



TOWN OF BOXBOROUGH NOTICE OF PUBLIC MEETING

BOARD/COMMITTEE: Zoning Board of Appeals
MEETING DATE: April 21, 2020
TIME: 7:15 PM
PLACE: **Virtual Meeting - this meeting is being conducted via Remote Participation, pursuant to the Current Executive Order. Remote participation instructions are provided below.**

To Join Zoom Meeting:

<https://zoom.us/j/93308642934?pwd=VVJ4djBLbUwzTVhSdEhzK09ETUg1QT09>

Meeting ID: 933 0864 2934

Password: 769273

One tap mobile

+13126266799,,93308642934# US (Chicago)

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Dial by your location

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Meeting ID: 933 0864 2934

Find your local number: <https://zoom.us/u/acP2zXPrZX>

TOPICS EXPECTED TO BE DISCUSSED (AGENDA):

Minutes: Jan. 7, 2020; Jan. 21, 2020; Feb. 4, 2020; March 17, 2020

Review Correspondence

7:30 Hearing Appeal of a Building Commissioner's Decision – CONTINUED from March 17, 2020
700, 750, 800 Massachusetts Avenue Boxborough Town Center LLC

New Business

Calendar:

May 5, 2020

May 19, 2020



**TOWN OF BOXBOROUGH
PUBLIC MEETING
Meeting Minutes**

Zoning Board of Appeals

January 7, 2020

7:15 PM

Morse – Hilberg Meeting Room, Boxborough Town Hall 29 Middle Road

Approved: 2020

Members Present: Michael Toups (Chair), Mark White, Mark Barbadoro and Stephano Caprara.

Member Absent: Kristin Hilberg

Also Present: Simon Corson, Town Planner

Michael called the meeting to order at 7:15 PM and introduced Simon to the Board.

The Board reviewed the draft minutes of September 17, 2019. Motion was made by Michael, seconded by Mark White and voted unanimously to approve the minutes of September 17, 2019 as drafted.

Michael stated that there was no new correspondence.

Review Zoning Board of Appeals Rules and Regulations

The Board discussed potentially revising the Rules and Regulations. There was a question regarding whether they had been officially adopted. This version appears to be a draft.

Special Permit Hearing 493 Massachusetts Ave. / Acton-Boxborough Regional School District

Michael opened the hearing at 7:30. Kurtis Platteel of Stamsky and McNary presented the application on behalf of the applicant, Acton-Boxborough Regional School District. Mark Barbadoro questioned whether the proposed construction was in zone one or zone two of the Aquifer Protection District. Kurtis said he didn't know. Mark Barbadoro asked if the boundary of the Aquifer District was indicated on the plan. Kurtis replied no. Mark Barbadoro asked if the project was in the Aquifer Protection District and Kurtis said he was not sure but believed so. Mark White requested a plan showing the Aquifer Protection District. Mark Barbadoro questioned whether section 7003 of the Zoning Bylaw would allow a Special Permit in this instance over a recharge area. Stefano said that he believes that section is specifically for Special Permits for projects where the Aquifer Protection District is in dispute and that this was not applicable in this instance. There was general agreement to this among the Board members.

Motion was made by Michael, seconded by Stefano and voted unanimously to continue the hearing

on January 21, 2020 at 7:30 PM to allow the engineer more time to familiarize himself with the project and to provide more detailed plans and specifications.

At 8:15 a motion was made by Michael. Seconded by Stefano and voted unanimously to adjourn.

Documents used during this meeting:

Agenda

Draft Minutes September 17, 2019

Acton-Boxborough Regional School District Special Permit Application

Zoning Board of Appeals Rules and Regulations



**TOWN OF BOXBOROUGH
PUBLIC MEETING
Meeting Minutes**

Zoning Board of Appeals

January 21, 2020

7:15 PM

Annex North Meeting Room, Boxborough Town Hall 29 Middle Road

Approved: 2020

Members Present: Michael Toups (Chair), Mark White, Mark Barbadoro, Stephano Caprara, and Kristin Hilberg.

Also Present: Simon Corson, Town Planner

Michael called the meeting to order at 7:15 PM.

Michael inquired and Mark Barbadoro replied that the minutes of January 7, 2020 were not ready.

Michael stated that there was no new correspondence.

The Board discussed potentially revising the ZBA Rules and Regulations. Mark White suggested that it would be helpful to determine which rules are required by law and which are optional. Mark Barbadoro said he would help by footnoting the rules with applicable laws.

