



## **Town of Arlington Select Board**

### **Meeting Agenda**

October 28, 2019

7:15 PM

Select Board Chambers, 2nd Floor, Town Hall

1. Introduction: Acting Assistant Town Manager  
Ray Santilli
2. Introduction: Dwi Jayanthi and Jolly Nguyen, U.S. State Department Young Southeast Asian Leadership Initiative Fellows (YSEALI)

#### **CONSENT AGENDA**

3. Minutes of Meetings: September 9, 2019; October 7, 2019
4. Request: Permit for Veterans' Day Parade, Monday, November 11th  
Jeffrey A. Chunglo, Director of Veterans' Services
5. For Approval: KENO License  
Arlington American Legion Post 39, 307 Massachusetts Avenue
6. Reappointments: Zoning Board of Appeals  
Patrick Quinn (term to expire 10/1/2022)  
Christian Klein (term to expire 10/1/2022)
7. Request: Special (One Day) All Alcohol License, 11/1/19 @ Robbins Memorial Town Hall for 'AYCC Gala Fundraiser'  
Colleen Leger, Arlington Youth Counseling Services
8. Request: Special (One Day) Beer & Wine License, 11/9/19 @ Whittemore Robbins House for a Private Event  
Pamela Price
9. Request: Special (One Day) Beer & Wine License, 11/23/19 @ Arlington Catholic High School for '2nd Annual Rinaldi Fundraiser'  
William Callahan

#### **7:15 p.m. PUBLIC HEARINGS**

10. Eversource Petition/Summer Street  
Jacqueline Duffy, Supervisor , Rights and Permits  
(all abutters notified)

## **LICENSES & PERMITS**

11. For Approval: All Alcohol Package Store - BB Liquors  
BB Powers Corporation, Niles K. Patel Owner/Manager, 1215 Massachusetts Avenue  
Attorney Mary Winstanley O'Connor  
(tabled from 9/9/19 meeting and 10/7/19 meeting)
  
12. Response to Petition Regarding Police Lieutenant Richard Pedrini  
Adam W. Chapdelaine, Town Manager

## **CITIZENS OPEN FORUM**

Except in unusual circumstances, any matter presented for consideration of the Board shall neither be acted upon, nor a decision made the night of the presentation in accordance with the policy under which the Open Forum was established. It should be noted that there is a three minute time limit to present a concern or request.

## **TRAFFIC RULES & ORDERS / OTHER BUSINESS**

13. Mugar 40B Application Update  
Douglas W. Heim, Town Counsel
14. Discussion & Approval: Authorizing Town Manager to Sign On to Statement to Massport & FAA  
Adam W. Chapdelaine, Town Manager
15. Discussion: High School Borrowing & Potential Impacts on MWRA Debt Shift  
Adam W. Chapdelaine, Town Manager

## **CORRESPONDENCE RECEIVED**

16. Dockets for ZBA Hearings  
Christopher Loreti via e-mail
17. Petition to Make Wellesley Road 'One Way' During School Drop Off Hours  
Wellesley Road Residents

## **NEW BUSINESS**

## **EXECUTIVE SESSION**

Next Scheduled Meeting of Select Board November 4, 2019



## Town of Arlington, Massachusetts

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**Introduction: Acting Assistant Town Manager**

**Summary:**  
Ray Santilli



## Town of Arlington, Massachusetts

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**Introduction: Dwi Jayanthi and Jolly Nguyen, U.S. State Department Young Southeast Asian Leadership Initiative Fellows (YSEALI)**

**ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	YSEALI_.docx	Reference

Arlington is pleased to welcome two young professionals from Southeast Asia, Dwi Jayanthi and Jolly Nguyen, for a month long Fellowship in sustainable international development through **Young Southeast Asian Leadership Initiative (YSEALI) Professional Fellows Program**, a U.S. State Department program.

The YSEALI program provides emerging leaders ages 25-35 the opportunity to spend five weeks in the United States, including four weeks working directly with American counterparts in individually tailored work placements with relevant private and/or public sector organizations. During these placements, Fellows build their practical expertise, leadership skills, and professional networks.

Jolly Nguyen is the Founder of a social enterprise called Education for Vietnam Organic Lifestyle- EVOL. Her organization focuses on youth empowerment and environmental issues through organic farming and community projects. EVOL has cooperated with other nonprofits, NGOs, international organizations, and government entities to promote organic farming in urban areas, and to raise awareness of environmental problems.

Dwi Jayanthi's interest in the intersection of environmental issues and journalism led to a 2017 fellowship in Fiji with Climate Tracker.org, a youth journalism organization for climate change. In 2018 Dwi served as delegate at YSEALI Marine Debris Expedition in Indonesia. Dwi currently works as a coordinator for the Indonesian campaign PlastikDetox, which seeks to reward small businesses in Bali that are genuinely committed to stop or reduce substantially their use of plastic bags.



## Town of Arlington, Massachusetts

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### Minutes of Meetings: September 9, 2019; October 7, 2019

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	9.9.19_draft_minutes.docx	9.9.19 draft minutes
▢	Reference Material	10.7.19_draft_minutes.docx	10.7.19 draft minutes

Town of Arlington  
Select Board  
Meeting Minutes

September 9, 2019  
7:15 PM

Select Board Chambers, 2nd Floor, Town Hall

Present: Mrs. Mahon, Chair, Mr. Dunn, Vice Chair, Mr. Curro, Mr. Hurd, Mr. DeCoursey  
Also Present: Mr. Chapdelaine, Mr. Heim, Mrs. Krepelka

**CONSENT AGENDA**

1. Minutes of Meetings: August 12, 2019
2. For Approval: HeatSmart Lawn Signs through 9/30/19  
Andy Winslow, HeatSmart Coach  
Ken Pruitt, Energy Manager
3. Request: Special (One Day) Beer & Wine License, 9/20/19 @ Robbins Library Reading Room for a Private Event  
Jeri Robertson-Hanson and Tom Hanson
4. Request: Special (One Day) All Alcohol License, 9/22/19 @ Robbins Library Reading Room for a Private Event  
Diana Filar and Scott Whitener
5. Request: Special (One Day) Beer & Wine License, 9/27/19 @ Arlington Center for the Arts for a Private Event  
Pam Shanley, Operations Manager & Open Studios Director
6. Request: Special (One Day) Beer & Wine License, 10/4/19 @ Smith Museum, Jason Russell House for an Arlington Historical Society Fundraiser  
Stuart Brorson, President, Arlington Historical Society
7. Request: Special (One Day) Beer & Wine License, 10/13/19 @ Robbins Memorial Town Hall for a Private Event  
Nicole D'Alessandro
8. Request: Contractor/Drainlayer License  
USA Excavating Inc., 100 Sophia Lane, Bridgewater, MA 02324

Mr. Dunn moved approval.

SO VOTED (5-0)

**7:15 p.m. PUBLIC HEARINGS**

9. Eversource Petitions
  - a. Park Avenue
  - b. Water StreetJacqueline Duffy, Supervisor, Rights and Permits  
(all abutters notified)

Ms. Duffy, on behalf of Eversource, requested installation of a concrete base for electric vehicle charging station on Park Avenue. This work is necessary to provide electric service to the electric vehicle charging station.

Mr. Curro moved approval subject to all conditions as set forth. SO VOTED (5-0)

Ms. Duffy, on behalf of Eversource, would like to install 11 feet of conduit on Water Street. This work is necessary to supply power to the electric vehicle charging station.

Mr. Curro moved approval subject to all conditions as set forth. SO VOTED (5-0)

10. Request: All Alcohol Package Store - BB Liquors  
BB Powers Corporation, Nilesh K. Patel Owner/Manager, 1215 Massachusetts Avenue  
Attorney Mary Winstanley O'Connor

Mary Winstanley O'Connor, representing BB Powers Corporation, Nilesh Patel, who is the long-standing owner of Peter Pan Superette has applied for this license. Attorney Winstanley O'Connor stated that the Board was in receipt of the reports from Town Departments. She further states that it is a pre-existing non-conforming lot, and she will present Mr. Byrne, Director of Inspectional Services, a plot plan and new architectural plans. Mr. Patel has extensive experience and interest in three other all alcoholic package stores.

Mr. Curro asked Attorney Winstanley O'Connor if when changing the use of the building, does the pre-existing non-conformity of the lot stay with the use of the building. Attorney Winstanley O'Connor stated when changing from a restaurant to an all alcohol package store, it is a retail use to a retail use, which is not a substantial change of use. Attorney Winstanley O'Connor stated that you can have a change of use under the bylaw, but it cannot be a substantial change of use, and you cannot further extend the non-conformity.

Mr. Dunn questioned Mr. Patel on what his policy will be on checking customer identification. Mr. Patel stated they will be checking identification of customers who appear to be under the age of 35.

Mr. Dunn firmly advises Mr. Patel that all potential employees have the necessary training when selling alcohol to customers, so as not to be in violation.

Mr. DeCoursey made a motion to table until the Board's next meeting on September 23, 2019. The Board requests the applicant submit architectural plans. SO VOTED (5-0)



## **APPOINTMENTS**

11. Conservation Commission  
David Kaplan (term to expire 6/30/2022)  
Mr. Hurd moved approval. SO VOTED (5-0)
12. Conservation Commission, Associate Member  
Michael Gildesgame (term to expire 6/30/2022)  
Mr. Dunn moved approval. SO VOTED (5-0)
13. Equal Opportunity Advisory Committee  
Nora Marantz (term to expire 6/30/2022)  
Mr. Chapdelaine stated that Ms. Marantz would not be able to attend but he and Mrs. Malloy, Director of Human Resources, asked the Board if they would consider appointing her but having he appear at a future Board meeting.  
Mr. Curro moved approval. SO VOTED (5-0)
14. LGBTQIA+ Rainbow Commission  
Ari Leigh (term to expire 6/30/2022)  
Mr. Curro moved approval. SO VOTED (5-0)

## **LICENSES & PERMITS**

15. For Approval: Transfer of All Alcohol Package Store License  
Giles Wine and Spirits, 137 Massachusetts Avenue, Vinodchandra J. Zaveri
- Mr. Hurd recused himself due to his professional work with the current owner.  
Mr. Curro moved approval. SO VOTED (4-0)  
Mr. Hurd Abstained.

## **CITIZENS OPEN FORUM**

Except in unusual circumstances, any matter presented for consideration of the Board shall neither be acted upon, nor a decision made the night of the presentation in accordance with the policy under which the Open Forum was established. It should be noted that there is a three minute time limit to present a concern or request.

John Ward, 4 Winslow Street, Apt. 308, appeared before the Board regarding his efforts to purge the Arlington Housing Authority of the unacceptable and illegal practice of providing safe harbor to stolen shopping carts.

Carey Theil, 11A Lakeview Street, came before the Board to raise a concern about Town Day. He is the co-founder and executive director of a nonprofit organization named Grey2K Worldwide, the largest opponent of commercial greyhound racing globally. Mr. Theil has significant concerns regarding the petting zoo, Animal Craze, coming to Town Day and recommends that the Town Day Committee not contract with that company going forward.

David Leone, 67 Bartlett Avenue and Carol Band, 57 Bartlett Avenue, came to talk about the traffic on Bartlett Avenue. Mr. Leone and Ms. Band are asking that a traffic study be done on Bartlett Avenue. Traffic has increased significantly on Bartlett Avenue due to a combination of cut throughs and people going to Whole Foods. Mr. Leone expressed his concern about parking on Bartlett Avenue during Town Day. He suggested that parking be limited to one side of the street, or make it a one-way street for that one day. Mr. Chapdelaine will follow up with Mr. Leone's concerns regarding parking on Bartlett Avenue for Town Day.

## **TRAFFIC RULES & ORDERS / OTHER BUSINESS**

16. Presentation: Food Waste Diversion - Expansion of Pilot Program  
Charlotte Milan, Recycling Coordinator

Ms. Milan stated that the Massachusetts Waste Characterization studies show that food waste is the heaviest material in our waste stream: 15% - 20% of our trash by weight. Arlington's focus on diverting food scraps will result in lowering the weight of our trash and using this wet waste to create soil amendment through composting and clean energy through anaerobic digestion.

In addition to our longstanding backyard composting sales and education programs, two additional opportunities to divert food scraps have evolved - private subscription collection services, which pick up food scraps at a household's curb, and a Town-sponsored drop off pilot program called Feed FIDO.

Beginning in October, DPW will be more actively promoting food scrap diversion through these two newer methods. Residents who sign up for a subscription services will receive a starter kit of equipment including a small green rolling cart, a sink-side food scrap collection, and biodegradable bags. Our goal is to double the number of residents who use subscription services. To start, 500 kits will become available in October.

The Feed FIDO program will also be expanded. With over 400 current users, Feed FIDO is a no-cost-to-residents option that allows participants to experiment with food scrap separation and see what it's like.

Mr. Dunn moved approval and thanked Ms. Milan and Mr. Rademacher for said presentation.

SO VOTED (5-0)

17. Discussion & Approval: Metering of Spaces on Broadway - Franklin St. to Webster St.  
Daniel Amstutz, Senior Transportation Planner  
Adam W. Chapdelaine, Town Manager

The Parking Advisory Committee (PAC: formerly the Parking Implementation/Governance Committee) voted at its August 22, 2019 meeting to recommend the approval of two measures that will improve traffic and parking conditions in Arlington Center.

1. Move the MBTA Route 87 layover location from Broadway Plaza to 283 Broadway, in front of Play Time, Inc. at the corner of Broadway and Franklin Street; and

2. Install nineteen (190 parking meters on both sides of Broadway between Franklin Street and Webster Street

In the summer of 2018, a business owner on Broadway submitted a petition to the Board, with signatures from many of their customers, requesting action from the Town to address parking related concerns on the same section of Broadway. Follow-up conversations between that petitioner and the Town Manager along with DPCD staff indicated that the installation of meters, including the 15-minute grace period (which would facilitate drop-off and pick-up traffic for businesses on the block), would address their concerns. Funds for this purchase are sourced from existing parking meter revenues used to maintain and upgrade the system. Town staff expects to install the new parking meters this fall pending arrangements with DPW and the meter vendor, IPS.

Mr. Hurd moved approval.

SO VOTED (5-0)

18. Discussion & Approval: Recommendations to Address Pond Lane Safety Concerns

Daniel Amstutz, Senior Transportation Planner

Adam W. Chapdelaine, Town Manager

Mr. Amstutz explained the situation and stated the recommendations of the Department of Planning and Community Development. A challenge of addressing real or perceived safety issues on Pond Lane is that it is a private roadway between Wellington Street and the Bikeway underpass.

The Board approved the following recommendations:

In front of the Boys and Girls Club:

- Add pedestrian warning signage at both sides of the crosswalk facing oncoming traffic with downward arrows to indicate the location of the crosswalk. (MUTCD W11-2 with W16-7P)
- Restrict parking by 20' before the crosswalk on the northwest side of the street (on the same side as the tennis courts). There is a handicapped parking spot directly after the crosswalk on this side; ideally there would be a 5' gap between the crosswalk and this parking space, but this is not recommended at this time to avoid additional parking marking reworking of the space.

Additionally, near the underpass for the Minuteman Bikeway, the following recommendations for signage and markings were approved:

- A "ONE LANE BRIDGE" warning sign (MUTCD W5-3) was installed under the recommendation of TAC in 2009 on the Spy Pond side of the underpass. This sign is no longer there, for unknown reasons. This sign should be replaced.
- Install yield lines at the "YIELD TO ONCOMING TRAFFIC" sign for traffic approaching the underpass. This may assist with yielding compliance and reinforce right-of-way priority for the underpass, reducing the potential for close calls. See Figure 4 for examples of yield line layouts from the MUTCD.

Mr. Curro moved approval.

SO VOTED (5-0)

19. Discussion & Approval: Relocation of Bus Layover for 87 Bus

Daniel Amstutz, Senior Transportation Planner

Adam W. Chapdelaine, Town Manager

Town staff and the PAC have spent the last few years attempting to identify a better location for the layover. Several different options were reviewed with the PAC, MBTA, and local business and property owners. This past summer, Department of Planning and Community Development and MBTA staff met again to review more potential options to relocate the layover. After discussing these options with PAC members and the MBTA, it was determined that 283 Broadway meets the goals of the Town and the MBTA, including the 15-minute grace period (which would facilitate drop-off and pick-up traffic for businesses on the block).

Mr. Hurd moved approval.

SO VOTED (5-0)

20. Presentation: Pathways Celebration, Art on the Bikepath, Sunday, September 15

Adria Arch, Commission for Arts and Culture

Cecily Miller, Arlington Public Art

Cecily Miller and Adria Arch asked the Board and Arlington residents to join the Arlington Commission for Arts and Culture for a festive celebration of art in public places. Take a walking tour with the 4 artists involved in this season's PATHWAYS, installations of temporary public art inspired by the Minuteman Bikeway in Arlington's Cultural District.

Enjoy an open air concert by the raucous, soulful Revolutionary Snake Ensemble and Odaiko New England's dynamic Taiko drummers. Activities take place in SPY POND PARK (located at Linwood Circle) and along the Minuteman Bikeway. You can bike, take the Mass. Ave. Bus or park for free in nearby neighborhood streets. Light refreshments served, including pizza donated by ZA Restaurant. Rain date - September 22nd.

Mr. Curro moved approval.

SO VOTED (5-0)

21. Discussion & Vote: Support of the Town Manager's Open Letter to the Community

Regarding Lt. Pedrini

Daniel J. Dunn, Select Board

Mr. Dunn stated that by law, the Select Board cannot get involved in personnel issues. Mr. Chapdelaine's letter to the Community has made it possible for the Select Board to speak upon this matter. Mr. Dunn specific goal was to endorse the Town Manager's letter, not to dwell on his own personal opinion. Mr. Dunn moved to endorse Mr. Chapdelaine's open letter to the Community.

Mr. Curro spoke in length about the matter. Mr. Curro presented the Board with a recommended resolution as a proposed substitute motion.

IT IS VOTED that the Arlington Select Board rejects writings of Lieutenant Richard Pedrini in *The Sentinel* that assault human dignity and contravene the policies and decisions of the Arlington Select Board, Arlington Police Department, Arlington Town Meeting, and other applicable municipal authorities; and

IT IS FURTHER VOTED that the Arlington Select Board acknowledges the Town Manager's legal authority to make personnel decisions and fitness-for-duty determinations, in conjunction with responsible members of his management team and in conformance with applicable provisions of collective bargaining agreements and governing statutes, policies, and regulations; and

IT IS FURTHER VOTED that the Arlington Select Board supports efforts by the Town Manager and Arlington Police Department to communicate and engage with the public to the greatest extent practicable and appropriate, utilizing a variety of means, including, without limitation: written communications, third-party mediation, and outreach initiatives like the Citizens Police Academy; and

IT IS FURTHER VOTED that the Arlington 'Select Board advocates for staff training in areas including bias identification and mitigation and de-escalation; and

IT IS FURTHER VOTED that the Arlington Select Board urges maximal effort to extend communication and engagement initiatives to all protected classes enumerated in Title II, Article 9, Section 2.C. of the Town Bylaws and that training initiatives likewise address the discrete needs of said classes; and

IT IS FURTHER VOTED that the Arlington Select Board encourages all residents to avail themselves of engagement opportunities with the Arlington Police Department and other Town authorities and to assist in making these known and available to marginalized populations.

The following people appeared before the Board regarding Lieutenant Pedrini's employment status:

Jordan Weinstein, 23 Lennon Road , Lynette Martin, 18 Eustis Street, Shaileen Pokress, 51 Crosby Street, Robin Bergman, 320 Park Avenue, Erik Pohl, 285 Massachusetts Avenue, Mona Mandal, 14 Water Street, Forrest Snyder, 15 Allen Street, Ellie Gerzon, 224 Massachusetts Avenue, John Sanbonmatsu, 100 Varnum Street. Clarissa Rodrigues, 287 Massachusetts Avenue, Elizabeth Dray, 130 Jason Street, Mary Fusoni, 94 Grandview Road, Kate Tranquada, 108 Park Avenue Extension, Kevin Heaton, 252 Massachusetts Avenue, Michael Jacoby-Brown, 10 Brattle Terrace, Ella Williams, 160 Mount Vernon Street, June Rutkowski, 128 Alpine Terrace, Rajeev Soneja, 13 Mary Street

The above named residents spoke against Mr. Chapdelaine's decision to not terminate Lt. Pedrini.

Mr. Hurd stated that this personnel issue is not within the charge of the Select Board. There is a separation of powers the Town Manager is charged with handling personnel issues, hiring, firing, disciplinary issues. It is not within the Select Board's purview to tell the Town Manager how he should handle this specific matter.

Mr. DeCoursey at this time feels that he cannot endorse the Town Managers letter at this point as he feels that the process is still incomplete. However, he feels that he can support Mr. Curro's substitution resolution with the change of the word affirm to acknowledge.

Mr. Dunn withdrew his motion to endorse the Town Managers open letter to the community. Mr. Dunn amended Mr. Curro's resolution by adding the following: IT IS FURTHER VOTED that the Arlington Select Board fully supports the Town Manager's actions and good faith efforts to steer the Town through the difficult issues of race and equality.

On a motion made by Mr. Curro amended by Mr. DeCoursey and Mr. Dunn. SO VOTED (5-0)

**CORRESPONDENCE RECEIVED**

22. The Good Neighbor Agreement Bylaw  
Don Seltzer via e-mail

Mr. Hurd moved receipt of Correspondence Received.

SO VOTED (5-0)

**NEW BUSINESS**

Mrs. Krepelka stated that she expects to see everyone on Saturday at Town Day.

Mr. Chapdelaine reminded the Board that he would not be at the next meeting and Mr. Pooler would be here in his place as he will be representing our town in their sister city in Japan.

Mr. DeCoursey wanted to give a shout out to the Arlington High School class of 1959 who just had their 60<sup>th</sup> reunion this past weekend. Inside their program there was a narrative about the new high school and encouraging the alumni to take a look at what the new building is going to look like.

Mr. Hurd stated that he has had members in the community ask him the timeframe of the Community Host Agreement process. He has asked the Board if it would be possible to have a representative from both approved marijuana establishments to give a progress update on where they are in the process.

Mr. Curro moved to adjourn at 11:15 p.m.

