



**LANCASTER SELECT BOARD**  
**Regular Meeting Agenda**  
**Prescott Building – Nashaway Room**  
**Tuesday, January 17, 2023**  
**6:00 P.M.**

*In accordance with the Open Meeting Law, please be advised that this meeting is being recorded and broadcast over Sterling-Lancaster Community TV*

**I. CALL TO ORDER**

Chair Stephen J. Kerrigan will call the meeting to Order at 6:00 P.M. in the Nashaway Meeting Room located on the second floor in the Prescott Building, 701 Main Street, Lancaster, MA 01523

This Meeting Will Also Be Held Virtually at:

Town of Lancaster is inviting you to a scheduled Zoom meeting.

Topic: Select Board Meeting

Time: Jan 17, 2023 06:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/81102727576>

Meeting ID: 811 0272 7576

One tap mobile

+13092053325,,81102727576# US

+13126266799,,81102727576# US (Chicago)

Dial by your location

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 646 931 3860 US

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 689 278 1000 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 669 444 9171 US

+1 669 900 9128 US (San Jose)

Meeting ID: 811 0272 7576

Find your local number: <https://us02web.zoom.us/u/kbuwxl4tk>

Additional materials for Select Board meetings are available at:

<https://www.ci.lancaster.ma.us/administration-select-board/pages/meeting-materials>

Residents Have the Ability to Ask Questions via ZOOM.



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**II. APPROVAL OF MEETING MINUTES**

Review and take action on the following Select Board's Meeting Minutes: January 3, 2023

**III. SCHEDULED APPEARANCES & PUBLIC HEARINGS**

Nashoba Regional School Superintendent – Discussion regarding High School Building Proposal and update on fiscal forecasts and budget projections for FY24 and beyond.

**IV. BOARDS, COMMITTEES AND DEPARTMENT REPORTS - NONE**

**V. PUBLIC COMMENT PERIOD**

*Opportunity for the public to address their concerns, make comment and offer suggestions on operations or programs, except personnel matters. Complaints or criticism directed at staff, volunteers, or other officials shall not be tolerated.*

**VI. TOWN ADMINISTOR REPORT**

1. Financial Audit
2. Visit from MA Department of Revenue
3. Other Business

**VII. ADMINISTRATION, BUDGET, AND POLICY (Vote may be taken)**

1. Fort Pond LLC Renewal Permit Discussion to waive a public hearing

**VIII. APPOINTMENTS AND RESIGNATIONS -**

Resignations

*Affordable Housing Trust:* Stephen Kerrigan representing the Select Board

*Recreation Committee:* David Carr member, effective immediately

Appointments

*Affordable Housing Trust:* Jason Allison representing the Select Board, term to expire June 30, 2023

*Commission on Disability:* Eugene (Geno) Brazeau, term to expire June 30, 2023 (filling an unexpired term)



**LANCASTER SELECT BOARD**  
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**IX. LICENSES AND PERMITS (Vote may be taken)**

1. Renewal Application for Special Permit Removal of Earth Products.  
Applicant: Fort Pond LLC  
Renewal Application for additional two years: January 24, 2023 to January 24, 2025.

**X. NEW BUSINESS \***

*\*This item is included to acknowledge that there may be matters not reasonably anticipated by the Chair*

**XI. COMMUNICATIONS**

- Next Select Board Hybrid Meeting will be held on Monday, February 6, 2023
- Special Town Meeting will be held on Saturday, January 28, 2023, at 9:00am at the Mary Rowlandson Elementary School
- Miscellaneous Correspondence & Memorandums

**XII. ON GOING PROJECTS & OLD BUSINESS**

**XIII. ADJOURNMENT**

## II. APPROVAL OF MEETING MINUTES

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**LANCASTER SELECT BOARD  
Regular Meeting Minutes  
of Tuesday, January 3, 2023  
6:00 P.M.**

**Nashaway Meeting Room, 2<sup>nd</sup> Floor, Prescott Building, 701 Main Street, Lancaster MA**

**I. CALL TO ORDER**

Chairman Stephen J. Kerrigan called the meeting to order at 6:00PM in the Nashaway Meeting Room on the second floor in the Prescott Building, 701 Main Street, Lancaster, MA. He advised that the meeting was being recorded via ZOOM and is being broadcast by Sterling Lancaster Community Television. Additional materials for Select Board meetings are available at <https://www.ci.lancaster.ma.us/administration-select-board> > Meeting Materials.

Join Zoom Meeting: <https://us02web.zoom.us/j/87652643913>  
Meeting ID: 876 5264 3913

Roll call vote taken, Jason A. Allison, present, Alexandra W. Turner, present, Stephen J. Kerrigan, present. Also present, Kate Hodges, Town Administrator.

