



## TOWN OF BOXBOROUGH

### Planning Board

29 Middle Road, Boxborough, Massachusetts 01719

Phone (978) 264-1723 • Fax (978) 264-3127

www.boxborough-ma.gov

---

*Cindy Markowitz, Acting Chair • Rebecca Verner, Acting Clerk • Mark White • Rich Guzzardi • Kathleen Vorce*

APPROVED ON July 10, 2023

### Meeting Minutes

May 22, 2023

7:00 PM

### Remote Meeting

**Members Present:** Cindy Markowitz – Acting Chair, Mark White, Rich Guzzardi, Rebecca Verner – Acting Clerk, Kathleen Vorce, and Janet Keating-Connolly (associate member).

**Staff Present:** Alec Wade, Town Planner; Land Use Counsel, Adam Costa; and Town consulting Engineer, Sue Carter, PLACES Associates

Acting Chair Cindy Markowitz called the meeting to order at 7:00 PM with a roll call attendance.

#### **PUBLIC COMMENT:**

None at this time.

#### **GENERAL BUSINESS**

##### **1. Reorganization of the Board**

Ms. Markowitz welcomed new Board member, Rich Guzzardi, and thanked Mark Barbadoro for his years of service on the Board.

Mr. White moved to continue this item to the next meeting. Ms. Vorce seconded.

#### **Discussion:**

Mr. Wade noted that, until a new Chair is nominated, Ms. Markowitz will remain as Acting Chair. There is no Clerk for the Board at this time.

Roll call: Guzzardi – aye; Verner – nay; White – aye; Vorce – aye; and Markowitz – nay. Motion passed 3-2-0.

Mr. White moved to nominate Ms. Verner as Clerk for this evening. Ms. Vorce seconded.

Roll call: Guzzardi – aye; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye. Motion passed 5-0-0.

**PUBLIC HEARING (Cont.):** In accordance with the Town of Boxborough Rules & Regulations Governing the Subdivision of Land and Massachusetts General Law Chapter 41,

Section 81-T, the Planning Board will conduct a public hearing to review the application for a Definitive Subdivision Plan submitted by Nitsch Engineering on behalf of 1414 Mass Ave Owner, LLC, for the subject properties identified as parcel number 12-027-000, 12-028-000, 12-030-000, 13-004-000, 13-022-000, 17-005-000, 17-009-000, 17-010-000, 17-022-000, 17-023-000, 17-024-000, and 18-001-000.

Acting Chair Markowitz read the legal notice and opened the meeting.

Jared Eigerman, Attorney with Reuben, Junius, & Rose, LLP, explained that this subdivision plan is solely for a zoning freeze. A zoning change was approved in November by voters, and the preliminary plan for this project was filed prior to that. The zoning change would reduce the allowable floor area ratio by 50% for buildings that exceed 12' in ceiling height. The applicant is working through the Massachusetts Environmental Policy Act (MEPA) process and the Secretary's certificate was recently forwarded to him. The MEPA process is not involved in this zoning freeze proposal. A meeting was held last week with the Board of Health, and this is a separate matter as well. He noted that a report sent to the Planning Board from the Board of Health was never received by the applicant. He noted that the peer review from PLACES Associates was only received 90 minutes ago, and the applicant is not prepared to comment on it at this time.

Ms. Markowitz stated that the legal notice identified 12 parcels, but the information has since been amended to identify 13 parcels. She asked if the applicant would like to move forward with addressing only the 12 parcels listed at this time. Attorney Eigerman stated that supplemental information accounted for the 13 parcels, but the applicant would like to move forward at this time.

Sandy Brock, Nitsch Engineering, explained that this lot has frontage along Massachusetts Avenue. The site itself is just over 207 acres. There is an existing building and parking. The majority of the rest of the site is located toward the southern portion of the site and there is a solar array also on the southern portion of the site. The preliminary plan had a longer road but based on feedback and comments from the Planning Board and others, the definitive subdivision plan was reduced. The access points remain the same, but the length of the roadway is much reduced. The design of this plan shows a private roadway, with no intention of having it accepted by the Town. The intention of this subdivision submittal is to freeze the zoning. There is access to the site off Route 111, with an existing driveway. The other access point off Adam's Place is also the location of an existing driveway. A proposed cul-de-sac is intended to meet the requirements of the subdivision regulations, as does the pavement and the width of the right of way. There is a grass strip along the side, along with a meandering sidewalk, also intended to meet the subdivision rules and regulations. In the middle of the cul-de-sac is a landscape island. Lot 1A is a non-buildable lot that was created by two new right of ways. The intention of the design to have Lot 1A as a drainage easement, as the majority of the lot is a wetlands area. This lot is where the existing drainage generally flows. Lot 2 and Lot 3 are proposed to be created, meeting the requirements of being buildable. The existing building is shown as being located at least 50' from the proposed new right of way. The preliminary flood plain line is shown on the plan for completeness.

