



# Town of Mashpee

## Planning Board

16 Great Neck Road North  
Mashpee, Massachusetts 02649

Meeting of the Mashpee Planning Board  
Wednesday, June 19, 2019  
Waquoit Meeting Room, 7:00 PM

**Call Meeting to Order 7:00PM** – Waquoit Meeting Room – Mashpee Town Hall

- Pledge of Allegiance
- Moment of Silence in honor of Selectman John Cahalane

**Approval of Minutes**

- Review and approval of meeting minutes from May 15 and June 5, 2019

**Public Hearing**

**7:10PM – Blue Sky Towers II, LLC**

Blue Sky Towers II, LLC has made an application for a special permit to erect a Personal Wireless Service Facility as required by Section 174-25 (H)(9); 174-45.3 of the Mashpee Zoning By-Law at 101 Red Brook Road, Mashpee Fire Station #2 (Assessors Map 104, Lot 2) consisting of a 150' monopole. This public hearing is being reopened by the Planning Board following referral to The Cape Cod Commission as a Development of Regional Impact (DRI). The public hearing opened on June 6, 2018. Vote to consider letter from applicant requesting a withdrawal of application without prejudice.

**New Business**

- Election of Board Officers
- Vote to set public hearing date for definitive subdivision of 103 Meeting House Road
- Vote to set public hearing date for Special Permit Application made by Cape Cod Coffee
- Process for expenditure authorization
- Process for hiring consultants for review of special permit applications

**Old Business**

- Road taking policies and procedures

**Chairman's Report**

**Board Member Committee Reports**

- Cape Cod Commission, Community Preservation Committee, Design Review, Plan Review, Environmental Oversight Committee, Greenways/Quashnet Footbridge, Historic District Commission, MMR Military Civilian Community Council.

**Updates from Town Planner**

- 2019 One Cape Summit
- Zoning Amendment discussion

**Additional Topics (not reasonably anticipated by Chair)**

**Adjournment**

**MASHPEE TOWN CLERK**

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**Mashpee Planning Board  
Minutes of Meeting  
May 15, 2019 at 7:00 p.m.  
Mashpee Town Hall-Waquoit Meeting Room  
16 Great Neck Road North  
Approved 6/19/19**

**Present:** Chairman Mary Waygan, Joe Cummings, Dennis Balzarini, David Weeden

**Also:** Evan Lehrer-Town Planner, Charles Rowley-Consultant Engineer

**Absent:** David Kooharian, Robert (Rob) Hansen (Alt.)

**CALL TO ORDER**

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Waygan at 7:02 p.m. on Wednesday, May 15, 2019. The Chair stated that the meeting was being videographed and recorded and asked that speakers approach the microphone stating their name and comment, addressing the Chair. Comments will be addressed by the Board or staff or taken under advisement if necessary. The Pledge of Allegiance was recited.

**APPROVAL OF MINUTES—May 1, 2019**

**MOTION: Mr. Balzarini made a motion to accept as presented May 1, 2019 minutes. Mr. Cummings seconded the motion. All voted unanimously.**

**PUBLIC HEARING**

**7:10 p.m. Blue Sky Towers II, LLC has made an Application for Special Permit to erect a Personal Wireless Service Facility as required by Section 174-25 (H)(9); 174-45.3 of the Mashpee Zoning Bylaw at 101 Red Brook Road, Mashpee Fire Station #2 (Assessor's Map 104, Lot 2) consisting of a 150' monopole. This Public Hearing is being reopened by the Planning Board following referral to The Cape Cod Commission as a Development of Regional Impact (DRI). The Public Hearing opened on June 6, 2018.**

The appointed time having arrived, the Chair opened the Public Hearing and read the request. The Chair reported that, at a previous meeting, the applicant agreed to return to tonight's meeting to continue the Public Hearing, but had since requested a Continuance. The Chair wished for the Planning Board to proceed with the hiring of a consultant, discussed with Town Counsel and to which the applicant was amenable. The only matter the Planning Board would be discussing tonight would be the hiring of a Radio Frequency Engineer, to which the Public would be allowed to comment. The Public Hearing would be continued with the applicant to June 19.

Mr. Lehrer reported that he had contacted the Cape Cod Commission, other Town Planners and Mr. Rowley, and developed a short list of two Radio Frequency Engineers, one of whom had already been hired as a third party reviewer by the Commission to review the DRI review of the proposal. Mr. Lehrer confirmed with other planners noted the difficulty of identifying RF engineers since many worked privately, rather than contracting with municipalities. The Barnstable Planner recommended City State Consultants from Washington DC, who assisted with a cell tower review in Centerville and

expressed overall support of their work. Mr. Lehrer suggested that, if the Board wished for additional information, they vote on a scope of work in order to obtain a quote from the consultant.

**MOTION: Mr. Balzarini made a motion to require that the applicant fund the services of an RF Engineer to review their application regarding the FCC Guidelines. Mr. Cummings seconded the motion. All voted unanimously.**

The Chair suggested the need to acquire three written quotes. Mr. Balzarini suggested that it would be a conflict of interest to use the same engineer as the Cape Cod Commission. Mr. Lehrer stated that David Maxson, the engineer hired by the Cape Cod Commission, came highly regarded. Mr. Lehrer confirmed that Mr. Maxson's report showed that the applicant's RF data met with FCC guidelines. Two members of the Planning Board would work with Mr. Lehrer regarding the matter.

**MOTION: Mr. Balzarini made a motion to authorize Joe Cummings and Rob Hansen to work with the Town Planner and Consultant Engineer to make a recommendation for the next Planning Board meeting. Mr. Weeden seconded the motion. All voted unanimously.**

The Chair opened to public comment related to the Board's hiring of an RF engineer.

Sharon DeFrancisco, Red Brick Road, asked for clarification regarding third party review of the findings. Mr. Lehrer stated that the overall project had been reviewed as a DRI referral to the Cape Cod Commission, but that the Planning Board had not yet contracted a third party review. Ms. DeFrancisco inquired whether that report was on record and Mr. Lehrer confirmed that it was.

Michael Ronhock, Sunset Circle, inquired whether it would be the thresholds reviewed or the coverage charts. The Chair responded that the Bylaws allowed for an RF Engineer review related to the FCC Guidelines. Mr. Lehrer stated that they would likely be certifying that the radio frequency thresholds were not being exceeded. Mr. Ronhock inquired about the review of the coverage maps because the data differed between the presentation to the Cape Cod Commission and the Planning Board. The Chair read for the record the referenced statement from the Bylaw regarding review of the environmental effects of radio frequency radiation of the FCC Guidelines. Mr. Ronhock, who had read Mr. Maxson's report, suggested that it would be helpful for the Planning Board to have another perspective on the matter.

Teresa Ronhock, Sunset Circle, agreed that it would be to everyone's benefit to have another consultant offer a comparison to Mr. Maxson's report.

The Chair indicated that, as it stood, there would be no hiring of an engineer until the next public hearing and inquired whether the Board wished to authorize Mr. Cummings and Mr. Hansen to recommend the hiring of the consultant, to the Town. Mr. Lehrer suggested that Mr. Cummings and Mr. Hansen coordinate the matter within his office since the Town Manager served as Chief Procurement Officer. The Chair asked to change the motion.

**MOTION: Mr. Balzarini made a motion to withdraw the last motion where it would be a recommendation to the Planning Board and modify it so that the Board was authorizing Joe Cummings and Rob Hansen, working with Town Staff and our Engineer, to make a**

**recommendation to the Town Manager, Chief Procurement Officer, to hire the consultant. Mr. Weeden seconded the motion. All voted unanimously.**

The Chair asked Mr. Lehrer to notify the applicant.