SO VOTED (5-0)

Next Scheduled Meeting of Select Board September 23, 2019

A true record attest

Marie A. Krepelka  
Board Administrator

9/9/19

Agenda Item	Documents Used
1	Minutes of Meetings: August 12, 2019
2	For Approval: HeatSmart Lawn Signs through 9/30/19 Andy Winslow, HeatSmart Coach Ken Pruitt, Energy Manager
3	Request: Special (One Day) Beer & Wine License, 9/20/19 @ Robbins Library Reading Room for a Private Event Jeri Robertson-Hanson and Tom Hanson
4	Request: Special (One Day) All Alcohol License, 9/22/19 @ Robbins Library Reading Room for a Private Event Diana Filar and Scott Whitener
5	Request: Special (One Day) Beer & Wine License, 9/27/19 @ Arlington Center for the Arts for a Private Event Pam Shanley, Operations Manager & Open Studios Director

6	Request: Special (One Day) Beer & Wine License, 10/4/19 @ Smith Museum, Jason Russell House for an Arlington Historical Society Fundraiser Stuart Brorson, President, Arlington Historical Society
7	Request: Special (One Day) Beer & Wine License, 10/13/19 @ Robbins Memorial Town Hall for a Private Event Nicole D'Alessandro
8	Request: Contractor/Drainlayer License USA Excavating Inc., 100 Sophia Lane, Bridgewater, MA 02324
9	Eversource Petitions a. Park Avenue b. Water Street Jacqueline Duffy, Supervisor, Rights and Permits (all abutters notified)
10	Request: All Alcohol Package Store - BB Liquors BB Powers Corporation, Nilesh K. Patel Owner/Manager, 1215 Massachusetts Avenue Attorney Mary Winstanley O'Connor
11	Conservation Commission David Kaplan (term to expire 6/30/2022)
12	Conservation Commission, Associate Member Michael Gildesgame (term to expire 6/30/2022)
13	Equal Opportunity Advisory Committee Nora Marantz (term to expire 6/30/2022)
14	LGBTQIA+ Rainbow Commission Ari Leigh (term to expire 6/30/2022)
15	For Approval: Transfer of All Alcohol Package Store License Giles Wine and Spirits, 137 Massachusetts Avenue, Vinodchandra J. Zaveri
16	Presentation: Food Waste Diversion - Expansion of Pilot Program Charlotte Milan, Recycling Coordinator
17	Discussion & Approval: Metering of Spaces on Broadway - Franklin St. to Webster St. Daniel Amstutz, Senior Transportation Planner Adam W. Chapdelaine, Town Manager
18	Discussion & Approval: Recommendations to Address Pond Lane Safety Concerns Daniel Amstutz, Senior Transportation Planner Adam W. Chapdelaine, Town Manager
19	Discussion & Approval: Relocation of Bus Layover for 87 Bus Daniel Amstutz, Senior Transportation Planner Adam W. Chapdelaine, Town Manager
20	Presentation: Pathways Celebration, Art on the Bikepath, Sunday, September 15 Adria Arch, Commission for Arts and Culture Cecily Miller, Arlington Public Art
21	Discussion & Vote: Support of the Town Manager's Open Letter to the Community Regarding Lt. Pedrini Daniel J. Dunn, Select Board

22	The Good Neighbor Agreement Bylaw Don Seltzer via e-mail
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Town of Arlington  
Select Board  
Meeting Minutes

October 7, 2019  
7:15 PM

Select Board Chambers, 2nd Floor, Town Hall

Present: Mrs. Mahon, Chair, Mr. Dunn, Vice Chair, Mr. Curro, Mr. Hurd, Mr. DeCoursey  
Also Present: Mr. Chapdelaine, Mr. Heim, Mrs. Krepelka

**PROCLAMATIONS**

1. National Chiropractic Health Month  
Mr. Dunn moved approval of said Proclamation. SO VOTED (5-0)

**CONSENT AGENDA**

2. Minutes of Meetings: September 23, 2019
3. Request: Special (One Day) Beer & Wine License, 10/13/19 @ Whittemore Robbins House for a Private Event  
Paloma Canas
4. Request: Special (One Day) All Alcohol License, 10/17/19 @ Arlington Catholic High School for Arlington Food & Drink Festival  
Elizabeth Locke, Arlington Chamber of Commerce Executive Director
5. Request: Special (One Day) Beer & Wine License, 10/19/19 @ Robbins Memorial Town Hall for a Private Event  
Lauren Savoie/Rob Hilferty
6. Request: Special (One Day) Beer & Wine License, 10/26/19 @ Whittemore Robbins House and Park for Sandra Anne Foundation 2019 Oktoberfest  
Bob Scheschareg  
Mr. Curro moved approval subject to all conditions as set forth. SO VOTED (5-0)

**APPOINTMENTS**

7. Council on Aging  
Patricia Baillieul (term to expire 6/30/2022)  
Mr. Curro moved approval. SO VOTED (5-0)
8. Human Rights Commission  
Crystal Haynes (term to expire 6/30/2022)  
Mr. Curro moved approval. SO VOTED (5-0)

## **LICENSES & PERMITS**

9. For Approval: All Alcohol Package Store - BB Liquors  
BB Powers Corporation, Niles K. Patel Owner/Manager, 1215 Massachusetts Avenue  
Attorney Mary Winstanley O'Connor  
(tabled from 9/9/19 meeting)

Mr. DeCoursey moved to table until the Select Board Meeting on October 28th.

SO VOTED (5-0)

## **CITIZENS OPEN FORUM**

Except in unusual circumstances, any matter presented for consideration of the Board shall neither be acted upon, nor a decision made the night of the presentation in accordance with the policy under which the Open Forum was established. It should be noted that there is a three minute time limit to present a concern or request.

Carey Theil, 11A Lakeview Street, wanted to thank the Board for putting his correspondence on the agenda regarding the traveling animal exhibit issue. Mr. Theil stated he would like to thank Mrs. Krepelka and Diane Welch, the fantastic ACO, who he had very productive conversations with. Mr. Theil would also like to thank the Board for taking the time to speak to him personally. Mr. Theil has deep concerns regarding the traveling animal exhibit coming to Arlington.

Christine Dorchak, Esq., 11A Lakeview Street, requested that the Board protect the town and also follow the humane inclinations of its citizens by never hiring Animal Craze again.

Lenard Diggins, 8 Windsor Street, spoke on behalf of Envision Arlington about the meeting on October 2nd where they had about 40-50 people attend with most being Town Meeting Members, to discuss Fall Precinct meetings with the goal of doing them twice a year. Precincts 1, 3 and 5 will have their meeting on October 28th from 6:30-8 at the Thompson School. Precincts 12 and 14 will meet November 6th at the Brackett School from 6:30-8. Mr. Diggins asked the Board for help with outreach and welcomed the Board to attend any of the meetings.

The following people appeared before the Board regarding Lieutenant Pedrini's employment status:

Pat Reilly, 6 Heard Road, Kim Kay Holt, 2 Orchard Place, Esther Kingston-Mann, 14 Peter Tufts Road, Maria Moyser, 1003 Massachusetts Avenue, Lynette Martyn, 18 Eustis Street, Shaileen Pokress, 51 Crosby Street, Reverend Marta Flanagan, First Parish Church, Lynette Culverhouse, 24 Draper Avenue, Laura Kiesel, 260 Massachusetts Avenue, Mary Fusoni, 94 Grandview Road, Stanley Pollack, 94 Grandview Road, Eli Gerzon, 224 Massachusetts Avenue, Beth Melofchick, 20 Russell Street, Sarah Glover, 139 Franklin Street, Betty Stone, 99 Harlow Street, Jordan Weinstein, 23 Lennon Road, Louise Popkin, 9 Cliff Street, Andy Oram, 38 High Haith Road, John Sanbonmatsu, 100 Varnum Street, Kasper Kasperian, 285 Renfrew Street, Robin Bergman, 320 Park Avenue, Michaiah Healy, 26 Howard Street, Rajeev Soneja, 13 Mary Street, Kathleen Lentz, 106 Newport Street, June Rutkowski, 128 Alpine Terrace, Kristin Martin, 48 Fairmont Street, Gwen Wong, 151 Lowell Street, Elizabeth Dray, 130 Jason Street.

The above named residents spoke against Mr. Chapdelaine's decision to not terminate Lt. Pedrini.

**TRAFFIC RULES & ORDERS / OTHER BUSINESS**

- 10. Request to Sign Non-Binding Resolution in Support of 'An Act for Utility Transition to Using Renewable Energy (Future Act), H.2849/S.194  
Brucie Moulton, Mothers Out Front  
(postponed from 9/23/19 meeting)

Mr. DeCoursey recluded himself from the discussion because he does some work in his professional capacity for National Grid.

Ms. Moulton summarized her presentation from the previous Select Board meeting. Arlington Mothers Out Front and Sustainable Arlington are writing to request that you adopt a non-binding resolution supporting the principles of The FUTURE Act, An Act For Utility Transition to Using Renewable Energy, H.2849, S.1940, sponsored by Representatives Lori Ehrlich and Christina A. Minicucci and Senator Cynthia S. Creem. It has over 50 co-sponsors, including Senator Cindy Friedman and Representatives Sean Garballey and David Rogers.

Mr. Curro moved approval.

SO VOTED (4-0)

Mr. DeCoursey abstained.

Mr. Dunn suggested the Board tread lightly when choosing what to endorse, in particular when it comes to specific Town Policies and Procedures or the way the Town should be running itself. Mr. Dunn has no problem weighing in on these matters, this one in particular is farther out than that but is comfortable supporting this specifically because of the endorsement of Town Meeting of very similar ideas. Mr. Dunn wanted to make clear why exactly he is supporting this resolution and maybe not other ones.

Mr. Curro and Mr. Hurd thanked Mothers Out Front for all their hard work and dedication to this matter.

- 11. For Approval: Traffic Rules & Orders
  - a) Move 'No Parking Here to Corner' Sign, Broadway @ Rawson Road;
  - b) Stop Signs on Washington Street @ Candia Street and Crawford Street;
  - c) 'Do Not Block Intersection' Sign, Chestnut Street @Chestnut TerraceOfficer Corey Rateau, Traffic and Parking Unit

Mr. Dunn moved approval.

SO VOTED (5-0)

- 12. Discussion: Future Select Board Meetings, November 2019 - January 2020

November 4, 2019  
November 18, 2019

December 2, 2019  
December 9, 2019 (holding if needed to set tax rate)  
December 16, 2019

**CORRESPONDENCE RECEIVED**

13. Request Crosswalk from Prospect Avenue  
Cheryl Mastrogiovanni via Request/Answer Center

Ms. Mastrogiovanni, 44 Prospect Avenue, requested that a crosswalk be added to ensure the safety of children walking to Dallin Elementary School from Prospect Avenue.

The Board referred Ms. Mastrogiovanni's request to the Town Manager for review and recommendation. SO VOTED (5-0)

14. Arlington Soccer Club Committed to \$250,000 Contribution for Turf Soccer Field Project  
Dean Carman, Treasurer, Arlington Soccer Club

15. Celebration of Town's Commitment to Animal Welfare at Town Day 2020  
Carey Theil, 11A Lake View Street

16. NSTAR Petition for Approval of 2016-2018 Energy Efficiency Three-Year Term Report  
Commonwealth of Massachusetts, Department of Public Utilities

Mr. Curro moved receipt of "Correspondence Received." SO VOTED (5-0)

### **NEW BUSINESS**

Mr. Heim thanked Attorney General's Office Municipal Law Unit as well as the Town Clerk's Association for making sure there was an expedited review of the bylaws that were submitted a little later than scheduled. They're holding on to a couple that need further review but went ahead and approved others.

Mr. Chapdelaine mentioned this is his first meeting since traveling to our Sister City in Japan and wanted to thank the Board for the opportunity to travel. The people in Nagaokakyo cherish and value the relationship with Arlington.

Mr. Chapdelaine attended the ARB meeting to give the same presentation about housing that he presented to the Board over the summer. There is hope for productive dialogue over the course of the next year or so.

Mr. DeCoursey attended the ribbon cutting ceremony at the new Minuteman High School along with Town Manager, Adam Chapdelaine, and Select Board Member Curro. Mr. DeCoursey wanted to thank Mr. Dunn for his hard work on the new regional agreement over the years. Mr. DeCoursey and Mr. Chapdelaine have been talking about the water rates in the community where they have voted an increase over the summer. The new rates are available on the town's website and they're working to put something up on the website where residents can convert what they're receiving for bills every quarter to gallons just to have an idea of what their consumption is.

Mr. Dunn thanked Mr. DeCoursey for attending the Minuteman High School ribbon cutting and was sorry that he was unable to make it due to traveling.

Mr. Curro reported that Mr. Chapdelaine and himself met with Frank Ciano, a member of the Massachusetts Community Advisory Committee which deals with airplane noise in East Arlington. Mr. Kassaraba is Mr. Ciano's counterpart from Belmont and has done an incredible amount of analytical work. This group met to see if they could re-do the flight routes which hopefully will re-disperse some of the airplane routes that is not a concentrated impact for the residents of East Arlington. Mr. Ciano and others will be working to pull together a recommendation on what the top few options that would be most advantageous to the town.

Mr. Hurd wanted to thank the Fire Department and the Firefighters Union for a tier one event that they had a few weeks ago at the Burlington Marriot. It was a great honor for Chief Jefferson and the three other retirees. Mr. Hurd also noted that he ran in the 5k on Sunday and wanted to thank the Police Department for keeping the route secure and the DPW for doing a great job cleaning up after the event.

Mr. Dunn noted that he has spoken with multiple residents in regards to the order of the Town Meeting Warrant and requests the Chair to open the warrant at a future meeting. At the same meeting put a second agenda item where they talk about the warrant and would like to invite the Town Moderator, Finance Committee Chair, and the ARB Chair, who are not required but if they wish to weigh in. Mr. Dunn recommends that the order of articles in the Warrant should be generally Select Board Articles, Zoning Articles, Finance Articles with flexibility in that order.

Mrs. Mahon is looking forward to potentially changing the order of the Warrant.

Mr. Curro moved to adjourn at 9:35 p.m.

SO VOTED (5-0)

Next Scheduled Meeting of Select Board October 28, 2019

A true record attest:

Marie A. Krepelka  
Board Administrator

10/7/19

Agenda Item	Documents Used
1	National Chiropractic Health Month
2	Minutes of Meetings: September 23, 2019
3	Request: Special (One Day) Beer & Wine License, 10/13/19 @ Whittemore Robbins House for a Private Event Paloma Canas
4	Request: Special (One Day) All Alcohol License, 10/17/19 @ Arlington Catholic High School for Arlington Food & Drink Festival Elizabeth Locke, Arlington Chamber of Commerce Executive Director
5	Request: Special (One Day) Beer & Wine License, 10/19/19 @ Robbins Memorial Town Hall for a Private Event

	Lauren Savoie/Rob Hilferty
6	Request: Special (One Day) Beer & Wine License, 10/26/19 @ Whittemore Robbins House and Park for Sandra Anne Foundation 2019 Oktoberfest Bob Scheschareg
7	Council on Aging Patricia Baillieul (term to expire 6/30/2022)
8	Human Rights Commission Crystal Haynes (term to expire 6/30/2022)
9	For Approval: All Alcohol Package Store - BB Liquors BB Powers Corporation, Nilesh K. Patel Owner/Manager, 1215 Massachusetts Avenue Attorney Mary Winstanley O'Connor (tabled from 9/9/19 meeting)
10	Request to Sign Non-Binding Resolution in Support of 'An Act for Utility Transition to Using Renewable Energy (Future Act), H.2849/S.194 Bruce Moulton, Mothers Out Front (postponed from 9/23/19 meeting)
11	For Approval: Traffic Rules & Orders a) Move 'No Parking Here to Corner' Sign, Broadway @ Rawson Road; b) Stop Signs on Washington Street @ Candia Street and Crawford Street; c) 'Do Not Block Intersection' Sign, Chestnut Street @Chestnut Terrace Officer Corey Rateau, Traffic and Parking Unit
12	Discussion: Future Select Board Meetings, November 2019 - January 2020
13	Request Crosswalk from Prospect Avenue Cheryl Mastrogiovanni via Request/Answer Center
14	Arlington Soccer Club Committed to \$250,000 Contribution for Turf Soccer Field Project Dean Carman, Treasurer, Arlington Soccer Club
15	Celebration of Town's Commitment to Animal Welfare at Town Day 2020 Carey Theil, 11A Lake View Street
16	NSTAR Petition for Approval of 2016-2018 Energy Efficiency Three-Year Term Report Commonwealth of Massachusetts, Department of Public Utilities



## Town of Arlington, Massachusetts

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**Request: Permit for Veterans' Day Parade, Monday, November 11th**

**Summary:**

Jeffrey A. Chunglo, Director of Veterans' Services

**ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	Veteran_s_Day_Parade_Request.pdf	Veteran's Day Parade Request



Town of Arlington  
Department of Health and Human Services  
Department of Veterans' Services  
730 Massachusetts Avenue  
Arlington, MA 02476

ARLINGTON, MA 02476

2019 OCT -9 AM 11:46

Jeffrey A. Chunglo  
Director of Veterans Services

Tel: 781 316-3166  
Fax: 781 316-3129

9 OCT 2019

Board of Selectmen  
Town Hall, Arlington  
730 Massachusetts Avenue  
Arlington, MA 02476

Re: Permit for 11 NOV 2019

Members of the Board,

On behalf of the veterans of the Town of Arlington, I am requesting a permit to allow veteran organizations, local veterans, and residents to participate in the annual Veteran's Day Parade. The parade is scheduled to begin at 10:30 on 11 NOV 2019.

The parade will begin at Walgreen's Pharmacy on Massachusetts Avenue and proceed to Central Fire Station. A police escort will be needed along Massachusetts Avenue.

Very respectfully,

A handwritten signature in blue ink, appearing to read "Jeffrey A. Chunglo".

Jeffrey A. Chunglo





## Town of Arlington, Massachusetts

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### For Approval: KENO License

#### Summary:

Arlington American Legion Post 39, 307 Massachusetts Avenue

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Keno_License_Request.pdf	Reference



# Massachusetts State Lottery Commission

DEBORAH B. GOLDBERG  
*Treasurer and Receiver General*

SELECTMEN'S OFFICE  
ARLINGTON, MA 02477

MICHAEL R. SWEENEY  
*Executive Director*

2019 OCT 17 PM 12:13

September 27, 2019

Arlington Board of Selectmen  
730 Mass Avenue  
Arlington, MA, 02476

Dear Sir/Madam:

In accordance with Massachusetts General Laws, chapter 10, section 27A, (as amended on 5/20/96), you are hereby notified that an application for a KENO license has been received by the Massachusetts State Lottery Commission, (MSLC) from:

Arlington American Legion Post 39  
307 Mass Avenue  
Arlington, MA, 02476

If the city/town objects to the issuance of the KENO license, it must claim its right to a Hearing before the MSLC within twenty-one (21) days of receipt of this notice.

In accordance with section 27A(b), the objection of the city/town must be "as a result of an official action" taken by said city or town regarding the KENO applicant. In order to be fair and apply the same criteria to all cities, towns, and applicants, the MSLC defines an "official action" to be one in which the applicant appeared, or was given the opportunity to appear, before the licensing authority to discuss the issue at the local level in an open hearing or meeting prior to the Hearing at the MSLC.

Please address your written objection to, Gregory Polin, General Counsel, Legal Department, Massachusetts State Lottery Commission, 150 Mt. Vernon St., Dorchester, MA 02125

Very truly yours,

MSLC Licensing Department

7001 2510 0004 5228 4854  
100314



*Supporting the 351 Cities and Towns of Massachusetts*

150 Mount Vernon Street, Suite 300 • Dorchester • Massachusetts • 02125-3573 • Tel: 781-849-5555 • [www.masslottery.com](http://www.masslottery.com)



## Town of Arlington, Massachusetts

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### Reappointments: Zoning Board of Appeals

#### Summary:

Patrick Quinn (term to expire 10/1/2022)

Christian Klein (term to expire 10/1/2022)



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## Town of Arlington, Massachusetts

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**Request: Special (One Day) All Alcohol License, 11/1/19 @ Robbins Memorial Town Hall for 'AYCC Gala Fundraiser'**

**Summary:**

Colleen Leger, Arlington Youth Counseling Services

**ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	AYCC_Gala_Special_Application.pdf	Special All Alcohol Application

OFFICE OF THE BOARD OF SELECTMEN



TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

**SPECIAL ALCOHOL LICENSE APPLICATION**

Name of Applicant:

Colleen Leger, Arlington Youth Counseling Services

Address, phone & e-mail contact information:

670R Mass. Ave., Arlington, Ma. 02474 781-316-3255 CLeger@town.arlington.ma.us

Name & address of Organization for which license is sought:

Beaujolais Catering, 207 Broadway, Arlington, Ma. 02474

Does this Organization hold nonprofit status under the IRS Code?  Yes  No

Name of Responsible Manager of Organization (if different from above):

Michelle Noska

Address, phone & e-mail contact information:

617-519-6081 Michelle@beaujolaiscatering.com

Has the Applicant or Organization applied for and/or been granted a special liquor license this calendar year?  Yes  No If so, please give date(s) of Special Licenses and/or applications and title of event(s).

\_\_\_\_\_

Is this event an annual or regular event? If so, when was the last time this event was held and at what location?

annual event

24-Hour contact number for Responsible Manager of Alcohol Event date:

617-519-6081

Title of Event:

AYCC Gala Fundraiser

Date/time of Event:

Friday, November 1, 2019 7:00 pm - 10:30 pm

Location of Event:

Arlington Town Hall

Location/Event Coordinator:

Patsy Kraemer/Vicki Rose

Method(s) of invitation/publicity for Event:

invitation/social media

Number of people expected to attend:

175-225

Expected admission/ticket prices:

\$75.00

Expected prices for food and beverages (alcoholic and non-alcoholic):

\$7 beer/wine/cocktail, \$3 sodas

Will persons under age 21 be on premises?

no

If "yes," please detail plan to prevent access of minors to alcoholic beverages.

Bartender will check ID's if needed

Have you consulted with the Department of Police Services about your security plan for the Event?

YES

**OFFICE USE ONLY**

*For Police Chief, Operations Commander, or designee:*

Your signature below indicates that you have discussed this event with the applicant, you have reviewed the applicant's security plan, and any necessary police details have been arranged for the Event.

*Officer Corey P. Pateau*

Date 10-22-19

**OFFICER** Corey P. Pateau

Printed name/title

**POLICE COMMENTS:**

Request one safety detail.

What types of alcoholic beverages do you plan to serve at the Event? (Note: By State Law, all-alcohol Special Licenses are available only to nonprofit organizations.)

beer/wine/signature cocktail

What types of food and non-alcoholic beverages do you plan to serve at the Event?

savory and sweet tapas /dessert, sodas/waters

Who will be responsible for serving alcoholic beverages at the Event?

Beaujolais Catering bartending staff

What training or certification in responsible alcohol service does this person have? Please attach certificate or other proof of training for at least one person who will have responsibility for serving alcoholic beverages at each point of service and who will be present for the entire Event.