Mr. Guzzardi asked if the frontages will be within the new roadway. Ms. Brock stated that Lot 2 has frontage on Massachusetts Avenue and along the proposed right of way. Frontage for Lot 3 will meet the regulations along a single street. Lot 1A is a non-buildable lot, created through creation of the right of ways.

Sue Carter, PLACES Associates, stated that most of her comments are specific to the subdivision regulations. She reviewed the plans as if they will be constructed because they could be. The Planning Board regulations state that a commercial subdivision will be viewed as a collector or arterial road. The proposed layout has a mixture of both, with a 60' right of way, which is a requirement of an arterial road, and 24' pavement width, the requirement for a collector street. No new vehicle trips are proposed. This is currently a private commercial drive. A determination of the category of road by the Board will help her determine parts of her review.

In response to a question from Ms. Carter, Ms. Brock stated that it is not the intention to develop Lot 1A and there will not be any adverse impacts to the existing wells. If this were to be developed, these wells will have to be relocated somewhere on the rest of the lot. This is not shown on the plans, as it is not the intention at this time.

Attorney Eigerman stated that, under the subdivision plan, no buildings are proposed, and no additional floor area is proposed. No new use is being introduced, only new roads and lots.

Ms. Carter noted that she is concerned that two of the existing wells will be located within the right of way. She asked if a use easement and protective well radii are needed. She stated that Lot 2 is essentially non-buildable once the Zone 1 well radius is included on the plan. Lot 3, due to the Zone 1 well radius, cannot gain access to its own frontage. She asked that the Board comment on if the subdivision road would meet the arterial standard.

Ms. Markowitz explained that the issue is that the plan shows a 60' right of way, as associated with an arterial roadway, but the road width is 24', which is considered a collector pavement width. The traffic study for the Arranta Bio/Vibalogics project accounted for 2,300 trips on site. This should require the road be built to arterial standards, or a 30' width.

Ms. Verner stated that she believes a 30' width should be required for the site, due to the number of trips proposed to access the site.

Mr. White explained that he has not yet had time to thoroughly review the documents given, as some were only received this afternoon. The applicant also needs time to review the peer review given the applicant also had not received this until this afternoon. Ms. Markowitz stated that she believes the Board was supposed to only have a high-level review of this item this evening.

Mr. Guzzardi stated that, based on the data, Ms. Carter's suggestions make sense. He asked what the applicant's response would be. He questioned what will be built on this site. Attorney Eigerman stated that a preapplication meeting with staff in March explored a site plan review for a project for the site. This was not filed, due to negative feedback received. He stated that an

application under the commercial open space special permit is likely to be submitted, with new buildings on the northerly part of the site near Massachusetts Avenue. The rights in the new zoning must first be vested, in order to add floor area ratio to the site. The roadway, as shown, is not planned to be developed.

Mr. Guzzardi stated that the plan will need to meet the subdivision regulations, once formally submitted. Ms. Markowitz stated that the Board is required by statute to approve/disapprove/modify the application. The Board of Health disapproved the plan, which needs to be discussed. Unless a plan is fully compliant with all items, the Planning Board cannot approve it. The applicant may be able to modify the plan to make it compliant.

Attorney Costa stated that it is an accepted practice to submit a plan only for the purpose of freezing zoning, though it does often bring up many questions for Board members.

Ms. Markowitz asked for public comment.

Aisling O'Shea, Codman Hill Road, asked about separating this process from the MEPA process. The proposed road, regardless of the width, will increase the impervious area of the site. All items are relevant to the development proposed on the remainder of the site.

Jim Syiek asked what the purpose is of freezing the zoning if nothing is to be built on this site. He asked if the purpose is to bypass the will of the Town, as displayed at fall Town Meeting. Ms. Markowitz stated that the applicant has been clear that the application is only to freeze the zoning and that the definitive plan is not to be built. Attorney Eigerman stated that something will eventually be built on the site, but this is still in process. There is a historic statutory process that allows for zoning freezes. It is within a landowner's rights to use this procedure. This has always been clear in the project submittals. MEPA is a State process. The owner filed a preliminary plan under the original zoning, prior to the fall Town Meeting vote, and would like to continue pursuing this.

Jim Syiek stated that the majority of the Town purposefully intended for limits to be placed on the floor area ratio to prevent high flex cube space that could be built. This is a concern for the nearby homeowners. This process seems to be a way of circumventing the will of the Town.

Attorney Costa explained that freezing the zoning is not only for the subdivision plan at hand, but the entirety of the zoning bylaw as it exists of the time of the original submittal. Developers often use this method when they get wind that a zoning action will be coming up at a town meeting.

