



December 10, 2020

Simon Corson  
Town Planner  
29 Middle Road  
Boxborough, MA 01719

Reference: Zoning Diagnostic Report

Dear Simon:

Please find enclosed the latest draft of our Zoning Bylaw review, incorporating feedback from the Boxborough Planning Board and several additional interviews.

Thank you,

**BARRETT PLANNING GROUP LLC**

A handwritten signature in blue ink that reads "Judith A. Barrett". The signature is written in a cursive style with a large initial 'J'.

Judith A. (Judi) Barrett  
Owner and Managing Director

## INTRODUCTION

The Town of Boxborough asked Barrett Planning Group LLC to conduct a diagnostic of the Boxborough Zoning Bylaw (ZBL). This report provides the results of the zoning diagnostic, a summary of the review process, and some initial recommendations. Note that a zoning diagnostic (sometimes called a zoning audit) is *not* a redline markup of the ordinance or bylaw or a section-by-section list of deficiencies. It also is not a compendium of all the comments we received about the ZBL and how it has been administered to date. Instead, its purpose is to focus attention on key issues that should be addressed in a comprehensive rewrite.

A well-written and well-organized Zoning Bylaw will guide Boxborough's future development; it will help Town Boards make confident findings, the Building Inspector make consistent determinations, and citizens figure out what is allowable on their properties. With these goals in mind, we conducted the diagnostic with a focus on the following considerations:

- Structure and format
- Navigability, finding aids (such as cross-references), and ease of use
- Clarity of words, phrases, and sections or subsections
- Consistency
- Use and placement of definitions
- Simplicity in approval processes
- Consistency with Zoning Act and judicial decisions
- Obsolete or missing provisions, e.g., technology updates

Our scope of work included the following tasks:

1. An initial review of the existing ZBL, focusing on the key considerations outlined above.
2. Interviews with the Town Planner, Building Inspector, Planning Board Chair, and Zoning Board Chair, in order to understand strengths and weaknesses of the ZBL from the perspective of those who administer, interpret, and enforce it. Following the interviews, both Board Chairs solicited written feedback from their entire Boards addressing the same topics.
3. A group interview with local developers, engineers, attorneys, and others familiar with Boxborough's zoning. Discussion centered on clarity, consistency, operation of permit review and decision procedures.
4. Review of Planning Board and Zoning Board of Appeals administrative rules and regulations for content, consistency with ZBL, and opportunities to relocate information from the ZBL to rules and regulations.
5. Review of a sample of recent special permit and site plan review decisions and, if applicable, records of cases under appeal.

6. Meeting with the Planning Board and Town staff to review and discuss the zoning diagnostic report and receive comments on it (scheduled to occur on November 23, 2020).

We approached Boxborough’s ZBL as a cohesive, comprehensive document. Knowing that Zoning Bylaws are often amended in a piecemeal fashion as specific needs arise over the years, we sought to craft recommendations to create an easy-to-use and readable document with logically ordered Articles and Sections.

## **TECHNICAL REVIEW**

### **A. Organization of the Present Zoning Bylaw**

The Boxborough ZBL consists of nine major sections (Articles) and multiple subsections. The major section titles include:

#### Article

- I Authority, Purpose, and Regulations
- II Definitions
- III Establishment of Districts
- IV Use Regulations
- V Dimensional Requirements
- VI General Regulations
- VII Special Regulations
- VIII Site Plan Approval & Design Review
- IX Administration

### **B. Format, Structure, and Organization**

The Table of Contents (above) shows that Boxborough’s ZBL is straightforward, containing all the expected articles and nothing extraneous. The only significant issue with the Bylaw’s “skeleton” is that Article IX, Administration, should occur toward the beginning of the Bylaw as it sets up decision-making bodies and procedures that are necessary for understanding other regulations that appear throughout the ZBL. Unfortunately, many individual sections and regulations do not fall within the right Articles, meaning the ZBL is not as clear or well-organized as it seems from a bird’s-eye view. However, the tools the Town needs to achieve clarity and organization are already present in the ZBL even though they are not consistently used.