TIPS Certification

Please list the names and dates of birth for all people who will be responsible for serving alcoholic beverages at the Event. Anyone serving alcoholic beverages must be at least 21 years of age.

ATTACHED

Name of the Massachusetts wholesaler who will deliver to site? (Full supplier list available on the ABCC website: [www.mass.gov/abcc](http://www.mass.gov/abcc))

Kappy's On Call, Everett, Ma.

Date of Delivery:

Friday, November 1, 2019

Alcohol Serving Time (s):

7:00 pm - 10:00 pm

How, when, and by whom will excess alcoholic beverages obtained for the Event be disposed of?

Kappy's will pick up

Date of Pick-Up:

Saturday, November 2, 2019

Please provide details (insurance company, type of policy, name of insured, and policy limits) of any relevant insurance coverage for the Event, included but not limited to General Liability and Liquor Liability insurance. (You may be asked to supply a certificate or other proof of adequate insurance coverage.)

ATTACHED

**Please submit this completed form and filing fee to the Board of Selectmen at least 21 days before your Event. Failure to provide complete information may delay the processing of your application.**

**I HAVE READ AND UNDERSTAND ALL RULES AND REGULATIONS:**

Signature: \_\_\_\_\_

Printed name Colleen Leger

Printed title & Organization name: Director Youth Services,

Email: CLeger@town.arlington.ma.us





**ROBBINS MEMORIAL TOWN HALL AUDITORIUM**  
**730 Massachusetts Avenue, Arlington, Ma. 02476**

1 October 2019

**SECURITY PLAN FOR AYCC GALA FUNDRAISER**

The Board of Youth Services is sponsoring a fundraising event to be held on Friday, November 1, 2019, 7:30 pm – 11:00 pm at the Arlington Town Hall - the AYCC Gala. A One-Day Permit has been submitted to the Selectmen's Office.

This is the Security Plan.

Advance tickets will be sold for the evening event at \$75 each. We anticipate approximately 175-225 people to attend.

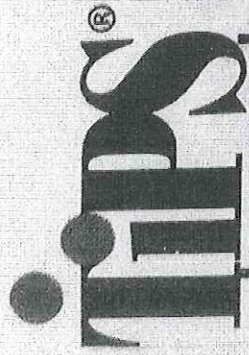
The Fundraiser event will be for adults only except for coat check ticket takers.

Patsy Kraemer will be the event coordinator for the event. Beaujolais Catering will provide food for the event and will also provide bartender service. Greg Stathopoulos will be the custodian for the event. A committee of 8 volunteers from the Board of Youth Services Committee is the planning group and will assist in staffing the party. All these people will be responsible for ensuring that the event runs smoothly.

A fire services detail will be hired for the event. A police detail will be required.

Parking for the event will be available in the Town Hall parking lot, the parking lot at the Central School office building directly behind Town Hall, and on the side streets, as well as Mass. Ave.

Please advise if there are other items that we need to consider.



**CERTIFIED**

**eTIPS On Premise 3.0**

**Issued: 5/29/2018**

**Expires: 5/29/2021**

**ID#: 4813268**

**Kevin Malloy  
193 Crescent Ave Unit 2  
Revere, MA 02151-4218**

**For service visit us online at [www.gettips.com](http://www.gettips.com)**

This is your official TIPS certification card. Carry it with you as proof of your TIPS certification.  
Congratulations!

This card certifies that you have successfully completed the TIPS (Training for Intervention Procedures) program. We value your participation and dedication to the responsible sale, service, and consumption of alcohol.

Using the techniques you have learned, you will help to provide a safer environment for your patrons, peers, and colleagues and reduce the tragedies resulting from intoxication, underage drinking, and drunk driving.

If you have any information you think would enhance the TIPS program, or if we can assist you in any way, please contact us at 800-438-8477.



Sincerely,

Adam F. Chafetz  
HCI President

ID#: 4856356 Name: Aldo G De Oliveira  
Exam Date: 7/19/2018 Expiration Date: 7/19/2021



**TIPS** eTIPS On Premise 3.0 **CERTIFIED**  
Issued: 7/19/2018 Expires: 7/19/2021  
ID#: 4856356

Aldo G De Oliveira  
Rebecca'cafe  
364 Reservoir Ave  
Revere, MA 02151-5808



For service visit us online at [www.gettips.com](http://www.gettips.com)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/8/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Prescott and Son Insurance Agency, Inc. 963 Eastern Avenue Malden MA 02148		<b>CONTACT NAME:</b> Commercial Lines <b>PHONE (A/C, No, Ext):</b> (781) 322-2350 <b>E-MAIL ADDRESS:</b> <b>FAX (A/C, No):</b>	
<b>INSURED</b> Michelle C Noska 207a Broadway Arlington MA 02474		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Hartford Insurance Group <b>INSURER B:</b> Safety Insurance Co <b>INSURER C:</b> Twin City Fire Ins Co <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	
		<b>NAIC #</b> 39454 29459	

**COVERAGES**

CERTIFICATE NUMBER: CL1921928590

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			08SBAAA8353	4/9/2019	4/9/2020	EACH OCCURRENCE	\$ 1,000,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:							MED EXP (Any one person)	\$ 5,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PERSONAL & ADV INJURY	\$ 1,000,000	
	OTHER:						GENERAL AGGREGATE	\$ 2,000,000	
B	AUTOMOBILE LIABILITY			6227097	1/21/2019	1/21/2020	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$	
	<input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident)	\$	
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	\$	
							Medical payments	\$ 5,000	
	UMBRELLA LIAB						EACH OCCURRENCE	\$	
	EXCESS LIAB						AGGREGATE	\$	
	DED							\$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE	OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	\$	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$	
							E.L. DISEASE - POLICY LIMIT	\$	
C	LIQUOR LIABILITY			08SBAAA8353	4/9/2019	4/9/2020	EACH OCCURRENCE	\$1,000,000	
							AGGREGATE	\$1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Arlington as additional Insured

**CERTIFICATE HOLDER****CANCELLATION**

Town of Arlington 730 Mass Ave Arlington, MA 02474	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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## Town of Arlington, Massachusetts

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**Request: Special (One Day) Beer & Wine License, 11/9/19 @ Whittemore Robbins House for a Private Event**

**Summary:**

Pamela Price

**ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	Anniversary_Party_Special_app.pdf	Special Beer and Wine Application

OFFICE OF THE SELECT BOARD



TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

SPECIAL ALCOHOL LICENSE APPLICATION

Name of Applicant: Pamela Price

Address, phone & e-mail contact information: 180 Spring Street, Marshfield, MA 02050; 617-529-6633; priceimage@mac.com

Name & address of Organization for which license is sought: \_\_\_\_\_  
\_\_\_\_\_

Does this Organization hold nonprofit status under the IRS Code? \_\_\_ Yes  No

Name of Responsible Manager of Organization (if different from above): Tina Ghikas

Address, phone & e-mail contact information: 42 Temple Street, Newburyport, MA 01950; 617-429-9419; bostonbestbar@aol.com

Has the Applicant or Organization applied for and/or been granted a special liquor license this calendar year? NO If so, please give date(s) of Special Licenses and/or applications and title of event(s).  
\_\_\_\_\_  
\_\_\_\_\_

Is this event an annual or regular event? If so, when was the last time this event was held and at what location? **One-Time Event**  
\_\_\_\_\_

24-Hour contact number for Responsible Manager of Alcohol Event date: 617-429-9419

Title of Event: Anniversary Party

Date/time of Event: November 9, 2019/7:00pm-10:00pm

Location of Event: Whittemore Robbins House

Location/Event Coordinator: Victoria Rose

Method(s) of invitation/publicity for Event: mail

Number of people expected to attend: 70-75

Expected admission/ticket prices: N/A

Expected prices for food and beverages (alcoholic and non-alcoholic): N/A

Will persons under age 21 be on premises? No.



If "yes," please detail plan to prevent access of minors to alcoholic beverages. \_\_\_\_\_

Have you consulted with the Department of Police Services about your security plan for the Event?  
Yes

**OFFICE USE ONLY**

*For Police Chief, Operations Commander, or designee:*

Your signature below indicates that you have discussed this event with the applicant, you have reviewed the applicant's security plan, and any necessary police details have been arranged for the Event.

 Date \_\_\_\_\_  
  
Printed name/title

POLICE COMMENTS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What types of alcoholic beverages do you plan to serve at the Event? (Note: By State Law, all-alcohol Special Licenses are available only to nonprofit organizations.)

**Beer and Wine**

What types of food and non-alcoholic beverages do you plan to serve at the Event? Simple Fare Catering in Medford, MA 02155  
Southwest Platter (Salsa, Guacamole, Corn and Black Bean Salad, Sour Cream, and Pico de Gallo) served with Tortilla Chips; Spinach and Artichoke Dip; Fruit and Cheese and Crackers; Tomato/Mozzarella/Basil, Jerk Chicken, Olive Tapenade, Scallops Wrapped in Bacon, Chili Lime Shrimp, Crab Cakes, Spinach and Cheese Stuffed Mushrooms; Steak and Cheese Egg Rolls, Mac and Cheese Bites, Chicken Quesadilla, Soda, Water.

Who will be responsible for serving alcoholic beverages at the Event? Tina Ghikas is the bartender from Boston Best Bartending.

What training or certification in responsible alcohol service does this person have? Please attach certificate or other proof of training for at least one person who will have responsibility for serving alcoholic beverages at each point of service and who will be present for the entire Event.

*The Bartender has completed eTIPS on Premise 3.0*

Please list the names and dates of birth for all people who will be responsible for serving alcoholic beverages at the Event. Anyone serving alcoholic beverages must be at least 21 years of age.

*Tina Ghikas DOB*

Name of the Massachusetts wholesaler who will deliver to site? (Full supplier list available on the ABCC website: [www.mass.gov/abcc](http://www.mass.gov/abcc)) Kappy's in Everett, MA

Date of Delivery: Saturday, November 9, 2019

Alcohol Serving Time (s): 7:00pm-9:30pm

How, when, and by whom will excess alcoholic beverages obtained for the Event be disposed of?  
*Unopened bottles will be returned to Kappys; Opened, unused will be put in the trunk of designated person by the responsible manager.*

Date of Pick-Up: Monday, November 11, 2019

Please provide details (insurance company, type of policy, name of insured, and policy limits) of any relevant insurance coverage for the Event, included but not limited to General Liability and Liquor Liability insurance. (You may be asked to supply a certificate or other proof of adequate insurance coverage.) *General and Liquor Liability Insurance, TIPS Certificate are included*

**Please submit this completed form and filing fee to the Select Board  
at least 21 days before your Event. Failure to provide complete  
information may delay the processing of your application.**

**I HAVE READ AND UNDERSTAND ALL RULES AND REGULATIONS:**

Signature: Pamela Price

Printed name: *Pamela Price*

Printed title & Organization name: Anniversary Party

Email: [priceimage@mac.com](mailto:priceimage@mac.com)



Pamela Price  
180 Spring Street, Marshfield, MA 02050  
priceimage@mac.com  
617-529-6633

October 23, 2019

**SECURITY PLAN for Anniversary Party at the Whittemore Robbins House**

The event is scheduled for Saturday, November 9, 2019 from 7:00pm-10:00pm at the Whittemore Robbins House. The alcohol service will end 30 minutes before the end of the event.

A One-Day Permit has been submitted to the Selectmen's Office.

This is the Security Plan.

We anticipate approximately 70 guests. There will be no guests under the age of 21.

The menu from Simple Fare Catering includes Southwest Platter (Salsa, Guacamole, Corn and Black Bean Salad, Sour Cream, and Pico de Gallo) served with Tortilla Chips; Spinach and Artichoke Dip; Fruit and Cheese and Crackers; Tomato/Mozzarella/Basil, Jerk Chicken, Olive Tapenade, Scallops Wrapped in Bacon, Chili Lime Shrimp, Crab Cakes, Spinach and Cheese Stuffed Mushrooms; Steak and Cheese Egg Rolls, Mac and Cheese Bites, Chicken Quesadilla, Soda, Water.

Boston Best Bartending will provide the beverage service. The bartender, Tina Ghikas is TiPs certified. All rules regarding alcohol beverage service will be followed as understood from TiPs Certification training by the bartender. Bar service will begin at 7:00pm and end at 9:30pm.

Victoria Rose, Event Coordinator, will be on site to monitor the use of the Whittemore Robbins House. Tina Ghikas bartender and responsible manager from Boston Best Bartending Service will serve the alcohol. All will be responsible for ensuring that the event runs smoothly.

Parking for the event will be available in the Whittemore Robbins House parking lot, Robbins Library parking lot and on the side streets, as well as Massachusetts Avenue.

Please advise if there are other items that we need to consider.



On Premise

CERTIFIED

Issued: 12/10/2018

Expires: 12/4/2021

ID#: 4969423

TINA GHIKAS

176 Water St

Danvers, MA 01923-4103

For service visit us online at [www.gettips.com](http://www.gettips.com)

TIPS Trainer: Michael Marcantonio, 64



## Town of Arlington, Massachusetts

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**Request: Special (One Day) Beer & Wine License, 11/23/19 @ Arlington Catholic High School for '2nd Annual Rinaldi Fundraiser'**

**Summary:**

William Callahan

**ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	Rinaldi_Fundraiser_Special_App..pdf	Special Beer and Wine Application

OFFICE OF THE SELECT BOARD



TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

SPECIAL ALCOHOL LICENSE APPLICATION

Name of Applicant: William Callahan

Address, phone & e-mail contact information: 35 B GARDEN RD PEABODY, MA 01960  
W.F. CALLAHAN @ GMAIL, COM (774) 452-5154

Name & address of Organization for which license is sought: \_\_\_\_\_  
Rinoldi Fundraiser - Contact Information Above

Does this Organization hold nonprofit status under the IRS Code?  Yes  No

Name of Responsible Manager of Organization (if different from above):  
\_\_\_\_\_

Address, phone & e-mail contact information: \_\_\_\_\_  
\_\_\_\_\_

Has the Applicant or Organization applied for and/or been granted a special liquor license this calendar year? no If so, please give date(s) of Special Licenses and/or applications and title of event(s). \_\_\_\_\_

Is this event an annual or regular event? If so, when was the last time this event was held and at what location?

Annual - 2nd Year Holding this Event - First Year Held in Woburn, MA

24-Hour contact number for Responsible Manager of Alcohol Event date: (774) 452-5154

Title of Event: 2nd Annual Rinoldi Fundraiser

Date/time of Event: November 23, 2019 1:00PM-6:00PM

Location of Event: Arlington Catholic High School

Location/Event Coordinator: Lindsay Roche

Method(s) of invitation/publicity for Event: Social Media

Number of people expected to attend: 200 - 300

Expected admission/ticket prices: \$10

Expected prices for food and beverages (alcoholic and non-alcoholic): \$1 - \$10

Will persons under age 21 be on premises? YES

If "yes," please detail plan to prevent access of minors to alcoholic beverages. CASH EXCHANGED FOR TICKETS - TICKETS EXCHANGED FOR ALCOHOL IN SEPERATE AREAS

Have you consulted with the Department of Police Services about your security plan for the Event?  
YES

**OFFICE USE ONLY**

*For Police Chief, Operations Commander, or designee:*

Your signature below indicates that you have discussed this event with the applicant, you have reviewed the applicant's security plan, and any necessary police details have been arranged for the Event.

Off. Corey P. Rabeau Date 10-24-19  
Off. Corey P. Rabeau  
Printed name/title

**POLICE COMMENTS:**

Request at least two safety details (200 to 300 expected).  
We do have concerns with parking due to the event  
coinciding with church services at St. Agnes.

What types of alcoholic beverages do you plan to serve at the Event? (Note: By State Law, all-alcohol Special Licenses are available only to nonprofit organizations.)

BEER & WINE

What types of food and non-alcoholic beverages do you plan to serve at the Event?

PIZZA, APPETIZERS, WATER, SODA, JUICE

Who will be responsible for serving alcoholic beverages at the Event?

J. William Callahan

What training or certification in responsible alcohol service does this person have? Please attach certificate or other proof of training for at least one person who will have responsibility for serving alcoholic beverages at each point of service and who will be present for the entire Event.

TIPS CERTIFICATION - ATTACHED

Please list the names and dates of birth for all people who will be responsible for serving alcoholic beverages at the Event. Anyone serving alcoholic beverages must be at least 21 years of age.

William Callahan -  
Kyle Messendorf -  
John McKillop -  
Michael Mancuso -

Name of the Massachusetts wholesaler who will deliver to site? (Full supplier list available on the ABCC website: [www.mass.gov/abcc](http://www.mass.gov/abcc)) Kappy's Medford

Date of Delivery: 11-23-2019  
Alcohol Serving Time (s): 1:00PM-6:00PM

How, when, and by whom will excess alcoholic beverages obtained for the Event be disposed of?

THE EXCESS WILL BE DIVIDED BY THE COMMITTEE.

Date of Pick-Up: N/A

Please provide details (insurance company, type of policy, name of insured, and policy limits) of any relevant insurance coverage for the Event, included but not limited to General Liability and Liquor Liability insurance. (You may be asked to supply a certificate or other proof of adequate insurance coverage.)

**Please submit this completed form and filing fee to the Select Board at least 21 days before your Event. Failure to provide complete information may delay the processing of your application.**

**I HAVE READ AND UNDERSTAND ALL RULES AND REGULATIONS:**

Signature: 

Printed name: William Callahan

Printed title & Organization name: Rinaldi Fundraiser

Email: WF.CALLAHAN@GMAIL.COM

# Certificate of Completion

This Certificate of Completion of  
**eTIPS On Premise 3.0**  
For coursework completed on October 17, 2019  
provided by Health Communications, Inc.  
is hereby granted to:

**William Callahan**

Certification to be sent to:

**35 Garden Rd Apt B  
Peabody MA, 01960-3055 USA**



HEALTH COMMUNICATIONS, INC.



This document is not proof of TIPS certification. It signifies only that you have completed the course. Valid certification documents will be forwarded to you.

**2<sup>nd</sup> Annual Rinaldi Fundraiser**  
**November 23, 2019**  
**Security Plan**

The Rinaldi Fundraiser is being held at Arlington Catholic High School on November 23, 2019. The appropriate members of the Arlington Catholic High School administration have been contacted and fully informed of the details of this event. Security measures for this event will follow Arlington Catholic High School's documented security plans.

**Prevention of Sale of Alcohol to Minors**

Alcoholic beverages will be distributed using a ticket system where tickets may only be purchased by individuals 21 years of age or older verified by valid identification. Any minors attending this event will be accompanied by an adult. We will provide a certified bartender to oversee all distribution of alcohol. (See attached documentation)

**Law Enforcement Requirements**

There is no expected issue with crowd control for this event but due to the fact that an estimated 250 people will be in attendance, we have coordinated with a representative from the City Select Board as well as the Arlington Police Department to provide police detail if necessary.

Event coordinators are aware that the use of the municipal lot behind Arlington Catholic High School will be shared for a portion of time with the parishioners of St. Agnes Church. After discussions with both the Arlington Select Board representative and the Arlington Police Department, no overcrowding issues are expected.

**Evacuation Plan**

Arlington Catholic High School has an accredited and documented evacuation plan. We will utilize this plan in the case of an emergency.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/24/19

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> John P. Russell Insurance Agency, Inc. 65 Pearl Street Stoughton, MA 02072	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 781-344-0098      FAX (A/C, No): 781-341-2563 E-MAIL ADDRESS: jrussell@jprussellins.com	
	<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Mount Vernon Fire Insurance Company	<b>NAIC #</b>
<b>INSURED</b> Vincent Rinaldi Alexandra Rinaldi 36 Stevens Road Melrose, MA 02176	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER:**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CL 2756551	11/23/19	11/25/19	EACH OCCURRENCE	\$ 1,000,000
			DAMAGE TO RENTED PREMISES (Ea occurrence)				\$ 100,000	
			MED EXP (Any one person)				\$ 1,000	
			PERSONAL & ADV INJURY				\$ 1,000,000	
			GENERAL AGGREGATE				\$ 2,000,000	
		PRODUCTS - COMP/OP AGG	\$					
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE	
							OTH-ER	
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
a	<b>Liquor Liability</b>			CL 2756551	11/23/19	11/25/19	Each Common Limit	1,000,000
							Aggregate Limit	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Location of All Covered Special Event(s)  
 16 Medford Street, Arlington, MA 02474

Mass Bay Brewing Company is listed as additional insured for this event

<b>CERTIFICATE HOLDER</b> Mass Bay Brewing Company 306 Northern Ave Boston, Ma 02210	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE John P Russell /cv

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## Town of Arlington, Massachusetts

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### Eversource Petition/Summer Street

#### Summary:

Jacqueline Duffy, Supervisor , Rights and Permits  
(all abutters notified)

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Engineering_Recommendations.pdf	Engineering Recommendations
▢	Reference Material	Eversource_Petition.pdf	Eversource Petition



Engineering Division

## TOWN OF ARLINGTON DEPARTMENT OF PUBLIC WORKS

51 GROVE STREET  
ARLINGTON, MA 02476

Phone: 781-316-3320  
Fax: 781-316-3281

**Type:** Grant of Location Recommendations  
**Date:** October 17, 2019  
**Applicant:** Eversource  
**Site/Project Location:** 483 Summer Street

The Engineering Division has reviewed the attached petition by Eversource for consideration of a Grant of Location for the installation of conduit as indicated on the enclosed plan, "Plan of Summer St. & Forest St., Arlington - Proposed Conduit Location", dated September 17, 2019. Upon completion of our review we are submitting the following recommendations and conditions for consideration by the Select Board should the Grant of Location be approved for this submittal.

### Additional Conditions

1. Notification shall be provided to the immediate abutters prior to the commencement of construction activities. This notification should summarize the activities of the project and detail potential impacts. Additional information shall be provided instructing the abutters to forward any questions and/or concerns regarding the project to the contractor or Eversource, and shall include the appropriate contact information.
2. The proposed conduit installation shall be located/installed so as not to impede future right of way improvements (i.e. curb adjustment, guardrail installation, water and sewer rehabilitation, etc.), and where possible shall be located in the nearest proximity as possible with other Eversource infrastructure.
3. During construction, uninterrupted pedestrian access (or temporary pedestrian facilities) shall be provided at all times or an appropriate alternative path shall be provided.
4. Please be aware that there may be on-site utility infrastructure that is not shown on the plan and may be encountered in the field, including but not limited to traffic signal conduit/appurtenances. If a conflict occurs between the proposed conduit installation and existing Town-Owned utility infrastructure, the Town Engineer shall be contacted directly to discuss an appropriate resolution.
5. It is the sole responsibility of the contractor to ensure that any Town-Owned and/or private utilities, if located within limits of this work, should be properly marked and protected during construction activities.
6. The installation of the conduit will require additional permitting (Trench Permit and/or Street Occupancy Permit) through the Town of Arlington Engineering Division prior to the start of construction.
7. All disturbances to curbing, grass strips, sidewalk, walkways, and roadway surfaces should be repaired in kind and to the satisfaction of the Town of Arlington Engineering Division. If any existing sidewalk is proposed to be removed, it shall be removed and replaced in full-width and in accordance with all current ADA, AAB, & Town of Arlington Standards/Regulations.
8. All work within the right of way shall require the contractor to schedule and coordinate a police traffic detail. Traffic control and safety measures shall be instituted in adherence to applicable OSHA requirements, Massachusetts DOT Work Zone Safety Guidelines and Part VI of the Manual on Uniform Traffic Control Devices. A pre-construction meeting is recommended to coordinate with other on-going projects in Town.

