



## TOWN OF BOXBOROUGH

### Planning Board

29 Middle Road, Boxborough, Massachusetts 01719

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

www.boxborough-ma.gov

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

APPROVED ON April 28, 2021

### Meeting Minutes

March 22, 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 7:02 PM. Other business will be conducted until the Public Hearing time of 7:30pm.

#### Administrative Business:

Meeting Minutes –

Mr. White moved to approve the minutes of January 25, 2021 as amended [Line 244-245 to read: “Building Inspector is the authority to make use determinations.”]. Seconded by Ms. Lazarow. Roll call: Barbadoro – aye; Lazarow – aye; Verner – aye; White – aye; and Markowitz – aye. Unanimously passed.

Ms. Lazarow moved to approve the minutes of February 8, 2021 as amended [Line 56-57 to replace the word “cell” with the word “solar;” Line 79 onward “Schmidt” to “Schmitt.”] Seconded by Mr. White.

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

Ms. Lazarow moved to approve the minutes of February 1, 2021 as written. Seconded by Mr. White.

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

Mr. Barbadoro moved to approve the minutes of February 22, 2021 as amended [Line 320 strike “time constraint period” sentence; Line 99-101 to read: “Years ago, the Town and the applicant entered into a settlement agreement that includes a conceptual development of this part of the

property as two residential, single-family lots;” Line 105 to change the word “granted” to “approved;” Line 110 to change “A&R” to “ANR;” Line 160 to insert the word “driveway” instead of “subdivision.”] Seconded by Ms. Lazarow.

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

Ms. Lazarow moved to approve the minutes of March 12, 2021 as written. Seconded by Mr. Barbadoro.

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

#### Town Meeting Warrant Articles/Presentations

Ms. Markowitz noted that the Articles, recommendations, and summaries have been submitted at this time. The Board will assign members to these presentations. Town Meeting is proposed to be held on June 12, 2021. Ms. Verner will present the Solar Energy Systems Bylaw. Ms. Markowitz will present the Wireless Facilities. The Hazardous Materials will be presented by Mr. Barbadoro.

#### Administrative Business:

##### Correspondence and New Business (if any)

The Board received correspondence from Reeves Briggs, 535 Old Harvard Road, Jack Geissert, 134 Reed Farm Road, and the Board of Health.

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

There is no update at this time.

##### Website Update

There is no update at this time.

##### Status of the 2020 Zoning Bylaw

Mr. Corson stated that he should be ready with Appendix A this week. He will share this with the Board and get it posted to the website.

##### 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) – nothing new to report.

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

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

MAGIC Representative (Markowitz) – nothing new to report.

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.

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

Mr. Corson stated that the project concept was submitted, and the Town is now in consideration for this grant. This is a rolling grant. This was for help looking into overlay districts.

Public Comment:

None at this time.

Town Center/Enclave Project

Mr. Corson stated that a buffer planting onsite review will occur on April 8, 2021 at 1pm. This was a condition of the last site plan modification. Board Members can alert Mr. Corson if they would like to attend. The Town Engineer from PLACES Associates and landscape engineer will also attend.

Mr. Corson stated that he will update the Board regarding Carol Driscoll's concerns about the site at a later date. Ms. Driscoll has been in contact with the Fire Chief over some items.

7:30 PM Public Hearing – 1414 Massachusetts Avenue Site Plan Approval Application

Ms. Markowitz opened the public hearing at 7:30pm by reading the legal notice.

Mr. Barbadoro stated that his property boundary line is within 300' of Lincoln Property Company's property line and is listed in the application. The Ethics Commission attorney recommended he recuse himself, which he will do. He has a right to speak as a member of the public and may resume his seat once the hearing is complete.

*Mr. Barbadoro recused himself.*

Sue Carter, PLACES Associates, Town Consulting Engineer; Bethany Ordnung; Adam Costa, Special Counsel for the Town; and the Vibalogics project team were introduced.

Paul Alphen, counsel for Vibalogics, Rodrigo Mesquita, Iain Baird, Nick Facendola, civil site engineer of Level Design Group of the applicant's team were introduced.

Adam Costa gave an overview of site plan approval. Section 8007 provides much of the information regarding the site plan approval process and criteria.