**MOTION: Mr. Balzarini made a motion that the Planning Board would require the applicant to fund the services of the chosen RF Engineer. Mr. Weeden seconded the motion. All voted unanimously.**

Diane Scannell, Degross Road, expressed concern that one in ten cell towers were in violation of the FCC Guidelines, which were 100 times more than other countries and inquired whether the Bylaws would monitor the cell tower. The Chair responded that she would take the question under advisement, adding that the Planning Board could place conditions on the decision. Ms. Scannell inquired whether the Board had been in receipt of the packet she sent and the Chair inquired with Mr. Lehrer about new correspondence. Mr. Lehrer confirmed that new correspondence and exhibits had been provided, but could not be discussed. There were no additional comments so the Chair asked for a motion to continue the Public Hearing to June 19.

**MOTION: Mr. Balzarini made a motion to continue the Public Hearing to June 19 at 7:10 p.m. Mr. Cummings seconded the motion. All voted unanimously.**

The Chair made a copy of current exhibits. A recess was taken at 7:27 p.m. and the meeting reconvened at 7:30 p.m.

## **NEW BUSINESS**

**Sign Windchime Special Permit Modification Approved April 18, 2019-**Mr. Lehrer reported that no appeals had been received. Planning Board members signed the Special Permit Modification.

**Road Taking Procedures & Policies-**The Chair referenced work with Town Counsel, Tom Fudala and Catherine Laurent, to develop a written Road Taking Procedure & Policy. Mr. Lehrer responded that he was aware of the policy, responding that it had been an oversight that the Board had not reviewed the Road Takings for the last Town Meeting. Mr. Lehrer assured the Board that, for future Road Takings, the Board would be able to make recommendations. The Chair stated that Town Counsel had asked that another look be taken at the policy. It was the Chair's belief that the policy had been sent to the Town Manager and was one step away from approval by the Board of Selectmen. Mr. Lehrer will look into the matter further and report back to the Board.

**Release of Covenant Request for Evergreen Circle Subdivision-**Mike Ford, attorney representing the applicant, was present with applicants Mark and Peter Govoni. Mr. Ford confirmed that the final coat had not yet been completed, but the applicant wished to determine whether their covenant could be released once the final coat had been completed, over the next couple of weeks.

Mr. Rowley reported that the final coat would need to be completed, or a security provided, before releasing the lots. Mr. Rowley stated that the loam piles had been spread but not completed and more dressing up was necessary in other areas. Mr. Rowley confirmed that some erosion had occurred in the

drainage areas around the circle. Mr. Rowley suggested that the lots should not be released until there was evidence of grass growing, to ensure stabilization. Mr. Govoni stated that once the paving was completed, the Cape Cod berm would be taken to the edge, then hydroseeded to the edge. Mr. Rowley agreed that the plan made sense and recommended that the contractor call him to again inspect the site, once the work was completed. The Chair recommended that the project proponent also contact Mr. Rowley with any questions.

Mr. Rowley and the Chair inquired about the restoration of the Open Space. Mr. Ford confirmed that they would be reviewing the matter with the Conservation Commission next week and that the applicant had been working on restoration with the Conservation Department. Mr. Ford confirmed that they would provide an update to the Planning Board. There was discussion regarding providing a bond to ensure the growth of grass. Mr. Govoni noted that he had buyers interested in closing and they wanted to keep the project moving. The matter would be added to the agenda for June 5. Mr. Rowley requested a letter from the contractors regarding the cost of incomplete items, including if the grass was not yet stabilizing the area. Mr. Rowley confirmed that he could be contacted directly to inspect the site prior to paving.

Mr. Ford asked to share the sign design for the subdivision for the Board's consideration at a future meeting. Mr. Lehrer recommended coordinating with Catherine Laurent if it were to be placed within the road layout. Mr. Lehrer confirmed that the Planning Board would be the approving authority since it was for a subdivision, however, it could initially be considered by the Design Review Committee to serve in an advisory role.

**Petition from Habitat for Humanity of Cape Cod to Divide an Existing Single Lot Located at 341 Great Neck Road North into Two Separate Lots to Construct a Single Family Home on Each Lot Under MGL Chapter 40B Section 20-23 and 760 CMR 56.00-**The Chair referenced the ZBA memo announcing Habitat for Humanity's Public Hearing on May 22 to consider the division of a single lot into two separate lots. The ZBA was seeking comment from other Boards. The Chair requested that Mr. Rowley review the plans in order to provide a report to the Planning Board. Mr. Balzarini inquired about the width of the driveway and whether 20 feet would be required and Mr. Rowley responded that the applicant could request a waiver on the width because they were not bound to the typical standards of a subdivision, as a 40B project. In his report, Mr. Rowley recommended that the applicant consult with the Fire Department regarding the width of 17 feet, 15 feet paved. Mr. Rowley suggested that there may be some small drainage issues and recommended changes to the layout of the lots, otherwise an easement may be required on one of the parcels to provide access. If the access was converted to a street, both property owners would be responsible for the maintenance. Changes were needed to the cross section plan. Mr. Balzarini inquired about access to Great Neck Road and Mr. Rowley responded that the site differences looked good, but there may be some sloping to consider. The Chair suggested the Board take an official vote to send the report to the ZBA.

Mr. Cummings inquired why the access was not 20 feet wide and Mr. Rowley responded that it was likely due to affordability and the fact that it was a driveway to access the second lot, adding that the Cape Cod berm would be adequate. The Chair noted that Town Meeting had voted in the fall to subsidize the land and building of the homes with \$117,000.

**MOTION: Mr. Balzarini made a motion to send the report to the ZBA. Mr. Cummings seconded the motion. All voted unanimously.**

The Chair noted that the packet included a provision to provide local preference to the maximum allowable by the law, which was 70%, for a Mashpee resident, or one of the two homes. The Chair suggested local preference as a condition.

**MOTION: Mr. Balzarini made a motion that the Planning Board recommend that if the ZBA approved this that it's conditioned that one of the two units have Mashpee local preference. Mr. Weeden seconded the motion. All voted unanimously.**

## **OLD BUSINESS**

### **CHAIRMAN'S REPORT**

The Chair announced that Mashpee's Election Day was Tuesday, May 21 with voting at Christ the King Church. Regarding Town Meeting results, Mr. Lehrer confirmed that Form 7 had been submitted for the Zoning Articles. Mr. Weeden thanked the Town for their support at Town Meeting for the Tribal initiatives. Mr. Lehrer expressed his willingness to assist with the Parsonage project.

### **BOARD MEMBER COMMITTEE UPDATES**

**Cape Cod Commission**-Mr. Weeden reported that they had reviewed the Vineyard Wind project, which was approved. The Comprehensive Economic Development Strategy was open for comment until May 20. Additionally, the Regional Transportation Plan was open for public comment until May 13, with a public hearing on May 20.

**Community Preservation Committee**-A report will be provided at the next meeting.

**Design Review Committee**-Mr. Cummings reported that the Committee considered a sign for Cape Cod Coffee who had plans to move to 10 Evergreen Circle, and would be making changes to landscaping along the side of the building. The matter would eventually be reviewed by the Planning Board.

**Plan Review**-Mr. Lehrer confirmed that the Planning Board would be the permit authority for the Cape Cod Coffee structure, which would be the first for the Industrial Overlay District. The building would be multi-tenant and include a distillery. A natural depression on the site, as well as matters of discharge, would need to be discussed further with DPW.

