



TOWN OF BOXBOROUGH

Planning Board

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Mark Barbadoro, Chair • Cindy Markowitz, Clerk • Mark White • Rebecca Verner • Kathleen Vorce

APPROVED ON February 6, 2023

Meeting Minutes

January 23, 2023

7:00 PM

Remote Meeting

Members Present: Mark Barbadoro (Chair), Cindy Markowitz (Clerk), Rebecca Verner, Cathy Vorce, Janet Keating-Connolly (associate member).

Staff Present: Alexander Wade, Town Planner; Sue Carter, consulting engineer PLACES Associates

Chair Barbadoro called the meeting to order at 7:07 PM with a roll call attendance.

Public Comment

None at this time.

General Business

Application for Road Acceptance – Joyce Lane, Loring Avenue, and MacLeod Way – *The Board took up this item at this time.*

Chair Barbadoro explained that the Planning Board can choose to make a recommendation to the Select Board regarding a road acceptance warrant item.

Mr. Wade stated that the homeowner's association (HOA) will make a presentation on this item. The Planning Board facilitates a review for this item. The Board has until March 9, 2023, to make a recommendation to the Select Board. Typically, road acceptances come from subdivisions, but in this case it is coming from a MA General Law 40B project, completed in 2005. This has different constraints, which are reflected in a memo to the Board. The applicants still feel that they would like for this to be considered by the Town. He suggested the applicants share their thoughts and the existing conditions for the Town's consideration.

Sumant Kaduskar, member of the Boxborough Meadows Homeowners Trustees, stated that Boxborough Meadows is a community of 48 houses – 36 market-rate and 12 affordable (40B). This community was built in 2002 – 2003, as approved by the Town. The roadways were always expected to be public roadways. The road acceptance application was submitted to the Town in March 2005. The roadways were not accepted at that time, primarily due to the Wetlands Certificate of Compliance from the Department of Environmental Protection (DEP). The Town released the performance guarantee, worth \$83,970, to the builder in July 2005. The homeowners were left to go to bat for this item, as the builder then walked away. A Certification of

Compliance was issued from the Conservation Commission on November 19, 2020, addressing the last remaining outstanding item in the road acceptance process. A completed road acceptance application was filed with the Town in December 2022. An inspection was conducted in January 2023 by the Planning Department, and a report was produced on January 20, 2023.

The homeowners, lacking the proper skillsets, were left to handle the detailed aspects of roadway evaluation and rectification. The residents have paid approximately \$100,000 so far for the road acceptance process and maintenance/repairs of the roadways, resulting in a perpetual increase in the HOA monthly fees. The group desperately needs help from the Town. The group was dismayed by the recommendations of the Planning Department, per the January 20, 2023, memo. It feels that the finish line keeps moving for this process.

Per the memo from the Planning Board, dated March 22, 2005, the performance guarantee would not be released until all outstanding items have been completed. This was released to the builder, prior to all items being completed. Also, per that memo, the Planning Board recommended that the Select Board and Town Meeting accept the roadways as public, contingent on a number of items being addressed. All of these items have since been completed. He noted that the roadways are not in as bad of shape as may have been previously represented in photographs.

Chair Barbadoro stated that he would like to go see the roadways for himself, as the photos shown by the applicants are much different than those shown in the Planning Department report.

In response to a question from Ms. Vorce, Mr. Wade stated that he, the DPW Director, and Sue Carter conducted a site inspection and the DPW Director subsequently forwarded his report to the Board.

Korinne Stevens, homeowner in Boxborough Meadows since 2002 and Trustees Board member, stated that the homeowners were never meant to take over these roads. The builders did not hold to their responsibility and were not held to an account for this. This is physically, mentally, and financially a burden for homeowners. At some point, someone did not do their due diligence, and the builders were let go of their responsibility to the neighborhood and Town. Homeowners have gone past their skillset to fix this issue, without any legal obligation to do so. The costs continue to climb, and it is becoming unaffordable to reside in the neighborhood, especially for the 40B units. This is an all-consuming task that homeowners did not agree to take on but were forced to because the responsible parties walked away. The Planning Department's report is not a true reflection of the narrative that has transpired. She requested that the Board do the humane thing and accept these as public roads. The Town needs to keep these units affordable and that will not be possible if homeowners continue to have to pay for these roads.

Chair Barbadoro stated that the Board will first ask questions of the applicant. The Board will then take feedback from residents. The Board will then discuss this item with the Town Planner and consulting engineer.

