



## TOWN OF BOXBOROUGH

### Planning Board

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

APPROVED ON June 28, 2021

### Meeting Minutes

May 24, 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)

Ms. Markowitz called the meeting to order at 7:01 PM. She explained that the Board will exit this meeting at 7:15 to join a joint meeting with the Select Board. The Planning Board will then return to this meeting.

#### Public Comment:

None at this time.

#### Administrative Business

##### Meeting Minutes

Mr. White moved to reconsider the meeting minutes of March 29, 2021. Seconded by Mr. Barbadoro.

Mr. White explained that he made an explanation during these minutes during the public comment section. He would like for lines 16-43 to be reinserted as originally worded in the draft minutes. He explained that the motion to amend these minutes to excise that portion took him by surprise and that the Board has never excised entire portions of minutes in the past.

Ms. Markowitz stated that the intention was not to censor the comments but that the minutes do not often records things verbatim. She asked that the words 'in Mr. White's opinion,' be inserted in some places. Mr. Barbadoro suggested that 'Mark White expressed his opinion about past cases,' be inserted at the beginning of the paragraph instead.

Ms. Lazarow, who made the original motion to amend the section, suggested leaving the comments in, as long as Mr. White is noted as making the comments as a private citizen and not a member of the Planning Board. Mr. White stated that he made the statement as a Planning Board member and citizen.

Mr. Barbadoro stated that he supports someone coming forward who is passionate about having what they said be stated in the minutes. He is also supportive of making it clear that what was said was Mr. White's opinion.

Mr. White suggested that the statement be prefaced with, "Mark White stated that he would like to make a statement regarding his opinion on his role on the Planning Board."

Mr. Barbadoro moved to preface the original statement made by Mr. White with Mr. White's suggested language and adding back in the original language. Seconded by Ms. Verner.

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

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

Ms. Markowitz noted that two pieces of correspondence were received: an email from Lynne Stahlberg and an email from Emile Biron.

Regarding Emil Biron's email regarding the silt fence, Mr. Barbadoro stated that this appears to be a ConsComm decision; however, Ms. Markowitz noted that this was not a ConsComm decision. The Board further discussed this item.

The Board exited the regular meeting at 7:21pm to join the already in session Select Board meeting.

### **7:15 PM Joint Meeting with the Select Board**

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

The Board reentered to their regular meeting at 8:34pm.

### **7:45 PM Public Hearing – 871 Massachusetts Avenue – continued from January 11, 2021, February 22, 2021, April 5, 2021, and May 10, 2021.**

#### **Owner/Applicant: High Quality Landscape Construction, Inc.**

#### **Site Plan Approval Application**

*Mr. White recused himself.*

Ms. Markowitz read the legal notice for the hearing.

Nick Facendola, Level Design Group, and Sue Carter, Town consulting engineer, joined the Board.

Nick Facendola stated that this proposal is for High Quality Landscape at 871 Massachusetts Ave. The company is looking to construct a 4,920 s.f. Truck Canopy Accessory Structure within the existing pavement. This will be a covered structure with no sidewalls for the applicant to park tree clearing equipment (boom trucks, chippers). During the first Board meeting, Sue

Carter made a suggestion regarding bollards, so these have since been added to the plan on the structural columns. Trees and screening plantings have been added to the landscaping plan. The results of the testing of the onsite drinking wells will be sent to the Board once available. He noted that he does not believe there is any meaningful encroachment of Town land on the back of this property, other than a couple of logs fallen down.

Sue Carter stated that she has no further comments, other than found in her submitted email.

In response to a question from Mr. Barbadoro, Mr. Facendola stated that the hoops are 30' at the peak and the structure is proposed to be 25' high. Mr. Facendola stated that he does not believe it would be possible to move the structure 10' further from the abutting residents, as this is a tight site, and this space is needed. The proposal is the minimum size building that the applicant is willing to undertake.

In response to a question from Ms. Lazarow, Mr. Facendola stated that the canopy is a permanent structure, and the vehicles will be stored there year-round. Maintenance will not be performed on these vehicles under the canopy.

