



TOWN OF BOXBOROUGH

Planning Board

29 Middle Road, Boxborough, Massachusetts 01719

Phone (978) 264-1723 • Fax (978) 264-3127

www.boxborough-ma.gov

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

APPROVED ON April 28, 2021

Meeting Minutes

March 8, 2021

7:00 PM

Remote Meeting

Members Present: Cindy Markowitz, Mark White, Mark Barbadoro, Rebecca Verner, and Robin Lazarow

Also Present: Simon Corson (Town Planner), Kristan Patenaude (Recording Secretary)

Some members of the Select Board, Water Resources Committee and Economic Development Committee were present. Several members of the public were also present.

Ms. Markowitz called the meeting to order at 7:04 PM.

Public Comment

7:00 PM Public Hearing - Zoning Bylaw Amendment

- Hazardous Materials: (Section 4000 - Use Regulations, and Section 2000 - Definitions)

Ms. Markowitz opened the public hearing, which is a continuation from February 22, 2021. At the initial meeting the Board discussed a draft of this amendment and took public comment. The new draft version is dated March 4, 2021. Ms. Markowitz briefly ran through the changes from the last draft.

In response to a question from Ms. Lazarow, Ms. Markowitz explained how she came up with the threshold levels listed in the document.

Mr. White explained that the title of the amendment is Hazardous Materials. He believes the section regarding Light Manufacturing should be pulled out because this is a specific zoned use that has nothing to do with Hazardous Waste, per say. He believes this makes the document unclear and additional. Ms. Markowitz stated that the new uses are all included in Footnote 12. These were added because they are all potential handlers of hazardous waste previously unaccounted for. She explained that Light Manufacturing evolved because a threshold was going to be included and was then expanded upon through correlation.

Mr. White noted that the changes are proposed to the use table and to the definitions. He is uncomfortable with these all being included in the same document. Ms. Markowitz suggested changing the title of the document to Hazardous Waste and Light Manufacturing.

Mr. Barbadoro suggested changing the title and separating the uses and footnotes into different descriptions.

Mr. White stated that he would prefer to see a document for proposed changes to the use table and another document for a Hazardous Materials bylaw. He doesn't like presenting a confusing article.

Ms. Lazarow agreed that Light Manufacturing doesn't seem to fit here. She also noted that the biosafety level thresholds are also a policy issue to deal with. She's unclear if she's comfortable with these thresholds and might like to hear from a professional or other towns experiences. She is unclear if this document targets the main objective.

Ms. Markowitz noted that there are three issues being discussed in this document: hazardous waste/materials, biosafety levels, and light manufacturing. These could have been three separate articles. In looking at other town's articles, many of them have public water, which Boxborough does not. There are concerns regarding the level of manufacturing that occurs in proximity to the Aquifer District.

Mr. Barbadoro noted that none of the changes in this document would impact Vibalogics, as proposed. Vibalogics is proposing to use 1/5 the amount of water as the threshold listed. These are not intended to stop the company in any way. However, he is unclear if Vibalogics is allowed to be in the Office Park District to begin with. Ms. Markowitz agreed that this was not the intent of this document.

Ms. Verner stated that another definition to add may be regarding "discharge." The Town of Townsend combines this with many of the other definitions included in this document. Mr. Barbadoro suggested "hazardous material discharge," instead of the plain language word "discharge."

Becky Neville, Middle Road, agreed that Light Manufacturing does not belong in this document. She feels that this document is rushed. She reviewed minutes from 2019 and did not find this mentioned. The Solar and 5G bylaws have been discussed for long periods of time.

Andrew Tavalacci, 617 Old Harvard Road, noted that the focus of this document should not be on the amount of discharge, but the type of discharge. The amount and location of discharge is not as appropriate as the type of discharge. He questioned why anything can be discharged and why a leach field can exist within an aquifer.

Ms. Markowitz explained that there are regulations in the bylaw regarding discharges in the Aquifer District. There are prohibitions for discharge. The current proposal does mention discharge to a leach field. The applicant will need to show the Board how this complies to the bylaw. There will be a Vibalogics site plan application hearing on March 22, 2021.