In response to a question from Ms. Vorce, Mr. Wade stated that these roadways includes 2,000 +/-linear feet of roadway.

In response to a question from Chair Barbadoro, Davidson Devasigamony, trustee of the Boxborough Meadows community, stated that a deed was recorded at the MA Registry of Deed which discusses the bond amount, and it indicates that this was released.

Ms. Markowitz acknowledged and apologized for the plight of the homeowners in this area. She noted that this is why the Planning Board is working diligently when reviewing applications. The Board does not want things to slip through the cracks.

Al Murphy, Housing Board, stated that he was unaware of this issue until recently. This is not an issue the 40B units can afford. He believes the Town should right this wrong and agree to maintain these roads. The Housing Board will produce a letter of recommendation to the Select Board.

Ms. Vorce stated that she does not believe a big case should be made for a half mile of roadway. There are a couple of ways the bond could have been released. The Town has missed a step in this process. Notwithstanding any report, the Town should accept these roads.

Ms. Vorce moved notwithstanding any report, that the Town accept these roadways.
There was no second. Motion died on the floor.

Mr. Murphy stated that the release of the bond was completed in July 2005 by the Zoning Board of Appeals. He could not find the minutes of that meeting and would like to be able to review them.

Ms. Verner asked if there is legal recourse to take with the builder. Chair Barbadoro noted the Statute of Repose makes this difficult.

Ms. Verner asked about the financial implications of taking on the roadway repair and/or maintenance.

Ms. Markowitz asked if there has been any outreach to State representatives regarding potential infrastructure grants. The HOA stated that it has not but believes the Town would have a better chance of seeking these grants than the private group. Mr. Devasigamony stated that the 13 items mentioned in the compliance letter have been addressed and the HOA believes that the roadway acceptance items have been met.

Jessi Robinson, homeowner in this area, stated that homeowners have spent a lot of money putting forth a best effort. The Town has not been held responsible for these items, even though it could have been. The homeowners are requesting leniency from the current conditions and to move forward with the Town. She stated that she serves on the Boxborough Housing Board and the 40B units are important to the Town. These roadways are not the responsibility of the homeowners.

Jeeva Arumugasamy, HOA Trustee, stated that the builder was sued in 2004 and settled a lawsuit with the Town for over \$1.2M.

Jerry McCarthy echoed the comments that the builder was previously sued by the Town for mistakes made. He agreed that this is only a half mile of road for the Town to accept.

Vishal Shukla, HOA Trustee, reviewed the financial costs to the homeowners thus far.

Jerney Matthews, former HOA Trustee, stated that the HOA has put in a lot of work and effort. He is hopeful that there will be cooperation from the Town to resolve this issue shortly.

Ms. Robinson asked what other questions the Board has in order to move forward with a supportive motion.

Chair Barbadoro stated that, overwhelmingly there seems to be a sentiment from the Board that this is unfortunate for the homeowners in this area.

In response to a question from Chair Barbadoro, Ms. Robinson state that the Town has taken on plowing these roads, but the homeowners deal with the catch basins and degrading road material around them.

Mr. Devasigamony noted that, originally, the Planning Board recommended the Select Board approve the roads, based on the completion of the 13-item checklist. He reviewed these 13 items and noted that all have since been completed.

Sue Carter, consulting engineering PLACES Associates, noted that it has been 17 years since the release of the bond. There has been a lot of cracking in the road since that time and the drainage structure is starting to settle and need attention. The roadways are not in great condition. There has been no attention given to the drainage basins on site. These were supposed to be dry, infiltration basins but have started to take on water. There are tree roots in the sidewalks, making them non-ADA compliant. There is a severe parking problem on the site. There will need to be many non-parking signs installed on the site, which would then be enforced by the police. Many homeowners have added parking spaces and basketball hoops in their areas, which will not be acceptable as a public road. These are items that may be okay for private roads but are not acceptable for public roads. The recommendation is that the roadways be milled down and repaved, which will be quite expensive. There are also drain lines running between units on the site and there may not be enough room to maintain the drainage. This would need to be inspected, before the roadways could be accepted by the Town. Similar to Taylor Farm Road, the roadways would need to be improved before being accepted.

In response to a question from Ms. Vorce, Ms. Carter stated that Taylor Farm Road is approximately 1800 linear feet. The maintenance and improvements were made to this road, prior to it being accepted.

