CITY OF NEWTON, MASSACHUSETTS

City Hall
1000 Commonwealth Avenue, Newton, MA 02459-1449
Telephone: (617) 796-1120 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086
www.newtonma.gov

Ruthanne Fuller
Mayor

ZONING BOARD OF APPEALS

To: Zoning Board of Appeals Members
From: Brenda Belsanti
Date: April 30, 2024
Subject: Materials for **May 1, 2024** Public Hearing

Packet 2

Hello,

Please see the following supplemental materials for the upcoming hearing on April 10, 2024 Public Hearing. The following board members are scheduled to sit: *Michael Rossi (Chair), Brooke Lipsitt, Stuart Snyder, Elizabeth Sweet, Jennifer Pucci, and Denise Chicoine (alternate)*.

1. 528 Boylston Street compiled resident emails (16) dated April 9, 2024 to April 24, 2024.

Thank you,

Brenda Belsanti
bbelsanti@newtonma.gov |

Dear Chairman Rossi & ZBA

The direct abutters to 528 Boylston, the neighborhood, and the Newton Impact Committee were deeply disappointed that the City's Peer Reviewer, along with certain members of the ZBA and the Planning & Zoning Department, had not read the letter from Scott Horsley, dated April 4, 2024 (see attached PDF). This letter was sent to Brenda Belsanti for distribution to the ZBA, Barney Heath, Katie Whewell, Jennifer Steel, and our City Councilors on April 4, 2024, in advance of the ZBA Meeting on Wednesday, April 10th.

As you know, flooding and traffic safety are among our primary concerns with this project. We are not engineers, or geologists, or hydrologists, or hydrogeologists. We are long term neighborhood Newton residents, many of whom experience regular flooding, water issues, and bear witness to traffic accidents and unsafe vehicular behavior on our streets. At our own expense, we hired a consultant, Scott Horsley, to advise us on whether we had legitimate concerns about the impact of the project on our properties.

Scott Horsley is well known to the City of Newton and, in fact, founded the firm of Newton's own peer reviewer. In his first letter submitted January 14, 2024, forwarded to the ZBA, Mr. Horsley validated our concerns and suggested best practices. Mr. Horsley stated

"Groundwater levels vary seasonally with the highest levels typically observed in the late winter-spring period. Based upon my experience in evaluating sites like this that are characterized by shallow bedrock, groundwater levels can fluctuate significantly (several feet) within and throughout the winter/spring period. The most reliable method to document high groundwater conditions is to install monitoring wells (within the footprints of the proposed infiltration systems) and to utilize continuous recording pressure transducers to measure water levels

throughout the late winter/spring season." We asked for those certain tests to be performed for the late winter/ early spring window which has now passed, they were not.

In the second letter, attached , he not only reiterated his concerns and suggestions but highlighted that *based on the revised Site Plan and Drainage Report* "it is probable that there will be impacts to both wetlands and abutting properties".

Only at the end of the meeting on April 10, 2024 was a request made by a ZBA member to hire a hydrologist (in fact, a HYDROGEOLOGIST is required).

Respectfully, we believe:

- A robust and comprehensive discussion of the April 4, 2024 letter from Scott Horsley is necessary before closing public comments and certainly before voting upon 528 Boylston.

- The City of Newton must engage a hydrogeologist prior to any approval. The findings of the hydrogeologist must be made public and be open to public comment and discussion.

- A vote to approve 528 Boylston can only occur AFTER full consideration of the hydrogeologist report.

Anything short of this is a dereliction of duty to the abutters, immediate neighborhood and citizens of Newton who will face predictable undue costs and burden.

Respectfully,

The Newton Impact Committee

Scott Horsley
Water Resources Consultant
65 Little River Road • Cotuit, MA 02635 • 508-364-7818

April 4, 2024

Mr. Michael Rossi, Chairperson
City of Newton
Zoning Board of Appeals
1000 Commonwealth Avenue, Newton Centre, MA 02459

By Email to: Brenda Belsanti, Zoning Board Clerk
bbelsanti@newtonma.gov|

Mr. Daniel Green, Chairperson
City of Newton
Conservation Commission
1000 Commonwealth Avenue, Newton Centre, MA 02459

By Email to: Jennifer Steel
jsteel@newtonma.gov

Dear Mr. Rossi, Mr. Green and Members of the Zoning Board of Appeals and Conservation Commission:

RE: 528 Boylston Street, Newton, MA

I have been retained by a group of residents and abutters known as newtonimpact.com to review the proposed project at 528 Boylston Street. More specifically, I have been asked to evaluate the potential hydrologic impacts associated with the project and its compliance with applicable state laws and guidelines. I submitted a prior comment letter dated January 17, 2024.

I have reviewed the revised revised civil engineering Site Plans by Bohler Engineering, Revision 3 dated February 12, 2024 and Revision 4 dated April 1, 2024 and Drainage Reports prepared by Bohler Engineering dated February 20 and April 1, 2024 and am providing this supplemental comment letter.

General Comments:

The revised Site Plans and Drainage Report still do not provide the required test pit and groundwater levels at the location (within the footprint) of the large infiltration system (2P) that is adjacent to my clients' properties. Without this more detailed test pit information and accurate groundwater mounding analysis (based upon the correct test pit data) the Applicant cannot and has not demonstrated that this system can be operated without hydrologic impacts at and beyond the property boundary. In fact, using the data presented I have conducted my own groundwater mounding analysis that indicates that it is probable that there will be impacts to both wetlands and abutting properties (see analysis below).

There has been a suggestion to defer further analysis to the Wetlands Regulations permitting process and the Conservation Commission. However, the requested zoning waiver of maximum lot coverage (from 15 - 20% to 42%) directly contributes to the significantly increased area of impervious surfaces and increased stormwater volumes that may exceed the site's capacity for adequate infiltration without impacts to abutting properties. This waiver is solely in the jurisdiction of the ZBA. Furthermore, the Conservation Commission's focus is on wetlands impacts and not hydrologic impacts (including basement flooding) to adjacent properties. My specific comments are as follows.

In order for the ZBA to make an informed judgment about whether to allow such a waiver — and to what extent — it must first understand the consequence of granting it. The Applicant has not provided enough information to make such an informed determination yet.

1. The requested waiver for lot coverage should not be granted unless the applicant can clearly demonstrate no hydrologic impacts on neighboring properties and wetlands

The proposed project exceeds the town's maximum lot coverage by more than double. The maximum coverage under zoning is 15 – 20%, the proposed project is 42%[1]. As a result the project will include a greater amount of impervious surfaces (93,242 square feet) and will generate signficantly more stormwater than allowed by the existing zoning. Based upon the data and analyses provided by the Applicant to date it is unclear that the site can handle the proposed volumes of stormwater without hydrolgic impacts to wetlands and neighboring properties. The burden to demonstrate that this waiver is justified is upon the Applicant.

The applicant proposes to infiltrate the stormwater associated with the additional impervious surfaces that would be allowed with the waiver from existing zoning requirements. However, as demonstrated below, this may result in significant groundwater mounding that will cause elevated water levels in the adjacent wetlands and abutting properties that will likely exacerbate basement flooding issues.

[1] Bohler Engineering, Site Plan dated February 12, 2024, sheet C-301.

2. The groundwater mounding analysis does not include the 25-year design storm and underestimates impacts on neighboring properties and adjacent wetland areas

The revised Drainage Report provides a groundwater mounding analysis for the infiltration system (P2) located near the abutter's properties. However, the groundwater mounding analysis is limited to the 2-inch storm. The Drainage Report clearly indicates that the 2P infiltration system will infiltrate substantially more stormwater than 2 inches and in fact will infiltrate the majority of the 6.33-inch, 25-year storm (see Table 1 and excerpts from Drainage Report). The MADEP Stormwater Handbook states, *"Mounding analysis is required when the vertical separation from the bottom of an exfiltration system to Seasonal High Groundwater Elevation is less than four feet and the recharge system is proposed to attenuate the peak discharge from a 10-year or higher 24-hour storm (e.g., 10-year, 25-year, 50-year, or 100-year 24-hour storm)".*

Table 1 – Design Storms and Proposed Infiltration Volumes

Design Storm	Depth (inches)	Volume Infiltrated (cubic feet)
24-hour 2-inch	2.00	5,738
24-hour 25-year	6.33	13,784

Source: Bohler Engineering, Drainage Report, April 1, 2024, pages (pdf) 193 and 269. Discarded volumes equal infiltrated volumes.

MOUNDING ANALYSIS

Summary for Pond 2P: SE Infiltration

Inflow Area = 64,969 sf, 57.80% Impervious, Inflow Depth = 1.06" for 2-IN event
Inflow = 1.69 cfs @ 12.08 hrs, Volume= 5,738 cf
Outflow = 0.14 cfs @ 13.01 hrs, Volume= 5,738 cf, Atten= 91%, Lag= 55.8 min
Discarded = 0.14 cfs @ 13.01 hrs, Volume= 5,738 cf
Primary = 0.00 cfs @ 0.00 hrs, Volume= 0 cf
Routed to Link DP-1 : Paul Brook

RECHARGE = DISCARDED / SURFACE AREA X 1 DAY

Routing by Stor-Ind method, Time Span= 0.00-72.00 hrs, dt= 0.01 hrs
Peak Elev= 129.42' @ 13.01 hrs Surf.Area= 2,293 sf Storage= 2,150 cf

RECHARGE = 5,738 CF / 2,293 SF X 1 DAY

Plug-Flow detention time= 115.2 min calculated for 5,738 cf (100% of inflow)
Center-of-Mass det. time= 115.2 min (886.4 - 771.2)

RECHARGE = 2.5024 FT/DAY

Volume	Invert	Avail.Storage	Storage Description
#1A	128.00'	2,267 cf	**76.00'W x 30.17'L x 4.00'H Field A** 9,171 cf Overall - 3,503 cf Embedded = 5,668 cf x 40.0% Voids
#2A	128.50'	3,503 cf	**Cultec R-360HD** x 91 Inside #1 Effective Size= 54.9"W x 36.0"H => 9.99 sf x 3.67'L = 36.6 cf Overall Size= 60.0"W x 36.0"H x 4.17'L with 0.50' Overlap 91 Chambers in 13 Rows Cap Storage= 6.5 cf x 2 x 13 rows = 168.0 cf
		5,770 cf	Total Available Storage

Storage Group A created with Chamber Wizard

Device	Routing	Invert	Outlet Devices
#1	Primary	131.35'	**5.0' long Sharp-Crested Rectangular Weir** 2 End Contraction(s)
#2	Discarded	128.00'	**2.410 in/hr Exfiltration over Wetted area** Phase-In= 0.01'

Summary for Pond 2P: SE Infiltration

Inflow Area = 63,823 sf, 56.20% Impervious, Inflow Depth = 3.84" for 25-YR event
Inflow = 5.63 cfs @ 12.08 hrs, Volume= 20,440 cf
Outflow = 5.18 cfs @ 12.12 hrs, Volume= 20,440 cf, Atten= 8%, Lag= 2.1 min
Discarded = 0.17 cfs @ 12.12 hrs, Volume= 13,784 cf
Primary = 5.01 cfs @ 12.12 hrs, Volume= 6,656 cf
Routed to Link DP-1 : Paul Brook

Routing by Stor-Ind method, Time Span= 0.00-72.00 hrs, dt= 0.01 hrs
Peak Elev= 131.81' @ 12.12 hrs Surf.Area= 2,293 sf Storage= 5,595 cf

Plug-Flow detention time= 204.9 min calculated for 20,437 cf (100% of inflow)
Center-of-Mass det. time= 204.9 min (962.6 - 757.7)

Volume	Invert	Avail.Storage	Storage Description
#1A	128.00'	2,267 cf	**76.00'W x 30.17'L x 4.00'H Field A** 9,171 cf Overall - 3,503 cf Embedded = 5,668 cf x 40.0% Voids
#2A	128.50'	3,503 cf	**Cultec R-360HD** x 91 Inside #1 Effective Size= 54.9"W x 36.0"H => 9.99 sf x 3.67'L = 36.6 cf Overall Size= 60.0"W x 36.0"H x 4.17'L with 0.50' Overlap 91 Chambers in 13 Rows Cap Storage= 6.5 cf x 2 x 13 rows = 168.0 cf
		5,770 cf	Total Available Storage

Storage Group A created with Chamber Wizard

Device	Routing	Invert	Outlet Devices
#1	Primary	131.35'	**5.0' long Sharp-Crested Rectangular Weir** 2 End Contraction(s)
#2	Discarded	128.00'	**2.410 in/hr Exfiltration over Wetted area** Phase-In= 0.01'

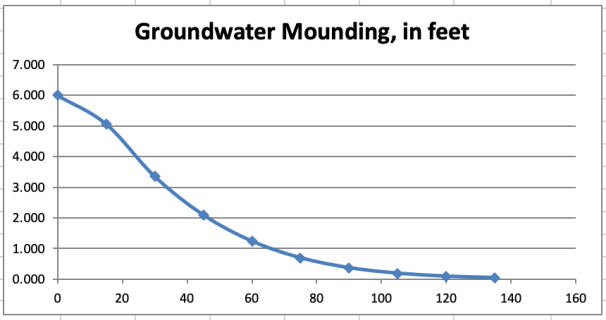
I have prepared a groundwater mounding analysis for the 25-year storm using the applicant's input parameters (see figure 1). This analysis shows that the groundwater mound beneath the infiltration system will rise 6 feet and will inundate of the bottom of the infiltration facility and will result in additional, unaccounted for overflows that would increase off-site flooding.

The groundwater mounding analysis of the 25-year storm also shows a rise in groundwater levels of 0.7 feet (8.4 inches) at a distance of 75 feet and at the abutting property boundary. This will likely exacerbate the existing basement flooding issues at their property. The mounding analysis also indicates hydrologic impacts at the wetland boundary at a distance of approximately 100 feet.

Input Values					
			inch/hour	feet/day	
4.8000	R	Recharge (infiltration) rate (feet/day)	0.67	1.33	
0.250	Sy	Specific yield, Sy (dimensionless, between 0 and 1)			
25.00	K	Horizontal hydraulic conductivity, Kh (feet/day)*	2.00	4.00	In the repo
15.085	x	1/2 length of basin (x direction, in feet)			SIR 2010-5
38.000	y	1/2 width of basin (y direction, in feet)	hours	days	assumed to
1.260	t	duration of infiltration period (days)	36	1.50	conductivity
12.100	hi(0)	initial thickness of saturated zone (feet)			
18.096	h(max)	maximum thickness of saturated zone (beneath center of basin at end of infiltration period)			
5.996	Δh(max)	maximum groundwater mounding (beneath center of basin at end of infiltration period)			

Ground-water Mounding, in feet	Distance from center of basin in x direction, in feet
5.996	0
5.062	15
3.348	30
2.093	45
1.238	60
0.695	75
0.371	90
0.190	105
0.095	120
0.047	135

Re-Calculate Now



Disclaimer

Figure 1 – Groundwater Mounding Results – Infiltration System 2P, 25-Year Storm

3. Additional test pit data and groundwater levels are required by the MADEP Stormwater Handbook and are necessary to evaluate the hydrologic impacts of the proposed stormwater infiltration systems.

As stated in my previous comment letter, the feasibility of the proposed stormwater management systems and the accuracy of the groundwater mounding analyses is directly dependent on subsurface conditions at the location of the proposed infiltration systems including depth to bedrock, depth to groundwater, and the permeability of soils. The MADEP Stormwater Handbook requires that test pits be provided at "the actual location" of each proposed infiltration system. Specifically the Handbook states, *"Conduct tests at the point where recharge is proposed. The tests are a field evaluation conducted* in the actual location *and soil layer where stormwater infiltration is proposed (e.g., if the O, A and B soil horizons are proposed to be removed, the tests need to be conducted in the C soil layer below the bottom elevation of the proposed recharge system)"*[2].

No test pits are provided within the footprint *(at the actual location)* of the large infiltration system (2P). Instead the proposed design relies upon test pits located to the north of the actual location (see figure 1).

[2] MADEP Stormwater Handbook, Volume 3, Chapter 1, *Documenting Compliance with the Massachusetts Stormwater Management Standards*, page 10.

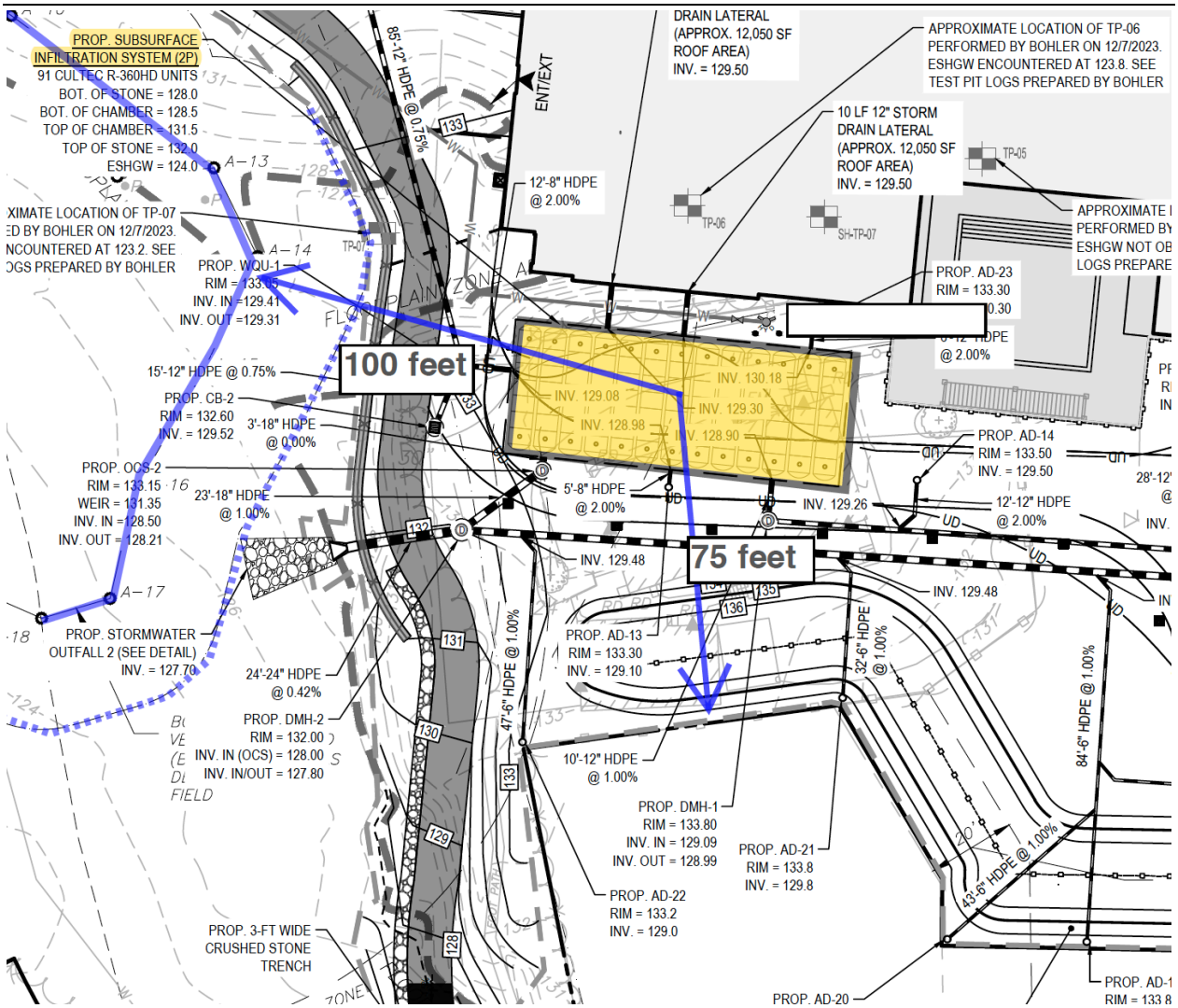
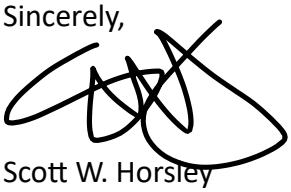


Figure 1 – Location of Infiltration System (2P) and Test Pits

Groundwater levels vary seasonally with the highest levels typically observed in the late winter-spring period. Based upon my experience in evaluating sites like this that are characterized by shallow bedrock, groundwater levels can fluctuate significantly (several feet) within and throughout the winter/spring period. The most reliable method to document high groundwater conditions is to install monitoring wells (within the footprints of the proposed infiltration systems) and to utilize continuous recording pressure transducers to measure water levels throughout the late winter/spring season

Thank you for the opportunity to submit these comments. Please contact me with any questions that you might have.

