



August 9, 2021

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

Subject: Mallard Lane – Comprehensive Permit

Dear Erica:

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 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 received a Site Eligibility Letter (PEL).
MassHousing issued a Site Eligibility Letter on July 2, 2019. The project does not

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appear to have changed appreciably since the PEL was issued.

- 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.

Initial 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.
- An existing conditions report on the proposed site and the surrounding areas.
The applicant has not complied with this requirement.
- 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).
- 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.
- 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.

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

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

- A list of Waivers from local bylaws and regulations.

The applicant has satisfied this requirement.

Procuring peer review consultants

Given the size of the project, and issues raised by the Board of Health, the Board should engage outside peer review. We are happy to help with requesting proposals from qualified consultants and assisting the Board with the selection process as well as overseeing the peer review consultants through the process. The Board engaged Horsley Witten Group on prior Chapter 40B review projects. The Board may also engage a hydrogeologist to review the proposed well(s) and shared septic system(s) to better understand impacts to the future residence of the project as well as neighboring properties.

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.

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

The Board has already received comments from Board of Health (8/4/21), Police (8/3/21) and Fire (8/4/21). The most potentially impactful comment came from Bill Brookings, BOH Agent regarding clarification of whether the proposed well(s) will be considered a Public Water Supplies (PWS) per Massachusetts Regulations (310 CMR 22.00). Mr. Brookings is seeking input from the Massachusetts Department of Environmental Protection (MassDEP) in this regard. A note on the Ducharme & Dillis March 11, 2020, plan states “Water supply is not to be considered a public water supply due to serving 24 or less non-transient residents based on applicants discussion with MassDEP 11 units = 22 non-transient residents < 24 non-transient resident”. It is our understanding that MassDEP uses the Title 5 assumption of two people per bedroom. There are tremendous implications to the project should the proposed well be considered a PWS. The Applicant should provide documentation from MassDEP in this regard.

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. If the Board decides to meet once a month during the 180 days, this equates to five to six hearings after the initial hearing. We have put together a rough schedule of potential topics for the six possible hearing dates.

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 2021

- Follow up regarding Well and Septic System issues
- Conservation Commission Issues

October 2021

- Civil Engineering Peer Review
- Scheduling Working Session with key staff.

November 2021

- Neighborhood concerns and mitigation
- Landscape Design
- Architectural Design Review

December 2021

- Begin discussion of possible decision and conditions
- Economic review if any conditions claimed uneconomic

January 2022

- Clean up loose ends
- Begin framework of draft decision

February 4, 2022 (or earlier)

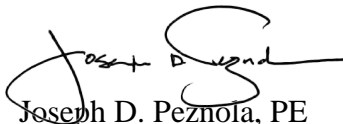
- Close Public Hearing (starts 40 days to clock decision with Town Clerk)

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. This is a very rough draft; we will

work with the Board to establish the schedule moving forward. This being a small project the process could proceed more quickly.

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,



Joseph D. Peznola, PE
MHP Consultant