



**BOXBOROUGH PLANNING BOARD**  
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John Markiewicz, Chair    Abby Reip, Clerk    Nancy Fillmore    Eduardo Pontoriero    Hongbing Tang

**Meeting Minutes**  
**April 2, 2018**  
**7:30 PM**  
**Morse-Hilberg Room, Town Hall, 29 Middle Road**

Members Present: John Markiewicz, Chair, Abby Reip, Clerk, Nancy Fillmore, Eduardo Pontoriero, and Hongbing Tang

Also Present: Adam Duchesneau, Town Planner

The Chair called the meeting to order at 7:34 PM.

**Meeting Minutes of March 19, 2018**

Mr. Markiewicz MADE a MOTION to approve the minutes of March 19, 2018 as amended. Ms. Fillmore SECONDED the MOTION. All members voted in favor.

**Correspondence**

Mr. Duchesneau noted the Planning Board had received three pieces of correspondence since their last meeting.

The first piece of correspondence was a copy of a plan from Mr. Markiewicz which he redistributed to the other members of the Planning Board. The plan pertained to the properties at 984 & 996 Massachusetts Avenue and 38 Sara's Way, and had originally been submitted to the Planning Board for discussion purposes on December 14, 2017.

The second piece of correspondence was an email to the Planning Board from Nancy Lin of the Massachusetts Department of Environmental Protection (MassDEP) received on March 29, 2018. The correspondence explained a new type of Chapter 91 license was being issued and it gave Planning Boards the ability to comment on applications to construct docks and piers in navigable waters.

The third piece of correspondence the Planning Board received was an email dated March 29, 2018 from Town Administrator Selina Shaw. Ms. Shaw had requested approval from the Planning Board to put the Article proposing to amend the Zoning Bylaw by adding a definition for Gross Floor Area and the Article proposing to amend Zoning Bylaw Section 4203 to include wording for Gross Floor Area onto the consent agenda for the May 2018 Annual Town Meeting. Mr. Markiewicz noted the consent agenda is for Articles which appear to be non-controversial.

Mr. Markiewicz MADE a MOTION to approve the Town Administrator placing the Article proposing to amend the Zoning Bylaw by adding a definition for Gross Floor Area and the Article proposing to amend Zoning Bylaw Section 4203 to include wording for Gross Floor Area

onto the consent agenda for the May 2018 Annual Town Meeting. Ms. Reip SECONDED the MOTION. All members voted in favor.

**984 & 996 Massachusetts Avenue and 38 Sara's Way – Special Permits, Site Plan Approval, and Private/Common Driveway Application – Applicant Larry White seeks to construct approximately six two-family dwellings (12 units of housing) with associated parking, landscaping, signage, water supplies, wastewater systems, drainage, and site grading**

At 7:45 PM, Mr. Markiewicz reopened the continued public hearing and read the legal notice into the record. Mr. Markiewicz inquired if anyone was recording the meeting and, if so, he asked them to identify themselves. No one in the audience indicated they were recording the meeting. Mr. Duchesneau read the various Special Permits and approvals the Applicant was seeking for the proposed project.

Mr. Markiewicz noted that within the last 12-18 months, the Planning Board had denied an application proposing multiple housing units on a property in the Business-1 Zoning District at the intersection Route 111/Massachusetts Avenue and Hughes Lane.

Larry White, Applicant and property owner, was present along with his two engineers, Drew Garvin and John Field from Nashoba Engineering Associates. Mr. White spoke to the plan which Mr. Markiewicz had provided to the Planning Board earlier. Mr. Garvin provided a response to Mr. Markiewicz's inquiry regarding the nitrogen loading easements shown on the plan. He stated certain amounts of acreage were needed to field a certain amount of flow, and these easements assisted to serve the proposed project at 984 & 996 Massachusetts Avenue and 38 Sara's Way.

Mr. Markiewicz asked if the nitrogen loading easements were related to the private residences on Sara's Way. Mr. Garvin replied they were somewhat related as you cannot go above and beyond certain flow calculations. He noted that all residential properties are included in the flow calculations for the properties which are the subject of the application. Mr. Markiewicz requested the engineers provide further information about this aspect of the proposed project.

Mr. White presented elevations and renderings of the proposed project. He discussed how the project would be viewed from various vantage points.

Mr. Markiewicz inquired as to when Mr. White had received approval for the proposed project, since he had just made that statement. Mr. White replied the Special Permit approvals were just semantics essentially. Mr. Markiewicz asked that Mr. White not imply the proposed project was already approved and pointed out the proposal required a number of Special Permit approvals from the Planning Board.