Sincerely,



Scott W. Horsley
Water Resources Consultant

Areas of Expertise

- Targeted Watershed Planning
- Wastewater & Stormwater Management
- Water Quality Impacts & Restoration
- Green Infrastructure & Nature-Based Solutions
- Hydrologic Modeling & Assessment
- Integrated Water Management
- Smart Growth/ Low Impact Development
- Education & Training

Professional Affiliation

- Tufts University, Graduate Department of Urban and Environmental Planning and Policy
- Harvard University, Extension, Graduate Department of Sustainability
- Massachusetts Stormwater Advisory Committee
- Massachusetts Sustainable Water Management Initiative Advisory Committee
- Massachusetts Climate Change Adaptation Advisory Committee
- MADEP Title 5 Advisory Committee
- Charles River Watershed Association Advisory Board

Awards

- Harvard University, Petra Shattuck

Scott W. Horsley

Water Resources Consultant and University Lecturer
Curriculum Vitae

Scott Horsley has over 30 years of professional experience as a consultant to federal, state, and local government agencies, non-profit organizations, and private industry throughout the United States, Bulgaria, Nicaragua, the Caribbean, the Pacific Islands, and China. Scott has been an innovator in the environmental profession and thrives on bringing innovative and interdisciplinary approaches to challenging projects. Scott has a strong understanding of the full range of technical, planning, and policy issues associated with water resources and land use management projects. Scott has served as an expert witness in the field of hydrology in numerous state and federal court cases. He has served as an instructor for a nationwide series of U.S. Environmental Protection Agency (EPA) workshops on water resource management. He has also served on numerous advisory boards and committees to the EPA, the National Academy of Public Administration, Massachusetts Department of Environmental Protection (MADEP), Massachusetts Executive Office of Energy and Environmental Affairs (EEA), National Groundwater Association, and Massachusetts Audubon Society. Scott has received national (EPA) and local awards (Mashpee Conservation Commission) for his work in the wetlands and stormwater management fields. Scott Horsley serves as Adjunct Faculty at Tufts University in the Graduate Department of Urban & Environmental Policy & Planning and at the Harvard Extension School in the Graduate Department of Sustainability.

REPRESENTATIVE PROJECTS

Lake Tashmoo Targeted Watershed Plan – Town of Tisbury (Martha's Vineyard), MA: Working with the Tisbury Water Resources Committee to develop a restoration plan for Lake Tashmoo. According to the Massachusetts Estuaries Project (MEP) Lake Tashmoo is receiving nitrogen loading from wastewater, stormwater and fertilizers and requires a 32% reduction to achieve compliance with the Clean Water Act. The plan will include a sewer collection system, advanced septic systems that use a woodchip bioreactor system, fertigation wells, and stormwater retrofits. A responsible management entity (RME) is being developed to manage the operation, maintenance, and monitoring of the plan.

Wellfleet Targeted Watershed Management Plan – Town of Wellfleet, MA: As a consultant to the Town of Wellfleet prepared a Targeted Watershed Plan including an adaptive management plan integrating non-traditional (nature-based) and traditional (wastewater treatment facilities) nutrient reduction technologies. The plan includes a permeable reactive barrier (PRB), shellfish and aquaculture, ecosystem restoration, stormwater remediation, fertilizer management, and the use of decentralized, on-site septic systems that utilize innovative and alternative technologies. The overall goal of the project is to provide the town guidance in obtaining a MADEP Watershed Permit and compliance with the Clean Water Act. The Targeted Watershed Plan was unanimously approved by the Wellfleet Select Board, was confirmed to be

Excellence in Teaching Award (2023)

- Mashpee (MA) Conservation Commission Annual Environmental Achievement Award (2002)
- EPA Environmental Technology Innovator Award for Stormwater Treatment Design (1999)

Patent

United States Patent Number 5,549,817 for Stormwater Treatment System/Apparatus

Academic Background

Master of Arts, Marine Affairs - Environmental Protection, University of Rhode Island (1981)

Marine Ecosystems Research Laboratory, University of Rhode Island (1980)

Princeton Groundwater Pollution & Hydrology Course with David Miller, John Cherry, and Robert Cleary (1985)

Bachelor of Science, Biology, Southeastern Massachusetts University (1976)

consistent with the Cape Cod 208 Plan by the Cape Cod Commission. The advanced septic system program was approved by the Massachusetts Clean Water Trust for SRF funding and placed on the Intended Use Plan (IUP).

Water Resources Management - Manchester-by-the Sea, MA: Scott is serving as a consultant to the town of Manchester-by-the-Sea and their Water Resources Protection Task Force. He is advising on drinking water supply management issues including sustainable yield, source water protection, future water sources, and water rates. Scott has supervised a thermal survey to determine groundwater discharge areas to Gravelly Pond, the town's surface water reservoir and has prepared a hydrologic budget.

Watershed Restoration Research Project: Scott is currently working as a member of a research team that includes USEPA Office of Research & Development, United States Geological Survey (USGS), The Nature Conservancy, the Town of Barnstable and the Barnstable Clean Water Coalition. The project is designed to research, develop, and pilot-test multiple nature-based technologies to reduce nutrient loads to the coastal embayment known as Three Bays. Scott assisted in the design of a woodchip-based bioreactor/ permeable reactive barrier (PRB) and is now working with the research team to construct and monitor it as part of a wetland restoration project in a cranberry bog at the headwaters of the watershed. He is also advising on a project to evaluate the use of a new class of innovative and alternative septic systems that utilize a woodchip-based bioreactor. Preliminary data from these systems indicate nutrient reductions of 90%. The project includes the development of a Responsible Management Entity (RME) to oversee the operation, maintenance, and monitoring of the systems.

Expert Witness, Hydrologist - United States Environmental Protection Agency and United States Department of Justice – United States v. Charles Johnson (437 F.3d 157, First Circuit Court, 2006): Expert Witness for U.S. Environmental Protection Agency (EPA) and U.S. Department of Justice (DOJ) in a federal Clean Waters Act enforcement case involving the filling of wetlands in Carver, MA by the construction and operation of cranberry bogs. Scott served as the Hydrology Expert Witness and provided testimony regarding the hydrologic interactions (or "nexus") between the subject wetlands, groundwater, and the adjacent stream. He provided advice on the application of the guidance from the Rapanos U.S. Supreme Court decision relative to the jurisdiction of wetlands in the Weweantic River watershed. He also developed a nutrient-loading and attenuation model and has provided expert witness testimony regarding the nutrient attenuation capabilities of wetlands and their nexus to the Weweantic River. Scott has also prepared a wetland restoration plan for the cranberry bogs to enhance the nutrient attenuation capabilities of wetlands (abandoned cranberry bogs) in the watershed. The case resulted in two favorable decisions for the United States enforcing the Clean Water Act.

Cape Cod 208 Water Quality Management Plan: Consultant to the Cape Cod Commission for the preparation and implementation of the Cape Cod 208 Water Quality Plan. Fifty-three estuaries are impacted by excessive nutrient loading derived from wastewater, stormwater, fertilizers and natural sources. The Cape Cod 208 Plan presents an innovative alternative approach that includes a broad range of traditional (sewage collection and treatment plants) and non-traditional (or nature-based) technologies including fertigation wells, shellfish restoration, permeable reactive barriers, fertilizer management, innovative & alternative septic system technologies, ecotoilets and other decentralized solutions. An adaptive management plan provides a practical framework to implement and optimize an integrated array of strategies to attain compliance with the Clean Water Act. Mr. Horsley led a team of scientists and engineers in the development of a non-traditional/nature-based approach and conducted dozens of public stakeholder workshops.

Expert Witness, Hydrologist - Massachusetts Supreme Judicial Court - Reynolds v. Stow Zoning Board of Appeals: Mr. Horsley served as an expert witness on wastewater impacts and groundwater hydrology. He conducted an assessment of water quality impacts associated with a proposed Chapter 40B high-density affordable housing project on neighboring private drinking water supplies. The case involved a proposed waiver of a local regulation governing wastewater impacts that the Court upheld the finding that the local board of health requirements were valid and the project was not permitted.

Massachusetts Department of Environmental Protection (MADEP) Title 5 (Septic System) and Groundwater Discharge Permitting Advisory Committee and Designation of Nitrogen Sensitive Areas: Mr. Horsley was invited by MADEP to participate in an advisory group tasked with updating and revising Title 5 Regulations and the associated Groundwater Discharge Permit program. This includes the designation of "Nitrogen Sensitive Areas", the development of wastewater loading standards, the use of alternative septic system technologies, and the roles of local Boards of Health in regulating wastewater and septic systems.

Three Bays Watershed Implementation Plan – **Cape Cod Commission and Barnstable Clean Water Coalition, Inc**.: Consultant for the design and implementation of integrated watershed restoration plan designed to reduce excessive nutrient loads. Mr. Horsley prepared conceptual designs for wetland restoration, pond restoration, alternative septic system technologies, stormwater bioretention, woodchip bioreactors, and permeable reactive barriers. He designed a Watershed Calculator tool to track the incremental and cumulative nutrient reductions associated with these projects.

Massachusetts Sustainable Water Management Initiative (SWMI): Mr. Horsley was asked by MADEP and MAEEA to serve as an advisor to an interdisciplinary panel to develop guidelines to implement the Massachusetts Water Management Act for the restoration of stream flow in Massachusetts Rivers. The Massachusetts Water Management Act provides the regulatory structure for water withdrawals in the state. The guidance was developed to provide ecological criteria for the decision making related to

water withdrawal permit issuance. The criteria were based upon scientific relationships between flow characteristics and two indicator fish species - trout and black dace. The guidance includes a series of possible mitigation measures and offset practices that are designed to either reduce consumptive withdrawals and/or provide return flows to balance the hydrologic budget.

River Restoration for the Atlantic Salmon – United States Army Corps of Engineers and State of Maine: Served as a consulting hydrologist to the U.S. Army Corps of Engineers and the State of Maine for a hydrologic study of river systems in northeastern Maine to assess the relative impacts of various water users including irrigation pumping associated with the blueberry industry on the flow regime of the Narragaugus and Pleasant Rivers. The project included numerous meetings with a broad range of stakeholders including the U.S. Army Corps of Engineers, the State of Maine, blueberry industry representatives, and local government officials. The project resulted in a decision-making model and adaptive management plan to restore natural flows within the rivers for the purpose of providing an adequate habitat for the Atlantic Salmon.

California Water Code – Department of Water Resources: Served as Facilitator and Trainer for the implementation of Assembly Bill (AB) 3030. This project integrated groundwater and surface waters and provides the framework to develop local groundwater management plans to balance water withdrawals and recharge projects to mitigate impacts water resources. Mr. Horsley facilitated a series of workshops with stakeholders throughout the State of California.

Ipswich River Watershed Management Plan: Project Manager to develop a Management Plan for restoration of the Ipswich River. The Ipswich River is one of the most impacted rivers in the United States with significant flow alterations caused by excessive water withdrawals and inefficient land use practices. This Plan provides an analysis of the development patterns within the study area and the resulting hydrologic impacts of water supply withdrawals, sewerage systems, and stormwater management. The project included coordination with an interpretation of a USGS watershed modeling project. It also provides an "Integrated Water Management" approval to a series of recommendations designed to balance the hydrologic budget. These include water conservation, alternative water supplies, stormwater management, and land use planning. Mr. Horsley provided facilitation at a series of meetings with a broad range of stakeholders including federal and state agencies, water suppliers, local government officials and others.

Smart Growth and Smart Energy Toolkit, Massachusetts Executive Office of Environmental and Energy Affairs (EEA): Served as a consultant to the EEA to design an outreach tool for local governments and the development community. The Toolkit includes descriptions of twenty techniques, including transfer of development rights (TDR), transit-oriented development (TOD), village center zoning districts, open space residential design (OSRD), LID, agricultural preservation, integrated water, and wastewater management, brownfields redevelopment, and the newly-legislated Chapter 40R smart growth overlay districts. It also includes case studies and model bylaws on the twelve subject areas.

Massachusetts Climate Change Advisory Committee: Scott served as a member of the Coastal Zone and Oceans Subcommittee of the Climate Change Advisory Committee convened by the Secretary of Massachusetts Environtal and Energy Agency. The Committee was assembled to develop recommendations, strategies, and criteria to implement the *Global Warming Solutions Act* passed by the Massachusetts legislature last year. The main task of the subcommittee is to analyze strategies for adapting to the predicted impacts of climate change in the Commonwealth of Massachusetts. Among

other recommendations, Scott proposed regulatory changes to accommodate the landward migration of wetland systems that will result from sea level rise.

Nicaragua Source Water Protection Project: As a consultant to U.S. Environmental Protection Agency (USEPA) and U.S. Agency for International Development (USAID), Scott conducted at two-year case study of three communities (Matagalpa, Esteli, and Ocotal) designed to strengthen the sustainability and resilience of local public drinking water supplies. The project included delineation of wellhead protection areas, identification of contaminant sources and the development of management strategies. It included numerous public hearings and the development of a comprehensive training manual.

PROFESSIONAL EXPERIENCE

2014 - Present	Scott Horsley, Water Resources Consultant
2014 - Present	Harvard University, Adjunct Faculty
1986 - Present	Tufts University, Adjunct Faculty
1988 - 2019	Horsley Witten Group, Inc., Founder and President
1984 - 1988	IEP, Inc., Senior Environmental Scientist
1981 - 1984	Cape Cod Commission, Water Resources Coordinator
1979 - 1981	Barnstable County Health Department, Environmental Research Director

PUBLICATIONS

Horsley, S. 2023, "Colorado River Compact – Seven Western States Compete for Water", Harvard Gazette.

Horsley, S. 2022, Wellfleet Harbor Targeted Watershed Plan, prepared for Town of Wellfleet, MA and approved unanimously by the Select Board, submitted to MADEP for a Watershed Permit.

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Scott Horsley
Water Resources Consultant
65 Little River Road • Cotuit, MA 02635 • 508-364-7818

April 4, 2024

Mr. Michael Rossi, Chairperson
City of Newton
Zoning Board of Appeals
1000 Commonwealth Avenue, Newton Centre, MA 02459

By Email to: Brenda Belsanti, Zoning Board Clerk
bbelsanti@newtonma.gov|

Mr. Daniel Green, Chairperson
City of Newton
Conservation Commission
1000 Commonwealth Avenue, Newton Centre, MA 02459

By Email to: Jennifer Steel
jsteel@newtonma.gov

Dear Mr. Rossi, Mr. Green and Members of the Zoning Board of Appeals and Conservation Commission:

RE: 528 Boylston Street, Newton, MA

I have been retained by a group of residents and abutters known as newtonimpact.com to review the proposed project at 528 Boylston Street. More specifically, I have been asked to evaluate the potential hydrologic impacts associated with the project and its compliance with applicable state laws and guidelines. I submitted a prior comment letter dated January 17, 2024.

I have reviewed the revised revised civil engineering Site Plans by Bohler Engineering, Revision 3 dated February 12, 2024 and Revision 4 dated April 1, 2024 and Drainage Reports prepared by Bohler Engineering dated February 20 and April 1, 2024 and am providing this supplemental comment letter.

General Comments:

The revised Site Plans and Drainage Report still do not provide the required test pit and groundwater levels at the location (within the footprint) of the large infiltration system (2P) that is adjacent to my clients' properties. Without this more detailed test pit information and accurate groundwater mounding analysis (based upon the correct test pit data) the Applicant cannot and has not demonstrated that this system can be operated without hydrologic impacts at and beyond the property boundary. In fact, using the data presented I have conducted my own groundwater mounding analysis that indicates that it is probable that there will be impacts to both wetlands and abutting properties (see analysis below).

There has been a suggestion to defer further analysis to the Wetlands Regulations permitting process and the Conservation Commission. However, the requested zoning waiver of maximum lot coverage (from 15 - 20% to 42%) directly contributes to the significantly increased area of impervious surfaces and increased stormwater volumes that may exceed the site's capacity for adequate infiltration without impacts to abutting properties. This waiver is solely in the jurisdiction of the ZBA. Furthermore, the Conservation Commission's focus is on wetlands impacts and not hydrologic impacts (including basement flooding) to adjacent properties. My specific comments are as follows.

In order for the ZBA to make an informed judgment about whether to allow such a waiver — and to what extent — it must first understand the consequence of granting it. The Applicant has not provided enough information to make such an informed determination yet.

1. The requested waiver for lot coverage should not be granted unless the applicant can clearly demonstrate no hydrologic impacts on neighboring properties and wetlands

The proposed project exceeds the town's maximum lot coverage by more than double. The maximum coverage under zoning is 15 – 20%, the proposed project is 42%[1]. As a result the project will include a greater amount of impervious surfaces (93,242 square feet) and will generate signficantly more stormwater than allowed by the existing zoning. Based upon the data and analyses provided by the Applicant to date it is unclear that the site can handle the proposed volumes of stormwater without hydrolgic impacts to wetlands and neighboring properties. The burden to demonstrate that this waiver is justified is upon the Applicant.

The applicant proposes to infiltrate the stormwater associated with the additional impervious surfaces that would be allowed with the waiver from existing zoning requirements. However, as demonstrated below, this may result in significant groundwater mounding that will cause elevated water levels in the adjacent wetlands and abutting properties that will likely exacerbate basement flooding issues.

[1] Bohler Engineering, Site Plan dated February 12, 2024, sheet C-301.

2. The groundwater mounding analysis does not include the 25-year design storm and underestimates impacts on neighboring properties and adjacent wetland areas

The revised Drainage Report provides a groundwater mounding analysis for the infiltration system (P2) located near the abutter's properties. However, the groundwater mounding analysis is limited to the 2-inch storm. The Drainage Report clearly indicates that the 2P infiltration system will infiltrate substantially more stormwater than 2 inches and in fact will infiltrate the majority of the 6.33-inch, 25-year storm (see Table 1 and excerpts from Drainage Report). The MADEP Stormwater Handbook states, *"Mounding analysis is required when the vertical separation from the bottom of an exfiltration system to Seasonal High Groundwater Elevation is less than four feet and the recharge system is proposed to attenuate the peak discharge from a 10-year or higher 24-hour storm (e.g., 10-year, 25-year, 50-year, or 100-year 24-hour storm)".*

Table 1 – Design Storms and Proposed Infiltration Volumes

Design Storm	Depth (inches)	Volume Infiltrated (cubic feet)
24-hour 2-inch	2.00	5,738
24-hour 25-year	6.33	13,784

Source: Bohler Engineering, Drainage Report, April 1, 2024, pages (pdf) 193 and 269. Discarded volumes equal infiltrated volumes.

MOUNDING ANALYSIS

Summary for Pond 2P: SE Infiltration

Inflow Area = 64,969 sf, 57.80% Impervious, Inflow Depth = 1.06" for 2-IN event
Inflow = 1.69 cfs @ 12.08 hrs, Volume= 5,738 cf
Outflow = 0.14 cfs @ 13.01 hrs, Volume= 5,738 cf, Atten= 91%, Lag= 55.8 min
Discarded = 0.14 cfs @ 13.01 hrs, Volume= 5,738 cf
Primary = 0.00 cfs @ 0.00 hrs, Volume= 0 cf
Routed to Link DP-1 : Paul Brook

RECHARGE = DISCARDED / SURFACE AREA X 1 DAY

Routing by Stor-Ind method, Time Span= 0.00-72.00 hrs, dt= 0.01 hrs
Peak Elev= 129.42' @ 13.01 hrs Surf.Area= 2,293 sf Storage= 2,150 cf

RECHARGE = 5,738 CF / 2,293 SF X 1 DAY

Plug-Flow detention time= 115.2 min calculated for 5,738 cf (100% of inflow)
Center-of-Mass det. time= 115.2 min (886.4 - 771.2)

RECHARGE = 2.5024 FT/DAY

Volume	Invert	Avail.Storage	Storage Description
#1A	128.00'	2,267 cf	**76.00'W x 30.17'L x 4.00'H Field A** 9,171 cf Overall - 3,503 cf Embedded = 5,668 cf x 40.0% Voids
#2A	128.50'	3,503 cf	**Cultec R-360HD** x 91 Inside #1 Effective Size= 54.9"W x 36.0"H => 9.99 sf x 3.67'L = 36.6 cf Overall Size= 60.0"W x 36.0"H x 4.17'L with 0.50' Overlap 91 Chambers in 13 Rows Cap Storage= 6.5 cf x 2 x 13 rows = 168.0 cf
		5,770 cf	Total Available Storage

Storage Group A created with Chamber Wizard

Device	Routing	Invert	Outlet Devices
#1	Primary	131.35'	**5.0' long Sharp-Crested Rectangular Weir** 2 End Contraction(s)
#2	Discarded	128.00'	**2.410 in/hr Exfiltration over Wetted area** Phase-In= 0.01'

Summary for Pond 2P: SE Infiltration

Inflow Area = 63,823 sf, 56.20% Impervious, Inflow Depth = 3.84" for 25-YR event
Inflow = 5.63 cfs @ 12.08 hrs, Volume= 20,440 cf
Outflow = 5.18 cfs @ 12.12 hrs, Volume= 20,440 cf, Atten= 8%, Lag= 2.1 min
Discarded = 0.17 cfs @ 12.12 hrs, Volume= 13,784 cf
Primary = 5.01 cfs @ 12.12 hrs, Volume= 6,656 cf
Routed to Link DP-1 : Paul Brook

Routing by Stor-Ind method, Time Span= 0.00-72.00 hrs, dt= 0.01 hrs
Peak Elev= 131.81' @ 12.12 hrs Surf.Area= 2,293 sf Storage= 5,595 cf

Plug-Flow detention time= 204.9 min calculated for 20,437 cf (100% of inflow)
Center-of-Mass det. time= 204.9 min (962.6 - 757.7)

Volume	Invert	Avail.Storage	Storage Description
#1A	128.00'	2,267 cf	**76.00'W x 30.17'L x 4.00'H Field A** 9,171 cf Overall - 3,503 cf Embedded = 5,668 cf x 40.0% Voids
#2A	128.50'	3,503 cf	**Cultec R-360HD** x 91 Inside #1 Effective Size= 54.9"W x 36.0"H => 9.99 sf x 3.67'L = 36.6 cf Overall Size= 60.0"W x 36.0"H x 4.17'L with 0.50' Overlap 91 Chambers in 13 Rows Cap Storage= 6.5 cf x 2 x 13 rows = 168.0 cf
		5,770 cf	Total Available Storage

Storage Group A created with Chamber Wizard

Device	Routing	Invert	Outlet Devices
#1	Primary	131.35'	**5.0' long Sharp-Crested Rectangular Weir** 2 End Contraction(s)
#2	Discarded	128.00'	**2.410 in/hr Exfiltration over Wetted area** Phase-In= 0.01'

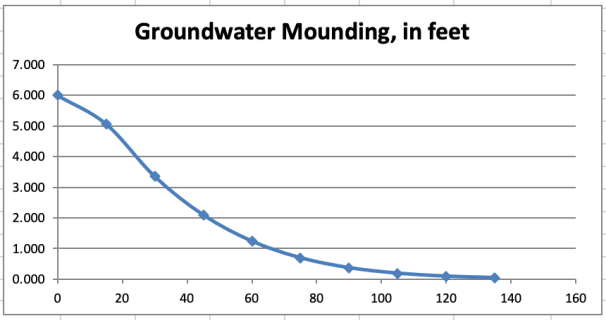
I have prepared a groundwater mounding analysis for the 25-year storm using the applicant's input parameters (see figure 1). This analysis shows that the groundwater mound beneath the infiltration system will rise 6 feet and will inundate of the bottom of the infiltration facility and will result in additional, unaccounted for overflows that would increase off-site flooding.

