MEMORANDUM

TO: Manchester Zoning Board of Appeals
FROM: Christina Delisio, resident
RE: Shingle Hill 40B
DATE: June 21, 2022

Dear Members of the Zoning Board of Appeals:

First, Thank you all for you significant time and efforts during this 40B process.

Second, please ensure that the entire ZBA receives this and enter this email/memo in its entirety into the official ZBA hearing record on SLV.

As you are aware, I am a resident of Manchester and an elected member of the Planning Board. I am writing this memo as a resident of Manchester with additional knowledge as a Planning Board member. I have been following the hearings and believe that the proposed project at Shingle Hill is "inconsistent with local needs", as such term is defined under G.L. c. 40B §§ 20-23. The following issues I submit for your consideration.

Comments from other Municipal boards and officials

As a member of the Planning Board, I have not been asked to or to my knowledge the Planning Board has not opined on the 40B Application during the ZBA's hearing process in a manner that is expressly required under G.L. c. 40B §§ 21, which states:

> *The board of appeals shall request the appearance at said hearing of such representatives of said local boards as are deemed necessary or helpful in making its decision upon such application and shall have the same power to issue permits or approvals as any local board or official who would otherwise act with respect to such application, including but not limited to the power to attach to said permit or approval conditions and requirements with respect to height, site plan, size or shape, or building materials as are consistent with the terms of this section. The board of appeals, in making its decision on said application, shall take into consideration the recommendations of the local boards and shall have the authority to use the testimony of consultants.*

The PB gave a letter of concerns to the Board of Selectman during the LIP process, but not at the ZBA level. At that time the PB was informed that there would be plenty of other opportunities to comments. To my knowledge this has not happened.

Project Access

The applicants site plans clearly reveal a single means of access on School Street. This single driveway provides pedestrian, cyclist, residential and emergency access to a site that displays steep slopes. Two past cases OIB Corp v Braintree Board of Appeals HAC No 03-15 and Lexington Woods, LLC v Waltham Board of Appeals HAC No 02-36 denials were based on concerns relating to access. The board should take these cases

under advisement and require a second means of access or deny the application based upon public safety concerns.

Additionally, It is unclear at this time what measurements are being used to determine the 1.5 mile distance that qualifies students for MERSD transportation. A straight line from the High School to the Essex boundary is approximately 1.1 miles. I have seen a bus stop portrayed in plans. What determination has been made to provide bus service to this site. This is an additional cost to the school district. Has this been factored?

It should be noted that my curiosity was piqued during a recent meeting in which a resident spoke up about Atty. Jason Talerman and his advocacy **against** a similar 40B in 2008. We cannot ignore these tactics. What is good for the goose must be good for the gander. I have included Atty Talerman's 2008 memo in which he uses Project Access as a primary concern. I have additionally included two Boston Globe Articles in which outline the concerns of defending both sides of a 40B. It should be further noted that Atty Talerman was working under the letterhead of Atty Bobrowski when he was arguing against the 2008 proposed 40B in Manchester.

BLATMAN, BOBROWSKI & MEAD, LLC
2 MILLISTON ROAD, SUITE 2G, MILLIS, MA 02054

Jason R. Talerman, *Of Counsel*
(508) 376 - 8400
(508) 376 - 8440 (fax)
Jay@BBMatlaw.com

MEMORANDUM

TO:	Manchester Zoning Board of Appeals
FROM:	Jason R. Talerman, Esq. on behalf of the Manchester Coastal Preservation Association
RE:	Coolidge Commons – Application for Comprehensive Permit (the "Project")
CC:	Jonathan Silverstein
DATE:	February 26, 2008

Dear Members of the Zoning Board of Appeals:

As you are aware, I represent the Manchester Coastal Preservation Association (MCPA), which is comprised of a variety of local citizens, including abutters to the Project. The MCPA is opposed to the Project in its current form. The MCPA believes that the Project is "inconsistent with local needs," as such term is defined under G.L. c. 40B, §§20-23. The following represents a variety of current issues that I submit for your consideration:

1. Denial due to a pending Related Application

As you will recall, I offered a memorandum and made an oral presentation at your last hearing on January 9, 2008. The main thrust of my memorandum was to encourage that the Board exercise its authority under the provisions of the formerly applicable provisions of 760 CMR 31.07(1)(h) (the "Regulation"), which were adopted to prevent predatory developers from using the provisions of c. 40B to extort approvals for conventional development on the same site. The Regulation's plain terms vest a presiding zoning board with the power to deny or conditionally approve a project with impunity if less than 12 months have elapsed between the disposition of a prior conventional application and the submittal of a comprehensive permit application.

