



Town of Boxborough, Massachusetts  
Planning Department  
Staff Report – Special Permit

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Prepared by: Simon Corson, Town Planner

February 25, 2021

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**Site: 881 Massachusetts Avenue**

**Applicant Name:** Xiao Bai, Ninjavan LLC

**Applicant Address:** 881 Massachusetts Avenue, Unit E, Boxborough, MA 01719

**Owner Name:** Brett Gutheil, Breezy Ridge LLC

**Owner Address:** PO Box 376, Lincoln MA 01773

Legal Notice: Pursuant to MGL Chapter 40A and Boxborough Zoning Bylaw Sections 4003(4), 4600, 6005, 6006, 9100, and 9200, a public hearing will be held before the Boxborough Zoning Board of Appeals on March 2, 2021 at 7:30 PM to consider the application submitted by Xiao Bai, Ninjavan LLC for a Special Permit to operate a Class II Used Car Dealership at 881 Massachusetts Avenue, Unit E.

The subject property, owned by Brett Gutheil, Breezy Bridge LLC., is located in a Business Zoning District and is identified as Assessor's Parcel # 14-020-000.

Based on current COVID-19 circumstances, this public hearing will be held in the Town Hall **or otherwise** will be held via Zoom videoconferencing. All details will be made available on the Zoning Board of Appeals agenda when posted, a minimum of 48 hours prior to the meeting on the town web site, [www.boxborough-ma.gov](http://www.boxborough-ma.gov).

For questions, please call the Zoning Board of Appeals Office at the Boxborough Town Hall at 978-264-1722.

Zoning District(s): Business

Zoning Approval Sought: Special Permit under Section 4003(4), 4600, 6005, 6006, 9100, and 9200

Date of Application: January 21, 2021

Date(s) of Public Hearing: March 2, 2021

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## I. Project Description

1. Subject Property: The subject property is located at 881 Massachusetts Avenue (the Project Site) and consists of 6.44 acres in a Business District with 660 feet of frontage. The subject property is directly across from its intersection with Hughes Lane. To the north, the property abuts the Town of Boxborough-owned Steele Farm and community gardens. The front portion of the property contains a significant wetland area which then slopes upward towards the northeastern portion of the lot where there is a sizeable upland area. There is a two-story building consisting of 7329 square feet with associated parking, sewage disposal, drainage, and grading for landscaping services and professional/business office uses.

2. Proposal: The Applicant is seeking approval to operate a Class II Used Car Dealership at 881 Massachusetts Avenue. The Applicant plans to lease two garage style bays and outside designated parking area. The Applicant intends to apply a Class II License, which would require a License Hearing with Boxborough Select Board.

3. Nature of Application: Section 4003(4), 4600, 9100, and 9200 of the Zoning Bylaw requires that used car sales obtain Special Permits from the Zoning Board of Appeals before they can be conducted business within the Business Zoning District.

4. Surrounding Neighborhood: The project site is located in a Business Zoning District on the north side of Massachusetts Avenue directly across from its intersection with Hughes Lane. To the north, the property abuts the Town of Boxborough-owned Steele Farm, a large municipal property, some of which is protected with a conservation restriction. Immediately to the east is the Boxborough Department of Public Works Facility and just beyond them is a landscape contractor, New England Tree Masters. To the southeast and southwest are two-story, single-family dwellings, many of which are part of the Hughes Lane subdivision, but there are also dwellings with access directly onto Massachusetts Avenue.

5. Comments:

*Building Department*: In an email to the Town Planner on February 25, the Building Official/Zoning Enforcement Officer, after reviewing the Decision and Certificate of Conditional Approval dated January 18, 2017, has provided the following compliance status for the subject property:

“The following items are still outstanding:

1. Certificate of Occupancy
2. Final approval from the Board of Health

The following items have been remedied:

1. Floor drains have been installed.
2. The handicap parking space has been delineated.”

6. Compliance:

#### **Compliance with Section 4003(4)**

Section 4003(4) of the Zoning Bylaw requires that car sales facilities obtain Special Permits from the Zoning Board of Appeals before they can be conducted at properties within the Business Zoning District. As such, the Applicant has applied for a Special Permit under Section 9200 for the proposed use.

#### **Compliance with Section 4600**

Section 4600 of the Zoning Bylaw requires that “car sales” dealerships obtain Special Permits from the Zoning Board of Appeals before they operate at properties within the Business Zoning District. As such, the Applicant has applied for a Special Permit under Section 9204 for the proposed use (Class II Used Car Dealership).

### **Compliance with Section 9200**

No application for a Special Permit shall be granted unless the Special Permit Granting Authority shall find that the structure(s) and/or use(s) proposed shall not have adverse effects which outweigh its benefits on either the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

- Social and community needs which are served by the proposal.

This proposal is consistent with the surrounding neighborhood and its uses. The proposed use would bring in a new business to the community. The Town Planner finds that social and community needs are served by the proposal.

- Traffic flow and safety.

