



TOWN OF BOXBOROUGH

Planning Board

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www.boxborough-ma.gov

Cindy Markowitz, Chair • Mark White, Clerk • Mark Barbadoro • Robin Lazarow • Rebecca Verner

APPROVED ON SEPTEMBER 21, 2020

Meeting Minutes

August 31, 2020

7:00 PM

Remote Meeting

Members Present: Cindy Markowitz, Mark White, Mark Barbadoro, Rebecca Verner, and Robin Lazarow

Also Present: Simon Corson (Town Planner), Sue Carter (Town Engineer), and Kristan Patenaude (Recording Secretary)

Also present from the Enclave Team: Shawn Nuckolls

Several members of the public were also present.

Ms. Markowitz called the meeting to order at 7:03 PM.

Public Comment

Cathy Biron, 539 Burroughs Road, explained that she and her husband have endured a stressful construction process for the past 11 months. She and her husband's day-to-day processes have been interrupted. Their home has no privacy anymore and the clearcutting of trees has left the property exposed to the elements as it never was before. She explained that there were supposed to be 25 trees replanted in May; those trees have not yet been seen. There have been several trees that have come down recently, due to extreme weather events, including two 100-year-old oak trees that took down TV wires and cables. Some of the trim and screens from their home were also torn off. The additional downed trees have reduced the buffer around their home even further. She explained that the property has become soiled and devastated from the dirt being kicked up. She and her husband can't go outside to enjoy their property and can't take care of their yard because of the amount of dust and rock particles. She expressed horror at not being able to enjoy the amenities, privacy, and peace in the luxury of their home that they've lived in for the past 28 years.

Ms. Biron stated that there have been too many dynamite blasts to list, without any notification. One blast in particular disrupted her family's Christmas tradition celebration. In March there were blasts registering at 1.0, 1.2, 1.2, and 0.6, and then drilling for a week nonstop. In July and August there was more noise and air pollution. On August 13th a formal complaint was filed with the Town of Boxborough. She hesitated to file the complaint due to possible retaliation from Mr. Fenton. The ensuing threats, such as leaving large construction equipment in front of their home, and blasts with no notification, followed. There was also a confrontation with Mr. Fenton on August 25th, when he was hammering stakes into their property and spray painting

their grass and vegetation. She explained that Mr. Fenton noted to her husband that the stakes may have been slightly off but that this was being done to “send your wife a message.” She stated that she feels very threatened. She explained that Simon Corson, Town Planner, has been very responsive, and assured them that Mr. Fenton would not harm them, but that Mr. Fenton still harms them every day. She believes their livelihood is at stake, and fears for further retaliation after this meeting.

Ms. Biron requested that there be a replacement vegetated buffer in place ASAP and that the landscape design include hedges to buffer their property. She would also like to see the 25 trees be placed that were supposed to be completed in May. She would request that the blasting be less intense and more often, instead of more intense and less often. She would also like a full disclosure of the construction activities ahead of time. She thanked the Boxborough Fire Department and Captain Gray, the Boxborough DPW, the Building Inspector, and the Planning Board for making sure the Zoning laws are being correctly followed.

Cindy Markowitz stated that she appreciates Ms. Biron’s statement and sympathizes with her dealings.

Emile Biron, 539 Burroughs Road, stated that it would be nice if he and his wife had some input into what sort of plantings will be planted on their property lines.

Administrative Business

Meeting Minutes

Robin Lazarow motioned to approve the June 29, 2020 Planning Board meeting minutes as submitted. Rebecca Verner seconded. Motion passed unanimously 5-0.

Rebecca Verner motioned to approve the July 1, 2020 Planning Board meeting minutes as submitted. Mark White seconded. Motion passed unanimously 5-0.

Mark Barbadoro motioned to approve the July 13, 2020 Planning Board meeting minutes as amended. Rebecca Lazarow seconded. Motion passed unanimously 5-0.

Rebecca Verner motioned to approve the August 3, 2020 Planning Board meeting minutes as amended. Robin Lazarow seconded. Motion passed unanimously 5-0.