In response to a question from Ms. Markowitz regarding a general cost estimate for this project, Ms. Carter stated that this could cost approximately \$100,000 or more.

Ms. Markowitz stated that it will be important to understand a potential timeline and where things may have gone wrong in the past. A better cost estimate would also be helpful.

In response to a question from Ms. Verner regarding the lawsuit money from the builder, Chair Barbadoro stated that this involved extra money taken from the 40B units.

Chair Barbadoro stated that he believes more information is needed for this item before a vote can be taken.

In response to a question from Ms. Vorce, Mr. Wade stated that the applicant submitted the initial application prior to the January 9, 2023, deadline. Included was a draft warrant article which has been included on the warrant as a placeholder, for the Select Board to decide on. The applicant has placed on retainer with the Town a consulting fee. It is unclear if this would cover the review of all drainage structures on site.

The Board agreed to continue this item to February 6, 2023, with the potential to also continue it to February 20, 2023, if needed.

PUBLIC HEARING (cont.) – In accordance with MGL Chapter 40A and Boxborough Zoning Bylaw 8000 Site Plan Approval, the Boxborough Planning Board will conduct a public hearing on Monday Dec. 12, 2022 at 8:05 PM to review the application submitted by Stamski and McNary, Inc. on behalf of the Applicant, Concord Property Management, Inc. The property owners, This Isn't Camp, LLC and Concord 60 Codman LLC, seek to raze a nonconforming office building and construct a new industrial building. The subject property is located in the Industrial / Commercial Zoning District at 60 Codman Hill Road and is identified as Assessor's Parcel 12-004-000.

George Dimakarakos, Stamski & McNary, Inc., stated that Ms. Carter issued a peer-review of the plan, and a continuance is being requested at this time to create another iteration of the plan. The plan changes of significance include changes to the drainage plan, such as the addition of treatment units to manholes and treatment for roof runoff. The well permit is in front of DEP and initial comments have been made. New wastewater tanks have been installed by the prior owner.

Chair Barbadoro noted that there has been a bylaw change with respect to floor area ratio, which could impact this project. He suggested that the applicant review this. He noted that the ZBA had questions for legal counsel, and these were addressed. He does not believe there are current legal questions in front of Town Counsel.

Mr. Wade stated that he and Ms. Carter have deferred to Town Counsel regarding the validity of this decision. Town Counsel has completed his legal review of that item.

Chair Barbadoro read and opened this public hearing.

Mr. Wade stated that the applicant is aware that it needs to submit for a stormwater construction and post-construction permit. These are usually able to be run concurrently and drafted as a single decision. Mr. Dimakarakos noted that this will likely not be submitted in time for the next meeting.

Travis Snell stated that the applicant is close to being done with this process. If additional permits are needed, this will begin to become economically impracticable. The applicant has been open with the Town from day one and has already made many changes to the plan.

Ms. Carter noted that she does not anticipate a very detailed review, as the roof runoff proposed will likely adhere to the requirements.

Ms. Vorce moved to continue this hearing to February 27, 2023 at 7:05pm. Ms. Markowitz seconded.

Roll call: Barbadoro – aye; Verner – aye; Vorce – aye; and Markowitz – aye. Motion passed 4-0-0.

PUBLIC HEARING (cont.) – Applications under Boxborough Zoning Bylaw Section 6105 Special Permit Private/Common Driveways in the Office Park District, 8000 Site Plan Approval, and 9200 Special Permits; and the Site Plan Approval Rules & Regulations submitted by for Site Plan Approval & Special Permit submitted by Boxborough Adams Realty Trust to construct a 140,000sf Office/Research & Development/Light Manufacturing facility. Subject property is located in the Office Park District at 244 Adams Place and is identified as Assessor’s Parcel #s 12-025-000.

Chair Barbadoro read and opened the public hearing.

Israel Lopez, The Gutierrez Company, stated that information regarding future permits needed was submitted to the Board. He noted that the applicant has a long-time relationship working with the Town and reviewed this relationship. The demand for office space has continued to decline. He stated that this site is a great location for a light manufacturer/R&D user. This is a good space for a mixed-use development. The Aquifer Protection District is important to the Town and this concern expressed by the Board was taken seriously through changes in the plan. This moved the building further away from and outside of the Aquifer Protection District. The building has a 100,000 s.f. footprint, with a 40,000 s.f. second floor. This is efficient because it allows the office space stacked over the flex space. Additional details have been provided for the private, common driveway, which meets all the requirements. A memo was included providing an evaluation from Sanborn Head for the Aquifer Protection District. An analysis regarding the hotel’s retention facilities, showing that the drainage meets the 20% lot coverage, was also provided.

