



October 16, 2025

BY HAND DELIVERY

Dracut Zoning Board of Appeals
Dracut Town Hall
62 Arlington Street
Dracut, MA 01826

Re: Chapter 40B Application - The Homes at Murphy's Farm, LLC

Dear Members of the Board:

As you know, this Firm represents neighbors and abutters to the proposed development project (the “Project”) referenced above.¹ Since this public hearing opened, we have commented extensively on a variety of project design issues, including analyses provided by our civil engineering consultant, John Chessia, P.E., and our wetlands scientist, Patrick Garner. Despite numerous plan changes, the Project still represents an over-utilization of its site, presenting numerous public safety and planning concerns. There are certainly ways to mitigate these impacts, including most obviously reducing the size and scale of the Project.

Since the Applicant has not made the changes to its Project that would address the outstanding concerns, we respectfully suggest that the Board impose the necessary conditions to do so on its Comprehensive Permit. Through this letter we are offering specific language that you can use for your “findings” and “conditions.”²

Proposed Findings for Comprehensive Permit

A. Subdivision Rules and Regulations: Incomplete List of Requested Waivers.

1. The Applicant’s requested waiver list is incomplete, because it lacks itemization of the Subdivision Rules and Regulation provisions with which the Project does not comply. While the Project is not technically a subdivision in the sense that individual lots are not proposed, Chapter 40B regulations are explicit that “the Board may look to subdivision standards such as requirements for road construction as a basis for project conditions, in which case the Applicant may seek waivers from such requirements.” 760 CMR 56.05(7).
2. The nonconformities with Dracut’s subdivision design standards are as follows:

¹ Citizens Against Reckless Development In Dracut (CARDD), and Tim Murphy, 5 Poppy Lane, Dracut, MA 01826.

² This list of proposed condition is not intended to be exhaustive.

| Subdivision Regs | Requirement | Proposed Condition |
|-------------------------|---|---|
| (§ 7.4.3) | Residential buildings shall be located on roads with two means of egress or a cul-de-sac | All dead-end roads must have cul-de-sacs conforming to town's subdivision standards. |
| (§ 7.6.5.1) | <p>Site plan must demonstrate that there is sufficient space for emergency vehicles to maneuver around the Site.</p> <p>Here, the turning movements overlap with curbs, and come very close to, if not overlap with, parking spaces. This leaves no room for error, if for example a truck is blocking the travel lane, or sticking out of one of the parking spaces.</p> | <p>All roads must meet state Fire Prevention Code standards.</p> <p>E.g., prohibiting “the use of the opposite travel lane [] in the design of all new fire apparatus access roads.” See, Section 8.2.3.4.8.</p> |
| (§ 7.15.1) | <p>The Stormwater Management design results in greater peak volume of runoff than under existing conditions.</p> <p>Excess runoff is proposed to be directed towards abutting properties with wetlands (Basin IB-3 and 4 Poppy Lane), which could result in flooding on abutting property.</p> | Require drainage design to be corrected so that watersheds to Design Points 7 and 8 are the same for pre- and post-development conditions, and are logically based on actual site conditions (topography). See Hill Law Letter 9-18-25. |
| (§ 7.15.1) | <p>Drainage design must “preserve existing hydrologic regime.”</p> <p>Applicant has refused to provide a water budget that includes groundwater impacts, which is important given that Basin IB-3 and its outlet is within 100' of 2 vernal pools.</p> | <p>Require drainage design to be balanced to preserve hydrologic regime.</p> <p>Require complete water budget analysis demonstrating this before any site activities under the 40B permit.</p> |

| | | |
|------------------|--|---|
| <p>(§ 7.6.5)</p> | <p>The Regulation caps dead-end roads in the R-1 zoning district at 850 feet, to serve no more than 10 houses.</p> <p>The northern road is approximately 900 feet long, and the southern road is approximately 980 feet long. Each road serves 14 multi-family buildings. Neither road has a cul-de-sac.</p> | <p>Require compliance with 850' dead end length cap.</p> <p>Require conforming cul-de-sacs.</p> <p>Allow <i>partial</i> waiver of 10 home cap, for up to 14 buildings on each dead-end road, each building to contain no more than 4 units each (each proposed building currently has up to 12 units each).</p> |
| <p>(§ 7.20)</p> | <p>Regulation instructs the Planning Board to require parks “suitably located for playground or recreation purposes or for providing light and air.”</p> | <p>Require a playlot of 1,500 – 5,000 square feet, a playground of 1.25 – 5 acres, and a park of at least 1 acre.³</p> |

3. The most alarming nonconformities with Dracut’s subdivision design standards concern public safety issues: the excessively long dead-end roads (each lacking a secondary access), and the inadequate space provided for Dracut’s emergency vehicles.
4. The primary rationale for limiting the length of dead-end streets is to ensure that public safety personnel can effectively respond to emergencies on streets with only one access point. “[Dead end street regulations] are enacted because of a concern that the blocking of a dead-end street, as by a fallen tree or an automobile accident, will prevent access to the homes beyond the blockage particularly by fire engines, ambulances, and other emergency equipment.” Nahigian v. Lexington, 32 Mass. App. Ct. 517, 521, and n.3 (1992), citing, Wheatley v. Planning Bd. of Hingham, 7 Mass. App. Ct. 435, 450, n.23 (1979). As stated above, each of the two proposed dead-end roads exceeds Dracut dead-end road length cap of 850 feet, and serves more than the maximum 10 housing units.
5. The swept path plan demonstrates that the roadway design does not comply with the provisions of the Fire Code that prohibit “the use of the opposite travel lane [] in the design of all new fire apparatus access roads.” See, Section 18.2.3.4.8. The plan shows the ladder truck using the entire width of pavement when making turns out of the dead-end roads onto the main road connecting Elizabeth Drive and Poppy Lane. The Fire Code is not waivable under Chapter 40B.