Review Decisions

700, 750, & 800 Massachusetts Avenue Site Plan Modification #1

DPW Director, Ed Kukkula; Sue Carter; Shawn Nuckolls; David Buckley; and Greg Roy joined the meeting.

Ms. Markowitz stated that this is to review the site plan modification #1 from May 18th, regarding the footprint modification. A decision was reviewed and drafted by herself and Mr.

Corson, and then reviewed by KP Law, P.C. This will memorialize the modifications made to the footprint, as agreed on by the Board.

Ms. Markowitz reviewed a couple of suggested changes in language.

Ms. Markowitz suggested in the 2nd paragraph, 2nd sentence to insert the words 'gross floor area' instead of 'building footprint.' She explained that building footprint is not defined in the bylaw definitions.

Mr. White stated that the intention was to look at the building footprint, not the gross square footage.

Mr. Barbadoro stated that the gross square footage would look at adding the footages of each floor together, but the building footprint would look at the external dimensions of the foundation.

Ms. Markowitz stated that she doesn't want to accidentally allow for larger massing of structures by using the term 'building footprint.'

Mr. Nuckolls stated that he believes the term 'gross floor area' is confusing, as that term has not previously been used. He explained that the screen porch option would not include a basement as it will be on piers. The other options may have basements.

Ms. Verner stated that she likes the wording as is because it refers back to the zoning bylaws.

Ms. Markowitz stated that the exact term in the bylaws is 'gross floor area.'

In response to a question from Ms. Verner, Mr. Corson stated that the maximum square footage allowed by the bylaws is 8,000. 15,000 square feet is allowed by special permit by the Board of Appeals.

Ms. Markowitz noted that Mr. Nuckolls commented that he would like to change the word 'porous' to the word 'pervious materials.' The reasoning for this is to be consistent with 41.b.II of Site Plan Approval.

Francie Nolde, 459 Sargent Rd, explained that she is looking at this project from a sustainable standpoint, regarding carbon emissions in town. She would like the Board to look at extra square footage of units in terms of an increase in using electricity, natural gas, and energy consumption. This will accrue over time and she would like the Board to consider sustainable language and viewpoint in the future.

Ms. Markowitz stated that the Board voted to approve the building footprint modification in May. It tries to address sustainability issues when reviewing applications.

Mr. White made a motion to approve the changes as amended and authorize the Chair to execute it. Ms. Verner seconded. Motion passed unanimously 5-0.

7:30 Public Hearing:

700, 750, & 800 Massachusetts Avenue – Scenic Road, Public Shade Tree, and Stone Wall Application

Ms. Markowitz read the legal notice:

Greg Roy, of Ducharme & Dillis, joined the meeting. He stated that sidewalks were a condition of the approval of the Enclave project. The sidewalk in question is within the Stow Road right of way, from the entrance of the proposed development to the Town Center. He stated that a number of trees will need to be removed as a result of the route, and a section of stone wall will need to be reconstructed. He stated that he recently had a site walk with the Tree Warden, Ed Kukkula; he also met with the Tisbury Meadow Association and proposed a site walk with them. He explained that there are two dead trees and one 20" maple tree, all of which are on the Tisbury Meadow property. He explained that the existing topography combined with the minimum amount of right of way will result in the loss of a significant portion of the rootball for the 20" maple tree, which is why it is being proposed to be removed. He explained that across the frontage of this area there is approximately 4' at the closest point between the pavement and the right of way. There is a stonewall along the property line that will need to be removed prior to construction. It will be relocated across the Tisbury Meadow frontage. He explained there is also a 25" ash tree that will be removed, along with a 20" spruce tree and a 16" Oak tree. There are also two oak trees, 8" and 12," that will need to be removed along the route. He stated that the width of the sidewalk will be 5'. There will be a sloped berm between the traveled road and the proposed sidewalk. He stated that a 2' easement will be necessary for the sidewalk to exist across the frontage of Tisbury Meadow.

In response to a question from Mr. Barbadoro, Mr. Roy stated that the current plan for the sidewalk is a 5' width, but that it could go as narrow as 4' and still achieve ADA compliance.