Carlton Quinn, Allen & Major Associates, explained that the development was pulled back approximately 17’, and the infrastructure and parking was reconfigured to move things away from the Aquifer Protection District. The road was also pulled back approximately 35’-50’ from

the Aquifer Protection District using retaining walls. A three-tiered retaining wall system will be used at the front to include some landscaping and smaller walls. There will still be a road crossing through the Aquifer Protection District, but all development has been pulled out. Approximately one acre of buffer trees were able to be saved on the site. Site disturbance is approximately 45' from the property line, and the road is approximately 100' from the property line. A proposed retention pond in back of site was also pulled out of the Aquifer Protection District. There are some taller retaining walls proposed at the back of the site, which will not be very visible from the roadway. Detailed construction sequencing and erosion control were included in the application package. ADA access is shown around the entire building on the site. The building was lowered approximately 1.5' overall. Both roadways were also reduced in grade. Additional street trees were added to the plan, along with additional screening around the loading dock. The loading dock was also pulled away from the property line, to minimize its visibility. Originally, 67 trees were proposed on the site; this has been increased to 148 trees.

Paul Alphen, counsel for the applicant, noted that Town Counsel has opined that the applicant is subject to the provisions of Section 9200, Private Common Driveway Special Permit. He asserted that the applicant is not subject to this. Each criteria was previously addressed from Section 9200. The driveway has a proposed slope of approximately 5%, where the max allowable is 8%. The driveway will have adequate drainage and an ADA-compliant sidewalk. There will be curb cuts on either side to allow for maintenance access. The driveway will be privately maintained, and no municipal services will be required. The proposed driveway will not alter the population of the area, intensity of use of neighborhood, or the character of the neighborhood. It will maintain existing traffic patterns and protect the environment as it is the shortest line between two points. The driveway avoids any impact on wetlands and will meet all the requirements of the stormwater bylaw. The driveway will be incorporated into the stormwater management plan for the site. The driveway allows for access to a use which is permitted in the underlying zoning district. Regarding infectious invalidity, he stated that the hotel provides for the necessary drainage features to eliminate these concerns. There are also other options to eliminate these concerns, if needed.

Chair Barbadoro opened discussion to the Board.

In response to a question from Ms. Verner regarding the amount of reduction in site disturbance, Mr. Quinn stated that there is a reduction. Mr. Lopez noted that the acre+ of additional tree buffering was a major component of this reduction. Ms. Verner stated that she would like to see additional calculations on this item. Ms. Markowitz also asked for calculations for the change in the amount of earth removal for the site.

Ms. Markowitz asked the applicant to describe the stormwater plan for the site. Mr. Quinn reviewed the requirements of Section 7004 (s) of the bylaw. In a plan dated 1974, retention areas were noted on the plan to service the hotel. There is more than 20% coverage on the lot, but the applicant is retaining a volume of water to offset that additional impervious area, so that this will not be reduced by an amount more than the 20% would cause. There is a drainage easement with a retention pond, and another with a retention area. A calculation was done on the retention area for these two locations. These are currently only inlets from the hotel, with no outlets. A

retention volume required for the hotel was calculated to make sure it was offsetting the additional 20% impervious. The two areas have 4' and 0.2' of retention area before overflow. The calculation of 5,747 cubic feet retention area was needed to offset the extra over 20%. Those two areas have enough retention area to offset the required amount.

Ms. Markowitz stated that the assertion is that the hotel property does demonstrate that the recharge rate will not be reduced by more than the 20% coverage would cause. She noted that the two areas discussed are mapped as wetlands.

In response to a question from Chair Barbadoro, Mr. Quinn stated that water from the surface of the roadway discharges on either site into similar type wetlands. There is likely plenty of retention in those areas as well.

Chair Barbadoro noted that, if the drainage with the roadway and lot are joined, this storage cannot be counted twice. Mr. Quinn noted that the proposed road does not go through the drainage easement.

Mr. Lopez stated that the volume of soil to be removed, 154,000 cubic feet, was calculated and submitted to the Board. This is less than what was previously proposed.

In response to a question from Ms. Keating-Connolly, Mr. Quinn stated that the drainage analysis shows that the existing retention ponds are adequately sized for the roadway and existing hotel site. Additional development will be addressed with additional stormwater systems.

