

## **Holliston Zoning Board of Appeals Meeting Minutes of June 24, 2020**

**Call to Order:** The Chairman called the meeting to order at 7:00 p.m. via Zoom. He read the following statement into the record: Pursuant to the Governor's Order suspending certain provisions of the Open Meeting Law M.G.L. c. 30A paragraph 20, as well as the Select Board's Emergency Order dated March 16, 2020, the Zoning Board of Appeals will be using remote participation for this meeting. The audio of this meeting is being recorded and will be posted on the Town's webpage within 24 hours in accordance with the Governor's Emergency Action requirement of keeping the public informed of actions during this meeting. I would ask that all participants remotely attending this meeting please state your name for identification purposes each time you speak throughout the meeting. At this time, a roll call attendance vote will be taken:

Chairman John Love - Present  
Jay Peabody - Present  
Mark Bush- Present  
Elizabeth Dembitzer, Associate - Present

The Chairman noted that it has worked well if people use the Chat function to ask questions.

### **Approval of Minutes:**

On a motion by Mr. Peabody, seconded by Ms. Dembitzer, the minutes of June 10, 2020 were approved as written on a roll call vote.

On a motion by Mr. Peabody, seconded by Mr. Bush, the minutes of June 17, 2020 were approved as written on a roll call vote with Ms. Dembitzer abstaining as she was not present at that session.

### **Public Hearings:**

#### **1. Dimensional Variance Public Hearing – CRG Integrated Real Estate Solutions, 555 Hopping Brook Road**

The Chairman opened the public hearing and waived the reading of the notice. Present for the applicant were Frank Petkunis and Fred Zappulla of CRG, Atty. Joe Antonellis and Peter Bemis of Engineering Design Consultants, Inc. Mr. Bemis presented his narrative dated June 1, 2020 along with the record plan set and supplemental drawings entitled "600,000 and 800,000 Development – Alt. A Hopping Brook Road, Holliston, MA" dated January 22, 2020. He described the locus utilizing an Approval Not Required Plan of Land recorded at the S. Middlesex County Registry of Deeds as Plan 913 of 2019 containing +/- 150 acres. He provided some history of the Phase II Hopping Brook Park development, noting that the owner has marketed the site for nearly 20 years and finally has achieved some interest from a large development corporation.

He characterized the Town's maximum building height allowance in the industrial zone as "artificially low", noting that the net result of the request for relief is to allow a 40 foot interior clear height. He noted that a grade drop of four feet is required for the planned loading docks and 5 feet is needed above the 40 feet for steel and roof framing as well as 2-3 feet for roof pitch over the long structure, leading to a requested building height of 52 feet. He added that the site has unique topographical conditions, rising over 120 feet in elevation to the bedrock apex of the

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property. An overview of the remaining Hopping Brook Phase II properties was provided, including the proximity to the north of the 66 unit over-55 community in Holliston called “Holliston Woods” as well as approximately 12 residential homes in Medway to the east. He noted that the wooded areas between the proposed development and the residential abutters is a mix of mature trees approximately 50’ high with undergrowth. The topographic high point of the area is 372’ and the planned finish floor elevation of the 800,000 s.f. building is 362’ with a ground elevation of 358’ at the loading docks. The 12” water main providing service to the planned facilities as well as looping between Holliston Woods and the industrial park water tank has been extended to the property line. It is the intention to construct fully sprinklered buildings.

Mr. Bemis reviewed two sets of plan exhibits entitled “800K/600K Facility Site Section” dated June 19, 2020 and “Sections 555 Hopping” dated January 8, 2020 and noted distances and elevations from existing structures. The 800,000 s.f. facility is within 200’ of residential property lines in Medway and the 600,000 s.f. facility would be approximately 650’ from the structures at the end of Jackson Drive in Holliston. Proposed vegetative and structural screening from the 800,000 s.f. structure were reviewed as well with Mr. Bemis and members citing the Planning Board’s memorandum of June 19, 2020 which contains both their Site Plan Review and Land Disturbance and Stormwater Management Permit decisions issued in March 2020.

Participating in the Chat function of Zoom during the public portion of the hearing were the following individuals: Emily Perry, Steven McElhinney of 12 Carriage House Way, Medway, Ben Schecter of 64 Jackson Drive, James Bruce of 1 Olde Surrey Lane, Medway, Brett Fagan of 12 Stable Way, Medway, Robert Travers of 78 Jackson Drive, Marco Brancato of 46 Jackson Drive, Jason Duguay of 24 Stable Way, Medway, Thomas Schuler of 63 Jackson Drive, Gabrielle Pecher of 30 Stable Way, Medway, Neil Grossman of 90 Monroe Drive, Armand Souliere of 94 Monroe Drive, John Giacobbe of 3 Summit Road, Medway and Scott Lee of 87 Monroe Drive.

