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Via E-mail
By First-Class Mail

August 26, 2016

Robert Cantoreggi, Chairman
Planning Board
Town of Millis
900 Main Street
Millis, Massachusetts 02054

Re: Petition Entitled "Preserve Residential Suburban Zoning in Millis"
Dover Road Residences

Dear Mr. Chairman and Members of the Board:

Reference is made to the above-captioned matter. In that connection and as you are aware, I represent Barberry Homes, LLC (the "Applicant") with respect to its applications to the Board for a Housing for the Elderly and/or Assisted Living Residences project known as the "Dover Road Residences," situated at the intersection of Dover Road and Bridge Street in Millis (the "Locus"). I am in receipt of the petition referenced above (the "Petition"), signed and submitted to the Board by a number of Millis residents (the "Petitioners"), some (but not all) of whom reside in the vicinity of the proposed project. The Petition urges the Board to deny the Applicant's aforesaid applications.

While respectful of the opinions of Millis residents and notwithstanding the Applicant's practice throughout these proceedings of not going tit-for-tat, so-to-speak, with neighbors and others who have criticized the project, the Applicant cannot allow the Petition to go unanswered. Many of the statements made therein are either false or misleading; they have no basis in (and are in many instances directly contradicted by) the record before the Board, including the opinions and advice of its own peer review consultant for the project; and they are almost all conclusory in nature, unsupported by anything other than mere speculation, conjecture and fears about the project's potential but unproven consequences.

First, the Petition qualifies the project as a "for profit commercial assisted living facility," the obvious purpose of which is to justify the Petitioners' (implied) claim that it is a commercial enterprise seeking to operate in a residential, i.e. Residential-Suburban (R-S), zoning district. But assisted living residences (ALRs) are residential by definition, and are treated as such in communities statewide, including Millis. The applicable Massachusetts regulations, 651 CMR 12.00, *et seq.*, as promulgated by the Commonwealth's Executive Office of Elder Affairs, identify ALRs as "an important part of the spectrum of *living*

alternatives for the elderly in the [C]ommonwealth” and state “that they should be operated and regulated as *residential environments* with supportive services and *not* as medical or nursing facilities. . .” See 651 CMR 12.01 (emphasis added). The regulations describe ALRs as comprised of “units,” each of which is “designed for and occupied pursuant to a [r]esidency [a]greement by one or two individuals as the private living quarters of such individuals.” See 651 CMR 12.02. And they explicitly distinguish ALRs from less residential and more institutional facilities like “convalescent and nursing homes, rest homes, charitable homes for the aged, intermediate care facilities. . . and. . . long term care facilities. . .” See 651 CMR 12.14(e).

The Petition next contends that the project will impair the integrity and character of the neighborhood, will negatively impact property values and will yield adverse effects for the surrounding area including noise, traffic, lighting and the discharge of hazardous materials. The petitioners proffer no support for these allegations; their conclusory statements should not be treated as fact, particularly where the evidence requires different conclusions. The Applicant has presented an excess of documentation and expert evidence to verify that its project has been sited and designed to avoid harmful effects on the neighborhood. The Applicant submitted to the Board an extensive landscape plan prepared not by the Applicant itself but by a landscape architect, which the Board’s consultant, BETA Group, Inc. (“BETA”), described as “well done.” See BETA’s letter to the Board, dated April 18, 2016. Also submitted to the Board were a Traffic Impact and Access Study and a lighting or photometric plan, each of which was also reviewed on the Board’s behalf by BETA. As to the former, BETA found that “the proposed development project will *not* significantly alter traffic operations within the study area.” *Id.* (emphasis added). As to the latter, BETA concluded that “[t]he lighting plan identifies illumination within [IESNA’s] recommended levels,” further stating that “there does not appear to be *any* spillage over the property lines.” *Id.* (emphasis added). Finally, BETA was provided with sufficient information to confirm that on-site activities, notably operation of the project’s HVAC units, will not exceed the Department of Environmental Protection’s restrictions either at the boundaries of the Locus or at nearby residences.

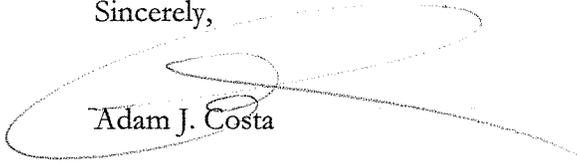
Lastly, the Petitioners state that development of the project is contrary to Millis’ Master Plan. It is not. The Master Plan was created more than a decade-and-a-half ago, and makes no reference at all to ALRs. Insofar as it addresses elderly housing, it expressly promotes “incentives for building housing for the elderly” in “[r]esidential [a]reas.” See Master Plan, § 3.4. Also, it ought to be presumed that the Town’s Zoning By-Law (the “Zoning By-Law”) and, especially, any amendments made thereto subsequent to completion of the Master Plan were adopted in furtherance of the goals and objectives stated therein. The Zoning By-Law, of course, allows both Housing for the Elderly and ALRs on the Locus. The Town’s voters, i.e. not the (vocal) minority of residents who now express opposition to the project, chose to allow these types of facilities in the R-S zoning district, and elsewhere in Millis. And while Housing for the Elderly has long been a permitted use in the district, it is only of late, i.e. at the May 2016 Annual Town Meeting, that voters, as a further (and timely) expression of public support for ALRs, adopted overwhelmingly the Zoning By-Law amendment permitting them in the district as well.

As the Board surely appreciates, its decision to grant or deny the special permit(s) sought by the Applicant cannot be based on extraordinary assumptions by those like the

Petitioners which are without any support whatsoever in the record. The allegations of the Petition have been disproven by the Applicant, by its experts and, upon review, by the Board's own consultant, BETA. We are hopeful that the Board will not give undue consideration or weight to the unsubstantiated statements of the Petitioners, but will instead evaluate the evidence before it in light of the criteria for approval found in the Zoning By-Law.

Thank you.

Sincerely,



Adam J. Costa

AJC/fhs
cc: Client