**II. APPROVAL OF MEETING MINUTES**

Ms. Turner moved to approve the minutes of December 19, 2022. Mr. Allison seconded the motion. *Vote taken; Alexandra W. Turner, Aye; Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Motion passed. [3-0-0]*

**III. SCHEDULED APPEARANCES & PUBLIC HEARINGS - NONE**

**IV. BOARDS, COMMITTEES, AND DEPARTMENT REPORTS - NONE**

**V. PUBLIC COMMENT PERIOD**

*Opportunity for the public to address their concerns, make comments, and offer suggestions on operations or programs, except personnel matters. Complaints or criticism directed at staff, volunteers, or other officials shall not be tolerated.*

Mr. Kerrigan recognized Carol Jackson, 40 Farnsworth Way. Ms. Jackson asked if the citizens' petition was by the Select Board or was it false advertising. Mr. Kerrigan reminded her that criticism directed at staff, volunteers, or other officials will not be tolerated. He stated that the

citizens' petition was exactly that, not instigated by the Select Board. Ms. Jackson continued, questioning the possibility of having the upcoming Special Town Meeting in another town. Mr. Kerrigan explained that this would violate State law. Finally, she stated that she has concerns about residents and their health because this had been a problem with the last Special Town Meeting.

Mr. Kerrigan recognized Denise (Dee) Hurley, 102 Bolton Road. Ms. Hurley wanted to mention some upcoming events, an Open Mic Event on January 6<sup>th</sup> at the Community Center, and the art show on February 25; residents should contact her for more information or to enter.

Mr. Kerrigan recognized Heather Lennon, 294 Nicholas Drive. Ms. Lennon wanted to recognize Ike Kilburn who has been working on removing hazardous trees at the Middle Cemetery and has done a great job. Secondly, she would like to know if the Select Board has considered forming a committee for the Celebration of the 250<sup>th</sup> reading of the Declaration of Independence in 2026. Mr. Kerrigan stated that the Select Board will address this soon.

Mr. Kerrigan recognized Kathy Hughes, 80 Fire Road 11. Ms. Hughes wanted to see Town Counsel's written advice to the Town regarding the MOA signed before the previous Special Town Meeting, especially regarding arbitration. Mr. Kerrigan stated that the Town does not publish legal opinions, but he will send her an email. Secondly, regarding the Town Budget and the apparent upcoming shortfall, she asked if the Town was considering a hiring freeze or an employee furlough, or what other cost savings measures were being taken.

Mr. Kerrigan recognized Tom Murray, 156 Main Street. Representing the Seventh Day Adventist community, he noted that the Town has historically been kind and generous with not scheduling meetings or important events on Saturdays. He is concerned with the Special Town Meeting scheduled for Saturday, January 28<sup>th</sup>, stating that he has had several calls from church members who are concerned about this date. He requests that this issue is considered for future meetings so that his community is able to participate.

## **VI. TOWN ADMINISTRATOR REPORT**

### **1. Reasonable Accommodations – Recap of Town discussion with MA Office on Disability and MA Attorney General**

Mr. Kerrigan stated that this will be discussed later in the meeting.

### **2. Budget Process Update/Discussion**

Ms. Hodges said that the budget is about 90% complete; she is waiting for seven department overview sheets that are part of the overall process. The initial draft should be ready by the end of the month. She asked the Board if they would like this presented as a separate meeting or if they would like to include it as an agenda item. Mr. Kerrigan suggested addressing this as an agenda item in early February, hopefully as part of a light agenda. The other Board members concurred.

**2. Review DRAFT Town Meeting Warrant Article**

Ms. Hodges provided a draft of the Town Meeting warrant article in the meeting materials. She noted that some of the dates shown on the draft are not relevant.

**3. Vote to Open Special Town Meeting Warrant (vote to close at the will of the Board)**

Mr. Allison moved to open the Warrant for the Special Town Meeting to be held on January 28, 2023, and to insert the discussed article as Article 1. Ms. Turner seconded the motion.

*Vote taken; Alexandra W. Turner, Aye; Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Motion passed. [3-0-0]*

Mr. Allison moved to close the Warrant for the Special Town Meeting to be held on January 28, 2023. Ms. Turner seconded the motion. *Vote taken; Alexandra W. Turner, Aye; Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Motion passed. [3-0-0]*

**4. Review Earth Removal Renewal Permit & Approval Guidelines**

Ms. Hodges stated that this was reviewed at the request of Ms. Turner and several residents. The Special Permit guidelines that are in Massachusetts General Law (MGL) dictate that if the Board (the authority to grant the permit) is a three-member board then the vote must be unanimous. It was suggested that a prior vote of this Board, not being unanimous, was in fact not valid. Ms. Hodges reported that this has been researched by Town Counsel, and this is only true if the vote pertains to a new Special Permit, but not to a renewal.

**5. Discuss resident trespass complaint (Tabled from 12/19/22)**

Mr. Kerrigan would still like to have a conversation with the Conservation Commission Chair; they have exchanged messages but were unable to connect. Ms. Turner moved to table this item until they have spoken; Mr. Allison seconded the motion. *Vote taken, Alexandra W. Turner, Aye; Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Motion passed. [3-0-0]*

<b>VIII. APPOINTMENTS AND RESIGNATIONS</b>
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Appointments

*Commission on Disability: Eugene (Geno) Brazeau.*

Because the end of term date was unknown, Ms. Turner moved to table the item. Mr. Allison seconded the motion. *Vote taken, Alexandra W. Turner, Aye; Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Motion passed. [3-0-0]*

<b>IX. LICENSES AND PERMITS - NONE</b>
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<b>X. NEW BUSINESS - NONE</b>
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*This item is included to acknowledge matters not reasonably anticipated by the Chair.*

<b>XI. COMMUNICATIONS</b>
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### **3. Fire Department – DFS Grant Award**

Fire Chief Hanson announced that the Department has received a grant from the Department of Fire Services in the amount of \$10,000 that he had applied for in order to provide the Department with some updated technical equipment such as cameras. Mr. Kerrigan thanked him for his work in applying for this grant.

