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February 11, 2022

Mr. Robert W. Eckert
68 South Cottage Road
Belmont, MA 02478

Re: Enforcement Request Letter – January 31, 2022

Dear Mr. Eckert:

I am writing in response to your letter dated January 31, 2022 wherein you request zoning enforcement as a means to address perceived deficiencies regarding compliance with the Massachusetts Architectural Access Board Rules and Regulations and the Town of Belmont Zoning By-Law. I herewith address the issues presented in your letter.

Massachusetts Architectural Access Board Rules and Regulations (AAB)

Woodlands II

I have reviewed the report submitted by AKF stamped by Fire Protection Engineer Jay Ierardi, PhD, PE. In the report Engineer Ierardi references the developments at the Woodlands (Woodlands II) and McLean Zone 3 (page 2) and cites Section 20.2 of 521 CMR, the AAB rules and regulations. This section states:

20.2 LOCATION

Within the boundary of the *site*, an *accessible route(s)* shall be provided from *accessible* parking, *accessible* passenger loading zones, and public streets or *sidewalks* to the *accessible building entrance* they serve. The *accessible route(s)* shall coincide with the route for the general public.

The Woodlands development is a private residential housing development. There are no publicly accessible buildings, parking areas, passenger loading zones, and no public streets associated with this development. The access roadways are private driveways; there were never laid out for acceptance by the Belmont Board of Survey, they were never presented for acceptance by the Belmont Town Meeting, and they are not maintained by the Belmont Department of Public Works. Section 20.2 is not relevant to this development.

I speak to Zone 3 further along in this letter.

Pleasant Street Gate Lodge

The AKF report references the pedestrian access at the intersection of Pleasant Street and Trapelo Road at the Pleasant Street Gate Lodge (page 4). The Pleasant Street Gate Lodge and the surrounding general vicinity has been in place for approximately 100 years or more. The grading of the approach to the entrance to the site, on the public right of way side of the entrance, was modified during the reconstruction of the intersection approximately 10 years ago in order for the Town to construct a previously non-existent sidewalk along the north side of Trapelo Road to connect the Elderly Housing development at the intersection of Mill Street and Trapelo Road to the intersection of Pleasant Street and Trapelo Road where a new, previously non-existent, set of traffic signals was installed which included full pedestrian signals. There was no modification to the site conditions of the Pleasant Street Gate Lodge and therefore no trigger requiring correction of any, if existing, non-complying existing conditions under the AAB rules and regulations.

Olmsted Drive

There seems to be some confusion regarding the applicability of AAB regulations in regards to walkways. Once again, referencing the AKF report, Section 22 of the AAB regulations are cited in regard to exterior walkways (page 2 and 3).

Section 22.1 states:

22.1 GENERAL

Walkways shall include but not be limited to all *walks*, *sidewalks*, overpasses, bridges, tunnels, underpasses, plazas, courts and other pedestrian pathways, and shall comply with the following requirements:

In addition, Section 22.3.1 states:

22.3.1 Nowhere shall the *cross slope* of *walkways* exceed one-in-50 (1:50) (2%). (Refer to 521 CMR 2.4.4d.)

Exception: *Sidewalks* on streets and ways shall be considered *walkways*, with the exception that if the slope of the natural topography exceeds one-in-20 (1:20) (5%) a *ramp* is not required.

The exception is relevant to the conditions related to Olmsted Drive. Olmsted Drive is a private access driveway. It is not a public roadway. However, in constructing Olmsted Drive a pedestrian walkway was added along one side of the drive. In reviewing and approving the construction drawings I recall that my office determined the walkway was compliant with AAB rules and regulations, as provided in the exception of Section 22.3.1. Also, it was determined that the walkway at the lower end of the drive, where it veers off towards Pleasant Street Gate Lodge, is a continuation of the Olmsted Drive walkway and therefore is not defined as a ramp per the regulations and is not subject to the running slope requirements of Section 22.3.

The terminus of this walkway differs from what is depicted on the Olmsted Drive construction drawings due to a field decision made during construction. This change did not alter the determination regarding the applicability of Section 22.3.1 of the AAB regulations.

Page 5 of the AKF report states that “there is no accessible exterior path connecting Olmsted Drive and the parking lot accessed from Central Ave.” As I understand McLean Hospital operations, and the previous construction and proposed future construction on parcels sold by McLean, there is no intention of providing a connection from the McLean campus to these developments. The very nature of the mission of the hospital requires there to be separation between them and any surrounding development. I acknowledge there is a system of pathways that exist throughout the hospital campus. As I understand it, these pathways have long existed, and in fact may date back over 100 years to the original campus layout. They have not been provided as a means to connect new development with the hospital campus.

Regarding these existing vehicular roadways and pathways on the McLean Hospital campus, I cannot say what the intended use is or what the hospital’s policy is regarding pedestrian use of such.

Town of Belmont Zoning By-Law Enforcement

ARC Site Plan Approval December 3, 2001

The American Retirement Corporation Site Plan Approval was never acted on. The project was never built and therefore any conditions associated with the project are no longer valid. Any references to Olmsted Drive were made irrelevant once it was decided the ARC project was not moving forward. The permitting of Olmsted Drive was done after the ARC project lapsed and approvals were based on plans submitted in 2005.

McLean Hospital was the project proponent for Olmsted Drive in 2005. Olmsted Drive was constructed to provide access to developments at Zones 3 and 4, and Zone 6 which is the affordable housing parcel that was developed in 2007 as Waverley Woods, after Olmsted Drive was approved for construction. This sequence is important because the construction plans for Olmsted Drive could not have shown an access driveway to the Waverley Woods development since the Town had not finalized a lease agreement with the Waverley Woods developer.

I believe the designer of Olmsted Drive, VHB, was correct when they stated in their letter of October 7, 2005 that “the work to be undertaken for the construction of Olmsted Drive is consistent with the Site Plan approval...”, even though compliance with the site plan approval was not required since the approval had lapsed. Thus no zoning violations exist.

Proposed Zone 3 Development

As of this writing the Belmont Planning Board continues to review the proposal by Northland Development for a project at Zone 3. Accessibility is still to be discussed and to the extent that pedestrian mobility and accessibility is required to be addressed, as I understand the matter, the board intends to act accordingly.

I am aware of lingering concerns regarding stormwater management and, in particular, the run-off from Upham Bowl on the McLean Hospital campus and its possible impacts to developments downstream. I am aware that professional engineers have evaluated and have peer reviewed the site conditions. I have every confidence these professionals are providing the expertise required by the Planning Board and that the board will act accordingly.

It should also be noted that Zone 3 is subject to a zoning overlay district and the Planning Board is charged with applying the requirement of this district. The zoning bylaw confers upon the Planning Board the discretionary ability to waive as they see fit (Section 6B.3) performance or design requirements as they evaluate an application and ultimately approve a project.

In closing, it is my professional opinion that the Town of Belmont, through its engineering and inspectional services staff, along with the Planning Board and other interested boards and committees, has met its responsibilities and obligations as it relates to development at the several zones that were previously owned by McLean Hospital.

Respectfully,



Glenn R. Clancy, P.E., C.B.O.
Director of Community Development
Town Engineer
Inspector of Buildings
Zoning Enforcement Officer

Cc: Stephen Pinkerton, Chair, Belmont Planning Board
Belmont Select Board
Patrice Garvin, Town Administrator
Community Development Planning and Inspectional Services Staff
William Joyce, Massachusetts Architectural Access Board