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March 1, 2018

PLANNING BOARD  
TOWN OF BOXBOROUGH

**Hand Delivered and Via Email**

John Markiewicz, Chairman  
Boxborough Planning Board  
Boxborough Town Hall  
29 Middle Road  
Boxford, MA 01719

RE: 700, 750 and 800 Massachusetts Avenue – Boxborough Town Center, LLC  
Response to 2/28/18 letter from McGregor & Legere

Chairman Markiewicz,

This correspondence is in response to the letter dated February 28, 2018 from McGregor & Legere on behalf of Citizens to Save Our Town Center (“CSOTC”). In their letter, CSOTC claims that Article IV, § 4800 of the Boxborough Zoning Bylaw requires the Applicant to obtain an “Alternative Access Special Permit” to authorize the proposed Priest Lane as an emergency access road. This claim rests upon an obviously faulty interpretation of Section 4800, and should be given no credence by the Board.

Article IV, § 4800 of the Zoning Bylaws is entitled “Special Permit for Alternate Access.” This provision applies “where an applicant requests to access a lot through a portion of the same lot which is not the legal frontage for said lot.” This provision is clearly meant to address situations where primary access to a property will be from a means other than the frontage of such lot. In this instance, the Applicant proposes that the primary access to the Project be from Massachusetts Avenue, over which the Property has its frontage. Therefore, Article IV, § 4800 is clearly not applicable. The Applicant proposes a connection to Priest Lane for “secondary emergency access”, not for primary access to the lot.

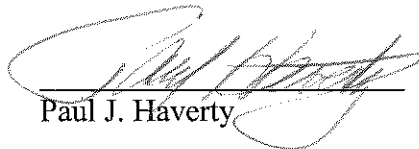
Review of the factors for the Board to consider in granting a Special Permit for Alternate Access clearly show the fallacy of the CSOTC’s position. The Board is required to examine in Section 4800(3) “whether the proposed driveway location minimizes impacts to wetlands compared to a driveway through the legal frontage.” This language makes it clear that the Special Permit for Alternate Access is intended as an alternative to access over the frontage, it does not apply to means of access in addition to access over the frontage. This is further clarified by Section 4800(4), which requires the Board to examine “[w]hether the proposed driveway provides a safer alternative than a

driveway through the legal frontage[.]” The Applicant has not proposed an alternate access, it has proposed additional emergency access points, which are not subject to the special permit requirements of Section 4800. The interpretation proposed by the CSOTC is not reasonable, and adoption of this interpretation by the Board would be arbitrary and capricious, and legally untenable.

The Applicant has addressed the other issues raised in the letter submitted on behalf of the CSOTC previously, and does not intend to re-hash those issues once again. It remains the position of the Applicant that the Board is limited to imposing reasonable conditions upon the Applicant’s submittal, and that a denial would constitute a clear violation of law.

If you have any questions regarding this correspondence, please feel free to contact me.

Very Truly Yours,



Paul J. Haverty

Cc: Jim Fenton (via email)  
Shawn Nuckolls (via email)  
Adam Duchensneau (via email)

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