Ms. Verner noted that the proposal will upset and change drainage patterns on the site. The water will be redirected in significant ways on the site. She asked where this water is intended to go. Mr. Quinn stated that a stormwater system is proposed on the site to provide adequate infiltration, water quality, and peak rates per engineering standards. Anything that touches an impervious surface on site will be caught by the system and run through. The water that runs down the driveway to the common driveway runs to an existing stormwater system, with two existing catch basins discharging to a retention area. Mitigation is provided from the system to reduce peak flows in this system and old systems will be updated. The amount of water running from an existing manhole is the same or reduced from the existing conditions. Everything downstream has been mitigated from the stormwater systems.

Ms. Verner stated that surface flow water is still heading toward the Aquifer Protection District. She asked how this can be made a more site-sensitive project. The proposal is disturbing even more property than the previous version. She stated that the environment is likely not being protected due to the amount of trees proposed to be removed in a sensitive area. Mr. Quinn noted that there is a lot of the site that will not be disturbed. There will be a protection area around the domestic water well. This will be approximately 7-8 acres of woodland saved in perpetuity. Acres of land near the wetlands on the southern portion of the site will also be protected. This is an enormous site, and the applicant is only proposing to develop a portion of it.

In response to a question from Ms. Vorce, Mr. Lopez stated that the maximum size of the proposed building is 140,000 s.f., but the footprint is only 100,000 s.f. This was reduced to address many of the previous Board comments. The 140,000 s.f. building is located on approximately 45 acres. Chair Barbadoro corrected that the subject parcel is 32+/- acres.

Chair Barbadoro stated that the Board needs to first decide if it wants to grant a waiver to this applicant for the parking. Ms. Carter has noted that there will likely be 560 spaces needed for this site. There are requirements that over 500 spaces requires the applicant to build 2% of parking as handicap accessible, or approximately 13 spaces which would require access aisles. The Board also needs to decide if it wants to grant a waiver for loading accessibility. Chair Barbadoro asked where in Section 6402 is the exception for a construction site. Even if the zoning bylaw does not specifically apply to the nuisance of dust, the DEP guidance does. Chair Barbadoro agreed that the bylaw does have a nuisance noise exception during construction. However, there is DEP guidance regarding how much noise can be produced at the property line. The zoning bylaw with respect to dust nuisance is applicable to this application. He asked if the applicant's final answer is that it will not capture and contain, as the bylaw requires, any potential radon.

Attorney Alphen stated that the applicant will review all of the Board's comments and questions and respond formally at a later date.

Chair Barbadoro noted that the applicant's response to the Town engineer's concern has not addressed the impact that the removal of overburden and blasting will have on the water supply to the hotel and aquifer generally. The Board has requested that money be placed in the 53G account for a geotechnical engineer's review. This is one requirement of site plan review and he again requested that the applicant agree to place funds in this account.

Regarding design review, Chair Barbadoro stated that the architectural style of the proposed building needs to be harmony with the prevailing character and scale of nearby buildings and the Town using architectural techniques. Proposed buildings shall be harmonious with one another. Town Counsel has stated that the Board is allowed to request advisory comment from the Design Review Board (DRB), and these comments have been received. He asked if the applicant would alter the plan, if the Board finds the proposal is not in harmony.

In response to a question from Chair Barbadoro, Mr. Quinn explained that one of the driveways is proposed above 5% grade, but that is not the driveway being utilized for ADA-access.

Chair Barbadoro noted that applications are not protected against a zoning bylaw change. Thus, per the recent zoning bylaw changes, the floor area ratio is 0.1. Counting the proposed building's ceiling heights above 12' twice, puts the proposed building above the 0.1 maximum. Attorney Alphen asked why Chair Barbadoro believes this application is subject to the bylaw change. Chair Barbadoro stated that this is true because a definitive plan has not yet been filed and the applicant is not protected until this is filed. Attorney Alphen stated that the applicant has 7 months to do file a definitive plan and is protected as this application deadline continues to run.

Chair Barbadoro stated that, if the drainage is adequate, the drainage should be located on the lot. Attorney Alphen stated that it does not say this anywhere in the bylaw. It is not uncommon for retention basins to be outside of lot lines. The proposal includes a drainage system which runs to pipes which were installed as part of the hotel project.