The groundwater mounding analysis of the 25-year storm also shows a rise in groundwater levels of 0.7 feet (8.4 inches) at a distance of 75 feet and at the abutting property boundary. This will likely exacerbate the existing basement flooding issues at their property. The mounding analysis also indicates hydrologic impacts at the wetland boundary at a distance of approximately 100 feet.

Input Values					
			inch/hour	feet/day	
4.8000	R	Recharge (infiltration) rate (feet/day)	0.67	1.33	
0.250	Sy	Specific yield, Sy (dimensionless, between 0 and 1)			
25.00	K	Horizontal hydraulic conductivity, Kh (feet/day)*	2.00	4.00	In the repo
15.085	x	1/2 length of basin (x direction, in feet)			SIR 2010-5
38.000	y	1/2 width of basin (y direction, in feet)	hours	days	assumed to
1.260	t	duration of infiltration period (days)	36	1.50	conductivity
12.100	hi(0)	initial thickness of saturated zone (feet)			
18.096	h(max)	maximum thickness of saturated zone (beneath center of basin at end of infiltration period)			
5.996	Δh(max)	maximum groundwater mounding (beneath center of basin at end of infiltration period)			

Ground-water Mounding, in feet	Distance from center of basin in x direction, in feet
5.996	0
5.062	15
3.348	30
2.093	45
1.238	60
0.695	75
0.371	90
0.190	105
0.095	120
0.047	135

Re-Calculate Now



Disclaimer

Figure 1 – Groundwater Mounding Results – Infiltration System 2P, 25-Year Storm

3. Additional test pit data and groundwater levels are required by the MADEP Stormwater Handbook and are necessary to evaluate the hydrologic impacts of the proposed stormwater infiltration systems.

As stated in my previous comment letter, the feasibility of the proposed stormwater management systems and the accuracy of the groundwater mounding analyses is directly dependent on subsurface conditions at the location of the proposed infiltration systems including depth to bedrock, depth to groundwater, and the permeability of soils. The MADEP Stormwater Handbook requires that test pits be provided at "the actual location" of each proposed infiltration system. Specifically the Handbook states, *"Conduct tests at the point where recharge is proposed. The tests are a field evaluation conducted* in the actual location *and soil layer where stormwater infiltration is proposed (e.g., if the O, A and B soil horizons are proposed to be removed, the tests need to be conducted in the C soil layer below the bottom elevation of the proposed recharge system)"*[2].

No test pits are provided within the footprint *(at the actual location)* of the large infiltration system (2P). Instead the proposed design relies upon test pits located to the north of the actual location (see figure 1).

[2] MADEP Stormwater Handbook, Volume 3, Chapter 1, *Documenting Compliance with the Massachusetts Stormwater Management Standards*, page 10.

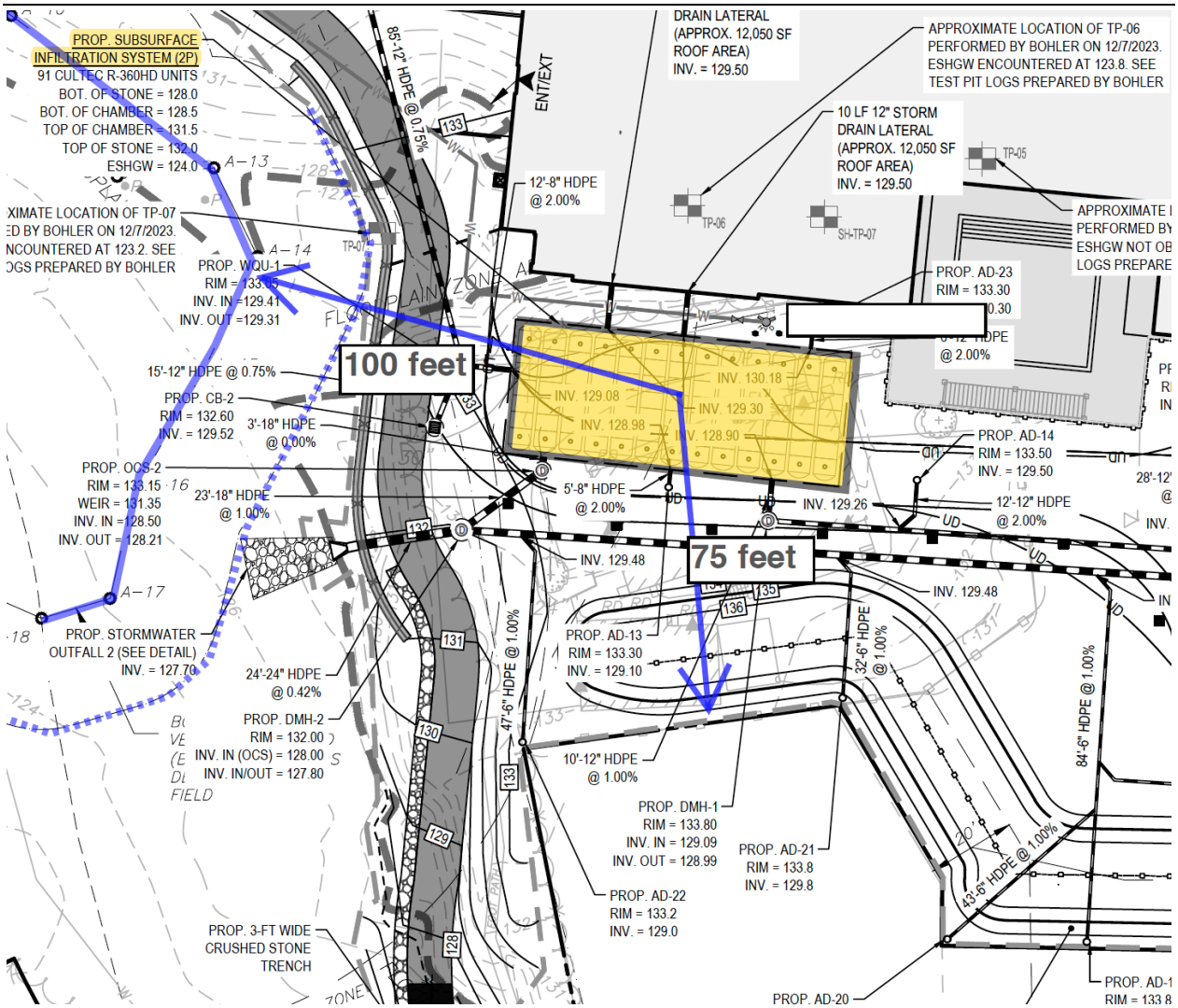
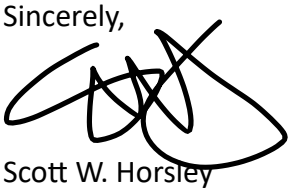


Figure 1 – Location of Infiltration System (2P) and Test Pits

Groundwater levels vary seasonally with the highest levels typically observed in the late winter-spring period. Based upon my experience in evaluating sites like this that are characterized by shallow bedrock, groundwater levels can fluctuate significantly (several feet) within and throughout the winter/spring period. The most reliable method to document high groundwater conditions is to install monitoring wells (within the footprints of the proposed infiltration systems) and to utilize continuous recording pressure transducers to measure water levels throughout the late winter/spring season

Thank you for the opportunity to submit these comments. Please contact me with any questions that you might have.

Sincerely,



Scott W. Horsley
Water Resources Consultant

Areas of Expertise

- Targeted Watershed Planning
- Wastewater & Stormwater Management
- Water Quality Impacts & Restoration
- Green Infrastructure & Nature-Based Solutions
- Hydrologic Modeling & Assessment
- Integrated Water Management
- Smart Growth/ Low Impact Development
- Education & Training

Professional Affiliation

- Tufts University, Graduate Department of Urban and Environmental Planning and Policy
- Harvard University, Extension, Graduate Department of Sustainability
- Massachusetts Stormwater Advisory Committee
- Massachusetts Sustainable Water Management Initiative Advisory Committee
- Massachusetts Climate Change Adaptation Advisory Committee
- MADEP Title 5 Advisory Committee
- Charles River Watershed Association Advisory Board

Awards

- Harvard University, Petra Shattuck

Scott W. Horsley

Water Resources Consultant and University Lecturer
Curriculum Vitae

Scott Horsley has over 30 years of professional experience as a consultant to federal, state, and local government agencies, non-profit organizations, and private industry throughout the United States, Bulgaria, Nicaragua, the Caribbean, the Pacific Islands, and China. Scott has been an innovator in the environmental profession and thrives on bringing innovative and interdisciplinary approaches to challenging projects. Scott has a strong understanding of the full range of technical, planning, and policy issues associated with water resources and land use management projects. Scott has served as an expert witness in the field of hydrology in numerous state and federal court cases. He has served as an instructor for a nationwide series of U.S. Environmental Protection Agency (EPA) workshops on water resource management. He has also served on numerous advisory boards and committees to the EPA, the National Academy of Public Administration, Massachusetts Department of Environmental Protection (MADEP), Massachusetts Executive Office of Energy and Environmental Affairs (EEA), National Groundwater Association, and Massachusetts Audubon Society. Scott has received national (EPA) and local awards (Mashpee Conservation Commission) for his work in the wetlands and stormwater management fields. Scott Horsley serves as Adjunct Faculty at Tufts University in the Graduate Department of Urban & Environmental Policy & Planning and at the Harvard Extension School in the Graduate Department of Sustainability.

REPRESENTATIVE PROJECTS

Lake Tashmoo Targeted Watershed Plan – Town of Tisbury (Martha's Vineyard), MA: Working with the Tisbury Water Resources Committee to develop a restoration plan for Lake Tashmoo. According to the Massachusetts Estuaries Project (MEP) Lake Tashmoo is receiving nitrogen loading from wastewater, stormwater and fertilizers and requires a 32% reduction to achieve compliance with the Clean Water Act. The plan will include a sewer collection system, advanced septic systems that use a woodchip bioreactor system, fertigation wells, and stormwater retrofits. A responsible management entity (RME) is being developed to manage the operation, maintenance, and monitoring of the plan.

Wellfleet Targeted Watershed Management Plan – Town of Wellfleet, MA: As a consultant to the Town of Wellfleet prepared a Targeted Watershed Plan including an adaptive management plan integrating non-traditional (nature-based) and traditional (wastewater treatment facilities) nutrient reduction technologies. The plan includes a permeable reactive barrier (PRB), shellfish and aquaculture, ecosystem restoration, stormwater remediation, fertilizer management, and the use of decentralized, on-site septic systems that utilize innovative and alternative technologies. The overall goal of the project is to provide the town guidance in obtaining a MADEP Watershed Permit and compliance with the Clean Water Act. The Targeted Watershed Plan was unanimously approved by the Wellfleet Select Board, was confirmed to be

Excellence in Teaching Award (2023)

- Mashpee (MA) Conservation Commission Annual Environmental Achievement Award (2002)
- EPA Environmental Technology Innovator Award for Stormwater Treatment Design (1999)

Patent

United States Patent Number 5,549,817 for Stormwater Treatment System/Apparatus

Academic Background

Master of Arts, Marine Affairs - Environmental Protection, University of Rhode Island (1981)

Marine Ecosystems Research Laboratory, University of Rhode Island (1980)

Princeton Groundwater Pollution & Hydrology Course with David Miller, John Cherry, and Robert Cleary (1985)

Bachelor of Science, Biology, Southeastern Massachusetts University (1976)

consistent with the Cape Cod 208 Plan by the Cape Cod Commission. The advanced septic system program was approved by the Massachusetts Clean Water Trust for SRF funding and placed on the Intended Use Plan (IUP).

Water Resources Management - Manchester-by-the Sea, MA: Scott is serving as a consultant to the town of Manchester-by-the-Sea and their Water Resources Protection Task Force. He is advising on drinking water supply management issues including sustainable yield, source water protection, future water sources, and water rates. Scott has supervised a thermal survey to determine groundwater discharge areas to Gravelly Pond, the town's surface water reservoir and has prepared a hydrologic budget.

Watershed Restoration Research Project: Scott is currently working as a member of a research team that includes USEPA Office of Research & Development, United States Geological Survey (USGS), The Nature Conservancy, the Town of Barnstable and the Barnstable Clean Water Coalition. The project is designed to research, develop, and pilot-test multiple nature-based technologies to reduce nutrient loads to the coastal embayment known as Three Bays. Scott assisted in the design of a woodchip-based bioreactor/ permeable reactive barrier (PRB) and is now working with the research team to construct and monitor it as part of a wetland restoration project in a cranberry bog at the headwaters of the watershed. He is also advising on a project to evaluate the use of a new class of innovative and alternative septic systems that utilize a woodchip-based bioreactor. Preliminary data from these systems indicate nutrient reductions of 90%. The project includes the development of a Responsible Management Entity (RME) to oversee the operation, maintenance, and monitoring of the systems.

Expert Witness, Hydrologist - United States Environmental Protection Agency and United States Department of Justice – United States v. Charles Johnson (437 F.3d 157, First Circuit Court, 2006): Expert Witness for U.S. Environmental Protection Agency (EPA) and U.S. Department of Justice (DOJ) in a federal Clean Waters Act enforcement case involving the filling of wetlands in Carver, MA by the construction and operation of cranberry bogs. Scott served as the Hydrology Expert Witness and provided testimony regarding the hydrologic interactions (or "nexus") between the subject wetlands, groundwater, and the adjacent stream. He provided advice on the application of the guidance from the Rapanos U.S. Supreme Court decision relative to the jurisdiction of wetlands in the Weweantic River watershed. He also developed a nutrient-loading and attenuation model and has provided expert witness testimony regarding the nutrient attenuation capabilities of wetlands and their nexus to the Weweantic River. Scott has also prepared a wetland restoration plan for the cranberry bogs to enhance the nutrient attenuation capabilities of wetlands (abandoned cranberry bogs) in the watershed. The case resulted in two favorable decisions for the United States enforcing the Clean Water Act.

Cape Cod 208 Water Quality Management Plan: Consultant to the Cape Cod Commission for the preparation and implementation of the Cape Cod 208 Water Quality Plan. Fifty-three estuaries are impacted by excessive nutrient loading derived from wastewater, stormwater, fertilizers and natural sources. The Cape Cod 208 Plan presents an innovative alternative approach that includes a broad range of traditional (sewage collection and treatment plants) and non-traditional (or nature-based) technologies including fertigation wells, shellfish restoration, permeable reactive barriers, fertilizer management, innovative & alternative septic system technologies, ecotoilets and other decentralized solutions. An adaptive management plan provides a practical framework to implement and optimize an integrated array of strategies to attain compliance with the Clean Water Act. Mr. Horsley led a team of scientists and engineers in the development of a non-traditional/nature-based approach and conducted dozens of public stakeholder workshops.

Expert Witness, Hydrologist - Massachusetts Supreme Judicial Court - Reynolds v. Stow Zoning Board of Appeals: Mr. Horsley served as an expert witness on wastewater impacts and groundwater hydrology. He conducted an assessment of water quality impacts associated with a proposed Chapter 40B high-density affordable housing project on neighboring private drinking water supplies. The case involved a proposed waiver of a local regulation governing wastewater impacts that the Court upheld the finding that the local board of health requirements were valid and the project was not permitted.

Massachusetts Department of Environmental Protection (MADEP) Title 5 (Septic System) and Groundwater Discharge Permitting Advisory Committee and Designation of Nitrogen Sensitive Areas: Mr. Horsley was invited by MADEP to participate in an advisory group tasked with updating and revising Title 5 Regulations and the associated Groundwater Discharge Permit program. This includes the designation of "Nitrogen Sensitive Areas", the development of wastewater loading standards, the use of alternative septic system technologies, and the roles of local Boards of Health in regulating wastewater and septic systems.

Three Bays Watershed Implementation Plan – **Cape Cod Commission and Barnstable Clean Water Coalition, Inc**.: Consultant for the design and implementation of integrated watershed restoration plan designed to reduce excessive nutrient loads. Mr. Horsley prepared conceptual designs for wetland restoration, pond restoration, alternative septic system technologies, stormwater bioretention, woodchip bioreactors, and permeable reactive barriers. He designed a Watershed Calculator tool to track the incremental and cumulative nutrient reductions associated with these projects.

Massachusetts Sustainable Water Management Initiative (SWMI): Mr. Horsley was asked by MADEP and MAEEA to serve as an advisor to an interdisciplinary panel to develop guidelines to implement the Massachusetts Water Management Act for the restoration of stream flow in Massachusetts Rivers. The Massachusetts Water Management Act provides the regulatory structure for water withdrawals in the state. The guidance was developed to provide ecological criteria for the decision making related to

water withdrawal permit issuance. The criteria were based upon scientific relationships between flow characteristics and two indicator fish species - trout and black dace. The guidance includes a series of possible mitigation measures and offset practices that are designed to either reduce consumptive withdrawals and/or provide return flows to balance the hydrologic budget.

River Restoration for the Atlantic Salmon – United States Army Corps of Engineers and State of Maine: Served as a consulting hydrologist to the U.S. Army Corps of Engineers and the State of Maine for a hydrologic study of river systems in northeastern Maine to assess the relative impacts of various water users including irrigation pumping associated with the blueberry industry on the flow regime of the Narragaugus and Pleasant Rivers. The project included numerous meetings with a broad range of stakeholders including the U.S. Army Corps of Engineers, the State of Maine, blueberry industry representatives, and local government officials. The project resulted in a decision-making model and adaptive management plan to restore natural flows within the rivers for the purpose of providing an adequate habitat for the Atlantic Salmon.

California Water Code – Department of Water Resources: Served as Facilitator and Trainer for the implementation of Assembly Bill (AB) 3030. This project integrated groundwater and surface waters and provides the framework to develop local groundwater management plans to balance water withdrawals and recharge projects to mitigate impacts water resources. Mr. Horsley facilitated a series of workshops with stakeholders throughout the State of California.

Ipswich River Watershed Management Plan: Project Manager to develop a Management Plan for restoration of the Ipswich River. The Ipswich River is one of the most impacted rivers in the United States with significant flow alterations caused by excessive water withdrawals and inefficient land use practices. This Plan provides an analysis of the development patterns within the study area and the resulting hydrologic impacts of water supply withdrawals, sewerage systems, and stormwater management. The project included coordination with an interpretation of a USGS watershed modeling project. It also provides an "Integrated Water Management" approval to a series of recommendations designed to balance the hydrologic budget. These include water conservation, alternative water supplies, stormwater management, and land use planning. Mr. Horsley provided facilitation at a series of meetings with a broad range of stakeholders including federal and state agencies, water suppliers, local government officials and others.

Smart Growth and Smart Energy Toolkit, Massachusetts Executive Office of Environmental and Energy Affairs (EEA): Served as a consultant to the EEA to design an outreach tool for local governments and the development community. The Toolkit includes descriptions of twenty techniques, including transfer of development rights (TDR), transit-oriented development (TOD), village center zoning districts, open space residential design (OSRD), LID, agricultural preservation, integrated water, and wastewater management, brownfields redevelopment, and the newly-legislated Chapter 40R smart growth overlay districts. It also includes case studies and model bylaws on the twelve subject areas.

Massachusetts Climate Change Advisory Committee: Scott served as a member of the Coastal Zone and Oceans Subcommittee of the Climate Change Advisory Committee convened by the Secretary of Massachusetts Environtal and Energy Agency. The Committee was assembled to develop recommendations, strategies, and criteria to implement the *Global Warming Solutions Act* passed by the Massachusetts legislature last year. The main task of the subcommittee is to analyze strategies for adapting to the predicted impacts of climate change in the Commonwealth of Massachusetts. Among

other recommendations, Scott proposed regulatory changes to accommodate the landward migration of wetland systems that will result from sea level rise.

Nicaragua Source Water Protection Project: As a consultant to U.S. Environmental Protection Agency (USEPA) and U.S. Agency for International Development (USAID), Scott conducted at two-year case study of three communities (Matagalpa, Esteli, and Ocotal) designed to strengthen the sustainability and resilience of local public drinking water supplies. The project included delineation of wellhead protection areas, identification of contaminant sources and the development of management strategies. It included numerous public hearings and the development of a comprehensive training manual.