Special Permit Hearing 493 Massachusetts Ave. / Acton-Boxborough Regional School District

Michael reopened the hearing at 7:30 PM. The engineer was not present. Motion was made by Michael, seconded by Kristin and voted unanimously to continue the hearing on February 4, 2020 at 7:30 PM.

At 7:51 motion was made by Kristin, seconded by Stefano and voted unanimously to adjourn.

Documents used during this meeting:

Agenda

Zoning Board of Appeals Rules and Regulations



TOWN OF BOXBOROUGH PUBLIC MEETING Meeting Minutes

Zoning Board of Appeals
March 17, 2020
7:15 PM
Boxborough Town Hall 29 Middle Road

Approved: 2020

Members Present: Michael Toups (Chair) and Mark Barbadoro
Members Present remotely: Stephano Caprara, Kristin Hilberg and Mark White
Also Present: Simon Corson, Town Planner

Michael called the meeting to order at 7:15 PM.

Michael inquired and Mark Barbadoro replied that the minutes listed on the agenda were not ready.

Michael stated that there was no new correspondence.

The Board reviewed the drafted decision for the Special Permit at 493 Massachusetts Ave. / Acton-Boxborough Regional School District. Motion was made by Michael, seconded by Mark Barbadoro and voted unanimously to approve the decision as drafted and to allow Michael and Mark Barbadoro to sign the decision on behalf of the Board.

Roll call vote: Michael Toups - yes; Mark Barbadoro - yes; Stephano Caprara - yes; Kristin Hilberg - yes; and Mark White - yes.

At 7:30 Michael opened the hearing and read the legal notice for the Appeal of a Building Commissioner's Decision at 700, 750, 800 Massachusetts Avenue filed by Boxborough Town Center LLC. Motion was made by Michael, seconded by Mark Barbadoro and voted unanimously to continue the hearing on April 21, 2020 at 7:30 PM.

Roll call vote: Michael Toups - yes; Mark Barbadoro - yes; Stephano Caprara - yes; Kristin Hilberg - yes; and Mark White - yes.

At 7:51 motion was made by Kristin, seconded by Stefano and voted unanimously to adjourn.

Roll call vote: Michael Toups - yes; Mark Barbadoro - yes; Stephano Caprara - yes; Kristin Hilberg - yes; and Mark White - yes.

Documents used during this meeting:

Agenda

493 Mass Ave Draft Decision



BOXBOROUGH ZONING BOARD OF APPEALS

29 Middle Road, Boxborough, Massachusetts 01719

Phone: 978.264.1722

www.boxborough-ma.gov

APPLICATION

1. Location of property: Assessor's Map 14 Parcels 208, 209, 210
 Street Number 700, 750 Street Name Massachusetts Avenue
 Zoning district: Town Center
 Within 100' of wetlands and filing with Conservation Commission [] yes [] N/A

Printed Name	Address	Phone
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2. Owner(s):	<u>Boxborough Town Center, LLC</u>	<u>PO Box 985 Acton</u>	<u>978-266-9751</u>
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Owner(s): _____

3. Applicant:	<u>Boxborough Town Center, LLC</u>
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4. Nature of relief sought: Variance _____ Special Permit _____ Comprehensive Permit _____
 Amend Existing Decision _____ Appeal of an Official's Decision X

5. Applicable Section(s) of the Zoning Bylaw: Section 8000 Site Plan Approval 9102
 (Specifically list each ZBL Section.)

6. Nature and justification of request: Reversal of Site Plan Violation
 (Attach additional pages if necessary.)
Bentley Herget, Building Commissioner

7. State the name of any person(s) authorized to represent you before the Board.
James Fenton

8. The undersigned certify that he/she has read and examined this application and the "Application and ZBA Procedures" and that the proposed project is accurately represented in the statements made in this application.

I hereby request a hearing before the Board of Appeals with reference to the above application.

John Lyons John Lyons, Member
 Property Owner's Signature (REQUIRED)

2-12-20
 Date

James Fenton Michael Ivanson
 Property Owner's Signature (REQUIRED) Member

2-12-20
 Date

Applicant's Signature (if different from owner) _____ Date _____

RECEIVED

FEB 13 2020

RECEIVED

FEB 13 2020



BOXBOROUGH BUILDING DEPARTMENT
29 Middle Road, Boxborough, Massachusetts 01719
Phone: (978) 264-1726 • Fax: (978) 264-3127
www.boxborough-ma.gov

Mr. Jim Fenton
Boxborough Town Center, LLC
700, 750, & 800 Massachusetts Avenue
Boxborough, MA 01719

January 2, 2020

SITE PLAN VIOLATION NOTICE

Subject Property: 700, 750, & 800 Massachusetts Avenue
RE: Bk: 73270 Pg: 147, 37.(g.), "Flag the areas of vegetation to be verified by Town Staff..."

