

## **SOTC Statement to Boxborough BOS – June 18, 2018**

Good evening. Thank you for giving me the opportunity to speak with you tonight. My name is Cindy Markowitz. I am here to speak on behalf of the citizens group named Save Our Town Center (SOTC) and the large majority of Boxborough residents who share our concerns regarding the Town Center district and the proposed development at 700, 750 and 800 Massachusetts Avenue.

We are here tonight to encourage you to support the Town and the Planning Board in defending the lawsuit filed by the developers who are appealing the Planning Board's recent decision to deny the Site Plan application for the Project. The Site Plan application proposes construction of 100 units of private, age-restricted (55 years and older), two story housing, with amenities, to be built within approximately 58 acres of land in the Town Center-zoned district, right in the heart of Boxborough.

I've been a resident of Boxborough for 26 years. As an environmental consultant over the past 30 years, I have prepared numerous environmental impact studies and have successfully permitted a variety of development projects. I moved here, like so many others, because Boxborough offered a high quality of life, welcoming neighbors, a great educational system, wonderful open spaces, and an uncongested and friendly place to raise my children.

Over the years, we have seen a variety of development proposals— such as a Home Depot and a gaming casino—come and go because the citizens in town determined that such projects were not consistent with the character of the town. The 100-unit development at 700, 750 and 800 Mass. Avenue, is another one of those projects.

I'd like to provide you a brief background of who SOTC is, our community efforts, and the response we have received, and then share with you our specific concerns about this project.

SOTC was formed in early 2017 when several of the 70 certified residential abutters (that is, residents within 300 feet of the proposed project) received notifications about the first public hearing at the Planning Board regarding this

project. These concerned abutters began speaking to their neighbors and formed a group (SOTC) to raise awareness throughout town.

Since its inception, SOTC members have established a website and a Facebook page, conducted town-wide surveys, sent email newsletters, distributed flyers to local households, posted lawn signs, attended the Planning Board public hearings, wrote letters to the Beacon and conducted their own scientific research regarding potential impacts associated with the project.

Response and interest by citizens all over town regarding SOTC's information campaign has been impressive. In one survey, of 323 persons, 322 people (99.7%) indicated they were not in favor of the 100 units of housing as proposed. A map indicating the locations of the respondents shows that every part of town was represented in the survey. We would be happy to provide you with this map if you are interested.

So, this is NOT just a NIMBY (Not in My Back Yard) form of engagement. The website we launched has been viewed over 12,000 times. Our Facebook group has close to 300 local members and the videos posted of the Planning Board meetings were viewed more than 1,300 times. On Saturday we had a booth at Fifer's Day and there was a steady flow of people wanting to learn more about the project, and many who were concerned about its implications and the loss of any opportunity to have a real town center. Clearly, the community is engaged in this matter. In fact, several town leaders have expressed to us that they have never seen the community so engaged around one issue!

In addition to raising community awareness, SOTC felt it was important to understand if there were legal reasons to oppose this development. We raised thousands of dollars from our members and hired an attorney specializing in land-use related issues. Our attorney submitted several letters to the Planning Board with numerous legal findings as to how the project did not comply with the zoning. Additionally, he identified several legal precedents demonstrating the Planning Board's authority to interpret their own bylaws and their ability to deny a Site Plan application.

Statement of Concern

SOTC is not against development in general and understands that private landowners have the right to develop their land as they see fit, and in accordance with the zoning bylaws and other local and state requirements. Our concern with this project is that it is not what the residents voted for when the town center district was created. It is not consistent with the Purpose and Intent of the Town Center district zoning, nor is it consistent with the Town's Master Plan, Boxborough 2030. Most importantly, as noted earlier, there are several legal bases which demonstrate that the project does not meet the town zoning bylaws.

In 1989, Boxborough voted to create a Town Center District. The vision for this land was to give the town a true "town center" area for its residents so that they could walk to shops, have a common meeting area, and which would include some housing for elderly residents. Despite one attempt in the intervening years, this vision had not yet been realized.