Chair Barbadoro noted that the height of the building is approximately 60' at the elevator shaft which exceeds the building height of the property. He asked if the applicant is considering reducing the height. Mr. Lopez stated that he believes the requirements take into account the average height including building elements. The applicant is open to revising aspects of the building, including its height.

Chair Barbadoro stated that, with respect to architectural features, the applicant has not submitted information regarding what the walls will look like or will be made out of. Mr. Lopez stated that elevations of all facades of the building have been submitted and he believes the requirements for the bylaw have been met. The building walls will be made of insulated metal panels. Chair Barbadoro asked about the retaining walls. Mr. Lopez explained that some are intended to be made of boulder, utilizing materials on site as much as possible. Others will be traditional block walls. The proposed 20'-30' retaining wall will be a traditional block wall. A geotechnical engineer will be used to create drawings for specifications of the stone used in these walls.

Chair Barbadoro stated that the 2030 Master Plan calls for shops and services in the area proposed for this high cube flex space. This project will remove that option. Mr. Lopez stated that he does not believe the applicant was consulted regarding the village-style development on this lot. He stated that he would love a village-style strip on this lot, if it could be successful.

Chair Barbadoro stated that one requirement, per Section 9203, is a plan depicting natural features. Natural features may include DEP important habitat, and he would like to see this shown on the plan. Ms. Keating-Connolly stated that she is unsure of this designation. Ms. Verner stated that this can be found under the Mass DEP Habitat of Potential Regional and Statewide Importance.

Chair Barbadoro noted that, per Section 9203, the plan should also map manmade improvements, surface and subsurface, which have not been provided. He also stated that the parking waiver may not be granted, and that the parking proposed is above a Massachusetts Environmental Policy Act (MEPA) threshold.

Ms. Carter noted that Boxborough is an Environmental Justice Community, so the site is subject to MEPA thresholds. This could have implications for the truck traffic proposed.

Chair Barbadoro noted that the Board, per Section 9203.E., can request additional information. The Board has requested a geotechnical evaluation, and funds placed into the 53G account to do so. He noted that the Board can also request an evaluation of the proposed development's impact on water resources, such as excessive raising or lowering of the water table. There may be an issue in lowering in this case. Mr. Lopez stated that the applicant was waiting to receive a

proposed scope of the geotechnical engineer's work, but this was never received. Ms. Carter stated that she is concerned with the blasting impact on the hotel's well, as it could cause sediment in a deep rock well. This question has not yet been clearly answered. She has another geotechnical question regarding the proposed rock faces up to 58' in height with a 15' fall zone and would like to see these reviewed for potential additional provisions. Attorney Alphen stated that this can be included in scope of the geotechnical review.

Chair Barbadoro stated that, per Section 9203, the Board can also evaluate the impact of a proposal on landscaping to screen objectionable features from the neighbors. He stated that he believes the proposed site is objectionable, given the height of the building relative to surrounding properties and the number of retaining walls visible. Attorney Alphen stated that it appears the Chair is applying Section 9203 not only to the private common driveway but also to the entire site plan; however, this is outside the scope of the special permit. Chair Barbadoro stated that he checked with Town Counsel and, when a section is triggered, nothing may be built on the property until all items are complied with on the list. He noted that this section does not say it shall only apply only to the driveway. Attorney Alphen noted that this argument is notwithstanding the fact that the driveway's land in question is on someone else's property.

In response to a question from Attorney Alphen, Chair Barbadoro stated that he believes the proposed retaining walls are objectionable to neighbors, such as Attorney Alphen's other client or anyone driving up the exit ramps or on Route 495.

Chair Barbadoro stated that the applicant provided a complete list of approvals needed but, as this project is proposed in the Aquifer Protection District, the applicant is required to obtain the actual permits before seeking a special permit. Ms. Vorce stated that Section 7006 in the Aquifer Protection District permit triggers Section 9204 in the bylaw. It states that hearings can proceed and pause pending other permit decisions. Attorney Alphen stated that he does not believe the applicant needs a permit under the Aquifer Protection bylaw. Chair Barbadoro stated that he will send an email about this topic to the applicant.