**Environmental Oversight Committee**-Mr. Cummings stated that work was being completed on a helium balloon bylaw for October Town Meeting. Four other towns were considering the measure due to its impact to sea life. The Massachusetts Municipal Vulnerability Preparedness Program awarded \$15,000 to Mashpee to develop a workshop for stakeholders to identify priorities for the community. Upon completion of the workshop and identification of the priorities, additional funds may be acquired to address the priorities. Funds in the amount of \$45,000 had been granted by Town Meeting for the Community Gardens and applications were available for interested potential gardeners. The Estuary/Restoration Shellfish Program was seeking volunteers to plant shellfish in the estuaries. A computer program has been developed to address bio-valve propagation, a prototype of which would be used in Mashpee. The Quashnet River and Childs River restoration would be receiving a total of \$1.3 million.

**Greenway Project & Quashnet Footbridge**-The Chair would be following up on the matter and a possible grant.

**Historic District Commission**-No meeting

**MMR Military Civilian Community Council-MMR Joint Land Use Study**-Mr. Lehrer reached out to Selectman Cotton, who indicated that no meetings had been scheduled. Mr. Weeden stated that Paul Rendone served as a contact to help facilitate consultations. Mr. Weeden stated that MC3 was a program of engagement with the local towns.

#### **UPDATES FROM TOWN PLANNER**

Mr. Lehrer stated that the Planning Department would be converting to e-permitting and would be loading all Planning forms into a usable platform. Mr. Lehrer was awaiting final approval to move forward. All the forms and procedures would remain the same, but the process would be streamlined internally. Paper applications would continue to be accepted for a couple of months. Mr. Rowley inquired about filing fees and Mr. Lehrer confirmed that the fees were calculated and an invoice sent, payments would be made by credit card. Mr. Balzarini asked about the information being backed up and Mr. Lehrer confirmed that the information was backed up on a server.

#### **ADDITIONAL TOPICS**

Mr. Rowley reported that he had been in contact with Jacques Morin of Ockway Highlands who had cleaned up the drainage areas, and would be loaming and seeding and laying down the jute netting on the slopes to provide protection. Mr. Rowley would inspect the site once Mr. Morin confirmed completion of the work. Mr. Balzarini confirmed that there was improvement to the site, but noticed water backed up after the rains. Mr. Rowley suggested that they may have placed a filter at his recommendation.

#### **ADJOURNMENT**

**MOTION: Mr. Balzarini made a motion to adjourn. Mr. Cummings seconded the motion. All voted unanimously. The meeting adjourned at 8:15 p.m.**

Respectfully submitted,

Jennifer M. Clifford  
Board Secretary

#### **LIST OF DOCUMENTS PROVIDED**

- 5/13/19 Elizabeth Thompson Letter Requesting Continuance for Blue Sky Towers
- Photographic Simulation Package
- 4/26/19 Elizabeth Thompson Letter Requesting Continuance for Blue Sky Towers
- 5/8/19 Mary Waygan Email Regarding Blue Sky Tower Continuance
- 5/8/19 Lela Letter of Opposition to Cell Tower Project
- 5/5/19 Jody Bergeron Letter of Opposition to Cell Tower Project
- 5/6/19 David Cofran Letter of Opposition to Cell Tower Project
- 5/6/19 Peter & Laraine Michaelson Letter of Opposition to Cell Tower Project
- 5/12/19 Robert Coleman Letter of Opposition to Cell Tower Project
- 5/12/19 Wendy & Daniel Pennini Letter of Opposition to Cell Tower Project
- 5/9/19 Diane Scannell Packet of Research Materials Supporting Opposition to Cell Tower Project
- Blue Sky Towers LLC, List of Exhibits
- 5/7/19 Jeffrey Ford Request for Release of Covenant for Evergreen Circle
- 3/2/19 Evergreen Signage Proof
- 5/15/19 Evergreen Circle Monument Certification

-5/2/19 ZBA Memo Regarding Habitat for Humanity, 341 Great Neck Road North  
-5/7/19 Charles Rowley Report for Habitat for Humanity, 341 Great Neck Road North  
-Exhibit A for Habitat for Humanity



**Mashpee Planning Board  
Minutes of Meeting  
June 5, 2019 at 7:00 p.m.  
Mashpee Town Hall-Waquoit Meeting Room  
16 Great Neck Road North  
Approved 6/19/19**

**Present:** Vice Chairman Joe Cummings, Dennis Balzarini, John Phelan, Joseph Callahan, Robert (Rob) Hansen (Alt.)

**Also:** Evan Lehrer-Town Planner, Charles Rowley-Consultant Engineer

**Absent:** Chairman Mary Waygan

**CALL TO ORDER**

In the absence of Chairman Waygan, the Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Vice Chairman Cummings at 7:00 p.m. on Wednesday, June 5, 2019. The Vice Chair stated that the meeting was being videographed and recorded and asked that speakers approach the microphone stating their name and comment. The Pledge of Allegiance was recited.

The Vice Chair welcomed new members, John Phelan, Deputy Fire Chief of Mashpee Fire Department and Joseph Callahan.

**MOTION: Mr. Phelan made a motion that this Board discuss, as outlined in the Guidelines, the organization of the Committee officers.**

Mr. Phelan asked that the matter be added to the agenda for discussion. The Board Secretary stated that items being added to the agenda must be by roll call vote.

**Mr. Callahan seconded the motion.**

Mr. Balzarini asked for clarification. Mr. Phelan stated that he made a motion to discuss the election of Committee officers, as outlined in the Guidebook, which should occur during the first meeting after the Planning Board election.

Mr. Balzarini and Vice Chair Cummings stated their preference that Chairman Waygan be present for the discussion. There was discussion whether or not the item would be added to the agenda.

**Mr. Balzarini-no; Vice Chair Cummings-no; Mr. Phelan-yes; Mr. Callahan-yes; Mr. Hansen-no**

Mr. Phelan stated that he had requested by email that the item be added to the agenda by the Chair, but had received no response. The item was not added to the agenda.

**APPROVAL OF MINUTES—May 15, 2019**

There was not a quorum of attending members to approve the minutes, so the item would be added to the next agenda.

## **NEW BUSINESS**

**Request for Release of Covenant for Conaumet Highlands Subdivision, 6 Balfour Lane-**Mr. Lehrer referenced the 5/16/19 letter from Conni Baker, the attorney representing the applicant for the Release of Covenant for 6 Balfour Lane. Mr. Lehrer stated that the current property owner wished to sell the parcel and transfer the title, but the title search showed that the property was still subject to the 1972 Covenant. Mr. Lehrer confirmed that a cash security was accepted in 2007 to complete the roadway from lot line to lot line, in front of the house, and should have replaced the covenant as a performance guarantee, but there was no evidence of its recording in the Registry. The Board was presented with minutes from that timeframe regarding the matter. Mr. Lehrer confirmed that he had sought permission from the Chair for Mr. Rowley to review the site, in order to allow for the Covenant Release.

Mr. Rowley confirmed that he reviewed the site, referencing photos from the packet showing that the site continued to look the same. Mr. Rowley confirmed that the area in front of the lot being discussed was fine, bounds were in place and the drainage was sufficient. Mr. Lehrer confirmed that the security totaled \$2,000 for the completion of the shoulder work. Mr. Rowley suggested that the security remain in place for the loam and seeding at the intersection and recommended release of the Covenant.

Mr. Phelan inquired about the parcel and Mr. Lehrer and Mr. Rowley explained that, over the years, improvements were being made during the lot release process, lot line to lot line, to improve the roadways.

**MOTION: Mr. Balzarini made a motion to release Lot #9, shown on a plan, entitled Conaumet Highlands in Mashpee, MA in March 1, 1972, from the Covenant Agreement dated May 3, 1972. Mr. Callahan seconded the motion. All voted unanimously.**

The Release was signed by Planning Board members.