Hong Li asked if the Board would approve the plan if it complies with zoning regulations. He asked if the neighbors will be consulted in this process. Ms. Markowitz stated that the Board has a statutory obligation to determine if the application meets all subdivision and Board of Health regulations. The Board and applicant can hear public comment, but the Board is obligated to perform its statutory requirement. Ms. Verner noted that residents are encouraged to express their opinions during the hearings on this item.

Ms. Vorce stated that the Board, by statute, can approve, deny, or approve with conditions. The public comment can be used to consider those conditions.

Ms. O'Shea asked if the MEPA plan is consistent with the prior zoning being pursued by the zoning freeze. Ms. Markowitz stated that the plan provided to MEPA, which is not yet in front of the Planning Board, would exceed the floor area ratio calculation under the current Town zoning. Attorney Eigerman agreed that the MEPA plan would require a floor area ratio under the previous zoning. The plan in front of the Board is separate from the MEPA plan. Various approvals from Town boards would need to be sought, if a plan similar to the one sought under MEPA, were to be submitted. This is simply a subdivision plan to freeze the zoning on the land for eight years. This does not allow for a building permit under the MEPA permit.

Jeffrey Glidden noted that the Board of Health previously disapproved this plan. There seem to be many questions through the peer review, and he would recommend the Board deny the plan this evening, if a vote is sought. Attorney Eigerman stated that the applicant is not requesting a vote this evening. In fact, he only found the Board of Health report through the agenda for the Planning Board meeting. He stated that the Board of Health did not hold a public hearing, which is required by law and as a Constitutional right. There is no rush for a vote. Ms. Markowitz stated that the purpose of this meeting was to open the public hearing and hear a presentation from the applicant. She noted that the Board of Health meeting was legally noticed, and Ms. Brock was in attendance.

Hugh Fortmiller stated that MEPA stated that the plan it received does not comply. He asked why MEPA is not involved in reviewing and commenting on this subdivision application. Ms. Markowitz explained that MEPA has certain triggers in which it reviews an application. She stated that, under the Subdivision Control Act, it is appropriate for the applicant to file this subdivision plan with the Planning Board. Attorney Eigerman stated that the Massachusetts Environmental Protection Act states that no State agency can grant a license/permit/funding or transfer State land until the MEPA process is satisfied. This has no direct connection to the municipal process. Mr. Fortmiller stated that it does not make sense that the subdivision approval will impact the overall project on the site, yet the requirements for the entire project through MEPA do not impact the subdivision plan.

Ms. Verner stated that she agrees with Ms. Carter's opinion regarding the roadways of the plan. The road is likely not represented on the plan the way it should be. Attorney Eigerman stated that the width issue needs to be studied, as it was only explained to the applicant earlier today. Ms. Markowitz stated that this is a discretionary item for the Board, not the applicant. Attorney Eigerman noted that there is an existing 50' wide access way on the site. The definitive plan does not show any additional buildings on the site. He cannot concede the roadway point without first discussing this with his team.

Ms. Markowitz noted that 974 parking spaces at the existing site. If these were all to be utilized, this would exceed the 1,200-trip threshold for the proposed road. An arterial roadway will likely

be required. Attorney Eigerman stated that existing versus proposed conditions need to be discussed and addressed by the applicant's team.

Mr. White moved to continue this hearing to June 5, 2023, at 7:10pm. Mr. Guzzardi seconded. Roll call: Guzzardi – aye; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye. Motion passed 5-0-0.

## **2. Request for Waiver of Site Plan Approval – 200 Beaver Brook Road**

Mr. Wade explained that Russell Dion of Campanelli approached him in February to start the discussion on this item. The team has found a tenant for Building 200, Medtronic. Medtronic is a great medical device company. The building will be retrofitted for this need. The current building permit does not entirely meet the new company's needs and Campanelli has submitted this application on their behalf. The proposed loading dock itself does not trigger the site plan review process, but the proposed alteration to parking spaces on the site is a triggering mechanism. Russell Dion would like to discuss why this is a minimally impactful request.

Russell Dion explained that Medtronics is a manufacturer of O-ARM Surgical Imaging Systems. 200 Beaver Brook will be used as the principal facility for this part of the company, but no manufacturing will occur on site. The site will be used for refurbishing and recalibrating systems. Building 200 is a 96,000 s.f. facility. Building 300 is currently fully leased by Cisco. The site shares circulation, with two curb cuts off Massachusetts Avenue. There is a proposed 435 s.f. loading dock on the plan. Medtronics will be receiving equipment in a corral-type dock. The equipment arrives between 3-7 times per week, via box trucks. The site currently contains 326 parking spaces and is required to have 316. The proposal includes removal of 20 spaces, in order for vehicles to have proper access to the site and loading dock. The new plan adds four spaces, leaving a deficit of six. 61 reserved spaces are included on the plan, as part of the original permit. Medtronics plans to have 75-150 employees on site.