## **VII. ADMINISTRATION, BUDGET, AND POLICY**

### **1. Special Town Meeting – January 28, 2023, review Town Staffs' plans/protocols**

Ms. Hodges reviewed a memo that she had written following today's department head meeting summarizing plans for the upcoming Special Town Meeting (STM). The STM will involve six rooms, one of which is for childcare. Issues being addressed include bandwidth, hearing accessible seating, ESL translation services, a separate room that will have a mask requirement, social distancing, and a separate entrance/exit. Town staff and volunteers are asked to park at the Police/Fire stations and to walk. Parking, overflow parking and accessibility, volunteers, paper ballots, and other logistics were explained. Ms. Hodges explained that requests for reasonable accommodations should be made to her by January 17, and that the Town is working with the Massachusetts Attorney General's office and the Massachusetts Commission on Disability.

Ms. Turner questioned why the lower capacity auditorium was being used as the primary room rather than the larger capacity gymnasium. Ms. Hodges explained that because the communications hub was in the auditorium it needed to be the primary room to provide a visual feed to other rooms. Additionally, the gymnasium has the largest square footage, and therefore is being used for individuals who need social distancing. Ms. Turner asked about voting methods and the use of the "clickers" that had been used for outdoor Town Meeting at the fairgrounds. She asked if clickers could be rented or borrowed from another community; Ms. Hodges explained that it would require separate receivers for each room which would be very complicated. Ms. Turner reiterated that she is concerned about disenfranchising the Seventh Day Adventists and the Jewish population, saying that the Board had been "tone deaf," asking if there was a will to change this prior to signing the warrant. Mr. Kerrigan said that although not ideal, it seems to address the needs of most of the Town. Ms. Turner noted that the country had been founded on Judeo-Christian principles; Mr. Kerrigan refuted this, referencing separation of church and state. Mr. Allison said that he finds this conversation not fruitful, since there is no date that is not undesirable for some set of people, and there is no perfect date, but the Board has an obligation to schedule a Town Meeting to meet the requirements of the citizens' petition. Mr. Kerrigan restated that the Town is working with the Massachusetts Attorney General's office and the Massachusetts Commission on Disability to make sure needs for reasonable accommodations are met.



- Next Select Board Hybrid Meeting will be held on Tuesday, January 17, 2023 at 6:00pm
- Special Town Meeting will be held on Saturday, January 28, 2023 at 10:00am at the Mary Rowlandson Elementary School.

## **XII. ONGOING PROJECTS & OLD BUSINESS**

### **1. Lancaster Recycling Center**

Ms. Hodges provided the Board with a memo on this topic (see Meeting Materials). In recent years the center has only been open twice monthly. To continue this, supplemental funding of \$6,000-\$9,500 would be needed. The center is not scheduled in next year's budget but could be added if it were the will of the Board. Ms. Hodges and Ms. Gariepy (Finance Director) have met with the committee. Mr. Kerrigan suggested including this in the new budget for discussion purposes. Ms. Turner expressed concern that the Select Board has not seen some board or committee budget requests; Mr. Allison stated that the budget is nearly complete and that he does not support adding it to the budget at this point. After discussion, it was decided that Ms. Hodges will see where it could fit in the budget.

### **2. DCAMM Property**

Ms. Hodges reports that she has a call set up with the DCAMM Liaison later this week.

### **3. Special Town Meeting**

Mr. Kerrigan invited Ms. Turner to address concerns she had mentioned earlier about the Special Town Meeting (STM). She thought that at the last STM the informational session held prior to the meeting was helpful if not well attended. She would like to schedule a forum prior to the upcoming STM to address both the Memorandum of Agreement (MOA) and the Warrant Article. Mr. Allison said that he would be against a Q & A session, because as the Chair of the MOA Committee he has had no questions, although he would be happy to answer any that were presented. Mr. Kerrigan said that he was apprehensive about having another forum, suggesting that perhaps Sterling-Lancaster Community Television could re-air the previous forum, since it is the same article presented previously as Article 4. He stated that residents are welcome to reach out to any member of the Board. Mr. Kerrigan stated that it is important to remember that this article is about rezoning, not about any individual development.

## **XIII. ADJOURNMENT**

Mr. Allison moved to adjourn the meeting. Ms. Turner seconded. *Vote taken, Alexandra W. Turner, Aye; Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Motion passed. [3-0-0]*

Respectfully submitted,

Kathleen Rocco  
Executive Assistant

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Alexandra W. Turner, Clerk  
Dated:

### **III. SCHEDULED APPEARANCES & PUBLIC HEARINGS**

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Please join us for the

**Nashoba Regional High  
School Building Project Public  
Forum #5**

**January 9th at 6 PM  
Hosted at the Nashoba High  
School Auditorium**

**For more details visit our  
project website**

Nashoba Regional School  
Building Committee  
Website



*Use your smartphone camera to read this code and  
access the site.*

<https://sites.google.com/nrsd.net/nrhs-building-project/home>

Nashoba Regional School  
Building Committee  
Website



*Use your smartphone camera to read this code and  
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<https://sites.google.com/nrsd.net/nrhs-building-project/home>



**NRHS Building Project**

**Board Brief No. 1  
January 6, 2023**

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## What is the Nashoba Regional High School Building Project?

