



June 6, 2022

Ms. Valerie Oorthuys, Town Planner
Bolton Zoning Board of Appeals
663 Main Street
Bolton, MA 01740

Subject: Mallard Lane – Comprehensive Permit

Dear Valerie:

Hancock Associates has been hired to assist the Board of Appeals in their review of the proposed Mallard Lane Comprehensive Permit through a grant from the Technical Assistance Program of the Massachusetts Housing Partnership (MHP). MHP engages qualified consultants to assist the Zoning Board of Appeals (ZBA) in navigating and understanding underlying development issues and impacts as they relate to the process and regulations associated with evaluating a Comprehensive/40B permit. Consultants also help facilitate productive discussions with developers and in most cases, communities receiving technical assistance from MHP have successfully negotiated comprehensive permits on terms mutually agreeable to both the municipality and developer.

Hancock Associates has reviewed revised documents, neighbor, town comments and peer review letters related to the Comprehensive Permit submission and offer the following as initial guidance to the Board.

Minimum Requirements

The governing regulations (760 CMR 56) require applicant to meet three main criteria for consideration of a Comprehensive Permit before a Zoning Board of Appeals:

- The Applicant has site control
The Applicant, Northeast Classic Builders, LLC has presented a deed to the subject 5-acre parcel (Deed Book 58115 Page 346). Northeast Classic Builders, LLC is a limited liability corporation however the Massachusetts Secretary of State's office has issued a dissolution by court order on 6/30/21. The Applicant should resolve this issue. The deed is also in the names of James J. Morin and Kathryn M. Lumb personally. The Applicant should provide a Purchase & Sale into the LLC once reinstated by the SOC. *The Applicant has re-registered LLC with Secretary of State's office. No further action required.*

DANVERS OFFICE
185 Centre Street
Danvers, MA 01923
Phone: (978) 777-3050
Fax: (978) 774-7816

MARLBOROUGH OFFICE
315 Elm Street
Marlborough, MA 01752
Phone: (508) 460-1111
Fax: (508) 460-1121

CHELMSFORD OFFICE
34 Chelmsford Street
Chelmsford, MA 01824
Phone: (978) 244-0110
Fax: (978) 244-1133

- The Applicant has received a Site Eligibility Letter (PEL).
MassHousing issued a Site Eligibility Letter on July 2, 2019. The project does not appear to have changed appreciably since the PEL was issued.
No further action required.
- The Applicant is a Limited Dividend Organization
As discussed above, the Applicant, Northeast Classic Builders, LLC was a limited liability corporation registered with the Massachusetts Secretary of State, we would recommend the Applicant resolve the issue with the Secretary of State's office and also provide a letter to the Board committing to the limited dividend requirements. The actual full commitment is through execution of the required Regulatory Agreement prior to construction. *The Applicant has re-registered LLC with Secretary of State's office. No further action required.*

Review of Submission

760 CMR 56.05 contains the required elements of a submission of a Comprehensive Permit to the Zoning Board of Appeals. The following is a review of the submission with regard to these requirements:

- Preliminary site development plans with the locations and outlines of proposed buildings; the proposed locations, general dimensions, and materials for streets, drives, parking areas, walks and other paved areas; and proposed landscaping improvements. Any project of five or more units must have a site plan stamped by a registered professional architect or engineer.
The applicant has not fully satisfied this requirement. A Plan set has been submitted within the full submittal package, prepared by Ducharme & Dillis dated March 11, 2020, containing five sheets; Layout Plan Sheet C2.0, Grading & Drainage Plan Sheet C3.0, Erosion Control Plan Sheet C4.0 and Utilities Plan Sheet C5.0. The required Landscape Plan was not included. Additionally, a Color Site Plan was also submitted prepared by Ducharme & Dillis with a date of January 29, 2019. This depicts a different layout of the eleven houses and shows three lots being created. The plan is a single sheet, and the PDF is poor quality. The Applicant should explain which plan is being presented and supplement with the required information in accordance with 760 CMR 56.05.
A new site plan has been submitted by Dillis & Roy Civil Design Group dated 12-16-21 (now revised through 3/30/22), which has addressed the prior issues. No further action required.
- An existing condition report on the proposed site and the surrounding areas.
The applicant has not complied with this requirement.
An Existing Conditions Plan has been included in the Dillis & Roy 12-16-21 plan set stamped and signed by a Professional Land Surveyor. No further action required.
- Preliminary, scaled architectural drawings prepared by a registered architect, with typical floor plans, elevations, and sections, including construction type and finishes.

