

**Zoning Board of Appeals  
June 28, 2012 Regular Meeting**

Location      Meeting Room #1  
                  Town Hall  
                  7A Spofford Road  
                  Boxford, MA 01921

Present        William R. Cargill, Jr., Chair  
                  Paula Lia Fitzsimmons, Vice-Chair  
                  Robert W. Conroy, Clerk  
                  Paula Meagher, Secretary

Absent         Pat Canonica, Planning Board Liaison

**6:39 p.m.**     William Cargill called the meeting to order

Roll call vote was taken as follows:

Robert Conroy motioned to nominate and re-appoint William Cargill as Chairman seconded by Paula Fitzsimmons.

William Cargill	yes
Paula Fitzsimmons	yes
Robert Conroy	yes

William Cargill motioned to nominate and re-appoint Paula Fitzsimmons as Vice Chair seconded by Robert Conroy.

William Cargill	yes
Paula Fitzsimmons	yes
Robert Conroy	yes

Paula Fitzsimmons motioned to nominate and re-appoint Robert Conroy as Clerk seconded by William Cargill.

William Cargill	yes
Paula Fitzsimmons	yes
Robert Conroy	yes

The Chair took out of order discussion with Bob Camacho, Building Commissioner regarding 45A Crooked Pond Drive. He previously agreed to verify confirmation of when the driveway was actually put in. He met with the developer and the work started in 2006/2007 and they supplied Mr. Camacho with copies of various bills in regards to delivery of materials and bills from the contractor. Based on information supplied by the developer Mr. Camacho says that it was installed in 2007, which is prior to the change in the bylaw. The portion in question was the split into the second lot and has been looked at by Conservation, Health and Fire and they are satisfied. Paula Fitzsimmons said that the current location of the drive the second portion is not built according to the plan on file. So, it has been resolved to satisfy the other departments but it still is not reflected properly according to the Special Permit with the ZBA for the shared driveway. The Zoning Board permit is still not in compliance. They will have to come back to the Zoning Board and get a permit; she is not saying they have to move the driveway. This is a compliance issue. Paula's recollection is that it will not conform to the plan on record. Mr. Camacho said that he would try to get an as-built from the engineer and bring to the next meeting. Mr. John Morin of Neve Morin Engineering was in the audience and spoke that

there is currently a new permit for the second lot that will conform to the new bylaw which was filed and decision written in March 2012. He thought that this Board only needed proof that the shared portion was constructed prior to the adoption of the new bylaw. They have not yet been obtained to design a driveway by the owner of record as of yet but is fully aware that it must comply with Section 196-29. Mr. Camacho said that he will do some homework and document the files so that when the lot is developed they must go back to get the driveway permitted. He will notify all boards so that everyone is aware.

Mr. Camacho also wanted to discuss accessory apartments and expanded living space. He would like to know how board members felt about a previously permitted accessory apartment that a new owner may not want to use as an apartment but for a family wanting extra space for their child or somebody- and needs to know if all members agree that they don't have to register as an apartment and don't need a Special Permit. Board members all agreed that the town is lax in policing apartments and has had problems for years. Apartments have not gotten registrations for the last few years. Enforcement has been an issue and it should be looked at again. Mr. Cargill explained that the ZBA is the board that issues the permit and Mr. Camacho is the one that enforces the bylaw; therefore, it's very important that everybody get together in the near future with the Selectmen and the Planning Board also and discuss enforcement and compliance with the bylaw and registrations for accessory apartments.

**7:20 p.m. Case #907 Alfred Vaz, Jr.  
45 Dana Road**

Special Permit to construct an addition which will yield garage space for more than three (3) automobiles from Article V, §196-13 (B) (11) (h).

**Members Sitting** William R. Cargill, Jr., Chair  
Paula Lia Fitzsimmons, Vice Chair  
Robert W. Conroy, Clerk

**Applicant Present** James White, PE of H.W. Moore Associates, Inc.  
Al Vaz

**Plans Supplied** Plan dated 4/30/12 labeled Sewage Disposal System prepared by H.W. Moore Associates, Inc. showing existing house and garage with proposed addition  
Building Plan consisting of (2) pages dated 4/10/12 prepared by John Minton, RA  
As-built topographic site plan dated 8/12/08 prepared by Donohoe and Parkhurst, Inc.

Robert Conroy read aloud the legal notice.

Mr. White explained they are proposing to construct an addition which will include additional garage space on the property. They currently have on the property a three (3) car garage. With the addition they are intending to remove one garage space and construct a two (2) car garage which will yield space for four (4) cars on the lot. From the road you will only see a two (2) car garage. There will be two bedrooms above the new garage, which has already been approved by the Board of Health. The additional garage space will be used for personal storage only and there is no commercial intent. All required setbacks will be met.