Ms. Verner asked if the interior could be retrofitted through an additional existing access point instead. Mr. Dion explained that there is a power/data center area in that space. The equipment needs to be analyzed close to where it is received, which is not possible with the current layout.

Ms. Verner stated that she would like to see the previous decisions associated with this site before approving a waiver. The proximity of the new loading dock to the neighbors is concerning. This location will be more visible and could bring increased noise to the Swanson Road abutters. Mr. Dion stated that there is very dense vegetation on portions of the site. The truck traffic will access the site in a loop fashion around the building.

Ms. Verner asked about the anticipated hours of operation. Mr. Dion stated that this will likely be 7am-7pm roughly. There will be one light at the truck dock, but this will be a manually operated light, only be on when trucks are arriving/departing.

Mr. Guzzardi stated that the request seems minimal. The proposed parking changes and the proposed additional loading dock do not seem impactful. A site plan review seems extensive for what seems to be a good use for this facility.

Mr. Dion noted that there are four green islands proposed on the site. Trees could be planted in those islands to continue to obstruct views of the site.

Ms. Markowitz noted that she would like to make sure the stormwater management on site is not impacted by this proposal. Mr. Dion explained that there is currently a catch basin at the low area of the site. A trench drain will go across the low area of the proposed loading dock. This includes an oil/water separator. Mr. Wade noted that the Board could request the Town consulting engineer review this.

Ms. Verner stated that she would like to walk the site. Ms. Markowitz requested that Mr. Wade compile all previous documents for this site and check with Ms. Carter on a peer review of the drainage. The Board noted that it will continue discussion on this topic at its June 5<sup>th</sup> meeting.

### **Department Updates**

Mr. Wade stated that the Associate Planner position will be advertised shortly. The Select Board met this evening and approved the Economic Development Committee's (EDC) Business Grant Program. This will give the Town a seat at the table to help decide what its economic future is going to be. The EDC will be going through a review process through the summer, fall and winter, with final decisions due in February. The EDC successfully received a Community Planning Grant last year, for funding to hire a consultant to help conceptualize what a Downtown Boxborough could look like. The request for qualifications for this item is moving forward at this time.

There was a discussion regarding ongoing enforcement in Town.

### **Approval of Minutes – April 3, 2023; & May 1, 2023**

The meeting minutes of April 3, 2023 were tabled for discussion at a future meeting.

Ms. Verner moved to approve the meeting minutes of May 1, 2023, as amended. Mr. White seconded.

Roll call: Guzzardi – abstain; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye.  
Motion passed 4-0-1.

### **Planning Board Training**

The Board discussed upcoming training opportunities.

### **Committee Reports:**

- Community Preservation Committee (Vorce)

Ms. Vorce stated that CPC will meet on June 7, 2023. She will report back after this meeting.

- Design Review Board (Verner)

Nothing at this time.

- Economic Development Committee (White)

Nothing at this time.

- MAGIC Representative (Markowitz)

Nothing at this time.

- Water Resources Committee (Keating-Connolly)

Ms. Keating-Connolly stated that the WRC most recently drafted and submitted comments for the EIR for 1414 Massachusetts Avenue. The group continues to work on the Littleton Water main extension project. Littleton's town meeting voted to approve the funding for this project. There will be a WRC meeting tomorrow evening at 7:30pm.

- LELWD Small Cell Committee (Markowitz)

Ms. Markowitz noted that this committee does not meet anymore and will likely be removed from the agenda list.

- Building Committee – TBD

Nothing to report at this time.

- Boxborough Leadership Forum

Nothing to report at this time.

### **Recently Received Correspondence**

Ms. Markowitz noted that there is a certificate from Draft Environmental Impact Report (DEIR) for the proposed development at 1414 Massachusetts Avenue which should be posted to the Planning Board website.

### **New Business (if any)**

None at this time.

### **ADMINISTRATIVE BUSINESS**

- Town Center/Enclave Project Updates



In response to a question from Ms. Markowitz, Mr. Wade stated that final certificates of occupancy should be reviewed shortly. There are certain checklist items for these final certificates that will be reviewed by the Building Inspector.

*The following items were not addressed at this time.*

- Grant Opportunities
- Master Plan Action Items
- Website update
- Legislative Update

**ADJOURN**

Mr. White moved to adjourn at 10:03pm. Ms. Vorce seconded.

Roll call: Guzzardi – aye; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye. Motion passed 5-0-0.

**Meeting Documents:**

Planning Board Agenda May 22, 2023

1414 Massachusetts Avenue definitive subdivision documents

200 Beaver Brook Site Plan Waiver request documents

Recently Received Correspondence

Planning Board draft minutes 4/3/23; and May 1, 2023