



**BOXBOROUGH PLANNING BOARD**  
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John Markiewicz, Chair    Eduardo Pontoriero, Clerk    Nancy Fillmore    Abby Reip    Hongbing Tang

**Meeting Minutes**  
**October 3, 2016**  
**7:30 PM**  
**Morse Room, Town Hall, 29 Middle Road**

Members Present:

John Markiewicz, Chair  
Eduardo Pontoriero, Clerk  
Nancy Fillmore, Member  
Abby Reip, Member  
Adam Duchesneau, Town Planner

Members Absent:

Hongbing Tang, Member

The Chair called the meeting to order at 7:33 PM.

**Meeting Minutes of September 19, 2016**

Mr. Markiewicz MADE a MOTION to approve the minutes of September 19, 2016 as amended.  
Ms. Reip SECONDED the MOTION. All members voted in favor.

**881 and 1065 Burroughs Road ANR Plan and Common Driveway Special Permit Minor Modification**

George Gallagher from Habitech, Inc. was in attendance to discuss the applications with the Planning Board. Ms. Fillmore stated she would need to recuse herself from the matter because she was an abutter to the subject properties. Mr. Gallagher indicated they needed to make a lot line adjustment to the boundary of 881 and 1065 Burroughs Road in order to accommodate for the required setbacks for the proposed location of the house. Therefore, he was requesting from the Planning Board both an endorsement of the Approval Not Required (ANR) Plan as well as a minor modification to the Special Permit, because the lots, as indicated in the approved plan set, needed to be adjusted slightly to accommodate for the required setbacks.

Mr. Markiewicz MADE a MOTION to approve the requested Minor Modification as it was not significant to the public interest and the modification was not inconsistent with the purpose and intent of the Zoning Bylaw or the approved Private/Common Driveway Special Permit, and to authorize the Planning Board Chair, the Planning Board Clerk, or the Town Planner to sign the decision on behalf of the Planning Board. Mr. Pontoriero SECONDED the MOTION. All members voted in favor and Ms. Fillmore recused herself from the vote.

Mr. Markiewicz MADE a MOTION to endorse the 881 and 1065 Burroughs Road ANR Plan and to authorize the Planning Board Chair, the Planning Board Clerk, or the Town Planner to sign the plan on behalf of the Planning Board. Ms. Reip SECONDED the MOTION. All members voted in favor and Ms. Fillmore recused herself from the vote.

### **Correspondence**

Mr. Duchesneau stated the Planning Board had received correspondence from Attorney Louis Levine regarding the item he had requested be placed on the Planning Board agenda for that evening (to provide an update on the Lawn Barber, Inc. (1034 and 1102 Massachusetts Avenue) situation). In his correspondence, Mr. Levine had requested the matter be continued to a future meeting date because representatives from Lawn Barber, Inc. were currently in talks with the neighbors in an attempt to resolve the issues at hand.

### **Comments on Zoning Board of Appeals Applications**

- Appeal of an Official's Decision – Larry White re 1034 & 1102 Massachusetts Avenue
- Appeal of an Official's Decision – Lawn Barber, Inc. re 1034 & 1102 Massachusetts Avenue
- Appeal of an Official's Decision – Cease & Desist Order at 1034 Massachusetts Avenue
- Special Permit Application – 1034 & 1102 Massachusetts Avenue

The Planning Board discussed all of the Zoning Board of Appeals applications before them as part of a general discussion because they all related to the same situation. Mr. Markiewicz suggested that perhaps the Planning Board should wait until their meeting on October 17, 2016 to comment on any of the applications. He noted the next Zoning Board of Appeals hearing for these applications was not until October 18<sup>th</sup> and the circumstances surrounding each of these applications may change before that date.

Mr. Pontoriero stated he had reviewed Larry White's zoning enforcement request letter from July 27, 2016 and he felt the parking spaces at 1102 Massachusetts Avenue along Route 111 were not pre-existing nonconforming parking spaces. Ms. Reip indicated she agreed and did not think this area had been used for parking previously. Mr. Markiewicz asked, if this was true, how it would be possible to have a gravel area in this location with no vegetation. Mr. Pontoriero reiterated how he simply did not feel these parking spaces were pre-existing nonconforming. Ms. Fillmore pointed out the letter the Building Inspector wrote in response to Larry White's letter, and encouraged Mr. Pontoriero to examine the Building Inspector's letter in detail. Ultimately, only individual Planning Board members expressed their opinions on the matter, but the Planning Board did not make a formal decision to comment on this aspect of the applications.