Robert Conroy read aloud the Planning Board recommendation with a unanimous vote the grant the Special Permit from their June 20, 2012 meeting.

There were no further questions from Board members and nobody in the public to speak in favor or opposition of the proposal.

**Motion** Robert Conroy – close evidence

**Second** Paula Fitzsimmons

**Unanimous vote**

**Motion** Robert Conroy – grant the application to construct garage space for four (4) vehicles for the premises located at 45 Dana Road from Article V, Section 196-13.

**Second** Paula Fitzsimmons

**Unanimous vote**

William Cargill will write the decision.

**7:40 p.m. Case #908 Christian C. Huntress, RLA of Huntress Associates, Inc. for property owner  
Town of Boxford  
Hayne’s Land off Middleton Road**

Special Permit to develop a new town recreation area composed of three (3) athletic fields with parking known as Haynes Land from Article V, §196-18 Official or Open Space District and Article VI, §196-30 Site Plans.

**Members Sitting** William R. Cargill, Jr., Chair  
Paula Lia Fitzsimmons, Vice Chair  
Robert W. Conroy, Clerk

**Applicant Present** Christian Huntress, RLA MA of Huntress Associates, Inc.  
John Morin, PE of Neve-Morin Associates, Inc.

**Plans Supplied** Plan of land dated 11/12/07 consisting of (2) pages prepared by Donohoe and Parkhurst, Inc.  
Memorandum dated 1/17/12 consisting of (9) pages prepared by Dermot J. Kelly Associates, Inc. (Traffic Engineering/Transportation Planning)  
Stormwater Report & Mitigative Drainage Analysis labeled BOXF-0017 dated 1/26/12 and revised 4/16/123 prepared by Williams & Sparages for The Neve-Morin Group, Inc.

**Correspondence** Drafted by Marsha Erkson dated 7/30/12  
Copy of letter from neighboring abutters submitted to BOS dated 6/14/12

Robert Conroy read the legal ad aloud.

William Cargill disclosed that Mr. Charles Haynes is a client and wanted to know if there would be any conflict of interest. Mr. Haynes said that he has nothing to do with the project at all, he is only an abutter. The town owns the land and Mr. Huntress is the applicant for the proposed athletic fields.

Paula Fitzsimmons disclosed that she previously was involved with Dermot Kelly who served as an expert witness for one of her cases but stated she had not spoken to him in eight years; therefore, it was deemed that it would not be a conflict of interest.

Mr. Huntress gave a short presentation with an overview of the project. The land consists of seventy-five (75) acres and they are proposing to construct three (3) athletic fields on approximately fifteen (15) to twenty (20) acres of the development.

They have been to the Conservation Commission for two meetings and the Board of Selectmen one meeting; they will also have to meet with the Planning Board for review and recommendation. They have obtained a permit through National Heritage for restoration – there is a 30,000 square foot area designated for Blanding turtles nesting habitat.

The fields are located on the eastern portion of the land, adjacent to Middleton Road and Samuel Bixby Way. The multi-use fields (soccer, field hockey and lacrosse) are proposed for the southern portion of the site while the (baseball/softball) field is to be constructed on the northern boundary, adjacent to Butman Pond and the surrounding wetland areas. Also planned are pedestrian walking trails, equestrian trails and passive winter recreation as well including cross country skiing and snowshoeing trails.

The roadway will come in to the first field (full size soccer; which will serve for football and youth soccer along with field hockey and lacrosse) with a parking lot to accommodate approximately sixty (60) spaces and continue to a bridge crossing (32' l x 30' w with 2' clear height above elevation) Jerry's Run and along the side of an identical second field with fifteen (15) parking spaces and turn the corner into the main parking lot which would accommodate approximately one hundred (100) more spaces. The bridge will have two-way traffic with a sidewalk. Then there is a full size Babe Ruth baseball field. All of the fields are irrigated. They have already been drilled and tested for wells. There is an emergency access from Field #1 to Samuel Bixby Way. They have provided buffer plantings for neighbors to Samuel Bixby Way of evergreen and ornamental. The roadway is thirty (30') feet to the closest property line because they cannot construct too close to a wetland.

There are no sports lighting proposed, but there will be roadway lights and on (3) three corners of the fields for navigating purposes. They went to a Historic District meeting and will be filing an application for their review for a Certificate of Appropriateness for two aspects of their jurisdiction being one sign that states Entry for fields and the other is for a gate which will be installed for when the fields are closed during the winter.

The roadway is at a slightly higher elevation than the surrounding areas. The fields are elevated above the detention basins and there is a five (5') foot walkway which will have trash barrels. A drainage report has been submitted to this file along with a traffic report and he will have a traffic engineer come in if necessary.

