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September 19, 2024
Revised October 11, 2024
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Via E-mail <amanugian@dracutma.gov>
Zoning Board of Appeals
Town of Dracut
c/o Alison Manugian,
Community Development Director
62 Arlington Street
Dracut, MA 01826

Re:	Property	—	Land off Elizabeth Drive & Poppy Lane, Dracut, MA
	Project	—	The Homes at Murphy's Farm 40B
	Owner	—	O'Brien Homes, Inc.
	Applicant	—	The Homes at Murphy's Farm, LLC

Outline of Waiver Requests

Dear Zoning Board of Appeals,

I represent The Homes at Murphy's Farm, LLC ("Applicant") in connection with its application for a Comprehensive Permit ("Application") to approve its proposed residential development of land ("Project") located in the Town's Residential 1 Zoning District ("R-1 District") between Poppy Lane and Elizabeth Drive ("Property"). I write this letter to update and revise the Applicant's prior waiver requests to reflect the plan currently under consideration by the Board entitled "Murphy's Farm, Dracut, MA 01826", dated April 22, 2024 revised through 09/15/2025, consisting of sheets C-1 through D-6 ("Project Plan").

Zoning Requirements

1) Zoning Dimensional Requirements. Compliance of the Project with the zoning dimensional and parking requirements of the Dracut R-1 District is reflected in the following table. The Applicant requests waivers from Zoning Bylaw § 4.1 (Standard Dimensional Requirements) and §4.4 (Table of Standard Dimensional Requirements) for, Minimum Lot Frontage and Maximum Lot Coverage, and to the extent necessary, Minimum Lot Width and Minimum Rear Setback, as described below and as shown on the Project Plan:

Dimension/ Criteria	Requirement	Actual
Minimum Lot Area	40,000 square feet	33.3 acres (30.26 acres upland)
Minimum Lot Frontage	175 feet	60 feet (Elizabeth Drive) 52 feet (Poppy Lane) Waiver Required
Minimum Lot Width	50 feet	>50 feet ¹ Waiver Requested
Minimum Front Setback	30 feet	> 30 feet
Minimum Side Setback	15 feet	35.1 feet
Minimum Rear Setback	35 feet	35.1 feet
Maximum Building Height	35 feet	35-42 feet ²
Maximum Stories	2.5 stories	3 stories Waiver Required
Maximum Lot Coverage	30%	29.6 %.
Minimum Parking	2 per unit (268 units * 2 spaces = 536 spaces)	549 spaces

2) Multi-Family Use. (Waiver Required) Under § 3.3 (Table of Permitted Uses) of the Zoning By-Law, multi-family dwellings are prohibited in the R-1 District. Via the Project, Applicant proposes to construct twenty-eight (28) multi-family dwellings on the Property as shown on

¹ It is unclear under the Zoning Bylaw how to determine the precise Lot Width for the Project Property, however, any reasonable determination of Lot Width would appear to greatly exceed the 50 feet requirement. If and to the extent necessary, a waiver of the Lot Width requirement is requested.

² In accordance with direction received from the Town's Building Inspector, Building Height has been measured from the expected, average finished grade around the building to a point midway between the building's soffit and roof ridgeline. The distance from top of foundation to a point midway between the building's soffit and roof ridgeline is 35', however, finished grade in the area of each building will determine Building Height for each building according to the methodology , this may be as high as 42' for some buildings. Therefore, the Applicant requests a waiver from the Maximum Building Height of 35' to allow a Building Height of up to 42'.

the Project Plan. As such, the Applicant requests a waiver from the requirements of § 3.3 to allow for construction and occupancy of multi-family dwellings.

To the extent that § 7.2 et seq of the Zoning By-Law (“Multifamily Development”) may require additional submittals, analyses, criteria, or processes for multi-family development, Applicant requests a waiver of the same and that the review and approval required be subsumed and incorporated into the Comprehensive Permit.