**Naukabout Beer Co. 2018 Performance Bond Status Update-**Mr. Murner was present to request a release from Naukabout's landscaping Performance Bond. Mr. Murner noted that Naukabout had worked with Mr. Rowley and Mr. Weeden, on behalf of the Board, to develop a suitable plan for the exterior patio work, which was approved by the Board. The work was completed in August and September, and then opened for use by the customers. Photographs of the completed work and a letter were submitted to Mr. Lehrer, requesting Naukabout's release from the bond. Mr. Murner confirmed that they changed the area as little as possible, while also creating flat space for customer use. Mr. Balzarini had viewed the work and stated that Naukabout had done a nice job. Mr. Phelan stated that he had also visited the site and confirmed that an issue he had with egress had been addressed. Mr. Lehrer explained that the bond was being held by an insurance company and Mr. Murner was inquiring whether he needed to renew the bond with the insurance company for an additional year. Mr. Rowley confirmed that he had passed through the site, and it appeared in good condition, adding that he could inspect the site if

the Board asked him to do so. Mr. Hansen also visited the site and agreed that the project looked to be complete.

**MOTION: Mr. Balzarini made a motion to release the bond and would not have to get one for next year.**

Mr. Lehrer clarified the motion. Mr. Balzarini rescinded his first motion.

**MOTION: Mr. Balzarini made a motion to draft a letter to Mr. Murner, identifying that the construction had been completed according to the plan, and that the Board would not require the reissuance of the Performance Bond, so that the insurance company could release the bond and would not need another bond the following year. Mr. Callahan seconded the motion. All voted unanimously.**

**Charles Rowley Report Regarding Ockway Highlands Complaint-**Mr. Rowley reported that, in response to an email he received from Mr. Lehrer, he had visited Ockway Highlands to review the site, including concerns about the drainage area adjacent to Great Neck Road South and inspection holes for the depth of the loam in four locations. Mr. Rowley stated that the thinly seeded areas would require additional loam and hydroseeding. Mr. Rowley reported that a drainage pipe had not been cut off as requested, and the 4"-6" stone had not been added. The area rebuilt with reclaimed material had been stabilized and was holding well. Mr. Rowley confirmed that he had been in contact with Mr. Morin three weeks ago, who indicated that he was working on the site. Mr. Rowley offered to schedule a meeting on site with Mr. Morin to further discuss completion of the project. There was consensus from the Board for Mr. Rowley to do so.

Ernie Virgilio, Blue Castle Drive, was invited to provide public comment. Mr. Virgilio expressed frustration and disgust at the mess located in front of his home, emphasizing the efforts of his wife throughout their yard. Mr. Virgilio shared photographs with the Board depicting the runoff, stating that the system was not completed correctly, causing harm to the area with material infiltrating the system. Mr. Virgilio stated that he had video showing the water entering into his garage and basement, as a result of the malfunctioning stormwater system. Mr. Virgilio stated that the incorrect stone had been placed at the site and did not allow for the system to work properly. Mr. Virgilio expressed frustration that the developer continued to be non-compliant and inquired whether the groundwater elevation was confirmed prior to the placement of the system. Mr. Virgilio expected that appropriate vegetation would be added, cared for by the Virgilio's, rather than the ugly mess in the front of their home. Mr. Virgilio pointed out the black pipe, placed improperly on site. Mr. Virgilio also expressed concern about the location of a sign, at the intersection of the road, rather than the location of the development, which was further up the road. Mr. Virgilio and his wife were seeking improvements so that they could again enjoy their property.

Mr. Rowley confirmed that the groundwater elevation was checked on the day that the galley system was installed. Mr. Rowley wished to re-check the plans regarding the pipe and his request that it be cut off, to form to the slope. Mr. Rowley stated that, although it was incomplete, some seeding had occurred.

It was Mr. Virgilio's opinion that the work had not been completed properly and questioned how the project proponent would properly maintain the work. Mr. Phelan inquired how the Board could help and Mr. Balzarini responded that Mr. Rowley could be directed to follow up with the developer regarding completion of work. Mr. Lehrer stated that the Board had completed a Permit Modification to institute a timeline for the incomplete construction. Mr. Lehrer explained that the developer had entered a Tri-Partite Agreement with the bank and the Town, with a performance guarantee to meet the guidelines, according to the approved plan. However, enforcement was limited, beyond accessing the funds set aside in the performance guarantee if the obligation was defaulted. Mr. Lehrer stated that the best case scenario was for Mr. Rowley to consult with the developer to identify the issues and have the developer resolve the issues, or use the guarantee to complete the work. Mr. Rowley stated that, if the developer did not resolve the area he was required to properly complete, he would be in violation of the terms of the Special Permit and the Board could vote to require that the developer report to the Board. Mr. Rowley confirmed that he would contact Mr. Morin to schedule a walk through for the remaining issues. Mr. Hansen expressed concern about the long term effect of silt spilling into the drainage area, which would prevent the ability of the system to drain the water. Mr. Rowley confirmed that the catch basins of the leaching pits would be inspected to determine whether there had been contamination.

**Charles Rowley May 2019 Invoice**-An invoice in the amount of \$695 was received from Charles Rowley for regular services, including attendance at one meeting and inspections. Mr. Lehrer noted that there was an additional invoice received for inspections at Southport in the amount of \$100, to be paid by Southport.

**MOTION: Mr. Balzarini made a motion to pay Mr. Rowley for the invoice in the amount of \$695. Mr. Callahan seconded the motion. All voted unanimously.**

**MOTION: Mr. Balzarini made a motion to pay \$100 to Mr. Rowley for services to Southport. Mr. Callahan seconded the motion. All voted unanimously.**

Payment vouchers were signed by Planning Board members.

#### **OLD BUSINESS**

**Release of Covenant Request for Evergreen Circle Subdivision**-Jeff Ford, attorney representing the applicant, was present with applicants Mark and Peter Govoni, to request a Release of Covenant. Mr. Ford summarized that, at the last meeting, four issues were identified to include the completion of the road pavement on site, the establishment of the grass on the shoulders and Conservation Commission approval for the remediation plan. Photographs of the grass areas were distributed for review. Mr. Lehrer confirmed that he was in receipt of emails from the DPW Director, who noted that the developer had purchased street and stop signs that would be installed during the next week. The Conservation Agent confirmed that the Commission had voted unanimously to approve the restoration plan and endorsed the recommendation for the gifting of the Open Space to the Conservation Commission.

Mr. Hansen confirmed that the hydroseeding looked good and inquired how it would be maintained. It was confirmed that there would be no irrigation and that the grass would be maintained naturally. Mr. Balzarini agreed that the site looked good and confirmed the pole was removed.

Mr. Rowley inspected the site on two occasions and spoke with Mr. Pastore, regarding loam and seed. This evening, Mr. Rowley noticed there were a couple of spaces in the drainage areas that required additional attention. Bounding had been installed and exposed. Mr. Rowley recommended release of the Covenant.

**MOTION: Mr. Balzarini made a motion to release Lots A, B, 1, 2, 3, 4, 5, 6, 7, 8 and 9 shown on the plan titled Definitive Subdivision Plan, Evergreen Circle dated August 14, 2017 revised September 8, 2017, September 13, 2017 and November 20, 2017 for the provisions of a Covenant Agreement dated 15<sup>th</sup> November. It was added to the motion that the grass be cared for, ensuring its growth. Mr. Callahan seconded the motion. All voted unanimously.**

Mr. Rowley stated that he had discussions with Mr. Pastore, who provided photographs that the existing binder course had been tacked properly, before placing the mix and the top coat. Mr. Phelan inquired whether additional wording was necessary regarding the maintenance of the motion. Mr. Balzarini added the requirement to the motion and the project proponent agreed to maintain the grass.