There is a second egress for emergency only which will be an eighteen (18') foot gated drive. There were numerous public elements discussed for the trails. There were questions from board members and more specifically asked the applicant to address concerned abutters around the fields and how they were planning to mitigate for noise and traffic. The proposed new roadway is thirty (30') feet off the property line of the closest abutter on Samuel Bixby Way. There will be drainage swales and drainage cutting that must occur between that property line with much vegetation cut; however, there will be replanting done after the work is done and a rock wall there which will also be maintained. They will be planting evergreen and shade trees every sixty (60') feet on the right hand side and a five (5') foot walkway on the other side. They shortened the parking lot by the second field and removed eight (8) spaces to try to give more distance for abutters and extra shade trees to try to screen as much as possible. He stated they did look at constructing the roadway on the other side of the field; however it puts them closer to the wetlands and it was discussed with National Heritage and they would not allow it.

There are three (3) 10x12 sheds to house field equipment and house electricity; one at each field.

The hearing was opened to the public and there were many concerns that neighbors had mostly in part to the potential flooding due to the high water table in the Village and property devaluations. There were concerns on traffic, parking, light and noise pollution, blasting during construction and trash.

*Patricia Smart of 18 Middleton Road-* had concerns about mostly traffic and said the roadway looks too narrow. Mr. Huntress said that it will be twenty-four (24') feet wide so that cars can travel on both sides and there will be a solid yellow line the first fifty (50') feet. Also, he said that he could bring in the traffic engineer if necessary but that his report is in fact in this submission.

*Charley Haynes of 57 Main Street-* asked about the potential for a cross walk from Cole School to the fields. Mr. Huntress aid he would speak with the Hayne's Land Committee and Paula Fitzsimmons suggested they first speak with the school to see if there would be intent for educational purposes to bring students to the fields. Mr. Haynes also was concerned about water and the periodic 100 yr. floods if Main Street and would be paved or gravel and it was stated that it would be paved.

*Margaret McGovern of 29 Middleton Road-* was concerned about a significant amount of tree clearing on the corner of her property for the new roadway and stated there is also a vernal pool on the side of her property and just wanted to see if there would be enough buffer.

*Denise Brogna of 57 Hickory Lane-* is a soccer coach and agreed that crosswalks are a good idea because generally practices are scheduled for right after school and game days players are requested to arrive 45 minutes prior to a game. Parking overflow once the lots are full with the 180 spaces there will also be overflow of cars parked on Samuel Bixby Way and Middleton Road. So, the 24 foot road is reduced by 8 feet because of cars parked on the shoulder. Maybe there should be more parking considered. Another concern is she is an equestrian that uses the trails and the direct trails will be pushed over and wanted to make sure there would be access to the BTA trail system. Mr. Huntress said that all trails will be reconnected.

*Sam LaGrassa of 19 Samuel Bixby Way-* feels this will be a tremendous hit to the Samuel Bixby Way development with such a beautiful piece of property now developing and will have to look at a parking lot with cars coming and going with roads and parking, etc. and that it would be a detriment to the neighborhood and also could be safety problems in such a tiny village area. He was assured by the Chair that this Board's review is exactly for such concerns that are valid and that it is just what site plan review is for to also mitigate impact and any detriment such development has on neighborhoods.

*David Conti of 12 Georgetown Road-* submitted a copy of a letter that was sent to the Board of Selectmen dated June 14, 2012 for the file. He said that 90% of the planned activity is within thirty (30) feet of a property line. People have spent significant amounts of money in this area of town without knowing full scope and scale of the proposed development. Affordable housing has been voted down three times in the town. He has asked for a 200 foot border four years ago – has been going to meetings all along and the Master Plan has not changed at all over the last four years. It is not acceptable and is too close to their property lines. They also have documented problems of flooding. What happens when you cut 15-22 acres of trees and only Phase 1 of the development gets done and then the town runs out of money?

*Keith Bovardi of 8 Samuel Bixby Way-* said he had huge concerns and felt that it is appalling as a citizen of the community that something like this project can be developed within just thirty (30') feet and the noise from three ballparks changing the quality of life and impacting peoples land.

After more lengthy discussion on the concerns of the neighbors John Morin of Neve-Morin, Inc. gave a brief discussion on the drainage design.

Mr. Huntress said they would be discussing some options discussed tonight of some of the major concerns with the Haynes Land Committee and will be continuing on in the hearing process with Conservation, Planning and Historic Boards.

**Motion** Robert Conroy – continue Case #908 to July 26, 2012

**Second** Paula Fitzsimmons

**Unanimous vote**

**9:30 p.m.** Review draft minutes from 2/28/12

**Motion** Robert Conroy – approve as amended

**Second** Paula Fitzsimmons

**Unanimous vote**

**Motion** Robert W. Conroy – adjourn 9:41 p.m.

**Second** Paula Lia Fitzsimmons

**Unanimous vote**

*Respectfully submitted,*

*Paula Meagher*

APPROVED AS AMENDED 1/24/13