In general, use regulations are scattered throughout the ZBL, especially appended to definitions of uses in Article II, and this makes it hard to trust the Table of (Principal) Uses. For example, Sec. 2118 “Car Sales” defines the specific activity described by the term (“the indoor or outdoor sale of new or used Class D cars or trucks”) such that a reader could reasonably identify a use constituting “car sales.” However, the definition continues by stating the maximum number of cars allowed on a lot and regulating the placement of such vehicles. From a reader’s perspective,

the definition of a car seller is likely intuitive, and few would therefore begin by looking it up. Instead, trying to figure out if a car sales business is a permissible use, they would likely check Article IV, Use Regulations, and completely miss important information about that use's permissible extent.

Other specific regulations appear in unexpected locations, such as:

1. Footnote 1 of the Use Table (Section 4003) refers to Section 5400, which contains some specific regulations regarding intensity of certain uses. Why intensity and dimensional regulations, contained in Article V, are referenced here and only for some uses is unclear.
2. The Design Review Board is the only Board not established under the Administration section (Article IX). Instead, its establishment and powers and duties appear under Section 8100.
3. Procedures for Site Plan Review and Design Review are located under Article XIII rather than alongside other application procedures in Article IX.
4. Administrative procedures tend to appear outside of the appropriate Article as well, particularly in Special Regulations. All of the Town's administrative procedures should be located in one section of the ZBL. This includes the building permit, certificate of zoning compliance (for communities that require one), zoning enforcement, appeals, special permits, variances, and site plan review. For example, 6103(1-2) describe prerequisites for issuing Building Permits.
5. Examples of repetitive or redundant sections include:
  - a) Sections 5004 and 5005 are redundantly titled "Supplementary Intensity Regulations" and "Further Supplementary Intensity Regulations," respectively. They could be combined.
  - b) Section 6102 simply asks the reader to go back and read Section 6008.
  - c) Section 7006 serves only to direct the reader to the submittal procedures in Section 9200.
6. Formatting is inconsistent throughout the ZBL, even within individual sections. For example:
  - a) The convention for writing numbers constantly fluctuates; names of numbers are spelled out (i.e., "two units" or "twenty-five feet"), written solely in Arabic numerals (often with larger measurements, i.e., "500 feet"), or written with both (i.e., "two (2) feet). Either spelled-out numbers or numerals should be selected, and the Bylaw should be edited for consistency. The use of both types with one in parentheses has the potential to cause confusion and is not preferred. The presence of many "sub-sub sections" such as 1201(1) also serves to complicate the numbering scheme. There will also be a problem when the ZBL inevitably grows to include more than 99 definitions (there are currently 96).
  - b) The ZBL has long paragraphs with many different regulations that are difficult to parse. These paragraphs should be either broken up into separate, shorter paragraphs or made into numbered lists, where appropriate. For example, compare submittal requirements for Building Permits (Section 9001(1)) and Special Permits (Section 9203).

- c) While mostly good, there are a few jarring inconsistencies in section numbering. Section 4450 completely breaks with numbering patterns, acting as its own section of Article IV rather than a subsection of Section 4400. Furthermore, sub-lists use either abc or 123 formats interchangeably.

### C. Access and Ease of Use

The Bylaw should, to the extent possible, be laid out in logical order, especially within sections, so that a reader can follow along with permitting and review processes in chronological order. We encourage the Town to start to think of the ZBL as a digital document; nowadays, potential applicants are likely to search online for “Boxborough zoning bylaw” before they do anything else and rely on what they find. Digital formatting also has the potential to solve navigation issues.

1. The ZBL would benefit from several navigation aids:
  - a) An alphabetized index at the end of the ZBL.
  - b) Hyperlinked cross-references that allow users of an online or PDF version to navigate efficiently to sections of interest to them.
  - c) The present numbering system follows an internal logic that is easy to pick up on while reading through the ZBL, but it has its flaws. Figure 1 shows the numbering at work in a typical section of the ZBL: in the section underlined in red, the “6” indicates Article VI and the “1” indicates the first section of the Article so that the subsequent section would be Section 6200. Underlined in blue, the latter two digits count the number of subsections.