Planning Board members signed the Release.

**Evergreen Circle Signage Review**-Mr. Lehrer reported that signage for Evergreen had been considered by Design Review, but that the Planning Board would have final approval since it was a subdivision. The sign on Main Street would sit on an easement. Vice Chair Cummings reported that the Committee recommended the sign would look better on wood, but Mr. Lehrer stated that the material of the sign could not be regulated since it was not located in the Historic District. The Vice Chair reported that Design Review expressed their preference that the letters be routed and that the 588 location sign be a separate sign.

Due to issues of legibility, Mr. Lehrer, referencing the subservient signs below the green primary sign, recommended that the Planning Board require they be white with dark lettering. Mr. Balzarini agreed. Mr. Ford responded that the applicant would support the recommendation.

Mr. Phelan inquired about the numbering of the units and Mr. Ford responded that A and B were the front lots, and the remaining were numbered 1-9. Mr. Lehrer responded that the address 11 Evergreen Circle would locate the subdivision. Mr. Phelan stated that 11 Evergreen Circle would not appear on GPS but that 588 Main Street would.

Mr. Rowley suggested that the size of the sign and the bottom's proximity to the ground should be considered, and the sign would need to be set back so as not to block sight distance. Mr. Ford stated that the plan needed to show a 5 foot setback, as required by Design Review. Mr. Lehrer

asked that the revised plan be submitted to the Board, reflecting the light colored subservient signs. Mr. Ford inquired whether the signs needed to be white and Mr. Lehrer recommended that the Board require the signs to be white to be consistent with the white vinyl posts. Fonts could be darker in order to read better from the road. Mr. Balzarini stated that the bottom sign needed to be 15 inches from the ground due to potential grass growth. It was confirmed that the sign would not be illuminated.

**MOTION: Mr. Balzarini made a motion to accept the sign with the changes that the panels be all white with darker letters.**

Mr. Lehrer suggested that, provided the background and text color was established, as each tenant occupied the lots, they would not have to return to the Planning Board to have each panel approved, as it would not impact the streetscape.

**Mr. Phelan seconded the motion. All voted unanimously.**

**Petition from Habitat for Humanity of Cape Cod to Divide an Existing Single Lot Located at 341 Great Neck Road North into Two Separate Lots to Construct a Single Family Home on Each Lot Under MGL Chapter 40B Section 20-23 and 760 CMR 56.00-**

Mr. Lehrer stated that the item remained on the agenda because the ZBA already acted on the petition, but the Planning Board had provided comment, at the request of the ZBA. Mr. Rowley provided comments and the Board had voted to forward Mr. Rowley's report to the ZBA during the last meeting. After the ZBA meeting, Mr. Rowley met with the project proponent's engineer to discuss his comments and they came to agreeable terms based on Mr. Rowley's report, with updated site plans submitted to the ZBA. The item remained on the agenda because the Board authorized payment to Mr. Rowley for his work with the applicant, and Mr. Lehrer felt that Mr. Rowley should report back to the Board about his work. Mr. Lehrer stated that the ZBA had jurisdiction on the application.

Mr. Phelan and Mr. Callahan inquired why the Planning Board was involved in the matter if it was a matter for the ZBA. Mr. Phelan further inquired why the Planning Board would have the matter on their agenda prior to the ZBA's consideration and why the Planning Board's engineer would be reviewing the site and creating an additional cost. Mr. Rowley stated that a copy of the application had been forwarded to the Planning Board and the Chair asked that he review the plan. Mr. Phelan expressed concern that the Planning Board was overstepping its bounds, when the Planning Board had no jurisdiction. Mr. Phelan further stated that he had contacted the engineer for the project directly when he had fire apparatus access concerns.

Mr. Lehrer stated that Chapter 40B granted authority to the ZBA, but the statute also requests that the ZBA seek comments from other boards. The Chair and Mr. Rowley were providing comment to the application. Mr. Lehrer indicated that, with two advertised open Public Hearings of regulatory bodies, comments in writing could be provided to the ZBA without deliberating on the project, which could introduce bias.

Mr. Rowley's report regarding the May 30 meeting with the project engineer had been provided to Board members. Mr. Rowley was contacted by the project engineer and an email sent on June

4, asking that revisions be checked for consistency with some site plan adjustments, four concrete bounds and questions regarding covenant issues and addressing for emergency response. The communication was shared with the Chair of the ZBA. Planning Board members were not in receipt of the email.

Ron Bonvie, member of the ZBA, thanked Mr. Rowley for his comments and input. Mr. Bonvie thanked Mr. Phelan for voicing his concerns, adding that the ZBA was concerned about the direction of the matter with the Planning Board. Mr. Bonvie was in attendance to better understand why the matter was on the agenda and confirmed that the ZBA did wish to hear from other Boards but stated that the ZBA was the permitting authority. Mr. Balzarini stated that the intent of the Planning Board was not to overstep their bounds.

**Road Taking Procedures & Policies-**Mr. Lehrer referenced the draft Road Layout Policy that was being considered by the Board of Selectmen. Mr. Rowley and the Board have been tasked with making any changes to the draft to finalize it and request acceptance as a policy by the Board of Selectmen.

In Paragraph 1, Mr. Rowley recommended that licensed engineer be changed to licensed land surveyor.

In Paragraph 2, Mr. Rowley suggested that it be separated into two paragraphs.

In Paragraph 5, referencing layout width, Mr. Rowley suggested: “Establishing a minimum width for the road layout would be difficult for existing ways, if the layout width is less than 40 feet and a minimum width of 40 feet is set. If the Town would agree to a layout to a private way that was greater than the old reported plan may indicate, land takings may be involved. I recommend a standard of the 40 feet, but with the provision that a width of lesser dimension might be allowed when certain circumstances dictate.” Mr. Phelan expressed his preference that it mirror the Town Bylaw and stated that he would forward it to Mr. Rowley. Mr. Rowley stated that a layout plan or standard could meet certain standards, such as 18x24 or 18x36 and include dates when it was submitted or filed with each department. Mr. Rowley also recommended a statement regarding developer rights of access and egress, identified in a deed.

In Paragraph 8, Mr. Phelan inquired whether the timeframe was adequate and Mr. Lehrer confirmed that it was and that petitions were submitted during the first week of July. Mr. Lehrer will redraft the policy with comments from Mr. Rowley and keep the item on the agenda.

**MOTION: Mr. Balzarini made a motion to give Mr. Lehrer permission to draft up the new Road Layout Policy based on comments from Mr. Rowley. Mr. Phelan seconded the motion. All voted unanimously.**

#### **CHAIRMAN’S REPORT**

Not at this time.

## **BOARD MEMBER COMMITTEE UPDATES**

**Cape Cod Commission**-Mr. Lehrer reported that One Cape Summit registration was open and the event would be held during the last weekend of July in Harwich. If Planning Board members wished to attend, they could register paying by check in order to fund it from the Planning Board budget. Mr. Lehrer will send an email with the details of the event.

**Community Preservation Committee**-No update

**Design Review Committee**-Vice Chair Cummings reported that the Committee considered Evergreen and Ockway Highlands signage. Mr. Lehrer stated that the Ockway Highlands Subdivision sign was proposed within the Town's layout. The Planning Board had no jurisdiction on the matter, which would be considered by the Board of Selectmen.

**Plan Review**-Mr. Lehrer reported that a development of contractor bays at Mercantile Way was considered and approved with a few conditions, including relocation of the septic system under the gravel and adding more landscaping on the frontage.