- 3) Multiple Principal Structures. (*Waiver Required*) The Project will include multiple principal structures on a single lot as shown on the Project Plan. Applicant requests a waiver from Zoning By-Law § 4.4.1 to allow 28 principal structures on a single lot.
- 4) Site Plan Review. (*Waiver Requested*) The Applicant expects that Site Plan Review will be considered as part of its submission to the Board. To the extent any of the Site Plan Review provisions of the Zoning By-Law (i.e., §§ 2.4 et seq.) or any of the provisions of the Planning Board’s Rules and Regulations Governing the Granting of Site Plan Review could be interpreted to prohibit or require any alterations to Applicant’s Project, as proposed, including, but not limited to, alterations to planned lighting (§§ 2.4.3I; 2.4.11), landscaping and drainage (§ 2.4.3E; § 2.4.3L), parking (§ 2.4.3C), access (§ 2.4.3A; § 2.4.3B), screening (§ 2.4.3 G), or grading, or require submission of additional information or materials not provided by the Applicant, the Applicant requests a waiver from those requirements and that the review and approval required by the Site Plan Review provisions be subsumed by and incorporated into the Comprehensive Permit.

Subdivision Control

- 5) Subdivision Regulations. (*Waivers Requested*) Although the Project is not proposed as a definitive subdivision, to the extent any provisions of the Planning Board’s Subdivision Regulations may be considered applicable to the Project and not met, the Applicant requests waivers therefrom as necessary for the Project as depicted on the Project Plan. These requested waivers specifically include the following items as identified by the Board’s civil engineering peer reviewer:
 - A. Subdivision Regulations 6.2.1.5- Definitive Subdivision application procedure
 - B. Subdivision Regulations 7.4.3- Cul-de-sac or two means of egress required, roadway “D”
 - C. Subdivision Regulations 6.4.8 #15- Typical street light detail reserved for construction plans
 - D. Subdivision Regulations 7.6.5.1- Fire Dept review of certain plan details reserved for construction plans

- E. Subdivision Regulations 6.4.5 #1- Plan scale requirements
- F. Subdivision Regulations 7.4.8- Street names reserved for construction plans
- G. Subdivision Regulations 7.6.2- Street design standards
- H. Subdivision Regulations 6.4.5.3.vi-xi- Street profile plan information
- I. Subdivision Regulations 6.3.1.7/6.4.7- Landscaping Plan details reserved for construction plans
- J. Subdivision Regulations 7.15.4/Stormwater Rules and Regulations 7.B.2.e.- Stormwater runoff peak Volumes for 2 and 10-year storm events
- K. The Applicant also requests the Board's endorsement of the ANR Plan included as sheet ANR-1 of the Project Plan

Misc. Local Requirements

- 6) **Soil Removal. (Waivers Requested)** The Project will require import and removal of soil and other earth materials, with the possibility that some soil may be removed from the site. The exact extent of import and removal is not currently determined and will be determined upon completion of construction plans for the Project. A waiver is requested from § 6.3 et seq. of the Zoning By-Law and Chapter 13, § 2 of the Town By-Laws to allow for the removal of soil and the import and removal of other earth materials as necessary to construct the Project according to the Project Plan and that approval of soil and earth materials removal under Chapter 13, § 2 of the Town By-Laws be incorporated into the Project's Comprehensive Permit.
- 7) **Wetlands Protection. (Waivers Required & Requested)** To the extent Applicant's Project, as proposed, could be determined noncompliant with any of the provisions of Chapter 18 of the Town By-Laws (i.e., the "Wetlands Protection By-Law") or the Wetland Bylaw Regulations, Applicant requests a waiver from the requirements of the same as depicted on the Project Plan and as detailed further below.
 - a. The Project proposes stormwater outlets and associated grading within 25-feet of wetland resource areas. To the extent that § 5.1.4.1.1. of the Wetland Bylaw Regulations does not exempt and allow same, the Applicant requests a waiver of § 5.1.4.1.2 of the Wetland Bylaw Regulations and Art. II of the Wetlands Protection Bylaw to allow same as shown on the Project Plan.
 - b. The Project does not propose construction of any buildings within 50-feet of wetland resource areas but does propose portions of trails, roadways, stormwater system components, utilities, and other grading and excavation within 50-feet of wetland resource areas. To the extent necessary, the Applicant requests a waiver

of § 5.1.4.1.3 of the Wetland Bylaw Regulations and Art. II of the Wetlands Protection Bylaw to allow same as shown on the Project Plan.

- c. The Project proposes 5,181 s.f. of permanent disturbance and 5,528 s.f. of temporary disturbance in the area between 50' and 100' of vernal pools, consisting of revegetating existing disturbed areas; grading; seeding; and split rail fencing, but no impervious surfaces. To the extent that § 5.1.4.1.1 of the Wetland Bylaw Regulations does not exempt and allow same, the Applicant requests a waiver of § 5.1.4.1.2 of the Wetland Bylaw Regulations and Art. II and Art. IX of the Wetlands Protection Bylaw to allow same no closer than 50' from vernal pools, as shown on the Project Plan.