This proposal will not change the nature or intensity of the use of the subject property as an existing business and will be consistent with the other properties in the surrounding neighborhood. The existing access to and from the subject property will not change as a result of the proposal. Therefore, the Town Planner finds the proposed project will not have an adverse impact to the safety or traffic environment on Massachusetts Avenue or the surrounding area.

- Adequacy of utilities and other public or private services, including storage or disposal of sewage, refuse or other wastes, and drainage and/or retention of surface water.

Five existing parking spaces would be utilized by this proposal. Based on the recommendations from the Board of Health Agent regarding this proposed use, conditions have been proposed to ensure that the applicable aspects of Board of Health regulations will be met.

- Density of population, intensity of use, neighborhood character and social structures.

The property is located in the Business Zoning District. The proposed use will not have any impact on the density of population, neighborhood character or social structures.

- Impacts on the natural environment.

The proposed use is to be primarily within an existing building. The Town Planner is recommending a number of conditions based on recommendations from the Board of Health Agent and the Building Official/Zoning Enforcement Officer, which help to regulate and monitor the proposed use at the property to eliminate or minimize the potential for negative impacts to the natural environment.

- Impacts on health.

The Town Planner is recommending a number of conditions based on recommendations from the Board of Health Agent and the Building Official/Zoning Enforcement Officer, which help to regulate and monitor the proposed use at the property to eliminate or minimize the potential for negative health impacts. As such, the Town Planner finds that the proposed use will not have any adverse health impacts on the immediate area or the community.

- Potential fiscal impact, including tax contribution, diminution or enhancement of neighboring property values, and creation of new employment opportunities.

The proposed new business occupying this property will create one new job in the community.

7. Recommendation:

Based upon the above findings and subject to the following conditions, the Town Planner recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

This recommendation is based upon a technical analysis of the application materials by the Town Planner, the required findings of the Boxborough Zoning Bylaw, and only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings, and/or conditions based upon additional information provided to the Town Planner during the public hearing process.

1. The Applicant shall record the Decision with the Middlesex South Registry of Deeds and provide verification of the recording to the Town Planner and Building Inspector.
2. The Applicant shall adhere to all conditions and restrictions placed upon work at the subject property by the Boxborough Planning Board through its Decision and Certificate of Conditional Approval dated January 18, 2017.
3. The Applicant may not operate a Class II Used Car Dealership prior to the property owner fulfilling all conditions of the Decision and Certificate of Conditional Approval dated January 18, 2017.
4. The Applicant may not operate a Class II Used Car Dealership prior to obtaining a Class II License from the Boxborough Select Board.
5. Prior to the use or occupancy of the premises as a Class II Used Car Dealership, the property owner shall obtain a Certificate of Occupancy from the Building Department in accordance with the Massachusetts State Building Code 780 CMR.
6. Prior to the use or occupancy of the premises, the property owner shall obtain final approval of the septic system and industrial waste holding tank from the Boxborough Board of Health. The industrial waste holding tank shall be installed and certified by a Massachusetts Registered Professional Engineer in accordance with 314 CMR 18.
7. Violation of any of the conditions of this Decision, as acknowledge by the permit holder or determined by a court of competent jurisdiction to have occurred, shall be grounds for enforcement of this Decision, or of any Building or Occupancy Permit granted hereunder. The Town may enforce compliance with the conditions of this Decision by any action of injunctive relief before any court of competent jurisdiction.

**Town of Boxborough**



**ZONING BOARD OF APPEALS**

Decision No. 2020-02

Dated: July 10, 2020

Decision of the Zoning Board of Appeals (“the Board”) on the Special Permit Application sought by Edward Gukasov.

The appeal is made by the Applicant pursuant to M.G.L. Chapter 40A Section 8 and Boxborough Zoning Bylaw Section 4600, 9100, 9200. Subject property 881 Massachusetts Avenue is shown on the Boxborough Assessor’s Map 14-020-000, and is owned by Breezy Ridge, LLC.

After causing notice of the time and place of its public hearing and of the subject matter thereof to be published, posted, and mailed as required by law, the public hearing was conducted on June 16, 2020. Zoning Board of Appeals members Michael Toups, Kristin Hilberg, Stefano Caprara, and Mark Barbadoro were present throughout the proceedings. Edward Gukasov was in attendance.

The hearing was closed on June 16, 2020.

The record of the proceedings and the submissions on which the Decision is based may be referred to in the Office of the Town Clerk.

**The following were tendered as exhibits:**

**Exhibit A:** Zoning Board of Appeals Special Permit Application received April 28, 2020.

**Exhibit B:** Town Planner, Simon Corson’s Staff Report dated June 11, 2020.

After due consideration of the application, the record of the proceedings and the exhibits submitted, the Board make the following findings of fact:

**FINDINGS OF FACT**

1. The subject property is located at 881 Massachusetts Avenue is shown on the Boxborough Assessor’s Map 14-020-000.
2. The Applicant is currently licensed and operating a Class II Used Car Dealership in North Chelmsford, Massachusetts.