PROFESSIONAL EXPERIENCE

2014 - Present	Scott Horsley, Water Resources Consultant
2014 - Present	Harvard University, Adjunct Faculty
1986 - Present	Tufts University, Adjunct Faculty
1988 - 2019	Horsley Witten Group, Inc., Founder and President
1984 - 1988	IEP, Inc., Senior Environmental Scientist
1981 - 1984	Cape Cod Commission, Water Resources Coordinator
1979 - 1981	Barnstable County Health Department, Environmental Research Director

PUBLICATIONS

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April 24, 2024

Mr. Michael Rossi, Chairperson
City of Newton
Zoning Board of Appeals
1000 Commonwealth Avenue, Newton Centre, MA 02459

By Email to: Brenda Belsanti, Zoning Board Clerk
bbelsanti@newtonma.gov

Dear Mr. Rossi and Members of the Zoning Board of Appeals,

I write to you once again to raise certain issues with the ZBA that have been raised repeatedly with you and your board and which are still in need of a response. This letter should be read in conjunction with Newton Impact Committee's letter dated April 5, 2024 and with Scott Horsley's letter dated April 4, 2024.

In my most recent letter to you dated April 5, 2024, I raised several issues that need resolution before you can move to approve this project (or in fact any project) at 528 Boylston Street.

1. Change in Design of the Project: My earlier letter asked the ZBA to order, by an independent architect, an alternate schematic and design for a garden style project, of 100 units or less (75 is the favored number), in several buildings, with greenery and open space between the buildings. That schematic and design should then be reviewed by the ZBA and discussed in an open hearing with Toll Brothers, and the Community. We are not sure this presents a problem for the ZBA given that the PEL letter that came from Mass Housing stated that they considered the proposed project too large in mass and scale for this location and neighborhood. I cannot see a reason why the ZBA should not support the position of Mass Housing. The Community (through the Newton Impact Committee) has repeatedly stated it supports affordable housing at this location but in a different design.

2. Safety, Traffic: Similar to the 4/5/24 letter from Newton Impact Committee, in my last letter, I asked why an independent MEFA study of the impact of the project's additional 720 car trips on Route 9 and the neighborhood was not requested. The neighborhood still has unaddressed concerns about how the neighborhood residents and enormous number of students and teaching staff would be protected against the project cars and guests being added to the neighborhood streets. I think this open question would also be of concern to the ZBA. The area already has regular motor vehicle, bicycle and pedestrian accidents and a regular disregard for stop signs, parking restrictions and speed limits. Toll Brothers' has avoided the state requirement for the MEFA study by lowering the number of units and parking spaces. However, as you are no doubt aware, the ZBA has the right to request a MEFA study even if not required. This you have refused to do. The result has been no real detailed study and nothing to protect the

students (many of whom are walking and cycling to the local schools at Newton South High School, Brown Middle School, Oak Hill Middle School, and even Countryside and Bowen Elementary Schools). This is one of the most intense and crowded student (elementary through high school) areas in the Commonwealth. To add to all the students walking and bicycling there are (in the afternoon) groups of students (from the football teams, cross country teams, soccer clubs etc.) that go running through our streets training and keeping fit. If there is a group of say a dozen students half of them will be running on the sidewalk, but half will be running in the actual road itself since the state of the sidewalks often makes it safer to run in the street. Again, I thought the ZBA would be careful and cautious as to the affect of the project on the students the neighborhood and committed to building the maximum safety precautions into this project and the neighborhood. I don't believe that this has yet been the case and the result has been that Toll Brothers has tinkered with a few things but otherwise avoided any proposals that involve any serious thought and/or the spending of any real money. Newton Impact Committee's 4/5/24 letter provided additional information on this issue and particularly the access of motor vehicles into fast traveling traffic on Route 9. We need the MEFA study.

3. Public Transportation (School Transportation): Toll Brothers attempts to paint this location as a public transportation friendly site. As I have said in prior letters, 528 Boylston Street is not a public transportation friendly site. The two closest MBTA stations, Newton Centre and Newton Highlands, are a mile or more from the site, the bus service along Parker Street is spotty at best, the sidewalks along Route 9 are not pedestrian or bicycle friendly and there is no bus service or other transportation that would take any resident of 528 to the Shopping Centers in Chestnut Hill. Besides the very real need for widening and redesigning the sidewalks on Route 9 (which may not be possible despite Toll Brothers most recent plans; see the Newton Impact Committee's letter from 4/5/24) and on the neighborhood streets off Route 9 and around the High School, as well as the redesign of vehicular access onto Route 9 itself, I am suggesting two additional fixes which have been put on the table a number of times without any response on the part of the ZBA and hence, Toll Brothers. The first is a minibus service which should run from the project to the T stations, the Shopping Centers and the schools. This should be a free service paid for by Toll Brothers (or their successor) and should run regularly throughout each day. Secondly, I am asking the ZBA to require Toll Brothers to pay to construct, across Route 9 from Olde Field or the Project, a pedestrian and bicycle bridge to provide easy access to Bowen School for the elementary school children from the neighborhood and the Project itself. The two neighborhoods are divided by Route 9 but not that dissimilar in nature and many of the elementary students south of Route 9 now attend Bowen School, and all Newton children that attend Bowen, including those from north of Route 9, eventually attend Oak Hill Middle School and Newton South High School. Having these children from both neighborhoods and the project avoid the non-existent sidewalks and the Parker Street Bridge would improve safety in the area.

4. Flooding/Water Runoff: Stormwater runoff and the flooding of the underlying water table on the site and in the surrounding neighborhood is a major concern of the residents. Many, if not all, abutting residents already have water sump pumps and hence water runoff problems. The project is proposed to be built on top of the underlying water table and with an approximately 72 foot drop off from Route 9 to Hagen Road. There is no person that I have spoken to in the neighborhood that thinks this project will not be a disaster as far as the water table and storm water runoff is concerned. Please see Scott

Horsely's letter for a proper analysis of the nature of the problem. Getting a hydro geologist to examine this is essential at this point in time. Having this person (as yet unnamed) do an in-depth study of this issue is vitally important and being sure that the person is an independent person and not influenced by either Toll Brothers or by the ZBA is absolutely necessary here since we do not have any trust in Toll Brothers in this regard and you seem to be willing to rely on whatever they produce. Our position is clear- Toll Brothers signed a Consent Decree in 2012 with the U.S. EPA (no less), paid an enormous fine and was subject to management and construction protocols for at least three (3) years, as a result of storm water runoff problems in as many as three hundred (300) locations (14 in Massachusetts) countrywide. Have you investigated this Consent Decree and spoken to Toll Brothers about it? I really believe you should. This is not the occasion to trust Toll Brothers since any major increase in water runoff or rise in the water table could make some houses unusable and the ZBA should not want to be complicit in this. Besides the Hydro-Geologist and the Consent Decree, I believe that you should have Toll Brothers put their money where their mouth is and provide an indemnity and post a bond in regard to any rise in the water table and increase in the storm water runoff if the project proceeds. I also believe that the Conservation Commission is required to play a role in the approval process in this kind of project. Is there a reason they have not yet done so?

5. Noise: Excessive noise raises substantial public health concerns. A highway such as Route 9 generates noise above World Health Organization's and USEPA maximums. The size of the building and the sound that will bounce off it will serve to make homes on both the north and the south sides of Route 9 a lot noisier than they already are. Margaret Zaleski, as well as several other parties, have written to you on numerous occasions about this and have called for a proper and detailed noise study, without response. I believe we need a noise study, and that an independent study be done prior to any approval.

6. Public Hearing Process: One of the most difficult and indeed depressing aspects of this entire 528 project process has been the bias in the process established by the ZBA (and behind the ZBA by the mayor, who appoints the ZBA). I don't believe that the process is meant to work like this. If the ZBA doesn't protect us (as residents) against a developer with greater resources, who does? The City Council is largely removed from the process, so who is it that looks after our interests? Establishing an open meeting protocol where we have some unrelated minor zoning matter that takes up the first hour and half of a meeting which is then followed by Toll Brothers's latest presentation for another hour and a half (some of the Toll Brothers people speaking for twenty minutes and more). Finally, at 10 pm or sometimes later it is time for the residents to speak. We are confined to three (3) minutes each and stopped short if we then run over the three (3) minutes. At that stage we are tired, the ZBA is tired and people are paying less attention than they would have at 7pm in the evening. The concessions that have been made by Toll Brothers rarely addressed the concerns of the 1300 signatures behind the Newton Impact Community that were first raised in November of 2022. We note that none of the concerns of residents have been added by the city's Planning Department as conditions to the ZBA's approval. Issues raised by the residents are rarely addressed either at the meeting or afterwards. All this gives the residents a feeling of enormous bias against us and that decisions have already been made without consulting us and the rest is simply a charade. To add to this, I offer the behavior of the Mayor, the ZBA and Toll Brothers at our last meeting of April 10. It was all kisses and hugs from the

Mayor with Toll Brothers while the residents were sitting all around without even being acknowledged. The optics said it all. How do you think we all felt about whose side you were really on. If you don't protect us who does? If the May 8th date doesn't work for Toll Brothers, they come to you and you change it to the 1st of May. The ZBA works according to Toll Brothers's schedule? Why? If we raise too many questions, then you have the next meeting be limited by advising the residents we will not be able to speak at all. All of this gives the residents a depressing sense of where the ZBA really is in this entire matter.

7. Affordable Housing: Next, a philosophical question: What is the purpose of this project? Supposedly it is to increase the affordable housing available in the City. This is a purpose that the Community strongly supports. The Community would accept the entire project as affordable housing if that is what was proposed. Given the location this would be ideal for teachers and other staff members of the nearby schools who could live there at an affordable rate. But this is not what we are getting. Mainly this project is up-market apartments and a few "affordable" units at (80% of AMI) that are priced beyond the financial ability of most teachers, staff members, janitors and other city employees. Toll Brothers is not bringing to the table what we need, and you the ZBA should be only too well aware of this. The project should have most of affordable housing at 50% (perhaps some at 65%) of AMI (AMI should be Boston, Cambridge, Quincy, not Newton). I would also like to set a cap on annual rental increases for the affordable units (say 3%) no matter what the AMI is. The ZBA needs to make a proper effort to use this location for affordable housing and not just luxury apartments and some slightly less luxurious apartments. If the affordable housing units do not go largely to teachers and staff of the neighborhood schools you have not done your job here and I would ask that Toll Brothers (and their successors) be required, in regard to the affordable housing units, to give priority to teachers and school staff and then other city employees.

8. Permanent Restrictions: There should be permanent deed restrictions on the property at 528: (i) No access (except for emergency vehicles) from and to Olde Field, Hagen, Adeline, and Dudley Roads. Bicycle and Pedestrian Access would be acceptable; (ii) No parking by the residents of 528 on neighborhood streets, the City will need to provide free stickers for residents (not 528 residents) and would enforce these restrictions; (iii) no additional units or parking spaces can be added to the 528 Project, (iv) no more than one entrance/exit from the Project on to Route 9 (Toll Brothers' latest plan says otherwise), and (v) a twelve (12) foot plus fence to be constructed and maintained by Toll Brothers between the Project and the Olde Field abutters and the Hagen abutters. Again, see the Newton Impact Committee's letter for more detail on this issue.

9. Timing: As you can see from this letter, there remains an enormous amount of work still to be done on this project and many major decisions are still to be made. At best we are halfway through the process. The ZBA needs to address all these issues and give the residents the ability to provide the input that is necessary for such decisions to be made. We are not the ones that chose to jam (now) 184 apartments into an unsuitable site but we will have to live with the consequences. The time for the ZBA to finally approve a project at 528 Boylston is not now, but sometime in the distant future, and most certainly after the Conservation Commission has done its review. As I mention above, the ZBA should be proceeding at its own deliberate pace to get everything working the way it should. Action by the ZBA based on Toll Brothers schedule is not acceptable, and if the

ZBA does so, the result will only benefit the developer here and not the City nor its neighborhood residents.

I trust you are going to address these concerns prior to ZBA approval and look forwarding to receiving a positive response from you.

Many thanks,

GN

Geoffrey Norman
(Member of the Newton Impact Committee)

From: Maria O <autumn7917@gmail.com>
Sent: Wednesday, April 24, 2024 7:08 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: Fwd: Crafts Street development

To the attention of Brooke Lipsitt and the ZBA:

---------- Forwarded message ---------
From: Maria O <autumn7917@gmail.com>
Date: Wed, Apr 24, 2024 at 6:04 PM
Subject: Crafts Street development
To: City Council <citycouncil@newtonma.gov>, <mlaredo@newtonma.gov>

City Council & President of City Council, ahead of tonight's Zoning Board of Appeals meeting --- what is your thinking for this development if what happened today with the Crafts St. fire happens again? There is no way a one - egress site of this size & scope is going to work in this already squeezed area & you know it & we know it so let's dial it back & I'm asking the Council to take a measured & slow look at this development as a whole with it's multiple issues.

Kind regards,

Mary O'Halloran
Nonantum. MA

To: Members of the Zoning Board of Appeals
From: Kathy Pillsbury, 34 Carver Rd.
Re: Please approve the 528 Boylston St Project
Date: 4/24/24

Multifamily, passive house buildings relatively close to transit, jobs and amenities with 25% affordable units such as the 528 Boylston St. are key to addressing both affordability and climate change. Therefore, I hope that you will approve the 528 Boylston St. project.

There are two points that I'd like to make based on looking at data – one on affordability and the other on car ownership, parking and traffic.

There is significant savings for people in the affordable units relative to the market rate units.

Many people have questioned the actual affordability of the "affordable units." One way to look at this is to look at the savings for people that rent the affordable units. The savings are considerable – ranging from saving $10,140 for a studio at 80% AMI to $45,648 for 3 BR at 50% AMI.

	Annual Rent			Annual Rent Savings Compared to Market Rate	
	Affordable Rents				
	50% AMI	80% AMI	Market Rate	50% AMI	80% AMI
Studio	13,572	22,860	33,000	19,428	10,140
1 BR	13,368	23,688	39,000	25,632	15,312
2BR	15,624	27,576	57,600	41,976	30,024
3BR	17,352	31,164	63,000	45,648	31,836

- Affordable rent based on EOHLC Boston - Cambridge - Quincy, MA – New Hampshire MSA. 2023 Income and Rental Limits.
- Market rate rent based on average of rent at comparable new construction – Trio and Allee on the Charles (as of 4/12/24 on Zillow)

Renters own fewer cars than homeowners.

Another point that comes up over and over again is a concern for traffic and the number of parking spaces. I'm sure that most of the people who have commented on this project are homeowners.

Coming from this perspective, it is likely that they assume a level of car ownership based on their experience and the experience of their neighbors who are also homeowners. This could make one think that the people who rent at 528 Boylston would have more cars than is likely. If you assume a higher number of cars, you would assume a need for more parking and that more traffic would be created.

But looking at census data on car ownership for homeowners vs renters tells a different story. With close to three-quarters of homeowners having 2 or more cars, they may assume that many people who would rent at 528 Boylston would also have at least 2 cars. But based on renters in that area

60% of the renters would have only one car or no cars. (I looked at the census data for the area near 528 Boylston St. because car ownership is affected by how close you live to transit. On average across Newton because of access to transit, renters have fewer cars than they do in this area along Rt. 9.)

Car Ownership in the Census Tracts near the 528 Boylston St. Project *		
	Renter	**Owner**
No cars	21%	4%
1 car	39%	22%
2 cars	36%	58%
3 or more cars	4%	14%

* U.S Census data from the ACS 2022, Table B25044, **Tenure by Vehicles Available**. Census tracts 3739.02 and 3740.

From: Robert Sellers <robshahome@gmail.com>
Sent: Wednesday, April 24, 2024 8:46 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: Re: 528 Rt. 9 Safety proposal discrepancies - Important

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Thank you Brenda.

Sent from Rob's cell phone. Please excuse the typos-

From: Brenda Belsanti <bbelsanti@newtonma.gov>
Sent: Wednesday, April 24, 2024 5:37:50 PM
To: robshahome@gmail.com <robshahome@gmail.com>
Subject: RE: 528 Rt. 9 Safety proposal discrepancies - Important

I have forwarded this to the Board

From: robshahome@gmail.com <robshahome@gmail.com>
Sent: Tuesday, April 23, 2024 10:21 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Cc: David Kalis <dkalis@newtonma.gov>; Stephen Farrell <sfarrell@newtonma.gov>; rlipof@lipofres.com; Barney Heath <bheath@newtonma.gov>; Katie Whewell <kwhewell@newtonma.gov>; 'Newton Impact Committee' <committee@newtonimpact.com>
Subject: 528 Rt. 9 Safety proposal discrepancies - Important

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Subject: Toll Traffic Proposal - CRITICAL

Hello Ms. Belsanti,
Can you forward this email to Ms. Lipsitt and the ZBA along with the attachments?

Hello Ms. Lipsitt (and others),

Thank you for your neighbor-supportive questions about Route 9 safety at the April 10th ZBA meeting on behalf of the neighborhood and the Newton residents that travel Route 9.

We think that the attached photos of Route 9 with measurements might be helpful to compare to Toll's Route 9 improvement proposal. Although we support the concept of a 10' merge lane and an improved sidewalk, the Toll proposal doesn't seem congruent with the available space. Note that their proposal requires 25' from the Parker ramp to Dudley but we are measuring 8.5' - 17'. Where will the remaining 8' to 16.5' come from? We also are concerned about the safety impact on pedestrians and bikes by eliminating the breakdown lane and of cars accelerating and decelerating in

the same lane. We ask to see the state's safety assessment of that section of Rt. 9 and their review and endorsement of Toll's proposal.

Please also note the unanswered traffic safety questions and common sense safety conditions we included in Newton Impacts letter to the ZBA sent 4-5 (see attached).

The 150 neighbors on the zoom call and those in the room were disappointed to not have their most critical questions and concerns about safety, flooding, and project design addressed during what was expected to be the final public hearing on April 10th. These concerns the same concerns the 1300 families who signed the petition have been carrying since the project was first discussed in November of 22. The neighbors would like to hear the answers to those questions in the attached letter during the meeting on May 1st.

We respect the difficulty of the ZBA's decision on May 1st . Is the ZBA convinced that proposal mitigates or will it irreversibly raise the flooding risks to neighbors and the safety risks to students and commuters? Is Toll's final proposed project now the right project for these 2.5 buildable acres and wetlands?

Best,

Rob Sellers and Paul Stein on behalf of Newton Impact

When responding, please be aware that the Massachusetts Secretary of State has determined that most email is public record and therefore cannot be kept confidential.

From: margaret zaleski <margaretzaleski17@gmail.com>
Sent: Wednesday, April 24, 2024 7:06 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: Questions needing answers re 528 Boylston

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Chairman Rossi, members of the ZBA, and alternate members,

I am attaching an email sent to you by Rob Sellers, outlining many of the remaining questions the community has about the safety of the 528 luxury high rise apartment building.

As a member of the community, I would appreciate answers to these questions from the applicant and its experts. These were submitted to you prior to the last hearing in April 2024, yet not one question was addressed by the ZBA..

Thank you.

Margaret Zaleski

Questions for ZBA and, if Toll Project is approved, list of Neighborhood Priority Requirements

Saturday, March 30, 2024

Newton Impact Committee feels this project is far from ready to be approved (see letter from Geoffrey Norman, dated April 5, 2024). However, if you choose to move forward and approve the project, we have critical requests. The neighborhood has sent its concerns multiple times beginning November of 2022 with many concerns in the highest priorities of safety, environment and scale still unaddressed.

NEIGHBORHOOD QUESTIONS

The neighborhood requests that the ZBA ask the questions in red font of the Peer Reviewers and others at the April 10 ZBA meeting to help alleviate neighbor's concerns.

1. **Groundwater risks:**

The neighborhood continues to have serious concerns about the high risk of increased flooding. Mr. Horsley concludes that testing thus far is inadequate. Per his letter to Mr. Rossi dated April 4,

> **"In order for the ZBA to make an informed judgment about whether to allow such a waiver —and to what extent — it must first understand the consequence of granting it. The Applicant has not provided enough information to make such an informed determination yet."**

a. **Would Peer Reviewers find it reasonable that the groundwater aquifer is flowing through the 528 site from areas a half a mile North and East (route 9) and downgradient to the hundreds of homes South and West down Hagen and across Parker as this topography map seems to indicate?**


528 topogrphy.jpg

- **Has the Peer Reviewer considered the impact of the project to this aquifer? Is the containment system designed to capture water from this aquifer?**

b. How will Toll address the following recommendations from HW in its March 15, 2024 letter?

- **"HW encourages the Applicant to incorporate any additional measures to infiltrate the stormwater before it flows off-site to assist with the neighborhood flooding issues down gradient of the property. Suggestions include using porous pavement, increasing the footprints of the infiltration chambers, or using a perforated pipe along the south side of the building between AD 11 and DMH 2." [HW March 15, 2024 letter: 3.k.]**
- **Regarding the new trench closer to Hagen: "The Applicant has also modeled the trench in HydroCAD with a 165-foot-long weir overflow device that does not appear realistic." [HW March 15, 2024 letter: 3.a.]**

c. The often quoted "project is a small percentage" refers to the Toll's acreage relative to the entire watershed flowing into Paul Brook.