Figure 1: excerpt from Boxborough ZBL Showing Numbering System

<p><b><u>6100</u></b> <b>Access, Driveways, and Private Ways</b></p> <p><u>6101</u> <i>Location</i></p> <p>Access over private ways to business, office park, and industrial-commercial uses and private parking for such uses shall be completely contained within the same district as such business, office park, or industrial-commercial use.</p>
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Using what looks more like a four-digit integer than a legal citation may prove confusing for writing individual citations out of context, and the regular use of a level of subsections requiring a fifth digit (for example, Sections 4003(1)-4003(4) constitute the Use Table) undermines the system’s simplicity. There is also the fact that, unintuitively, each article begins with a “subsection zero,” meaning that Section 6001, rather than Section 6100, is the first regulation in Article VI.

The Bylaw can either be reorganized to eliminate the inconsistencies while keeping the current numbering system, or the system can be reworked to a more traditional decimal-based “article.section.subsection” form. We recommend the latter.

- d) The Principal Use Table (Section 4003) would be easier to use if it was reconfigured to fit a landscape format. This would allow more pieces of information to appear together in unbroken tables on single pages and make the entire section easier to read. The Dimensional Schedule (Section 5002) is less of a concern because it already fits on a single page.
  - e) More liberal use of cross-references where appropriate, especially if hyperlinked. For example, whenever a Special Permit or Site Plan review is mentioned, reference the relevant section so readers can easily find more detailed application requirements.
2. Likewise, graphical upgrades and visual aids could be enormously helpful in the following areas:
- a) Redesign of the Table of Principal Uses and Table of Dimensional and Density Regulations to make them easier to read and interpret. For example, applying a color gradient in the Table of Dimensional and Density Regulations would provide a simple visual cue about the relative density or intensity of use in Boxborough's zoning districts. Similarly, the Table of Principal Uses can be color-coded to match the color scheme on the Zoning Map, thereby reinforcing the connection between uses and geography.
  - b) Graphics to illustrate key dimensional requirements. There is a total of one illustrated figure in the entire Bylaw, which only serves to highlight the lack of such figures elsewhere. Similar illustrations would help readers understand key concepts such as setbacks as well as more complicated ideas such as the use of quadrangles under Section 5009. Section 2113 Building Height would also benefit from clarifying diagrams.
  - c) Better graphics to communicate the dimensional standards for off-street parking, with graphics placed on the same page as the corresponding text.
  - d) The Table of Dimensional and Density Regulations could be replaced by a pleasing one-page layout for each zoning district, with the district's dimensional requirements provided in text (outline) and graphic formats.
  - e) Permitting flowcharts showing the sequence of steps and timelines involved with various approval processes. Especially helpful for application types requiring multiple approvals; i.e. for a Site Plan Review requiring Design Review and a Building Permit, what happens when, and what order should applications be submitted?
3. The Zoning Bylaw should be kept up to date, incorporating changes from Town Meeting as soon as possible after they occur. The bylaw made available to the public should provide them an accurate description of current zoning regulations without needing to seek out Town Meeting warrants to check for amendments.

#### **D. Language Clarity**

This section presents several examples of unclear language and undefined or poorly defined terms that serve to illustrate persistent issues throughout the Boxborough ZBL.