On this vital issue, you should be advised that, last Friday, February 22, 2008, DHCD substantially amended all of its c. 40B regulations. While the Regulation remains generally intact, it has been both renumbered as 760 CMR 56.03(7) and amended in a material fashion, as follows:

Related Applications

For the purposes of this subsection, a related application shall mean

that less than 12 months has elapsed between the date of application for a Comprehensive Permit and any of the following:

(a) the date of filing of a prior application for a variance, special permit, subdivision or other approval related to construction on the same land if that application was for a prior project that was principally non-residential in use, or if the prior project was principally residential in use, if it did not include at least 10% SHI Eligible Housing units;
(b) any date during which such an application was pending before a local permit granting authority;
(c) the date of disposition of such an application ***(including all appeals)****; or*
(d) the date of withdrawal of such an application.

An application shall not be considered a prior application if it concerns insubstantial construction or modification of the preexisting use of the land.

Emphasis Supplied. The emphasized language is a new addition to the Regulation and represents a firm indication by DHCD that, if a property owner decides to litigate over a prior application, said application shall not be deemed to have been disposed until all such litigation has been resolved. In other words, if, as is the case here, there is pending litigation between a town and an applicant, the 12 month clock will not even start until said litigation has been fully disposed of.

The amendments to DHCD's regulations also change the procedures under which a Town may exercise its authority in denying a project due to a pending Related Application. These amendments, which are contained at 760 CMR 56.03(8) provide substantial insulation for the Board. To wit, this new amendment states that, if the Board invokes its above-described authority, it must provide written notice to the applicant and DHCD. This written notice shall set forth the grounds for the denial. The filing of the notice shall also operate as a suspension of the local hearing. Upon the filing of the Notice, the applicant would have 15 days to provide a reply to the Board's written notice. Thereafter, DHCD will issue a determination within 30 days as to whether such denial is proper. DHCD's decision may then be appealed to the Housing Appeals Committee (HAC). The important element of this regulation is that the worst case scenario for the Board would be that either DHCD or the HAC would disagree with the Board's conclusions. In such event, DHCD or the HAC would simply remand the matter back to the Board so that its local hearing can be resumed. In other words, there is absolutely no risk to the Board should it invoke its authority to deny the application due to the pending nature of the applicant's litigation over its prior building permit application.

In response to my memorandum, the applicant's attorney, Theodore Regnante, offered a written rebuttal, dated January 23, 2008. Attorney Regnante's rebuttal is notable in that it does not dispute, in any substantive manner, that the applicant is using either its pending litigation or the 40B process as leverage to obtain a favorable review by the Board. Rather, Attorney Regnante advances an argument that relies upon a strained

interpretation of the Regulation. In short, he claims that, because the litigation stems from an enforcement action, rather than an appealed permit application, the Regulation should not apply. This argument, however, misinterprets both the letter and spirit of the Regulation. As to the *letter* of the Regulation, there can be no dispute that the litigation represents the applicant's efforts to revive its underlying building permit application. Accordingly, a denial by the Board would be squarely within its authority under the Regulation. As to the *spirit* of the Regulation, a denial by the Board would be "consistent with the overall policy behind this regulation, which is to discourage developers from maintaining multiple applications or from using a comprehensive permit application to gain special permit approval," as noted by the HAC in Stanley Realty Holdings, LLC v. Watertown Board of Appeals (HAC No. 04-04), a copy of which was attached to my prior memorandum.

Accordingly, with the benefit of the protections provided by DHCD's amendments to the Regulations, I again implore the Board to deny the application under the Regulation.