The Towns of Bolton, Lancaster, and Stow are participating in the Massachusetts School Building Authority (MSBA) process for the design and construction of a new regional high school. The project is multiphase, with modules that encompass all aspects of the planning and construction of a high school for the communities. Acceptance into the MSBA program does not guarantee state funding. The MSBA approval process must be completed successfully for the state, via the MSBA, to provide financial assistance to the project.

Module 3A, the Preliminary Design Program (PDP), and Module 3B, the Preferred Schematic Report (PSR), are completed. Currently, the project is in Module 4, the Schematic Design.

On June 2023, the Schematic Design (Module 4) will be submitted to the MSBA. In Fall 2023, each member Town will vote/seek funding for the project. Please see the schedule graphic below for more details on the processes for Modules 3 and 4.

## What are some of the reasons Bolton, Lancaster, and Stow need a new high school?

- Overcrowded and undersized academic spaces
- Not designed to 21<sup>st</sup> century educational standards
- Undersized and lack of appropriate science lab spaces
- Insufficient facilities to deliver modern applied arts programs such as video production, robotics, and theater art
- Lack of small group and independent support spaces for collaboration and social emotional learning opportunities
- Inadequate/inefficient/poorly distributed building systems (Electrical, Plumbing, HVAC)
- Lack of modern technology infrastructure
- Lack of Building Code compliance, Energy Conservation Code compliance, and Seismic Structural Code compliance
- Lack of universal accessibility (building and site)

- Failing building envelop including windows, walls, and roof
- Lack of natural ventilation and outdated mechanical systems
- Lack of adequate fire sprinkler system
- Building and infrastructure are physically coming close to end of life expectancy and will require multiple large scale projects to be able to continue to function

## How can I stay up to date on the project?

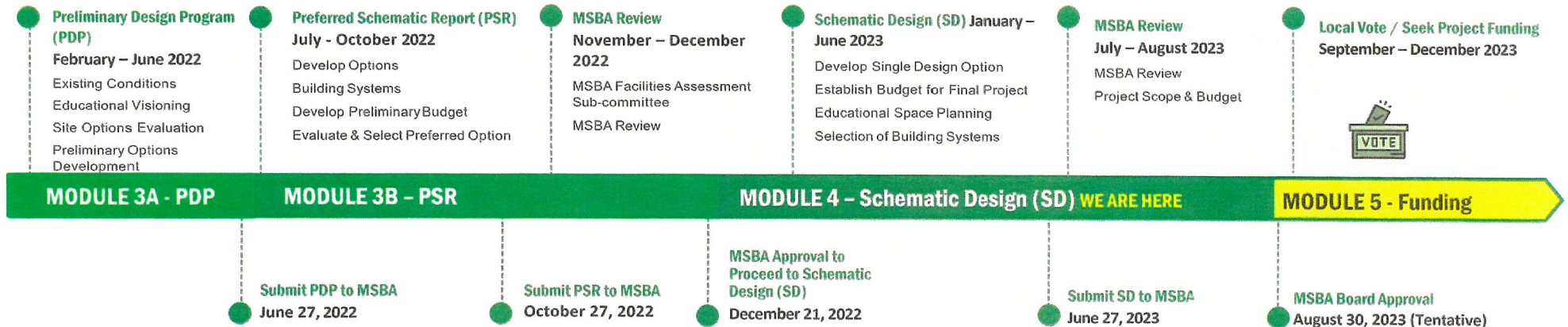
To learn more about the NRHS building project, please visit:

<https://sites.google.com/nrsd.net/nrhs-building-project/home>

For questions regarding the building project, please email: [nrhsbc@nrsd.net](mailto:nrhsbc@nrsd.net)

Monthly School Building Committee meetings are open to the public to attend. Please check the building project website for a calendar of meetings.

## Project Schedule Overview



\*Schedule is subject to change



#### **IV. BOARDS, COMMITTEES & DEPARTMENT REPORTS**

## V. PUBLIC COMMENTS

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## **VI. TOWN ADMINISTRATOR REPORT**

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## **VII. ADMINISTRATION, BUDGET AND POLICY**

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**S. J. MULLANEY ENGINEERING, INC.**  
**CIVIL SITE DESIGN & PERMITTING**

December 9, 2022

Via: email. [KHodges@lancasterma.net](mailto:KHodges@lancasterma.net)

Town of Lancaster Select Board  
c/o Kate Hodges, Town Administrator  
701 Main Street, Suite 1  
Lancaster, MA 01523-2335

Re: Request for Renewal – Special Permit to Remove Earth Products  
Fort Pond LLC, Mr. James L. Fletcher, Manager  
Fort Pond Road

Dear Members of the Select Board:

The current Special Permit for the above-referenced, ongoing, multi-year sand and gravel pit expires on January 24, 2023. Our client, Mr. James L. Fletcher, hereby respectfully requests that the Board renew the permit for an additional two-year period from January 24, 2023 to January 24, 2025.

