



## TOWN OF BOXBOROUGH

### Planning Board

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

APPROVED ON October 19, 2020

### Meeting Minutes

October 5, 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, and Greg Roy

Several members of the public were also present.

Ms. Markowitz called the meeting to order at 7:00 PM.

Jennifer Barrett, Town Accountant, spoke with the Board regarding the handling of funds, if they were to approve a payment in lieu of building a sidewalk as part of the 700, 750, & 800 Massachusetts Avenue project.

Ms. Barrett explained that funds received, unless otherwise specified, would be placed into the General Fund as miscellaneous revenue. These funds would then be rolled into other tax revenue received and become free money at the end of the year. If, however, funds are set aside for a particular purpose, they can be set aside in an existing account, or a new account can be generated to hold them. This is permitted under Massachusetts General Law 44, 53, and 53a. She explained that, if the developer accepts to not do the sidewalk as originally proposed, a payment in lieu of this can be accepted to be used for other future purposes with a letter that specifies this intent.

In response to a question from Ms. Markowitz, Ms. Barrett stated that a letter from the developer, specifying that the funds are to be placed into a gift account that can accrue interest, needs to be clearly stated in order for the funds to not be placed into the General Fund. If the payment is placed into the General Fund, the money could still earn interest under miscellaneous interest.

In response to a question from Ms. Lazarow, Ms. Barrett stated that, if the funds are placed into the General Fund, they must be appropriated at Town Meeting. If the payment is specified as a gift with a purpose for it, the money may be spent without an appropriation.

In response to a question from Ms. Lazarow, Ms. Barrett explained that interest earned on these funds would go back into the General Fund, unless there was a letter specifying that the interest earned stay with the funds.

*Ms. Verner exited the meeting at 7:08 pm., for a brief time.*

#### Review Submittals

700, 750, & 800 Massachusetts Avenue - Discussion of Enclave at Boxborough Submittals

Condominium Documents, Operations and Maintenance Plans – 9/22/20

Request for Site Plan Modification #3 Letter – 9/28/20

Ms. Markowitz stated that, in regard to the request for Site Plan Modification #3 letter, if the Board agrees to accept the payment in lieu of the sidewalk, the applicant will need to submit a letter specifying that the funds are a gift and the purpose of the funds.

In response to a question from Ms. Markowitz, regarding provision B of Condition 12 for the rapid LED light at Stow Road, Greg Roy stated that he believes the offer in lieu of includes the light as well.

Mr. Roy mentioned that the applicant is amenable to directing the funds in lieu of as the Planning Board sees fit.

In response to a question from Ms. Lazarow, Ms. Markowitz explained that the funds in lieu of could be put into the Sidewalk Fund and might then be expended for another sidewalk, as deemed by the Town. Ms. Markowitz stated that the funds in lieu of might then not be used in the immediate Enclave area.

Mr. Corson explained that the sidewalk project on Massachusetts Avenue (Liberty Square Road to the Library) is currently mostly being funded through a grant, but additional funds are needed for it.

Mr. White noted that he feels that the payment in lieu of should probably be spent for a sidewalk in the vicinity of the Enclave project, however requesting this also ties the Board's hands. He determined that he would prefer for the funds to be placed into the Sidewalk Fund, with a stipulation that the accrued interest remain with the funds, and that the funds be used for sidewalks in Town. Ms. Markowitz agreed.

Mr. Barbadoro moved to approve Site Plan Modification #3, to accept the donation of \$35,000 in lieu of the construction of a sidewalk at Stow Road, with the contingency of the receipt of a letter from the applicant as previously discussed. Ms. Lazarow seconded. Motion passed unanimously, 4-0.

Ms. Markowitz explained that draft condominium docs and options for management plans were submitted on September 22, 2020. KP Law reviewed the Master Deed and Declaration of Trust documents. PLACES Associates, Inc. reviewed the Operations & Maintenance (O&M) Plans

documents and the five plans for: roadways & access easement “C”, stormwater O&M, SDS O&M, Draft PWS O&M, and landscape maintenance guide.