Ms. Reip stated she felt the Planning Board should reserve comment on the Zoning Board of Appeals applications until more information had been taken in prior to the Planning Board's next meeting. Ms. Fillmore felt that Lawn Barber, Inc. and the neighbors should continue to work on their own to resolve the dispute. Mr. Markiewicz stated he thought it made sense to wait until the next Planning Board meeting to comment on the applications. All other Planning Board members were in agreement.

### **Discussion Regarding Potential Zoning Bylaw Amendments**

Mr. Duchesneau informed the Planning Board a Special Town Meeting would be held on December 12, 2016 and he discussed the timeline for possible Zoning Bylaw amendments to be considered at this meeting. Mr. Markiewicz stated he felt that even a small proposed amendment would be rushed to meet the necessary deadlines for this Special Town Meeting. He indicated he would prefer the Planning Board to take all of their proposed Zoning Bylaw amendments to the Annual Town Meeting in May of 2017. Ms. Reip noted she felt the Planning Board should take their time to study each of the proposed amendments carefully. She also wanted the Board to consider if the proposed amendments would be a deterrent to prevent someone from violating the Zoning Bylaw.

Mr. Markiewicz noted liens could be placed on properties to reprimand violators of the Zoning Bylaw and these were often fairly effective. Mr. Pontoriero asked if someone is fined for violating the Zoning Bylaw repeatedly, could a lien be placed on their property. Mr. Markiewicz stated that was correct. Mr. Pontoriero noted current enforcement of the noise section of the Zoning Bylaw (Section 6404(1)) is frustrating because it is very difficult to catch a violator. Additionally, he noted this section of the Zoning Bylaw seemed to lack strength and enforcement of this section could easily lead to an accused violator filing an appeal. Mr. Pontoriero asked if the Planning Board could work with Town Counsel to craft a more improved noise bylaw. Mr. Markiewicz noted he would prefer to see the Land Court issue a determination on the Land Court Complaint Lawn Barber, Inc. had filed before the Planning Board began to dig into this topic. Mr. Pontoriero asked if Mr. Markiewicz was suggesting the Planning Board take no action on this topic. Mr. Markiewicz noted that in last 20 plus years, there have only been three complaints regarding noise.

Mr. Pontoriero stated he saw the topic differently and it was frustrating to him. How could a potential violator of the Zoning Bylaw be allowed to self-monitor themselves he wondered. Mr. Markiewicz noted that as soon as the Planning Board opens up the noise bylaw to potential amendments, people will recommend a whole variety of changes. He felt it would be very challenging to get any proposed amendment to the noise bylaw approved at Town Meeting. In particular, he cited the recent failure of the Town of Stow to amend their noise bylaw. Mr. Markiewicz felt that until the Town hears back from the Land Court regarding the Complaint Lawn Barber, Inc. had filed, the Planning Board should leave this topic alone. Mr. Duchesneau noted this is the time for the Planning Board to be examining potential amendments to the Zoning Bylaw and stated he would continue to keep this topic on upcoming Planning Board agendas.

### **Boxborough2030 Implementation – Short Term and On-Going Action Item Responses**

Mr. Duchesneau provided updates on the four entities which had not responded to the original inquiry regarding the short term Action items in Boxborough2030 for which they were responsible. Mr. Markiewicz requested that Mr. Duchesneau reach out to these entities again and give them another deadline to respond. If they did not respond by this second deadline, they should be required to come before the Implementation Committee to explain how they are handling their responsibilities. Ms. Reip stated that a minimum, the chair of each of these entities should easily be able to provide a brief update on the items for which they were responsible.

**Discussion Regarding Potential Zoning Bylaw Amendments (continued)**

Mr. Markiewicz reiterated that a lot of work is involved in substantial Zoning Bylaw amendments and therefore the Planning Board needs to be judicious with how they spend their time. He also asked Mr. Duchesneau to look into the General Bylaw amendment process, especially in terms of what entity could propose a new General Bylaw. In particular, the Planning Board wanted to investigate how donation bins in town could best be regulated.

With no further business, the meeting was adjourned at 8:42 PM on a MOTION by Mr. Markiewicz, SECONDED by Ms. Reip, with all members voting in favor.

On Behalf of the Boxborough Planning Board:



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Eduardo Pontoriero, Clerk