It was clarified that no Special Permit or public hearing was required for that process by both the Town Planner and the Building Inspector. It was clarified that the 600,000 s.f. building and its site improvements have not been through any other regulatory review and the proposed building is speculative. It was also noted that any defined “general industrial” use for either building would require a Special Permit. The Chairman deferred all questions about traffic, asking that the traffic study and proposed mitigation be made available. It was noted that MA DOT District 3 would ultimately address permitting for the intersection of Washington and Hopping Brook and any other warranted traffic mitigation. Mr. Bush asked if the study extended into Milford. Mr. Bemis stated that it did as expected truck traffic would access Rte. 495 from Fortune Boulevard and Beaver Street.

It was clarified that the Planning Board decisions contemplate traffic, lighting, blasting, construction scheduling, screening and noise. Mr. Bemis indicated that construction is expected to last a year with substantial capital investment being made in developing the buildings and providing mitigation, including an individual \$3,000 payment for screening to all direct abutters in Medway.

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Ms. Dembitzer asked for a clarification of location and inclusion of any rooftop appendages such as air handlers. Mr. Bemis replied that they were included within the 52' request and would be screened. Mr. Peabody asked for clarification of the 600,000 s.f. building. Mr. Bemis stated that it was included in the variance request and needed to complete Planning Board Site Plan Review at a minimum. The record plan entitled "600K/800K Development Alt. A Hopping Brook Road Holliston, MA" dated January 22, 2020 was cited for clarity of the request.

The chairman opened the meeting to those wishing to speak in favor or opposition of the petition. No one offered additional testimony. The chairman noted receipt of a letter of opposition from Krystina and James Bruce of 1 Olde Surrey Lane in Medway.

Mr. Peabody made a motion to close the public hearing. Mr. Bush seconded the motion with all in favor on a roll call vote.

### **Administrative Appeal – Michael Brumber, 157-165 Lowland Street**

The Chairman opened the public hearing at 8:30 p.m. Present with the applicant Michael Brumber was Atty. David Click. Also present were Building Inspector Chris Canney and Town Counsel Brian Winner. The Chairman reviewed the application materials submitted, including Mr. Canney's violation letter of May 4, 2020. Atty. Click stated that his client takes no issue with the documented violation by his client but rather condition #14 of the 2011 Special Permit. He noted that his client provides a written set of driving instructions to site users. Mr. Peabody suggested that permanent signage directing site users might be more effective, noting that the intent of the Special Permit condition is clear on its face. Ms. Dembitzer asked what evidence Mr. Canney had provided of the violation. He stated that a video had been provided and offered to let the members review it. Some discussion of the Select Board's contemplated/pending heavy vehicle restriction on Woodland Street and a portion of Lowland Street followed.

Participating in the Chat function either asking questions or expressing opinions were Ellen Troland of 101 Marilyn Street, Chris Boggess of 62 Fiske Street, Michael Barry of 54 Regal Street, Toni Stone, Audrea Szabatura of 31 Noel Drive, Karen Langton of 100 Woodland Street, Cherie Hafford of 242 Lowland Street, Anne Marie Dorning of 9 Timberledge Drive and Cidhinnia Torres Campos of 77 Woodland Street. No one offered testimony in favor or against the petition.

Mr. Peabody made a motion to close the public hearing. Mr. Bush seconded with all in favor on a roll call vote.

### **Administrative Appeal – Michael Brumber, 194 Lowland Street**

The Chairman opened the hearing at 8:55 p.m. and waived the reading of the notice. Atty. Click was present with Mr. Brumber. Also present was Building Inspector Chris Canney and Town Counsel Brian Winner. Atty. Click stated that there was confusion about Mr. Canney's language utilized with reference to materials and equipment and the identified use(s) under the by-law. Mr. Canney clarified that there are no uses on the site that are currently permitted, rather uses have been identified and discussed with the applicant that require a Special Permit, namely for

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“outdoor storage of building or other materials or equipment not covered elsewhere” (See Section III(G)(6)). Some discussion of whether renting a property to contractors (i.e. paving company, landscaping company, mason and construction company as related by Mr. Canney) was not a commercial parking lot occurred with the conclusion that that use would also require a Special Permit. Mr. Canney also cited provisions of Section I-B of the by-law which states that if uses are not contemplated, they are prohibited. Atty. Click stated that he and his client were happy to sit down with Mr. Canney to clarify.

The Chairman opened the hearing to those wishing to speak in favor or opposition to the appeal. Speaking in support of Mr. Canney’s issuance of a violation were Pat Hafford of 242 Lowland Street, Audrea Szabatura of 31 Noel Drive, Karen Langton of 100 Woodland Street, Michael Barry of 54 Regal Street, Ellen Troland of 101 Marilyn Street, and Paula Bloomquist of 48 Northway Street. All noted that the site users and applicant have been chronic violators, abutters rely on permit enforcement to protect their quality of life, and nuisance issues are difficult to assess but the issues identified by Mr. Canney are clear. Participating in the Chat function either asking questions or expressing opinions were Ellen Troland, Chris Boggess, Michael Barry, Toni Stone, Audrea Szabatura, Karen Langton, Cherie Hafford, Anne Marie Dorning and Cidhinnia Torres Campos.