The applicant has not completely satisfied this requirement. Architectural Plans have been submitted but no scale is evident nor is the source of the plans given. The plans also do not match all the houses shown on the site plan(s).

This item remains open. Architectural renders submitted October 7, 2021 do not provide information verifying they were completed by a Registered Architect as required by the regulations and they lack dimensions to verify the floor plans match the site plan. The plans depict decks and porches and articulations in the building footprints that do not match the site plan.

6-6-22 Update: The current site plan (revised through 5/27/22) now depicts the two different size units: four at 40' x 65' and four at 50' x 60' in accordance with the architectural plans by JH Designs dated 5-27-22. No further action required.

- Tabulation of proposed buildings by type, size, and footprint, impervious coverage, and open space, including percentage of tract to be occupied by buildings, parking and paved vehicular areas.

The applicant has satisfied this requirement. This table appears within the narrative accompanying the application.

This table should be added to the site plans so it can be updated as the plans change. This item remains open.

- A preliminary subdivision plan if the project involves a subdivision.

The project may involve a subdivision if three lots are in fact proposed. If this is the case, a preliminary subdivision plan is required.

This item is no longer applicable to the project. No further action required.

- A preliminary utilities plan (water, wastewater, drainage, and storm water management facilities).

The applicant has satisfied this requirement with the plan set referenced above.

No further action required.

- A list of Waivers from local bylaws and regulations.

The applicant has satisfied this requirement.

A revised waiver list dated March 30, 2022 was submitted to the Board. The waiver list appears complete and contains specific information as to the quantity of relief sought. No further action required.

Procuring peer review consultants

The Board has engaged Horsley Witten Group (HW) to peer review the civil engineering and wetland issues on site as outlined in their proposal dated 9/2/21. HW provided a letter to the Board dated 10/14/21. The applicant provided responses to comments in two letters: one from Dillis & Roy dated 12/16/21 and the second addressing wetlands issues raised from Norse Environmental dated 12/15/21.

6-6-22 Update: Horsey Witten provided a follow up letter dated June 1, 2022 that contained a review of the Dillis & Roy response letter dated May 31, 2022 and to this letter regarding sight distances dated May 27, 2022. HW defers to the ZBA with regard to the mitigation being offered by the Applicant reacting to insufficient sight distance at the site driveway. The HW original October 14, 2021, letter had six items within the

wetlands section, the response from Norse only responds to the first two. These items should all be resolved while the public hearing is still open.

Comments from other municipal boards and committees, town staff

The application has been distributed to town board and departments for comment. We will work with staff to keep track of input and make sure all parties have provided comments. We will assist the Board in coordinating review and comments from the various Boards and Departments in town.

The Board of Health recently provided a letter to the ZBA dated 5-24-22. The letter did not offer any recommendations with regard to the requested Board of Health waivers sought. Further input from Valerie per a discussion with Bill Brookings: Because the Comp permit plans don't include detailed septic design plans, the BOH does not feel they can provide more specific feedback. When they looked at the waiver requests and the plans provided, they focused on the well radii to see if there would be any adverse impacts on abutting properties – if a neighbor were to need to expand their septic system, for example, would the proximity of one of the proposed wells limit that abutter's ability to do so? For the most part, the well radii that overlap onto abutting property is on wetlands or toward a rear property line. Bill noted it could be helpful for the ZBA in consideration of the waiver requests if the applicant were to update Sheet C5.0 to indicate the property lines between 342, 348, and 360 S Bolton Road and show the location of wells and septs of 348 and 360 S Bolton Road.