- **Is the Peer Reviewer aware that Paul Brook is lined in concrete and is not the source of flooding for neighbors south of 528? The basements of the 100's of neighbors downhill from 528 that are flooding long after the rain has stopped is from the aquifer (ground water), not an overflowing brook.**

d. We understand a Civil Engineer's expertise is limited to run off and a hydrologist's expertise is groundwater. Has a hydrologist evaluated the project impacts of the "3 levels of underground parking" (HW 3.15.24) and the project in general in displacing and diverting the water table and the risk that the project will make the neighborhood basement flooding worse? Note that the maximum lot coverage under zoning is 15 – 20% and the proposed project far exceeds that coverage at 42%.

e. HW noted that "the Monitoring Wells recommended by Mr. Horsley have been found useful on some sites".[HW March 15, 2024 letter: 26] Why isn't it appropriate to use monitoring wells for this site given the amplified flooding risks? These monitoring wells should be placed at the filtration sites along with at the western and southern property lines of abutters to document current ground water levels and compare during and after completion if problems arise.

f. Why aren't monitoring wells to confirm groundwater levels being required now during the wet season? This appears to be a small investment and minor delay and avoidance reinforces the neighbors' fears that the developer shares our fears about what they will learn. Testing should be required prior to approval to confirm groundwater levels.

g. Why didn't HW feel it was necessary to require test pits at the actual location of each proposed infiltration system in accordance with the MADEP Stormwater Handbook? Per Mr. Horsley, "the accuracy of the groundwater mounding analyses is directly dependent on subsurface conditions …including depth to bedrock, depth to groundwater, and the permeability of soils".

h. Did the groundwater mounding analysis include the 25-year design storm? The groundwater mounding analysis appears to be limited to a maximum 2-inch storm. Without considering the 25 year storm, Mr. Horsley concludes that it is probable that the project will adversely impact the wetlands and neighborhood flooding.

i. **How will the ground water below the containment system be monitored to determine whether the groundwater to the neighborhood is sufficiently captured? What is the contingency plan if neighborhood flooding gets worse during and after construction of this large apartment complex and underground parking garage, especially given global warming?**

j. **Given that Paul Brook is lined in concrete, is ground water adequately able to enter the brook? What are the various Paul Brook watershed tributaries/entrance points. Is there a potential for adding more?**

k. **Given the concerns and unanswered questions expressed above, are the City of Newton and its engineers ready to go on record that the proposed building, parking lot and other impervious and below grade structures will not make flooding in the neighborhood yards and basements worse? "We think it will be a little bit better" from the civil engineers is unacceptable given the risks presented by the project and this site with potentially catastrophic impacts on the neighborhood.**

2. **Safety**

a. **Are these assumptions about neighborhood traffic and safety impacts reasonable?**

- **Toll's engineer assumes that only 8% of the tenant cars will be commuting to work or taking their kids to day care during morning rush hour (19 vehicle trips/243) however the American Community Survey (ACS) by the Census Bureau cited by Vanasse & Associates found that 73% of workers during COVID were commuting to work, almost 10x more than the MDM assumption and likely to rise post COVID. It also doesn't include parents who work from home and need to take their kids to school or day care.**
- **MDM is spreading out "rush hour" impacts between 7 -10 AM. A more realistic rush hour of between 7-9 would add 50% more cars per hour.**
- **MDM assumes that the decrease in trucks from Sam White will offset the tenant vehicles, however landscaping trucks choose when to come and go and can avoid peak rush hour. Neighbors adjacent to Sam White note that most trucks enter and leave after 9:00 or before 8:00 AM.**
- **Isn't the industry standard of 3 car trips per day per car applicable to this project? If so, we should expect the project will add 236 cars and 708 car trips per day to route 9 and the neighborhood.**

b. **If there were >10x more cars from the project commuting to work, why shouldn't the neighborhood be concerned that cars intending to travel South, West or even North would take Dudley or park in the neighborhood to avoid having to turn around at Hammond Pond Parkway? Why hasn't there been a neighborhood traffic safety study to consider this potential impact and the risks to students commuting to elementary, middle and high schools?**

c. **Did the Toll engineer evaluate a separate entrance and exit as suggested by Beta to improve the safety of cars merging from Olde Field and streets West?**

d. **Are these plans for Route 9 safety mitigation correct?**

- **Toll is working with the state on a Parker / east bound route 9 one lane onramp that extends to Olde Field, 528 and up to Dudley (3/13/23 ZBA meeting).**

- **Toll plans to widen the 4.5 foot sidewalk and add a tree barrier between the sidewalk and Route 9 (currently 2.5 feet).**

If so, where is the widening going to come from? The Route 9 breakdown lane currently varies from 0' to 10', with less than a 6' shoulder available east of the 528 entrance available as a merge lane for tenants. The current shoulder is constrained by the Paul Brook bridge, the rock outcropping to the east of 528, and of course neighbors' properties that have mature trees right against their fences.

e. **Who in the city is accountable for construction issues and damage noted by neighbors (noise, water, air pollution, blasting)?**

3. **Project Design**

e. **Does the Conservation Committee believe that the tree density presented in Toll's drawings and simulations is reasonable for the survival of the trees? If not, we would like to see a simulation of the trees in a reasonable density. Is it realistic that trees in this environment will grow 1 foot a year?**

f. **Schlesinger and Buchbinder are presenting a comparison of Newton projects using the FAR calculation to demonstrate the density of this project is comparable to other projects. This calculation is based on the assumption that the project is being built on 5.82 buildable acres. We understand the buildable acres are closer to 2.5. Using a generous acreage of 2.5, the FAR would be 3.1, not 1.35, far exceeding the FAR of Dunstan East, Riverdale and Northland Charlemont (the next highest FAR is 2.33 which is also notably in a mixed use area). Which FAR comparison, the 5.8 denominator or the 2.5 denominator, does the civil engineering peer reviewer feel is more reasonable? The neighborhood still envisions a 75 unit garden style, multiple building townhouse complex best fitting the 2.5 buildable acres of this site and the neighborhood.**

PRIORITY REQUIREMENTS:

If the ZBA decides to assume the risks and approve this project without further study, the neighborhood presents the following list of the most critical requests:

1. **Prevent Increased flooding:**

a. **Follow recommendations of Scott Horsley in letter dated 4/4/24, inclusive of the installation now of more appropriately placed test pits and ground water monitoring wells in locations recommended by a hydrologist and overseen by the City of Newton. There should be at least two wells, one above the containment system and below the containment system near Hagen Road to measure the groundwater that is not captured by the containment system. This testing should happen immediately to get the wet season readings and project approval should be conditional upon findings.**

b. **Create a contingency plan if the groundwater flooding to neighbors worsens after the project as determined by the monitoring wells. This would be based on measurements from monitoring wells listed above. Can the containment system be expanded or additional water table diversions be added to the project's containment system? Can Paul Brook tributaries/inlets be added upstream?**

c. **Require pervious path and fire truck access surfaces, such as crushed stone.**

2. **Safety**

a. **Reduce the speed limit on Route 9 from Parker to Langley from 50 to 40 mph.**

b. **Prevent tenant southbound/westbound/northbound commuters on Dudley and during school arrival times with a "No Right turn" off Route 9 onto Dudley during morning rush hours.**

i. 

c. **Permanent and absolute ban of vehicular traffic from and into the project from Hagen, Olde Field and Dudley Roads. Permanent means that the purchase of additional parcels of land by the Developer on Hagen, Olde Field or Dudley Roads will not give the project access to these streets in the future.**

d. **Require permit only parking on neighboring streets (possibly resident only stickers and guest tags)**

3. **<u>Minimize negative impacts to abutters</u>**

a. **Add a 20 foot privacy and sound fence in a color to match the surroundings followed by a planting of 12-20 foot evergreens for all abutters. For Olde Field abutters, we would like the fence to be between the project path and the trees. Space for the fence can be created with a 5' sidewalk and a reduction of benches, with no bench in the walkway span between abutters on Hagen. For Hagen abutters, the fence should be on top of the berm with the trees facing the abutters. For Dudley the fence would be along the property line.**

b. **Light only with 3 foot ballards downward facing and on a timer to be turned off by 7pm. Lights at the back of the building on a motion detector and timers, directed downwards, and the minimum number of lights and lumens necessary.**

c. **Allow any abutter to build up to a 12 foot fence on their own property if they desire, including a sale clause transferring to a new owner of their home in perpetuity (no special permits required, by right, in perpetuity.**

d. **Monitors on all homes that are within 400 feet from any blasting during construction. Reimburse abutters for blasting expert possible damage to foundations and masonry.**

4. **<u>Oversight and Accountability</u>**

a. **Require Toll Brothers to retain ownership and accountability for this project over the next 10 years as similar to other area projects.**

b. **The city produces a plan (including funding) for oversight and enforcement of the project's construction plan, Operations and Maintenance plan, insurance in case of damage to surrounding homes, and neighborhood parking and traffic safety. An account should be set aside for this purpose before, during and after construction.**

c. **Require Toll to create an Indemnification agreement funded by an escrow account in perpetuity for area residents for any damage to property caused by the project, such as blasting damage, flood damage to neighborhood properties, and flood insurance premiums for anyone who requires flood insurance in the future. For instance, the escrow**

account should allow claims from neighbors for sump pump/french drain system installations and/or upgrades if basement flooding worsens during or after construction.

d. **Require an escrow account for tree maintenance and replacement on the project site**

5. **Presumably to be required by the ZBA and the city of Newton…**
    a. **Toll is required to adopt/address all recommendations from Peer Reviewers as a condition of acceptance.**
    b. **All project requirements carry to successor owners in perpetuity.**
    c. **A 3rd Party (Independent) Environmental Monitor Consultant would be embedded in the construction team and responsible for preventing adverse construction impacts to neighboring homes, monitoring, reporting, photographs, record keeping, etc. All records and recordings should be promptly accessible to the public.**
    d. **Toll and its successors in perpetuity will maintain the sidewalk from Dudley Rd to Parker St during all seasons, including Parker St bike ramp**

From: margaret zaleski <margaretzaleski17@gmail.com>
Sent: Wednesday, April 24, 2024 7:17 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: 528 Boylston and traffic issues

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Chairman Rossi, members of the ZBA, and alternates -

I saw this today and thought it should be considered when making a decision about the safety of the 528 Boylston high rise luxury apartment building -

This is from the local Chamber of Commerce newsletter -

<MassDOT says it will need two years of detours along a heavily traveled stretch of Boylston Street (Route 9) to replace a deteriorating 100-plus years-old MBTA bridge.

The bridge in need of replacement crosses Route 9 just west of the Centre Street exit. During construction, vehicle traffic will run both ways in a single lane while the other side of the state highway will be closed.

Each side of the road work would take one construction season, likely summer 2025 (eastbound) and 2026 (westbound), according to Newton City Councilor Bill Humphrey.

Temporary pedestrian bridges will maintain sidewalk access and D Line service will not be disrupted, Humphrey added.

About 50,000 vehicles travel the route daily, which is a buttload of drivers>

Please note that the Parker Street bridge, just east of this area, is under review for safety.

All of this will make Route 9 impossible to travel for people already living here. And will raise many additional safety issues.

Thank you -

Margaret Zaleski

From: margaret zaleski <margaretzaleski17@gmail.com>
Sent: Wednesday, April 24, 2024 9:48 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>; Ruthanne Fuller <ruthanne@ruthannefuller.com>; Stephen Farrell <scf7462@gmail.com>; Richard Lipof <rlipof@newtonma.gov>; David Kalis <dkalis@newtonma.gov>; Representative Ruth B. Balser <ruthbalser@gmail.com>; Senator Cindy Creem <cynthia.creem@masenate.gov>; Jonah Temple <jtemple@newtonma.gov>; Alissa O. Giuliani <agiuliani@newtonma.gov>
Subject: Objections to ZBA procedures regarding hearing for 528 Boylston luxury high rise

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Chair Rossi, members of the ZBA and alternative members -

The community remains concerned about the safety of our children, the people who live in the neighborhood, and the people who travel along Route 9. The community also remains very concerned about the risk to our homes and family from flooding that may occur during construction or afterwards. We have other valid concerns (including noise levels that affect public health, damage and health risks from blasting, limited number of affordable apartments in the 40B project, etc) and questions that need answers. Please see email of Rob Sellers, "Questions for the ZBA", which I am printing below.

I am writing now to object again, formally, to the three minute time limit that has been imposed residents of Newton who wish to address the ZBA and not on the applicant; to the denial of our request to have our retained expert on ground water issues make a presentation to the ZBA, or for him to be able to answer questions the ZBA may have. In contrast, the applicant and their lawyers and experts literally go on for hours. I am also objecting to cutting off any public comment at the next meeting of the ZBA on May 1, 2024, after the applicant has filed new information to which the community wishes to respond. I anticipate the ZBA will allow the applicant and their lawyers and experts to, once again, speak freely without any time constraints.

It is clear that the three minute rule does not apply to other business before the ZBA. In other cases that I have personally observed, Newton residents have been allowed to speak without a time limit, as have their lawyers and other experts. Also, I have never before heard the ZBA state that it will not allow any public comment after new information has been presented by the applicant (eg. the newly proposed acceleration/deceleration lane in an area where there is no footage for such a lane even with the elimination of the breakdown and bike lanes, thereby putting people at risk; and also the brand new document filed today by the developer on flooding). In fact, I have heard the ZBA encourage residents in other cases to come back before the ZBA if new information has become available.

I am asking that you allow Newton Impact to make a full presentation of our continuing concerns, that you allow our expert to address the ZBA, and that you allow public comment at the May 1 hearing, and thereafter. Fairness requires at least these steps.

Thank you -
Margaret Zaleski
(Retired state court judge)

To Mr Rossi and the members of the ZBA:

I would like to thank you again for asking probing questions and attending to the details of our concerns. We, the neighbors, have clearly stated those concerns and have worked hard to explain the facts informing our thinking. Unfortunately, many of our questions have not been answered and our concerns addressed only superficially. Reassurances from the builder have been insubstantial and vague.

The problem with this project is quite clear. It is simply too massive for this small and complicated site. There are a number of remaining issues which can't be satisfactorily solved because there is just not sufficient space for what the builder wants to accomplish.

The extensive flooding already threatening the area is obvious to all of us who live here. The expert consultant who recently evaluated that situation made it clear that the assessment done thus far is insufficient and misleading. A more in-depth evaluation is essential.

Although flooding is perhaps the most pressing concern, traffic safety is a close second. We are apprehensive about how this project as currently conceived would affect drivers, cyclists, and pedestrians. The concept of a lane to be used for both acceleration and deceleration is extremely dangerous. That is what is in place now and is already causing considerable difficulty, even though there are few vehicles entering and exiting into that lane. The large number of additional vehicles associated with the project, including the emergency vehicles, will make it much more dangerous.. Lengthening the lane will do nothing to improve the safety. Further study needs to be done.

Because of the danger posed by cars entering and exiting at the same location into the on ramp for Rt 9, the garage was redesigned to allow the cars to exit via the upper driveway, closer to Dudley Road. This is not the case for the emergency vehicles which are still routed to exit via the lower driveway. In my opinion it is not safe for any vehicles to be exiting from the lower driveway into the fast-moving traffic of Rt 9 or the acceleration-deceleration lane. For everyone's safety, there needs to be a plan for the emergency vehicles to exit via the upper driveway.

Noise and light pollution are uncertainties. Air pollution, especially during construction and with the basting of the cliff, is a major concern. Blasting of the cliff is a tragedy for the environment. Lack of an adequate parking solution is another problem.

To be clear, we are not against additional housing being built here. We are just asking for a project that is of an appropriate size for this small, complicated, and delicate site. We also want the project to be truly affordable. The project as currently designed is luxury housing that will do nothing to add diversity to our community or help lower income families get

housed. It adds only 5 truly affordable unit to the site. This certainly does not offset the damage that will be done to this entire area of Newton.

Although I appreciate the effort the builder has made to improve the project, none of the changes have a significant impact or do enough to make the project work. No small adjustments can make this project safe for our community. It is simply not the right project for this site.

Thank you.

Ann Findeisen, Direct Abutter

132 Hagen Rd, Newton Center

From: Linda Goldman <lrgoldman@comcast.net>
Sent: Saturday, April 27, 2024 5:04 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: 528 Boylston Project

Dear Members of the Zoning Board of Appeals,

I am writing to express my concerns about the 528 Boylston St project. I continue to have concerns that issues related to the environmental impact and potential exacerbation of flooding have not been completely resolved. I respectfully request that these issues be fully resolved in a way that prevents negative environmental consequences before approving this project.

Thank you.

Best regards,

Linda Goldman
25 Haynes Rd.
Newton

From: Susan Nason <nasonse@aol.com>
Sent: Monday, April 29, 2024 8:24 AM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: 528 Boylston Project

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

My name is Susan Nason and my husband and I have lived at 28 Roosevelt Rd. since 1977. I have watched all the ZBA public hearings about the 528 Boylston project and reviewed the changes that have been made since the project was originally presented to the ZBA by the Toll Brothers.

I continue to be very concerned about traffic, especially the proposed egress from the property onto Rte. 9. At the last public hearing the developers talked about some kind of area that cars entering Rte.9 from the development could theoretically safely accelerate before getting into the main traffic lanes. As someone who enters Rte. 9 East from Parker St. on a regular basis, I absolutely do not see how that can be done. I know that several members of the Board also questioned that at the last hearing - where would the space come from? Could cars really make such a sharp turn and accelerate fast enough? The developers can't take space from the two travel lanes and the space between the travel lanes and the curb is too narrow for an acceleration lane.

I also continue to be concerned about the additional traffic that will be using Parker St. bridge when they are coming westbound, but want to turn to go eastbound - the only way to get into the development. Although the city has made some positive changes to the bridge traffic (no right turns on red), I am concerned about what is certainly going to be a big increase in traffic will mean for safety of cars, bikes and pedestrians.

I encourage ZBA members to go to the site and look at the Toll Brothers proposal for exit and entry and how Parker St. bridge will work with so much more traffic.

thank you for your thoughtful consideration.

Susan Nason

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Chairman Rossi and members of the ZBA:

Newton Impact deeply believes in freedom of speech and respects everyone's right to express their own opinions; at the same time, we would like to bring careful attention to the recent letter writing campaign from Engine 6 that generated 72 solicited form letters in support of the 528 project (see below). This letter of support was posted on Toll Brothers 528 website (posted on 4/17/2024) and it is unclear who has written it, Toll and/or Engine 6. We, The Newton Impact Committee, have walked the neighborhoods within 1/4 mile surrounding the site and obtained 1254 signatures for the below petition. We have walked N and S, E and W of the proposed 400 foot long, 80 foot high, project. 99% of those we spoke with feel that the luxury project as proposed will impact the environment, health and safety of the neighborhood community in a NEGATIVE WAY.