9. An as-built plan indicating location of new conduit, structures and equipment shall be provided to the Arlington Engineering Division following installation.
10. All material stockpiled on roadways and/or roadway shoulders shall be protected with erosion control devices, such as silt fence and/or straw wattles. It will be the sole responsibility of the contractor/Eversource to remove any sediment that enters the Town drainage system as a result of this work.
11. Equipment, staging, and stockpiles shall not be located or stored so as to interfere with intersection sight lines. The Town prefers that all materials & equipment be located no closer than 50' to an intersection where practical.

**EVERSOURCE**  
101 Linwood Street  
Somerville, MA 02143

September 23, 2019

Town of Arlington  
Board of Selectmen/Town Hall  
720 Massachusetts Avenue  
Arlington, MA 02476

Dear Members of the Board:

The NSTAR Electric Company d/b/a Eversource Energy respectfully requests a Grant of Location for the installation of approximately 72 feet of conduit in Summer Street, Arlington.

This work is necessary to supply power to 483 Summer Street.

If you have any questions or concerns, please call Jacqueline Duffy at 617-629-3204.

Very truly yours,



Kelly-Ann Correia, Supervisor  
Rights and Permits

KC/jc

**PETITION OF NSTAR ELECTRIC COMPANY, d/b/a EVERSOURCE ENERGY  
FOR LOCATION FOR CONDUITS AND MANHOLES**

To the **BOARD OF SELECTMEN** of the Town of Arlington, Massachusetts:


Respectfully represents **NSTAR ELECTRIC COMPANY, d/b/a Eversource Energy** a company incorporated for the transmission of electricity for lighting, heating or power, that it desires to construct a line for such transmission under the public way or ways hereinafter specified.

WHEREFORE, your petitioner prays that, after due notice and hearing as provided by law, the Board of Selectmen may by Order grant to your petitioner permission to construct, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, said conduits and manholes to be located substantially as shown on the plan made by **A. DeBenedictis**, dated **September 17, 2019** and filed herewith, under the following public way or ways of said Town:

**Summer Street - Easterly from pole 829/15, near the intersection of Rockaway Lane, install approximately 72 feet - conduit.**

**W.O. #2329956**

**NSTAR ELECTRIC COMPANY  
d/b/a Eversource Energy**

By:   
Kelly-Ann Correia, Supervisor  
Rights and Permits

Dated this 23rd day of September, 2019

Town of Arlington, Massachusetts

Received and filed \_\_\_\_\_, 2019

\_\_\_\_\_

**ORDER FOR LOCATION FOR CONDUITS AND MANHOLES**

Town of Arlington, Massachusetts September 23, 2019

WHEREAS, **NSTAR ELECTRIC COMPANY, d/b/a Eversource Energy** has petitioned for permission to construct a line for the transmission of electricity for lighting, heating or power under the public way or ways of the Town hereinafter specified, and notice has been given and a hearing held on said petition as provided by law.

**Summer Street – Easterly from pole 829/15, near the intersection of Rockaway Lane, install approximately 72 feet-conduit.**

**W.O. #2329956**

All construction work under this Order shall be in accordance with the following conditions:

1. Conduits and manholes shall be located as shown on a plan made by **A. DeBenedictis** dated **September 17, 2019** on file with said petition.
2. Said Company shall comply with the requirements of existing by-laws and such as may hereafter be adopted governing the construction and maintenance of conduits and manholes.
3. All work shall be done to the satisfaction of the Board of Selectmen or such officer or officers as it may appoint to supervise the work.

1 \_\_\_\_\_  
 2 \_\_\_\_\_ Board of Selectmen  
 3 \_\_\_\_\_ the Town of  
 4 \_\_\_\_\_ **Arlington**  
 5 \_\_\_\_\_

**CERTIFICATE**

We hereby certify that the foregoing Order was adopted after due notice and a public hearing as prescribed by Section 22 of Chapter 166 of the General Laws (Ter. Ed.), and any additions thereto or amendments thereof, to wit:-after written notice of the time and place of the hearing mailed at least seven days prior to the date of the hearing by the Selectmen to all owners of real estate abutting upon that part of the way or ways upon, along or across which the line is to be constructed under said Order, as determined by the last preceding assessment for taxation, and a public hearing held on the \_\_\_\_ day of \_\_\_\_\_, 2019 in said Town.

1 \_\_\_\_\_  
 2 \_\_\_\_\_ Board of Selectmen  
 3 \_\_\_\_\_ the Town of  
 4 \_\_\_\_\_ **Arlington**  
 5 \_\_\_\_\_

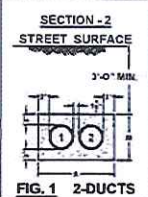
**CERTIFICATE**

I hereby certify that the foregoing are true copies of the Order of the Board of Selectmen of the Town of **Arlington,** Massachusetts, duly adopted on the \_\_\_\_\_ day of \_\_\_\_\_ 2019 and recorded with the records of location Orders of said Town, Book \_\_\_\_\_ Page \_\_\_\_\_ and of the certificate of notice of hearing thereon required by Section 22 of Chapter 166 of the General Laws (Ter. Ed.), and any additions thereto or amendments thereof, as the same appear of record.

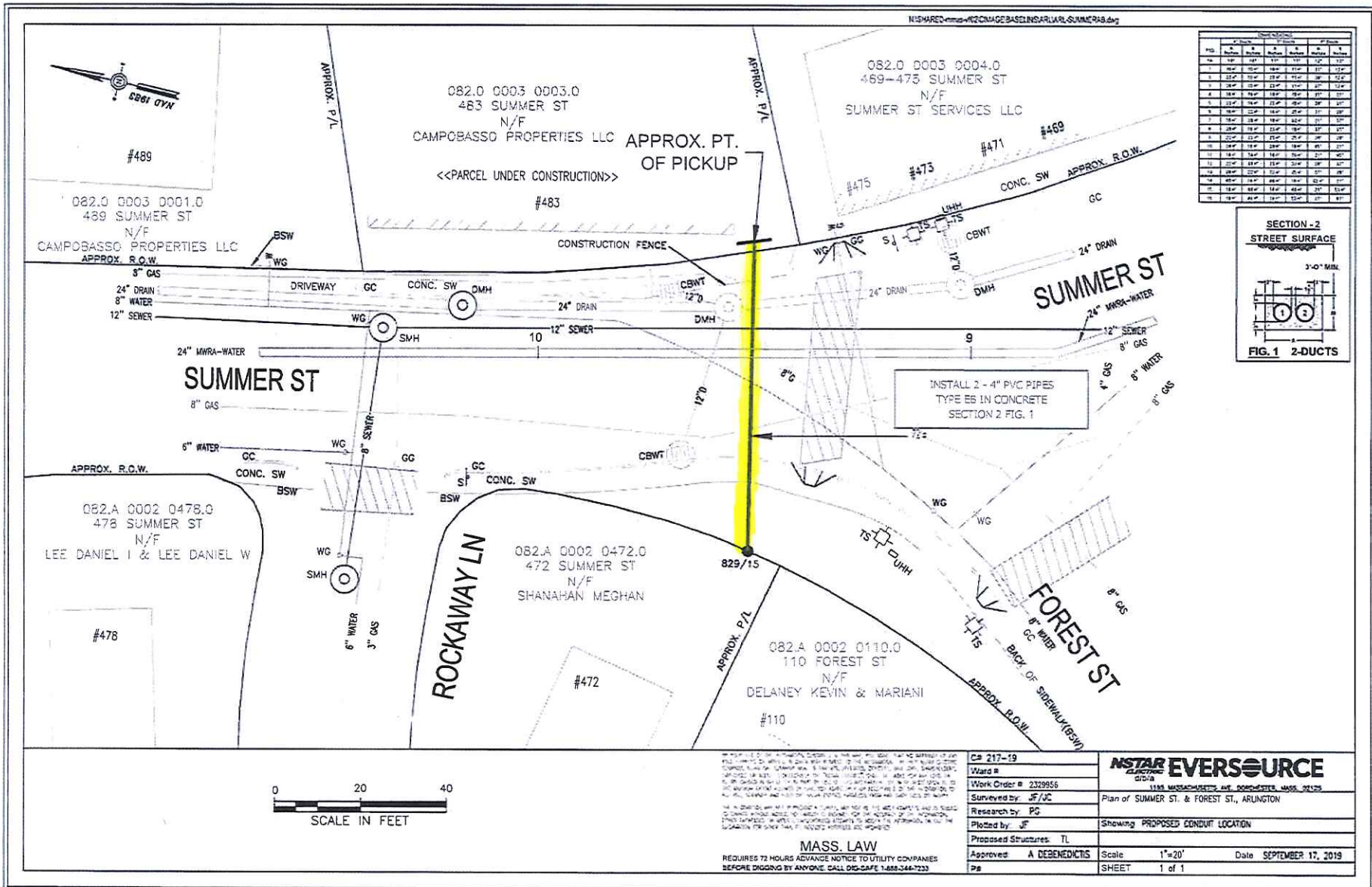
Attest: \_\_\_\_\_

Clerk of the Town of **Arlington,** Massachusetts

NO.	DESCRIPTION	DATE	BY	CHKD.	APP'D.
1	ISSUED FOR PERMIT	09/17/19	JF	PG	TL
2	REVISED	09/17/19	JF	PG	TL
3	REVISED	09/17/19	JF	PG	TL
4	REVISED	09/17/19	JF	PG	TL
5	REVISED	09/17/19	JF	PG	TL
6	REVISED	09/17/19	JF	PG	TL
7	REVISED	09/17/19	JF	PG	TL
8	REVISED	09/17/19	JF	PG	TL
9	REVISED	09/17/19	JF	PG	TL
10	REVISED	09/17/19	JF	PG	TL
11	REVISED	09/17/19	JF	PG	TL
12	REVISED	09/17/19	JF	PG	TL
13	REVISED	09/17/19	JF	PG	TL
14	REVISED	09/17/19	JF	PG	TL
15	REVISED	09/17/19	JF	PG	TL
16	REVISED	09/17/19	JF	PG	TL



INSTALL 2 - 4" PVC PIPES  
TYPE EB IN CONCRETE  
SECTION 2 FIG. 1



MASS. LAW  
REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES  
BEFORE DIGGING BY ANYONE. CALL DIG-SAFE 1-888-344-7233

Case #	217-19
Ward #	
Work Order #	2329956
Survised by	JF/JC
Research by	PG
Plotted by	JF
Proposed Structures	TL
Approved	A DEBENEDETIS
PA	

<b>NSTAR EVERSOURCE</b> Electric	
1115 MASSACHUSETTS ST. BOSTON, MASS. 02118	
Plan of SUMMER ST. & FOREST ST., ARLINGTON	
Showing PROPOSED CONDUIT LOCATION	
Scale	1"=20'
Date	SEPTEMBER 17, 2019
SHEET	1 of 1



OFFICE OF THE SELECT BOARD

DIANE M. MAHON, CHAIR  
DANIEL J. DUNN., VICE CHAIR  
JOSEPH A. CURRO, JR  
JOHN V. HURD  
STEPHEN W. DECOURCEY



730 MASSACHUSETTS AVENUE  
TELEPHONE  
781-316-3020  
781-316-3029 FAX

TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

October 7, 2019

Kelly Ann Correia, Supervisor  
Rights and Permits  
Eversource  
101 Linwood Street  
Somerville, MA 02143

Re: Summer Street, W.O. #2329956

Dear Ms. Correia:

A Public Hearing has been scheduled in conjunction with the above-captioned matter on Monday, October 28<sup>th</sup>, 7:15 p.m., Select Board Chambers, Town Hall, 730 Massachusetts Avenue, Arlington.

The abutters have been notified. Please call our office to confirm the date and time with either Fran, Ashley or Lauren.

Thank you.

Very truly yours,  
SELECT BOARD

A handwritten signature in cursive script that reads "Marie A. Krepelka".

Marie A. Krepelka  
Board Administrator

MAK:fr

## NOTICE TO ABUTTERS

October 8, 2019

Dear Abutter:

You are hereby notified that a public hearing will be held at the **Office of the Select Board, Town Hall, 730 Massachusetts Avenue, Arlington, Massachusetts**, on the **28<sup>th</sup> of October at 7:15 p.m.** upon the Petition of **NStar Electric d/b/a Eversource Energy** for permission to construct, and a location for, such a line of conduits and manholes, with the necessary wires and cables therein, said conduits and manholes to be located substantially as shown on the plan made by A. DeBenedictis, dated September 17, 2019 and filed herewith, under the following public way or ways of said Town:

**W.O. #2329956**

**Summer Street: Easterly from pole 829/15, near the intersection of Rockaway Lane, install approximately 72 feet-conduit.**

By: Marc A. Kruppel  
Board Administrator

SHANAHAN MEGHAN  
472 SUMMER STREET  
ARLINGTON, MA 02474

ZENG QIANG  
LI LINGHUI  
246 MOUNTAIN AVE  
ARLINGTON, MA 02474

CAMPOBASSO PROPERTIES  
290 MASS AVE  
ARLINGTON, MA 02474

CAMPOBASSO PROPERTIES  
290 MASS AVE  
ARLINGTON, MA 02474

SUMMER REALTY SERVICES  
12 HURON DR  
NATICK, MA 01760

DELANEY KEVIN & MARIANI  
110 FOREST ST  
ARLINGTON, MA 02474

DAVIS SHAKTI K  
112 FOREST ST  
ARLINGTON, MA 02474

PODGURSKI STEPHEN  
476 SUMMER ST  
ARLINGTON, MA 02474

LEE DANIEL I &  
LEE DANIEL W  
478 SUMMER STREET  
ARLINGTON, MA 02474



## Town of Arlington, Massachusetts

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### For Approval: All Alcohol Package Store - BB Liquors

#### Summary:

BB Powers Corporation, Nilesh K. Patel Owner/Manager, 1215 Massachusetts Avenue  
Attorney Mary Winstanley O'Connor  
(tabled from 9/9/19 meeting and 10/7/19 meeting)

#### ATTACHMENTS:

	Type	File Name	Description
▣	Reference Material	BB_Liquors_Application.pdf	All Alcohol Package Store Application
▣	Reference Material	BB_Liquors_Inspection_Reports.pdf	Inspection Reports
▣	Reference Material	BB_Liquors_Plans.pdf	Floor Plan



The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
 www.mass.gov/abcc

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION  
 MONETARY TRANSMITTAL FORM

APPLICATION FOR A NEW LICENSE

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE PAYMENT RECEIPT

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

ENTITY/ LICENSEE NAME

ADDRESS

CITY/TOWN  STATE  ZIP CODE

For the following transactions (Check all that apply):

- |  |   |   |   |
|--|---|---|---|
| <input checked="" type="checkbox"/> New License                        | <input type="checkbox"/> Change of Location   | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)         | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License                           | <input type="checkbox"/> Alteration of Licensed Premises  | <input type="checkbox"/> Change of License Type (i.e. club / restaurant)  | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock)    |
| <input type="checkbox"/> Change of Manager                             | <input type="checkbox"/> Change Corporate Name  | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement               |
| <input type="checkbox"/> Change of Officers/<br>Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest<br>(LLC Members/ LLP Partners,<br>Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder       | <input type="checkbox"/> Change of Hours                              |
|  | <input type="checkbox"/> Other <input type="text"/>   |   | <input type="checkbox"/> Change of DBA                                |

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS  
 TRANSMITTAL FORM ALONG WITH  
 COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:

Alcoholic Beverages Control Commission  
 95 Fourth Street, Suite 3  
 Chelsea, MA 02150-2358



The Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
www.mass.gov/abcc

APPLICATION FOR A NEW LICENSE

Municipality

**1. LICENSE CLASSIFICATION INFORMATION**

ON/OFF-PREMISES	TYPE	CATEGORY	CLASS
<input type="text" value="On-Premises-12"/>	<input type="text" value="\$15 Package Store"/>	<input type="text" value="All Alcoholic Beverages"/>	<input type="text" value="Annual"/>

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

The applicant seeks an all alcoholic package store license for the commercial premises at 1215 Massachusetts Avenue, Arlington, MA. Presently, this is an empty storefront.

Is this license application pursuant to special legislation?  Yes  No Chapter  Acts of

**2. BUSINESS ENTITY INFORMATION**

The entity that will be issued the license and have operational control of the premises.

Entity Name  FEIN

DBA  Manager of Record

Street Address

Phone  Email

Alternative Phone  Website

**3. DESCRIPTION OF PREMISES**

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

The proposed licensed premises consists of one floor of approximately 2,400 square feet for retail sales and a basement for storage.

Total Square Footage:	<input type="text" value="2,125"/>	Number of Entrances:	<input type="text" value="2"/>	Seating Capacity:	<input type="text" value="N/A"/>
Number of Floors	<input type="text" value="1"/>	Number of Exits:	<input type="text" value="1"/>	Occupancy Number:	<input type="text"/>

**4. APPLICATION CONTACT**

The application contact is the person whom the licensing authorities should contact regarding this application.

Name:  Phone:

Title:  Email:

**APPLICATION FOR A NEW LICENSE**

**5. CORPORATE STRUCTURE**

Entity Legal Structure	<input type="text" value="Corporation"/>	Date of Incorporation	<input type="text" value="7/30/19"/>
State of Incorporation	<input type="text" value="Massachusetts"/>	Is the Corporation publicly traded?	<input type="radio"/> Yes <input checked="" type="radio"/> No

**6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST**

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:  
**On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers** - At least 50% must be US citizens;  
**Off Premises(Liquor Store) Directors or LLC Managers** - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
<input type="text" value="Nilesh K. Patel"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
<input type="text" value="President, Treasurer, Secretary and Director"/>	<input type="text" value="100%"/>	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
			MA Resident
			<input checked="" type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
			MA Resident
			<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
			MA Resident
			<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
			MA Resident
			<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
			MA Resident
			<input type="radio"/> Yes <input type="radio"/> No

Additional pages attached?  Yes  No

**CRIMINAL HISTORY**

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.  Yes  No

**MANAGEMENT AGREEMENT**

Are you requesting approval to utilize a management company through a management agreement? Please provide a copy of the management agreement.  Yes  No

## APPLICATION FOR A NEW LICENSE

### 6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality
Nilesh K. Patel	Retail Package Store	See attached	

### 6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

### 6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled? Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

## 7. OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises.

- If the applicant entity owns the premises, a deed is required.
- If leasing or renting the premises, a signed copy of the lease is required.
- If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.
- If the real estate and business are owned by the same individuals listed in question 6, either individually or through separate business entities, a signed copy of a lease between the two entities is required.

Please indicate by what means the applicant will occupy the premises

Lease

Landlord Name Nirmala & Nirmala, LLC

Landlord Phone

Landlord Email Rupalpatel1@gmail.com

Landlord Address

Lease Beginning Date

Rent per Month 3,500.00

Lease Ending Date

Rent per Year 42,000.00

Will the Landlord receive revenue based on percentage of alcohol sales?

Yes  No



**APPLICATION FOR A NEW LICENSE**

**8. FINANCIAL DISCLOSURE**

A. Purchase Price for Real Estate	0
B. Purchase Price for Business Assets	0
C. Other * (Please specify below)	200,000
D. Total Cost	200,000

\*Other Cost(s): (i.e. Costs associated with License Transaction including but not limited to: Property price, Business Assets, Renovations costs, Construction costs, Initial Start-up costs, Inventory costs, or specify other costs):"

**SOURCE OF CASH CONTRIBUTION**

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
Nilesh K. Patel	\$200,000 - personal and family savings
Total:	\$200,000

**SOURCE OF FINANCING**

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No

**FINANCIAL INFORMATION**

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

**9. PLEDGE INFORMATION**

Please provide signed pledge documentation.

Are you seeking approval for a pledge?  Yes  No

Please indicate what you are seeking to pledge (check all that apply)  License  Stock  Inventory

To whom is the pledge being made?

## ADDITIONAL INFORMATION

Please utilize this space to provide any additional information that will support your application or to clarify any answers provided above.

### Paragraph 6A

Radhe, LLC - 425 Main Street, Stoneham, MA d/b/a Center Beverage - 100% interest

NR Wilmington Corporation d/b/a Wilmington Wine and Spirits - 258 Main Street, Wilmington, MA - 50% interest

D&M Liquor Corporation d/b/a S&M Liquor Store - 258 Water Street, Wakefield, MA - 25% interest

### Paragraph 10C

2013 to present - Owner and manager - Radhe, LLC d/b/a Center Beverage - 425 Main Street, Stoneham, MA - retail package store

1998 to 2013 - Manager - Peter Pan Superette - 2 Park Avenue, Arlington, MA

1998 to present - Owner - Peter Pan Superette - 2 Park Avenue, Arlington, MA

APPLICANT'S STATEMENT

I, Nilesh K. Patel the:  sole proprietor;  partner;  corporate principal;  LLC/LLP manager  
Authorized Signatory

of BB Powers Corporation  
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature: 

Date: 07/31/2019

Title: President

## LICENSE APPLICATION REPORT

Type of License: New All Alcohol Package Store License

Name of Applicant: Nilesh K. Patel d/b/a BB Liquors

Address: 1215 Massachusetts Avenue

The following Departments have **no objections** to the issuance of said license:

- Police \_\_\_\_\_
- Fire \_\_\_\_\_
- Health \_\_\_\_\_
- Building \_\_\_\_\_
- Planning \_\_\_\_\_

The following Departments have **no objections** but have made comments or conditions regarding the issuance of said license: (see attached)

- Police   x
- Fire   x
- Building \_\_\_\_\_
- Planning   x

The following Departments have **objections** to the issuance of said license:  
(see attached)

- Police \_\_\_\_\_
- Fire \_\_\_\_\_
- Health \_\_\_\_\_
- Building   x
- Planning \_\_\_\_\_

ARLINGTON POLICE DEPARTMENT

**Juliann Flaherty**  
Acting Chief of Police



POLICE HEADQUARTERS  
112 Mystic Street  
Telephone 781-316-3900

*Town of Arlington*  
MASSACHUSETTS 02474

August 19, 2019

On Monday, August 19, 2019 at 10:00 AM, I called and spoke with Nilesh Patel regarding this All Alcohol Package Store application for the BB Liquors, located at 1215 Mass Ave. Patel stated he does own the property and will be opening the package store sometime after his meeting date in September.