2. Historical Resources

During my oral presentation at your last hearing, I also urged the Board to consider the preservation of the existing historic mansion on the Property. As you are aware, the applicant proposes to demolish the existing structure, rather than preserve it. In a memorandum, dated January 7, 2008, the Manchester-by-the-Sea Historic District Commission similarly urged the Board to explore the preservation of the existing structure.

Preservation and reuse of existing buildings and infrastructure is a cornerstone of housing development policy in Massachusetts. In fact, the Commonwealth has adopted 10 sustainable development principles that are designed to ensure that new subsidized development can be termed "smart growth." The very first principle states:

> ***REDEVELOP FIRST.*** *Support the revitalization of community centers and neighborhoods. Encourage reuse and rehabilitation of existing infrastructure rather than the construction of new infrastructure in undeveloped areas. Give preference to redevelopment of brownfields, preservation and reuse of historic structures and rehabilitation of existing housing and schools.*

Emphasis supplied. There can also be no doubt that this principle, as well as the other nine sustainable development principles, are applicable to this process. Particularly, the applicant's subsidizing agency, MassHousing, requires that "an applicant seeking Site Approval for a project must demonstrate that the proposal is consistent with the Commonwealth's Ten Sustainable Development Principles."

Furthermore, the overarching "Purpose" clause at Section 1.2 of your Zoning By-laws states that "The purpose of this By-law is the promotion and protection of the public health, safety, convenience and general welfare of the inhabitants of the Town of Manchester-by-the-Sea and the public generally by: ... maintaining and enhancing the

natural and historic amenities of Manchester-by-the-Sea." Emphasis supplied. The inclusion of this provision in your by-laws is important as the HAC has ruled that local regulation of such issues empowers the Board to expand the scope of its review of c. 40B applications accordingly. Autumnwood, LLC v. Sandwich Zoning Board of Appeals, HAC No. 05-06.

The applicant has blithely suggested that the existing mansion cannot be salvaged. This unsupported allegation is belied by testimony provided to your Board at the last hearing session. In any event, viewing the indisputably historic nature of the existing mansion in combination with the local and state oversight over historical preservation, I strenuously suggest that the Board direct the applicant to provide a professionally prepared expert report analyzing the structural integrity of the mansion. This indisputably reasonable request is consistent with the Board's authority under c. 40B and would inform the Board on whether the structure could be reused, rather than destroyed. Naturally, any report prepared by the applicant's consultants would be subject to peer review by the Board's consultants.

3. Project Access.

As the applicant's site plans plainly reveal, the Project will be served by a single means of access on Summer Street. This single driveway provides both residential and emergency access to a site that exhibits steep slopes and varied topography. On at least two occasions, the HAC has affirmed zoning board denials that were based upon concerns relating to single access developments: O.I.B. Corp. v. Braintree Board of Appeals (HAC No. 03-15) and Lexington Woods, LLC v. Waltham Board of Appeals (HAC No. 02-36). In summary, each of these cases underscores the longstanding planning principal that single access developments unacceptably sacrifice public safety, especially where, as here, topographical challenges exist. Accordingly, the Board should closely scrutinize this issue and either require a second means of access, or deny the Project due to adverse impacts to public safety.

4. Title Issues.

During my presentation at the Board's last hearing, I also encouraged the Board to request that the Applicant provide analysis addressing the impacts that may be posed by the various easements and reservations of rights that are contained within the Exhibits to the deed for the property. Many of these items appear to empower certain members of the public to use portions of the subject property. As a practical matter, obtaining expert analysis of this issue is absolutely necessary to satisfy the Board that the applicant has the requisite right, title and interest to construct the project that is the subject.