As you may recall, the current Special Permit was listed as expiring on October 19, 2021. However, pursuant to Chapter 53 of the Act of 2020 of The Commonwealth of Massachusetts, entitled: "An Act to Address Challengers Faced by Municipalities and State Authorities Resulting from Covid-19" enacted April 3, 2020, Section 17 (b) states:

*"...(iii) a permit in effect or existence as of March 10, 2020, including any deadlines or conditions of the permit, shall not lapse or otherwise expire and the expiration date of the permit, or time period for meeting a deadline or for performance of a condition of the permit, shall toll during the state of emergency;..."*

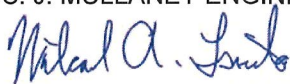
The state of emergency lasted 462 days, therefore; the permit has been extended until January 24, 2023.

As you are aware, your consultant engineer, Tighe & Bond, Inc., inspects the gravel pit on a regular basis. It is our understanding that Tighe & Bond has found the operation to be substantially in compliance with its permit. No changes are proposed to the earth product removal site plans.

Lancaster Zoning Bylaw Article IX, §220-32 D. states that a permit may be renewed without a public hearing by majority vote of the Select Board. We will request that the Board employ this provision to extend the current permit. Mr. Fletcher is agreeable to the continuation of the same permit conditions currently in effect should the Board decide to renew the permit in such a manner.

Thank you for your attention to this matter. Please contact us if attendance at a Board meeting is required by us or our client.

Sincerely,  
S. J. MULLANEY ENGINEERING, INC.



Mikael A. Lassila, P.E.

Cc: client

## **VIII. APPOINTMENTS AND RESIGNATIONS**

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## Kathi Rocco

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**From:** David Carr <dacarr007@gmail.com>  
**Sent:** Thursday, January 5, 2023 8:19 PM  
**To:** Kathi Rocco  
**Subject:** Resignation - Lancaster Recreation Committee

Kathi,

Please consider this email to be my resignation from the Lancaster Recreation Committee, effectively immediately.

Unfortunately with work and other life commitments, I do not have the time to give this position the attention it deserves.

Please forward to the select board

Thank you

David Carr

## Kathi Rocco

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**From:** vpetraccapublic@gmail.com  
**Sent:** Friday, January 6, 2023 12:28 PM  
**To:** Kate Hodges; Kathi Rocco  
**Cc:** Stephen J. Kerrigan  
**Subject:** New Agenda Item - Select Board Member on Affordable Housing Trust

Hi Kate & Kathi,

Steve Kerrigan and I recently communicated about the Select Board representative on the Affordable Housing Trust.

Due to schedule conflicts, we think it makes sense to appoint a new Select Board member in place of Steve. Could you please put this on the next Select Board Agenda?

Thank you again to Steve for his service over the last year!

MGL Ch. 44 Section 55C on Affordable Housing Trust Funds: “(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but **where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board.**”

Please confirm. Thanks!

Victoria

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Victoria Petracca, Chair  
Lancaster Affordable Housing Trust





Steve, Kate,

Regarding the subject, the Commission on Disability has unanimously nominated Mr. Eugene Brazeau, resident of Lancaster who lives on Poulin Drive, to be a member of our commission. Can you please consider him for approval of this status at the next Select Board meeting, and if approved, initiate the process to have him be sworn in.

Thank You & Best Regards,

Mike McCue  
Chair, Lancaster Commission on Disability



**McCue** & Associates, LLC

McCue & Associates, LLC  
978-733-1353  
[www.mccueassociates.com](http://www.mccueassociates.com)

## **IX. LICENSES AND PERMITS**

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TOWN OF LANCASTER  
BOARD OF SELECTMEN  
Town Hall, 695 Main Street, Suite 1  
Lancaster, MA 01523-  
Tel: 978-365-3326 Fax: 978-368-8486

Town Clerk's Office  
Date & Time Received

## APPLICATION FOR SPECIAL PERMIT REMOVAL OF EARTH PRODUCTS

1. Applicant's Name: Fort Pond LLC
2. Applicant's Address: P.O. Box 401, East Templeton, MA 01438-0401
3. Name of Business or Concern (*If operating other than individual*): W. J. Graves Construction Co., Inc.
4. Business Address (*If different than address listed under Question 2*): Same
5. Location of Property (*Street Address*): Fort Pond Road
6. Assessors' Atlas: Map/Sheet No. 5 Parcel No. 26B Lot No. \_\_\_\_\_
7. Location approximately 800 feet ☐ N ☐ S ☒ E ☐ W from the intersection with Fort Pond Inn Road  
Worcester County (Worcester District) Registry
8. Evidence of Property Ownership (*Attach Deed, Lease, other*): District of the Land Court Book 84 - Page 69
9. Name and Address of Engineer or Firm Responsible for plans, specifications, compliance, etc? \_\_\_\_\_  
S. J. Mullaney Engineering, Inc., Attn: Stephen J. Mullaney, P.E.  
305 Whitney St., Suite G3, P.O. Box 752, Leominster, MA 01453-0752
10. Engineering plans and specifications prepared (*date*): Plan No. 101-D-5, sheets 1 to 7, dated May 27, 2011, as amended by:  
Plan No. 149-D-3, sheet 1 of 1, dated December 3, 2014  
Plan No. 149-D-5, sheet 1 of 1, dated October 21, 2016