**Environmental Oversight Committee**-No meeting

**Greenway Project & Quashnet Footbridge**-No update

**Historic District Commission**-No meeting

**MMR Military Civilian Community Council-MMR Joint Land Use Study**-No update

## **UPDATES FROM TOWN PLANNER**

Mr. Lehrer welcomed the new Planning Board members.

## **ADDITIONAL TOPICS**

### **ADJOURNMENT**

**MOTION: Mr. Balzarini made a motion to adjourn. Mr. Callahan seconded the motion. All voted unanimously. The meeting adjourned at 8:40 p.m.**

Respectfully submitted,

Jennifer M. Clifford  
Board Secretary

### **LIST OF DOCUMENTS PROVIDED** *Additional documentation may be available in Planning*

- 5/16/19 Conni Baker Letter Regarding 6 Balfour Lane Release of Covenant
- 5/21/08 Charles Rowley Letter Regarding 6 Balfour Lane Release at Silverleaf
- 9/5/07 Planning Board Minutes Regarding 6 Balfour Lane Performance Guarantee
- 6/3/19 Charles Rowley Invoice
- 5/7/19 Jeffrey Ford Request for Release of Covenant for Evergreen Circle
- 11/15/17 Form D Covenant for Evergreen Energy LLC
- 3/29/19 Evergreen Signage
- 5/20/19 Evergreen Plan of Proposed Sign
- 5/30/19 Emails Between ZBA and Planning Board Regarding Habitat for Humanity, 341 Great Neck Road North
- 5/30/19 Charles Rowley Report for Habitat for Humanity, 341 Great Neck Road North
- Road Layout Policy



## Patricia Maguffin

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**From:** Elizabeth Thompson <ethompson@dk-legal.com>  
**Sent:** Tuesday, June 11, 2019 10:11 AM  
**To:** Patricia Maguffin  
**Cc:** Evan Lehrer  
**Subject:** 101 Red Brook Road

Good morning,

One item that the Chair requested during the 4/17 hearing was the email correspondence below with the Building Commissioner concerning the building and tree height on the property located at 101 Red Brook Road. Please forward this correspondence to the chair and also ensure that it is contained in the written record as requested by the Chair. I would note that a variance for height was granted by the Zoning Board of Appeals after review and recommendation for approval by the Plan Review Committee. Thank you.

Liz

Elizabeth R. Thompson, Esq.  
Duval, Klasnick & Thompson LLC  
210 Broadway, Suite 204  
Lynnfield, MA 01940  
[ethompson@dk-legal.com](mailto:ethompson@dk-legal.com)  
Office: 781-873-0022  
Cell: 508-423-5988

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**From:** Michael Mendoza <MMendoza@mashpeema.gov>  
**Sent:** Tuesday, January 15, 2019 12:30 PM  
**To:** Elizabeth Thompson <ethompson@dk-legal.com>; Evan Lehrer <ELehrer@mashpeema.gov>  
**Cc:** Mary Ann Romero <mromero@mashpeema.gov>  
**Subject:** RE: Cell Tower -Draft ZBA Public Hearing Notice

Thanks, this is what we need.

Michael Mendoza  
Building Commissioner

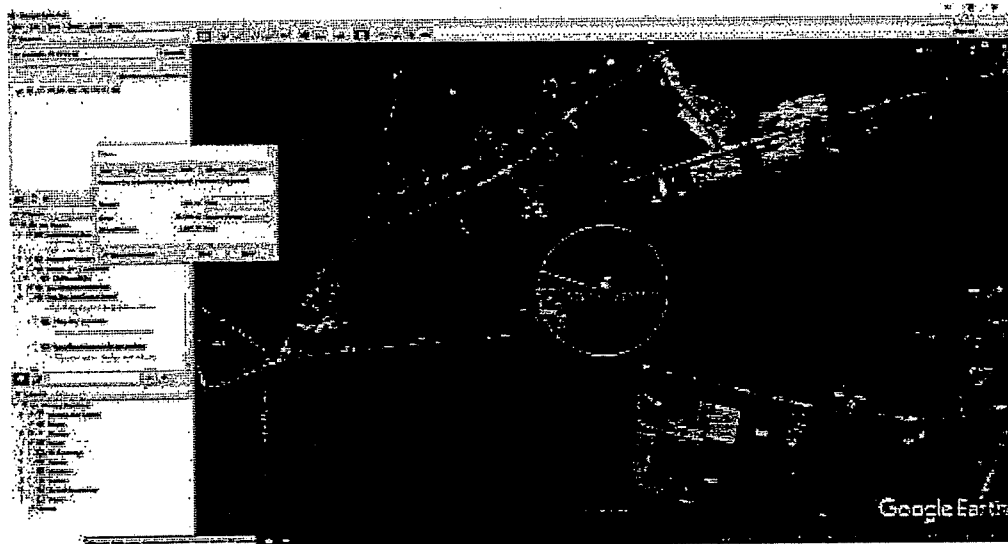
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**From:** Jesse Moreno <[jmoreno@proterra-design.com](mailto:jmoreno@proterra-design.com)>  
**Sent:** Tuesday, January 15, 2019 10:54 AM  
**To:** Elizabeth Thompson <ethompson@dk-legal.com>  
**Cc:** Ben Messersmith <[bmessersmith@proterra-design.com](mailto:bmessersmith@proterra-design.com)>  
**Subject:** RE: Cell Tower -Draft ZBA Public Hearing Notice

Hello Liz,

It only appears that the on-lot fire station #2 (101 Redbrook) is within 300' of the tower. I would conservatively estimate the height of the fire station to be 24 feet. 10' above would be 34' total allowed needing a relief of 156'-34' or

122'. Trees estimated on this site are 55'-60' and appear to be more of a reasonable estimate of the additional height needed. Say  $55' + 10' = 65'$  156-65' or 91'.



Regards,

Jesse

**ProTerra**

DESIGN GROUP, LLC

4 Bay Road, Bldg A, Suite 200  
Hadley, MA 01035

O: 413-320-4918 | C: 413-977-4402

[jmoreno@proterra-design.com](mailto:jmoreno@proterra-design.com)

[www.proterra-design.com](http://www.proterra-design.com)

## Patricia Maguffin

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**From:** Elizabeth Thompson <ethompson@dkt-legal.com>  
**Sent:** Tuesday, June 11, 2019 11:17 AM  
**To:** Evan Lehrer; Patricia Maguffin  
**Subject:** RF Compliance (Mashpee Fire Station #2)

Hi Evan,

I understand that the Board decided to require the applicant to pay for an RF Engineer pursuant to Zoning Bylaw Section Sec. 174-45.3.H.

Section 174-45.3(H) limits review to documentation that the FCC Guidelines are being met. The Planning Board may require that the applicant fund the services of an RF Engineer to review the documentation regarding the FCC Guidelines.

The Applicant submitted documentation that the FCC Guidelines will be met with the two carriers proposed with this Application and including up to two additional carriers in the future. During the Cape Cod Commission process, the Commission hired a third-party, independent technical expert, Isotrope, LLC. David Maxson, a principal of Isotrope, LLC reviewed the Applicant's radio frequency emissions report prepared by Dr. Haes. Mr. Maxson confirmed and ratified Dr. Haes' findings. A statement to this effect is contained in the Commission's decision, a copy of which was submitted to the Board.

It would be duplicative and excessive to request the Applicant to fund another identical review from another independent third party expert. However, if the Board absolutely feels it cannot rely on the expert retained by its regional governmental entity and its professional staff, the Applicant will pay up to 3 hours of review by the expert of its choosing.

The Applicant would request a copy of the scope of services, including the hourly fee of the Town's expert, prior to retaining the expert. The Applicant will not agree to another continuance after the next hearing date only to review this issue.

