



Town of Winchester  
BOARD OF APPEALS  
Town Hall 71 Mt. Vernon Street, Winchester, MA 01890  
Phone 781-721-7115 Fax 781-721-9935  
Janine L. Viarella, Clerk

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BOARD OF APPEALS

May 16, 2019  
Waterfield Room  
7:30PM

AGENDA

#3866 REMAND – 458 Main Street, Knowlton Stadium

Janine Viarella  
Clerk, Board of Appeals

RECEIVED AND FILED  
2019 MAY 10 AM 11:22  
TOWN CLERK  
TOWN OF WINCHESTER, MA



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PM 4:39

TOWN CLERK

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BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

The WINCHESTER BOARD OF APPEALS will hold a PUBLIC HEARING on THURSDAY, MAY 16, 2019 at 7:30 P.M. in the WATERFIELD ROOM, TOWN HALL, 71 MOUNT VERNON STREET, WINCHESTER, MA on the following matter:

DECISION NO. 3866 - ORDERS OF REMAND BY THE MASSACHUSETTS LAND COURT dated March 6 and April 9, 2019, to the WINCHESTER BOARD OF APPEALS, in appeals brought by Mary Spencer, *et al.* and the Town of Winchester, concerning the construction of field lights at KNOWLTON STADIUM/MANCHESTER FIELD, 458 MAIN STREET, WINCHESTER, MA. Petition #3866 was originally heard on July 9 and 23, 2018, with a written decision dated September 13, 2018, in an appeal under Section 9.3.3(3) of the Winchester Zoning By-Law and Massachusetts General Laws Chapter 40A, Section 8 and 15 from the issuance of Building Permit No. 337 to the Town of Winchester on May 14, 2018 for the construction of the field lights. The property is in the SCI (Conservancy/Institutional) zoning district and contains 12.5 acres.

WINCHESTER BOARD OF APPEALS



COMMONWEALTH OF MASSACHUSETTS  
LAND COURT  
DEPARTMENT OF THE TRIAL COURT

MISCELLANEOUS CASE  
No. 18 MISC 000508 (HPS)

TOWN OF WINCHESTER, by and  
through its BOARD OF SELECTMEN:  
LANCE GRENZEBACK, MICHAEL  
BETTENCOURT, JACQUELINE  
WELCH, DAVID ERRICO and  
MARIANO GOLUBOFF,

*Plaintiffs,*

v.

RAKEL MEIR, MARK WATERBURY  
and MARK REGAN, as they are the  
TOWN OF WINCHESTER ZONING  
BOARD OF APPEALS,

*Defendants.*

**ORDER ON JOINT MOTION FOR REMAND**

This is an appeal pursuant to G. L. c. 40A, § 17, of a decision of the Winchester Board of Appeals dated September 13, 2018 and filed with the Winchester Town Clerk the same day. The decision affirmed the issuance by the Winchester Building Commissioner and Zoning Enforcement Officer of Building Permit No. 337 on May 14, 2018, and also imposed certain conditions on the exercise of the building permit.

In a joint Motion for Remand, filed on February 27, 2019, the parties moved that this matter be remanded to the defendant Zoning Board of Appeals ("Board"). Accordingly, the decision of the Board and this matter will be remanded to the Board to consider possible agreed-

upon conditions for the issuance of the subject permit and to conduct a new public hearing to facilitate such discussions and possible agreed-upon changes. In order to facilitate judicial economy and to minimize inconvenience to the parties, the court will retain jurisdiction of this matter in the event there is a further appeal.

For the reasons stated above, the parties' Joint Motion for Remand is ALLOWED; and it is further

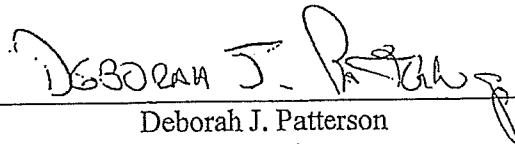
**ORDERED** that this matter, and the decision of the Board dated September 13, 2018, is remanded to the Board, which shall, within sixty (60) days of the date of this Order, publish and post notice of, and send notice to parties in interest, all in accordance with G. L. c. 40A, § 11, and hold a new public hearing on the appeal of Building Permit No. 337 that is the subject of this action. Within thirty (30) days of the close of the remand hearing, the Board shall issue a decision and file said decision with the Town Clerk; and it is further

**ORDERED** that this court shall retain jurisdiction of this matter. Within twenty (20) days after the filing of the Board's new decision with the Town Clerk, the plaintiffs shall either file with the court an amended complaint seeking review of the new decision, and shall request a further case management conference, or the parties shall file a stipulation of dismissal, unless otherwise ordered by the court.

So Ordered.

By the Court. (Speicher, J.)

Attest:



Deborah J. Patterson  
Recorder

Dated: March 6, 2019.

(SEAL)

COMMONWEALTH OF MASSACHUSETTS  
LAND COURT  
DEPARTMENT OF THE TRIAL COURT

MIDDLESEX, ss.

MISCELLANEOUS CASE  
No. 18 MISC 000506 (HPS)

MARY SPENCER, IAN PHILLIPS,  
RACHAEL PHILLIPS, DAVID LUCIA,  
WENDY LUCIA, RICHARD  
MACNEILLE, KAREN HELLMICH,  
PAULA SWARTZ, JOHN  
MOHRBACHER, GAY MOHRBACHER,  
JOHN CAROS, MAGDALENE CAROS,  
WALTER CHICK, THOMAS KAHL and  
SUZANNE KAHL,

*Plaintiffs,*

v.

TOWN OF WINCHESTER, and RAKEL  
MEIR, MARK WATERBURY, MARK  
REGAN, KEVIN SARNEY, and  
DOROTHY SIMBOLI, as they are the  
TOWN OF WINCHESTER ZONING  
BOARD OF APPEALS,

*Defendants.*

**ORDER ON JOINT MOTION FOR REMAND**

This is an appeal pursuant to G. L. c. 40A, § 17, of a decision of the Winchester Board of Appeals dated September 13, 2018 and filed with the Winchester Town Clerk the same day. The decision affirmed the issuance by the Winchester Building Commissioner and Zoning Enforcement Officer of Building Permit No. 337 on May 14, 2018, and also imposed certain conditions on the exercise of the building permit.

In a joint Motion for Remand, filed on April 9, 2019, the parties moved that this matter be remanded to the defendant Zoning Board of Appeals ("Board"), to be heard by the Board on remand along with a related remanded case, Miscellaneous Case No. 18 MISC 000508.


Accordingly, the decision of the Board and this matter will be remanded to the Board to consider possible agreed-upon conditions for the issuance of the subject permit and to conduct a new public hearing to facilitate such discussions and possible agreed-upon changes. In order to facilitate judicial economy and to minimize inconvenience to the parties, the court will retain jurisdiction of this matter in the event there is a further appeal.

For the reasons stated above, the parties' Joint Motion for Remand is ALLOWED; and it is further

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So Ordered.

 By the Court. (Speicher, J.)

Attest:

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Deborah J. Patterson  
Recorder

Dated: April 11, 2019.

A TRUE COPY  
ATTEST:

  
RECORDER