Mr. White distributed copies of references to the Planning Board's responsibilities as stated in Massachusetts General Law.

Mr. Markiewicz asked again if anyone was recording the meeting. Cindy Pockalny of 121 Sara's Way indicated she was recording the meeting on behalf of the Applicant.

Mr. White noted there was no residential density cap for two-family dwellings at the project site and also pointed out the proposed project is compliant with the density requirements for multi-family dwellings as stated in Section 5004 of the Zoning Bylaw. Mr. White cited an example of another project where zoning relief was granted and indicated he was looking for similar zoning relief.

Mr. Pontoriero stated that, from an earlier meeting, it was his understanding Mr. White already had approval to do this project, but Mr. Duchesneau had clarified for him this was not the case. Mr. Pontoriero added he had concerns about the noise impacts on the proposed residential units from the businesses in the surrounding area. He asked if there were other alternatives to develop at this location which were not ugly commercial examples as cited by Mr. White but instead, other acceptable business uses.

Mr. Pontoriero thought the Planning Board might be setting up the twelve proposed dwelling units to have the same issues Mr. White had experienced at his own home when he lived at 71 Sara's Way. He added his view that the property is a great business site but not a location for housing units. Mr. Pontoriero noted the Planning Board had a very difficult situation to deal with in the past between the residences on Sara's Way and the Lawn Barber landscaping business at 1034 Massachusetts Avenue. He stated he would prefer to see a business at this location as opposed to residential units.

Ms. Reip pointed out there is a very steep hill separating the project site from the Lawn Barber landscaping business. She stated she was concerned about what types of other uses could go into the subject property if it was not used for residential purposes. Ms. Reip indicated her preference for a greater buffer between the subject property and the property at 1034 Massachusetts Avenue which is in the Industrial-Commercial Zoning District.

Ms. Fillmore stated her concern regarding the pile of rocks and bricks separating the subject property from the Lawn Barber landscaping company, which had been implemented to protect against some of the noise. She wondered who desired to have a fence and a patio so close together in their backyard. Ms. Fillmore asked if the pile of rocks would remain and how could the Planning Board expect people to live in these dwelling units. She wondered what made Mr. White think the same noise issue situation would not happen again if these residences were to be constructed as proposed.

Mr. White replied it depended upon where you come from and what each person viewed as a nuisance. He stated that when he sold his house at 71 Sara's Way, the new owners did not view the operations at Lawn Barber as an issue. Mr. White added he would not leave the subject property in disrepair as he wanted to sell all of the dwelling units. He felt the noise issue with the Lawn Barber landscaping company had been resolved.

Ms. Tang stated she felt the proposed dwelling units were very close to Route 111/Massachusetts Avenue and the views from the units were not ideal. She expressed concerns about air quality and noise, and stated she felt the proposed development was being sandwiched between active industrial uses, incompatible with the adjacent land use.

Mr. Markiewicz then opened the discussion to comments and questions from the public.

Mark White of 93 Sara's Way stated he was the owner of a business and a residence in this area, and felt he had as much at stake in this project as anyone. He referenced the proposed uses at 593 Massachusetts Avenue and the Special Permits which were sought for that location. Mark White stated that if the argument noting there were issues with abutters previously was used, then no residential units should be allowed in this location. However, he pointed out that when the Zoning Bylaw was applied appropriately, the Lawn Barber landscaping company was brought into compliance and there were no issues.

Mr. Markiewicz noted that for the most part, residences in this area are located in the Agricultural-Residential Zoning District.

Mark White stated the Special Permit requirement for residential uses in the Business-1 Zoning District was approved at a Town Meeting because the voters thought residences could be an appropriate use in this location.

Cindy Pockalny of 121 Sara's Way stated the Applicant had lived at 984 Massachusetts Avenue for a number of years and she had lived there for five years before moving to 71 Sara's Way. She indicated it was not horrible living so close to the roadway.

Larry White asked what the Planning Board felt was better for the residents of Sara's Way and Hughes Lane. He wondered if businesses or residences would be preferred in this location. Larry White inquired about the path to success for the proposed project. He noted that as long as the people in the surrounding area were protected, he felt the proposed project could work in this location. Larry White asked, if residential uses were allowed by Special Permit in this location, how could he obtain approval for such a proposed use from the Planning Board.

Pasquale Belin-White of 93 Sara's Way would rather see houses in this location than what is currently at the subject property. She noted the proposed project would bring value to her property and she felt the Lawn Barber noise problem had been alleviated.