1. Article II Definitions begins with a section guiding the reader through the interpretation of the Bylaw's syntax and sentence construction. Sections 2001-2007 could help to reduce ambiguity if the rest of the ZBL, and all subsequent amendments to it, had been purposefully crafted to fall within those same guidelines. However, some sections were clearly written without regard to the guidance in Article II (for example, Section 2164 uses the "intended or designed to be used" language that Section 2005 seeks to eliminate). The final sentence of Section 2000 is very difficult to parse and contains content that seems to be much more clearly covered in 2001-2007. Finally, the first sentence of this section contends that it shall apply "unless a contrary meaning is required by the context," which makes it far less useful.
2. Examples of unclear entries in Article II (Definitions) include:
  - a) Section 2149 "Lot" describes only conforming lots. A nonconforming lot is still legally a lot.
  - b) Section 2152 "Lot Frontage" is overly complicated and it appears to exclude many private ways.
  - c) Section 2154 "Lot width" and all three yard definitions (Sections 2194-2196) are strangely convoluted and technical for such basic concepts.
  - d) Definitions such as Section 2124 "Day Care Center" are disproportionately long and detailed, and in this case should simply refer to the statute (MGL c. 15D, s. 1A).
  - e) The definitions in Section 2129 "Dwelling Unit" and Section 2131 "Family" have a confusingly large amount of overlap and raise some potential Fair Housing issues by tying a particular view of "family"(e.g. no more than five non-related people) to housing provisions (e.g. needing independent cooking facilities).
3. The ZBL contains many examples of undefined technical jargon that would likely be understandable by professionals in engineering or planning fields but not by the average citizen. This specific language can remain if properly defined in the Definitions section, or be rephrased to be more straightforward with the option of referencing a source (MGL, DEP definitions, etc.) that uses the technical language. Example: Section 2108 Aquifer: saturated thickness, transmissivity, may be terms that can be found in technical definitions of aquifer but will not be understood by the vast majority of readers.
4. Uncommon and unusual word choices not related to technical jargon are also present. For example, Section 2107 (definition of "Animal Shelter") refers to "appurtenant structure," a term used only one other time in the bylaw and easily replaceable by more understandable words such as "related" or "associated."
5. Definitions covering multiple terms should have separate cross-referenced entries to help readers more consistently locate these terms. For example, those seeking the Town's definition for a Common Driveway would have to know that it is actually listed under "P" for "Private/Common Driveway."

6. Many terms referenced throughout the ZBL are not defined anywhere within it. Notable examples include:

Term	Section
Fire pond	2121
MIPs	2166
Hospital, sanatorium, funeral home	4003(4)
Home Occupation	4102
garage	5007

Other uses that are undefined include ski tow, riding school, craft shop, and printing shop. In the case of 4003(4) and other undefined uses, the lack of definition could make enforcement particularly tricky if an applicant wanted to make a semantic argument about what really constitutes a “sanatorium,” for example. One solution could be to cite a source (such as a specific dictionary) to reference when a term is undefined within the Bylaw itself.

7. The term “elderly occupancy” is not adequately defined until Section 4400, and the eventual definition of “age-restricted to residents 55 years of age or older” does not match the common perception of the term “elderly.” “Age-restricted (55+)” or “55+ communities” are more accurate and descriptive terms, and the term “older adult” might be adopted to refer to residents of these communities.
8. There are some terms with outdated or overly simplistic definitions. For example, “Research and Development” (Section 2169) could be expanded to specifically include more modern uses such as bioengineering. Where terms are specifically derived from other sources, such as MA or Federal Law, it would be wise to check on a regular basis that those definitions have not been amended or otherwise altered so as to ensure the accuracy of Boxborough’s ZBL. For example, Section 2008 refers to sections of MGL c. 28B that have been repealed.
9. Some provisions are worded poorly. For example, Section 4205 is extremely convoluted and hard to parse, for no other reason than bad phrasing. The intended meaning of this provision is still unclear. Section 4201 is one long run-on sentence. The drafter(s) of this portion of the Bylaw appear to have copied and pasted Section 6 of MGL Chapter 40A without editing for comprehension.
10. While the use of trailers for storage is addressed in the Bylaw, temporary rental storage boxes are not covered under the existing definition of “trailer,” making it difficult for the Town to regulate their placement location and duration.



## **E. Clarity or Consistency: Specific Provisions**

1. Section 6006 “Parking Schedule” is overly specific and detailed; more general guidelines for use categories with some room for interpretation would serve the Bylaw just as well as knowing how many spaces per lane in a bowling alley there should be. There are also concerns that some of these parking requirements may be overly intense for the use (for example, requiring 2 spaces per unit in an Assisted Living Facility), limiting the viability of certain uses.