Thank you,

Liz

Elizabeth R. Thompson, Esq.  
Duval, Klasnick & Thompson LLC  
210 Broadway, Suite 204  
Lynnfield, MA 01940  
[ethompson@dkt-legal.com](mailto:ethompson@dkt-legal.com)  
Office: 781-873-0022  
Cell: 508-423-5988

## Patricia Maguffin

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**From:** Mary Mary <waygan@hotmail.com>  
**Sent:** Tuesday, June 11, 2019 11:40 PM  
**To:** Evan Lehrer; Patricia Maguffin  
**Subject:** Fw: Blue Sky Withdrawal

Hi!

Please place this correspondence in the Planning Board's meeting packet for June 19th. In consideration of the Open Meeting Law, I have asked the Town Manager's office to reply to Jack as they are handling my request for legal advice from Town Counsel.

Thanks!

Mary

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**From:** Jack Phelan <jphelan.planningboard@comcast.net>  
**Sent:** Tuesday, June 11, 2019 6:55 AM  
**To:** Evan Lehrer; Mary Waygan; Mary Elaine Waygan; Cummings; dhalz@yahoo.com; Rob Hansen; joe@newseaburyre.com  
**Cc:** Patricia Maguffin  
**Subject:** Re: Blue Sky Withdrawal

Ms. Waygan,

I have been informed you requested a meeting with the Town Legal Counsel. Can you please explain to me and the rest of the Board as to the purpose of this meeting? No one member of this Board has the authority to make unilateral decisions without the input of all members of the Board. I can only assume you requested a meeting to discuss procedural matters related to an application.

All members of this Board should be aware and understand the nature of this request.

John Phelan  
Mashpee Planning Board

On June 10, 2019 at 1:30 PM Evan Lehrer <ELEher@mashpeema.gov> wrote:

Planning Board,

Let me clarify that Blue Sky Towers II LLC's correspondence regarding the withdrawal of their application is a REQUEST to the Planning Board. The Chair asked that I clarify this to you in writing. M.G.L. Chapter 40A Section 16 reads, "Any petition for a variance or application for a special permit which has been transmitted to the permit granting authority or special permit granting authority may be withdrawn, without prejudice by the petitioner prior to the publication of the notice of a public hearing thereon, but thereafter be withdrawn without prejudice only with the approval of the special permit granting authority or permit granting authority." The applicant has indicated in writing their desire to be heard by a full voting body, however the Planning Board must vote to approve or deny the request to withdraw pursuant to that preference.

Thank you,  
Evan

**Evan R. Lehrer, MPA**

***Town Planner***

Town of Mashpee

16 Great Neck Road, North

Mashpee, MA 02649

(508) 539-1400 ext. 8521

## Patricia Maguffin

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**From:** Elizabeth Thompson <ethompson@dkt-legal.com>  
**Sent:** Wednesday, June 12, 2019 1:56 PM  
**To:** Charles Rowley  
**Cc:** Patricia Maguffin; Evan Lehrer; jmoreno@proterra-design.com  
**Subject:** RE: 101 Red Brook Road - Mashpee Fire Station #2

**Importance:** High

Hi Charlie,

We made the request for a withdrawal without prejudice. However, it is my understanding that the Chair will make a motion to vote on the request. Given that, I would expect it will be denied.

Perhaps it is best to check with Evan Lehrer on the authority from the Board to review our materials, but given that the Board authorized you to discuss these items with us the Applicant adamantly desires that the review be performed prior to the hearing next Wednesday and any discussion between us occur and be resolved prior to the meeting. Thank you!

Liz

Elizabeth R. Thompson, Esq.  
Duval, Klasnick & Thompson LLC  
210 Broadway, Suite 204  
Lynnfield, MA 01940  
[ethompson@dkt-legal.com](mailto:ethompson@dkt-legal.com)  
Office: 781-873-0022  
Cell: 508-423-5988

**From:** Charles Rowley <crsr63@verizon.net>  
**Sent:** Tuesday, June 11, 2019 10:45 AM  
**To:** Elizabeth Thompson <ethompson@dkt-legal.com>  
**Cc:** PMaguffin@mashpeema.gov; ELehrer@mashpeema.gov; jmoreno@proterra-design.com  
**Subject:** Re: 101 Red Brook Road - Mashpee Fire Station #2

Thank you for the information. It is my understanding that the application for this project was withdrawn without prejudice and that you will be re-submitting (or have submitted) a new application. I should probably wait to hear from the Planning Board for direction to proceed with further technical review in this instance.

Charlie

-----Original Message-----

From: Elizabeth Thompson <ethompson@dkt-legal.com>  
To: [crsr63@verizon.net](mailto:crsr63@verizon.net) <[crsr63@verizon.net](mailto:crsr63@verizon.net)>  
Cc: Patricia Maguffin <[PMaguffin@mashpeema.gov](mailto:PMaguffin@mashpeema.gov)>; Evan Lehrer <[ELehrer@mashpeema.gov](mailto:ELehrer@mashpeema.gov)>; Jesse Moreno <[jmoreno@proterra-design.com](mailto:jmoreno@proterra-design.com)>  
Sent: Tue, Jun 11, 2019 10:17 am  
Subject: 101 Red Brook Road - Mashpee Fire Station #2

Mr. Rowley,

## **Permit Modifications**

**Filing fees** for special permit modifications shall be the same as listed above for an original application.

**Review fees** and **inspection fees** shall be the same as listed above for an original application, but based only on that portion of a project which is proposed to be modified, except that there will be no minimum fee.

**Re-inspection fees** shall be the same as listed above for an original application.

In addition to the above fees, the applicant will be responsible for the cost of postage for mailing of required notices to abutters, including certified mailing of public hearing notices and regular mailing of decision notices. The Board encourages applicants to assume responsibility for required mailings of hearing notices.

**B.** Normal inspections covered by the basic inspection fees listed above include drainage inspection, gravel inspection, inspection of paving binder course, inspection of paving finish course and final inspection for roadways, and for parking areas in projects other than cluster subdivisions, as well as other site development, including landscaping and surface drainage patterns around buildings, but exclusive of buildings or wastewater treatment facilities, as required by the Board for the project.

A re-inspection fee will be charged for additional inspections beyond those listed above that are made necessary due to unsatisfactory materials or construction that lead to a failure to pass the original inspection.

**C.** The filing and review fees specified above shall be submitted to the Board as part of the original application for the special permit. An application will be deemed to be incomplete without payment of said fees at the time of submittal.

Inspection fees specified above shall be submitted to the board within 20 calendar days following the approval of the special permit and prior to the Board's endorsement of the *Special Permit Decision* (or *Special Permit Modification Decision*) document.

Any re-inspection fees due shall be submitted prior to the release of any roadway covenant (for cluster subdivisions) or performance bond for road construction or other facilities covered by a special permit approval.

## **Section VIII EMPLOYMENT OF OUTSIDE CONSULTANTS**

**A.** Pursuant to the provisions of Chapter 44, Section 53G of the General Laws, the Planning Board may impose reasonable fees for the employment of outside consultants to review special permit project applications and supporting materials and studies submitted for approval by the Board. The Board also considers the use of such consultants for inspections of facilities permitted or required under a *Special Permit Decision* (or *Special Permit Modification Decision*) document, to determine compliance with the terms and conditions of said decision or modification document, other than those inspections covered by the Board's standard inspection fees as listed in Section VII, or of buildings inspected by the Town's Building Inspector, to be an appropriate use of such outside consultants and fees.

The decision to seek consultant assistance, the selection of a consultant, the establishment of a consultant fee or fee schedule and any request to the applicant for payment shall be made by majority vote of the Board at a public meeting.