### SCOPE OF WORK

11. Cubic yards to be excavated/removed from site: 1,766,400 Area: 48 Acres
12. Type of earth product(s): Peat \_\_\_\_\_ Loam \_\_\_\_\_ Gravel ☒ Rock \_\_\_\_\_ Other \_\_\_\_\_
13. Proposed date of completion of excavation: 2025 Of Removal 2025
14. Duration of Request (*Minimum of 6 months; maximum of 24 months*): 24 months  
Site preparation for future development to assist the town's economic expansion intentions
15. Reason for Request: for this EZ-Enterprise zoned area of town.
16. Estimated cost for erosion control, grading, seeding, or reclamation: \$ 27,000

17. Bond Required: \_\_\_\_\_  
(To be determined by the Town)

18. Have you been issued a Special Permit for earth products removal before? Yes ☒ No \_\_\_\_\_

If yes, when was it last issued? October 19, 2017 For what period? 24 months\*

(\*Note: Chapter 53 of the Act of the Commonwealth of Massachusetts extended this permit 462 day. )

**THE FOLLOWING MUST BE SUBMITTED AS PART OF THIS APPLICATION:**

1. Three (3) copies of a registered, engineered plot plan of the area showing existing grades and proposed finished grades and the distances from the excavation to the side and rear property lines.
2. Three (3) copies of the registered, engineered plot plan reduced to 11" x 17" on white paper.
3. Three (3) sets of engineering specifications.
4. Evidence of Property Ownership as required under Question 8.
5. **Check for Permit Application Fee** (\$250 for one (1) year; \$500 for two (2) years).
6. **Check for \$1,000 for Professional Engineering Review Fees.** The Applicant shall be required to forward to the Town any engineering costs exceeding the \$1,000 review fee estimate.

The applicant certifies that it has filed all state tax returns and paid all state and local taxes required by law and agrees to comply with the terms of its permit and applicable law, and all rules and regulations promulgated thereto. I further certify that the information contained in this application is true and accurate and also authorize the Permitting Authority or its agents to conduct whatever investigation is necessary to verify the information contained in this application.

Signed under the pains and penalties of perjury.

\_\_\_\_\_  
INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE  
OFFICER OR APPLICANT

DATE SIGNED December 9, 2022

Fort Pond LLC  
by James L. Fletcher, its Manager

**NOTE: The filing of this application does not permit the Applicant to remove earth products. Removal of earth products may not commence until the Board of Selectmen issues a special permit.**



AMENDMENT TO SPECIAL PERMIT TO REMOVE EARTH PRODUCTS  
Issued to Fort Pond LLC  
Concerning 580 Fort Pond Road, Lancaster, Massachusetts

On November 4, 2019, the Board of Selectmen of the Town of Lancaster ("Select Board," approved and issued a Special Permit to Remove Earth Products (together with any prior or subsequent versions of such Special Permit, the "Earth Removal Special Permit") with respect to the earth removal and related site work at property commonly known as Fort Pond, LLC Fort Pond Road, Lancaster, Massachusetts ("Site"). After public meeting held by the Selectmen on November 4, 2019, the Selectmen approved and amends the Earth Removal Special Permit as follows:

1. The Select Board recognizes that on August 24, 2018, the Town of Lancaster Planning Board ("Planning Board"), by unanimous vote, approved the Site Plan application ("Site Plan Approval") submitted by TJA Pope Solar LLC ("Pope Solar," for the construction of a proposed 5.0 megawatt (DC) solar energy generating facility ("Solar Facility") to be located on a portion of the Site of the existing Earth Removal Special Permit, pursuant to a lease by and between Fort Pond LLC and Pope Solar. According to the Planning Board, the Solar Facility will occupy approximately 30 acres of the approximately 76 acres of the Site. No earth removal and related site work covered by this Earth Removal Special Permit shall be undertaken on the area of the Solar Facility. The Solar Facility and Fort Pond LLC shall both operate on the Site. It is the intent of the Select Board that the Solar Facility shall not be governed by the conditions of the Earth Removal Special Permit and any prior or subsequent versions or renewals of same, but shall instead be governed by the Site Plan Approval of the Planning Board. The area of the Solar Facility on the Site is shown on the site plans submitted to and approved by the Planning Board ("Solar Facility Site"). The Site Plan Approval and the depiction of the Solar Facility Site submitted to and approved by the Planning Board are incorporated herein by reference.
2. The Select Board recognizes that two businesses with separate and distinct operations will exist concurrently on the site and that the failure of one entity to maintain its obligations to the Town of Lancaster will not affect the legal occupancy and operation of the otherwise compliant entity.
3. The Select Board recognizes that the obligations of Pope Solar to maintain compliance with its Site Plan Approval and approved Stormwater Permit Application are separate and distinct from those obligations of Fort Pond LLC under its Earth Removal Special Permit, including, without limitation, Fort Pond LLC's obligations as to site closure, restoration of the Site, top or subsoil removal or replacement requirements, dust control and debris, active work areas, slope requirements (including, without limitation, slope creation and/or restoration), truck trip and

traffic restrictions, installation and maintenance of groundwater wells, groundwater monitoring, elevation benchmarks, storm drainage, surety bond requirements, standing water requirements, the agent/consultant review account, limitations on assignment, excavation requirements and traffic study requirements.