On the subject of parking, gross floor area is not a concept well applied to parking spaces. Commercial developments should use leasable area, since that rather than total floor space drives parking demand. The ZBL’s definition for gross floor area includes areas like garages and basements that do not drive parking demand. A definition of net leasable area would have to be added.

2. The restriction of yearly caps on accessory apartment permits (in this case five) is atypical but not unheard of in Massachusetts. The Town should consider whether, as the population grows, five is enough or if the yearly limit should be tied proportionally to population or total number of dwelling units, or simply removed from the ZBL
3. Section 7005 references a set of “following conditions,” but no such conditions follow.
4. Section 9101(d) states that “the Board of Appeals shall not grant use variances.” Given this, the Town must commit to maintaining a detailed and up-to-date use table and definitions section, or else unintentionally exclude legitimate businesses seeking to locate in Town. For example, the Building Inspector reported turning away an applicant exploring the possibility of a “doggie day care”, a use not incongruous with a suburb, because it did not fit cleanly into any defined use in the ZBL.
5. Board members report problems interpreting Section 4206 regarding the lapse of nonconforming uses due to the use of vague language.
6. The process for modifying an approved Special Permit is currently unclear. Section 9205 deals with the subject but does not specify, for example, whether amending a Special Permit requires its own public hearing process and does not differentiate between major and minor modifications.

## **F. Clarity or Consistency: Whole Sections and Subsections**

1. Design Review is a very detailed and in-depth process for a nonbinding recommendation, and it is odd that it is tied directly to projects within a specific district, given that most lots in this district have been developed. Section 8100 covering Design Review gives the Design Review Board authority in the Town Center District, yet Section 4450 gives them input in B1 district. Their legal purview should be expanded to match what is already in the Bylaw, and if the Town is considering further expanding their role more wide-reaching language should

be added to match. Finally, there does not appear to be a time limit for Design Review, which could cause serious problems if the Review Board was delayed for some reason. For example, Section 8104 states that a sign permit application in applicable areas must contain the recommendations of the Design Review Board. As written, a delay of the Board's review could therefore delay a sign permit indefinitely.

2. The Business-1 district serves an unclear purpose, differs very little from the traditional Business District (the only inherent differences being allowing residential uses by Special Permit in B-1 and a 15-foot difference in maximum building height), and may have been conceived with a specific developer in mind. It is worth considering changing the B-1 district to B. This is an area where more explicit purpose statements for zoning districts would be helpful.
3. The ZBL's Dimensional Regulations are unclear as to whether setback requirements apply to internal lot lines where a single project is being constructed on contiguous parcels.

### **G. Administration; Procedures**

1. Application submittal requirements should take digital submittal into account. Instructions such as the number of copies of a plan to provide do not matter when applications are submitted electronically, but other issues such as file type, submittal method, and readability measures must be considered. If the Town does not currently accept electronic submittals, it would still be wise to allow for the possibility in the near future.
2. As currently worded, Section 9203 of the ZBL implies that Site Plan Review should always be completed before any Special Permit relief is sought. This may cause administrative delays and confusion compared to the better approach of incorporating site plan review into the Special Permit process when both would apply.
3. The Special Permit Granting Authority (SPGA) for any given type of Special Permit should be made clearer. While some sections do explicitly establish the SPGA, many do not. Section 9101 establishes the Board of Appeals as the default SPGA, and so it is reasonable to assume the ZBA serves as SPGA in the absence of another named board. However, not only is this clarifying provision currently at the end of the Bylaw, the responsibility of SPGA is split up between the Planning Board and Board of Appeals often enough that it would be worth clarifying in every case who the Applicant should be submitting their application to. Furthermore, because the Planning Board is the SPGA at least as often as the Board of Appeals and the delineation of this duty does not appear to follow any consistent principle, the Town should consider simplifying and clarifying their approach to SPGA. For example, a clarifying section of the Bylaw could read:

*“The Planning Board shall act as the Special Permit Granting Authority for all residential uses requiring a Special Permit and all Special Permits associated with a Site Plan Review, and the Board of Appeals shall act as the Special Permit Granting Authority in all other cases.”*

4. The second paragraph of Section 7003 under Aquifer Protection District implies that both the Planning and Zoning Boards would need to be involved with a determination that a project falls outside of aquifer recharge areas. This responsibility should be consolidated under a single board.
5. The Town should consider areas where Special Permit requirements can be eliminated in order to streamline application procedures and lighten the administrative load. For example, consider not requiring a full SP process for temporary construction trailers for an otherwise conforming, routine project, or consider having fewer specific uses reliant on SP approval in the use table.
6. The ZBL requires Site Plan Review (SPR) for scenarios in which the process may not be applicable. Section 8002 prescribes when SPR shall be required, including “the resumption of any use discontinued for more than two years.” While such an application may legitimately require SPR, it is also easy to imagine situations in which a resumption of a previously existing use would not require any substantial changes to a site. This provision should be clarified so that applicants cannot be asked to prepare a site plan for a project where no changes will be made to the site.
7. Certain provisions such as application submittal requirements and Boards’ procedural rules (for example, Section 9203 “Application” for Site Plan Review) are better suited to the Planning Board or Board of Appeals Rules and Regulations. Moving these provisions out of the Zoning Bylaw is helpful in two ways:
  - a. Non-regulatory language is removed from the Bylaw, cleaning up and simplifying the document.
  - b. Unlike the Zoning Bylaw, Rules and Regulations documents do not require a Town Meeting vote to make amendments. Non-consequential changes such as requiring that the Fire Department be sent relevant plans for review would be much easier to make.

## **H. Incomplete or Outdated Provisions**

1. Section 7700 (Temporary Moratorium on Recreational Marijuana Establishments) has expired as of December 31, 2018, and nothing within it save for Subsection 7702 (Definition of “Recreational Marijuana Establishment”) needs to be preserved. This outdated section causes problems in Section 7711 regarding Recreational Marijuana Establishments where a list of permitted types of such establishments is said to exist under Section 7701, but no such list is present.

According to the 2019 Annual Town Meeting, the current state of Section 7700 can likely be attributed to the citizens of Boxborough voting down most proposed amendments and additions to this section. Nevertheless, more appropriate placeholder language should be added until more satisfactory permanent provisions can be enacted. The intent of Town Meeting appears to be to ban all types of Recreational Marijuana Establishments by not explicitly allowing any, but the ZBL must clearly state this. As written, this intent is very unclear.

2. Many Massachusetts towns find their existing zoning inadequate for addressing the proliferation of short-term home / room rental services such as Airbnb. Traditional terms such as “bed and breakfast” or “lodging house” do not work well for Airbnb activity. Boxborough may want to consider some form of short-term rental regulation, but only in consultation with Town Counsel. We find that town attorneys and city solicitors do not always agree about the best way to approach these uses.
3. The Town should carefully reevaluate their Sign Bylaws in light of the 2015 US Supreme Court decision in *Clyde Reed v. Town of Gilbert, Arizona* establishing that towns must have strongly compelling reasons to regulate the content of any sign, the issue being one of free speech. Therefore, references to the content of signs should be deleted or properly justified.

## **I. Missing Topics**

1. Inclusionary Zoning bylaws encouraging the creation of affordable housing units are important for towns to ensure that housing remains affordable and accessible for all. Boxborough is in the fortunate position of exceeding the 10 percent statutory minimum of affordable units under Chapter 40B, so affordable housing may not be as urgent a need as in many other towns. However, beyond meeting state guidelines, provisions that encourage developers to include affordable units in their projects will help ensure that the citizens of Boxborough are able to continue to afford living there and that new residents of all income levels can consider making it their home. Inclusionary Zoning provisions would ensure that the Town continues to meet its affordable housing obligations into the future. Addressing housing affordability through zoning would require the Town to reconsider its restrictive regulations for multifamily housing – both the restrictions on use (a special permit only in B1) and density (three units per acre).
2. The current ZBL provides for an Open Space Commercial Development but lacks a corresponding Open Space Residential Development option. While much of Boxborough’s residential land is built out already, having this tool available will help attract development that will preserve the Town’s scenic and natural resources while encouraging more adaptive and creative site layouts to better fit existing topography.
3. Mixed-Use Developments are currently only allowed in the Town Center District, by Special Permit. The Town should consider opportunities for mixed-use development in other areas, , especially in viable zoning districts such as the Office Park district.

