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Jamaica Plain Neighborhood Council sues city, developer over project at former Home for Little Wanderers site

Posted by Matt Rocheleau December 20, 2012 03:58 PM

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By Matt Rocheleau, Town Correspondent

The Jamaica Plain Neighborhood Council is suing the city's Zoning Board of Appeals and a local developer in an attempt to overturn the board's recent approval of a controversial project that would raze the Home for Little Wanderers complex along South Huntington Avenue to build housing.

The lawsuit alleges that Boston Residential Group did not provide sufficient evidence to obtain zoning variances from the city for its project proposed for 161 South Huntington Ave., according to a [copy of the complaint](#) filed in Suffolk County Superior Court on Wednesday.

The lawsuit also says that the city's seven-member zoning board "exceeded its authority" and "acted with gross negligence, bad faith, or malice," when it granted the four variances to the developer at a [public hearing](#) in mid-November.

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"We are confident that our zoning decision will be upheld in court," city spokeswoman Susan Elsbree said in an e-mailed statement. "This \$75 million private investment in Jamaica Plain will add new housing opportunities for families, including 30 affordable units, and will add vitality to the area. We hope the lawsuit is expeditiously resolved."

The city declined to comment further on Thursday. The developer declined to comment.

Obtaining those zoning variances was the project's last permitting hurdle, clearing the way for the developer to construct an apartment building with 196 units and around 156 parking spaces.

The plans call for demolishing three buildings on the 3.5-acre site, including a 98-year-old the [Knight Children's Center](#) special education school building, a well-known facility that the nonprofit Home for Little Wanderers recently vacated.

Boston Residential Group's project has been criticized by some neighbors whose concerns include that the development would be too large would have too few affordably priced units.

Similar concerns have been expressed over another nearby proposal for [105A S. Huntington](#), which is under city review and calls for clearing a 1.1.-acre wooded lot to build a 12-story, 195-unit building with a parking garage and retail.

Both of the proposed development sites are located along a stretch of South Huntington where [other recent changes and proposals](#) have stirred controversy between residents of JP and nearby Mission Hill.

Most opposition to the projects has come from Jamaica Plain residents, while most support has come from residents of Mission Hill.

The debate has led city redevelopment officials to [launch a study](#) of current and potential future uses for the area.

The lawsuit filed on Wednesday was first reported by the [Jamaica Plain Gazette](#).

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Construction on the project at 161 S. Huntington is scheduled to begin in April and the building should be ready for occupancy by spring 2014, officials have said. It was not clear Thursday whether the litigation could delay progress on the project.

The complaint lists the plaintiff as Benjamin Day, chair of the neighborhood council, which voted earlier this week to take legal action. The defendants are the city Zoning Board of Appeal and the project's developer.

The lawsuit requests that, if the court agrees with the plaintiff, the variances granted by the zoning board be overturned at that the defendants cover the plaintiff's legal costs.

Jeffrey Wiesner, an attorney at Stern Shapiro Weissberg & Garin LLP and a member of the Jamaica Plain Neighborhood Council, is representing the plaintiff in the lawsuit.

Wiesner said that the neighborhood council voted 8-0 to file the lawsuit at a meeting the night before the legal action was filed.

The council is a 20-member volunteer body, but currently has five vacancies and not all members of the council attended Tuesday night's meeting, which is why only eight votes were cast.

The council can vote on measures as long as a quorum is present, according to the group's by-laws, which define a quorum as "one-half plus one of the currently serving members."

Intended to represent the neighborhood's residents, the council advises the city on various permitting, zoning and other neighborhood issues.

Wiesner said he does not believe the neighborhood council has ever taken legal action before. The group was founded in 1986 and has been involved in contentious neighborhood issues in the past, most recently over the opening of a Whole Foods store in the Hyde Square section of JP.

When asked whether there is any worry that suing a city department could strain the council's relationship with city officials, Wiesner said on Thursday: "I don't think there should be any adverse action by the city."

“We’re simply appealing an action by the city’s Zoning Board of Appeal,” he continued. “There’s a certain standard that the zoning board has to follow in order to grant variances. And, we’re simply contending that it did not do that in this case.”

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