Mr. Barbadoro stated that he is concerned that the overall accessory structure is not proportional in size to the principal structure on site, as it will be the largest structure on the site. The building is being placed on site in a spot that would only be allowed for an accessory structure. Also, by right in the district, landscaping services, as defined in the bylaw, talks about lawnmowers and light equipment, but there is no storage or distribution of bulk materials on site allowed. By special permit, landscape contractors can be allowed in the district, and he believes the applicant more closely aligns with this definition. He believes that a special permit from the ZBA may be needed for the applicant to propose this large structure 10' closer to abutting residences.

Ms. Verner stated that she also is concerned about this being considered an "accessory" use, when it will be larger than the other structures on site. It should need to abide by the normal setback requirements as any other structure would.

Ms. Markowitz noted that Mr. Facendola stated that the structure is proposed to be 25' tall, but earlier discussions and documents placed the structure closer to 20-21' tall. Mr. Facendola stated that the 25' height would be more accurate as an estimate before the final design phase.

In response to a question from Ms. Markowitz, Mr. Facendola stated that the bollards will be in front of the four columns. These are protective in nature.

Mr. Facendola stated that, per the bylaw, this is an accessory structure. He determined this from Bentley Herget, Zoning Enforcement Officer, prior to the application being submitted. He also requested from Mr. Herget any other permits needed and was told this was the proper process for this application. If this proposal did not comply with zoning, the Building Inspector would not sign a building card.

In response to a question from Mr. Barbadoro, Mr. Facendola stated that there are two principal structures on site – the office and the main garage. Mr. Facendola stated that he does not believe a structure with no walls, plumbing, or water could possibly be called the principal structure.

Mr. Barbadoro explained that the office could be the principal structure. He then asked if it is common for a 4,920 s.f. accessory roof structure to be customarily incidental to an office. Mr. Facendola stated that this depends on the use and that Mr. Herget agreed with his interpretation of the bylaw for this application.

Mr. Barbadoro stated that he will not vote on site plan approval for items that do not comply with the bylaw. He would like a condition that the applicant seek a special permit from the ZBA.

Ms. Verner stated that PLACES Associates' recommendation of Green Giant arborvitaes instead of cedar trees for this site seems appropriate. She noted that the applicant is proposing five trees approximately 18-20' apart in an area. She believes densifying this area would be helpful due to the size of this structure. She recommended adding in another four trees. She would prefer to see 8-10' trees planted. Mr. Facendola noted that there is already some vegetation on site and that these proposed are to fill in any gaps.

Ms. Markowitz stated that she would like a condition that the structure have no sidewalls. Ms. Markowitz stated that she would like any conditions from the prior site plan approval relative to the ongoing operations to be included. She noted that the structure needs to be tested for wind loading.

Ms. Verner noted that the Design Review Board (DRB) weighed in on this item. There were concerns about the size and the group weighed in on the color. Ms. Markowitz stated that these notes should be added into the condition.

Mr. Barbadoro stated that he could not find in the bylaws the board that handles special permits for landscaping contractors under the use table, but the default board is always the ZBA. Mr. Barbadoro noted that his condition for this would be that no building permit shall be issued for the construction of the parking structure without a special permit under Section 4202 or the Table of Uses 4003(4). The ZBA can decide conformance with the bylaw for the accessory structure.

Mr. Facendola noted that this structure complies with the definitions for accessory buildings within the bylaw. He requested that the Board consider language that does not make it impossible for the applicant to move forward, should the ZBA choose not to issue a special permit. Mr. Barbadoro stated that the applicant can always appeal the site plan review decision to the ZBA.

Ms. Markowitz noted that the Building Inspector's determination was given on April 28, 2021.

Public Comment:

Mark White noted that the determination from the Building Inspector is maybe beyond the scope of this Board, as they cannot control this determination. He then asked, if this moves to the ZBA, what conditions the Planning Board would like to see placed on it.

Mr. Barbadoro stated that he would like to see the structure moved 10' further from the property line, which would meet the dimensional requirement for the minimum side setback in the B District. Mr. Facendola stated that the applicant would prefer the proposed location.

Mr. Barbadoro suggested that the Board approve this with conditions tonight, in order for the applicant to move forward.

Mr. Facendola noted that there has been no opposition regarding the proposed placement of this structure from the closest abutter.