I advised Nilesh Patel that the Board of Selectmen may be conducting C.O.R.I and S.O.R.I checks during the application process.

Pending the checks conducted by the Board of Selectmen's Office, Arlington Police Dept. is not aware of any law enforcement or public safety reasons to object to the All Alcohol Package Store for the BB Liquors.

Respectfully Submitted,

Detective Edward DeFrancisco

---

APPLICANT SIGNATURE SECTION:

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Select Board; furthermore, any work done is done at the applicant's risk.

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*[Handwritten Signature]*  
*counsel*  
*8/19/2019*

*"Proactive and Proud"*



## Arlington Fire Department Town of Arlington

Administrative Office  
411 Massachusetts Ave, Arlington, MA 02474  
Phone: (781) 316-3803 Fax: (781) 316-3808  
Email: rmelly@town.arlington.ma.us

Ryan Melly  
Deputy Fire Chief

### Checklist for food sales ownership conversion.

- All exit signs and emergency lights must be tested and in good working order
- FACP **must** have annual test paperwork on hand and be free of trouble and alarm signals
- Sprinkler system (if present) shall have current inspection tag
- All extinguishers must be hung with signs and a current inspection tag
- "K" extinguisher mounted and tagged in the kitchen area if using fat to cook
- All exits and exit paths must be in proper working order and free from storage
- No storage of excess combustibles allowed inside building or near exit ways
- Hoods must have current inspection/cleaning sticker attached
- Kitchen extinguishing systems must have current inspection tags
- If Ansul or Sprinklers present FACP must report to monitoring company
- Address must be clearly visible from the street
- Electrical panels must be accessible from floor to ceiling for the entire width
- Call for inspection after all has been completed 781-316-3803

---

### APPLICANT SIGNATURE SECTION:

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Select Board; furthermore, any work done is done at the applicant's risk.

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*[Handwritten Signature]*  
*9/4/2019 Counsel*

**OFFICE OF THE SELECT BOARD  
TOWN OF ARLINGTON - INSPECTION REPORT**

Report is due at the Office of the Select Board by September 3, 2019  
**ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.**

Location: 1215 Massachusetts Avenue  
Applicant's Name: Niles K. Patel---BB Powers Corporation  
D/B/A: BB Liquors  
Telephone: 781-572-8646  
Department: Sent Interoffice Mail & E-mail Date: 8/29/2019

---

**MEETING DATE: 9/9/19**

Inspected By:

**RE: ALL ALCOHOL PACKAGE STORE**

Police  
Fire  
Board of Health  
Building  
Planning

**INSPECTION REPORT SECTION:**

Applicant needs to speak to Building Inspector.

There are no legal parking spaces on site. The spaces shown to rear of store are not legal parking spaces.

Plans submitted are inadequate; until professional drawings and certified pot plan are submitted to this office we cannot give an official opinion.

We find at this time that we are unable to support this application.

---

**APPLICANT SIGNATURE SECTION:**

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Select Board; furthermore, any work done is done at the applicant's risk.

Applicant's Signature: \_\_\_\_\_

Date: 9/4/2019 COUSEL

**OFFICE OF THE SELECT BOARD  
TOWN OF ARLINGTON - INSPECTION REPORT**

Report is due at the Office of the Select Board by September 3, 2019  
**ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.**

Location: 1215 Massachusetts Avenue  
Applicant's Name: Nilesh K. Patel---BB Powers Corporation  
D/B/A: BB Liquors  
Telephone: 781-572-8646  
Department: Sent Interoffice Mail & E-mail

Date: 8/27/2019

---

**MEETING DATE: September 9, 2019**

Inspected By:

**RE: ALL ALCOHOL PACKAGE STORE**

Police  
Fire  
Board of Health  
Building  
Planning---Ali Carter, Economic Development Coordinator

**INSPECTION REPORT SECTION:**

The application is for a new all alcohol package store license. The location of this proposed business is in a vacant storefront that was formerly used as a take-out pizza restaurant. The use of the location as a retail all alcohol package store is an improvement over the current condition, however it does constitute a change of use and, as such, will require additional levels of approval from the Inspectional Services Department and the Arlington Redevelopment Board through Environmental Design Review.

The Department has no objection to the issuance of this license.

Any changes in signage, including signs in the window, and changes to the façade of the building may be subject to review by this Department. The Applicant is reminded that all signs, including re-lettering of the existing signs require a permit issued by the Inspectional Services Department. Other provisions of the Zoning Bylaw may apply as determined by the Building Inspector.

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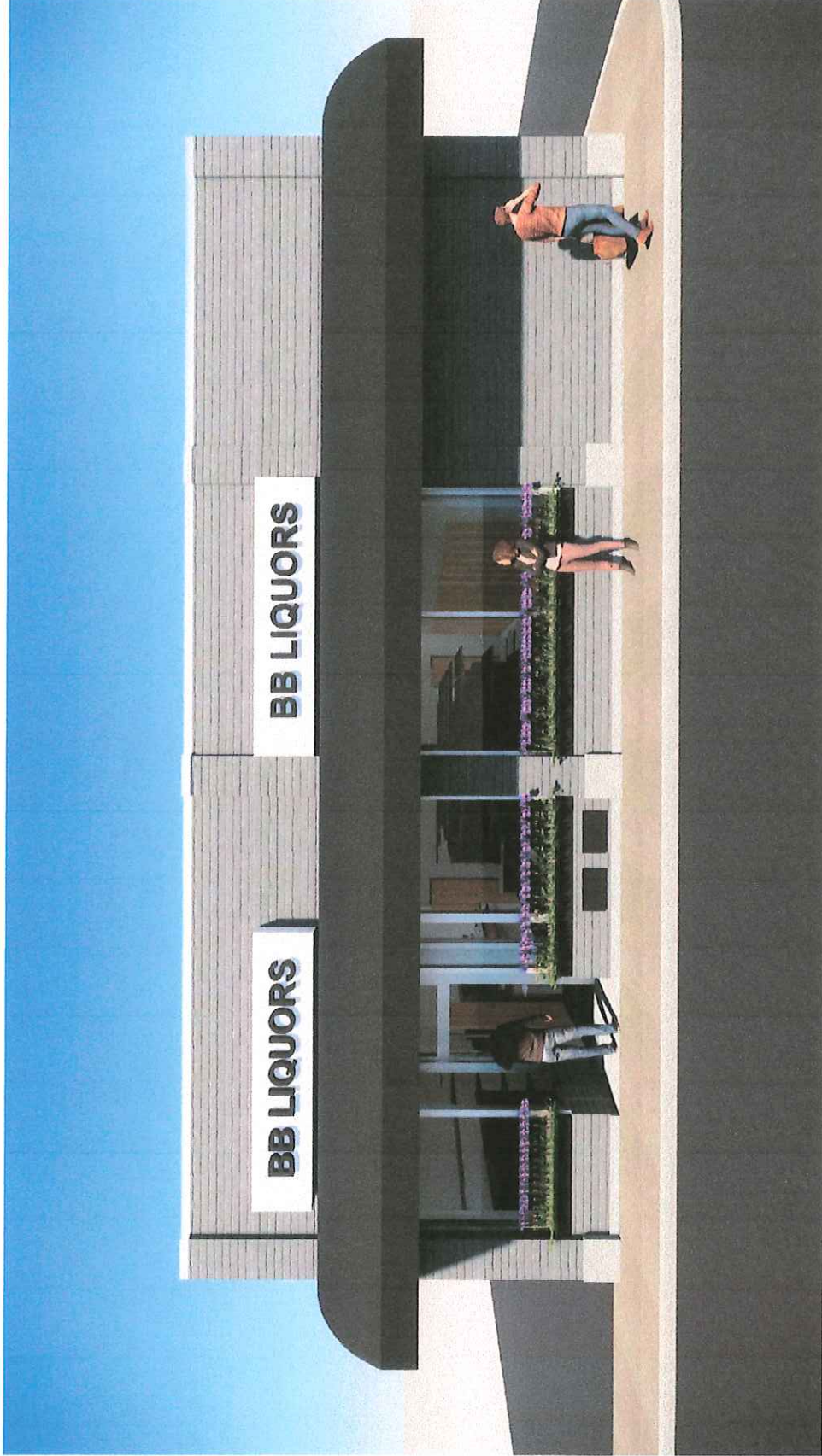
**APPLICANT SIGNATURE SECTION:**

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Select Board; furthermore, any work done is done at the applicant's risk.

Applicant's Signature: \_\_\_\_\_

Date: 9/4/2019 Counsel



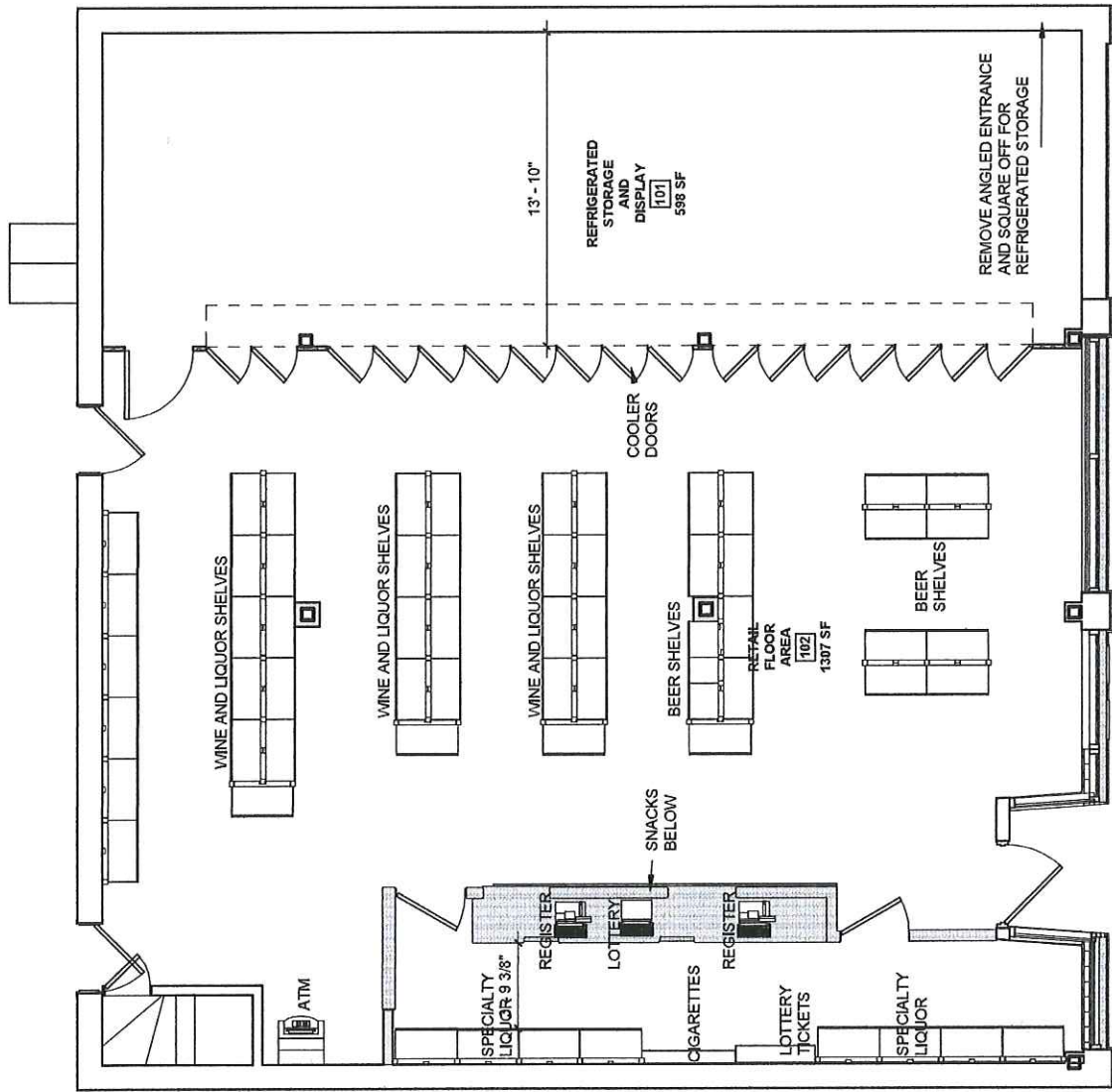


NILESH PATEL  
190079

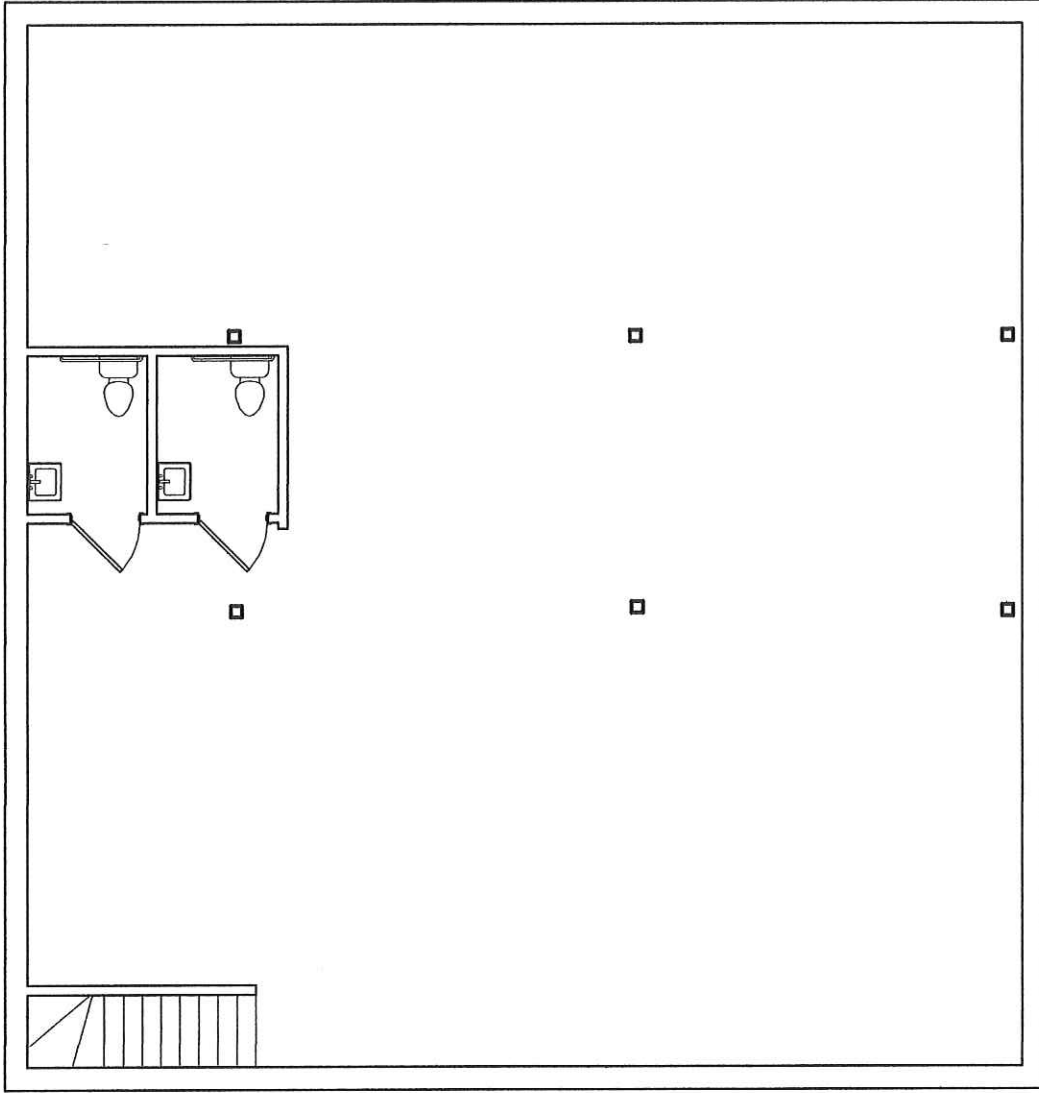
EXTERIOR ELEVATION

Date: 09/19/19

Scale:



OVERALL FLOOR PLAN



NILESH PATEL  
190079

**BASEMENT**

Date: 09/19/19

Scale: 3/16" = 1'-0"



## Town of Arlington, Massachusetts

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### Response to Petition Regarding Police Lieutenant Richard Pedrini

**Summary:**

Adam W. Chapdelaine, Town Manager

**ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	A._Chapdelaine_ _Pedrini_Response_.docx	Reference

Thank you, Madame Chair. I appreciate that you've allowed me an opportunity to speak in regard to this matter tonight. I'd like to start by thanking all of the residents that have attended the last few Board meetings to express their concern regarding this issue. Their presence and their words have allowed all of us to learn and more deeply understand the contours of this issue. Through the words of those who have spoken before the Board, and through the many meetings that I have had with residents in regard to this matter over the past 6 months, I have felt the pain that many are feeling and have deepened my understanding of the importance of constantly working to build and maintain trust between Town government and the community.

I also want to note the respect and appreciation that I have for the women and men of the Arlington Police Department. They work hard to serve this community and I'll be the first one to acknowledge that they have difficult jobs. Though this issue has highlighted areas that we need to focus on and implement improvements, I do not feel that a blanket indictment of the APD is appropriate and it is certainly not what I am intending to do.

Also, before directly addressing the petition and my responses to it, I want to make something clear that I should have made clear in my letter to the community. Lt. Pedrini's writings were racist and need to be called out as such. Let me be clear – I am not saying that Rick Pedrini is a racist, but I do believe that his words were. Though I have in the past and continue now to condemn his writings, I don't call them racist tonight simply to condemn them. Rather, I make that statement to call them what they are, so that we can address the issue that is before us. The more I read and learn about issues of race in this country, the more I understand that it is a challenge that we all face. Bias, either implicit or explicit, is present in all of us, and it is only through an acknowledgement of its presence that we can begin to address and find ways to move past it as individuals, organizations and as a society.

I am hopeful, that working together as a community, we can begin to address these issues and improve the overall equity and inclusion of Arlington as both a local government and a community.

In order to start this work, I'd like to directly respond to the petition and also offer an additional step that we are committed to taking in response to this issue.

## **Petition**

- Develop and announce a plan for repairing community trust by November 1, 2019. – **Using the report compiled by the Consensus Building Institute as a guide, we plan to hold a series of community meetings in order to develop and continue the restorative process for Lt. Pedrini with the community and targeted groups. I have spoken with one facilitator and would like to speak to a few more before formally announcing the format of these meetings. Currently, I would like to have the first of this series of meetings scheduled to be held before the end of November. Additionally, in line with CBI’s recommendation to develop additional structures, policies, and actions for the Town to ensure that Arlington and its employees live up to the values and aspirations of Arlington residents, we are planning to update the Town’s Employee Handbook so that it includes a “Code of Conduct”.**
- Restrict Lt. Pedrini to desk duty while this plan is developed. – **Chief Flaherty holds the right of assignment for police personnel, but we have both agreed that due to the sensitivity of this matter, that we will confer before any changes to Lt. Pedrini’s assignment are made. Correspondingly, we are both in agreement that Lt. Pedrini will remain in his current administrative assignment until further notice. If at some future point we decide to change his assignment, we commit to doing so transparently.**
- Work with an impartial, racially diverse, third-party organization to conduct a review of the APD and assess the presence of bias within the department. – **We are committed to doing this and Chief Flaherty has two proposals from two different firms that we are now assessing. We hope to have a firm selected and a contract awarded within the next two weeks.**
- Based on the assessment findings and third-party recommendations, develop a plan for ongoing cultural competency and anti-racism training within APD. – **We are absolutely committed to doing this as it is both appropriate and also a continuation of trainings that former Chief Ryan and now Acting Chief Flaherty have conducted for the Department.**
- Develop a plan for the establishment of a racially and class diverse Civilian Review Board. –**It is my opinion that it is generally not the Town Manager who tells a community how to govern itself from a structural point of view. That said I, would**

**be happy to facilitate a process of considering such a proposal if brought forth by the community.**

Finally, though it does not directly relate to any of the requests of the petition, I am working to bring the National League of Cities, Race, Equity and Leadership Division to Arlington. This engagement would include assessment, training and capacity building and would focus on work with department heads, supervisory staff and elected officials. NLC created the Race, Equity, And Leadership (REAL) program to strengthen local government leaders' knowledge and capacity to eliminate racial disparities, heal racial divisions, and build more equitable communities.

In closing, I am fully aware that just making this statement tonight does not fully satisfy people's concerns. Moreover, I understand that there are many different opinions, including sometimes conflicting opinions about what should be done to address people's concerns. That notwithstanding, I fully understand that we need to act upon the response that I have offered tonight and that we need to do so in an expeditious yet thoughtful manner. I am committed to doing so. As more details about our plan are developed, I will share them with the community. I look forward to working with the Board and the community to, not to no longer talk about this issue, but to look back and see the improvements we've made.



## Town of Arlington, Massachusetts

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### Mugar 40B Application Update

#### Summary:

Douglas W. Heim, Town Counsel

#### ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	2019.10.15_(16-08)_Decision_(00022007xA050C).pdf	Decision
▢ Reference Material	Arlington_Objections_to_HAC_Proposed_Decision_(00022025xA050C).pdf	Objections of the Arlington Board of Appeals



**COMMONWEALTH OF MASSACHUSETTS  
HOUSING APPEALS COMMITTEE**

**In the Matter of**

**ARLINGTON BOARD OF APPEALS**

**and**

**ARLINGTON LAND REALTY, LLC**

**No. 2016-08**

**DECISION ON INTERLOCUTORY APPEAL  
REGARDING APPLICABILITY OF SAFE HARBOR**

October 15, 2019



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**Counsel for Arlington Board of Appeals**

Jonathan D. Witten, Esq.

Barbara Huggins, Esq.

KP Law, P.C.

101 Arch Street, 12<sup>th</sup> Floor

Boston, MA 02110

**Counsel for Arlington Land Realty, LLC**

Stephanie A. Kiefer, Esq.