Said funds shall be paid by the applicant within seven days of a request by the Board for payment and shall be deposited in a special account established by the Town Treasurer and be kept separate and apart from other monies. Failure to pay the required fees may be considered grounds for disapproval of the application.

Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest and a final report of said account shall be made available to the applicant or to the applicant's successor in interest. Standard Town accounting and reporting procedures relative to special accounts and consistent with the provisions of Ch. 44 §53G of the General Laws shall be followed.

**B.** The special account, including any accrued interest, shall be expended at the direction of the Planning Board without further appropriation; provided, however, that such funds are to be expended by it only in connection with carrying out its responsibilities under the law.

Subjects for which consultant assistance may be sought may include, but are not limited to, water quality impacts of a project, stormwater management systems, wastewater collection and treatment systems, traffic and transportation impacts, mitigation and facilities, including bicycle and pedestrian facilities, fiscal impact of a project, solid and hazardous waste, public safety, landscaping, site design, architecture, wildlife habitat and endangered or threatened species, wetlands delineation, historic or archaeological preservation, noise levels, lighting or light levels, personal communications service and other wireless communications facilities and their potential impacts, electromagnetic or radiofrequency radiation, radiofrequency engineering, or other subjects relevant to the proposed project and its impacts on neighboring properties, the town or adjacent towns. Such assistance may be sought either to develop original information and reports to the Board, or to review plans, reports and other information submitted on behalf of an applicant.

**C.** Selection of any consultant will be by the Board, in conformance with any applicable General Laws or regulations of the Commonwealth, and may include use of consultants retained on a continuing basis by the Board.

Any applicant may file an administrative appeal from Board's choice of consultant to the Board of Selectmen. Grounds for administrative appeal from the selection of the outside consultant to the Board of Selectmen shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications, consisting either of an educational degree in or related to the field at issue, or three or more years of practice in the field at issue or a related field.

**D.** The required time limits for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by Board of Selectmen within one month following the filing of the appeal, the selection made



by the Planning Board shall stand. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in Chapter 44 §53G.

## **Section IX DESIGN AND PERFORMANCE GUIDELINES**

The Planning Board will review any application with reference to the applicable portions of the following design and performance guidelines:

### **A. Roadways, Sidewalks and Bicycle Facilities.**

1. Roadways shall be designed and constructed in conformance with the Board's *Rules and Regulations Governing the Subdivision of Land*, with the following exceptions and additions:
2. Streets serving up to five (5) residential units or carrying fewer than fifty (50) vehicles per day may be built to reduced standards of paving and right-of-way upon approval of the Planning Board, but in no case shall they provide a paved width of less than eighteen (18) feet for two-way traffic.
3. Where alleys are provided which are not intended to provide the principal means of access to properties, they shall have a minimum roadway width of 16 feet for two-way traffic and 14 feet for one-way traffic. No fencing, utility poles or other obstructions may be placed within two feet of the pavement edge. Where necessary for Fire Department access, minimum roadway width shall be 20 feet, with a minimum inside turn radius of thirty feet two inches (30'2") and a minimum outside radius of fifty feet eight inches (50'8").
4. Streets which will carry more than two hundred (200) vehicles per day AADT (annual average daily traffic) shall be constructed in conformance with the standards listed below. Projected traffic shall be based on a factor of nine and five-tenths (9.5) trips per day for single-family residences, seven and two-tenths (7.2) trips per day for townhouses and condominiums, six and seven-tenths (6.7) trips per day for apartments, four and five-tenths (4.5) trips per day for age-restricted retirement communities and on the best available information for other uses.
5. The following design standards shall apply to streets which will carry two hundred (200) to one thousand (1,000) trips per day, and over one thousand (1,000) trips per day (including streets adjacent to the site of the developed parcels or portions of the project or providing access to the project):

<b>Standards</b>	<b>200 - 1,000 Trips</b>	<b>1,000 Plus Trips</b>
Design speed (mph)	30	40
Intersection separation	125	600
Width of lanes (feet)*	10	11
Minimum curve radius (ft.)	250	460
Maximum grade (percent)	9	8
Minimum layout width(ft.)	40	50



Town of Mashpee

Planning Board

10 Evergreen Circle, North  
Mashpee, Massachusetts 02649  
MASHPEE TOWN CLERK

JUN 17 2019

APPLICATION FOR SPECIAL PERMIT

RECEIVED BY W

Date \_\_\_\_\_

The undersigned hereby applies for a Special Permit from the Planning Board.

Name of Applicant Modi, LLC Phone (508) 477-2400

Address 348 Main Street, Mashpee, MA 02649

Owner, if different Evergreen Energy LLC Phone (508) 962-5022

Address 81 Echo Road, Mashpee, MA 02649

Attach copies of (a) most recent recorded deed and (b) tax bill or Assessors' certification.

Deed of property recorded in Barnstable County Registry Book 29541 Page 136 or  
Land Court Certificate of Title No. \_\_\_\_\_

Location and description of property 10 Evergreen Circle, Lot B - Evergreen Industrial Park Subdivision

Mashpee Assessors Map(s) and Block(s) Map 19 Block 10

Zoning District(s) in which property is located C-3 and Light Industrial Overlay District

How long have you owned the property Under Agreement

Section(s) of the Zoning Bylaw which require the permit you seek 174-25 Table of Use Regulation

Present use of property Vacant

Proposed use of property Coffee shop with facilities for processing and packaging coffee along with a  
future industrial tenant.

Check one:  Applicant will send notice to abutters via certified mail, with return  
receipt to Mashpee Planning Board, and will provide certified abutters list.

Applicant requests that Planning Department send notice to parties in  
interest via certified mail, and will provide labels and certified abutters list.

Signature of Owner or Authorized Representative

[Handwritten Signature]

Kevin A. Pepe Attach written authorization signed by owner.  
PROPERTY MGR on behalf of Evergreen Energy LLC



Town of Mashpee

Planning Board

16 Great Neck Road North  
Mashpee, Massachusetts 02649

FORM C

MASHPEE TOWN CLERK

APPLICATION FOR APPROVAL OF DEFINITIVE PLAN

JUN - 7 2019

RECEIVED BY \_\_\_\_\_

Date June 6, 2019

To the Planning Board: The undersigned herewith submits the accompanying Definitive Plan of property located in Mashpee, Massachusetts, for approval as a subdivision as allowed under the requirements of the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land of the Planning Board in the Town of Mashpee.

Name of Subdivider Mark and Donna Lopez Phone 508-477-7272

Address 103 Meetinghouse Road, Mashpee, MA 02649

Owner, if different Same and Mashpee Conservation Commission Phone 508-477-7272

Address SAME and 16 Great Neck Road North, Mashpee, MA 02649

Attach copies of (a) most recent recorded deed and (b) tax bill or Assessors' certification.

Engineer or Surveyor Cape & Islands Engineering, Inc. Phone 508-477-7272

Address 800 Falmouth Road, Suite 301C, Mashpee, MA 02649

Deed of property recorded in Barnstable County Registry Book 3183 Page 272

or Land Court Certificate of Title No. \_\_\_\_\_

Location and description of property 103 Meetinghouse Road, Mashpee, MA consisting of 284,184 +/- sq.ft. area. Located on the west side of Meetinghouse Road and to the east of Mashpee River. R-5 Zoned. Cluster subdivision under Town of Mashpee Zoning Bylaw ARTICLE IX, §174-47 to create three (3) buildable lots and two (2) open space parcels  
Mashpee Assessors Map(s) and Block(s) 45-50-0

Signature of Owner or Authorized Representative Raul Lizardi Rivas

Attach written authorization signed by owner.

A list of names and addresses of the abutters of this subdivision, as appearing on the most recent tax list, is attached.