Mr. Peabody made a motion to close the public portion of the hearing. Mr. Bush seconded with all in favor on a roll call vote.

### **Special Permit – VGP Granite Countertops, Inc., 1490 Washington Street**

The Chairman opened the public hearing, waived reading the hearing notice and stated that the Board was in receipt of a request to continue the public hearing from Atty. Bob Barr.

On a motion by Mr. Peabody, seconded by Mr. Bush, the public hearing was continued to July 15, 2020 at 7:00 p.m. The roll call vote in favor was unanimous.

### **Deliberations:**

#### **Dimensional Variance – 555 Hopping Brook Road**

##### **Findings of Fact**

Literal enforcement of the provisions of the by-law would involve substantial financial hardship to the Petitioner owing to circumstances relating to the unique topography of land and the programmed site work required to safely access and develop the site for the building masses proposed, namely a 600,000 s.f. and 800,000 s.f. building to be located on two sites approximately 75 acres each in size. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the by-law. Alternatives include uneconomic construction of building(s) that do not meet the industry standard for regional warehousing because of the limitations of the definition of building height in Section I-E Definitions of the Zoning By-Laws. The result of the grant of 12’ of relief would be Massachusetts building code-compliant construction for large-scale distribution warehouse facilities. Proposed compliance with all other dimensional components of Section IV-B were demonstrated for setbacks, maximum percentage of coverage and floor area ratios. It was understood that additional permitting would be required for the

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600,000 s.f. facility from the Planning Board under Section VII Site Plan Review and Stormwater Management and Land Disturbance By-Law and perhaps as Special Permit Granting Authority for both facilities.

### **Zoning Board Vote**

The Board's vote to approve the Petitioner's Dimensional Variance application for relief under Sections IV-B Schedule of Intensity Regulations 40 foot building height for property described and located at 555 Hopping Brook Road on Assessors Map 4 Block 6 Lot 15.A was as follows on a motion by Mr. Peabody, seconded by Mr. Bush:

Mr. Love	Aye
Mr. Peabody	Aye
Mr. Bush	Aye
Ms. Dembitzer	Aye

### **Conditions of Approval**

1. This Dimensional Variance is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s.11 and shall lapse in one (1) year unless exercised per MGL, c. 40A, s. 10 and Section VI-D of the Holliston Zoning By-Laws. The copy of the decision to be filed must contain a certification the Town Clerk that twenty (20) days have elapsed since after the decision was filed and that no appeal has been filed or if such an appeal has been filed, that it has been dismissed or denied.
2. The construction denoted on the record plan entitled "600K & 800K Development – Alt A Hopping Brook Road, Holliston, MA" prepared by Engineering Design Consultants, Inc. and dated January 22, 2020 depicts the contemplated two facilities approved for relief. Building construction is to extend no closer to the abutting properties than documented on the record plans and exhibits provided and shall be no higher than 52'.

### **Administrative Appeal – Michael Brumber (DCA Realty Trust), 157-165 Lowland Street** **Findings of Fact**

The Board understands that in an enforcement case, the Building Inspector has the burden of proving that the applicant's actions violate Condition 14 of the controlling Special Permit for the subject property. Based on the information cited in the application materials and in testimony by Atty. Click, testimony provided by the Building Inspector and testimony provided by the audience, the Board finds that Mr. Canney's Notice of Violation issued on May 4, 2020 is a reasonable interpretation of the Special Permit and his enforcement action is hereby affirmed. The 2011 Special Permit condition 14 is clear with regard to limitations specific to the applicant.

### **Zoning Board Vote**

The Board's vote to deny the Petitioner's Administrative Appeal application for property described and located at 157-165 Lowland Street was as follows on a motion by Mr. Peabody, seconded by Mr. Bush:

Mr. Love	Aye
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Mr. Peabody	Aye
Mr. Bush	Aye
Ms. Dembitzer	Aye

**Administrative Appeal – Michael Brumber (DCAB, LLC), 194 Lowland Street**

**Findings of Fact**

The Board understands that in an enforcement case, the Building Inspector has the burden of proving that the applicant's use of the premises violates the by-law. Based on the information cited in the application materials and in testimony by Atty. Click, testimony provided by the Building Inspector and testimony provided by the audience, the Board finds that Mr. Canney's Notice of Violation issued on May 4, 2020 is a reasonable interpretation of the by-law and his enforcement action is hereby affirmed. A permitting process for the uses described has been sufficiently outlined by Mr. Canney.

**Zoning Board Vote**

The Board's vote to deny the Petitioner's Administrative Appeal application for property described and located at 194 Lowland Street was as follows on a motion by Mr. Peabody, seconded by Mr. Bush:

Mr. Love	Aye
Mr. Peabody	Aye
Mr. Bush	Aye
Ms. Dembitzer	Aye

**Adjournment:** The meeting adjourned at 10:10 p.m. on a motion made and duly seconded with all in favor on a roll call vote. The next meetings were scheduled for July 15<sup>th</sup> and 22<sup>nd</sup>.

Respectfully submitted,

Karen Sherman  
Town Planner

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