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**Arlington Land Realty, LLC's Witness**

Martin C. Curnan

COMMONWEALTH OF MASSACHUSETTS  
HOUSING APPEALS COMMITTEE

In the Matter of	)	
	)	
ARLINGTON BOARD OF APPEALS	)	
	)	
and	)	No. 2016-08
	)	
ARLINGTON LAND REALTY LLC.	)	
	)	

**DECISION ON INTERLOCUTORY APPEAL  
REGARDING APPLICABILITY OF SAFE HARBOR**

**I. INTRODUCTION AND PROCEDURAL BACKGROUND**

This is an interlocutory appeal to the Housing Appeals Committee brought by the Arlington Board of Appeals (Board), pursuant to 760 CMR 56.03(8), appealing a determination by the Department of Housing and Community Development (DHCD) that the Town of Arlington (Town or Arlington) has not met the general land area minimum, one of the three statutory safe harbors precluding the Housing Appeals Committee from overturning or modifying a board decision under the Comprehensive Permit Law, G. L. c. 40B, §§ 20–23. Under DHCD’s implementing comprehensive permit regulations, any decision by a board to deny a comprehensive permit or to grant a permit with conditions “shall be upheld” if the municipality has achieved one of these statutory minima. 760 CMR 56.03(1)(a); *see* G.L. c. 40B, § 20. The general land area minimum is met if low or moderate income housing exists on sites comprising 1.5 percent or more of all land zoned for residential, commercial, or industrial use in the municipality. G.L. c. 40B, § 20; *see* 760 CMR 56.03(3)(b).

The general land area minimum is calculated by dividing the area of sites of affordable housing that are eligible for inclusion on the DHCD Subsidized Housing Inventory

(SHI) (the numerator) by the total land area in the municipality zoned for residential, commercial, or industrial use (the denominator). *Matter of Stoneham and Weiss Farm Apartments, LLC*, No. 2014-10, slip op. at 3 (Mass. Housing Appeals Comm. June 26, 2015). The Board argues the Town has satisfied the 1.5 percent general land area minimum threshold. The applicant, Arlington Land Realty LLC (ALR), challenges the methodology used by the Board in calculating its general land area minimum, specifically the denominator, and believes the Town has not met the statutory minimum.

Pursuant to the comprehensive permit regulation, specifically 760 CMR 56.03(8)(a), a board seeking to rely on a safe harbor must notify the developer and DHCD of such safe harbor claim within 15 days of the opening of the board's hearing on a comprehensive permit application. If the developer wishes to challenge the board's safe harbor assertion, it must provide written notice to DHCD and the Board within 15 days. DHCD "shall thereupon review the materials provided by both parties and issue a decision within 30 days of its receipt of all materials." 760 CMR 56.03(8)(a). Either party may file an interlocutory appeal of an adverse decision by DHCD to the Committee, but must do so within 20 days of receipt of DHCD's decision. The interlocutory appeal to the Committee is conducted on an expedited basis, as the proceeding before the board is stayed pending our determination. 760 CMR 56.03(8)(c). The Committee's hearing on the issue, like all of our proceedings, is *de novo*. G.L. c. 40B, § 22. Section 56.03(8)(a) provides that the Board has "the burden of proving satisfaction of the grounds for asserting that a denial or approval with conditions would be consistent with local needs...."

As alleged in the parties' briefs, ALR applied on September 1, 2016 for a comprehensive permit from the Board to build a 219-unit project on a parcel of land off Dorothy Road in Arlington. The Board opened a public hearing, and on October 6, 2016, it invoked the general land area minimum safe harbor on the ground that the Town had reached the 1.5 percent land area minimum under G. L. c. 40B, § 20 and 760 CMR 56.03(3)(b), and notified ALR and DHCD accordingly, pursuant to 760 CMR 56.03(8)(a). After ALR notified DHCD of its objection to the Board's position, DHCD issued a determination on November 17, 2016 that the Town had not reached the 1.5 percent land area threshold.

The Board filed this interlocutory appeal with the Committee on December 6, 2016. As alleged in the Board's brief, while the appeal was pending, the Middlesex Superior Court issued a decision on February 14, 2017 in *Zoning Bd. of Appeals of the City of Waltham v. Department of Housing and Community Dev.*, C.A. No. 16-1177-H. The Superior Court found, in the context of a comprehensive permit appeal, that a board may be entitled to confidential information from certain government agencies regarding units within a municipality that are eligible for inclusion on the SHI, subject to certain privacy protections. In that case, the Waltham Zoning Board of Appeals sought the confidential addresses of residential properties (group homes) licensed or operated by the Department of Mental Health (DMH) and the Department of Developmental Services (DDS). Group homes are eligible for inclusion on the SHI. *See* Guidelines, G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory, December 2014, §§ I.A, II.A.2.e (40B Guidelines);<sup>1</sup> 760 CMR 56.03(2)(a). The Waltham zoning board had wished to include the land area for Waltham's group homes in its land area minimum calculation.

On June 5, 2017, the Board filed an action in Middlesex Superior Court to procure the residential addresses of DMH and DDS units in Arlington that were eligible for inclusion on the SHI. *Zoning Bd. of Appeals of the Town of Arlington v. Department of Housing and Community Dev., et al.*, C.A. No. 1781CV01688. On February 28, 2018, the Superior Court issued a memorandum and order, requiring DMH and DDS to disclose the confidential information sought by the Board, subject to procedures designed to protect confidentiality. Both agencies complied. At a telephone conference held on August 31, 2018, counsel for ALR stated ALR was not challenging the Board's total amount of land area attributable to group homes. The parties submitted pre-filed witness testimony regarding the land area minimum calculation. The evidentiary hearing was held on October 25, 2018 and November 2, 2018. The parties filed post-hearing briefs and reply briefs thereafter.<sup>2</sup> At the Board's

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<sup>1</sup> The Committee has taken official notice of the 40B Guidelines.

<sup>2</sup> Since this interlocutory decision does not "finally determine the proceedings," the presiding officer may rule on it without consulting with the full Committee. 760 CMR 56.06(7)(e)2. However, in cases of first impression or those involving particularly weighty matters, the presiding officer, in their discretion, may choose to bring the matter before the full Committee. The Presiding Officer has

request, a proposed decision was issued to allow the parties to provide objections and written argument. *See* 760 CMR 56.06(7)(e)9. *See also* G.L. c. 30A, § 11(7). The Board submitted objections, and requested oral argument, with regard to the proposed decision. ALR did not respond to the proposed decision. The Board’s request for oral argument on the proposed decision is denied. 760 CMR 56.06(7)(f).

## II. GENERAL LAND AREA MINIMUM OF 1.5 PERCENT

### A. Applicable Law and Regulations

The general land area minimum is met if the land area in the municipality dedicated for use as housing for low or moderate income households is 1.5 percent or more of all land zoned for residential, commercial, or industrial use. G. L. c. 40B, § 20; 760 CMR 56.03(3)(b). In a municipality that has met the safe harbor, the zoning board’s denial of a comprehensive permit or grant of a permit with conditions will be conclusively deemed “consistent with local needs” and the board’s decision will be upheld by the Committee. G. L. c. 40B, § 20; 760 CMR 56.03(1)(a).

The comprehensive permit regulation, specifically, 760 CMR 56.03(3)(b), sets forth the standards for calculating the general land area minimum. DHCD also issued guidelines on January 17, 2018, the Guidelines for Calculating General Land Area Minimum (GLAM Guidelines), to provide assistance and ensure consistency with land area minimum calculations.<sup>3</sup>

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deemed it appropriate that the full Committee consider the issues raised in this matter. *See Matter of Braintree and 383 Washington Street*, 2017-05, slip op. at 3 n.2 (Mass. Housing Appeals Comm. June 27, 2019); *Matter of Newton and Dinosaur Rowe, LLC*, No. 2015-01, slip op. at 2 n.2 (Mass. Housing Appeals Comm. June 26, 2015).

<sup>3</sup> DHCD issued the GLAM Guidelines in January 2018, during the pendency of this interlocutory appeal, following our invitation in a prior case to develop guidance for reviewing the extent of impervious and landscaped areas directly associated with SHI eligible units, as well as aspects of the denominator. *See Matter of Norwood and Davis Marcus Partners*, No. 2015-06, slip op. at 6 n.6, 19 n.12 (Mass. Housing Appeals Comm. Dec. 8, 2016).



The parties disagree regarding the applicability of the GLAM Guidelines, introduced into evidence by ALR. Exh. 6-8.<sup>4</sup> The Board argues that application of the GLAM Guidelines is unlawful and inconsistent with the Committee's practice because their adoption postdates both the filing of the Board's interlocutory appeal and ALR's application to the Board for a comprehensive permit. The Board argues the date of application to the Board is determinative for all issues relating to the project at issue, as well as proceedings before the Committee, and any new standards or rules should only be applied prospectively. The Board also argues the GLAM Guidelines add new definitions, procedural requirements, and substantive standards to be applied to the statutory land area minimum, and if DHCD or the Committee wishes to amend any of the above, it must do so by adopting regulations in accordance with the administrative process. Finally, the Board argues, to the extent the Committee seeks to apply the GLAM Guidelines, it is doing so on an *ad hoc* basis. For example, the GLAM Guidelines contain new procedures for gathering information on group homes through DHCD and MassGIS. The Board claims those procedures were not available to it in this case, and it obtained group home information through a Superior Court action to enforce subpoenas. By applying some parts of the GLAM Guidelines while not following the new group home procedures, the Board alleges, the Committee would be acting in an arbitrary and capricious manner.

ALR argues that consideration of the GLAM Guidelines, although they were not published in final form until after the commencement of this appeal, is pertinent to the interpretation of the general land area minimum safe harbor. It argues that with *de novo* review, the Committee may consider the published GLAM Guidelines because it is capable of accepting evidence and arguments proffered by the parties and independently determining whether the Town has reached the safe harbor. ALR notes that the Committee has previously exercised this independent decision making in *Matter of Newton and Dinosaur Rowe LLC*,

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<sup>4</sup> The Board filed a motion in limine to preclude consideration of the GLAM Guidelines, which ALR opposed. In her October 16, 2018 ruling, the Presiding Officer admitted the guidelines into evidence but deferred the consideration of their applicability to the full Committee. The ruling noted that "[t]he parties will not utilize the data gathering procedure established by these guidelines, but may cross-examine witnesses with regard to the guidelines."

No. 2015-01, slip op. at 3-4 n.5 (Mass. Housing Appeals Comm. June 26, 2015) (Committee disagreed with DHCD's guidance, interpreting applicable regulation differently than as set out in guidance document). ALR argues the Committee may recognize certain provisions and assign weight as it deems appropriate. The GLAM Guidelines, in ALR's view, provide only further refined guidance; the Committee must still reach its own conclusion, based on its understanding of the law and regulations.

As we noted recently in *Matter of Braintree and 383 Washington Street*, 2017-05 (Mass. Housing Appeals Comm. June 27, 2019), the GLAM Guidelines do not carry the force of law as they were not promulgated as regulations. *Id.* at 5, citing *Town of Northbridge v. Town of Natick*, 394 Mass. 70, 76 (1985) (agency's guidance documents are policy statements without force of law). However, "[g]enerally, in considering statutory and regulatory provisions, [the Committee gives] deference to policy statements issued by DCHD, the state's lead housing agency." *Braintree, supra*, No. 2017-05, slip op. at 5, citing *Matter of Norwood and Davis Marcus Partners*, No. 2015-06, slip op. at 4 (Mass. Housing Appeals Comm. Dec. 8, 2016) and cases cited. Moreover, 760 CMR 56.03(3)(d) states that "[e]vidence regarding Statutory Minima submitted under 760 CMR 56.03(3) shall comply with any guidelines issued by [DHCD]." In this *de novo* appeal before the Committee, we are charged with interpreting Chapter 40B and its implementing regulations. As an expression of DHCD's interpretation of the regulations, the GLAM guidelines may be of assistance in this appeal. Therefore, we may consider the guidance offered by DHCD's GLAM Guidelines with respect to interpretation of language in the statute and regulations. Interpretation of the regulation is different than establishing a procedure for municipalities to gather land area data, which should only apply prospectively.<sup>5</sup> However, as we discuss below, the GLAM

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<sup>5</sup> We have previously noted that when DHCD changed regulations during the pendency of an appeal before the Committee, questions of fairness with regard to retroactive application may preclude application of certain provisions. *See, e.g., Green View Realty, LLC v. Holliston*, No. 2006-16, slip op. at 1 n.1 (Mass. Housing Appeals Comm. Jan. 12, 2009); *Brierneck Realty, LLC v. Gloucester*, No. 2005-05, slip op. at 1 n.1-2 (Mass. Housing Appeals Comm. Aug. 11, 2008); *Cozy Hearth Community Corp. v. Edgartown*, No. 2006-09, slip op. at 3-4 (Mass. Housing Appeals Comm. Apr. 14, 2008) and cases cited. For this reason, the data gathering procedures in the GLAM Guidelines, which provide for steps a board should undertake immediately upon the filing of an application for a comprehensive permit, are inapplicable, as the Presiding Officer ruled during the hearing.

Guidelines, while supporting our rulings, are not determinative of the issues before us in this particular appeal.

### **B. Burden of Proof**

The Committee's hearing on this issue, like all Committee proceedings, is *de novo*. G. L. c. 40B, § 22; *Matter of Waltham and Alliance Realty Partners*, No. 2016-01, slip op. at 5 (Mass. Housing Appeals Comm. Feb. 13, 2018). The Board carries the "burden of proving satisfaction of the grounds for asserting that a denial or approval with conditions would be consistent with local needs[.]" 760 CMR 56.03(8)(a). It must affirmatively prove that it has satisfied the statutory minimum based on reliable supporting evidence. *Brewster Commons, LLC v. Duxbury*, No. 2010-08, slip op. at 6 (Mass. Housing Appeals Comm. Ruling and Order Extending Comprehensive Permit Dec. 12, 2011). ALR may introduce evidence to counter the Board's evidence, or it may simply challenge the sufficiency of the Board's case without providing its own contrary evidence. *Waltham, supra*, No. 2016-01, slip op. at 5.

### **C. The Numerator**

The Board must prove that SHI eligible housing exists on sites comprising 1.5 percent or more of the total land area zoned for residential, commercial or industrial use in Arlington. G. L. c. 40B, § 20; 760 CMR 56.03(3)(b). For the above ratio, the comprehensive permit regulations clarify that:

Only sites of SHI Eligible Housing units inventoried by [DHCD] or established according to 760 CMR 56.03(3)(a) as occupied, available for occupancy, or under permit as of the date of the Applicant's initial submission to the Board, shall be included toward the 1½% minimum. For such sites, that proportion of the site area shall count that is occupied by SHI Eligible Housing units (including impervious and landscaped areas directly associated with such units).

760 CMR 56.03(3)(b). The Board presented evidence that the numerator is 30.14 acres. Exhs. 4, ¶ 16; 4-1, p. 1; Tr. I, 26. Although ALR's expert witness raised an issue with the numerator,<sup>6</sup> ALR has not disputed the Board's figure for the numerator for the purposes of

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<sup>6</sup> ALR's expert suggested the Board's expert had claimed as SHI eligible a property of .189 acres that is not listed on the SHI. Exh. 6, ¶ 26 and n.17. The SHI is presumed accurate; thus, the Board has the burden of proving any additional SHI eligible properties should be counted. *See Braintree, supra*, No. 2017-05, slip op. at 28-31.

the appeal. It argues that, even accepting the Board's numerator, the Town has failed to reach the 1.5 percent general land area minimum safe harbor. Since ALR has not contested the numerator, we accept the Board's figure for the purposes of this appeal.

#### **D. The Denominator**

The comprehensive permit regulations provide that the denominator is the "total land area," inclusive and exclusive of certain categories of land. 760 CMR 56.03(3)(b). Total land area includes: "all districts in which any residential, commercial, or industrial use is permitted, regardless of how such district is designated by name in the [municipality's] zoning by law," and "all unzoned land in which any residential, commercial, or industrial use is permitted." 760 CMR 56.03(3)(b)1-2. Total land area excludes: 1) land owned by the United States, the Commonwealth of Massachusetts or any political subdivisions, and the Department of Conservation and Recreation;<sup>7</sup> 2) any land area where all residential, commercial, and industrial development has been prohibited by restrictive order of the Department of Environmental Protection (DEP) pursuant to G.L. c. 131, § 40A; 3) any water bodies; and 4) any flood plain, conservation or open space zone if said zone completely prohibits residential, commercial and industrial use, or any similar zone where residential, commercial or industrial use are completely prohibited. 760 CMR 56.03(3)(b)3-6.

##### **1. The Board's Calculation**

The Board submitted its calculation of the denominator through the testimony of Adam Kurowski, the Town's Director of Geographic Information Systems and Systems Analyst. Mr. Kurowski provided pre-filed testimony dated March 31, 2017, supplemental pre-filed testimony dated May 16, 2018, and additional supplemental pre-filed testimony dated August 16, 2018.<sup>8</sup> He testified regarding his methodology for calculation of the total land area and his conclusion that the general land area minimum for Arlington is 1.53 percent. Exhs. 3-5; Tr. I, 12-13. He stated that he consulted with town counsel and special

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<sup>7</sup> The denominator, however, "shall include any land owned by a housing authority and containing SHI Eligible Housing." 760 CMR 56.03(3)(b)3.

<sup>8</sup> Mr. Kurowski confirmed at the hearing that his May 2018 supplemental pre-filed testimony (Exh. 4) superseded his original March 2017 pre-filed testimony (Exh. 3). Tr. I, 12-13.

town counsel regarding interpretation of Chapter 40B and relevant regulations. He stated he applied formulas found in G.L c. 40B, § 20, and, using the Town Geographic Information System (GIS), determined “total zoned land area” to be 2,556.59 acres and “total excluded land” to be 588.88 acres, Exh. 4, ¶¶ 7, 12-13. Mr. Kurowski’s Summary of Affordable Housing GIS Calculation stated:

Total Zoned Land (a)

**Process:** Arlington’s GIS parcel layer includes acreage for fee owned parcels (FEE), road rights-of-way (ROW), railroad/Minuteman Bikeway (RAILROAD), and water (WATER). Arlington’s GIS zoning layer was applied to each parcel ... [A]ll residential, commercial, or industrial land that is not considered road right-of-way, railroad/Minuteman Bikeway, or water was calculated. From this total land area, the acreage of all water bodies were subtracted. [Sic]

Exh. 4-1, p. 2. Mr. Kurowski’s testimony also included a table listing “Total Land Zoned R, C, or I; non-water, non-ROW.” The zoning categories included in the table, all fee parcels, were identified as various business, industrial, and residential districts, as well as multi-use, open space, planned unit development, and transportation. Exh. 4, p. 4. Although Mr. Kurowski’s definition of “total zoned land” under (a) is consistent with § 56.03(3)(b)1, he did not discuss his treatment of land “regardless of how such district is designated by name in the city or town’s zoning bylaw.” *Id.* He did state that Arlington does not have unzoned land in which any residential, commercial, or industrial use is permitted, which is includable in the denominator under 760 CMR 56.03(3)(b)2. Exh. 4-1, pp. 1-2.

Mr. Kurowski’s summary also listed the following component categories of excluded land: “Zoning – any parcel having a non-residential, non-commercial, or non-industrial zoning type,” government-owned parcels, “[p]ermanently protected land – any parcel or portion of a parcel protected under Article 97 of the Massachusetts Declaration of Rights or by conservation restriction,” wetlands, and water bodies. He also noted that “[a]ny parcel having one or more of the items listed [in those categories] was considered excluded land.” Exh. 4-1, p. 2. *See* Exh. 4, ¶¶ 8, 12-13. He provided a list of parcel identification numbers for “Excluded Land due to LU Code, Ownership, Land Protection or Wetland,” which he testified totaled 354.707 acres. Exh. 4-1, pp. 6-11. He identified the total acreage of water bodies to be 234.176 in his May 2018 supplemental testimony. However, in his August 2018

supplemental testimony he stated that he revisited his analysis because Mr. Curnan had highlighted oversights in Mr. Kurowski's water data, and also because group home data had been provided by the Commonwealth of Massachusetts, and he also conducts routine GIS parcel boundary maintenance twice annually. He testified that Arlington has approximately 231 acres of open water. Exhs. 4-1, p. 5; 5, ¶¶ 2-3; 6, ¶¶ 9, 21.

Mr. Kurowski's summary identified as the total excluded land 588.88 acres, the sum of 354.707 and 234.176.<sup>9</sup> Exh. 4-1, p. 1. His excluded land total also included 19.5 acres of land owned by the Arlington Housing Authority containing SHI housing.<sup>10</sup> Tr. I, 67-68. Subtracting excluded land of 588.88 acres from total zoned land of 2,556.59 acres, Mr. Kurowski arrived at a denominator of 1,967.71 acres, which he described as "the developable or general land area of the Town." Exhs. 4, ¶ 14; 4-1.<sup>11</sup> Calculating the SHI land area percent with this denominator and the Board's numerator of 30.14 acres results in the Board's figure of 1.53%. Exh 4, ¶ 17.

## 2. ALR's Criticisms of the Board's Calculations

ALR challenges the methodology used by Mr. Kurowski and the resulting denominator. It argues that the Board's calculation improperly failed to set forth a total land area in Arlington as a starting point in accordance with G.L c. 40B, § 20. It also argues that the Board improperly excluded the acreage for water bodies twice and improperly excluded

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<sup>9</sup> Mr. Kurowski's summary contains inconsistent statements regarding whether water bodies are included in his exclusion categories "c, d and f" totaling the 588.88 figure. *See, e.g.*, "Summary of Affordable Housing GIS Calculation" (which does not suggest water bodies – identified as category "e" – were part of the 588.88 total, Exh. 4-1, p. 1; "Total Zoned Land (a);" and "Total Excluded Land (c, d, & f) (listing water bodies as part of these three categories). Exh. 4-1, p. 2.

<sup>10</sup> For purposes of illustration only, the Board asserts that the addition of the 19.5 acres of Arlington Housing Authority land back into the denominator, results in a total of 1,987 acres, arguing that even with this change the Town has achieved the 1.5 percent safe harbor. Board brief, p. 19, n.13.