In May, 2013, the current landowners and developers filed a Preliminary Subdivision plan for this re-zoned land which consisted of a 500-foot roadway, 2 lots and 1 two-unit building for elderly housing and thereby achieved a zoning freeze (under 2012 Zoning Bylaws) for a substantial portion of this land.

In December 2016, this same development team filed a Site Plan Application for 100-units (50 duplexes) of densely-packed, private, age-restricted, residential housing and an associated clubhouse on approximately 58 acres of this same land. Only 33 acres of land is actually buildable as the remaining 25 acres are wetland resource areas. (We have a copy of the site plan if you would like to see it).

SOTC opposes this Site Plan Application for a variety of reasons, many of which have been enumerated by the Planning Board in its Decision, including the following:

1. The project is not consistent with the purpose and intent of the Town Center district zoning, nor with Boxborough's Master Plan as noted earlier; The developers used a loophole in the zoning, which was subsequently corrected, to freeze the zoning and changed their original proposal from a small roadway with a few lots to a massive development with 100 homes;

2. There are several items in the Site Plan, as identified by our land use attorney and which are stated in the Planning Board hearing record, where the project is not in compliance with the town's zoning bylaws;
3. The project does not only affect the 100 "certified" residential and commercial abutters, some of whose property lines may be 75 feet or even closer to these units, but it will impact everyone in town as there will be at least 5 years of construction activity at the site;
4. If built, there will be a significant increase in traffic (over 600 new daily trips), at a dangerous entry and exit location, along a curved and hilly section of Mass. Ave. The new vehicle trips will consist primarily of elderly drivers who have reduced reaction times and would benefit from additional sightline distance when entering and exiting Mass. Ave.; however, this proposal does not even meet the minimum sight distance requirements. The Police Chief has concurred that there are safety concerns associated with this traffic situation; Moreover, it will deprive the town of any possibility of ever having a true town center;
5. The environmental impacts (for example water supply, site grading and blasting, noise, lighting, and odor) from this development will be long term and could affect many residents in town. These impacts have not been fully vetted;
6. The project's proposed two-story designs and price points starting at \$550,000 is hardly consistent with the concept of "affordable" housing, nor "elderly" housing, and likely would not be the preferred choice for "downsizing" seniors, who may have trouble climbing stairs and affording such a high-end property;
7. The project violates the Design Review Board guidelines in the zoning bylaw.

SOTC wanted to share with you our specific concerns for the pending legal case for your consideration.

The Planning Board voted unanimously to deny the Site Plan Application and wrote a comprehensive Decision identifying multiple reasons supporting their

denial. The Applicant, has appealed the Decision and is forcing the town to enter into litigation.

We ask you, the Board of Selectmen, as the overseer of the town's legal efforts, and as representatives of all Boxborough citizens, to vigorously defend the Planning Board's Denial and **not to enter into mediation with the developers.** They have shown an unwillingness to reduce the size and scale of the project despite multiple requests by the Planning Board.

We request the use of town funds during litigation to hire expert witnesses to defend the town in all aspects of the case including traffic safety and elderly driver response time, impacts to the town's water supply, impacts associated with the large amount of grading and blasting, impacts associated with noise, lighting, odor and aesthetics, as well as the financial impacts on the town's public safety services, among other issues.

In sum, Citizens to Save Our Town Center strongly urges the Board of Selectmen to use all of its resources to ensure that the town prevails in Land Court regarding this lawsuit.

As I have explained, this is not just a NIMBY response by a few affected abutters, but rather a response by hundreds of citizens to a massive development issue that will impact the entire town for the foreseeable future. Vigorously defending the Planning Board's denial with the full weight of town resources sends a message as to who we are as a "Rural and Engaged" community, how determined we are about upholding our bylaws against irresponsible development, and how seriously we take the future vision of our town. As goes this development, so goes Boxborough.

Thank you for your consideration.