Chair Barbadoro stated that, per Section 9204, no special permit shall be granted unless the structures and/or uses proposed are determined not to have adverse effects which outweigh benefits to the Town and/or neighborhood, and that the proposal, in relation to the site, shall include considerations for social and community needs. He asked which social and community needs will be served by the proposal. Attorney Alphen requested that the Board refer to his January 11th memo. He noted that the special permit is for a passive element of an otherwise permitted use in the district. This special permit only applies to the common driveway. This driveway provides access and egress to an allowable use in the district. This is the most direct access, without impacting wetlands. He stated that Route 495 is a state transportation corridor. The driveway will allow access to that corridor, without impacting local traffic. The driveway will be easier and more conducive to access the productive use, which will provide jobs and opportunities for residents, and generate tax revenue without adding school-aged children into the Town. Chair Barbadoro stated that he was looking for the social and community needs served. Attorney Alphen stated that these include the opportunity for new jobs and the ability to develop this land without creating additional roadways. This will allow the applicant to develop

the property for a by right use. Chair Barbadoro stated that social and community needs are pointed out in the Master Plan, such as amenities and things the community might use.

In response to a question from Chair Barbadoro, Mr. Lopez stated that this proposal will allow for the addition of hundreds of new jobs.

Chair Barbadoro stated that, regarding the site plan, the purpose and intent of a zoning bylaw is in part to serve the Master Plan. This proposal, though for a by right use, is not consistent with the Master Plan. It also does not meet the new bylaw, as it is at least 15' too tall. Per Section 8007, the building shall be integrated into the existing terrain and landscape. He does not believe the proposal fits this criteria, as it will stand proud of everything. He stated that he does not see any community amenities proposed. To the extent possible, the building should be designed to minimize the use of steep slope, and this proposal does not. The proposal should minimize the obstruction of scenic vistas from publicly accessible locations. He stated that the nearby highway is a publicly accessible location, from which people will be able to see building. The criteria include maximizing open space retention, which this proposal does not. It also states that the architectural style shall be in harmony with surrounding buildings and the Town and shall relate harmoniously to other buildings near the site. He stated that he does not believe the proposed building is in harmony with the existing hotel. Per Section 8008, the Board can impose reasonable conditions at the expense of the applicant to assure conformance to these items. He suggested that the Board consider limiting the height of the structure based on the elevation of the building. He asked if the applicant would be amenable to that request, along with a request to limit the hours of operation and potential outdoor lighting. Mr. Lopez stated that the applicant would like a chance to review all of the Board's requests in totality.

Ms. Verner stated that the applicant is requesting a waiver from the site plan review regulations, regarding the survey and preservation of significant trees. She noted that the Board is considering a new tree bylaw for the Town, and that protection and preservation of trees is highly important.

Ms. Markowitz stated that she is in agreement with Chair Barbadoro's comments regarding Section 8007, as to whether or not the proposal has architectural harmony and integrates with the landscape. She noted that she believes there is an error with page C107 of the stormwater report. She asked if the impervious area on the site triggers the MEPA 5-acre requirement. She noted that the preliminary subdivision plan included a wetland crossing and asked if this will be included on the definitive plan. She explained that there is a MEPA trigger if a ½ acre of wetlands are disturbed. She stated that the transportation report showed a generation of daily trips close to the MEPA threshold, and that this could exceed it, without yet knowing the end use. She stated that the number of new parking spaces proposed could also trigger a MEPA threshold. She asked how electricity will be brought to the project site and whether there will be any solar or energy efficiency aspects included in the project. She stated that the maximum building height shown is in excess of the allowable 45' height. She asked for the FAR to be made clear through the architectural plans.

Chair Barbadoro noted that, prior to the new bylaw, this site shows a 0.1 FAR, which will use up all of the FAR allowed. Mr. Lopez agreed that there would be no additional buildings on site.

Ms. Verner noted that there is a waiver requested from trees in the parking lot. Mr. Lopez noted that all required trees will be on the site, but not all will be in the parking lot, as the applicant would need to make the lot larger to accommodate all of the trees. Ms. Verner noted that there could be a concern regarding heat islands, and that a building reduction would go long way to increase the amount of green space on the property.

Chair Barbadoro noted that the Board could vote on this item this evening. Ms. Markowitz stated that she would like to hear more regarding a potential mass and height reduction of the building to lessen the impact on the land. Ms. Verner stated that she would like the Board to consider the appropriateness of the building with surrounding parcels. She stated that she has never seen a building like the one proposed around Town. Ms. Vorce stated that she would like to continue this item to let the applicant respond to comments made this evening.