Mr. Corson clarified that the applicant has received the comments from the KP Law, but not yet those from PLACES. Mr. Nuckolls requested that the applicant be allowed to review all of the letters before drafting a response. Ms. Markowitz requested that Mr. Corson compile that comments from PLACES, KP Law, and any Board members to send to the applicant.

7:30 Public Hearing – Continued from August 21, 2020 & September 21, 2020

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

Mr. Roy requested to keep the meeting open to formalize the request to modify the Site Plan Approval for funds in lieu of a sidewalk, as previously approved by the Board. He then requested that the Scenic Road, Public Shade Tree, and Stone Wall Application be withdrawn without prejudice. He stated that a formal letter to this effect will be sent to the Board.

Mr. Corson noted that this letter should be sent along to Ed Kukkula as well.

Ms. Lazarow moved to accept the applicant’s request to withdraw, without prejudice, the 700, 750, & 800 Massachusetts Avenue – Scenic Road, Public Shade Tree, and Stone Wall Application. Mr. White seconded. Motion passed unanimously, 4-0.

*Ms. Verner rejoined the meeting at 7:37 pm.*

**Public Comment**

Carol Driscoll, Stow Road, stated that she has been discussing ponding on the easement near her property with Mr. Corson. She explained that a substantial amount of water runs right up to the top of the curb stones in this area. On one side of this ponding is the leach field and on the other side is her home. She stated that the water takes hours to recede back down to the storm drains. She believes some of the problem might come from sediment runoff from the Enclave project and the storm drains becoming filled.

Sue Carter stated that the silt sacks in the area are collecting as they are intended to. The issue is that the tributary to the road is not yet stabilized. She has spoken to Jim Fenton about placing some hay bales along the pavement for the winter, in order to control the amount of sediment runoff into the road.

In response to a question from Ms. Markowitz, Ms. Carter stated that this is a long-term problem that will have to be kept on top of. Silt fences and hay bales along the pavement will keep the silt out of the storm drains and temporary swales will allow the water not to settle onto the road.

In response to a question from Mr. Barbadoro, Ms. Carter explained that the area hasn’t had a chance to stabilize since being paved. Grading and vegetation should help with the ponding.

Mr. Corson stated that Bentley Herget, Building Commissioner, should be the residents' contact person on these issues.

In response to a question from Ms. Driscoll, Ms. Carter explained that the stormwater basins are inspected 24 hours after every rainstorm event. All maintenance of paving and landscaping within the easement area is included in the condo docs.

### **Administrative Business:**

#### Meeting Minutes

Ms. Verner moved to approve the meeting minutes of September 21, 2020, as amended. Ms. Lazarow seconded. Motion passed unanimously, 5-0.

#### Correspondence and New Business (if any)

Ms. Markowitz stated that the Board received correspondence from David and Sally Taylor, 1166 Hill Road.

#### Town Center/Enclave Project

Mr. Corson stated that the current work on site includes grading of the clubhouse parking area. He mentioned that stormwater reports are received weekly after rain events. The developer has been encouraged to work on internal erosion control.

Ms. Markowitz stated that she spoke with Mr. Nuckolls regarding the entry way fence. Mr. Nuckolls will have a future discussion with the Board about what might be able to be done regarding this issue.

#### Solar Bylaw Technical Assistance Program

Mr. Corson stated that this has been submitted and will be reviewed on a rolling basis. There is no timeframe as to when the Town will hear back on it.

#### Website update

Mr. Corson stated that he is working on updating many sections of the Town website, the Planning Board section being one of them. He has no timeline for this item yet.

#### 8:00 Public Hearing – Continued from September 21, 2020

1172 Hill Road – Scenic Road, Public Shade Tree, and Stone Wall Application

Russell Tedford, a civil engineer for Hancock Associates and representative for Rick Ogilvie, prospective buyer, explained to the Board that this application is part of a process to construct a single-family house at 1172 Hill Road. There is a 50' wide piece of frontage along Hill Road that

is the only access to the property. In meeting with Ed Kukkula, DPW Director and Tree Warden, it was determined that there are no public shade trees associated with this application.