3. No modifications are proposed to the existing entrance off Massachusetts Avenue.
4. The Applicant intends to lease two garage style bays and outside designated parking area.
5. The Applicant intends to apply for a Class II License, which would require a License Hearing with the Boxborough Select Board.

## **CONCLUSION**

After due consideration of the foregoing, and the exhibits presented at the hearing, the Zoning Board of Appeals on June 16, 2020 voted 4-0 to **GRANT** the Special Permit Decision with the following applicable conditions:

1. The Applicant shall adhere to all conditions and restrictions placed upon work at the subject property by the Boxborough Planning Board through its Decision and Certificate of Conditional Approval dated January 18, 2017.
2. The Applicant may not operate Class II Used Car Dealership prior to the property owner fulfilling all conditions of the Decision and Certificate of Conditional Approval dated January 18, 2017.
3. The Applicant may not operate a Class II Used Car Dealership prior to obtaining a Class II License from the Boxborough Select Board.
4. Prior to the use or occupancy of the premises as a Class II Used Car Dealership, the property owner shall obtain a Certificate of Occupancy from the Building Department in accordance with the Massachusetts State Building Code 780 CMR.
5. Prior to the use or occupancy of the premises, the property owner shall obtain final approval of the septic system and industrial waste holding tank from the Boxborough Board of Health. The industrial waste holding tank shall be installed and certified by a Massachusetts Registered Professional Engineer in accordance with 314 CMR 18.
6. Prior to use or occupancy of the premises, the Plumbing Inspector shall verify that the floor drains and industrial waste holding tank have been installed in accordance with the proposed use, in compliance with the Decision and Certificate of Conditional Approval, and the Massachusetts State Plumbing Code 248 CMR.
7. Prior to use or occupancy of the premises, the property owner shall delineate one handicap parking space in accordance with the Decision and Certificate of Conditional Approval.

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within (20) days after the date of filing of the above referenced Decision with the Town Clerk.

On behalf of the Zoning Board of Appeals:



Simon Corson, Town Planner

I, Elizabeth A. Markiewicz, hereby do certify that this is a true copy of the above Board of Appeals Decision.

  
Elizabeth A. Markiewicz, Town Clerk

July 10, 2020  
Date Filed

**TO WHOM IT MAY CONCERN**

I, Elizabeth A. Markiewicz, hereby certify that the 20-day appeal period on this Decision has expired, and no appeals have been filed with this office.

\_\_\_\_\_  
Elizabeth A. Markiewicz, Town Clerk

\_\_\_\_\_  
Date

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**BOXBOROUGH PLANNING I**  
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John Markiewicz, Chair Eduardo Pontoriero, Clerk Nancy Fillmore Abby Reip Hongbing Tang

*Brett Gunkel  
P.O. Box 376  
Lincoln, MA 01773*

Filed with the Town Clerk  
January 18, 2017

**DECISION AND CERTIFICATE OF CONDITIONAL APPROVAL**

**BREEZY RIDGE LLC - owner**

**SITE PLAN APPROVAL**

**881 Massachusetts Avenue  
63188 - 4a**

**DECISION** of the Planning Board (the Board) on the application of Breezy Ridge LLC (Applicant) for Site Plan Approval for the property located at 881 Massachusetts Avenue, owned by the Applicant and known as Assessor's Parcel Number 14-020-000.

This Decision is in response to an application filed under Section 8000 of the Boxborough Zoning Bylaw by the Applicant on September 29, 2016 to construct a two-story building consisting of approximately 6,500 square feet with associated parking, sewage disposal, drainage, and grading for landscape services and professional/business office uses.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed as required by law, the public hearing was conducted on November 7, 2016 and continued to November 21, 2016, December 19, 2016, and January 9, 2017.

After due consideration of the application, the record, the Town Planner's reports, and based upon the findings set forth herein, the Board voted 5 to 0 to **GRANT** conditional approval of the Site Plan on January 9, 2017 pursuant to the following findings and conditions:

**COMPLIANCE WITH SECTION 8007 SITE PLAN APPROVAL DECISION**

The Applicant has submitted plans consistent with Sections 8005 and 8006 of the Boxborough Zoning Bylaw and the Site Plan Approval Rules & Regulations. Site Plan Approval shall be granted upon determination by the Planning Board that new buildings or other site alterations have been designed in the following manner, after considering the qualities of the specific location, the proposed land use, the proposed building form, grading, egress points, and other aspects of the development. The Planning Board has reviewed the proposed project for consistency with the following Site Plan Approval Requirements of the Zoning Bylaw:

1. The proposal shall comply with the purpose and intent of the Zoning Bylaw and with existing local and regional plans.

The Board finds that a building for landscape businesses, professional/business office uses, trade shop uses, and other similar uses fits well within the Business District, and is a structure that will be well located on Massachusetts Avenue/Route 111. It should be noted here that some uses



which may desire to locate in this building, such as landscape contractors or certain automotive uses, will require Special Permits from the Zoning Board of Appeals prior to occupancy. Massachusetts Avenue/Route 111 is one of the most highly traveled roadways in town and is a logical location for a building with these types of proposed uses. The Board finds the location of the proposed building and parking spaces are in compliance with the Zoning Bylaw setback requirements, however, a dense screen should be implemented along the rear property line per Section 6202 of the Zoning Bylaw. A condition has been included as part of this Decision to ensure there is adequate vegetative screening along the rear property line. It should also be noted here the Building Inspector has determined the outside storage of any containers/dumpsters at the property would change the nature of one of the potential businesses at this property (roll-off container) to a use not found in Section 4003 of the Zoning Bylaw, and therefore would not be permitted.