In our opinion the Engine 6 Form Letters of Support are unlike the Newton Impact Petition:

****when examining their addresses, the majority of the Engine 6 supporters do not live anywhere near the immediate neighborhood.**

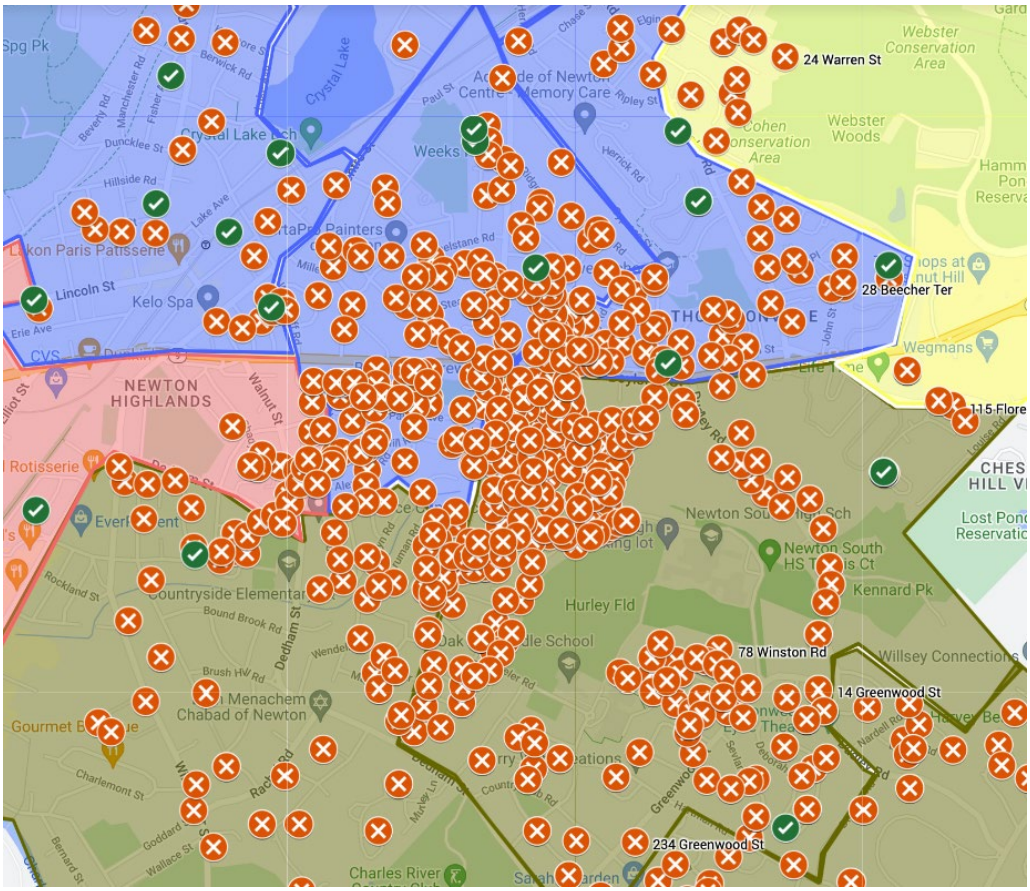
**** Engine 6 advocates do not have the same standing and knowledge base as abutters and neighbors. Neither will they be affected in the manner the neighborhood will.**

**** The Newton Impact Petition represents families living in modest homes worried about having their homes flooded, namely a family deeply concerned about the safety of their children, their neighbors, and the larger neighborhood community. They know first hand of serious safety issues that will be created by this project's size and location.**

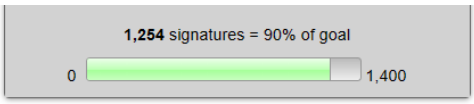
**** Conceptually everyone agrees we need more actual affordable housing. We do not need more luxury housing that causes a heat island, destroys 200 trees, is not close to public transportation, and is in a location with a severe risk of increased flooding and safety risk for the numerous varied age school children in the neighborhood.**

RED DOTS (Oppose the 528-project as proposed due to safety and environmental risks)

GREEN DOTS (support more housing, but majority are far away from the project location and are not aware of risks to the environment & safety, the majority of the Green Dots you can't even see on this zoomed in map as the addresses are on the other side of newton)

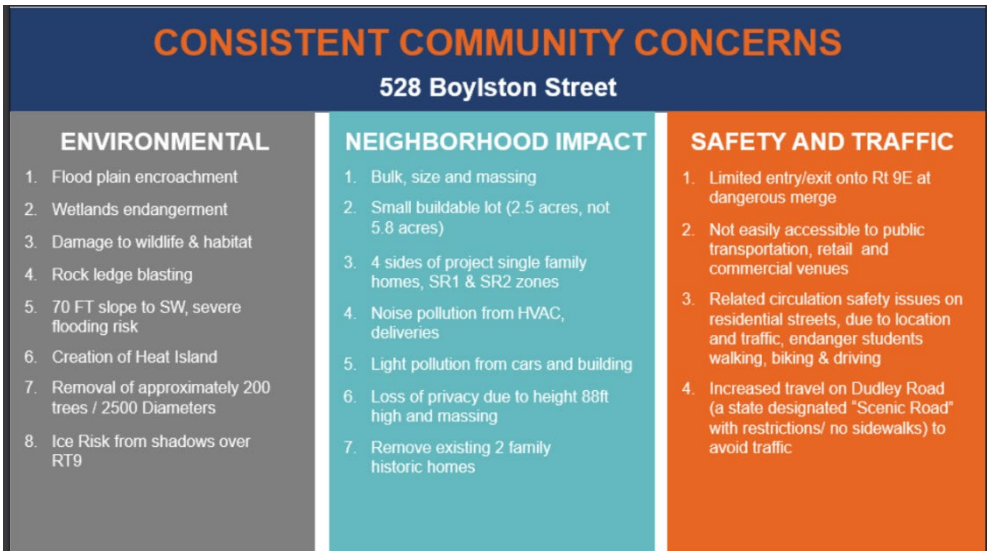


Newton Impact Petition that 1,254+ Neighborhood Residents signed, opposing the project due to safety and environmental concerns



1. This petition is in favor of our neighborhood's Newton Impact Community Group's effort to reduce the size of the proposed Toll Brother's development of 244 luxury apartments units of housing in a newly constructed 7 story building on 528 Boylston St., Newton. This structure is planned for the Sam White Landscaping parcel just east of Old Field Road, south of Hagen Rd. and west of Dudley Road on Route 9 (just before the stop light at the top of the hill). Please join concerned residents about the many immediate issues with this fast-tracked development by the Commonwealth by joining our community group and having your voice heard. This will IMPACT safety, traffic (projection of 1200 extra cars daily), reduce green space and increase flooding, the environment, schools, and change the landscape of our community. It will not make our community more affordable to families making less than $110K a year.
2. I support the efforts of our neighborhood's Newton Impact Community Group. Our community understands the site will be developed. We support a plan that provides affordable housing at a scale that fits within the neighborhood, creates usable open spaces, retains existing trees, doesn't negatively impact the local ecosystem, and doesn't dramatically increase traffic on local roads. The proposed development on Boylston Street is unwelcome because it is too large for the neighborhood, rendering it less safe and desirable, exacerbates neighborhood flooding, adversely changes the neighborhood's character, and decreases our privacy. The increase in traffic is also likely to endanger our students walking or biking to school.

Concerns expressed by the Newton Impact Committee on behalf of our 1254+ supporters



EMAIL SENT TO ENGINE 6 MEMBERS from ENGINE 6 Leadership Team

Engine 6
Newton Housing Advocates

Dear Engine 6 friends,

Want a short-cut to show your support for 528 Boylston St.?

If you haven't yet sent a letter to the Zoning Board of Appeals about 528 Boylston St., just fill in your name and address on this Letter of Support. Deadline is April 25. The developer will submit the letter with supporters to the Zoning Board of Appeals.

Thanks for weighing in on this important project.

Lynn Weissberg, Fran Godine, Doris Ann Sweet and Nancy Zollers
Engine 6 Leadership Team

CoUrbanize vendor who administers TOLL BROTHERS 528 Web site

From: Dan McLeggon <dan@courbanize.com>
Sent: Thursday, April 25, 2024 12:02 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: 528 Boylston - Letters of support

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Hi Brenda,

Attached are 72 letters of support for the 528 Boylston St project. These were collected digitally via 528boylston.com.

Thank you, and please let me know if you have any questions.

Dan McLeggon
Senior Account Manager | coUrbanize
coUrbanize
450 Massachusetts Ave
Cambridge, MA 02139

LETTER OF SUPPORT prepared by Engine 6 and/or Toll Brothers - Form letter

Letter of Support
Date Submitted : 4/24/2024

Mr. Michael Rossi, Chairman

City of Newton

Zoning Board of Appeals

1000 Commonwealth Avenue, Newton Centre

By Email to: Brenda Belsanti, Zoning Board Clerk

Dear Mr. Rossi and Members of the Zoning Board of Appeals,

I have reviewed the 528 Boylston Street plans, and support the proposal because of the many benefits to our community:

- The project will provide 184 units of desperately needed new housing.
- The project includes 37 units affordable to 80% AMI and 9 units affordable to 50% AMI.
- Unlike many new apartment buildings in Newton, the project is heavily weighted toward family-sized units. More than 80% of the units are two- or three-bedroom units.
- The project is well located on Route 9 just a half mile from the Chestnut Hill commercial corridor and is within walking distance to Newton South and two middle schools.
- The project includes off-site improvements making it safer for pedestrians near the Project.
- The sustainability measures include Passive House certification, a robust embodied carbon analysis, and an EV car share service for residents.
- The developer has made significant changes to this project in response to concerns of the community including reducing the size of the project from 244 units to 184 units.

As a Newton community member, I support the plan for 528 Boylston Street. I ask that you approve the project and allow this much-needed housing to be built.

Thank you,

First Name
Fran

Last Name
Godine

Email
Godine@comcast.net

Address
19 Crofton Rd, Newton 02468

Sincerely, Newton Impact Committee and 1,254+ Newton Impact Supporters

From: Marie Fredrick <marief1012@gmail.com>
Sent: Monday, April 29, 2024 1:32 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Cc: Jennifer Steel <jsteel@newtonma.gov>; Barney Heath <bheath@newtonma.gov>; Katie Whewell <kwhewell@newtonma.gov>; Rick Lipof <rlipof@lipofres.com>; David Kalis <dkalis@newtonma.gov>; Stephen Farrell <sfarrell@newtonma.gov>; Newton Impact Committee <committee@newtonimpact.com>
Subject: 528 Boylston St Project - 3rd Letter to ZBA from Scott Horsley (water resources consultant) on behalf of Newton Impact

Hi Brenda

Hope you are well.

Please provide to the ZBA the attached letter dated APRIL 29, 2024 from Scott Horsley (Water Resources Consultant), this is the 3rd letter presented by Scott Horsley on behalf of the Newton Impact Committee. We are also requesting that this letter be sent to Janet Bernardo Peer Reviewer at the HWG prior to this meeting.

I know that you mentioned Chairman Rossi is now allowing comments by the public due to the release of the Whitestone letter dated 4.24.24. I just want to confirm that we are only allowed to have Scott Horsley speak on behalf of NI for 3 minutes at the end if we choose during public comment and he can not be asked questions or participate on our behalf during the ZBA/Toll/ P&Z discussion on "water"?

Please confirm receipt if possible.

Best
Marie

Scott Horsley
Water Resources Consultant
65 Little River Road • Cotuit, MA 02635 • 508-364-7818

April 29, 2024

Mr. Michael Rossi, Chairperson
City of Newton
Zoning Board of Appeals
1000 Commonwealth Avenue, Newton Centre, MA 02459

By Email to: Brenda Belsanti, Zoning Board Clerk
bbelsanti@newtonma.gov|

Mr. Daniel Green, Chairperson
City of Newton
Conservation Commission
1000 Commonwealth Avenue, Newton Centre, MA 02459

By Email to: Jennifer Steel
jsteel@newtonma.gov

Dear Mr. Rossi, Mr. Green and Members of the Zoning Board of Appeals and Conservation Commission:

RE: 528 Boylston Street, Newton, MA

I have been retained by a group of residents and abutters known as newtonimpact.com to review the proposed project at 528 Boylston Street. More specifically, I have been asked to evaluate the potential hydrologic impacts associated with the project and its compliance with applicable state laws and guidelines. I submitted two prior comment letters dated January 17, 2024 and April 4, 2024.

I have reviewed the letter from Whitestone dated April 24, 2024 and the City of Newton staff report dated April 24, 2024 and am providing this supplemental comment letter to emphasize three points.

First, My clients remain concerned that the project will result in higher groundwater levels that may impact their properties. As I stated previously, the proposed project significantly

increases impervious surfaces more than three times the existing coverage (from 30,366 SF to 93,242 SF) and exceeds Newton's maximum lot

coverage requirements to accommodate these impervious surfaces. The Applicant is requesting a waiver for lot coverage (see figure 1). However, no analysis has been provided to evaluate the hydrologic impacts of this waiver of lot coverage/impervious surfaces requirement.

The excessive lot coverage/impervious surfaces will generate a corresponding increase in stormwater runoff volumes. The project proposes to dispose of this increased volume of stormwater into the subsurface using a series of infiltration facilities. This will raise groundwater levels throughout the year and during the larger design events. The Applicant has not provided an adequate analysis of these impacts needed for the Board to make an informed decision on the requested waiver of maximum lot coverage from 15% to 42%.

ZONING ANALYSIS TABLE			N/A - NOT APPLICABLE N/S - NOT SPECIFIED (V) - VARIANCE REQUESTED (W) - WAIVER REQUESTED (E) - EXIST. NON-CONFORMANCE
ZONING DISTRICT	SR1 / SR2		
OVERLAY DISTRICT	FLOODPLAIN OVERLAY DISTRICT		
REQUIRED PERMIT	40B PEL APPLICATION		
ZONE CRITERIA	**REQUIRED**	**EXISTING**	**PROPOSED**
MIN. LOT AREA	25,000 SF / 15,000 SF	253,422 SF	NO CHANGE
MIN. LOT FRONTAGE	140 FT / 100 FT	734.9 FT	NO CHANGE
MAX. LOT COVERAGE	15% / 20%	3.2%	42.0% (W)
MIN. FRONT SETBACK	40 FT /30 FT	66.2 FT	±30.0 FT (W)
MIN. SIDE SETBACK	20 FT / 15 FT	N/A / 14.2 FT	±102.5 FT
MIN. REAR SETBACK	25 FT / 15 FT	N/A / 21.5 FT	±69.1 FT
MAX. BUILDING HEIGHT	36 FT/2.5 STORIES (SLOPED); 30 FT/ 2.5 STORIES (FLAT)	25 FT	70 FT (6 STORIES) (W)
OPEN SPACE	70% / 65%	90%	68.0% (W)***
MIN LOT AREA PER UNIT	25,000 SF / 15,000 SF	5,862 SF*	1,377 SF (W)
MAX FAR	0.26 / 0.33	0.35*	1.43 (W)**
ON-SITE IMPERVIOUS AREA		30,366 SF	93,242 SF

Figure 1 – Zoning Analysis Table (Bohler Engineering)

Second, a water budget analysis and groundwater model is required to accurately evaluate the hydrologic impacts of the project on neighboring properties. The City of Newton staff report (April 24, 2024) discusses the need for an analysis *"that quantifies the flow of water in and out of a system and accounts for all major inputs and outputs on the site including surface water (Paul Brook), subsurface (groundwater and aquifers, and atmospheric water (rain/precipitation and evaporation)".*

Figure 2 shows a simplified water budget prepared by the United States Geological Survey (USGS) for the lower Charles River watershed which includes Newton. This budget indicates that approximately 36% of precipitation (42 inches/year) is returned to the atmosphere as evapotranspiration (15 inches/year). The remaining (net precipitation) is partitioned between

surface runoff (10 inches/year) and groundwater recharge (17 inches/year). This budget is representative of existing conditions on the project site.

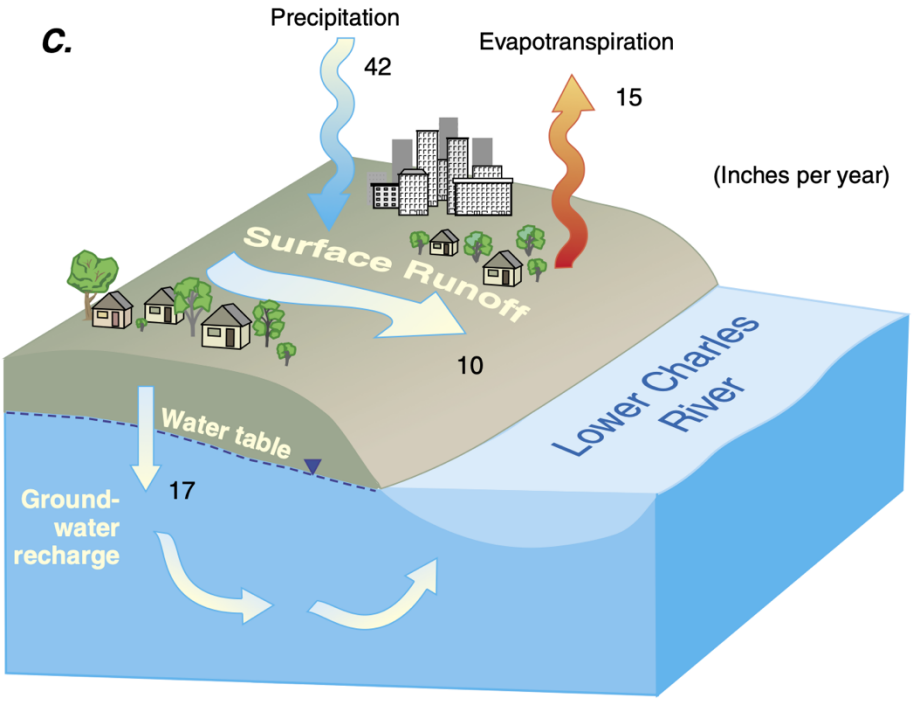


Figure 2 – Water Budget for Charles River Watershed (USGS)

An aerial photograph of the site suggests that much of it is currently vegetated with trees, shrubs, and grass (see figure 3). This indicates that a significant portion (up to 50%) of the annual precipitation is returned to the atmosphere as evapotranspiration (ET)[1].

The proposed project will remove the majority of upland vegetation on the site and replace it with impervious surfaces (see figure 4). This will result in a significant reduction in ET and a corresponding increase in stormwater runoff/recharge. It is reasonable to assume that approximately 90% of the annual precipitation falling on impervious surfaces will be directed to the proposed stormwater infiltration facilities resulting in a net increase in groundwater recharge rates[2]. Assuming an annual precipitation rate of 42 inches/year the recharge rate associated with impervious surfaces can be estimated at 38 inches/year. This is significantly higher (more than double) the estimated existing groundwater recharge rate of 17 inches/year.

Groundwater (water table) levels are directly related to recharge rates. The project will cause net increases to groundwater recharge and groundwater levels will rise. A detailed water budget and groundwater model should be prepared to assess these impacts.

[1] Cornell Northeast Climate Center.
[2] Approximately 90% of precipitation falling on impervious surfaces results in stormwater runoff, the remaining 10% is lost to abstraction (evaporation from the wetted surface).

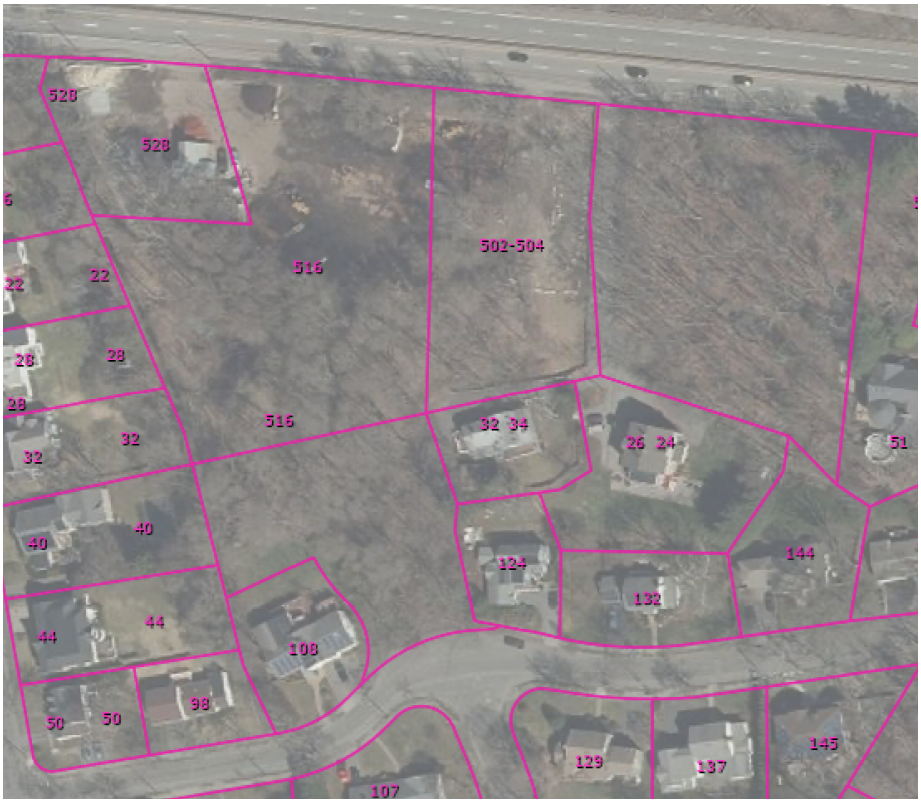


Figure 3 – Aerial Photograph (MAGIS)

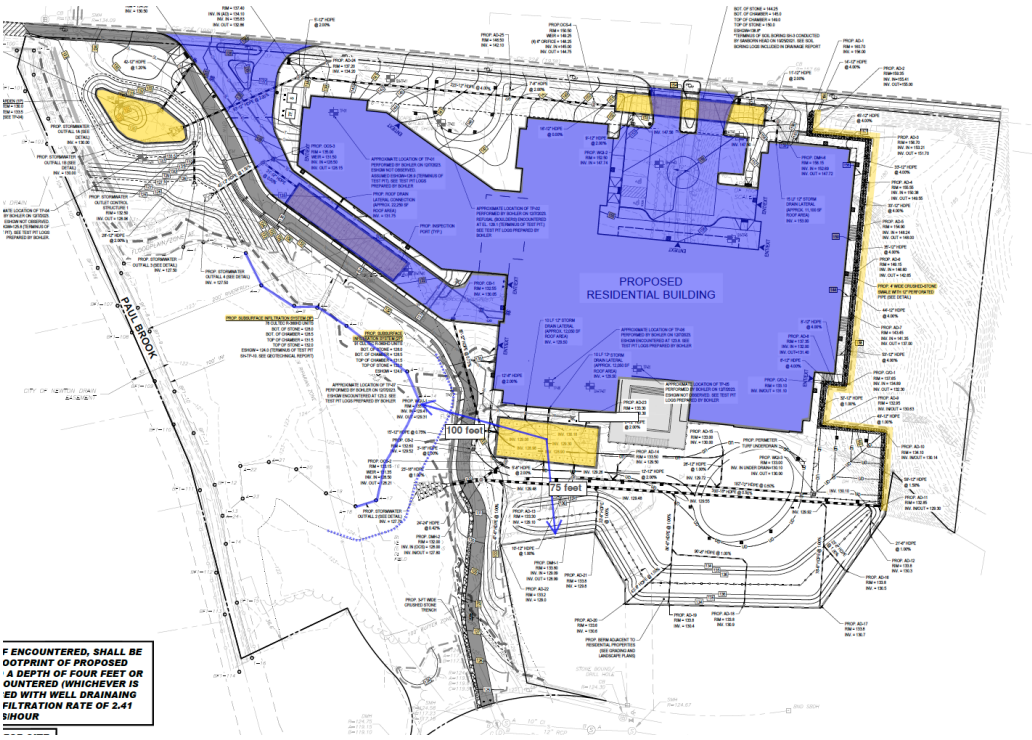


Figure 4 – Site Plan (Bohler Engineering)

Third and finally, I disagree with the letter provided by Whitestone dated April 24, 2024. On page 6 they state, *"the proposed site development does not change the quantity of stormwater over the property; that remains fixed both pre-and post-development".* This is clearly not the case, as the signficant increases in impervious surfaces will generate increased stormwater volumes.

In their review of my prior comment letter, on page 7 of Whitestone's letter they state, *"these proposed systems would ultimately reduce sheet flow discharge from the site, which Whitestone considers to be a net benefit to the area".* This statement misses the point and fails to recognize that our concern is not with sheet flow but rather with increased groundwater recharge and groundwater mounding.