In response to a question from Sue Schmit, Ms. Markowitz explained that this draft is proposing to remove Footnote 3. This is proposing that all items referring to Footnote 3 will now go under

Footnote 12. There is currently a Citizen's Petition to amend language in Footnote 3. Ms. Markowitz explained that she believes Footnote 3 can stand on its own. If it cannot, the language needs to be revised to comply with the language as proposed.

Rich Guzzardi, Chair of the EDC, asked if there is a benchmark in other towns that have established utility thresholds for specific types of use. Ms. Markowitz noted that she has not come across that specifically.

Mr. Guzzardi explained that he does not believe the definition of Light Manufacturing belongs in the Hazardous Material bylaw. This document needs more coordination with current landowners and businesses. He noted that this is a significant policy change, and more coordination is needed. The Board of Health is working on their own regulations to address this. He's unclear who the scientists and engineers are to identify the current definitions, types of use projected, and the right approaches for toxic and hazardous materials. He believes there needs to be some cross-board engagement. He questioned if there's a chance to leverage what is already in the bylaw.

Ms. Markowitz noted that she has attended Board of Health meetings to discuss this. She has reached out to other communities regarding the biosafety levels. She is proposing a limitation in addition to any proposed by the Board of Health. The intent is to have protective regulations in a couple of different ways. She believes this is an important issue and shouldn't be put on the backburner for long. This originated through a Citizen's Petition topic a year ago.

Mr. Barbadoro explained that the Board needs the help of experts, and that he has spoken to scientists in Town. Other towns' bylaws have been examined and the best parts of them were taken to help draft this document. The biosafety levels come from the National Institute of Health. He believes setting threshold levels is a good thing. Mr. Guzzardi noted that he believes this bylaw needs to be in harmony with the Board of Health regulations.

Maria Neyland, member of the Select Board, stated that she agrees with Mr. Guzzardi. She believes this feels rushed. She noted that the three draft bylaws that were presented in February have been worked on for years, but this feels slid under the radar. She believes this has ramifications for businesses coming into Town. The Light Manufacturing section feels out of place and shouldn't be thrown into the document. She believes this could be two separate bylaws and worked alongside the Board of Health regulations. She wasn't aware that this was being discussed with the Board of Health at their meetings. Business owners coming into town may not want to be told what they can use for energy. She went through surrounding town's bylaws and didn't see these types of thresholds in their hazardous waste sections. She suggested slowing down, hiring some professionals, and working collaboratively.

John Markiewicz, member of the Select Board, thanked the Planning Board for its work on this. The Town needs to do what it can to protect the aquifer. He encouraged the Board to do its due diligence before going to Town Meeting. He doesn't believe the Board is ready to define Light Manufacturing and thresholds for usages. He does believe the Board should bring forward the

BSL levels to Town Meeting. The Board should try to work with incoming developers to find appropriate places in Town for what's being proposed and included in the bylaw.

Mr. White agreed that how much energy a company uses is not a hazardous issue. The BSLs are hazardous. Water use levels and discharge are governed by the Board of Health, so he is unclear why the Hazardous Materials bylaw needs to speak to those items. He agrees with pulling out the Light Manufacturing section.

Mr. Barbadoro agreed with a Light Manufacturing bylaw being proposed separately. It isn't explicitly a hazardous materials definition item. He believes it's legitimate for a town to zone against certain uses within the aquifer district.

Mr. Tavolacci stated that he disagrees with Mr. Markiewicz's comments on working with Vibalogs. The Town needs to independently determine what it wants and then apply it to all incoming parties.

In response to a question from Mr. Tavolacci, Ms. Markowitz noted that Vibalogs has indicated it will be at BSL 2 in its lab. Mr. Barbadoro explained that this answer is unclear as it could change over time.

Barbara Salzman applauded the Board for considering high energy and water use as part of this. She questioned if conversations have been had with LELD.