2. The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties and community amenities. To the extent possible, building sites shall be designed to minimize the use of wetlands, steep slopes, floodplains, hilltops; minimize obstruction of scenic vistas from publicly accessible locations; preserve unique natural, scenic and historic features; minimize tree, soil and vegetation removal; and maximize open space retention.

The Board finds the proposed development has been designed to be centrally located in the upland area of the property, which is in the northeast portion of the lot. The proposed project will only disturb a small portion of the 100 foot buffer to the wetland areas and most of this disturbance will only be for the driveway to provide access to the upland area. Other smaller disturbances of the 100 foot buffer area will also be necessary for some of the stormwater detention basins and swales. Only 12% of the project site will become impervious surface and the remaining 88% will allow for water to infiltrate the lot. The Board finds the wetland area along the front of the property will remain primarily undisturbed, which will provide a significant amount of screening of the parking area and building from Massachusetts Avenue/Route 111. The Applicant/Owner is proposing to clear some of the vegetation against the rear property line, but they plan to offset the removed vegetation with new plantings between the remaining mature trees. The Board finds this new vegetation should help to preserve the screening of the existing trail on the Town-owned land just to the north which is less than 20 feet from the property line. Preserving the scenic nature along this stretch of trail on a dynamic piece of passive recreation/conservation land, a prolific community amenity, is extremely important. The Board will work with the Applicant/Owner to ensure a dense buffer is implemented along the rear property line which includes a variety of vegetative species (deciduous and evergreen) of varying heights to provide screening from the building and parking area throughout the year. As such, the Board has included a condition of this Decision to ensure there is adequate vegetative screening along the rear property line.

3. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in the roof and wall lines, and other architectural techniques. Proposed buildings shall relate harmoniously to each other.

The Board finds the proposed building, in terms of massing, is in keeping with other structures in the area which are also primarily one- and two-story buildings. Additionally, due to the large

wetland area along the front of the property and the other existing vegetation which will be retained, the building should only be minimally visible from the roadway. The Applicant/Owner proposed to have the details of the façade of the building addressed after a Site Plan Approval decision had been rendered, but prior to the issuance of a Building Permit. The Applicant/Owner was willing to make this a condition of the Site Plan Approval decision and, as such, a condition of this nature was included as part of this Decision.

4. Adequate measures shall be proposed to prevent pollution of surface and ground water, to minimize erosion and sedimentation, to prevent changes in groundwater levels, to minimize potential for flooding, and to provide for stormwater drainage consistent with the functional equivalent of the Planning Board's Subdivision Rules & Regulations.

The Applicant/Owner has submitted a Stormwater Management Report and a Long Term Pollution Prevention & Stormwater System Operation and Maintenance Plan for the proposed project. A closed drainage system was proposed to collect and treat stormwater runoff at the site. A deep sump catch basin with a silt prison insert is provided to treat first flush runoff before conveying runoff into the infiltration basin. Roof water is collected and discharged into Stormtech Chambers before overflowing into the infiltration basin. The water quality swale, preceded by a sediment forebay, is also piped into the infiltration basin. The site will have two small detention basins to provide a decrease in peak flow. In considering all of the above, the Board finds there are adequate measures to address pollution of surface and ground water, and to address stormwater management issues at the property.

5. Roadways and circulation system shall be designed to promote convenience and safety for both pedestrians and vehicles. Access roads by which the proposed development is reached shall be adequate in width, grade and construction to carry, without danger or congestion, the additional traffic that is generated from the development.

The Board finds the roadway and circulation system at the property will promote convenience and safety for pedestrians and vehicles. The layout of the site has been designed to facilitate the movement of traffic back to and around the building in a looping fashion. The driveway loop around the building is 17 feet wide at its narrowest point. The access driveway turning radii appear to have been designed to accommodate larger sized vehicles and should accommodate Boxborough's emergency service vehicles. The proposed location of the entrance/exit drive does not appear to conflict with any driveway locations on the south side of Massachusetts Avenue/Route 111, as there are none along this stretch of the roadway. The proposed Site Plan does not provide any pedestrian accommodations whatsoever. However, to help further the Town's goal of creating a sidewalk for the length of Massachusetts Avenue/Route 111 between the Harvard and Acton town lines, the Applicant/Owner has agreed to make a payment in the Town's Sidewalk Fund.