³ The American Planning Association (“APA”) has compiled a survey of leading planning organizations who have studied outdoor recreational standards for new developments, and recommends that a new neighborhood of the size represented here would typically require a playlot of 1,500 – 5,000 square feet, a playground of 1.25 – 5 acres, and a park of at least 1 acre. APA, “Standards for Outdoor Recreational Areas,” Report No. 194, Jan. 1965.

6. The Board's responsibility in reviewing this 40B application is to weigh the need for housing against the need to *protect the health or safety of the occupants of the proposed housing*. G.L. c. 40B, §20. This project design, which features dead-end roads that violate town standards, and which will make it unnecessarily difficult for Dracut fire department personnel to respond to emergencies, does not strike the appropriate balance contemplated by the statute.
7. The Board finds that the above-listed provisions of the Subdivision Rules and Regulations are necessary to protect public safety, imposes the conditions as listed in the table above.

B. *Zoning Bylaw*

| Zoning Bylaw | Requirement | Proposed Condition |
|---------------------|--|---|
| (§ 4.4) | Height of structures limited to 2.5 stories and 36 feet. | Waiver Denied. Any building facing Rinzee Road and Poppy Lane shall be limited to 2 stories. |

8. Zoning Bylaw, Section 4.4, restricts the height of buildings in the R-1 zoning district to 36 feet and 2.5 stories.
9. The Applicant's October 7, 2025 revised plans for the proposed buildings adjacent to Poppy Lane and Rinzee Road claim to show buildings with 2.5 stories. However, these buildings would still have 3 levels of living space, each level containing four units that are all roughly the same size, with the third level to have shorter ceiling heights. However, this does not render the third level a "half story." The Zoning Bylaw does not define "story," but the State Building Code states that a "story" is "[t]he vertical distance from top to top of two successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters." 780 CMR 5.02.
10. Mass. General Laws defines "Half story" in the context of tenement houses as "any story included in the roof, the cubic contents of which, exclusive of cockloft or blind attic not exceeding three feet in height at the highest point, is not more than sixty per cent of the cubic contents of the first story." G.L. c. 144, s. 2 (emphasis added). The third floor of the Applicant's proposed building type would not qualify as a half story under that definition, as it contains approximately the same cubic contents as the first floor.
11. The proposed buildings adjacent to Poppy Land and Rinzee Road do not have 2.5 stories, they have 3 stories, and therefore a waiver is required. These buildings are as close as 35

feet to the abutters on Rinzee Road, and are close to and at a higher elevation than the abutters on Poppy Lane.

12. Under Chapter 40B, Section 20, the need for housing is specifically balanced against “the need to protect the health or safety of the occupants of the proposed housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces.” G.L. c. 40B, § 20 (emphasis added).
13. Based on the need “to promote better building design in relation to the surroundings,” the Board finds that any building abutting Rinzee Road and Poppy Lane shall be limited to 2 stories, all other structures shall be limited to 2.5 stories and 36 feet in height. The Board therefore denies the requested waiver under Section 4.4 of the Zoning Bylaw.

C. Wetlands Bylaw and Regulations, and Stormwater Regulations

| <i>Wetlands Bylaw</i> | Requirement | Proposed Condition |
|---|---|---------------------------|
| Bylaw Art. II & IX Regulations §5.1.4.1.2 §4.1.4.1.3 | No disturbance within 25 feet of resource area. No building of structures within 50 feet of a resource area. | Waiver Denied. |
| Stormwater Management Rules and Regulations, § 7.B.2.e | Summary of pre- and post-development peak rates and volumes of stormwater runoff demonstrating no adverse impacts to down-gradient properties, stormwater management systems and wetland resources. | Waiver Denied |

14. The Board finds that none of the requested waivers from the Dracut Wetlands Bylaw and Regulations should be granted, where the Applicant has not provided any justification for the waivers, and where the Project could be reconfigured to avoid encroachment into the wetland buffer zones on this large 33.3 acre site that contains 30.26 acres of uplands. The local 25- and 50-foot setback provisions should be followed.
15. The Board finds that given the potential for flooding on abutting properties, full compliance with the Town’s Stormwater Bylaw and Rules and Regulations (including Section 7.b.2.e) is required, and no waiver is granted.

D. Other Conditions: Landscaping

16. As stated above, under Chapter 40B, Section 20, the need for housing is specifically balanced against “the need to protect the health or safety of the occupants of the proposed

housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces.” G.L. c. 40B, § 20 (emphasis added).

17. The Board finds that in addition to the proposed Landscaping Package dated October 9, 2025, further screening is necessary “to promote better building design in relation to the surroundings.”

| <i>Other Conditions</i> | Requirement | Proposed Condition |
|--------------------------------|--------------------|---|
| Landscaping | | <p>Compliance with Screening Plan submitted in Oct, 2025, plus:</p> <p>6-foot tall composite (not vinyl) fence, natural earth tone color, to be installed on Project-side of the rear property boundary facing Rinzee Road. Fence shall be threaded between existing mature trees (1.5" DBH or greater) so as to avoid tree loss.</p> <p>No mature trees shall be removed from Project site adjacent to Rinzee Road abutters beyond what has already been removed by Applicant as of date of ZBA site walk in October, 2025.</p> <p>All exterior lighting at the Site shall be dark sky compliant and shall not allow spillover of light onto adjoining properties.</p> |

18. The Board finds that the above-listed conditions in the table concerning landscaping are necessary and imposes the same.

Thank you for your consideration of these comments.

Very truly yours,

/s/ Elizabeth M. Pyle

Elizabeth M. Pyle