



## TOWN OF BOXBOROUGH

### Planning Board

29 Middle Road, Boxborough, Massachusetts 01719

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Mark Barbadoro, Chair • Cindy Markowitz, Clerk • Mark White • Rebecca Verner • Kathleen Vorce

APPROVED ON February 27, 2023

### Meeting Minutes

February 6, 2023

7:00 PM

### Remote Meeting

**Members Present:** Mark Barbadoro (Chair), Cindy Markowitz (Clerk), Rebecca Verner, Kathy Vorce, Janet Keating-Connolly (associate member).

Clerk, Cindy Markowitz, called the meeting to order at 7:00 PM with a roll call attendance. Chair Barbadoro joined the meeting.

#### Public Comment

None at this time.

**PUBLIC HEARING (cont.)** – To consider the application under 8000 Site Plan Approval submitted by Stamski and McNary, Inc. on behalf of the property owner, French Brothers Boxborough, LLC to construct a 3-unit trade shop building. The subject property is located in the Industrial / Commercial Zoning District at 100 Codman Hill Road and is identified as Assessor's Parcel #s 12- 035-000.

Chair Barbadoro opened the continuation of this public hearing.

Ms. Verner moved to continue this hearing to February 27, 2023, at 7:20pm. Mr. White seconded.

Roll call: Barbadoro – aye; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye.

Motion passed 5-0-0.

#### General Business

##### **Scheduled Appointments**

- Green Communities Presentation – by Francie Nolde, *Sustainability Committee*

France Nolde explained that Boxborough is supplied by the Littleton Electric Light Department (LELD), a municipal electric light company. Towns supplied by these types of companies are not eligible for State or federal funds. The only loophole is if one household in Town was supplied by a for-profit company, then the Town could apply to become a Green Community. LELD has been asked to make a donation to the Renewable Energy Trust in the past but declined. The Sustainability Committee engaged the State Senator and Representative to write a bill, which they did. This bill was passed and signed by Governor Baker. It allows towns that want to

become a Green Community to go to Town Meeting to request a small surcharge from taxpayers. A placeholder for this item has been placed on the warrant. The energy consumption of the Town has been tracked for a number of years. Approximately 290 towns in Massachusetts have become Green Communities.

The Green Communities designation grant program provides up to \$20M annually in grants and loans. Boxborough's estimated designation amount simply for becoming a Green Community is \$130,000. Ms. Nolde reviewed the qualification criteria for earning the designation. She noted that there will be a celebration of the passing of the bill allowing this potential designation on March 10, 2023, from 5:30pm-6:30pm at the Sargent Memorial Library.

### **Application for Road Acceptance – Joyce Lane, Loring Avenue, and MacLeod Way**

Chair Barbadoro stated that the Board was seeking a price to bring the road back to current standards. There were also concerns about making sure there are deeded easements to drainage pipes along the road. The documents do seem to imply that the Town would accept the way at some point. The way is currently being maintained and plowed by DPW. There is a questions as to whether residents will supply some funding to restore the road or if the Board will vote to accept the road with conditions, as it currently is.

Ms. Markowitz stated that the rough cost estimate from Town Planner, Alec Wade, for the roadwork is \$173,000. A drainage maintenance calculation of approximately \$350/linear foot was also provided.

Chair Barbadoro noted that acceptance of a way includes the road in the right of way. Any drainage lines that run through private property or association land will not be able to be dug up by the Town if they fail, but this could also impact the way itself. Accepting the way will also accept maintenance of the road drainage. He stated that he would like to make sure there are deeded easements along the way for areas that it crosses private property or association land.

Ms. Keating-Connolly stated that Sue Carter, PLACES Associates, previously noted that the detention area has trees in it, indicating that it is not adequately draining. Chair Barbadoro stated that he hopes someone will be hired to scope the drain to make sure it is functioning and would also like to see a cost to clear out the detention area.

Jessi Robinson, homeowner in this area, asked if the figure calculations were compared against the comprehensive permit and its decisions based on the 40B items. She stated that she believes one item is that the mill thickness could be less than standard.

Ms. Verner asked if the way will be required to be brought into ADA compliance, and the associated cost. She stated that she believes the sidewalk cost for this was not taken into account. She noted that she would like to make sure all drainage and associated items were installed correctly in the first place. This would be important in terms of future Town responsibility.

Davidson Devasigamony, trustee of the Boxborough Meadows community, reviewed the waivers included in the comprehensive permit and approved by the Zoning Board as part of the 40B project. Asking homeowners to pay to bring the road into compliance is very difficult at this time as this is not the first time the road has been slated for acceptance. Chair Barbadoro noted that there has been 20 years of limited maintenance and wear and tear on the road that needs to be remedied. This is not the homeowners' fault, but there is a cost associated that the Town needs to decide whether to accept or not. He stated that the deeded easements are important, to make sure the Town can access these areas for future maintenance.

Ms. Robinson stated that the neighborhood has already spent \$100,000 in order to get this process this far. The neighborhood is looking for Board support at Town Meeting. It took the neighborhood 20 years to raise the funds needed and create the documents necessary in order to get this far. This process has set back the homeowners and the 40B units. The builder was negligent in this case. Unfortunately, the lawsuit against him did not include all of the things that he was negligent for. The lawsuit dealt with the fact that he made extra money on affordable housing units. Thus, the Affordable Housing Trust was awarded funds to go towards affordable housing, but that money is not accessible for the Town to use for the purpose of this roadway item. Chapter 90 funding could be accessed, once this road is accepted, in order to deal with this way. Requesting additional funding from these homeowners would be detrimental.