4. Boxborough has an Environmental Protection section (Section 6400) that seeks to limit disturbances to the environment, but lacks regulations concerning proactively environmentally friendly green energy (solar, wind, etc.) activities.
5. While addressed under Mass. General Law (40A Sec. 16), the ZBL does not address Repetitive Petitions, even simply to reference MGL. Many Towns provide this language as part of their Administrative procedures, stating that petitions acted on unfavorably by the SPGA may not be resubmitted for two years.
6. Definitions or descriptions of the purposes and intent of zoning districts would be a useful supplement to Article III. Currently, the purpose that having two separate Business districts, for example, is meant to serve must be guessed based on allowed uses and dimensional regulations or must be the subject of historical research. Even a short, one sentence description of the purpose and differentiating features of the districts would make interpretation and comprehension of this aspect of the ZBL. The Town may want to go even further; for example, the Town of Bridgewater includes an entire section providing detailed justification and purpose for each of their zoning districts (see Bridgewater ZBL Section 3). This content can be very helpful to a the SPGA in evaluating applications for special permit uses.
7. A section on the interpretation of district boundaries would be an essential tool for the Building Inspector in making determinations involving the location of Zoning Districts. A typical example of such language is Section 2.2.2 of the Town of Westford ZBL.
8. The ZBL lacks a provision for lots located in more than one zoning district (commonly known as “split lots”) L. Such lots are located mostly in the Business district along Route 111 and the Industrial-Commercial district near the Town’s northern border. Under the current Bylaw, figuring out how to develop these lots would be extremely difficult and up to interpretation. Lots split between Town boundaries are also typically addressed alongside split-district lots. It is unclear if Boxborough has any such lots, but it wouldn’t hurt the Town to cover all of its bases with some boilerplate language.
9. Any and all maps of Overlay Districts should be made available online alongside the ZBL for easy reference. All overlay districts are represented either on Boxborough’s interactive GIS map or as an attachment to the publicly available PDF of the ZBL, with one exception: There does not appear to be any online representation of a Recreational Marijuana Overlay District, despite such a district being established in the Bylaw.

## **J. Other Issues**

1. At the May 14, 2019 Annual Town Meeting, Boxborough “voted to amend the General Bylaws of the Town by substituting the term “Select Board” for “Board of Selectmen” and “Select Board Member” for the word “Selectmen” in each and every place either one appears in the bylaws and all other town related documents, policies and procedures.” (Town of Boxborough General Bylaws pg. 38) Not only should this new term be incorporated into the

ZBL, but in the same spirit all gendered language (i.e. “The Inspector of Buildings shall make his determination...”) should be made gender neutral as well.

2. Monitoring and enforcement of Section 6404 regarding noise could prove costly and difficult due to the specialized equipment and expertise required.

Furthermore, regarding Section 6404, as written it only applies to industrial zones. However, given that these districts would typically be the noisiest on average, the section could likely be applied to the whole Town without creating any additional hardship for existing uses.

3. In the Table of Uses, “Animal Shelter” is allowed by special permit in the Industrial-Commercial (IC) District. However, footnote 13 imposes an additional limitation, confining the use to one part of (Codman Hill Road) the IC District. This should be reviewed by Town Counsel, as it may conflict with G.L. c. 40A, § 4: “Any zoning ordinance or by-law which divides cities and towns into districts shall be uniform within the district for each class or kind of structures or uses permitted.”