<sup>11</sup> The Board introduced no evidence in the record regarding the acreage of roadways it excluded from the denominator; nor did it distinguish between public roads and private roads in making that exclusion, as ALR noted in its brief. *See* Tr. I, 42. We have previously rejected the argument that private roadways may be excluded under 760 CMR 56.03(3)(b). *Braintree, supra*, No. 2017-05, slip op. at 8, n.9, citing *Norwood, supra*, No. 2015-06, slip op. at 10. This omission also impairs the credibility of the Board's figure. We also note that the GLAM Guidelines are consistent with the Committee's interpretation. *See* Exh. 6-8, pp. 4-5.

other specific parcels from the Town's total land area: 1) Arlington Housing Authority property containing SHI units, 2) tax title properties, 3) permanently protected open space and wetlands, and 4) other parcels lacking evidence of ownership or any exclusion category. It argues these were outside the permitted exclusions in 760 CMR 56.03(3)(b)3-6.<sup>12</sup> ALR asserts that Mr. Kurowski's summary chart of excluded parcels is insufficient to meet the Board's burden of proof. In particular, it cites a 2.119 acre excluded parcel lacking any identifying address or owner information to support the exclusion rationale asserted by the Board; a 3.099 acre parcel owned by the Arlington Housing Authority that is identified as an SHI property; parcels owned by private entities and individuals identified as open space acreage without evidentiary support demonstrating their consistency with 760 CMR 56.03(3)(b)6; "wet" parcels excluded although the Town has not been shown to have wetlands restrictions under G.L. c. 131, § 40A; and parcels identified as "TAX POSS" without evidence demonstrating the Town has taken possession of these properties through foreclosure proceedings. Exh. 4-1, pp. 6-12; 6-9. Accordingly, ALR argues the Town failed to meet the burden of proof required to support exclusion of these parcels of land.

### **3. ALR's Evidence and Comparison to the Board's Evidence**

ALR's GIS expert, Martin C. Curnan, reviewed Mr. Kurowski's testimony and exhibits. Using the Arlington GIS dataset and raw data provided to him by the Town, Mr. Curnan offered two separate calculations of the general land area minimum in accordance with 760 CMR 56.03(3)(b), one similar to the Board's methodology (Analysis A), and a second following the GLAM Guidelines (Analysis B). Under Analysis A, he determined the total municipal area in Arlington to be 3,509.86 acres, with 726.28 acres and 224.95 acres having POLY\_TYPE attributes, respectively of ROW (rights of way) and WATER. He calculated the land area excluding these poly types to be 2,558.63 acres, which he noted was

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<sup>12</sup> ALR also takes issue with Mr. Kurowski's reliance on the "Guidance for Interpreting 760 CMR 31.04(2) Computation of Statutory Minima Pursuant to M.G.L. c. 40B General Land Area Minimum." Tr. I, 27; Exh. 6-7. This guidance interpreted 760 CMR 31.00, DHCD's former regulation superseded by 760 CMR 56.00. ALR argues that Mr. Kurowski's use of guidance for outdated regulations undercuts his credibility. It also argues that he did not apply that guidance correctly.

close to the Mr. Kurowski's "total zoned land" calculation of 2,556.59 acres.<sup>13</sup> Exh. 6, ¶¶ 7, 8, 20. Mr. Curnan excluded the acreage for water and rights-of-way categories at this stage to provide a side-by-side comparison to the Board's calculation. He then deducted remaining exclusions of 361.77 acres, for government owned land (exclusive of housing authority land), land in transportation and open space districts, and floodplain, conservation or open space zones where residential, commercial or industrial use is completely prohibited.<sup>14</sup> Exh. 6, ¶ 22. Under Analysis A, Mr. Curnan subtracted these exclusions from the total zoned land figure to achieve a denominator of 2,196.86 acres.<sup>15</sup> Calculating the SHI land area percent with this denominator and the Board's numerator of 30.14 acres he derived a result of 1.37%, compared to the Board's 1.53%. Exh 6, ¶¶ 7-8, 17-26.

Although both witnesses relied on the same original data, the data were not admitted into evidence. The Committee has available to it only the conclusions and explanations made by the parties' expert witnesses. Based on our review of the witnesses' testimony, including as shown below, we find the testimony of Mr. Curnan explaining his calculations in reaching the denominator conclusion to be more credible than that of Mr. Kurowski.

**a) Water Bodies**

Mr. Kurowski's calculation of 588.88 acres of total excluded land is the sum of 234.176 acres for water bodies and 354.707 acres for other excluded land. Exh. 4-1, pp. 1, 5-11. Relying on Mr. Curnan's testimony, ALR argues that 234.176 acres for water bodies was already omitted from the Board's calculation of its total land area of 2,556.59 acres. Mr. Curnan testified that Mr. Kurowski's calculations indicated exclusion of water as part of Step

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<sup>13</sup> Mr. Curnan also pointed out that Mr. Kurowski's calculations indicated exclusion of water as part of Step (a) and again within calculated "Water Bodies" excluded to reach total excluded land. Exh. 6, ¶ 20 and n.12.

<sup>14</sup> Mr. Curnan questioned whether the open space feature class was properly established. He stated, however, that as a conservative measure, he retained the feature class within his exclusions, noting this may have reduced the denominator more than necessary. Exh. 6, ¶ 6, n.15.

<sup>15</sup> We do not need to consider Analysis B (applying the GLAM Guidelines), which resulted in a denominator of 2,211.84 acres, even less favorable to the Board. Exh. 6, ¶ 34.



(a) (calculation of total zoned land), and again within calculated “water bodies” excluded to reach total excluded land. Exh. 6, ¶¶ 9-10, 20. *See* Exh. 4-1, pp. 1-2, 4-5.

Mr. Curnan reviewed the GIS data and Mr. Kurowski’s summary showing the total acreage of excluded water bodies to be 234.176 acres. Based on his review of the data, Mr. Curnan determined that the “water bodies feature class” was 236.130 acres. He pointed out that a feature class is not synonymous with a POLY-TYPE. Because the term “water bodies,” as used by the Town, is a feature class, it can include areas of water that may be contained within fee/tax parcels on a parcel map.<sup>16</sup> Exh. 6, ¶ 21. Under Analysis A, Mr. Curnan first removed acreage associated with the field attributes ROW and WATER POLY-TYPES from the parcels layer. He determined that the remaining water acreage contained in the water bodies feature class totaled 10.87 acres, and later calculated and excluded that, with other exclusions, in accordance with 760 CMR 56.03(3)(b)3-7. He also found several errors in Mr. Kurowski’s calculation of acreage of water bodies: approximately 0.35 acres of the Arlington Reservoir that were attributed to Arlington actually fell beyond the town boundary; Mystic River and Lower Mystic Lake included approximately 0.09 acres that fell outside of the town boundary; and Hill’s Pond (2.39 acres) was missing from the excluded water bodies table. He stated this explained the discrepancy between his water bodies calculation of 236.130 acres and Mr. Kurowski’s of 234.176 acres. Exhs. 4-1, p. 5; 6, ¶ 21.

Mr. Curnan determined the difference between the denominators he calculated under his analyses, and the denominator calculated by Mr. Kurowski, which he stated was a difference of at least 229 acres, was largely “attributable to the fact that the Town has erroneously excluded acreage associated with Arlington’s water bodies twice to arrive at its claimed denominator,” noting this conflicts with the regulatory prohibition against counting excluded land more than once. Exh. 6, ¶¶ 9-10, 20.

In response to Mr. Curnan’s testimony, Mr. Kurowski stated that there are approximately 231 acres of open water within Arlington’s municipal boundaries. However,

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<sup>16</sup> Mr. Curnan explained that “[u]sing a Parcel Map, one can identify Tax/Fee, as well as non-fee POLY\_TYPES (notably ROW or WATER). The digitalized “Water Bodies” – as that term is used by the Town – is a ‘feature class,’ which can include areas of water as may be contained within fee/tax parcels.” Exh. 6, ¶ 21. Mr. Curnan provided a map distinguishing between water included as POLY\_TYPE WATER compared to the water body feature class. Exh. 6-14.

he did not explain why he subtracted water bodies from a “total land area” figure that he stated was land not considered to include water. Exhs. 4, ¶ 8; 4-1, p. 2; 5, ¶¶ 2-3. Nor did he disagree in his rebuttal testimony with Mr. Curnan’s opinion that Mr. Kurowski had excluded water bodies twice. We find Mr. Curnan’s testimony credible that at most only approximately 10.87 acres of water bodies would have been included in the water bodies feature class to be deducted from total land area. Exhs. 4,-1, p. 4; 6, ¶ 21. Thus, we find Mr. Curnan’s water body calculation is more credible than that of Mr. Kurowski and we agree with Mr. Curnan that the Board improperly excluded the acreage associated with Arlington’s water bodies twice, in violation of the regulatory provision that “[n]o excluded land area shall be counted more than once under the above criteria.” 760 CMR 56.03(3)(b)7.

**b) Arlington Housing Authority Land**

Mr. Kurowski testified that he excluded all lands owned by a housing authority on which SHI eligible units existed, testifying that the acreage of such parcels is 19.5 acres. Tr. I, 30, 67. His list of excluded parcels identifies various parcels owned by the Arlington Housing Authority that contain SHI housing. Exhs. 4-1, pp. 12-13; 6-15A. The Board argues that the inclusion of this category of land in the denominator runs counter to G.L. c. 40B, § 20 because the land is government-owned.

The comprehensive permit regulations provide that housing authority acreage containing SHI properties is included in the numerator. Under G.L. c. 40B, § 20, the SHI eligible land includes land “where ... low or moderate income housing exists ... on sites comprising one and one half percent or more of the total land area zoned for residential, commercial, or industrial use.” Thus the statute provides that the numerator is a subset of the denominator. *Stoneham, supra*, No. 2014-10, slip op. at 4 n.3.

Mr. Kurowski’s table “Affordable Housing and Special Needs Housing Land,” included the Arlington Housing Authority parcels listed as SHI housing and thus included in the numerator for the calculation of the 1.5 percent. Exh. 4-1, pp. 12-13. Inclusion of this land in both the numerator and denominator is consistent with both 760 CMR 56.03(3)(b) and G.L. c. 40B, § 20. *Stoneham, supra*, No. 2014-10, slip op. at 4 n.3; *Arbor Hill Holdings Ltd. P’ship v. Weymouth*, No. 2009-02, slip op. at 3 n.3 (Mass. Housing Appeals Comm. Order of Dismissal Sept. 24, 2003) (not deducting South Weymouth Naval Air Station land

from denominator because, “even though it may have been owned by the United States, it is available for development”). Consistent with its inclusion on the SHI and hence the numerator, all Arlington Housing Authority land containing SHI housing is to be included in the denominator, as Mr. Curnan has done.

**c) Tax Title Land**

Mr. Kurowski excluded at least 42 parcels identified as owned by the “Town of Arlington Tax Poss.” Exh. 4-1, pp. 6-11.<sup>17</sup> ALR argues that the Board has not established that it has completed foreclosure proceedings, foreclosing the right of redemption in these parcels, pursuant to G. L. c. 60. “Not until the right of redemption is terminated by a carefully defined legal process in the Land Court ... does tax title land become town-owned land specifically excluded in [G. L. c. 40B, § 20] as government-owned land.” *Dartmouth West Housing Assocs. v. Dartmouth*, No 1991-04, slip op. at 16 (Mass. Housing Appeals Comm. Aug. 27, 1973). We agree with ALR that the Board failed to provide sufficient credible evidence that these parcels are eligible for exclusion as government-owned land. Therefore, these properties should be included in the denominator. Even Mr. Curnan’s denominator is likely understated, as it does not appear that he treated these parcels differently than Mr. Kurowski had done.<sup>18</sup> Additionally, we note that the GLAM Guidelines expressly exclude tax title properties from the definition of land owned by a political subdivision for purposes of the land area calculation. Exh. 6-8, pp. 4-5.

**d) Protected Open Space**

The Board identified several parcels as protected open space parcels that were challenged by ALR as unsupported. These included parcels owned by the Medford Boat Club and by individuals. Exh. 4-1, pp. 6-10. ALR argues that the Board did not provide any maps depicting the areas it has excluded as constituting protected open space, and has provided no

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<sup>17</sup> The parties have not identified the total acreage of these tax title parcels, although it could be ascertained by adding the acreage totals in Mr. Kurowski’s summary.

<sup>18</sup> Mr. Curnan’s testimony regarding excluding government-owned parcels refers only to inclusion of SHI eligible properties. See Exh. 6, ¶ 22.

other support or documentation to verify that the parcels identified above were properly excluded.

The comprehensive permit regulations provide that “[t]otal land area shall exclude any flood plain, conservation or open space zone if said zone completely prohibits residential, commercial and industrial use, or any similar zone where residential, commercial or industrial use are completely prohibited.” 760 CMR 56.03(3)(b)6. The Board has not introduced evidence to establish that these parcels are subject to an open space restriction that completely prohibits residential, commercial, or industrial development. *See Braintree, supra*, No. 2017-05, slip op. at 9-10. Moreover, we have previously stated that “a piece of land subject to a use restriction that is not residential, commercial, or industrial use is not an ‘open space zone [that] completely prohibits residential, commercial, and industrial uses,’ which is expressly excluded from the denominator.” *Newton, supra*, No. 2015-01, slip op. at 2, quoting 760 CMR 56.03(3)(b)6. *See Waltham, supra*, No. 2016-01, slip op. at 18-19 (lots of land in which all residential, commercial, and industrial uses may be prohibited or hindered will not be excluded, unless they are within excluded land use zones or fall within other expressed exclusions in statute and regulation). Because the Board failed to introduce credible evidence to support the exclusion claim, it did not carry its burden of proving these parcels may be excluded; therefore, they are not to be deducted from the denominator.<sup>19</sup>

**e) Wetlands**

The Board excluded from the denominator a number of parcels owned by private entities or individuals designated as “wet” parcels in Mr. Kurowski’s summary. Exh. 4-1, p. 9. Pursuant to 760 CMR 56.03(3)(b)4, only land where all residential, commercial, and industrial development has been prohibited by a DEP restrictive order under G.L. c. 131, § 40A may be excluded from the total land area. The regulation expressly provides that “[n]o other swamps, marshes, or other wetlands shall be excluded.” *Id.* The Town currently has no wetlands restriction order in place, as demonstrated by DEP’s database of Communities with

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<sup>19</sup> As Mr. Curnan notes, although he questioned whether the Board’s open space classification was established by the Board’s evidence, to be conservative he retained the open space feature class that parallels this classification within the exclusions from the denominator, although this may result in understating the denominator. Exh. 6, ¶ 22 and n.15.

Previously Registered Wetland Restriction Orders. Exh. 6-9. ALR's expert, Mr. Curnan, did not exclude any of the parcels Mr. Kurowski designated as "wet" from his calculation, as no swamps, marshes or other wetlands, except areas subject to the above DEP restriction order, may be excluded. *Id.* We agree that these "wet" parcels identified by the Board may not be excluded from the total land area.<sup>20</sup>

#### **4. Methodology**

The Board asserts that in accordance with G.L. c. 40B, § 20 and 760 CMR 56.03, the 1.5 percent target is the land area containing SHI-eligible housing, and the "denominator" is the total land area zoned for residential, commercial or industrial use, subject to certain adjustments under 760 CMR 56.03(3)(b). Mr. Kurowski's starting point for the denominator was neither the total area of land within the municipality nor the total land area as defined in 760 CMR 56.03(3)(b)1. Instead, his starting point was the GIS parcel layer exclusive of rights of way and water bodies. Exh. 4-1, p. 2. The Board argues that this is the starting point from which excluded areas should be subtracted. It contends that a calculation that uses the total area of the Town as the starting point "inflates the denominator beyond the value dictated by both statute and regulations," resulting in a "grossly incorrect denominator, to the Town's disadvantage." Board brief, p. 11, n.1. It argues that the Legislature, in defining the denominator in G.L. c. 40B, § 20 as the "total land area zoned for residential, commercial or industrial use," intended to measure the area dedicated to affordable housing, or the 1.5 percent numerator, against the Town's developable area, and not the Town's total area. Under this theory, it argues that establishing as the baseline a municipality's developable area, or area upon which things might actually be built, the Legislature puts all cities and towns on an equal footing.<sup>21</sup> See Board brief, pp. 11-12 and nn.1-2.

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<sup>20</sup> We note the GLAM Guidelines are consistent with this requirement. Exh. 6-8, p. 4.

<sup>21</sup> The Board suggests the Legislature took into account the varied composition of cities and towns across the Commonwealth when drafting this statutory provision, in terms of water bodies; federal, state and local parks; forests, and other lands unavailable for development, and claims its proffered methodology allows municipalities with large tracts of such land an opportunity to reach the 1.5 percent threshold. The Board argues that calculating the denominator as the total area of a municipality makes it almost impossible for those cities and towns to achieve 1.5 percent. Board brief, p. 12.

ALR argues the Board's methodology fails to set forth a "total land area" in the Town as a starting point and instead uses a starting point of 2,556.59 acres, which is exclusive of all roads and water bodies. ALR argues that the Board's exclusions extended beyond permissible categories, and the excluded total of 588.88 acres is excessive and unsupported.

Both parties ignore the simplicity of DHCD's regulations. The Board's argument, in particular, suggests that the regulations do not exclude land where residential development is not permitted. Its argument that municipalities are treated unequally is inapposite. The Board's argument also confuses the starting point in calculating the denominator with the end result. The denominator, or end point, results from a calculation of inclusion and exclusion of categories of land within the municipal boundary. 760 CMR 56.03(3)(b)1-6. The excluded categories of land referenced by the Board must be excluded – only once – from the total land area figure. *See Stoneham, supra*, No. 2010-14, slip op. at 5.

To the extent the Board suggests that other non-governmental land is unavailable for development and should be excluded from the denominator, it has offered no evidence to support the exclusion of any such land in this proceeding. In any event, Mr. Kurowski's analysis did not follow the regulation and failed to demonstrate or support the acreage for his inclusion and exclusion of land to achieve "total land area," the denominator in 760 CMR 56.03(3)(b). Although his "total zoned land" appears to be similar to the category of land identified in 760 CMR 56.03(3)(b)1,<sup>22</sup> the Board has not shown that it has included all land "regardless of how such district is designated by name in the city or town's zoning bylaw," *id.*, and we note Mr. Kurowski stated Arlington does not have unzoned land in which any residential, commercial, or industrial use is permitted, which is includable in the denominator under 760 CMR 56.03(3)(b)2.

By starting with the total zoned land figure, the Board "was required to prove what had already been excluded and ensure that those areas were not deducted from the total land area." *Stoneham, supra*, No. 2014-10, slip op. at 5-6, n.4. When calculating the total land area, the Board could have used the total area of the Town and then deducted water bodies,

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<sup>22</sup> Section 56.03(3)(b)1 states: "[t]otal land area shall include all districts in which any residential, commercial, or industrial use is permitted, regardless of how such district is designated by name in the city or town's zoning bylaw."

and other excluded areas, or acknowledged that the figure it used already excluded water bodies and refrained from omitting water bodies a second time. It did not do so. As we said in *Stoneham*, the Board’s “argument confuses the area required by the statute, which is the land area resulting from the analysis, for the starting figure used to derive the resulting denominator.” *Id.* at 5, n.4.

### 5. Denominator Conclusion

The Board failed to provide credible evidentiary support for total land area and its exclusions of acreage in the Town from total land area, including the categories of water bodies, public roadways, tax title parcels, open space zones, housing authority sites with SHI housing, wetlands, as well as exclusion of parcels lacking ownership or exclusion information. Therefore it has not demonstrated a credible denominator. The denominator calculation in Analysis A submitted by Mr. Curnan has adopted some of the exclusions that are inadequately supported, and rejected others. Overall, however, we find Mr. Curnan’s result more credible, although he accepted some of the Board’s improper exclusions. Therefore, for the purposes of our analysis, we will use Mr. Curnan’s denominator as that most favorable to the Board, even though it is understated based on Mr. Curnan’s testimony. The parties’ calculation of components of the denominator and our assumptions for the purposes of calculation are below:

	Board	ALR (A)	Assumed by Committee
Total Municipal Area		3,509.86	3,509.86
Water Body Poly Type		-224.95	-224.95
ROW Poly Type		-726.28	-726.28
Total Zoned Included Land	2556.59	2,558.63	2,558.63
Exclusions	-588.88	-361.77	-361.77
Denominator	1,967.71	2,196.86	2,196.86

When the SHI eligible land area percent is calculated by dividing the Board's numerator of 30.14 by the assumed denominator of 2,196.86, the resulting percent is 1.37%, below the 1.5 percent threshold. The Board therefore has not established the Town has achieved the 1.5 percent statutory minimum, even with this favorable assumption.

### III. BOARD'S CHALLENGE TO REGULATION

The Board has also challenged various provisions of 760 CMR 56.00 as in conflict with Chapter 40B. As previously noted, the regulation requires a board to assert compliance with one of the statutory minima within 15 days of the opening of the public hearing. 760 CMR 56.03(8)(a). The Board argues that because this requirement is not expressly provided in G.L. c. 40B, §§ 20-23, setting such a deadline is beyond DHCD's authority to impose and thus invalid. The Board also takes issue with the process of DHCD's review of a board's assertion of compliance with one of the statutory minima, for the same reason, citing *Massachusetts Federation of Teachers, AFT, AFL-CIO v. Board of Education*, 436 Mass. 763, 773 (2002) (agency may not exceed powers expressly conferred on it by statute or reasonably necessary to carry out purpose of statute). It argues that the two-step review process is inconsistent with the statute and *ultra vires*. The Board also argues that DHCD's review of the Board's claim of the 1.5 percent safe harbor status without having the complete and relevant data required for such review, specifically the locations of DDS and DMH addresses, was arbitrary and a violation of due process. It suggests that the *de novo* review by the Committee did not cure the defects of the DHCD review process.

Additionally, the Board argues that 760 CMR 56.03(3)(b) improperly requires a municipality to achieve "more than" 1.5 percent, in conflict with G.L. c. 40B, § 20, requiring 1.5 percent "or more." This discrepancy between the regulation and the statute has no bearing on the facts in this appeal. The Board also asserts that the inclusion of Arlington Housing Authority owned land in the denominator pursuant to 760 CMR 56.03(3)(b)3 violates G.L. c. 40B, § 20. We addressed this argument above.

ALR argues the regulations pertaining to G.L. c. 40B have been well-established as furthering the statutory language and intent of the statute, and that the Committee has properly applied and interpreted both the statute and regulation in past decisions. ALR further



asserts that an administrative agency may adopt policy through adjudication to serve as precedent, *see Zoning Board of Appeals of Amesbury v. Housing Appeals Comm.*, 457 Mass. 748, 760 n.17 (2010), and that the Board's challenges to the regulations and the interlocutory appeal procedure have been refuted in the existing body of administrative law and past Committee decisions.

As we stated earlier, the appeal before the Committee is a *de novo* proceeding, and we have reviewed the evidence submitted in this appeal, and we render our decision based on that evidence. Therefore, the record before DHCD for its review of the safe harbor has no bearing on our decision, and we need not address the Board's complaints regarding the validity of the interlocutory appeal process. Similarly, the Board's other challenges to the comprehensive permit regulations do not affect the merits of its appeal. Moreover, the Committee and DHCD are expected to follow DHCD's regulations. *See Royce v. Commissioner of Correction*, 390 Mass. 425, 427 (1983). Finally, the Board has cited no authority nor offered any persuasive argument why its contentions should alter the result of our decision.