Chair Barbadoro stated that he would like more information before voting on this item.

Ms. Vorce moved to request the original settlement agreement through KP Law, P.C., via the Select Board. Ms. Verner seconded.

Roll call: Barbadoro – aye; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye.  
Motion passed 5-0-0.

Ms. Vorce suggested that the Homeowner's Association could convey rights to the Town through easements on private property and association land. This modification could be recorded with the Registry of Deeds to the condominium agreement.

Ms. Markowitz moved to request that all documents related to the comprehensive permit issued to Boxborough Meadows in 2002 and the associated exhibits be made available to the Planning Board via Dropbox. Ms. Vorce seconded.

Roll call: Barbadoro – aye; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye.  
Motion passed 5-0-0.

The Board agreed to address this item again at its next meeting.

### **General and Zoning Bylaws Working Session**

- Presentation to Finance Committee 2/28/2023 – *the Board took up this item at this time*  
Chair Barbadoro stated that the Finance Committee has requested a presentation. He requested that Ms. Verner present the Tree Protection bylaw, and that Ms. Vorce present the Accessory Dwelling Unit update. There was an agreement to this.

There was discussion regarding the schedule of Planning Board general and zoning bylaw proposals during fall versus annual Town Meeting. There was majority consensus to request that the Planning Board items be presented first on the second night of annual Town Meeting.

- Accessory Dwelling Unit Update – Zoning

Ms. Vorce asked that the sentence noting a requirement for a certain number of rooms in the Accessory Dwelling Unit (ADU) be stricken.

Ms. Vorce moved to strike the sentence that the accessory apartment shall contain no more than 4 rooms, excluding hallways, bathrooms, and closets. Mr. White seconded.

Roll call: Barbadoro – aye; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye.

Motion passed 5-0-0.

There was discussion regarding the parking item in the bylaw. It was noted that additional wording will be considered for this item.

There was discussion regarding using ADUs as short-term rentals, air B&Bs, etc.

Mr. White moved to strike the sentence that accessory apartments or ADUs may not be used or offered for short term rentals, vacation rentals, or unhosted rentals for periods less than thirty (30) consecutive days. Ms. Vorce seconded.

Roll call: Barbadoro – nay; Verner – nay; White – aye; Vorce – aye; and Markowitz – nay.

Motion failed 2-3-0.

The Board agreed to review this item for public comment.

- Tree Protection Bylaw – General

Ms. Verner noted that she has reviewed the draft with Ed Kukkula, Public Works Director, and included feedback from both him and Ms. Markowitz.

Chair Barbadoro stated that he would like to consider criteria for approval or denial, and exceptions for items that are otherwise permitted elsewhere.

The Board agreed to table additional discussion on this item to a future meeting.

- Planning Board Revolving Fund – General

*This item was tabled to a future meeting.*

**Department Updates** – by Alexander Wade, Director/Town Planner – *These items were not addressed at this time.*

- Update on violations and outstanding conditions
- Assignment of Pre-Development Rotation or Appointee

**Approval of Minutes – January 23, 2023**

Ms. Markowitz moved to approve the meeting minutes of January 23, 2023, as amended. Ms. Verner seconded.

Roll call: Barbadoro – aye; Verner – aye; White – abstain; Vorce – aye; and Markowitz – aye. Motion passed 4-0-1.

**Planning Board Training** – *This item was not addressed at this time.*

**Committee Reports:** – *This item was not addressed at this time.*

- Community Preservation Committee (Vorce)
- Design Review Board (Verner)
- Economic Development Committee (White)
- MAGIC Representative (Markowitz)
- Water Resources Committee (Keating-Connolly)
- LELWD Small Cell Committee (Markowitz)
- Building Committee – TBD
- Boxborough Leadership Forum (Barbadoro)

**Recently Received Correspondence** – *This item was not addressed at this time.*

**New Business (if any)**

The Board discussed a potential Planning Board Revolving Fund. Chair Barbadoro stated that this could be used as a potential revenue stream to complete Board items when the 53G account is running low. Ms. Markowitz stated that Mr. Wade is suggesting this as a warrant article this year. There was consensus on the Board that this item should move forward.

**ADMINISTRATIVE BUSINESS** – *This item was not addressed at this time.*

- Town Center/Enclave Project Updates
- Technical Assistance Program Grant Application and other Grant Opportunities
- Master Plan Action Items
- Website update
- Legislative Update

Mr. White moved to adjourn the meeting at 10:12pm. Ms. Vorce seconded.

Roll call: Barbadoro – aye; Verner – aye; White – aye; Vorce – aye; and Markowitz – aye. Motion passed 5-0-0.

**Meeting Documents:**

Planning Board Agenda February 6, 2023

100 Codman Hill Road documents

Green Communities Adoption documents

Application for Road Acceptance – Joyce Lane, Loring Avenue, and MacLeod Way

Bylaw Working Session documents

Draft Minutes

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

Join Zoom

Meeting <https://us02web.zoom.us/j/83983677568?pwd=NHlwMUV2NU5vOHNiV2Qvc1l1UldYQT09>

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