Mr. Corson noted that this application is solely the Planning Board's, as there are no shade trees associated with it.

Mr. Tedford explained that the request is for a 14' driveway with a 20' radius onto the road. This will require a +/- 30' section of stone wall to be taken down. These stones will then be blended into the driveway. The 14' driveway will also have a 4' infiltration trench for stormwater mitigation, due to the increased impervious area.

Ms. Markowitz reviewed the letter from PLACES with the Board.

Ms. Carter stated that a 14' driveway with two 4' trenches seems excessive for a single-family driveway. Typically, a 12' driveway with a 2' trench would suffice. While she understands the need for a 4' trench on the easterly side, an additional 4' trench on the westerly side seems excessive. She explained that the radius on the westerly side of the driveway also seems excessive. A 10'-15' radius can sometimes be seen, but generally this would be 10' or less. She suggested that this radius could maybe be narrowed, with an option to turnout once on the property. This is a lot of stone wall proposed to be removed.

Mr. Tedford explained that the purpose of the width of the driveway and radius is for emergency vehicle access, such as a ladder truck, onto the site. This would be easiest with a 20' radius, especially from the north side of the road. There will also be a turnaround interior to the property. The 14' width is to hold to the common driveway regulations, with a 4' shoulder for the trenches. He suggested that the southwestern side could be shortened in order to maintain some additional amount of the stone wall on that side.

Mr. Barbadoro questioned if the applicant would consider placing the trench behind the stone wall and making the driveway only 12' wide.

Mr. Tedford stated that the trenches were proposed in front of the stone wall in order to not block stormwater runoff into the trench.

Mr. Barbadoro stated that the water should sheet off the driveway into the trench. He explained that a 14' wide driveway is wider than the normal single-family driveway and will also be hard to plow. He would like to hear from the Fire Chief regarding necessary access. The Board is looking to preserve the scenic road while also giving the owner access to his property. He suggested a skinnier driveway and to try to hide the trench behind the stone wall.

In response to a question from Ms. Verner, Mr. Tedford stated that the Site Plan has been submitted to the Nashoba Board of Health and filed with the Conservation Commission. He stated that the Site Plan shows the proposed drainage practices.

In response to a question from Ms. Lazarow, Mr. Tedford stated that the removed stone wall pieces will be rebuilt in 15' sections along each side of the proposed driveway.

Ms. Verner stated that she is in agreement with the comments from PLACES. She believes that a 12' driveway is pretty standard. She does not believe that a 45' wide curb cut at the entryway feels residential. She explained that, if parts of the scenic wall are to be maintained, they should run parallel to the street itself, not to become part of someone's driveway. She suggested that the opening could be about 16' wide. The proposed seems to be about twice as wide as it needs to be.

Ms. Markowitz stated that she would like to see as much of the stone wall preserved as possible. She also agrees with the suggestion to have the stone wall in front of the trenches.

In response to a question from Ms. Markowitz, Mr. Tedford stated that the proposed driveway is about 800' long. There is drainage proposed along the length of the entire driveway in order to discharge into a small infiltration basin.

Ms. Carter noted that, if the trenches are going to be the entire length of the 800' driveway, losing approximately 10-15' of the trench might not hurt the overall infiltration of the site. She suggested starting the trenches beyond the stone wall in order to minimize the opening at the scenic road. She also noted that the normal turnouts for a single-family driveway don't look at ladder trucks.

Ms. Markowitz requested that the applicant rework the proposal and come back to the Planning Board.

Ms. Verner moved to continue the hearing to October 19, 2020 at 7:30 p.m. via Zoom. Mr. Barbadoro seconded. Motion passed unanimously, 5-0.

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

Mr. Barbadoro thanked Maria Neyland and the Select Board for their work on this topic. He explained that both groups would like to see the MOU kept as short as possible, but that it also needs clarity. He stated that the Town of Boxborough and all of its Boards ask a lot of the Town Planner, and that Mr. Corson's time needs to be prioritized. He explained that Ms. Neyland agreed that the Planning Board should be the priority of Mr. Corson's time. There is also the possibility to discuss getting additional help for Mr. Corson's needs. He stated that there was also the suggestion for the Planning Board to have its own budget for legal counsel, or the ability to hire its own legal counsel. The representatives will meet again for further discussion on these topics.