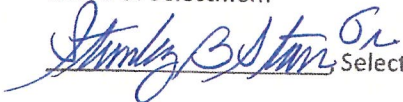
4. Without limiting the generality of the foregoing, the Select Board recognizes that the Decommissioning Plan as required of Pope Solar by the Planning Board in its Site Plan Approval, represents the full extent of its responsibility for any decommissioning, removal of equipment, site restoration, slope restoration, groundwater remediation, soils remediation and the like with respect to the Solar Facility Site. Fort Pond, LLC shall remain solely responsible for any and all site closure, restoration and remediation responsibilities to the Town of Lancaster, as set forth in the Earth Removal Special Permit once the Solar Facility is decommissioned pursuant to the Site Plan Approval.
5. The Select Board recognizes that the lease to Pope Solar of the Solar Facility Site may be assigned to another entity and the construction of the Solar Facility may be financed by a mortgagee or other entity providing financing to Pope Solar, or its successor and assigns. It is the intent of this Amendment that its terms are not limited to Pope Solar and shall apply to any such assignee and/or mortgagee or entity providing financing to Pope Solar, its successors and assigns.

traffic restrictions, installation and maintenance of groundwater wells, groundwater monitoring, elevation benchmarks, storm drainage, surety bond requirements, standing water requirements, the agent/consultant review account, limitations on assignment, excavation requirements and traffic study requirements.

4. Without limiting the generality of the foregoing, the Select Board recognizes that the Decommissioning Plan as required of Pope Solar by the Planning Board in its Site Plan Approval, represents the full extent of its responsibility for any decommissioning, removal of equipment, site restoration, slope restoration, groundwater remediation, soils remediation and the like with respect to the Solar Facility Site. Fort Pond, LLC shall remain solely responsible for any and all site closure, restoration and remediation responsibilities to the Town of Lancaster, as set forth in the Earth Removal Special Permit, once the Solar Facility is decommissioned pursuant to the Site Plan Approval.
5. The Select Board recognizes that the lease to Pope Solar of the Solar Facility Site may be assigned to another entity and the construction of the Solar Facility may be financed by a mortgagee or other entity providing financing to Pope Solar, or its successor and assigns. It is the intent of this Amendment that its terms are not limited to Pope Solar and shall apply to any such assignee and/or mortgagee or entity providing financing to Pope Solar, its successors and assigns.

Voted to approve on this \_\_\_ day of November, 2019:

Board of Selectmen:

 Select Person

\_\_\_\_\_, Select Person

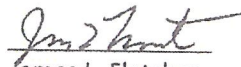
\_\_\_\_\_, Select Person

\_\_\_\_\_, Select Person

\_\_\_\_\_, Select Person

Acknowledged and Agreed:

Fort Pond LLC

By:   
James L. Fletcher

Its: Trustee  
Duly Authorized

By:   
John L. Fletcher

Its: Trustee  
Duly Authorized

580 Fort Pond LLC



**TOWN OF LANCASTER, MASSACHUSETTS  
BOARD OF SELECTMEN  
RENEWAL OF SPECIAL PERMIT TO REMOVE EARTH PRODUCTS**

In accordance with Article IX of the Zoning Bylaws, the Board of Selectmen hereby grants to the Applicant a Renewal of Special Permit to remove earth products, subject to the conditions noted herein.

**Name of Applicant/Grantee:** 580 Fort Pond LLC

**Address of Applicant/Grantee:** 1881 Worcester Rd., Suite 200, Framingham, MA 01701-5410

**Company Name:** Same

**Company Address:** Same

**Permit Issue Date:** October 17, 2019

**Permit Expiration Date:** October 17, 2021

**Conditions:**

1. **Description of Area:** All earth removal and related site work shall be in accordance with the approved Earth Removal plans for 580 Fort Pond LLC, dated May 27, 2011, as prepared by S. J. Mullaney Engineering, Inc. as modified by the terms and conditions of this Special Permit.
2. The site shall be restored with a minimum depth of nine inches of loam which shall be capable of supporting grass growth unless the applicant can document a lesser amount pre-exists on site, in which case the applicant will be responsible for the lesser amount. The site shall be restored upon completion of the earth removal authorized by this special permit. The area shall be hydroseeded and the planted area shall be protected from erosion during the establishment period using sound conservation practices. Areas that wash out shall be repaired immediately. Trees or shrubs of prescribed species shall be planted to provide screening and reduce erosion during the establishment period.
3. No top or subsoil shall be removed from the site.