Paul Alphen explained that Vibalogics, Inc. submitted an application for site plan approval in accordance with Section 8000 of the regulations. Vibalogics intends to occupy and use 65,923 sq ft of the existing two-story facility at 1414 Mass Ave, which contains a total of 293,731 gross sq ft of floor area. Vibalogics intends to develop, manufacture, and analyze small volume pharmaceutical products in the facility. The Boxborough facility will also be the headquarters for the company. Over the first 18 months, the workforce on site will be expanded to 200 employees, 120 day-shift and 80 employed on off-shifts. There are no exterior site improvements proposed for the facility. There is an exemption for any activity involving a small increase in use, but this was not submitted for. This is being viewed as a resumption of use. A request for zoning determination for research and development, office space, and light manufacturing are all allowed within the Office District on February 1, 2021. A positive response letter was received on February 21, 2021. Originally special permits were needed for this site, but these are no longer needed for this client's use of the property. A report was received from PLACES Associates, noting that the leaching field for the wastewater treatment plant on site is located in the Aquifer Protection District. The client and property owner have been trying to obtain information about the history of the wastewater treatment plant and the necessary regulations. The applicant would like to move forward with the site plan application tonight.

Rodrigo Mesquita made a presentation regarding some basic information about Vibalogics. The company embraces new technology, reducing the risk of contamination and limiting the amount of equipment cleaning to save in water usage and waste created. Vibalogics caters to virotherapy products. Vibalogics is interested in the property because there is direct interstate access and due to its great location for employees. Changes will be made to the inside of the building for laboratories, office space, and a warehouse.

Ms. Carter, PLACES Associates, explained that the original site plan dated back to 1982. In general, the site plan regulations are geared towards physical changes to the outside of the building, but this application deals only with interior changes. This site does not meet the current stormwater standards. She recommended that all drainage structures be cleaned and inspected, and that the applicant add oil and grease traps. She noted that the landscaping should be reviewed as well. The current site plan has over 785 parking spaces, so the requested waiver for the traffic study is believed to be acceptable. The applicant should work with Police and Fire Departments prior to occupancy regarding specialized equipment and the appropriate emergency protocols needed. The majority of the developed site, parking lot and buildings, is not in the Aquifer Protection District. Initially no hazardous materials were allowed on this site, until a modification in 1987. The Board then had specific requirements regarding submittal of the types

of materials and submission to the Board of Health. This would be appropriate at this stage as well. The Board of Health may also have other parameters regarding testing wells. The plan is unclear as to which portion of the site is within the Aquifer District. It appears that the leaching field is within that District. This has been an ongoing issue with multiple paths forward.

Ms. Verner noted that the bylaw, specific to the Aquifer Protection District, lists two use regulations: industrial uses which discharge processed wastewater on site, and subsurface disposal of liquid or leachable waste. Also, the application states that there are a total of 840 trips expected between AM and PM hours. She noted that the applicant is not doing work on exterior of building but may need to bring existing lighting to dark sky compliance. There is a concern regarding sightings of Blanding's turtles in the area. This is another reason the area should be protected.

Ms. Lazarow explained that she would like more clarification on the applicant not anticipating loud noise, etc. without being able to anticipate future projects it may take on. She also asked where the monitoring wells will be located. Ms. Carter noted that these are proposed near the septic system. Ms. Lazarow also stated that she would like to learn more about the biokill system.

Mr. White stated that he wants to know more about the business itself. The Board's biggest concern is water and intends to make sure it is protected.

Ms. Markowitz also would like to know the average and peak numbers for wastewater, and the max capacity for the building. She is curious if there are additional electric needs for the building. She asked about a Hazardous Spill Prevention plan and the Hazmat process. She noted that there may need to be additional lighting changes to accommodate the overnight employees. She would like information on odor mitigation for the biokill system. She noted that there may be a need for an updated traffic study for this site.

Ms. Verner would like information on what time of day wastewater is being removed from the site.

Ms. Markowitz opened the meeting to public comment.

Andrew Tavalacci, 617 Old Harvard Road, stated that the waste management issue is the most important issue. He asked if Vibalogics can retain Triumvirate Waste Management to collect and ship all biowaste offsite, so that it does not leach into the surrounding area. He also asked if the biowaste can be requested to not be moved along main roads in Town.

Rebecca Hoy, 57 Cunningham Road, noted concern with the traffic study. She would like for an updated study to be completed. She is also concerned about water cleanliness and availability in the Aquifer District due to this proposal and the new nearby development.

Jack Geissert, 143 Reed Farm Road, read his comment submitted earlier to the Board.

Scott Larson, 464 Old Harvard Road, noted that the company is private equity owned. He asked what further procedures are taken if Vibalogics decides to expand its business and create new products.