Janet Connolly, Flagg Hill Road, stated that there is value of making these changes in the bylaw. There are some practical, housekeeping changes that need to be made. She noted that because the word "infectious" is being included, she believes the definitions for biosafety levels should be maintained.

Les Fox, member of the Select Board, agreed that this appears to overly define light manufacturing. He suggested that the Board defer to the tools that come from the National Institute of Health and the Board of Health.

Mr. White stated that he believes the Board should pull out Section 2148, circle back to it later, leave the rest in, and keep the footnote changes.

In response to a question from Ms. Lazarow, Ms. Markowitz noted that the intent of the bylaw is to capture the places using hazardous materials that might not have been called out before. The bylaw cannot identify every possible use and that the use table should be used to determine what certain businesses are considered to be.

Ms. Verner suggested taking out thresholds 1-3 and leaving in one that speaks specifically to hazardous waste. Mr. Tavolacci stated that he wouldn't remove wastewater discharge, but he would remove any reference to volume of discharge – just use the definition of discharge. Mr. Guzzardi stated that the footnote already declares that the bylaw is looking at hazardous items, except for those incidental. Ms. Markowitz explained that there is a limitation for the amount within the Aquifer Protection District that is a lower volume threshold. This would defer to that.

Mr. Barbadoro read the definition for Light Manufacturing. He stated it is unclear if certain types of manufacturing are included in this definition.

Mr. White moved to close the Public Hearing. Seconded by Mr. Barbadoro.

Roll call: Barbadoro – aye; Lazarow – aye; Verner – aye; White – aye; and Markowitz – aye. Unanimously passed.

Ms. Lazarow moved to remove the proposed language defining Light Manufacturing with thresholds in Section 2148. Seconded by Mr. White.

Roll call: Barbadoro – aye; Lazarow – aye; Verner – aye; White – aye; and Markowitz – aye. Unanimously passed.

Ms. Verner moved to recommend the proposed Hazardous Materials bylaw as amended. Seconded by Mr. Barbadoro.

Roll call: Barbadoro – aye; Lazarow – aye; Verner – aye; White – aye; and Markowitz – aye. Unanimously passed.

8:30 PM Presentation from Nick Cristofori, P.E. of Comprehensive Environmental, Inc. Environmental Protection Agency (EPA) Stormwater Permit/Stormwater Regulations

Mr. Corson introduced Mr. Cristofori of CEI, Inc. He explained that CEI is a consultant that helps the Town with its MS4 permit, annual reports, training the DPW staff, mapping stormwater infrastructure, etc. By June 30, 2021, the stormwater regulations will need to be finalized by the Planning Board. A draft of these regulations can be found in the Board's packet.

Mr. Cristofori reviewed the proposed regulations with the Board. He explained that he will assist the Town to implement stormwater as regulated by the EPA.

In response to a question from Ms. Markowitz, Mr. Cristofori explained that approximately 90% of all applications are triggered via subdivision or site plan regulations. These regulations help make sure nothing falls through the cracks in the process. For applications that disturb greater than 1 acre of land, everyone involved needs to show they are meeting the regulations. He doesn't believe that the number of applications reviewed will change, but the items being reviewed may be more numerous, or may need to be reviewed at by a third-party.

In response to a question from Ms. Markowitz, Mr. Cristofori explained that the requirements under the construction general permit will meet the majority of items. The difference will be for new development and redevelopment standards, to meet pollutant removal standards for these that are not hit under the EPA general permit.

In response to a question from Ms. Markowitz, Mr. Cristofori stated that the review process under the stormwater regulations will be done by the third-party engineer.

In response to a question from Mr. Barbadoro, Mr. Cristofori stated that every development site is different. The majority of developments will not be impacted substantially. The majority of subdivisions and commercial development will hit certain Mass Stormwater Standards, but there could be some additional costs to developers through these regulations. The regulations are mandated by the EPA.