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BOARD OF SELECTMEN  
RENEWAL OF SPECIAL PERMIT TO REMOVE EARTH PRODUCTS**

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4. Provisions for dust control shall be in place prior to commencement of the earth removal operations. Abutting public right-of-ways and abutters shall be kept clear of construction debris and dust.
5. Dust Control measures shall be undertaken as specified in the approved plans.
6. Active work areas shall be limited to a six (6) acre parcel, in accordance with the approved phasing plans.
7. At least two of the six acres shall be restored before work commences (including building haul roads) on the subsequent phases. All restoration work shall be completed within 30 days after expiration of a permit or upon cessation of operations within any phase.
8. A maximum slope of three foot horizontal to one foot vertical (3:1) is required; 4:1 within any buffer zone of a resource area as shown on the approved plans.
9. The hours and days for which trucks are allowed to remove earth materials from the site shall be limited to 7:00 am – 4:30 pm Monday through Friday and 8:00 am – Noon on Saturdays, except for Federal and State Holidays. Alteration of this time schedule may be accomplished only by prior approval of the Board of Selectmen.
10. All entrances to the facility shall be gated and locked to prevent unauthorized entry during non-working hours. Proper signage must also be posted within the site to advise drivers of site conditions. Truck entering signs shall also be erected along the abutting right-of-ways to warn motorists of truck traffic from the site.
11. Truck trips from the site shall not exceed 70 trips (loads) within any given day. Alteration of this trip schedule may be accomplished only by prior approval of the Board of Selectmen based upon an approved traffic management plan approved by the Chief of Police.
12. A minimum of two (2) groundwater-monitoring wells shall be installed for every six acres of active work area. Groundwater levels shall be checked on a quarterly basis and data provide to the Town. A minimum depth to groundwater separation of 6-feet shall be maintained at all times. Areas which fall within the Town's water resource overlay district shall maintain a minimum depth to groundwater separation of 10-feet.
13. Provide a minimum of three (3) permanent benchmarks with elevations for each active phase of the operation.



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23. By exercising this special permit, the permit holder agrees that he will not excavate in such a manner as to leave dangerous and unsightly conditions on the premises as a result of the excavation.
24. At the discretion of the Boards of Selectmen, a traffic study shall be conducted at the applicant's expense, at least 9 months after excavation starts, to determine if changes to the entrance of traffic pattern of trucks needs to be re-routed
25. A groundwater monitoring report will be provided at the applicant's expense, after 12 months of operation from the start of work, to determine if any further issues will require monitoring

**Date of Public Hearing:** N/A

**Location:** N/A

**Notice of Hearing, Names of newspapers:** N/A

**Date of Public Notice:** N/A

**Certified List of Abutters:** N/A

**DECISION FINDINGS:**

With respect to the Special Permit, the Board finds, after soliciting and reviewing comments from other Town boards, departments, agencies, staff, and interested persons that reasonable measures have been or will be taken to:

- (a) Ensure that all requirements applicable to the special permit are fulfilled;
- (b) That the specific site is an appropriate location for the uses proposed;
- (c) That there is safe access from roads adequate for the traffic expected, adequate parking is provided and internal circulation is adequate for emergency vehicles;
- (d) That the Board of Health requirements for water and sanitation arrangements will be followed;
- (e) That the use as developed and operated will not adversely affect the neighborhood;



**TOWN OF LANCASTER, MASSACHUSETTS  
BOARD OF SELECTMEN  
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14. The land shall be left so that natural storm drainage leaves the property at the original natural drainage points and so that the total discharge at peak flow, and the area of drainage at anyone point, is not increased, and so that the hydrograph of any post-development receiving body of water is the same as that of the pre-development hydrograph per the approved plans.
15. No stumps shall be buried on-site.
16. A Surety Bond, Irrevocable Standby Letter of Credit, or Cash Account in the amount of Ten Thousand Dollars (\$10,000) per open acre of excavation activities or other amount as specified by the Town's Engineering Consultant, shall be provided to the Town prior to commencement of any work authorized under this special permit in order to secure compliance with the terms and conditions hereof. The Surety Bond, Irrevocable Standby Letter of Credit, or Cash Account shall remain in effect during the term of the Special Permit.
17. The excavations, fills or side cuts shall be set back a minimum of one hundred (100) feet from the public right-of-way.
18. No areas should be excavated so as to cause accumulation of standing water. Excavation areas shall be graded to provide positive drainage in accordance with the approved stormwater management plan.
19. Agent(s) assigned by the Board of Selectmen shall conduct inspections. All costs for outside consultant services used for inspection purposes shall be paid for by the permit holder. Funds shall be deposited into a Consultant Review Account. Inspections shall be scheduled quarterly and at other times as needed.
20. If any conditions of this permit are violated, the permit is subject to revocation by the Board of Selectmen following a hearing.
21. This permit shall not be assigned to any other person other than the person or entity named herein, unless authorized in writing by the Board of Selectmen.
22. By exercising this special permit, the permit holder agrees to permit reasonable access onto the subject premises by the agents and employees of the Lancaster Board of Selectmen for inspection purposes consistent with the requirements of Condition 19.




**TOWN OF LANCASTER, MASSACHUSETTS  
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(f) That the purposes of the Bylaw are substantially met.

The Board of Selectmen, the Permitting Authority, hereby grants this Permit on behalf of the Town of Lancaster.

BOARD OF SELECTMEN:



Stanley B. Starr, Jr., *Chairman*

Date:

*11/18/19*



## **X. NEW BUSINESS**

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## XI. COMMUNICATIONS

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## **XII. ON GOING PROJECTS & OLD BUSINESS**

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### **XIII. ADJOURNMENT**

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