Steve Phaneuf of 1034 Massachusetts Avenue, owner of the Lawn Barber landscaping company, stated they had bought the property twelve or thirteen years ago. Larry White had obtained Special Permit approval to put residences behind his business. Mr. Phaneuf noted that in earlier public meetings with the Planning Board, Larry White had indicated the noise traveled up the hill to his former residence from the property at 1034 Massachusetts Avenue. Mr. Phaneuf expressed his concern that the proposed residences will be much closer to his business than the existing residences on Sara's Way where the issues had arisen before. He added his business was located in an Industrial-Commercial Zoning District and was concerned there would be more complaints in the future. Mr. Phaneuf continued on to note that if approval were granted for this project, he would seek to be allowed to construct residential units at his property as well.

Robert Smith of 1102 Massachusetts Avenue stated that when Larry and Mark White sought to construct Sara's Way, he had no issue with the proposal. Subsequent to the construction of the residences on Sara's Way, there were noise complaints. He added he did not think the proposed

project was selling itself. Mr. Smith indicated that when you put residential uses near an Industrial-Commercial Zoning District, it creates issues waiting to happen. He could not imagine twelve residential units in this location.

Ms. Reip stated that in her opinion, if the project were scaled back, moved closer to Sara's Way, and there were fewer units, a residential use could be a possibility at this location.

Mark White indicated the sound from the Lawn Barber landscaping company is funneled up hill to the residences on Sara's Way, as opposed to the east, due to the steep topography. He could confirm this because his business is located due east of the subject property and Lawn Barber's property.

Mr. Duchesneau clarified an earlier statement regarding a proposed residential project in the Business-1 Zoning District at the intersection Route 111/Massachusetts Avenue and Hughes Lane. He noted no formal application had been filed for the proposal, however, when the proposed project was brought informally to the Planning Board, the Board was not receptive to the design which was of a similar nature to the subject application.

Mr. Markiewicz provided Larry White with three options regarding the application, which were as follows: 1) continue the public hearing to a future date; 2) withdraw the application without prejudice; or 3) the Planning Board could take a vote on the application that evening. Larry White indicated he would like to continue the public hearing to a future date.

Mr. Pontoriero restated his support for a business development at the subject location.

Mr. Markiewicz MADE a MOTION to continue the public hearing to the Planning Board meeting on May 21, 2018 at 7:45 PM. Ms. Reip SECONDED the MOTION. All members voted in favor.

### **Discussion Regarding Items for the May 2018 Town Meeting and Warrant Article Motions**

Mr. Duchesneau noted Planning Board members typically read the motion and present each of the proposed Zoning Bylaw Amendment Articles at the Annual Town Meeting. As such, he was seeking volunteers to read the motion and present each Article at the upcoming May 2018 Annual Town Meeting.

#### *Article 1: Amend the Zoning Bylaw by Adding a Solar Energy Systems Bylaw*

Mr. Markiewicz volunteered to read the motion and present the Article at the May 2018 Annual Town Meeting.

#### *Article 2: Amend the Zoning Bylaw by Adding a Definition for Gross Floor Area*

Ms. Reip volunteered to read the motion and present the Article at the May 2018 Annual Town Meeting.

#### *Article 3: Amend Zoning Bylaw Section 4203 to Include Wording for Gross Floor Area*

Ms. Reip volunteered to read the motion and present the Article at the May 2018 Annual Town Meeting.

*Article 4: Amend Zoning Bylaw Section 7700 Temporary Moratorium on Recreational Marijuana Establishments to Extend the Temporary Moratorium Expiration Date*

Mr. Markiewicz and Ms. Fillmore volunteered to read the motion and present the Article at the May 2018 Annual Town Meeting.

**100 Codman Hill Road – Site Plan Approval, Stone Wall Alteration, and Earth Removal Permit Application – Applicant Luis Gutierrez seeks to create a landscape product material storage site, to expand an existing 22 foot wide opening in the stone wall to an approximately 30 foot wide opening, and to remove approximately 500 cubic yards of earth from the property**

At 9:05 PM, Mr. Markiewicz reopened the continued public hearing and read the legal notice into the record.

Mr. Markiewicz MADE a MOTION to continue the public hearing to the Planning Board meeting on May 7, 2018 at 7:45 PM. Ms. Reip SECONDED the MOTION. All members voted in favor.

With no further business, the meeting was adjourned at 9:10 PM on a MOTION by Mr. Markiewicz, SECONDED by Ms. Reip, with all members voting in favor.

On Behalf of the Boxborough Planning Board:



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Abby Reip, Clerk