Mr. Fenton,

This office has determined that Boxborough Town Center, LLC has violated the terms of the Site Plan Approval and Alternative Access Decision for 700, 750, & 800 Massachusetts Avenue with respect to your development of that property. Specifically, the Applicant/Owner conducted site work by clearing an undetermined number of trees from the subject property without flagging areas of vegetation to be preserved as verified by Town staff. This is a direct violation of Condition 37.g. of the Site Plan Approval, as follows:

37. Prior to the commencement of any site work, the Applicant/Owner shall:

"Flag the areas of vegetation to be preserved to be verified by Town staff or their designee, such as a Massachusetts Licensed Arborist, to ensure healthy trees and viable areas will remain. After the completion of clearing operations, all tree lines to remain shall be reviewed by a Massachusetts Licensed Arborist and the recommendation of the Arborist shall be implemented. Any tree scheduled to remain that is removed or significantly damaged shall be replaced at a 2:1 ratio (minimum 3-inch caliper)."

In previous conversations with Town Staff regarding this matter, you indicated that the Construction Site Inspector, Ms. Sue Carter had approved the tree clearing. In follow up conversations, Ms. Carter stated that she did not approve the tree clearing, nor is she to be considered Town Staff. All questions regarding the implementation of the order of conditions should be submitted to me in my role as Zoning Enforcement Officer.

To correct this violation, you are hereby ordered to allow the Certified Arborist designated by the Boxborough Town Center, LLC and the Town of Boxborough, as set forth in the arborist's November 23, 2019 letter to the Town of Boxborough, to assess the effect of the premature tree clearing, and to provide recommendations for further action as may be required by the Building Commissioner. The assessment may take place any time within the next six (6) months, depending on the availability of the arborist.



BOXBOROUGH BUILDING DEPARTMENT
29 Middle Road, Boxborough, Massachusetts 01719
Phone: (978) 264-1726 • Fax: (978) 264-3127
www.boxborough-ma.gov

Subject to such recommendations as the Certified Arborist shall make to correct the violation, you are further ordered to coordinate with the Building Commissioner and Town Planner, by no later than April 1, 2020, on determining locations for the planting of no less than twenty-five (25) 4" caliper trees on the property to replace those removed, and to complete such plantings by May 31, 2020, unless otherwise directed by this office. Boxborough Town Center, LLC is responsible for ensuring that the plantings survive. The goal of these plantings is to provide vegetative screening to abutters of the subject property.

The Planning Board granted Boxborough Town Center, LLC an approval with conditions. The order of conditions are of critical importance to mitigate the impacts on surrounding land uses, and to ensure that the project is completed as proposed. The property owner is encouraged to take the time to check in with the Building Commissioner prior to conducting site work that requires the input of Town Staff.

You may appeal this determination and order to the Zoning Board of Appeals in accordance with MGL Chapter 40A. Please let me know if you have any questions.

Sincerely,

Bentley Herget – C.B.O.
Building Commissioner/ Inspector of Buildings
Town of Boxborough, Massachusetts
bherget@boxborough-ma.gov

Mr. Jim Fenton on behalf of Boxborough Town Center, LLC

Accepted and Agreed: _____

TOWN OF BOXBOROUGH

BOARD OF APPEALS

Legal Notice of Public Hearing

Pursuant to MGL Ch 40A Section 8 and Boxborough Zoning By-Law Section 9102, a public hearing will be held before the Boxborough Board of Appeals on Tuesday, March 17, 2020 at 7:30 p.m. in the upstairs portion of the Boxborough Town Hall, 29 Middle Road, Boxborough, MA, to consider the application received from Boxborough Town Center, LLC. for an Appeal of the Building Commissioner's decision.

The subject properties are 700, 750, and 800 Massachusetts Avenue, Assessor Map 14-208-000, 14-209-000, and 14-210-000 owned by Boxborough Town Center, LLC.

For questions, call the ZBA office at 978.264.1722 during normal office hours.

NOTE TO BEACON: Do not publish below this line.

PUBLICATION DATES:

February 27, 2020

March 5, 2020

Bill for this notice should be sent to:

Donna Cisek

Boxborough Town Center, LLC

P O Box 985

Acton, MA

978 266 9751