The Board discussed the process for obtaining its own legal counsel.

Ms. Markowitz suggested that the Board prioritize its own asks of Mr. Corson.

## **Administrative Business**

### Zoning Bylaw Audit

Mr. Corson stated that this is currently in progress on task 2, including conducting interviews for the scope of the project with the Building Official, Planning Board Chair, Zoning Board of Adjustment Chair, etc.

Ms. Verner noted that there is no restriction on the width of a residential driveway in Town; this is something to be considered in the future.

Mr. White stated that there are a number of inconsistent or poorly worded bylaws, and some that aren't included at all. The latter will need to be addressed at a Town Meeting.

Ms. Markowitz stated that the audit is step one in a larger activity. Once the diagnostics are received, the activity can move forward.

Planning Board Training – nothing to report

### Planning Board Rules & Regulations

Mr. Corson stated that this is a large project of 100+ hours. He plans to have an outline to the Board by its next meeting. He also plans to speak with the Town of Shirley about its Rules & Regulations, any challenges it faced with them and how they're working.

### Municipal Vulnerability Preparedness Project Grant:

Mr. Corson stated that he has asked the consultant if November 5, 2020, at 6pm would be a good time to hold a community-wide event regarding climate resiliency. This event would then help move the Town towards the MVP Action Grant.

### Racial Equity Municipal Action Plan Grant

Ms. Markowitz stated that she doesn't believe the Town received this grant.

Housing Choice Administrative Bill – nothing to report.

MassDevelopment Technical Assistance Grant – nothing to report.

## **Committee Reports:**

### Community Preservation Committee

Ms. Lazarow stated that the application deadline is October 22<sup>nd</sup>. The group did note that the Planning Board has not been an applicant for any CPC funds in the past. The funds are really based on projects in any one of the three categories: Open Space & Recreation, Community Housing, and Historic Resources. There is still talk about improving Liberty Fields, as a possibility for CPC funds.

Design Review Board - nothing to report.

### Economic Development Committee

Mr. White stated that the UMASS community-wide event went well for a Zoom meeting. It is unclear how well the information was received in this fashion. The EDC will meet shortly. He will give a copy of the materials to the Planning Board and make them available to the public. The project will then be handed off to the Board, as is under the Master Plan. The common themes that kept coming up involved preserving the rural character of Boxborough and possible zoning changes. He questioned what the Board will now do with this; what proposals can be made in 90 days in a narrow scope for the CISCO project.

In response to a question from Ms. Lazarow, Mr. White stated that the use table can be used by the public to determine the current uses allowed.

Mr. Barbadoro stated that a hearing process could take 90 days, while zoning changes themselves could take 6 months – 1 year. He believes that the Board needs a professional to help come up with a plan.

Ms. Markowitz stated that the audit is currently under way and the Board can discuss if it then wants to move forward with a firm to help. This would probably require additional funding. Results from the first audit and discussions with that group will be had within 90 days. Then a phase II can be discussed.

Mr. Barbadoro suggested that meetings with stakeholders need to be held.

Mr. Corson stated that the market study, as part of the EDC grant, should be complete soon.

Ms. Markowitz suggested asking EDC to get infrastructure data on local businesses that are having infrastructure issues and if the EDC can help get them funding for these issues.

### Water Resources

Mr. Barbadoro stated that the group is still exploring appraisals of real estate north of Route 111 to potential buy for a public water supply. The group considered CISCO, which already has a large capacity well that could probably produce more than 100,000 gallons a day. The issue is that the bigger the well becomes, the bigger the Zone 1 radius becomes, and it could overlap with their wastewater treatment area. The tanks there are pumped periodically. A well there would require a way to deliver water to a treatment center and to downtown Boxborough. Beaver Brook Road could be used for this, but it's a private road. The Town needs to decide if it wants a well, to buy the rights to use Beaver Brook Road, and how the water would be treated. It could be sent to Littleton Water to be treated, and then a portion of the water could be given to Littleton. The appraisals for this should be coming soon.