In response to a question from Mr. White, Mr. Cristofori explained that there is a definition to the word “disturb” in the regulations. The intent of these regulations is not necessarily to go after individual homeowner projects. If an acre of land is being disturbed, that would be significant. These regulations are usually based on land use and the amount of impervious surface area.

Mr. White noted that a single-family home could also be subject to these regulations, if an acre is being disturbed.

In response to a question from Mr. Barbadoro, Mr. Cristofori explained that the Town regulates this process and needs to come up with a process for all components, including who pays for complaints about these regulations. The Town will work on this with CEI for the next few months.

Ms. Markowitz noted that the bylaws adopted by the Town call out the Planning Board as having authority over stormwater regulations.

Mr. Cristofori explained that the Town should have these regulations in place by the end of June, but that many towns may be delayed in this process due to COVID-19.

Mr. Corson explained that he is going to review Mr. Cristofori’s regulation template and share a draft document with the Planning Board, and then other relevant Boards/Committees. The Board of Health already has stormwater regulations that may want to be adapted for this. The Conservation Commission and Select Board will discuss this document with the Planning Board. The Board can then bring Mr. Cristofori back in for more help.

In response to a question from Mr. Barbadoro, Mr. Cristofori stated that the draft comes from the State and one of the Stormwater Coalitions. It has been used by a number of different communities.

Town Meeting Warrant Articles/Presentations

Ms. Markowitz explained that the Zoning Bylaw Recodification will need to be sent out to bid, if approved at Town Meeting.

Zoning Bylaw Update – proposal from the Barrett Planning Group LLC

Ms. Lazarow moved to recommend the Zoning Bylaw Recodification Warrant Article. Seconded by Mr. White.

Roll call: Barbadoro – aye; Lazarow – aye; Verner – aye; White – aye; and Markowitz – aye. Unanimously passed.

Hazardous Materials

This was unanimously voted as recommended earlier in the meeting.

Solar Photovoltaic Installations

Ms. Verner explained that there have been two drafts of the bylaw based on additional comments received. She has received additional comments from Town Counsel and the Sustainability Committee. She reviewed the draft changes with the Board.

Francie Nolde explained that the Sustainability Committee will be meeting Wednesday evening to discuss these changes and vote on the document. She noted that Littleton Electric will not allow anyone else to be invited into Town as electrical suppliers.

Ms. Lazarow moved to recommend the proposed Solar Energy Systems Bylaw as amended this evening. Seconded by Mr. Barbadoro.

Roll call: Barbadoro – aye; Lazarow – aye; Verner – aye; White – aye; and Markowitz – aye. Unanimously passed.

Wireless Facilities

Ms. Markowitz reviewed the updated March 3, 2021, Wireless Bylaw with the group.

Mr. Barbadoro moved to recommend the proposed Zoning Bylaw Amendment for Wireless Communication Facilities and Small Wireless Facilities. Seconded by Ms. Lazarow.

Roll call: Barbadoro – aye; Lazarow – aye; Verner – aye; White – aye; and Markowitz – aye. Unanimously passed.

Town Website Planning Board Contact Form Procedures

Ms. Markowitz explained that the Board has been receiving communications through the Planning Board contact form. The Town Planner is not currently receiving these. It might be helpful to have the Planner included on these initial messages. The Board agreed to discuss each contact as correspondence at its next meeting. The Chair can also discuss with the Town Planner the best response to send back between meeting dates.

Administrative Business:

Meeting Minutes – none at this time.

Correspondence and New Business (if any)

There were two pieces of correspondence received through the contact form. One is not in the Board's purview, regarding a history project. Ms. Markowitz will send a note back to the writer explaining next possible steps.

A second request was received regarding the removal of a stone wall at 566 Middle Road. Mr. Corson explained that this type of work ought to require a permit from the Planning Board. The owner was told s/he could apply to the Planning Board, receive a fine, or show a plan detailing that the work was not done within the Town's right of way. This plan was submitted to the

Building Inspector and approved. A permit is not required for this work as it was not done within the Town's right of way. Another issue, regarding a shade tree, hasn't been handled yet. Assessments should be made on trees, and this item has been raised with the Building Inspector. A note will be sent back to the writer explaining that this issue has been raised to the Building Inspector, and the proper routes to take.