6. Adequate buffers shall be provided to protect abutting properties from lighting, sight, sound, dust, and vibration.

The Board finds there are adequate buffers to protect abutting properties from lighting, sight, sound, dust, and vibration from the proposed project. To the north, the property abuts the Town of Boxborough-owned Steele Farm, a large municipal property, some of which is protected with a conservation restriction. Immediately to the east is the automotive business Kaizen Tuning and

just beyond them is the landscape contractor New England Tree Masters. To the southeast and southwest are two-story, single-family dwellings, many of which are part of the Hughes Lane subdivision, but there are also dwellings with access directly onto Massachusetts Avenue/Route 111. The large wetland which occupies most of the front of the property will remain intact and provide a significant buffer to all of the abutting properties to the south and west. A small amount of vegetation is proposed to be retained to create a buffer between the proposed building and parking area, and the business to the east. The Applicant/Owner is proposing to clear some of the vegetation up against the rear property line, but they plan to offset the removed vegetation with new plantings between the remaining mature trees. This new vegetation should help to preserve the screening of the existing trail on the Town-owned land just to the north which is less than 20 feet from the property line. Preserving the scenic nature along this stretch of trail on a dynamic piece of passive recreation/conservation land, a prolific community amenity, is extremely important. The Board will work with the Applicant/Owner to ensure a dense buffer will be implemented along the rear property line which includes a variety of vegetative species (deciduous and evergreen) of varying heights to provide screening from the building and parking area throughout the year. The Board has included a condition to ensure there is adequate vegetative screening along the rear property line. The only exterior lighting being proposed for the property are wall packs on the building, but the location and style of these fixtures is unknown as no information has been submitted for them in the application materials. A condition has been included in this Decision which requires these details be finalized and approved when the Applicant/Owner returns before the Planning Board to finalize the details of the façade of the building. Additionally, the Board also included a condition of this Decision which requires all exterior lighting to be confined to the subject property and must not intrude, interfere, or spill onto neighboring properties.

7. Adequate facilities shall be provided for water supply and for handling and disposal of waste and other production by-products.

The sewage disposal system and well for the proposed project will be located on-site, and will need Board of Health approval before a Certificate of Occupancy can be obtained for the building. The Board of Health Agent provided recommendations regarding a number of proposed conditions and the Board has included those comments as conditions of this Decision. With the inclusion of these conditions, the Board of Health Agent is comfortable with the proposed project, assuming it also receives approval from the Board of Health. The Board also included conditions in the Decision which require containment areas and spill containment kits in garage bays where hazardous materials will be stored. With these included conditions, the Board finds there are adequate facilities to provide a water supply and the handling and disposal of waste at the property.

8. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment.

In an email to the Town Planner on December 19, 2016, the Fire Chief indicated that "As of right now, the Fire Department doesn't have any issues. But, I reserve the right to readdress this matter, if it becomes problematic in the future." The proposed Site Plan calls for an access drive width of at least 17 feet around all sides of the proposed building. In many instances the access drive is 20 feet or greater in width. The Board finds this access drive should accommodate the largest Town of Boxborough emergency response vehicles at this time. All of the parking spaces

at the property are located in close proximity to the building and deliveries can be made on three different sides of the structure by making use of the numerous overhead garage doors. Therefore, the Board finds there is adequate access to the building for fire and service equipment.

### CONDITIONS OF APPROVAL

1. Approval is based upon the following Plans and Documents:
  - a. Title Sheet; Grading, Drainage and Paving Plan; Site Layout and Utility Plan; Construction Details; and Storm Water Pollution Prevention Plan (Sheets 1, 2, 3, 4, 5, and 6) dated July 2016 prepared by Goldsmith, Prest & Ringwall, Inc. with a revision date of November 28, 2016 and a Planning Board date stamp of December 1, 2016.
  - b. First Floor Plan (Sheet A-1) and Elevations (Sheet A-2) prepared by RDK Architects dated December 19, 2016 with a Planning Board date stamp of December 19, 2016.
  - c. SKC-1 Snow Storage (Sheet 1 of 1) dated January 9, 2016 prepared by Goldsmith, Prest & Ringwall, Inc. with a Planning Board date stamp of January 9, 2017.
  - d. SKC-2 Sight Distance (Sheet 1 of 1) dated January 9, 2016 prepared by Goldsmith, Prest & Ringwall, Inc. with a Planning Board date stamp of January 9, 2017.
  - e. Inspection Port (Sheet SKC-3) dated January 9, 2016 prepared by Goldsmith, Prest & Ringwall, Inc. with a Planning Board date stamp of January 9, 2017.
  - f. Stormwater Management Report dated July 2016 prepared by Goldsmith, Prest & Ringwall, Inc. with a revision date of November 15, 2016 and a Planning Board date stamp of November 17, 2016.
  - g. Long Term Pollution Prevention & Stormwater System Operation and Maintenance Plan dated July 2016 prepared by Goldsmith, Prest & Ringwall, Inc. with a revision date of November 22, 2016 and a Planning Board date stamp of November 23, 2016.
2. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall record the Decision with the Middlesex South Registry of Deeds and provide verification of recording to the Town Planner.
3. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall submit written confirmation from the Tax Collector that all taxes, including any roll back taxes, have been paid in full for the property.
4. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall receive an Order of Conditions, or Superseding Order of Conditions, issued under the Wetlands Protection Act and be subject to any conditions placed on the project and provide a copy of a recorded Order of Conditions, or Superseding Order of Conditions to the Building Inspector.
5. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall install any erosion control barriers as may be required by the Order of Conditions or Superseding Order of Conditions.
6. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall obtain an Earth Removal Permit from the Planning Board if necessary under the Earth Removal Bylaw.
7. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall return to the Planning Board for review and to obtain approval of a finalized façade design and materials

for the building, including the details regarding the light fixtures and their locations, and parking lot lighting (if any). As part of this submission and approval from the Planning Board, a lighting plan for the entire property should be submitted for review and approval.

8. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall submit finalized, stamped, building plans to be reviewed by the Town Planner and submitted to the Building Inspector.
9. **Prior to the issuance of a Building Permit**, all trees with a breast height diameter of fifteen (15) inches or greater shall be located and tagged along the east side of the proposed driveway and along the rear property line to ensure they are maintained.
10. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall work with the Planning Board on a revised Landscaping Plan to ensure there is an adequate visual buffer along the northern property line.
11. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall address the following Board of Health conditions:
  - a. The site will need a sewage disposal system in compliance with Title 5 and the Boxborough Board of Health regulations.
  - b. The site will need a potable water supply in compliance with the Boxborough Board of Health well regulations; if the proposal is to have more than 24 people on site, a public water supply, in compliance with 310 CMR 22.00, needs to be approved by the Department of Environmental Protection.
  - c. If there are floor drains located within the building, they must be connected to an industrial waste holding tank(s) in compliance with 314 CMR 18.00.
  - d. No hazardous materials can be discharged to the sewage disposal system or to any proposed floor drains.
  - e. The Applicant/Owner shall provide a copy of the MassDEP certification and the operations and maintenance contract for the industrial waste holding tank(s) to the Board of Health Agent and Town Planner.
12. If proposed to be installed, the floor drains and industrial waste holding tank(s) shall be shown on the Building Permit application plan set. Floor drains are not allowed to be tied into the foundation drain or the stormwater management system. A copy of the proposed industrial waste holding tank plan, stamped by a MA Professional Engineer, shall be submitted to the Board of Health.
13. On-site construction trailers shall comply with Section 7402 of the Zoning Bylaw.
14. All utilities for the project shall be located underground.

15. **Prior to the issuance of any Certificate of Occupancy for any use in the building**, all uses shall be reviewed and approved for compliance with the Building Code, Fire Code, Zoning Bylaw, Board of Health, and other applicable requirements.
16. **Prior to the issuance of any Certificate of Occupancy**, the Applicant/Owner shall pay all outstanding fees incurred for the Board's consultants including Town Counsel and the Board's Consulting Engineer, for the performance of any of the review and inspection services contemplated herein, and including any such fees incurred prior to the date of this Decision.
17. **Prior to the issuance of any Certificate of Occupancy**, the Applicant/Owner shall provide a gift in the amount of \$7,500.00 to the Town's Sidewalk Fund.
18. **Prior to the issuance of any Certificate of Occupancy**, the Applicant/Owner shall delineate one handicap parking space in the southwest corner of the parking area.
19. **Prior to the erection of a freestanding sign at the property**, the Applicant/Owner shall obtain a Special Permit from the Zoning Board of Appeals in accordance with Section 6307(5) of the Zoning Bylaw.
20. The Applicant/Owner shall adhere to the following Board of Health conditions:
  - a. The site must be in compliance with the Boxborough Board of Health's Stormwater Bylaws.
  - b. No odor, dust, or noise shall be generated from the site that would cause "a condition of air pollution," as defined by 310 CMR 7.00, Air Pollution Control regulations."
  - c. Any hazardous materials/wastes must be handled in accordance with all Local, State, and Federal laws.
  - d. Woodwaste generated from the development of these lots must be handled in accordance with the Department of Environmental Protection's Woodwaste Policy and Site Assignment regulations.
  - e. Any retention/detention structures must be designed to minimize standing water.
  - f. Any blasting done on site will be with non-perchlorate based blasting materials and conducted in a low yield, low velocity manner.
21. Containment areas and spill containment kits are required in garage bays where hazardous materials will be stored.
22. If vehicles are being parked within the building, MDC traps (grease traps) must be installed as part of the floor drainage system.
23. Any wastewater generated inside the garage bays must drain into an industrial waste holding tank(s).