The Applicant's engineer presented the project to the Planning Board at their meeting on May 25, 2022. The Board reviewed the waiver requests and agreed that due to the site layout, the waivers would be needed in order to construct the proposed development. The Board agreed the development would serve to advance the Town's goals in terms of providing housing affordability and options for older adults, a clearly stated need within the Town's 2021 Housing Production Plan. Members of the Board did express some concern with allowing irrigation of landscaped areas through the wells and recommended use of drip irrigation as a way to lessen water usage.

The Applicant met with the Design Review Board on June 1st. The DRB had a handful of comments and would like the applicant to return prior to the close of the public hearing, though generally the DRB was supportive of the changes made to the plans.

| | |
|--------------------------|--------------------------------------|
| Conservation Commission: | Rebecca Longvall, Conservation Agent |
| Planning Board: | Valerie Oorthuys Town Planner |
| Board of Health | Bill Brookings, Heath Agent |
| Fire Department | Chief Jeffrey Legandre |
| Police Department | Chief Warren Nelson |
| Building Inspector | Michael Sauvageau |
| Public Works | Joseph Lynch, Director |

Coordinating the project review schedule

As the Board is aware you have 180 days from the opening of the public hearing to close the hearing. The Board has scheduled August 10, 2021, for the opening of the Public Hearing. The 180 days would bring us to Friday February 4, 2022. *The Applicant has provided an extension to July 5, 2022.*

August 10, 2021

- Brief overview of Chapter 40B for the audience,
- Initial presentation by applicant
- Initial comments from the Board, BOH and Fire Department
- Discussion of Public water Supply question.
- Discuss Peer Review.
- Open discussion to the public.
- Discuss future schedule and schedule site walk

September 7, 2021

- Review Site Walk held August 29, 2021
- Engineering Peer Review – Review Proposals and Make Selection
- Applicant Presentation of New Material
- Board Q&A
- Q&A - J. Peznola / V. Oorthuys
- Audience Q&A
- Review of New Correspondence Submittals

October 19, 2021

- Review Site Walk held 10/13/21 with Town Planner, Conservation Agent and Horsley Witten.
- Engineering Peer Review Presentation of initial letter from Horsley Witten
- Application presentation of new material: architectural plans, house layouts and plantings.
- Board Q & A
- Audience Q & A

November 30, 2021

- Continued without testimony

January 11, 2021

- Presentation of new materials from applicant, new site plan, response letters to peer review.
- Peer review input (if available)
- Review letters from neighbors
- Review occupancy restriction and well issue (DEP/DHCD Input)
- Board Q & A

- Audience Q & A

February 1, 2022

- Peer review input on new plans and responses.
- Follow up on wetlands issues.

March 15, 2022

- Presentation of plan reducing units to 8
- Follow up on peer review.

April 6, 2022

- Peer review of new plan
- Response from Applicant
- Define open issues
- Town Department input
- Begin discussion of possible decision and conditions

May 9, 2022

- Peer review of new plan
- Response from Applicant
- Define open issues
- Town Department input, BOH, PB and DRB input
- Begin discussion of possible decision and conditions

June 6, 2022

- Discuss latest plans and reports
- Review input from BOH, PB and DRB
- Sight Distance
- Wetlands Response
- Request for another trip to DRB
- Begin framework of draft decision
- Review waiver List
- Economic review if any conditions claimed uneconomic

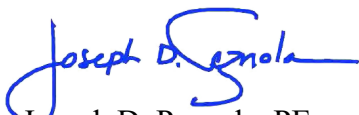
July 5, 2022

- Close Public Hearing (starts 40 days to clock decision with Town Clerk)

The Board can meet in public sessions during the 40 days to deliberate on the draft decision and vote when the Board is ready to do so. The process is winding to a conclusion.

We look forward to assisting the Board in this complex and dynamic process. Please do not hesitate to contact me should you have any questions or comments.

Sincerely,
Hancock Associates,

A handwritten signature in blue ink, reading "Joseph D. Peznola". The signature is fluid and cursive, with a large initial "J" and "P".

Joseph D. Peznola, PE
MHP Consultant