Town Center/Enclave Project

Mr. Corson stated that he has nothing new to report on this item.

Planning Board Training

There will be a free seminar training from CPTC on March 17, 2021.

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

Ms. Markowitz stated that this item is deferred to the next meeting.

Planning Board Administrative Rules and Regulations

There is no update at this time.

Land Use-Related Grant Status:

Municipal Vulnerability Preparedness Project Grant Legislative Update:

There is no update at this time.

Housing Choice Administrative Bill

There is no update at this time.

Committee Reports:

Community Preservation Committee (Lazarow)

Ms. Lazarow stated that there will not be a further meeting until June.

Design Review Board (Verner) – nothing new to report.

Economic Development Committee (White) – nothing new to report.

Ms. Markowitz stated that she has suggested that the EDC make a presentation to the Board on some items in April. She also explained that the Board will probably have a workshop in June and invite EDC members to discuss zoning in a holistic way.

MAGIC Representative (Markowitz) –

Ms. Markowitz explained that there is a group designing bike trail connectors between Acton and Littleton. The Nashoba Greenway Commission is working to help make these trail connections.

Ms. Markowitz stated that there was a Making Connections project update. A grant was received for public microtransit options.

A community update was discussed. In Stow, they are looking at potentially developing housing around the golf courses.

Water Resources (Barbadoro) –

Mr. Barbadoro stated that there is a case of PFAS contamination located at a well on Mass Ave next to City Hall. The Town Administrator has decided to test the town well for PFAS.

Also, he wrote a letter to one owner who has not been testing his/her well as per the special permit. The Board agreed that the letter should come from the Building Inspector.

LELWD Small Cell Committee (Markowitz) – nothing new to report.

Building Committee - TBD – nothing new to report.

Planning Board Goals:

Funding – TAP Grants and other Grant Opportunities

Ms. Markowitz explained that she is willing to write a project concept for assistance with one or more overlay districts.

The Board agreed that there is no comment regarding the Right of First Refusal on the 1172 Hill Road property.

March 22, 2021 is the next meeting date.

Mr. White moved to adjourn the meeting at 10:58pm. Mr. Barbadoro seconded.

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

Unanimously passed.

Meeting Documents:

Legal Notice of Public Hearing, Zoning Bylaw Amendments - Hazardous Materials: (Section 4000 - Use Regulations, Section 2000 – Definitions)

Hazardous Materials Proposed Bylaw Amendment – Draft 2/4/21

7800 Solar Photovoltaic Installations – Draft 2/23/21

Proposed Zoning Bylaw Amendments to Account for Wireless Communication Facilities and Small Wireless Cell Facilities – Draft 3/3/21

Boxborough’s NPDES MS4 Stormwater Program presentation by Comprehensive Environmental Incorporated

STORMWATER MANAGEMENT RULES AND REGULATIONS – Draft Document

DRAFT Well Testing Reminder Letter

Planning Board Contact form examples

Memo from Katiileen Vorce, Attorney at Law to the Select Board, re: Assessor Parcel 04-092-000 – 1172 Hill Road – March 3, 2021

Town Assessor, Partial Release of Classified Recreational Land Tax Lien, Certificate of No Penalty Tax Due – January 18, 2018

Board of Assessors, Release of Classified Forest-Agricultural or Horticultural-Recreational Land Tax Lien

Memo from Katiileen Vorce, Attorney at Law to the Select Board, re: Assessor Parcel 04-092-000 – 1172 Hill Road – November 2, 2020

Memo from Eliopoulos & Eliopoulos, PC re: Standard Form Purchase & Sale Agreement for 1178 Hill Road, and Associated Amendments

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

Join Zoom Meeting

<https://us02web.zoom.us/j/82809429691?pwd=bHZReU1Rc3Jia0FWU1hjVnM4cktSUT09>

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+19292056099,,82809429691#,,, *293911# US (New York)

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