In response to a question from Ms. Verner, Mr. Roy stated that the stonewall discussed is not well formed, with stones sporadically placed. He stated that the stonewall will need to be removed and relocated regardless of the width of the sidewalk.

Ms. Verner stated that the Town-owned sidewalk that stretches from West Acton to West Concord was beautifully done. It was not perfectly engineered but works within the topography of the area and meanders along the side road. She would like to think outside the box in order to preserve some of these sensitive areas along this route.

Mr. Roy stated that there is a grading issue in this area, with a wetland to cross and buffer areas to consider. He stated that if a sidewalk is to be completed, he would like to be sensitive to privacy issues with Tisbury Meadow and place the sidewalk as far from the houses as possible. He stated that some decks and patios are within 50' of the road in that area.

In response to a question from Mr. White, Mr. Kukkula stated that the bobcat used to plow sidewalks in town is 5' wide.

Mr. White stated that he is not sure how to put a 5' sidewalk in this area without taking more land from Tisbury Meadows. He stated that having a winding sidewalk is nice but hard to do unless the land is owned by the Town. He stated that Tisbury Meadows will want plantings to offset what is being lost due to the sidewalk construction.

Mr. Kukkula stated that he is not sure if he sees the value in having a sidewalk in this area. He believes that this will take away from the appeal of the road itself. In his opinion he likes the road as it is. He also believes that a sidewalk of this type is difficult without the proper right of way.

Mr. Barbadoro agreed and stated that he likes this road as a scenic road.

Mr. Kukkula stated that this will be an asphalt sidewalk with a modified Cape Cod berm. He explained that these don't usually hold up well in New England weather and will be a maintenance issue eventually.

Mr. Roy stated that the applicant is amenable to discussing a payment to the town in lieu of constructing the sidewalk.

In response to a question from Ms. Markowitz, Mr. Kukkula stated that a meandering sidewalk in this area would have to extend over the grass and wouldn't meet ADA requirements.

In response to a question from Ms. Markowitz, Mr. Kukkula stated that the only two trees being discussed that are on town land are the large spruce tree and one other along the route. The rest are on private land.

Mr. Barbadoro stated that if the DPW Director is not thrilled with the sidewalk and Tisbury Meadows does not feel that a sidewalk is necessary, it might be more beneficial to take the payment to the town and leave the road feeling historical.

Owen Neville stated that, if the proposed sidewalk was on the east side of the road, it would get sun in the winter to help with snow melt. He explained that there would also be little interaction with the wetland on this side of the road, and it would line up with a route that could eventually lead to Flerra playground; a highly desired trail route.

Nick Gladyszak, 120 Stow Rd, stated that he agreed with the previous suggestions and that he might not have to move his mailbox if the sidewalk was moved to the other side of the street. Francine Nolde stated that she thinks the Board should look into details as to who will actually use the proposed sidewalk. She suggested that the number of trees being cut down be replaced with mature beautiful trees.

Pauline Church, 91 Stow Rd, stated that the loss of the 20' maple tree will affect her greatly because it gives her lot privacy from the road. She stated that she is also concerned with the white pine trees in her backyard, if the area is dug up to build a sidewalk. This construction might hurt the root system of the other trees. She stated that she doesn't believe the sidewalk

makes sense on this side of the road. She believes that she speaks for all of the Tisbury Meadows Association.

Elaine Olmstead, 89 Stow Rd, stated that she believes this will have a long-term effect on the existing trees and shrubs in the area and will disrupt the plants during the construction process. She also stated that this is the safest point along Stow Road, beyond this it narrows and curves and is quite dangerous.

Mary Ann Brown, 93 Stow Rd, stated that she is concerned for the health of the existing trees in the area.

Nick Gladyszak, 120 Stow Rd, stated that the number of pedestrians has increased during the pandemic. He believes that the suggestion to move the proposed sidewalk across the road will help deter speeds along the road and increase safety on the east side of the road.

