

McGLYNN & McGLYNN

ATTORNEYS AT LAW

4 NORMAN STREET

SALEM, MA 01970

John J. McGlynn, Jr.
Diane L. McGlynn

Elizabeth A. Mullen, Associate

December 18, 2017

*VIA E-MAIL ADuchesneau@Boxborough-MA.gov
And first-class mail*

Mr. Adam Duchesneau
Town Planner
Boxborough Town Hall
29 Middle Road
Boxborough, MA 01719

RE: 700, 750, 800 Massachusetts Ave

Dear Mr. Duchesneau:

Per your request, the applicant for the above noted project responds to the **DRAFT** Conditions of Approval for Site Plan dated November 20, 2017, as follows:

General Conditions:

1. The applicant requests that any requirements established by the MASSDOT permit be completed prior to the first certificate of occupancy.
2. The applicant has no objection to the language contained in #2.
3. The applicant requests that additional language be added to include "usage of the alternative access shall not be unreasonably withheld."
4. The applicant has no objection to the language contained in #4.

5. The applicant has no objection to the language contained in #5.
6. The applicant asks that this proposed language be revised so as to not cause an extraordinary burden to prepare and monitor a Conservation Restriction. The applicant suggests this matter could be better handled by a Deed restriction or other method.
7.
 - (a) The applicant has no objection to the language contained in #7(a).
 - (b) The applicant has no objection to the language contained in #7(b).
 - (c) The applicant has no objection to the language contained in #7(c).
 - (d) The applicant has no objection to the language contained in #7(d).
 - (e) The applicant has no objection to the language contained in #7(e).
 - (f) The applicant objects to the language contained herein. Need a clear definition of “detrimental” as it can be interpreted subjectively and possibly used to withhold a permit.
8. The applicant has no objection to the language contained in #8.
9. The applicant has no objection to the language contained in #9.
10. The applicant has no objection to the language contained in #10.
11. The applicant has no objection to the language contained in #11.
12. The applicant has no objection to the language contained in #12; however, there may be a need for the utilities going from Mass Ave. onto the site to be overhead.
13. The applicant has no objection to the language contained in #13.
14. The applicant has no objection to the language contained in #14.
15. The applicant has no objection to the language contained in #15.
16. The applicant has no objection to the language contained in #16.
 - (A) The applicant seeks a revision in this language to state “one occupant 55 or older; no children under the age of 19” in conformance with HUD regulations.

- (B) The applicant has no objection to the language contained in #16(B).
 - (C) The applicant has no objection to the language contained in #16(C) except as to the term “connections” and suggests the term be “access.”
 - (D) The applicant has no objection to the language contained in #16(D).
 - (E) The applicant has no objection to the language contained in #16(E).
 - (F) The applicant has no objection to the language contained in #16(F).
 - (G) The applicant has no objection to the language contained in #16(G).
 - (H) The applicant has no objection to the language contained in #16(H).
 - (I) The applicant has no objection to the language contained in #16(I).
 - (a) The applicant has no objection to the language contained in #16(I)(a) except to include the term “as specified.”
 - (b) The applicant has no objection to the language contained in #16(I)(b) except as to the term “as specified.”
 - (c) The applicant has no objection to the language contained in #16(I)(c) except as to the term “as specified.”
17. The applicant seeks to have this provision applicable to requiring the developer to replace initial installations of plantings within their first year.
18. The applicant seeks to modify this language so as to avoid an unfair revocation. The applicant seeks a clear definition of the term “violation” to allow for certain events that may occur beyond the control of the applicant not deemed to be a violation. The applicant intends to comply with all requirements and regulations as reasonably possible.

Required Plan Revisions:

19. The applicant responds to the language in #19 as follows:
- (A) The applicant seeks an opportunity to review the comments contained in the “Places” letter provided on November 20, 2017, and to discuss further with the Board.

