control the schedule of the utilities. He said he is not here to make excuses. Councilor Mercer-Bruen said things have started to happen within the past three weeks. Chairman Gately said the past records of Verizon and Comcast are not good. He said they can promise you the world, but it does not mean they are going to show. He said their absence tonight does not inspire him. He said neither Comcast nor Verizon has shown up for any hearings in this building for three years. He said the Building Dept. has tried to have communication with Comcast and Verizon but has not been successful. He said he doesn't trust them. Commissioner Quinn said he understands Toll Brothers' predicament. He said he agrees with Councilor Mercer-Bruen that nobody really paid attention to this situation until about six weeks ago. He said the City Council imposed condition #9 to ensure all off-site improvements would be completed prior to occupancy. He said project is great. He said he has spent a considerable amount of time on-site. He said it is good to see Eversource represented here tonight. He said he does not see double poles on Atlantic Avenue, but there are still double poles on private property, and that raises safety concerns. He said double poles are a recurring theme. He said the building is ready for occupancy but condition #9 of the special permit is clear and they are not in compliance. He said this project started in 2017, and Toll Brothers assumed control of the project in 2020. He said there has been enough time to comply with the terms of the special permit. He said the residential and commercial components are ready for occupancy. He said the council could let the residential component move forward and not move forward with the commercial component until the offsite mitigation is 100 percent complete. Councilor Mercer-Bruen said Commissioner Quinn and Supt. Duran have spent a crazy amount of time on something that they should not be spending a crazy amount of time on. She said as Ward 5 Councilor she can suggest the council could modify the condition to the special permit, but there has to be a time frame for completion before she endorses the issuance of a temporary occupancy permit. She said this is really big deal. She said there were people who stood in front of the council and agreed to the conditions of the special permit. She said she will work on language to modify the special permit and bring it back to the City Council. She said she has an email from Supt. Duran with suggestions. Commissioner Quinn said some of the things in Supt. Duran's email are not part of the special permit. He said he would like to go by the conditions. He said he spoke with the City Engineer, who he said has jurisdiction over the mitigation. He said what is outside his realm, he will leave to others. He said he cannot delay someone from obtaining building permits unless condition #9 is modified. He said there should be a realistic time line. Councilor Mercer-Bruen said the council should impose something that has teeth. She said if there is no occupancy permit issued, they can't occupy the building. Commissioner Quinn said there is incentive for Toll Brothers to make sure everything is done. Councilor Campbell said she agrees with Councilor Mercer-Bruen. She said it looks like by June 16 all the conduit could be changed. She said in her view, the council should deny the request for a minor modification. She

said if the council approves the minor modification, there will be nothing to grab on to. She asked why the council should approve a minor modification. She said she would want Toll Brothers and the other principals to return if the work isn't done by June 13. She asked what the time frame is. Attorney Salvati said he thinks 90 days would be sufficient. He said Toll Brothers can't control anything but themselves. He said there are instances when conditions like these have been found to be invalid when they involve waiting for another entity. He said Toll Brothers has residential tenants waiting to come in. He said holding up the commercial component has substantial teeth. He said the conditions are complete except for a couple of poles. He said that why his client thinks the modification is minor. He said his client would be okay with a time frame of 90 days. He said his client would agree to a temporary occupancy permit for the residential component and no commercial component until work is complete. He said he would provide reports every 30 days to the committee. Chairman Gately said he has seen a lot in 50 years. He said Toll Brothers made agreements with the council. He said he is not blaming Toll Brothers; he is blaming Verizon and Comcast. He said he agrees the developer is suffering harm, and he is not going to punish them for something that is out of their control. He said Comcast has been terrible. He said Comcast does nothing. He said he agrees on not issuing an occupancy permit for the commercial component. He said there are so many projects going on in the city and the council has to rely on the utility companies. He said it is not fair to the developers who are being held up. He said he would agree with issuing a temporary occupancy permit for the residential component only. Councilor Mercer-Bruen said there is plenty of blame to go around. She said if she had her way, she would dig in her heels and if Toll Brothers wants to file a lawsuit, they can go ahead. She said she told Attorney Salvati that until she sees activity out there, that's the only way she is going to consider this. She said she does not think the committee should do this haphazardly. She said if the council agrees to allow for temporary occupancy, there should be no waiving of any fees. She said utility poles are a big deal. She said the poles are in the way of landscaping. She said the council wants it to look really good. She said if the council is willing to allow for modifications to the special permit, she wants to make sure there is very strict language. She said she will confer with Commissioner Quinn. She said she also wants to confer with Supt. Duran. Attorney Salvati said he is under the impression the committee can vote on a minor modification. Councilor Mercer-Bruen said she is not going to support that until the committee comes up with something that she knows is going to be successful. Attorney Salvati said a minor modification can be adjudicated by a committee. He said there seem to be conditions in place. Councilor Mercer-Bruen asked if there is a bond. Attorney Salvati said he does not know how much that would be. He said the city's street lights have to be moved. He said that is another party his client has to deal with. Councilor Mercer-Bruen said the committees have other matters before them tonight. He said if Attorney Salvati wants to take a crack at writing some conditions, the Special Permits Committee can recess and come back later. Motion made by Councilor Campbell and seconded by Councilor Viola to take a 10-minute recess; approved, 5-0. Chairman Gately recessed the meeting at 6:18 p.m. Motion made by Councilor Campbell and Councilor Viola to return to the regular order of business; approved, 5-0. Chairman Gately reconvened the meeting at 6:25 p.m. Councilor Mercer-Bruen said the committee is not meeting as a committee of the whole tonight and cannot vote to approve the minor modification. She suggested sending the matter back for action to work out some conditions before the council's next regular meeting. Motion made by Councilor Campbell and seconded by Councilor Viola to send the matter "back for action;" approved, 5-0.

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Motion made by Councilor Campbell and seconded by Councilor Viola to adjourn; in favor, 5-0. Chairman Gately adjourned the meeting at 6:25 p.m.

A TRUE RECORD ATTEST

Gordon Vincent
Clerk of Committees