The water budget analysis discussed in the City of Newton staff letter should be undertaken by the applicant to properly assess the pre- and post-development conditions. It should determine the increased volumes of stormwater and groundwater recharge volumes. A groundwater model such as MODFLOW could then be used to predict groundwater (water table) level changes at the neighboring properties[3].

Thank you for the opportunity to submit these comments. Please contact me with any questions that you might have.

Sincerely,

Scott W. Horsley
Water Resources Consultant

[3] MODFLOW is the industry standard groundwater model developed by the United States Geological Survey (USGS) and can provide the most accurate assessment of projects with multiple stormwater infiltration facilities.

From: Marie Fredrick <marief1012@gmail.com>
Sent: Monday, April 29, 2024 10:12 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Cc: Rick Lipof <rlipof@lipofres.com>; David Kalis <dkalis@newtonma.gov>; Stephen Farrell <sfarrell@newtonma.gov>; Newton Impact Committee <committee@newtonimpact.com>
Subject: 528 Boylston st Project - Conflict of interest

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Chairman Rossi and Members of the ZBA,

At the public hearings over the course of this year, Mr. Bruce Jennings, who resides on Duxbury Road has repeatedly appeared and spoken in support of the 528 Boylston Street project.

We have just learned that Mr. Jennings is the "Seller's Consultant" per the Purchase and Sale Agreement (see below P&S) for Sam White (Seller). Therefore, a reasonable assumption is Mr Jennings will stand to make considerable money from this project being approved by the ZBA and as well it is reasonable to assume this fact likely has influenced his speeches and opinions (see speeches below)

We think it is important that everyone who has a conflict of interest be asked to reveal that conflict when appearing before the ZBA. Mr. Jennings knowingly failed to do so; we ask that this be noted for the record.

Sincerely, The Newton Impact Committee

Section 14. Consultant: Seller represents and warrants to Buyer that it has had no dealings with any broker, finder or other party concerning Buyer's purchase of the Property other than Bruce Jennings (the "Seller's Consultant") and Seller shall pay all fees, commissions and other costs and expenses payable to the Seller's Consultant arising from this transaction. Buyer represents and warrants to Seller that it has had no such dealings with any broker, finder, or other party other than the Seller's Consultant. Each of Seller and Buyer hereby agrees to indemnify and hold harmless the other from all loss, cost, damage or expense (including reasonable attorney's fees) incurred by the other as a result of any breach of the foregoing representations and warranties by the indemnifying party. The representations and warranties contained in this Section shall survive the Closing or the termination of this Agreement.

BRUCE JENNINGS 3 PUBLIC COMMENTS TO THE ZBA - Transcribed from Zoom

SEPTEMBER 27 2023 ZBA ZOOM RECORDING – 528 PROJECT – BRUCE JENNINGS STATEMENT

Bruce Jennings, 33 DUXBURY Road. For those of you who don't know exactly where Duxbury Road is, it feeds out to the ramp on route 9 in this directly across the street from the front entrance of Sam Whites. I'm not sure how the sound travels on Hagen Road and Oldfield Road from Sam White's, but I can tell you that in my backyard, all I hear is the slamming of trailers, I can smell the Back mulch when it gets dropped off. The dust that's created during the summer months that comes over a cross route

9. And I think that the sound from Sam Whites just goes across the street and doesn't go backwards. So any change to that site would be a welcome change as far as I'm concerned. I appreciated what the peer review did with their talking about the multi-use bite path and walking path, as well as the potential for the Paul Brooks restoration. I just think all of these are positives. The way that the property would look from route 9 with the sidewalks, with the greenery is a vast improvement over what's there now. Sam White's hours, I believe, are supposed to be 7:00 AM in the morning. They have trucks coming in. I can tell you from my own experience dropping off the bulk material could be at 5 or 6 o'clock in the morning. You hear the slamming, you hear the constant beeping of the backing up of the trucks and the front end loaders And this, to me, in some capacity, is definitely a welcome change. I've lived there for 65 years. My entire life, so I'm very familiar. I used to cut through Sam whites to walk the Newton South. So I'm very familiar with the area. As far as traffic goes, I pass by the Avalon at Needham Street, the Avalon in Chestnut Hill, the new trio building in Newtonville. II don't see a lot of traffic coming in and out of any of those places. I don't see this as being a tremendous traffic burden. I think a lot of what the information that was dispensed tonight sort of solidifies that fact that it isn't going to create a huge traffic issue. Sure I'm there's plenty of things from what we saw that can be worked on and refined and made better. But I think having more affordable housing in the city is a very important thing. I'm 100 percent for this improvement, as far as I see it. And I appreciate your time. Thank you.

NOVEMBER 8th 2023 ZBA ZOOM RECORDING – 528 PROJECT – BRUCE JENNINGS STATEMENT

Good evening, sir. Please give us your name and address. My name is Bruce Jennings.65 year resident of Duxbury Road and Duxbury filters out to the ramp on route 9, which is directly across. From the front of the 5 28 project. I'm an acute hearing distance of everything that goes on there, every truck, every backup siren. Everything the tailgates smash and you can actually feel them on the ground. There's between a hundred between 50 and a hundred 50 trucks. They enter and exit there every day from March until November. I can hear most of them from my backyard. On occasion some of the larger supply trucks that go into the area go in as early as 5 30 a. M. And they're 18 wheelers. Dumping, you know, tremendous loads of stone or whatever and you hear them sliding down the back of the truck. I've spoken over the years to residents of Oldfield and Hagen that have gathered. With the Marshfield, Mansion Lane, Duxbury Road, about shutting down the current operation that's there because they don't want that in the neighborhood. Nothing obviously has come of that. You know, I look at the current use of the land there and it's I'm assuming a non-conforming entity that would never be permitted within the city of Newton. Today I just question why we want to. Take something that's been grandfathered in. As opposed to something that's a new clean well kept development that's going to make the sidewalks better. Create a usable pedestrian path. Provide much needed affordable housing. I understand that Newton is still under affordable housing. Threshold and the land that's in question is a little over 5 acres. Of which the amount that's being used is going to allow for plenty of green space. On every side of the building with the exception of the Route 9 frontage. In closing, I just like to mention how surprised I was. When I attended the last meeting, which was the first meeting that I've come to, a city counselor chimed in from zoom and said that he would under no circumstances give this project a yes. He said no matter what changes were made, what modifications were offered. He would not vote yes. He went on to say that to his knowledge this board had never voted down a 40 B and felt that this should be the example. I'm uncertain if this predetermined approach is a healthy one. Perhaps at some point a project will be brought forth that is undeserving and approval will not come, but this certainly is not the one. Mr. Jennings, that's 3 min. Please conclude. You are salient remarks, I think, at the

end.About, you know, going through the process and trying to come up with the best solution is a great one.

APRIL 10 2024 ZBA ZOOM RECORDING – 528 PROJECT – BRUCE JENNINGS STATEMENTS

Sir, please give us your name and address. Bruce Jennings, 33 Duxbury Road, Duxbury Road is directly across from the front of the 528 project. This is the third meeting I have attended in person, but I've been keeping up to date online with the various requests and concerns made by the community regarding the project. The people against the project continue to come up with concerns regarding the size of the project, the number of units, the water table, landscaping and traffic flow, to name a few. The developing team at Toll Brothers has addressed each and every one of these concerns with concessions and redesigns numerous times. The problem with the process such as this is, no matter how deep the concessions are and how in depth the redesign happens to be, people who are against the project will continue to be against the project, as they don't want the project. No matter what the concessions that are made, they'll never be satisfied. As it stands now, the current occupant of 528 Boylston Street would never be permitted unless grandfathered in within the Newton City limits. Affordable housing, on the other hand, is permitted and is desired within the Newton city limits. My hope is that the board looks at all of the good faith concessions with what my toll brothers and their proven desire to work within the community, and particularly with the abutters, to build a new community on a landed 528 Boylston that works for every I just. Also want to say that having lived in that general neighborhood for 65 years, we have a sump pump that goes off at least weekly when it rains. So we're all in this together as far as the water tables and you know. The flooding and things like that. But it's just where we live and there's not a lot we can do about it. Thank you. Thank you.

From: Jared Novack <jaredmania@gmail.com>
Sent: Monday, April 29, 2024 10:47 AM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: In Support of 528 Boylston

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Hi Brenda,

I am a neighbor of the 528 Boylston Project and want to share my full support and backing for you and the ZBA.

Currently the site is a gravel and rock lot. Not a great use of land in the heart of Newton! Instead this could welcome new neighbors. Until we build new homes, this community cannot grow in a healthy way.

This project adds much needed housing stock to our area and can further strengthen the long-term growth and health of Newton.

I'm new to the area with my wife and two daughters (2 and 5). I'm very worried that Newton's health is held back by the lack of new development. While there are plenty of expensive new houses, it's not growing our population at all. I fear that the great schools that attracted us to the city are on a long term flat-line or downward trend due to the failure to grow our city's population and tax base.

I say YES to new residents, YES to more density and YES to more construction. These are the hallmarks of a healthy city. I drive by the 528 location almost every day (about 2 mins from my house) — I can't wait for it to be turned into a new development!

Best,

- Jared Novack
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314 368 0228

From: Julia Pogrebnyak <junzjul@yahoo.com>
Sent: Monday, April 29, 2024 1:29 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Cc: Alexander Pogrebnyak <sashkap@gmail.com>
Subject: Please oppose 528 Boylston Street project!

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear ZBA members,

We urge you to oppose 528 Boylston Street project!
The changes made to the project are not enough to overcome the very real risk to our children's and the community's safety, the detriment to our environment and the high risk of basement flooding.

Sincerely,

Alexander and Julia Pogrebnyak
96 Olde Field Rd
Newton, MA

----- Forwarded Message -----
From: Julia Pogrebnyak <junzjul@yahoo.com>
To: bbelsanti@newtonma.gov <bbelsanti@newtonma.gov>
Sent: Tuesday, April 9, 2024 at 01:25:22 PM EDT
Subject: Please decline the permit for 528 Boylston Street project

Dear ZBA members,

We ask you to decline the proposed Toll Brothers 528 Boylston Street Luxury Apartments Tower.

As currently proposed by the developer this is NOT Affordable Housing. For all of the risks that this project presents to the neighborhood, note that the Toll project still does not meaningfully address Newton's affordable housing crisis. We do not have a luxury housing crisis. After Toll tears down the two Victorian 2-family homes on Hurley Place, the project will offer a net of only 5 TRULY affordable units out of the nearly 184 units proposed. Back in 2022 Toll projected rents for market units to be $3500 for a ~700 sq ft 1 BR apartment, $5000 for a ~1100 sq ft 2 BR and $6000 for a ~1400 sq ft 3BR. This is out of reach for most families. A 2 BR "affordable" unit is $2700. The project does not provide affordable homes for families who want to invest in Newton, our schools and quality of life.

The new development is disproportionately large for the neighborhood with 6 stories of 184 new units developed on 2.5 build-able acres of currently undeveloped property.

It makes the current road condition even more DANGEROUS FOR OUR KIDS. We reject the proposal that a bike lane along Route 9E and the 528 project will be safe for kids to travel to school. We DEMAND A PEER REVIEW OF THE TRAFFIC STUDY submitted by the developer, who claims there will be "no significant impact" on our roads. We reject the assumption, that only 8% of new residents will commute! The new project is very close to the Newton South High School and 2 middle schools. We are very proud of all the young people walking, biking and driving to schools. Please do not endanger them by approving this project.

We reject the notion that 184 new units developed on 2.5 build-able acres of currently undeveloped property, adjacent to wetlands and Paul Brook may "slightly improve" flood conditions in our area. We have NO ASSURANCE that conditions will not worsen. Please prevent our basements from flooding due to this project development!

Sincerely,

Julia Pogrebnyak
96 Olde Field Rd
Newton, MA

April 29, 2024

Dear Newton ZBA Members,

Following the previous ZBA meeting in April, we are even more concerned that the right questions about the 528 Boylston Street project are not being asked to determine the scope of the project's impacts on safety, wetlands, and flooding as well as the effectiveness of proposed mitigation measures. This is especially concerning because the unprecedented size of the project significantly limits options for mitigation measures in the future if currently proposed measures are inadequate. In addition, depending on the specific issue, it is possible that Newton will not have sufficient leverage to ensure that Toll Brothers implement additional measures if they are determined to be necessary.

Groundwater: The community had been expressing concerns about flooding due to changes in groundwater levels and flow for over one year before the ZBA and Newton engineers acknowledged a potentially significant issue existed. Fortunately, the ZBA decided to postpone the decision to vote on the project at the April 10 meeting. Unfortunately, only three weeks were available for an investigation of impacts of the groundwater on flooding before the planned vote on May 1. This appears to be an inadequate amount of time for a thorough risk assessment and, if necessary, the development of an adequate mitigation strategy.

Traffic and pedestrian safety: The question that the BETA Group traffic engineer was asked about residual concerns about the project's impacts on safety was very high-level and there was a limited amount of time available to consider a response. The likely result of these two conditions is that the engineer would not extend the assessment beyond what had already been considered in previous work and, therefore, would be less likely to identify limitations of that work that could have safety impacts without sufficient mitigation.

Although it was encouraging to hear that Mass DOT will be involved in reviewing the project from a traffic safety perspective, there is a concern that the review will not necessarily address all relevant conditions that would affect safety. The proposed project will increase the complexity of traffic flows (large mix of accelerating and decelerating as well as crossing patterns of motor vehicles) and the proximity of walkways for pedestrians, including school children, near the proposed project. This seems to be a relatively unique condition for a state highway. It is unknown how deep the level of experience at Mass DOT is in evaluating what appear to be unique conditions or how adequate the available tools are for handling them.

In addition, it appears that the impact on traffic conditions from the completed project have not been adequately characterized to produce realistic assessments of safety impacts and mitigation measure effectiveness. Previous analyses have been based on assumptions about the number of motor vehicles entering and exiting the site per hour that appear to be unrealistically low.

A major component of the mitigation strategy is the expansion of the breakdown lane at the end of the Parker Street on-ramp. The expanded breakdown lane will be supporting four entrances onto and three exits from Route 9 East. It is not clear that unintended but likely uses of the expanded breakdown lane have been adequately factored into the analysis of safety risks: The breakdown lane may not provide the expected/desired mitigation of safety risk.

Recommendations: We recommend that the ZBA not approve the project as currently designed since there are unaddressed questions about significant safety and flooding issues associated with the project and the project's size limits the mitigation measures available in the future to mitigate issues that may arise from the unaddressed questions. If the project is approved, then as part of the approval, the conditions proposed by the Newton Impact Committee regarding contingency plans to address

groundwater-based flooding and project oversight and accountability, among others, discussed in their letter dated March 30, 2024, should be included. In addition, additional time should be provided to peer reviewers, particularly those addressing traffic safety, to thoroughly review community concerns, verify that there are no significant residual concerns associated with the proposed project, and propose additional mitigation measures or contingency plans to address those concerns if necessary.

Thank you for your consideration.

Sincerely,

Joseph Rajkowski
Patricia Sheehan
68 Olde Field Road
Newton, MA 02459

From: Ellen Shapiro <ellen_shapiro@verizon.net>
Sent: Monday, April 29, 2024 1:51 PM
To: (null) (null) <mussey45@yahoo.com>; Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: Re: A Heads Up for Our Streets

Matt-

Today is the last day you can write to the ZBA:

bbelsanti@newtonma.gov

about your gas leak experiences. You can even send pictures of what is going on. Your words below are strong and important and I hope you will do it.

Brenda is the secretary to the ZBA.

Letter should reference 528 Boylston in Subject heading

Salutation:

Michael Rossi, Chairman, and all ZBA members.

Ellen

On 4/29/24 11:45 AM, (null) (null) wrote:
This has been going on so long. Another loose end in the rtr 9 project. I got sick of smelling gas wafting through my yard

Sent from my iPhone

On Apr 29, 2024, at 11:32 AM, Ellen Shapiro <ellen_shapiro@verizon.net> wrote:

Matt- So glad you called re leak in this category which apparently had also spread and was noticed on Hagen and that person called the fire department. We never saw the fire department either. However, we have No gas line to or in our house; everything is electric and we smelled nothing and were not aware of any problem until the National Grid guy rang our bell.

Ellen

On 4/29/24 10:59 AM, matthew weintraub wrote:
Hi Ellen.
I don't know about fire trucks etc. I am the one that called. National Grid at 1130 am yesterday. It is amazing to me that no one in the neighbor was impressed as I. Matt

On Sunday, April 28, 2024 at 06:41:40 PM EDT, Ellen Shapiro <ellen_shapiro@verizon.net> wrote:

-------- Forwarded Message --------
Subject: Re: A Heads Up for Our Streets
Date: Sun, 28 Apr 2024 16:08:31 -0400
From:
To: Ellen Shapiro <ellen_shapiro@verizon.net>
CC:>

Fire trucks across the street from my house 145 Hagen , neigbor smells gas , called fire department
Sent from my iPhone

On Apr 28, 2024, at 3:27 PM, Ellen Shapiro <ellen_shapiro@verizon.net> wrote:
N

Good afternoon all,

Our doorbell just rang and it was a gentleman from National Grid. There is a category 1 gas leak on the corner of Sheldon and RT 9. They are testing houses for gas in the houses along Sheldon and repair is coming. Please forward to whoever you think should know. Ellen

Understanding Leak Grades & Repairs

National Grid prioritizes gas leak repairs through a classification of three grades:

- **Grade 1 - typically located in densely populated or high traffic areas - these are fixed immediately**
- **Grade 2 - considered not to be of immediate risk to life or property, but potentially may become hazardous - these are prioritized for repair**
- **Grade 3 - deemed non-hazardous to life or property - not prioritized for repair**

-----Original Message-----
From: margaret zaleski <margaretzaleski17@gmail.com>
Sent: Monday, April 29, 2024 2:00 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: 528 Boylston - opposition

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Chairman Rossi, members of the ZBA, and alternative members -

I am writing to you with my continuing concerns about 528 Boylston. I am still very worried about increased flooding of my and my neighbors' properties, and danger for the children, neighbors and the greater public should this building be approved. But most concerning is that the ZBA may allow a luxury high rise building in the middle of a sweet, single family neighborhood which will add very few 50% AMI affordable units - FIVE to be exact - to the neighborhood. The four affordable units currently on the property will be demolished and those families will have to find somewhere else to live. So, four families lose their homes and only five additional families may get a home. Seems like the ZBA is forcing the neighborhood to take a terrible risk for such small gains. I support affordable housing, and urge the ZBA to deny this permit and wait for an applicant who takes providing affordable housing seriously, instead of granting a permit to a developer whose only goal is to make as much money as possible by using 40B to get around local zoning laws.

I write again today about noise, as I have been doing for over a year now. The response from Toll and the ZBA has been silence. Noise is recognized as a serious public health issue, and one's risk of harm goes up with every 4 decibel increase in noise. The internet is replete with studies showing the harm, and I have pointed out the harm in my last submission and also in my oral statement. Route 9 is a two lane highway, not a country road. Vehicles are allowed to travel, if there is space on the road, up to 50 mph. Cars, trucks, buses, fire engines, and motorcycles travel the road day and night. It is noisy enough as it is. The additional of a wall (the building) for the noise to bounce off of could make the noise north of the building impossiblely loud.

Noise above 70 dB(a), according to the world Health Organization and the U.S. Environmental Protection Agency, is the maximum noise level one should be exposed to over the course of a normal day to prevent hearing loss. Noise over 35 decibels is enough to cause sleep disturbances and disruptions to concentration. If you live within 50 feet of a highway, you are typically exposed to noise levels between 70 and 80 dB(a). Noise has been shown to cause stress, depression and anxiety, heart attacks and deaths, ischemic heart disease, stroke, and hypertension. (https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ffrontiergroup.org%2Fresources%2Fthe-many-ways-traffic-noise-is-damaging-your-health%2F%23%3A~%3Atext%3DA&data=05%7C02%7Cbbelsanti%40newtonma.gov%7C13c3b0c4f2234992529608dc68762ee4%7C2a3929e0ccb54fb381402e2562c90e96%7C0%7C0%7C638500104043257831%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=MyJ7ko%2F5HmeaeFPSL3%2Br2Z%2FicsZtnQMGWPrfjKVV0U4%3D&reserved=0 2020 meta-analysis of,the more significant the association.)

I have asked, because of the public health consequences of building such a large structure immediately next to a major highway with the expected increase in noise, for a noise study to be ordered by the ZBA.

Without such a study, how can the ZBA determine if the building will be within expectable noise limits. I submit, it cannot. And yet, the ZBA has failed to order such a study.

You all likely know how loud a tennis ball sounds bouncing off a wall. Well, the noise of 50,000 vehicles bouncing off a very large wall is much louder than that small tennis ball. The magnifying effect is still present.

I ask again, that you order a noise study, to determine if it will be safe for the neighbors who live north of the building to occupy our homes and yards.

Thank you.

Margaret Zaleski

From: Jacob Silber <jacob@jacobsilber.com>
Sent: Monday, April 29, 2024 6:16 PM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: Fwd: Fwd: [NI Committee] 528 Rt. 9 Safety proposal discrepancies - Important

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Ms. Belsanti,

Can you please include the below letter addressed to MA DOT with respect to the shift in lanes with respect to 528 Boylston project, in the packet for the ZBA?