- (B) The applicant objects to this provision in its entirety as it is oppressive and overly burdensome. Further, it seeks to impose upon the applicant a requirement that a new plan be submitted.
 - (a) See above.
 - (b) See above.
- (C) The applicant seeks further clarification on this provision as it appears contrary to approval process. The main road must be done in one phase to allow for infrastructure installation.
 - (a) See above.
 - (b) See above.
 - (c) See above.
 - (d) See above.
- (D) The applicant seeks clarification on this provision as to the necessity of pervious parking spaces.
- (E) The applicant has no objection to the language contained in #19(E).
- (F) The applicant objects to the language contained in this provision as it seeks a significant modification of the current plan.
- (G) Landscape Revisions:
 - (a) The applicant has no objection to the language contained in #19(G)(a) with regard to the verbal representations made during the public hearing.
 - (b) The applicant notes that the lawn areas as proposed shall be located on the front, side and 20' in the rear of all units.
 - (c) The applicant has no objection to the language contained in #19(c).
- (H) The applicant has no objection to the language contained in #19(H).
- (I) The applicant has no objection to the language contained in #19(I).

- (J) The applicant objects to the language contained in this provision and notes that the driveways are delineated from the sidewalk by the change in slope.

Prior to the Commencement of any Site Work

20. The applicant has no objection to the language contained in #20.
21. The applicant has no objection to the language contained in #21.
22. The applicant notes this is a repetitive condition of #20.
23. The applicant proposes that a surety bond be an acceptable form of bond. The bond requirement should be prior to the issuance of the first certificate of occupancy.
24. The applicant has no objection to the language contained in #24.
25. The applicant has no objection to the language contained in #25.
26. The applicant has no objection to the language contained in #26.
27. The applicant has no objection to the language contained in #27 except as it pertains to 27(a). The applicant requests more clarity of the “compliance with the criteria of the Boxborough Police Department” such as specific details pertaining to police details.
- 27(b) The applicant has no objection to the language contained in #27(b).
- 27(c) The applicant has no objection to the language contained in #27(c).
28. The applicant seeks additional clarification on the proposed language contained in 28 (a) through (f). It appears that the Town is asking questions rather than providing conditions in this section. The applicant will comply with all regulations governing blasting. Further discussion is needed with regard to this section.

Prior to the Issuance of any Building Permit

29. The applicant has no objection to the language contained in #29.
30. This provision appears to be redundant with #23 with regard to the requirement of a bond.

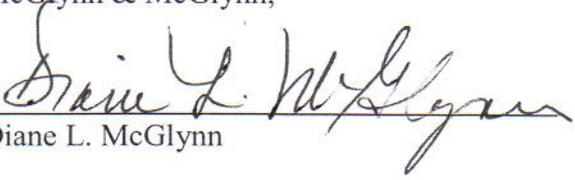
31. The applicant seeks clarification regarding the language contained in 31A(2) that states "... materials that will not require the major reconstruction of the plant." The applicant further states the provision regarding drainage areas should be identified as 31D. The applicant states the design shall be in conformance with the MA Storm Water Policy.
32. The applicant seeks to have this provision subject to the issuance of the first Certificate of Occupancy of the applicable phase which includes the Priest Lane work and clarifies that the side slopes shall be reset to 28'.
33. The applicant repeats the previous comment with regard to the definition of the age restriction.
34. The applicant has no objection to the language contained in #34.
35. The provision appears to be in conflict with 19C and further states this condition can only be met if the phasing plan is approved showing the entire area. It appears that this requirement is requiring that both emergency egress points to be in the first phase.
36. The applicant has no objection to the language contained in #36.
37. The applicant has no objection to the language contained in #37.
38. The applicant has suggested that the driveways shall be delineated from the sidewalk by the slope.
39. The applicant has no objection to the language contained in #39.
40. The applicant has no objection to the language contained in #40.
41. The applicant has no objection to the language contained in #41.
42. The applicant has no objection to the language contained in #42.
43. The applicant has no objection to the language contained in #43.
44. The applicant has no objection to the language contained in #44.
45. The applicant has no objection to the language contained in #45.
46. The applicant has no objection to the language contained in #46.

Adam Dushesneau, Town Planner
December 18, 2017
RE: 700, 750, 800 Massachusetts Avenue
Page 7 of 7

Thank you for your consideration regarding this matter.

Very truly yours,

McGlynn & McGlynn,


Diane L. McGlynn

/dlm
cc:

Jimmy Fenton
Shawn Nuckolls
Dave Bauer
Scott Miccile
John Lyons