Ms. Markowitz stated that there are some outstanding questions from Tisbury Meadows that need a response from Ducharme & Dillis. She will put Board comments in the same letter.

In response to a question from Ms. Lazarow, Mr. Roy stated that the sidewalk was a condition of the settlement agreement between the Town and the developer. This agreement can be modified by mutual agreement of both parties, he believes. He will discuss the possibility of payment in lieu of the construction of the sidewalk with the applicant.

Ms. Verner moved to continue the public hearing to September 21st, 2020, 7:30 PM at Town Hall or via Zoom. Ms. Lazarow seconded. Motion passed unanimously 5-0.

Review Submittals

700, 750, & 800 Massachusetts Avenue – Discussion of 8/17/20 Enclave at Boxborough Submittal Landscape Plans revised 8/10/20

Ms. Markowitz stated that an August 10th submission of revised landscaping plans reflects revisions to plantings behind units 37, 38, 39, and 40. She explained that what was requested were green giant arborvitae placed in lieu of what was there. For three trees behind units 37 and 38, it is being proposed that black hills spruce trees be planted. For three trees behind units 39 and 40, it is being proposed that three blue spruce trees be planted.

Ms. Verner stated that these amendments are being made to ensure that sizable evergreen material will be placed in the highlighted areas. These trees should be 8-10' high at the time of planting. She stated that additional plant species could be grown in layers to create a full evergreen screen throughout. She explained that wider growing evergreen species will get wider and broader to block visual impacts. She explained that some are located directly between the homes and the new units. She stated that she had hoped that arborvitae would replace the species instead of spruce trees, but the applicant has still done as asked by mixing in arborvitae in key areas and intervals per the plans.

Ms. Markowitz stated that the Board is comfortable with the landscape drawings with the revisions and is not expecting further revisions to the landscape plans.

In response to a question from Mr. White, Mr. Nuckolls stated that he is hesitant to comment on how quickly plantings can be placed near the Birons' house, as the Toll Brothers don't currently own the land. He stated that he will call Jim Fenton to expedite these plantings as soon as possible. He believes that this can be done within 30 to 60 days at the latest period. He would also like to make sure that proper irrigation is available, but this will be easier in the fall.

Mr. White suggested that the Birons could give water to the site in order to get these trees planted more quickly. Mr. Nuckolls and the Birons agreed to make that deal.

In response to a question from Ms. Markowitz, Mr. Nuckolls stated that he will work to commit to complete the buffer plantings this fall.

Miss Markowitz stated that the Birons should have a representative available for an upcoming site walk.

In response to a question from Ms. Verner, Mr. Corson stated that the Building Official will be the one to make a judgment call, if needed, if planting stock is not available and alternates need to be chosen.

Ms. Verner stated that she believes some changes in alternate plantings would warrant a discussion with the Planning Board. Ms. Markowitz suggested that the abutters and Ms. Verner be included in any discussions regarding substitutes to the proposed plantings.

Town Center/Enclave Project

Mr. Roy stated that all utilities have been installed and that the septic is looking to be built soon. He stated that there is fine grading happening to prep for paving. Paving should occur later this week.

In response to a question from Ms. Markowitz, Mr. Roy stated that he believes there will still be additional blasting and stonecutting on site. Mr. Nuckolls stated that he believes there is about a week's worth of stone crushing still to happen. Most of this will occur during wet weather to manage dust.

In response to a question from Mr. Barbadoro, Mr. Roy stated there are watering trucks on site to help control the dust.

Mr. Corson stated that the smaller stone crushing machine was moved on site and the Board of Health has been monitoring the area.

In response to a question from Mr. Barbadoro, Mr. Roy responded that the stone crusher is currently located at the intersection of the loop road and the cul-de-sac road.

In response to a question from Ms. Markowitz, Mr. Corson stated that the large stone crushing machine is located in a designated area central to the site. He is unsure why the smaller machine is not also in this location but has highlighted this item for Bentley Herget to review.

The Birons stated but these smaller rock crushing machine has been located right behind their house all weekend.