8) **Stormwater. (Waiver Required)** The Project will alter the current stormwater flow on the site. The nature of this alteration is reflected in the Project Plan and the stormwater reports submitted to the Board. To the extent Applicant's Project, as proposed, is noncompliant with any of the provisions of Chapter 24 of the Town By-Laws (i.e., the "Stormwater and Erosion Control By-Law") or the Town's Stormwater Management Rules and Regulations (i.e., the "Stormwater Regulations") including, Stormwater Regulations § 7.B.2.e.- Stormwater runoff peak Volumes for 2 and 10-year storm events, the Applicant requests a waiver therefrom as follows, a.) Design point 5 - 2 year Storm (0 Ac-Ft Pre, 0.006 Ac-ft Post), 10 year storm (0.007 Ac-ft Pre, 0.028 Ac-Ft post); b.) Design point 7 - 10 year storm (0-Ac Ft Pre, 0.002 Ac-Ft Post)

9) **Municipal Utility Connection Fees. (Waiver Requested)** The Town's stated connection or "privilege" fee for new single-family residences is \$7,500. The Town's Sewer Commission has used a different method for large projects that calculates sewer connection fees at \$7,500 for each 3,000 s.f. of building area. See Sewer Commission Meeting Minutes of 11/12/2024, p. 2. To the extent this method has not been formally codified by the Sewer Commission and is not already the policy or practice of the Town, the Applicant requests a waiver from the \$7,500 connection fee, to apply a sewer connection fee to the Project calculated on a per building basis determined by taking the living area of all of the residential units in each building, dividing that area by 3,000 s.f., and multiplying that product by \$7,500, as the sewer connection fee due upon occupancy of each building in the Project.

The Site is located with the Kenwood Water District. The Applicant understands that the District charges a connection fee for a new single-family home of \$5,500. To the extent it is not already the policy or practice of the water district, the Applicant requests a waiver from the \$5,500 connection fee, to apply a water connection fee to the Project calculated on a per building basis determined by taking the living area of all of the residential units in each building, dividing that area by 3,000 s.f., and multiplying that product by \$5,500, as the water connection fee due upon occupancy of each building in the Project.

Summary Waiver List

- a) Zoning Bylaw § 4.1 (Standard Dimensional Requirements) and §4.4 (Table of Standard Dimensional Requirements),

waivers required for

- i.) Lot Frontage of 60' where 175' is required;
- ii.) Proposed 3-story buildings where 2 & 1/2 is the allowed maximum and building height of up to 37' where 35' is the maximum,

and findings of no waivers required and/or waivers for

- iii.) Lot Width requirement of 50' where it may be unclear whether same is provided;

- b) Zoning Bylaw § 3.3 (Table of Permitted Uses), waiver to allow multi-family dwellings in an R-1 district
- c) Zoning By-Law § 4.4.1 (Multiple Principal Structures), waiver to allow 28 principal structures on a 33 acre lot
- d) Zoning By-Law §§ 2.4, et seq. (Site Plan Review), as necessary see above
- e) Subdivision Regulations, as necessary see above
- f) Zoning By-Law §§ 6.3, et seq. and Chapter 13, § 2 of the Town By-Laws (Soil and Earth Materials Removal), as necessary see above
- g) Wetlands Protection Bylaw Art. II & IX and Wetland Bylaw Regulations § 5.1.4.1.2 & § 5.1.4.1.3, waivers requested as necessary for,
 - i.) stormwater outlets and associated grading within 25-feet of wetland resource areas
 - ii.) portions of trails, roadways, stormwater system components, utilities, and other grading, excavation and planting within 50-feet of wetland resource areas
 - iii.) disturbance in the area between 50' and 100' of vernal pools, consisting of revegetating existing disturbed areas; grading; seeding; and split rail fencing, but no impervious surfaces
- h) Stormwater Management Rules and Regulations § 7.B.2.e., waiver required for stormwater runoff peak volumes for 2 and 10-year storm events in excess of limit
- i) Waiver to clarify and set sewer and water connection fees

Very truly yours,
JOHNSON & BORENSTEIN, LLC

/s/ DONALD F. BORENSTEIN

Donald F. Borenstein

Cc: The Homes at Murphy's Farm, LLC
Thomas Schomburg, Civil Design Consultants, Inc.

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