Thank you,

Jacob Silber

---------- Forwarded message ---------
From: Jacob Silber <jacob@jacobsilber.com>
Date: Thu, Apr 25, 2024 at 2:50 PM
Subject: [NI Committee] 528 Rt. 9 Safety proposal discrepancies - Important
To: John Romano <John.Romano@dot.state.ma.us>, Muller, Benjamin (DOT) <Benjamin.Muller@dot.state.ma.us>, Anna Duffy <anna.a.duffy@dot.state.ma.us>, Powell, Richard (SEN) <Richard.Powell@masenate.gov>, Vezarov, Emil G. (DOT) <Emil.Vezarov@dot.state.ma.us>
Cc: committee@newtonimpact.com <committee@newtonimpact.com>, Grew, Matthew (DOT) <Matthew.Grew@dot.state.ma.us>, Cynthia Creem <Cynthia.Creem@masenate.gov>, Casey, Garrett (SEN) <Garrett.casey@masenate.gov>, Balser, Ruth - Rep. (HOU) <Ruth.Balser@mahouse.gov>, Gridnev, Dmitriy (HOU) <Dmitriy.Gridnev@mahouse.gov>

MA DOT staff,

It's come to the attention of the Newton Impact Committee that the 528 Boylston developer, Toll, has proposed removing the breakdown lane on a portion of route 9 in favor of a merge lane. However, based on preliminary measurements by Rob Sellers and Paul Stein, insufficient space exists to do so.

Please see the attached letter we sent with respect to this. We have asked now for over a year and a half that some sort of state traffic evaluation of this site be done prior to project approval.

Sincerely,
Jacob Silber and Newton Impact team

From: robshahome@gmail.com <robshahome@gmail.com>
Sent: Tuesday, April 23, 2024 10:20:42 PM

To: 'Brenda Belsanti' <bbelsanti@newtonma.gov>
Cc: dkalis@newtonma.gov <dkalis@newtonma.gov>; sfarrell@newtonma.gov <sfarrell@newtonma.gov>; rlipof@lipofres.com <rlipof@lipofres.com>; bheath@newtonma.gov <bheath@newtonma.gov>; kwhewell@newtonma.gov <kwhewell@newtonma.gov>; 'Newton Impact Committee' <committee@newtonimpact.com>
Subject: 528 Rt. 9 Safety proposal discrepancies - Important

Subject: Toll Traffic Proposal - CRITICAL

Hello Ms. Belsanti,

Can you forward this email to Ms. Lipsitt and the ZBA along with the attachments?

Hello Ms. Lipsitt (and others),

Thank you for your neighbor-supportive questions about Route 9 safety at the April 10th ZBA meeting on behalf of the neighborhood and the Newton residents that travel Route 9.

We think that the attached photos of Route 9 with measurements might be helpful to compare to Toll's Route 9 improvement proposal. Although we support the concept of a 10' merge lane and an improved sidewalk, the Toll proposal doesn't seem congruent with the available space. Note that their proposal requires 25' from the Parker ramp to Dudley but we are measuring 8.5' - 17'. Where will the remaining 8' to 16.5' come from? We also are concerned about the safety impact on pedestrians and bikes by eliminating the breakdown lane and of cars accelerating and decelerating in the same lane. We ask to see the state's safety assessment of that section of Rt. 9 and their review and endorsement of Toll's proposal.

Please also note the unanswered traffic safety questions and common sense safety conditions we included in Newton Impacts letter to the ZBA sent 4-5 (see attached).

The 150 neighbors on the zoom call and those in the room were disappointed to not have their most critical questions and concerns about safety, flooding, and project design addressed during what was expected to be the final public hearing on April 10th. These concerns the same concerns the 1300 families who signed the petition have been carrying since the project was first discussed in November of 22. The neighbors would like to hear the answers to those questions in the attached letter during the meeting on May 1st.

We respect the difficulty of the ZBA's decision on May 1st . Is the ZBA convinced that proposal mitigates or will it irreversibly raise the flooding risks to neighbors and the safety risks to students and commuters? Is Toll's final proposed project now the right project for these 2.5 buildable acres and wetlands?

Best,

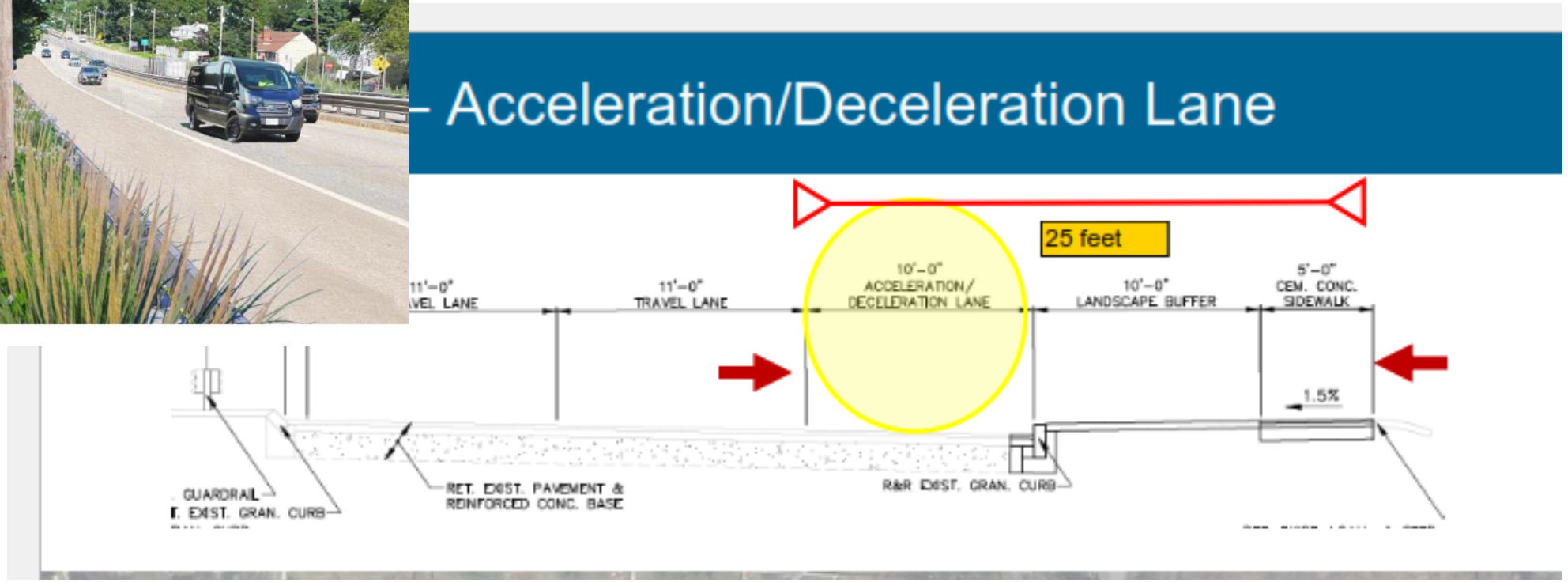
Rob Sellers and Paul Stein on behalf of Newton Impact

--
Committee mailing list
Committee@newtonimpact.com
http://newtonimpact.com/mailman/listinfo/committee_newtonimpact.com

REASONABLENESS TESTING TOLL'S PROPOSED RTE 9 SAFETY ENHANCEMENTS

TOLL IS ADDING A PROJECTED 714 CAR TRIPS PER DAY BUT IS PROMISING A SAFER RT 9 FOR DRIVERS AND PEDESTRIANS

Toll promises a 5' sidewalk and a 10' landscape buffer to separate pedestrians from the 50mph traffic and a 10' acceleration / deceleration lane to make it safer for vehicles to merge (25' total).



WHERE IS THERE ROOM FOR A 25 FOOT WIDE SIDEWALK+BUFFER+MERGE?

AVAILABLE SPACE VARIES FROM 8.5-17 FEET. NOWHERE IS IT 25'

8.5' to 16' available for the Parker Rt 9 east ramp (breakdown lane starts at 0')

Tenants are slowing in the merge lane and neighborhood drivers are accelerating from Olde Field

14 ft after exiting the project for vehicles and pedestrians, not 25'. Note the hill, requiring a longer merge.

The bridge over Paul Brook, the abutters' fences and trees are all constraints to widening.

GUARD RAILS AND BREAK DOWN LANES ARE CURRENTLY PROTECTING PEOPLE AND PROPERTY -

BEFORE THE GUARD RAIL

AFTER THE GUARD RAIL

THE BREAKDOWN LANE SERVES AS A BUFFER BETWEEN CARS AND PEDESTRIANS

WE SHOULD ALL SEE THE STATE'S ROUTE 9 TRAFFIC STUDY AND REVIEW/ENDORSEMENT OF TOLL'S PROPOSAL

…BEFORE THE ZBA CONCLUDES THAT THE PROJECT WON'T MAKE RT. 9 AND THE NEIGHBORHOOD MORE DANGEROUS TO CARS, BIKES AND PEDESTRIANS

Questions for ZBA and if Toll Project is approved, list of Neighborhood Priority Requirements

Saturday, March 30, 2024

Newton Impact Committee feels this project is far from ready to be approved (see letter from Geoffrey Norman, dated April 5, 2024). However, if you choose to move forward and approve the project, we have critical requests. The neighborhood has sent its concerns multiple times beginning November of 2022 with many concerns in the highest priorities of safety, environment and scale still unaddressed.

NEIGHBORHOOD QUESTIONS

The neighborhood requests that the ZBA ask the questions in red font of the Peer Reviewers and others at the April 10 ZBA meeting to help alleviate neighbor's concerns.

1. Groundwater risks:

   The neighborhood continues to have serious concerns about the high risk of increased flooding. Mr. Horsley concludes that testing thus far is inadequate. Per his letter to Mr. Rossi dated April 4,

   "In order for the ZBA to make an informed judgment about whether to allow such a waiver — and to what extent — it must first understand the consequence of granting it. The Applicant has not provided enough information to make such an informed determination yet."

   a. Would Peer Reviewers find it reasonable that the groundwater aquifer is flowing through the 528 site from areas a half a mile North and East (route 9) and downgradient to the hundreds of homes South and West down Hagen and across Parker as this topography map seems to indicate?

      528 topogrphy.jpg

      - Has the Peer Reviewer considered the impact of the project to this aquifer? Is the containment system designed to capture water from this aquifer?

   b. How will Toll address the following recommendations from HW in its March 15, 2024 letter?

      - "HW encourages the Applicant to incorporate any additional measures to infiltrate the stormwater before it flows off-site to assist with the neighborhood flooding issues down gradient of the property. Suggestions include using porous pavement, increasing the footprints of the infiltration chambers, or using a perforated pipe along the south side of the building between AD 11 and DMH 2." [HW March 15, 2024 letter: 3.k.]
      - Regarding the new trench closer to Hagen: "The Applicant has also modeled the trench in HydroCAD with a 165-foot-long weir overflow device that does not appear realistic." [HW March 15, 2024 letter: 3.a.]

   b. The often quoted "project is a small percentage" refers to the Toll's acreage relative to the entire watershed flowing into Paul Brook.

- Is the Peer Reviewer aware that Paul Brook is lined in concrete and is not the source of flooding for neighbors south of 528? The basements of the 100's of neighbors downhill from 528 that are flooding long after the rain has stopped is from the aquifer (ground water), not an overflowing brook.

c. We understand a Civil Engineer's expertise is limited to run off and a hydrologist's expertise is groundwater. Has a hydrologist evaluated the project impacts of the "3 levels of underground parking" (HW 3.15.24) and the project in general in displacing and diverting the water table and the risk that the project will make the neighborhood basement flooding worse? Note that the maximum lot coverage under zoning is 15 – 20% and the proposed project far exceeds that coverage at 42%.

d. HW noted that "the Monitoring Wells recommended by Mr. Horsley have been found useful on some sites".[HW March 15, 2024 letter: 26] Why isn't it appropriate to use monitoring wells for this site given the amplified flooding risks? These monitoring wells should be placed at the filtration sites along with at the western and southern property lines of abutters to document current ground water levels and compare during and after completion if problems arise.

e. Why aren't monitoring wells to confirm groundwater levels being required now during the wet season? This appears to be a small investment and minor delay and avoidance reinforces the neighbors' fears that the developer shares our fears about what they will learn. Testing should be required prior to approval to confirm groundwater levels.

f. Why didn't HW feel it was necessary to require test pits at the actual location of each proposed infiltration system in accordance with the MADEP Stormwater Handbook? Per Mr. Horsley, "the accuracy of the groundwater mounding analyses is directly dependent on subsurface conditions …including depth to bedrock, depth to groundwater, and the permeability of soils".

g. Did the groundwater mounding analysis include the 25-year design storm? The groundwater mounding analysis appears to be limited to a maximum 2-inch storm. Without considering the 25 year storm, Mr. Horsley concludes that it is probable that the project will adversely impact the wetlands and neighborhood flooding.

h. How will the ground water below the containment system be monitored to determine whether the groundwater to the neighborhood is sufficiently captured? What is the contingency plan if neighborhood flooding gets worse during and after construction of this large apartment complex and underground parking garage, especially given global warming?

i. Given that Paul Brook is lined in concrete, is ground water adequately able to enter the brook? What are the various Paul Brook watershed tributaries/entrance points. Is there a potential for adding more?

j. Given the concerns and unanswered questions expressed above, are the City of Newton and its engineers ready to go on record that the proposed building, parking lot and other impervious and below grade structures will not make flooding in the neighborhood yards and basements worse? "We think it will be a little bit better" from the civil engineers is unacceptable given the risks presented by the project and this site with potentially catastrophic impacts on the neighborhood.

2. Safety

   a. Are these assumptions about neighborhood traffic and safety impacts reasonable?

      - **Toll's** engineer **assumes that only 8% of the tenant cars will be commuting** to work or taking their kids to day care during morning rush hour (19 vehicle trips/243) however the American Community Survey (ACS) by the Census Bureau cited by Vanasse & Associates found that **73% of workers during COVID were commuting to work**, almost 10x more than the MDM assumption and likely to rise post COVID. It also doesn't include parents who work from home and need to take their kids to school or day care.
      - MDM is spreading out "rush hour" impacts between 7 -10 AM. **A more realistic rush hour of between 7-9 would add 50% more cars per hour**.
      - MDM assumes that the decrease in trucks from Sam White will offset the tenant vehicles, however landscaping trucks choose when to come and go and can avoid peak rush hour. Neighbors adjacent to Sam White note that most trucks enter and leave after 9:00 or before 8:00 AM.
      - Isn't the industry standard of 3 car trips per day per car applicable to this project? If so, we should expect the project will add 236 cars and 708 car trips per day to route 9 and the neighborhood.

   b. If there were >10x more cars from the project commuting to work, why shouldn't the neighborhood be concerned that cars intending to travel South, West or even North would take Dudley or park in the neighborhood to avoid having to turn around at Hammond Pond Parkway? Why hasn't there been a neighborhood traffic safety study to consider this potential impact and the risks to students commuting to elementary, middle and high schools?

   c. Did the Toll engineer evaluate a separate entrance and exit as suggested by Beta to improve the safety of cars merging from Olde Field and streets West (including Parker)?

   d. Are these plans for Route 9 safety mitigation correct?

      - Toll is working with the state on a Parker / east bound route 9 one lane onramp that extends to Olde Field, 528 and up to Dudley (3/13/23 ZBA meeting).
      - Toll plans to widen the 4.5 foot sidewalk and add a tree barrier between the sidewalk and Route 9 (currently 2.5 feet).

      If so, where is the widening going to come from? The Route 9 breakdown lane currently varies from 0' to 10', with less than a 6' shoulder available east of the 528 entrance available as a merge lane for tenants. The current shoulder is constrained by the Paul Brook bridge, the rock outcropping to the east of 528, and of course neighbors' properties that have mature trees right against their fences.

   e. Who in the city is accountable for construction issues and damage noted by neighbors (noise, water, air pollution, blasting)?

3. Project Design

a. Does the Conservation Committee believe that the tree density presented in Toll's drawings and simulations is reasonable for the survival of the trees? If not, we would like to see a simulation of the trees in a reasonable density. Is it realistic that trees in this environment will grow 1 foot a year?

b. Schlesinger and Buchbinder are presenting a comparison of Newton projects using the FAR calculation to demonstrate the density of this project is comparable to other projects. This calculation is based on the assumption that the project is being built on 5.82 buildable acres. We understand the buildable acres are closer to 2.5. **Using a generous acreage of 2.5, the FAR would be 3.1, not 1.35**, far exceeding the FAR of Dunstan East, Riverdale and Northland Charlemont (the **next highest FAR is 2.33** which is also notably in a mixed use area). Which FAR comparison, the 5.8 denominator or the 2.5 denominator, does the civil engineering peer reviewer feel is more reasonable? The neighborhood still envisions a 75 unit garden style, multiple building townhouse complex best fitting the 2.5 buildable acres of this site and the neighborhood.

PRIORITY REQUIREMENTS:

If the ZBA decides to assume the risks and approve this project without further study, the neighborhood presents the following list of the most critical requests:

1) Prevent Increased flooding:

   a) Follow recommendations of Scott Horsley in letter dated 4/4/24, inclusive of the installation now of more appropriately placed test pits and ground water monitoring wells in locations recommended by a hydrologist and overseen by the City of Newton. There should be at least two wells, one above the containment system and below the containment system near Hagen Road to measure the groundwater that is not captured by the containment system. This testing should happen immediately to get the wet season readings and project approval should be conditional upon findings.

   b) Create a contingency plan if the groundwater flooding to neighbors worsens after the project as determined by the monitoring wells. This would be based on measurements from monitoring wells listed above. Can the containment system be expanded or additional water table diversions be added to the project's containment system? Can Paul Brook tributaries/inlets be added upstream?

   c) Require pervious path and fire truck access surfaces, such as crushed stone.

2) Safety

   a) Reduce the speed limit on Route 9 from Parker to Langley from 50 to 40 mph.

   b) Prevent tenant southbound/westbound/northbound commuters on Dudley and during school arrival times with a "No Right turn" off Route 9 onto Dudley during morning rush hours.

i) 

c) Permanent and absolute ban of vehicular traffic from and into the project from Hagen, Olde Field and Dudley Roads. Permanent means that the purchase of additional parcels of land by the Developer on Hagen, Olde Field or Dudley Roads will not give the project access to these streets in the future.

d) Require permit only parking on neighboring streets (possibly resident only stickers and guest tags)

3) <u>Minimize negative impacts to abutters</u>

a) Add a 20 foot privacy and sound fence in a color to match the surroundings followed by a planting of 12-20 foot evergreens for all abutters. For Olde Field abutters, we would like the fence to be between the project path and the trees. Space for the fence can be created with a 5' sidewalk and a reduction of benches, with no bench in the walkway span between abutters on Hagen. For Hagen abutters, the fence should be on top of the berm with the trees facing the abutters. For Dudley the fence would be along the property line.

b) Light only with 3 foot ballards downward facing and on a timer to be turned off by 7pm. Lights at the back of the building on a motion detector and timers, directed downwards, and the minimum number of lights and lumens necessary.

c) Allow any abutter to build up to a 12 foot fence on their own property if they desire, including a sale clause transferring to a new owner of their home in perpetuity (no special permits required, by right, in perpetuity.

d) Monitors on all homes that are within 400 feet from any blasting during construction. Reimburse abutters for blasting expert possible damage to foundations and masonry.

4) <u>Oversight and Accountability</u>

a) Require Toll Brothers to retain ownership and accountability for this project over the next 10 years as similar to other area projects.

b) The city produces a plan (including funding) for oversight and enforcement of the project's construction plan, Operations and Maintenance plan, insurance in case of damage to surrounding homes, and neighborhood parking and traffic safety. An account should be set aside for this purpose before, during and after construction.

c) Require Toll to create an Indemnification agreement funded by an escrow account in perpetuity for area residents for any damage to property caused by the project, such as blasting damage, flood damage to neighborhood properties, and flood insurance premiums for anyone who requires flood insurance in the future. For instance, the escrow account should allow claims

from neighbors for sump pump/french drain system installations and/or upgrades if basement flooding worsens during or after construction.

d) Require an escrow account for tree maintenance and replacement on the project site

5) Presumably to be required by the ZBA and the city of Newton…

a) Toll is required to adopt/address all recommendations from Peer Reviewers as a condition of acceptance.

b) All project requirements carry to successor owners in perpetuity.

c) A 3rd Party (Independent) Environmental Monitor Consultant would be embedded in the construction team and responsible for preventing adverse construction impacts to neighboring homes, monitoring, reporting, photographs, record keeping, etc. All records and recordings should be promptly accessible to the public.

d) Toll and its successors in perpetuity will maintain the sidewalk from Dudley Rd to Parker St during all seasons, including Parker St bike ramp

-----Original Message-----
From: margaret zaleski <margaretzaleski17@gmail.com>
Sent: Tuesday, April 30, 2024 12:11 AM
To: Brenda Belsanti <bbelsanti@newtonma.gov>
Subject: 528 Boylston

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Dear Ms. Sweet -

It has come to my attention that your mother, Doris Ann Sweet, is one of four leaders of Engine 6, which is supporting the 528 Boylston Street project. The leaders at Engine 6 have orchestrated a letter writing campaign, which has netted a number of letters of support from people who do not live in the affected area, and who do not have to worry about the safety of our children and our homes being flooded.

I want more affordable housing in Newton and at 528 Boylston, but for all the reasons you have heard over the past year or so, this proposed project is not right for the site or the neighborhood, and it creates a number of dangers that have yet to be addressed by the ZBA.

I trust you will maintain your impartiality and not be unduly influenced by your mother's work as a leader of Engine 6, which supports the project.

Thank you,

Margaret Zaleski
Retired state court judge