Mr. Corson stated that a final presentation on the water analysis tool to the Select Board has occurred. This includes a simple analysis tool and a story map regarding water in Town.

Mr. Barbadoro mentioned that the public can get its water tested for free, per the Nashoba Board of Health. He explained that he needs to contact the Littleton Water Department to find out



where he used to test well water samples periodically from special permits approved by the Board. The Water Resources Committee is going to ask the Board to write a letter to the people with special permits, asking them to do this testing again. He also noted that Littleton wants the Town's water because many of their wells are contaminated with PFAS.

Ms. Markowitz mentioned that there is a meeting on October 14<sup>th</sup>, regarding a panel discussion on PFAS and Acton water viz Zoom.

#### LELWD Small Cell Committee

Ms. Markowitz stated that there is nothing new to report. The request has been forwarded to KP Law regarding a quote to help draft a zoning bylaw/general bylaw issue.

#### Building Committee

Ms. Markowitz stated that the group discussed a slightly revised charter. There is budget leftover that may be used for a minor feasibility study, possibly on the 72 Stow Road site. The revised charter allows to move the location to a better site, if one comes up. The current charter allows for a Planning Board member to be a voting member on this committee.

Ms. Lazarow stated that she would prefer the Board to not have a member in standing on the committee. The Board can audit items as need be.

Mr. Barbadoro stated that he would prefer the Board continue to audit as needed. He doesn't believe it would be a conflict of interest, but more an issue of appearance if the Planning Board is voting on a building application.

Mr. White, and Ms. Verner agreed with the Board auditing items as needed.

The Board agreed that they would like the right to change to having a seated member in the future, if it so chooses.

#### **Planning Board Goals:**

##### Master Plan Action Items Status – Aspirations 4, 5, 6, and 7

- November 9, 2020 Joint Meeting with Select Board

The Board agreed to meet on October 24<sup>th</sup> from 9am – 11am for a remote Master Plan Action Item Status Workshop.

Mr. White moved to adjourn. Seconded by Mr. Barbadoro. Motion passed unanimously 5-0 at 10:04 PM.

#### Meeting Documents

Meeting Minutes September 21, 2020

Scenic Road Permit / Public Shade Tree Removal / Stone Wall Removal or Alteration  
Application from Ducharme & Dillis, Stow Road project, including Project Narrative, Plans &  
Details – August 4, 2020

LEGAL NOTICE OF PUBLIC HEARING: Town of Boxborough, Planning Board – Scenic  
Road Permit, Public Shade Tree Removal, & Stone Wall Alteration Application – Stow Rd to  
Route 111/Massachusetts Ave – publication dates August 13, 2020, and August 20, 2020

Review of the Master Deed and Declaration of Trust, KP Law

Memo from Hancock Associates and subsequent application, including request for abutters, re:  
1172 Hill Road Scenic Road Permit, Public Shade Tree Removal & Stone Wall Removal or  
Alteration Application – August 14, 2020

LEGAL NOTICE OF PUBLIC HEARING: Town of Boxborough, Planning Board – Scenic  
Road Permit, Public Shade Tree Removal, & Stone Wall Alteration Application – 1172 Hill  
Road, publication dates September 3, 2020, and September 10, 2020

Memo of correspondence for David & Sally Taylor, September 22, 2020

Chart of Planning Board Status, Boxborough Master Plan 2030

Memo from PLACES Associates, Inc. re: Scenic Road Special Permit Application, 1172 Hill  
Road – dated October 1, 2020

Memo from PLACES Associates, Inc. re: Review Operations and Maintenance Documents,  
Condominium Documents, Enclave at Boxborough – dated October 1, 2020

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

Zoom Access Protocols

Join Zoom Meeting

<https://us02web.zoom.us/j/89646309601?pwd=dngwQnczNm04c25La3I1eUUrMGk1QT09>

**Meeting ID: 896 4630 9601**

**Passcode: 919609**

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