Cisco Campus Discussion

Ms. Markowitz explained that the Cisco property has hit the market. She shared with the group a graphic for a working group design. She suggested to identify a working group that will be overseen by the Planning Board. This group will take a more thorough assessment of the Town's baseline capacity to take on development. The working group inputs will come from public safety needs, housing needs, current and tipping points for the schools, water supply, community input, financials, etc. She stated that the working group will receive inputs from all of these areas to tweak the model for each development proposal to come before the Board.

Mr. White stated that buyers of properties usually know what the area is zoned for and what they can do by right. It is hard to anticipate and predict what owners will ask for. He suggested that the Board wait to see what comes out of the UMass study first.

Mr. Barbadoro stated that he believes the Town should identify what it wants to do with land first and zone for that.

Ms. Markowitz stated that she believes some tipping points should be established the demonstrate who will become impacted from developments and what can be accommodated by the town.

Ms. Lazarow stated that she believes the baseline water supply information should be gathered from existing information, if possible. If it cannot be gathered from existing information, she would like to know how much money it would cost to get this information.

Mr. White stated he believes it is foolish to focus this effort on the Cisco project, in particular because of the timing.

Ms. Verner stated that the feasibility study should be focused town-wide in order to know what the Town can handle. This should not be Cisco specific.

Ms. Markowitz stated that the basis for this model could then be applied to any application. Diana Lipari, 394 Littlefield Rd, stated that the highest and best use for this property is probably warehouses and residential units. She believes that the residential component is an important aspect. She believes the study group is important.

Discussion of Memorandum of Understanding (MOU) regarding administrative direction for the Town Planner

Ms. Markowitz explained that the Town Planner job description identifies aspects of supervision that come directly from the Planning Board and some that come directly from the Town Administrator. It mentions an MOU between the two entities. She would like to designate one or two Planning Board members to discuss this topic with the Select Board.

Maria Neyland, Chair of the Select Board, stated that this discussion will be had offline and information then shared to each Board.

Mr. White and Mr. Barbadoro volunteered to be in this small group.

Ms. Neyland stated that this position has been running for many years without an MOU. She explained that the Select Board needs to make sure that the expectations for this position make sense and memorialize them.

Solar Bylaw

The Planning Board reviewed the cover letter for the Solar TAP Grant. Ms. Verner stated that she reworked several parts of the cover letter and made it more specific to this Town.

In response to a comment from Ms. Markowitz, Ms. Verner stated that she will rework the cover letter to mention that the Town was awarded a similar grant in the past.

Ms. Markowitz stated that this cover letter can be revised and sent to Mr. Corson for Town Administrator Ryan Ferrara to sign.

Zoning Bylaw Audit

Mr. Corson stated that task one of this project is underway, which is to do an assessment of the existing bylaw. Task two will be to meet with people, have meetings with the Planning Board and Town staff.

Ms. Lazarow moved to adjourn. Seconded by Mr. White. Motion passed unanimously 5-0 at 10:14 PM.

Meeting Documents

Meeting Minutes June 29, 2020

Meeting Minutes July 1, 2020

Meeting Minutes July 13, 2020

Meeting Minutes August 3, 2020

Design Review Board Memorandum: Design Review Board Application dated 9 July 2020 – Supplemental Documentation for the Community Clubhouse Building – August 21, 2020

Tisbury Meadows Condominium Association Comments and Questions re: Public hearing for proposed scenic sidewalk on Stow Rd – August 27, 2020

Biron Formal Complaint emails – August 14, 2020; August 5, 2020; August 10, 2020; August 12, 2020

Town Planner Job Description – February 2007

Copy of Town of Shirley Planning Board Rules & Regulations, Final Draft July 24, 2019

MassDevelopment Real Estate Services Technical Assistance FY21 Call for Proposals
Mixed Use Zoning: A Planners' Guide

Working Group diagram

LEGAL NOTICE OF PUBLIC HEARING: Town of Boxborough
Planning Board – Scenic Road Permit, Public Shade Tree Removal, & Stone Wall Alteration
Application

Site Plan Modification #1

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

Zoom Access Protocols

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