Reeves Briggs, 535 Old Harvard Road, expressed concern over the leaching field and the nearby waterway. He asked how the applicant will prevent operator error or equipment failure from effecting the water supply.

Mark Barbadoro explained that this is the reason why the Board conducts site plan reviews when a site changes its use or lapses for a few years. On Table 704, items D and F, industrial uses which discharge processed wastewater are not allowed. 314 CMR 5, Massachusetts Code Regulations, has a definition of industrial wastewater and notes that regardless of pollutant content, this cannot be processed enough to be discharged. If it flows and it's not sanitary waste, it's not allowed, per item F. Item G of the table has a limit of 440 gallons/day/acre and the current system is in violation of that. Another bylaw section states that when a use that is lawfully nonconforming preexisting is discontinued for two years, it is no longer allowed to be done. Mr. Barbadoro also noted a Table of Uses in the bylaw, Footnote 12 states that hazardous materials may only be used in an incidental manner. He explained that hazardous materials must be minor and happening out of chance, per the definition. He thus asked Vibalogics if they removed hazardous materials from their work, would the business be able to carry on, and Vibalogics stated no. Thus, hazardous materials being used by Vibalogics are not minor or inconsequential. There is a history of hazardous materials in this area. The hazardous waste that Vibalogics will emit is defined in Mass General Law Chapter 21D Section 12. He believes that Boxborough previously rushed to change its bylaw to prevent hazardous materials being dumped into the Aquifer Protection District. He doesn't believe that the leaching field on site should be used for the proposed purpose.

Kurt Marden, 550 Old Harvard Road, noted that there was no area identified for the biokill process within the facility. He also has interest in if there is a secondary containment system proposed for this facility.

Diana Lipari, 394 Littlefield Road, asked what the precedent is for discharging this kind of wastewater into a leach field, and also into a leach field above an Aquifer Protection District. She would like to see successful examples from other companies.

Janet Connolly, 152 Flag Hill Road, asked if an application for DEP Withdrawal Permit for Groundwater Use been filed or approved at this time. She also asked if any environmental assessments have been done for this site by Vibalogics. This might explain why the leach field had previously been abandoned. She wonders if there are any un-remediated subsurface contaminants still left on this site.

Bryan Lynch, of the Board of Health, stated that a review has been completed by their agent, who made comments about what was seen on the plan. The process needed for the deactivation of viruses, the amount of contaminants in the lab, the Biosafety Committee recommendations for

the facility have yet to be discussed with the applicant, as they have not yet come before the Board of Health. This information will be needed before decisions can be made.

Ms. Markowitz asked for the timeline of when the applicant will be working with the Board of Health.

Francie Nolde, 459 Sergeant Road and member of the Sustainability Committee asked what Vibalogics is planning to make this a sustainable and green building, if anything. She asked if alternate energy forms are being considered for the building in order to mitigate climate change.

Blase Provitola, 38 Eldridge Road Harvard, MA, farmer at Old Frog Pond Farm, questioned how a leach field was ever built on an Aquifer Protection area. There is concern about groundwater and surface water, as the farm pumps and irrigates water from Elizabeth Brook that connects to the Delaney wetland area. He also asked about the DET permitting process will work for this property. He mentioned the sampling wells between the pond and leaching field. He asked about the VOCs that will be produced, and if they might make their way into the leaching field.

George Krusen, 69 Depot Road, noted that 40 years ago he was part of a group that put together Esker Park further north. The group was concerned about water going into Beaver Brook at that time. The effluent that goes into the treatment plant then goes into the leaching field and has the dissolved solids in it which will go into the groundwater. This will then go into the nearby pond and there is no way to know how that pond ecosystem works currently. He questioned, if the leaching liquid is high enough in content to raise the dissolved solids in with the normal groundwater, how this will affect the pond ecosystem. There is no baseline for the pond. Boxborough has 5-6 watersheds that begin in Town. The Town has some responsibility for keeping these clean.

Mr. Tavolacci addressed the precedent of Vibalogics of having done/attempted this type of process before. He doesn't believe the company has done this before in the U.S. He doesn't believe, therefore, that the company can speak to past mitigation practices.

Mr. Barbadoro noted that he saw a river otter very close to the leaching field not long ago. He also saw a bobcat in his backyard. He mentioned a court case, Newport Materials & Others vs. Planning Board of Westford, where the Planning Board, during site plan review, said the use was not permitted. A judge ruled with the Planning Board during litigation of this case. He noted that the Planning Board was elected to protect the public. He asked that the members be strong, vote with their conscience, and do what's right for Boxborough's citizens.