Ms. Carter stated that there is area between the bays and parking spaces in order to maneuver trucks. She noted that there may be concern regarding trucks maneuvering if the accessory structure is moved 10' closer to the building itself. Ms. Verner stated that she does not believe this will be a problem on this site, and suggested the engineer undertake an AutoTURN study.

Ms. Lazarow suggested reaching out to the abutters to make sure there are no issues with the proposal.

Armand Porrazzo stated that he is unhappy with the Zoom format of this meeting and has missed most of the meeting. He works with Mr. Facendola and represents Tree Masters as a property manager.

Ms. Markowitz noted a legal interpretation for "accessory structures" that she found from an attorney: the accessory structure must be incidental to the permitted primary use, cannot undercut the plain intent of the zoning bylaw, must be subordinate to the primary use and minor in significance, must be proportional to the primary use, and must be commonly, habitually, and by law practice associated with the primary use.

Mr. Barbadoro moved that the proposed Truck Canopy Accessory Structure does, in fact, meet the definition in the Zoning Bylaw for an Accessory Building, Section 2101. Seconded by Ms. Verner.

Roll call: Barbadoro – nay; Lazarow – aye; Verner – nay; and Markowitz – aye. 2-2-0.

Ms. Markowitz noted that the Findings of Fact could note that the Board was unable to agree on the definition of an accessory structure and would therefore ask the ZBA to review that. Another condition is that the ZBA consider a special permit for a preexisting nonconforming use because this business is now potentially a Landscape Contractor, previously permitted as a Landscape Service.

Mr. Barbadoro moved to close the public hearing. Seconded by Ms. Lazarow.

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

The Board reviewed the proposed conditions, if this is to be approved: that the project obtain a special permit from the ZBA for preexisting, nonconforming use; within the Findings of Fact the Board will note that it was unable to agree on the definition of an accessory structure; all prior applicable conditions on the site plan review be observed; in the event that the ZBA considers the parking structure is not accessory, that it will be sited within the proper setbacks; up to 9 Green Giant arborvitaes at a height of 8-10' to be determined on site in conjunction with the Town Engineer; no sidewalls allowed to be associated with the structure; max height of the structure to be 25'; recommendations of the DRB to be included; to make sure the structure meets the wind load requirements; recommendation that the applicant consider placing a solar facility on top of the structure; and that previous conditions from the 2008 site plan approval be observed if applicable.

Mr. Barbadoro moved to approve with the conditions and Findings of Fact as previously outlined. Seconded by Ms. Verner.

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

*Mr. White rejoined the Board.*

**8:30 PM – Presentation of UMASS Amherst Study – Economic Development Committee  
Presentation of the Economic Development Study conducted by the University of  
Massachusetts - Amherst, Center for Economic Development, School of Landscape  
Architecture and Regional Planning (LARP)**

Rich Guzzardi, Kristin Hilberg, and John Neyland of the EDC joined the Board. Mr. White is on the EDC but is doing business as a Planning Board member only at this time. The EDC reviewed the UMASS Amherst Study presentation.

The groups discussed the presentation and agreed to talk further in the future on items.

Mr. Barbadoro moved to adjourn the meeting at 11:05pm. Ms. Lazarow seconded.

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

Meeting Documents:

Proposed Memorandum of Understanding Between the Select Board and the Planning Board, Approved May 10, 2021

LEGAL NOTICE OF PUBLIC HEARING Town of Boxborough Planning Board Site Plan Application, Level Design Group, High Quality Landscape Construction, originally publicized December 24, 2020

Memo from Level Design Group, re: High Quality Landscape Construction, Inc., Site Plan changes, May 6, 2021

Correspondence between Nick Facendola, Level Design Group, and Bentley Herget, Building Commissioner, re: 871 Mass Ave, Special Permit, April 28, 2021

UMASS Economic Development Study, Final Study Report Presentation to the Boxborough Select Board

Draft Meeting Minutes: April 12, 2021

Correspondence from Lynn Stahlberg, 343 Sargent Road, re: draft proposal dated 4/22

Correspondence from Emile Biron, 539 Burroughs, re: 871 Massachusetts Avenue – Landscape

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

Join Zoom Meeting

<https://us02web.zoom.us/j/89239214611?pwd=a29wQm9RcDMzeVJUWlkwUmZIRGlwUT09>

Meeting ID: 892 3921 4611

Passcode: 761030

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