**IV. CONCLUSION AND ORDER**

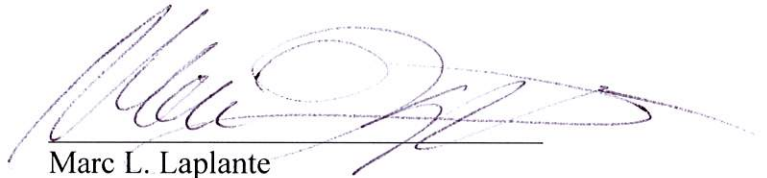
The Board has not established that the Town of Arlington has achieved the 1.5 percent statutory minimum, and its claim that the Town is entitled to a safe harbor pursuant to G.L. c. 40B, § 20 under the general land area minimum threshold of 1.5 percent is denied. Accordingly, this appeal is dismissed and the matter remanded to the Board for further proceedings.

**Housing Appeals Committee**

October 15, 2019



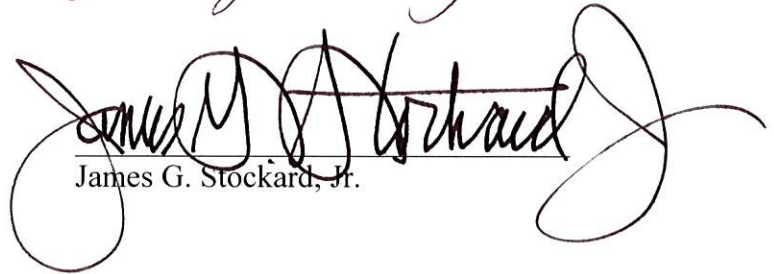
Shelagh A. Ellman-Pearl, Chair



Marc L. Laplante



Rosemary Connelly Smedile



James G. Stockard, Jr.

Certificate of Service

I, Veronica G. Barros, Clerk to the Housing Appeals Committee, certify that this day I caused to be mailed, first class, postage prepaid, a copy of the within Decision on Interlocutory Appeal Regarding Applicability of Safe Harbor, *In the Matter of Arlington Zoning Board of Appeals and Arlington Land Realty, LLC*, No. 2016-08, to:

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Dated: 10/15/2019



Veronica G. Barros, Clerk  
Housing Appeals Committee

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
HOUSING APPEALS COMMITTEE

NO. 2016-08

ARLINGTON BOARD OF APPEALS,

Appellant

v.

ARLINGTON LAND REALTY, LLC,

Appellee

OBJECTIONS OF THE ARLINGTON  
BOARD OF APPEALS TO  
PROPOSED DECISION ON  
INTERLOCUTORY APPEAL  
REGARDING APPLICABILITY OF  
SAFE HARBOR

Pursuant to 760 CMR 56.06(7)(e)(9), the Arlington Board of Appeals (“Board”) respectfully submits the following objections to the Proposed Decision on Interlocutory Appeal Regarding Applicability of Safe Harbor, dated July 31, 2019 (“Proposed Decision”). The Proposed Decision misconstrues the definitions and requirements of G.L. c. 40B, s. 20; erroneously applies regulations of the Department of Housing and Community Development (DHCD) that violate G.L. 40B; unlawfully applies DHCD’s “Guidelines for Calculating General Land Area Minimum” (“Guidelines” – the chief purpose of which is clearly to deter and/or thwart any municipal claim to achievement of the 1.5% threshold); insults and dismisses the credible, knowledgeable and detailed testimony of the Town’s witness, while inexplicably crediting the testimony of the developer’s witness – *who relied solely upon the Town witness’s data* – and in so doing makes painfully arbitrary findings that cannot possibly withstand judicial review. In short, the Proposed Decision is legally flawed and should not be approved by the Committee. The Board objects to the Proposed Decision as arbitrary, capricious, premised on legal errors, and in violation

of the Board's due process rights. The Board discusses below some of the more egregious errors.

**I. The Board's evidence is found lacking, while simultaneously providing the basis for ALR testimony credited in the Proposed Decision**

The Proposed Decision, which slavishly adopts Arlington Land Realty, LLC's ("ALR") criticism of the Board's calculations under c. 40B, erroneously calls into question the data relied upon by the Board, and repeatedly calls for the Board to provide more (undefined) "evidence." The Proposed Decision fails to recognize that it was the Board that provided ALR with thorough and complete data concerning land in Arlington in Excel spreadsheet format through the Town Geographic Information System (GIS). The Proposed Decision neither specifies exactly what "evidence" is required for the Board to prove that the figures it relied upon are accurate, nor does it point to any regulations or evidentiary rules that require the Board to provide complete data sets to the Housing Appeals Committee. Indeed, the data relied upon by ALR, and adopted by the Housing Appeals Committee via the Proposed Decision, was data that was originally collected and shared by the Board itself. *See, e.g., Proposed Decision, p. 9.*

**II. The GLAM Guidelines are unlawfully applied**

The Proposed Decision improperly relies on the GLAM Guidelines, and prejudices the Board by evaluating its submissions through the retroactive application of the GLAM Guidelines. The Housing Appeals Committee should not be relying on the GLAM guidelines, for the reasons set forth in the Board's Post-Hearing Reply Brief, dated February 4, 2019. Namely, they were not promulgated under the Administrative Procedures Act.

The Proposed Decision feigns acknowledgment that, in a legal sense, the Committee cannot rely on the GLAM Guidelines. *Proposed Decision, p. 5.* However, the Proposed Decision then goes on to repeatedly cite the GLAM Guidelines, and to call for information to be

presented as directed in the GLAM Guidelines. *See, e.g., Proposed Decision*, p. 9, n. 8; p. 13, n. 14.

Accordingly, despite conceding that the Committee should not rely on the GLAM Guidelines, the Proposed Decision clearly uses them as an improper standard.

### **III. Calculation of the Denominator: Illogical, Inaccurate, and Outcome-Driven**

In its discussion of the Denominator, the Proposed Decision randomly calls for more “evidence” regarding the Board’s calculations at various points, while ignoring the fact that the Board assembled and provided the detailed GIS dataset and raw data to ALR, and that the Proposed Decision relies heavily on the data that was originally collected and shared by the Board. *See, e.g., Proposed Decision*, p. 9. The Proposed Decision states that ALR and its expert, Mr. Curnan, relied on the Arlington GIS dataset, meaning that ALR had in its possession the detailed granular backup evidence for the Board’s calculations – including information that the Proposed Decision incorrectly states was never provided. The Proposed Decision is thus at once both illogical *and* inaccurate.

To distract from these defects, the Proposed Decision strives for an appearance of rigor in its analysis. It does not succeed. After providing pages of painstaking criticism, and fastidiously comparing the Board’s calculations of total zoned land in Arlington to the calculations of ALR, the Proposed Decision reveals that ALR’s final figure was 2,558.63 acres, as compared to the Board’s figure of 2,556.59 acres – a difference of 2.04 acres, or approximately .0008 %. *Proposed Decision*, p. 8. This extended discussion cannot obscure the Proposed Decision’s flaws, which include transparently outcome-determinative interpretations to benefit the developer and prevent the Board from establishing the 1.5% land area minimum.

A. Total Acreage Calculation

The Board's calculations of total zoned land in Arlington, as contained in Mr. Kurowski's testimony, was based on the GIS data. The specific acreages of each class of land and further detailed information are contained in the Excel spreadsheets that the Board provided to ALR. The Proposed Decision does not explain what sort of "evidence" the Housing Appeals Committee requires to believe the Board's figures, and it does not cite any regulation or evidentiary rule that requires the Board to provide this additional, undefined "evidence." *Proposed Decision*, p. 8 ("[Mr. Kurowski] did not provide evidence supporting his totals for acreage in each of the identified zoning districts"). Again, the data relied upon by ALR, and adopted by the Housing Appeals Committee via the Proposed Decision, was data that was originally collected and shared by the Board itself.

In addition to being well-supported by data, the testimony of Mr. Kurowski was detailed, knowledgeable, and credible. Mr. Kurowski - Director of GIS and Systems Analyst for the Town of Arlington - is an experienced professional who provided reasoned analysis of the data under applicable provisions of the statute and regulation. The Proposed Decision offers no explanation as to why it found Mr. Kurowski's testimony "unsupported" and thus not credible, while ALR's testimony – premised on the same data – was credible. The Board is denied due process of law where such determinations are arbitrarily made.

B. Calculating Water Bodies, Tax Title Land, Protected Open Spaces, and Wetlands

The Board provided ALR with detailed information about excluded land, including water bodies, "tax title" parcels(land excluded from the total land calculation because the Town has taken possession), and open space and wetlands. This information includes, for example, the

addresses of excluded parcels. ALR received all of this information, and ALR is mistaken if it claims that backup data was not provided.

The Proposed Decision is wrong when it states that the Board did not provide such data or that Mr. Kurowski's summary relied on improper evidence. For example, the Board provided ALR with identifying addresses and owner information concerning excluded parcels, but the Proposed Decision adopts ALR's erroneous claim that this information was not provided.

*Proposed Decision*, p. 9.

The Proposed Decision revisits the calculations of the total area covered by water bodies in excruciating detail, only to reveal that the Board and ALR arrived at nearly identical totals, with ALR's total actually slightly more favorable to the Board's position in this case. *Proposed Decision*, p. 11 (detailing calculation "errors" such as the improper inclusion of .09 acres of Lower Mystic Lake as excluded land, and revealing that the Board calculated 236.130 acres covered by water, compared to ALR's total of 234.176). The Proposed Decision conspicuously omits the fact that the Board, through Mr. Kurowski, corrected the three (extremely minor) issues concerning water body calculations in a revised statement.

The Proposed Decision also calls for additional evidence that is not required under the regulations. For example, the Proposed Decision cites ALR's criticism of the Board for not providing a map of protected open spaces. *Proposed Decision*, p. 12. However, the Board provided all of the required data concerning its calculations, and there is no requirement that the Board also generate a map for ease of use by ALR.

C. Subtracting Water Bodies from Denominator

The Proposed Decision also adopts ALR's interpretation of the regulations regarding whether water bodies may be subtracted from the overall zoned land figure. *Proposed Decision*,



pp. 15-16. For the reasons set forth in previous filings, the Board asserts that the plain language of G.L. c. 40B provides that the total acreage of water bodies be subtracted from the overall total of zoned land in the Town.

Under the statute and regulations, the starting point for the calculation of the denominator is “the total land area zoned for residential, commercial, or industrial use.” G.L. c. 40B, § 20; 760 CMR 56.03(3)(b)(1) (stating that starting point for denominator is the total amount of land zoned to permit residential, commercial, or industrial use). By refusing to follow this formula, the Proposed Decision creates an inflated denominator, which skews the calculation against the Board. This is error, and should be corrected in the final decision.

#### **IV. Calculation of the Numerator**

The Proposed Decision calls into question the Board’s numerator calculation – the total SHI eligible housing – before conceding that ALR did not even contest the Board’s numerator calculation, and therefore the issue was not before the Committee. *Proposed Decision*, p.7. Because it was not contested, the Board’s numerator calculation should be considered an undisputed fact. Additionally, as discussed further below, 760 CMR 56.03(3)(b)(3), which concerns the exclusion of land owned by a housing authority, is inconsistent with c. 40B and is therefore invalid.

#### **V. Invalidity of Regulations**

The Board further states that the following regulations are invalid because they are inconsistent with the related underlying statutes:

- 760 CMR 56.03(3)(b) is inconsistent with G.L. c. 40B, § 20 with respect to the calculation of the “denominator” of the 1.5% land area statutory minimum.

- G.L. c. 40B, § 20 provides that certain land areas are excluded from the “total land area zoned for residential, commercial, or industrial use.” The statute excludes land “owned by the United States, the commonwealth or any political subdivision thereof, or any public authority.” Inconsistent with this statutory scheme, 760 CMR 56.03(3)(b)(3) provides for “any land owned by a housing authority *and* containing SHI-eligible housing.” (emphasis added). That is, land that should be excluded under c. 40B is instead added back into the denominator.

- 760 CMR 56.03(3)(b) requires “more than 1-1/2 percent of the total land area zoned for residential, commercial or industrial use” to satisfy the statutory land area minimum. This conflicts with G.L. c. 40B, § 20, which provides that the land area minimum is satisfied where “one and a half percent or more” of the total zoned land area contains low or moderate income housing.

- G.L. c. 40B, § 20 provides that consistency with local needs is achieved where “low or moderate income exists...on sites comprising one and one half percent or more of the total land area...” In contradiction, 760 CMR 56.03(b) provides for counting only the *portion* of each site that contains low or moderate income housing.

- G.L. c. 40B, §. 20 provides that review of a municipality's claim to satisfaction of the 1.5% land area minimum occurs *after* the board conducts hearing on a comprehensive permit application (“Requirements or regulations shall be consistent with local needs when imposed by a board of zoning appeals *after comprehensive hearing* in a city or town where: (1) low or moderate income housing exists . . . on sites comprising one and one half per cent or more of the total land area zoned for residential, commercial or industrial use...”)

- In contradiction to G.L. c. 40B, §. 20, 760 CMR 56.03(8) purports to impose on the board the following "procedures" *prior* to hearing the comprehensive permit application,

should the board claim that it has satisfied the 1.5% land area minimum (or other "safe harbor" provided by the statute):

(a) If a Board considers that, in connection with an Application, a denial of the permit or the imposition of conditions or requirements would be consistent with local needs on the grounds that the Statutory Minima defined at 760 CMR 56.03(3)(b) or (c) have been satisfied or that one or more of the grounds set forth in 760 CMR 56.03(1) have been met, it must do so according to the following procedures. Within 15 days of the opening of the local hearing for the Comprehensive Permit, the Board shall provide written notice to the Applicant, with a copy to the Department [of Housing and Community Development], that it considers that a denial of the permit or the imposition of conditions or requirements would be consistent with local needs, the grounds that it believes have been met, and the factual basis for that position, including any necessary supportive documentation.

- That provision of 760 CMR 56.03(8)(a) requiring a board claiming "consistency with local needs" pursuant to any of the statutory minima to do so within fifteen days of opening public hearing, contrary to G.L. c. 40B, §. 20, is ultra vires, beyond the authority of DHCD, and must be invalidated.

- Additionally, both 760 CMR 56.03(8)(a) and 760 CMR 56.03(8)(c) purport to oblige a municipality to take specific steps relating to any assertion of consistency with local needs, and they provide for the DHCD review of such assertions. The entire scheme contained in 760 CMR 56.03(8)(a)-(c) is contrary to G.L. c. 40B, §. 20, ultra vires, and must be invalidated.

In response to the above, the Proposed Decision adopts the argument of ALR that "the regulations pertaining to G.L. c. 40B have been well-established as furthering the statutory language and intent of the statute, and that the Committee has properly applied and interpreted both the statute and regulations in past decisions." Proposed Decision at p. 16-17. Perhaps ALR, if not the Committee, is new to G.L. c. 40B jurisprudence. See, e.g., Groton Zoning Board of Appeals v. Housing Appeals Committee, 451 Mass. 35 (2008)(Committee exceeded its authority under G.L. c. 40B in ordering Town to convey easement on Town property; "the Act

confers no authority on the committee to order a municipality to convey an easement and, in so doing, the committee contravened State law”); Board of Appeals of Woburn v Housing Appeals Committee, 451 Mass. 581 (2008)( Committee “brushed aside the language of the governing statute and the regulations of the department” and exceeded its authority in revising conditions not found to render project uneconomic; “Committee’s authority to alter or set aside conditions imposed by a local board is . . . expressly delineated by statute and it may not be expanded by recasting an approval with conditions as a [“de facto denial”]); Zoning Board of Appeals of Hanover v. Housing Appeals Committee , 90 Mass.App.Ct. 111 (2016)(Committee’s decision on safe harbor issue, based on untenable interpretation of DHCD regulation pertaining to filing of application materials, “was arbitrary and inconsistent with DHCD regulations”).

**Conclusion and Request for Oral Argument**

For the forgoing reasons, the Board submits these objections to the Proposed Decision. The Board requests oral argument before the full Committee.

Respectfully submitted,

ARLINGTON BOARD OF APPEALS

By its attorneys,



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Date: August 14, 2019

69506/ARLI/0005

CERTIFICATE OF SERVICE

I, Barbara Huggins Carboni, hereby certify that on the below date, I served a copy of the foregoing Objections to Proposed Decision, by first class mail, postage prepaid, to the following counsel of record:

Stephanie A. Kiefer, Esq.  
Smolak & Vaughan, LLP  
21 High Street, Suite 301  
N. Andover, MA 01845

Dated: August 14, 2019



Barbara Carboni, Esq.



## Town of Arlington, Massachusetts

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### Discussion & Approval: Authorizing Town Manager to Sign On to Statement to Massport & FAA

#### Summary:

Adam W. Chapdelaine, Town Manager

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Massport_FAA_Statement.pdf	Massport FAA Statement

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## Joint Statement on Regional Airplane Noise

Posted on October 23, 2019

The cities of Medford, Somerville and Cambridge recognize and understand the pressing need to de-concentrate flight paths for departures on runway 33L at Logan International Airport.

Collectively, these three cities are calling upon Massport and the Federal Aviation Administration (FAA) to model and implement a procedure that more equitably disperses aircraft that depart runway 33L.

Since the implementation of the 33L RNAV SID procedure in 2013, many residents of all three cities have been severely impacted by repetitive jet noise, often starting as early as 5AM and continuing late into the night. Normal, everyday life for these residents has been disrupted.

We recognize that hyper-concentration of jet noise represents an emergent public health problem for people who live in our cities, especially those that live directly under the flight paths. The cities are therefore in agreement on the need for noise dispersion and are eager to combine voices with other communities affected by jet traffic from runway 33L.

As leaders of our cities, we have the responsibility to ensure that the FAA changes the 33L departure procedure from one that unfairly and disproportionately exposes some citizens to one that geographically disperses noise in a fairer, more equitable way.

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**Share this:**





## **Town of Arlington, Massachusetts**

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### **Discussion: High School Borrowing & Potential Impacts on MWRA Debt Shift**

#### **Summary:**

Adam W. Chapdelaine, Town Manager





## Town of Arlington, Massachusetts

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### Dockets for ZBA Hearings

#### Summary:

Christopher Loreti via e-mail

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	C._Loreti_CR.pdf	C. Loreti CR

**From:** Chris Loreti <cloreti@verizon.net>  
**To:** JCurro@town.arlington.ma.us, DDunn@town.arlington.ma.us, DMahon@town.arlington.ma.us, JHurd@town.arlington.ma.us, SDecourcey@town.arlington.ma.us  
**Cc:** zba@town.arlington.ma.us, Adam Chapdelaine <achapdelaine@town.arlington.ma.us>, Marie Krepelka <mkrepelka@town.arlington.ma.us>, paul@schlichtman.org  
**Date:** 10/17/2019 05:15 PM  
**Subject:** Dockets for ZBA Hearings

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Dear Arlington Select Board Members:

Today I stopped by the office of the Zoning Board of Appeals to review the docket for a special permit hearing scheduled for next Tuesday. Despite this hearing having twice been noticed in the local newspaper, I was told by Arlington's Building Commissioner that I could only gain access to the docket by filing a formal Public Records Request--a request the town is under no obligation to fulfill until after the hearing is held. This is unacceptable.

More than six months ago, the ZBA indicated it would be making all of its meeting materials publicly available on the town website (See the ARB report to Town Meeting on Article 23). That has not happened.

I have since made the Public Records Request for the hearing materials. Due to the failure of town officials to fulfill their commitment to the sponsor of Article 23 and Town Meeting, my plan is to request electronic copies of all future ZBA hearings and have them posted to a website for all interested parties to review and possibly comment upon.

It is unfortunate that Arlington officials have such little regard for transparency in zoning administration and give such a low priority to fulfilling their promises to Town Meeting. But since that is the case, they leave residents with no choice but to take matters into their own hands.

Sincerely,

Christopher Loreti

p.s. to Marie Krepelka, please be sure this email is listed among the Select Board's "Correspondence Received" on its next meeting agenda--or if the board has continued its practice of only listing some of the correspondence it receives, please change the agenda heading to "Selected Correspondence Received."



## Town of Arlington, Massachusetts

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### Petition to Make Wellesley Road 'One Way' During School Drop Off Hours

#### Summary:

Wellesley Road Residents

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Wellesley_Road_Petition.pdf	Resident Petition

# Petition to make Wellesley Road a one way during school drop off hours

2019 OCT 24 PM 3: 58

<p>Petition summary and background</p>	<p>Wellesley Road residence would like to make their street a one way during school drop off (7:00-9:00 A.M.) Wellesley Road is not wide enough to accommodate for two way traffic. The street does not have sidewalks which makes it extremely dangerous for children and parents walking and biking to school. Parents are also using our street to park on and then walking their children from there further congesting the street.</p>
<p>Concerns</p>	<p>Heavy traffic both ways does not leave any room for pedestrians. Complaints on how fast people are driving down the street to make it on time. Complaints on how close cars are coming to pedestrians walking on the street.</p>

Printed Name	Signature	Address	Comment	Date
Joseph Barinelli, II		2 Wellesley Rd	Street is a dangerous mess in the morning	Sept. 30, 2019
CUFF FALLS		23 WELLESLEY RD		9-28-19
MARAS YOUNG		16 Wellesley Rd		
Juliet Mair		14 Wellesley Rd	This road is an accident waiting to happen.	10/1/19
Ross Mair		14 Wellesley rd	This street needs to be restricted during school hours	10/1/19
Emily Gauthier		19 Wellesley Rd	Dangerous walk to school for kids who live here! No side-walks.	10/1/19
Charles Gauthier		19 Wellesley Rd	Dangerous speedsters in street w narrow misses	10/1/19
ENZO FAVIER		15 Wellesley Rd		10/1/19
Robert King		6 Wellesley Rd.		10/15/19
MICHAEL MICA		11 WELLESLEY RD		10/15/19
Kathrina Wiley Barinelli		2 Wellesley Rd	CARS are so close they are inches away from me, my family and the other pedestrians on the street that are walking their children to the Thompson School.	10/16/19

River S  
2 Wellesley Road



Exeter St

Yale Rd

Yale Rd

Everett St

Wheaton Rd

Regis Rd

Regis Rd

Everett St

Patrick St

Regis Rd

Purcell Rd

N Union St

University Rd

University Rd

Fremont St

Everett St

Thompson  
Elementary School

Elizabeth's Day Care

lens

Ernest Rd

North Union

2019 OCT 24 PM 3:56

AMERICAN PHOTOGRAPHY  
1000 S. UNIVERSITY ST.  
ANN ARBOR, MI 48106



**Town of Arlington, Massachusetts**

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**NEW BUSINESS**



**Town of Arlington, Massachusetts**

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**Next Scheduled Meeting of Select Board November 4, 2019**