Mr. Lopez stated that the applicant is interested trying to address the Town's concerns. The applicant has already provided meaningful changes to the plans and can provide more detail regarding comments from the Board. There is some realm of flexibility, such as considering shaving a few feet off the size of the building to make it less impactful. There are certain topographical aspects to this site that the applicant cannot get away from. This is a sloping site with a significant amount of grade change. The proposed approach is to minimize the amount of cut needed by placing the building at the center of the slope. The applicant is not planning to come back with a wholesale revision of the plan. Chair Barbadoro agreed that this is a tough site. He stated that the applicant may want to consider that the proposed use is a detriment to the community, and not necessarily the best plan. He would like to consider other ideas for this land.

Attorney Alphen requested that the applicant have time to consider all comments made this evening, and time for peer review of the recently submitted items. Chair Barbadoro noted that he would also like to see draft floor plans.

Ms. Vorce moved to continue this hearing to February 27, 2023 at 7:10pm. Ms. Markowitz seconded.

Roll call: Barbadoro – aye; Verner – aye; Vorce – aye; and Markowitz – aye. Motion passed 4-0-0.

General Business

Application for Road Acceptance – Joyce Lane, Loring Avenue, and MacLeod Way – *This item was previously addressed.*

Department Updates – by Alexander Wade, Director/Town Planner

Mr. Wade stated that he underestimated the noticing requirements for the zoning bylaw hearings and, thus, these cannot be held on February 6, 2023. The Board agreed to hold a working session to continue to discuss the bylaw on February 6, 2023.

Approval of Minutes – January 9, 2023

Ms. Verner moved to approve the meeting minutes of January 9, 2023, as amended. Ms. Vorce seconded.

Roll call: Barbadoro – aye; Verner – aye; Vorce – aye; and Markowitz – aye. Motion passed 4-0-0.

Planning Board Training - *This was not addressed at this time.*

Committee Reports: *The Board only addressed the Water Resources Committee (WRC) report at this time*

- Community Preservation Committee (Vorce)
- Design Review Board (Verner)
- Economic Development Committee (White)
- MAGIC Representative (Markowitz)
- Water Resources Committee (Keating-Connolly)

Ms. Keating-Connolly stated that the WRC held a meeting on the 19th, hosted by one member in particular. This included presentations from Littleton Water Department and DEP considering a water line extension west of Route 495. This is not proposed to cross 495, but to extend down from Littleton's well. These presentations and a map can be found on the WRC website. Questions were asked by residents of the area regarding additional details of cost and betterment fees. The WRC asked residents to enumerate what they currently pay for water. This information will be completed for cost comparisons. This proposal has to be approved at Littleton's Town Meeting, May 1st, and it needs to be made clear that Boxborough will be paying for Boxborough's use. The towns are looking for enough support to sign an intermunicipal agreement, to be presented at Littleton's Town Meeting. The Water Superintendent stated that the intermunicipal agreement needs to be completed by April 17th, which will require a lot of effort.

Chair Barbadoro stated that he would like the Town to consider other solutions.

- LELWD Small Cell Committee (Markowitz)
- Building Committee – TBD
- Boxborough Leadership Forum (Barbadoro)

Recently Received Correspondence

Ms. Keating-Connolly asked about a piece of correspondence received by the Board. Chair Barbadoro stated that Steve Ballard sent a piece of correspondence that he was not able to attach to the packet. The Board is not obligated to read correspondence into the record but does compile and keep this information.

New Business (if any) - *This was not addressed at this time.*

ADMINISTRATIVE BUSINESS - *This was not addressed at this time.*

- Town Center/Enclave Project Updates
- Technical Assistance Program Grant Application and other Grant Opportunities
- Master Plan Action Items
- Website update
- Legislative Update

Ms. Vorce moved to adjourn the meeting at 11:31pm. Ms. Verner seconded.

Roll call: Barbadoro – aye; Verner – aye; Vorce – aye; and Markowitz – aye. Motion passed 4-0-0.

Meeting Documents:

Planning Board Agenda January 23, 2023

244 Adams Place documents

60 Codman Hill Road documents

Application for Road Acceptance – Joyce Lane, Loring Avenue, and MacLeod Way

Draft Minutes

This meeting was conducted via Remote Participation, pursuant to the Current Executive Order.

Join Meeting:

<https://us02web.zoom.us/j/82473650077?pwd=RFdLYnBrcThVdDk4UnBDQVRidmo5Zz09>

Meeting ID: 824 7365 0077 Passcode: 336772

Dial by your location: +1 929 205 6099 US

Find your local number: <https://us02web.zoom.us/j/ksc4PC2ZD>