24. Usage of the parking lot and drive aisles for anything other than the parking of vehicles, including the washing of vehicles or equipment, is prohibited.
25. Usage of chemical deicing agents other than sand and salt on the driveway, parking spaces, and drive aisles shall require prior approval by the Planning Board with input from the Conservation Commission.
26. To the extent possible, all exterior lighting must be confined to the subject property, cast light downward at least 15 degrees below horizontal, and must not intrude, interfere or spill onto neighboring properties.
27. Materials and products will only be stored inside the building. Exterior storage of any kind is not permitted.
28. All trash and refuse shall be stored inside the building prior to removal. No exterior trash storage is allowed.
29. The Applicant/Owner shall not use any septic system additives unless those additives are on the most recent DEP allowed additives list and the treatment is performed by a licensed professional. Notification of system treatment must be provided to the Board of Health.
30. As-Built drawings shall be submitted to the Building Department and the plans shall be certified by an engineer verifying the drainage system has been built in accordance with the design and is in compliance with all applicable regulations. As-Built drawings shall include the location of the floor drains and industrial waste holding tank(s).
31. Violation of any of the conditions of this Decision shall be grounds for revocation of this Decision, or of any Building or Occupancy Permit granted hereunder. In case of any violation of the continuing obligations of this Decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to correct the violation and to enforce the conditions of this Decision. The Town may enforce compliance with the conditions of this Decision by any action of injunctive relief before any court of competent jurisdiction.

The authority granted to the Applicant by this Decision is limited as follows:

**APPLICABILITY OF SITE PLAN APPROVAL:** This Site Plan Approval applies only to the site which is the subject of this application. All construction to be conducted on the site shall be conducted in accordance with the terms of this Decision and shall be limited to the improvements shown on the Plans.

**OTHER PERMITS OR APPROVALS:** This Decision applies only to the requested Site Plan Approval. Other permits or approvals required by the Boxborough Zoning Bylaw, other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this Decision.

Site Plan Approval Decision  
Breezy Ridge LLC; 881 Massachusetts Avenue  
January 18, 2017  
Page 9 of 9

**BYLAW COMPLIANCE:** The foregoing conditions are stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Boxborough Zoning Bylaw.


**AMENDMENT OF THIS DECISION:** The Board hereby reserves its powers to modify or amend the terms and conditions of this Decision upon its own motion with consent from the owner, or on the application of the owner. The Board further reserves its powers to amend this Decision without a new public hearing provided that the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw or with the terms of this Decision.

**LAPSE OF THIS DECISION:** This Site Plan Approval shall lapse two (2) years from the date this Decision is filed with the Town Clerk unless a substantial use thereof has not sooner commenced except for good cause or if any construction has not begun by said date except for good cause. Any request for an extension of the time limitation set forth herein shall be made in writing to the Board at least thirty (30) days prior to expiration and the Board reserves its rights and powers to grant or deny such request without a public hearing. The Board, however, shall not grant any extension herein provided unless it finds that the use of the property in question or construction on the site has not begun except for good cause.

The Applicant by acceptance of this Decision and recording thereof acknowledges the binding effect of the conditions of this Decision.

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing of the above-referenced Decision with the Town Clerk.

**ON BEHALF OF THE BOXBOROUGH PLANNING BOARD:**

  
\_\_\_\_\_  
Adam L. Duchesneau, AICP  
Boxborough Town Planner

Received:

  
\_\_\_\_\_  
Elizabeth A. Markiewicz, Town Clerk

January 18, 2017  
Date Filed

**TO WHOM IT MAY CONCERN**

I, Elizabeth A. Markiewicz, hereby certify that the 20-day appeal period on this Decision has expired, and no appeals have been filed with this office.

  
\_\_\_\_\_  
Elizabeth A. Markiewicz, Town Clerk

Feb. 8, 2017  
Date



Middlesex South Registry of Deeds  
Electronically Recorded Document

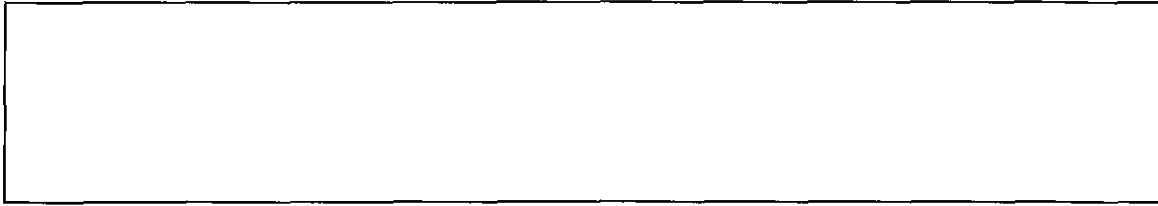
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Recording Information

Document Number	: 221116
Document Type	: CERT
Recorded Date	: November 23, 2020
Recorded Time	: 02:06:39 PM
Recorded Book and Page	: 76244 / 186
Number of Pages(including cover sheet)	: 5
Receipt Number	: 2559995
Recording Fee	: \$105.00

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)



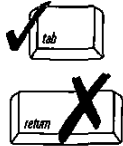
**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**WPA Form 8B – Certificate of Compliance**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
**and the Boxborough Wetland Bylaw**

DEP File Number:

113-541  
 Provided by DEP

**A. Project Information**

**Important:**  
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. This Certificate of Compliance is issued to:  
 Breezy Ridge LLC  
 Name  
 PO Box 376  
 Mailing Address  
 Lincoln MA 01773  
 City/Town State Zip Code
2. This Certificate of Compliance is issued for work regulated by a final Order of Conditions or Order of Resource Area Delineation issued to:  
 Brett Gutheil (Breezy Ridge LLC)  
 Name  
 01/04/2017 113-541  
 Dated DEP File Number
3. The project site is located at:  
 881 Massachusetts Avenue Boxborough  
 Street Address City/Town  
 14 20-000  
 Assessors Map/Plat Number Parcel/Lot Number  
 The final Order of Conditions or Order of Resource Area Delineation was recorded at the Registry of Deeds for:  
 Property Owner (if different)  
 Middlesex South 68808 425  
 County Book Page  
 Certificate
4. A site inspection was made in the presence of the applicant, or the applicant's agent, on:  
 Nov. 4, 2020  
 Date

**B. Certification**

Check all that apply:

- Complete Certification:** It is hereby certified that the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**WPA Form 8B – Certificate of Compliance**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

113-541  
Provided by DEP

**B. Certification (cont.)**

**Partial Certification:** It is hereby certified that only the following portions of work regulated by the above-referenced Order of Conditions have been satisfactorily completed. The project areas or work subject to this partial certification that have been completed and are released from this Order are:

\_\_\_\_\_

**Invalid Order of Conditions:** It is hereby certified that the work regulated by the above-referenced Order of Conditions never commenced. The Order of Conditions has lapsed and is therefore no longer valid. No future work subject to regulation under the Wetlands Protection Act may commence without filing a new Notice of Intent and receiving a new Order of Conditions.

**Ongoing Conditions:** The following conditions of the Order shall continue: (Include any conditions contained in the Final Order, such as maintenance or monitoring, that should continue for a longer period).

Condition Numbers:

Refer to attached Perpetual Conditions #52 thru #60

**Order of Resource Area Delineation:** It is hereby certified that the wetland resource area delineation for the above-referenced Order of Conditions has been satisfactorily completed

**C. Authorization**

Issued by:

Boxborough  
Conservation Commission

Nov. 19, 2020  
Date of Issuance

This Certificate must be signed by a majority of the Conservation Commission and a copy sent to the applicant and appropriate DEP Regional Office (See <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).

**Applicant: Brett Gutheil dba Boxboro Properties, LLC (the "Applicant")**  
**Project Address: 881 Massachusetts Avenue (Map 14, Lot 20; the "Property")**  
**DEP File #113-0541**

**Perpetual Conditions**

The following Perpetual Conditions #52 – #60 shall remain in force permanently and will be recorded as such on the Certificate of Compliance:

52. **The Long Term Pollution Prevention & Stormwater System Operation and Maintenance Plan, latest revision November 22, 2016, is incorporated herein by reference to this Order of Conditions. Other Perpetual Conditions in this Order may, at the discretion of the Conservation Commission, supersede and/or modify the provisions of said Plan.**
53. **Except in case of emergencies, no runoff other than that from stormwater is permitted to enter the stormwater management system including, but not limited to, no runoff from washing of vehicles, cleaning of the interior and/or exterior of the building, and preparation and/or mixing of materials.**
54. **Except in case of emergencies, during snow and/or ice storms only sand and/or salt shall be used to treat the portion of the access driveway located within the 100-foot Buffer Zone, unless otherwise approved by the Conservation Commission.**
55. **There shall be no connection of interior floor drains to the stormwater management system.**
56. The Conservation Commission shall be informed prior to any proposed further alterations within wetlands or 100-foot Buffer Zone to determine whether the work requires the Commission's approval.
57. No non-organic fertilizers shall be used in wetlands or 100-foot Buffer Zone.
58. Except in cases of threats to human health and safety, and/or as may be permitted by an Invasive Vegetation Management Plan approved in advance by the Conservation Commission, no non-organic herbicides shall be used in wetlands or 100-foot Buffer Zone. Except in cases of threats to human health and safety (stinging insects, for example), no non-organic pesticides shall be used in lawn care, or for any other exterior purpose on a regular basis, in wetlands or 100-foot Buffer Zone.
59. There shall be no outside storage of chemicals, oil, fuel, fertilizers or other potentially hazardous materials in wetlands or 100-foot Buffer Zone.
60. Litter shall be removed by hand on a regular basis from wetlands and 100-foot Buffer Zone. No leaves, lawn clippings, or other residuals from groundskeeping operations, no Christmas trees, no pet waste, or refuse of any kind, shall be dumped in wetlands or 100-foot Buffer Zone. It is the property owner's responsibility to so inform all lawn/landscape care providers.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

**WPA Form 8B – Certificate of Compliance**

113- 541  
Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**C. Authorization (cont.)**

Boxborough Conservation Commission

Signatures:

Signature [Handwritten Signature]

Dennis Reip  
Printed Name

Signature [Handwritten Signature]

David Follett  
Printed Name

Signature [Handwritten Signature]

Norm Hanover  
Printed Name

Signature [Handwritten Signature]

David Koonce  
Printed Name

Signature [Handwritten Signature]

Steve Schmitt  
Printed Name

Signature [Handwritten Signature]

Hoff Stuart  
Printed Name

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_