Janice Heller, Swanson Road at Harvard Bridge, explained that there is a balance between bringing business into Boxborough and protecting the environment. She is grateful to have a safe place in Town to walk and see wildlife. Once chemicals are brought in, it's hard to take them back.

Ms. Markowitz suggested that the public and Board compile their comments/questions by next week to give to the applicant.



Iain Baird noted that his team just found out that the property is located within the Aquifer Protection District, as this was previously unknown. He explained that his company will never do anything to harm the groundwater of the Town. The waste discharge will be water with different levels of salt because the company makes lifesaving items. This process does mean that the salt-based waste stream can have biocontamination in it, which must be processed in a biokill system. This has a heated process that moves it back to an innocuous waste. It is understood that there can be a process put in place to do this. There are regulations in place to protect the aquifer that the company will try to address in order to present a system that works for the Town. He explained that solid wastewater would be picked up weekly from the site and that the volume of this waste is not very large. The test rooms are designed to the highest levels of the EPA. The FDA inspects the facility, employees, etc. to make sure the standard of operation is robust enough that the product is safe.

Nick Facendola explained that Ms. Carter is in acceptance of the proposed waiver request regarding the traffic study. This facility has been in place and was occupied when the nearby residential development was permitted. It is believed that there will not be any negative impacts to traffic based on the Vibalogics proposal.

Ms. Markowitz stated that a traffic study update would be useful. There may also be additional tenants coming to this building, and so an updated study with new parameters may be necessary.

Ms. Carter noted that, due to COVID-19, it is still a strange time to have a traffic study done. She believes the Planning Board may need to give guidelines and parameters to the applicant for this.

Ms. Verner noted that anticipated traffic pattern information may also be important.

Ms. Verner moved to continue this hearing to April 5, 2021 at 7:20pm via Zoom. Seconded by Ms. Lazarow.

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

Mr. White moved to adjourn the meeting at 9:38pm. Ms. Verner seconded.

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



Meeting Documents:

LEGAL NOTICE OF PUBLIC HEARING Town of Boxborough Planning Board Site Plan Application Boxborough Zoning Bylaw Section 8000 (Site Plan Approval)

Site Plan Approval Application for 1414 and 1320 Massachusetts Avenue; 244A and 244B Adams Place; 984, 984A, 984B, 984C, 1451, 1497 Hazard Lane; 328, 1451 Rear Hazard Lane  
Memo from Level Design Group to Boxborough Planning Board re: Vibalogics Site Plan Review

1414 & 1320 Massachusetts Avenue; 244A & 244B Adams Place; 984, 984A, 984B, 984C, 1451, 1497 & 1634 Hazard Lane; 328 & 1451 Rear Hazard Lane Boxborough, MA 01719  
Assessor Parcel Numbers: 12-027, 12-028, 12-030, 13-004, 13-022, 17-005, 17-009, 17-010, 17-022, 17-023, 17-024, 17-025, 18-001 – February 9, 2021

Memo to Tim Rossini (Vibalogics) from Pare Corporation, re: Preliminary Wastewater Treatment Evaluation 1414 Massachusetts Avenue & Associated Attachments

Town of Boxborough Form of Intent 1414 Massachusetts Avenue

Memo from Alphen & Santos, P.C. to Building Commissioner re: Request for Zoning Determination/Vibalogics US Inc. – February 1, 2021

Memo from Boxborough Building Department to Iain Baird, C.O.O. re: Form of Intent/Zoning Determination – February 12, 2021

Application Review Request for Site Plan Approval – March 1, 2021

Staff Report, Site Plan Approval 1414 Massachusetts Avenue – March 18, 2021

Town of Boxborough Amendment to Special Permit for Site Plan Approval for Nippon Electric Company – May 12, 1987.

Town of Boxborough Site Plan Decision #87-20 – September 3, 1987

Draft Meeting Minutes – January 25, 2021

Draft Meeting Minutes – February 1, 2021

Draft Meeting Minutes – February 8, 2021

Draft Meeting Minutes – February 22, 2021

Draft Meeting Minutes – March 12, 2021

Memo from PLACES Associates, Inc. to Planning Board, re: Site Plan Review Vibalogics – March 22, 2021

Memo from the Board of Health re: Site Plan Review Vibalogics

Memo from Jack Geissert to Town Planner Simon Corson re: Vibalogics Site Plan Approval Application – March 22, 2021

Memo from Reeves & Karla Briggs to Town Planner Simon Corson re: 1414 Massachusetts Ave Site Plan Review

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

Join Zoom Meeting

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