5. Comments from other Municipal boards and officials

When I was at the Board's last hearing session, it was difficult not to observe that various local boards did not have a firm grasp on either their ability to comment on the proposal or the scope of any comments that may be offered. Since the last hearing, it has become even clearer that other local boards may not be informed of the process in a manner that is expressly required under G.L. c. 40B, §21, which states:

The board of appeals shall request the appearance at said hearing of such representatives of said local boards as are deemed necessary or helpful in making its decision upon such application and shall have the same power to issue permits or approvals as any local board or official who would otherwise act with respect to such application, including but not limited to the power to attach to said permit or approval conditions and requirements with respect to height, site plan, size or shape, or building materials as are consistent with the terms of this section. The board of appeals, in making its decision on said application, shall take into consideration the recommendations of the local boards and shall have the authority to use the testimony of consultants.

As an attorney who represents many cities and towns on c. 40B projects, I am acutely aware of the unequal burden that the process places on the shoulders of the Board. It is a difficult task to coordinate the participation of other local boards in the process. Nevertheless, it is my experience that harnessing the expertise of the various other local boards and officials will pay dividends for the Board.

The issues discussed above represent a cross-section of various issues that the Board should address in a full and fair hearing on the applicant's proposal. In addition to these issues, the MCPA stresses that the Project will cause a variety of adverse environmental impacts. It is my understanding that many of these issues are being addressed by the Board's consulting engineers at the BSC Group. My clients will be in a better position to comment on these issues after it reviews BSC's reports.

Thank you for all due consideration of the concerns of the MCPA. I am unable to attend the Board's hearing this Wednesday but can address any issues discussed herein at future sessions. In the interim, should you have any questions regarding this Memorandum, please do not hesitate to contact me.

Sincerely,

Jason R. Talerman

cc: T. Regnante, Esq.
J. Silverstein, Esq.
J. Witten, Esq.
E. Marchant
Board of Selectmen

Attorney's dual roles criticized
Residents question his advice to towns

By Christine McConville, Globe Staff | November 18, 2004

Mark Bobrowski is very much in demand.

He literally wrote the book on land-use laws. He's the person communities rely on when faced with the complex, time-consuming task of reviewing affordable-housing proposals. With the help of projects Bobrowski worked on, Tyngsborough and Canton achieved the target for affordable housing set by the state.

When Bobrowski, an attorney, is not working on a town's behalf, he's representing developers, who seek his expertise to get these often-unpopular projects approved.

"I consider him our safety net," said Margot Hammer, administrator of Groton's Zoning Board of Appeals. Hammer and members of the town's all-volunteer zoning board have turned to Bobrowski for advice in dealing with four affordable housing proposals.

His critics, however, say he's giving the town bad advice. Instead of educating zoning board members on how to negotiate the terms of a proposed development, said Groton Planning Board member Josh Degen, Bobrowski tells them, " 'There's nothing you can do,' and ZBA has bought it, hook, line, and sinker."

Now, a number of people in Groton are calling for Bobrowski's ouster as the zoning board's consultant. Others have asked the selectmen to review Bobrowski's influence on the zoning board.

It follows controversies involving Bobrowski in other communities around the state.

In Marion, for example, some residents said that Bobrowski, as their facilitator, wasn't doing enough to fight a proposed 192-unit development in 2001, so they hired someone else to do the job.

"He's more or less working for developers," said John Belskis, an Arlington resident who leads a statewide group committed to fighting what it sees as flaws in the affordable housing law. "He's recommended by the [state] as 'help for the town,' but he just rolls over for the developers."

Bobrowski disputes that assessment.

In a telephone interview, he said that more than 75 percent of his 40B clients are municipalities, and when he does represent developers, it is usually for "friendly" developments that have the town's support.

He said that thanks to his consulting work for communities, seven developers are now before the state's Housing Appeals Committee, in an effort to get their projects built. One of them is a Groton proposal, Bobrowski said, which he helped the zoning board reject.

Any concerns about his current work, he said, is "extremely premature," because the zoning board hasn't completed its review.

Speaking of his work in Groton, Bobrowski said, "I think I am doing as good a job as I can," he said, "and the [zoning] board is the only judge of that. If the board is satisfied, I think that speaks for itself."

Groton's Zoning Board chairman, Stuart Schulman, said residents are angry about the developments. "But instead of taking it out on the zoning board members, who are their neighbors, it is easier to take it out on the guy in the suit [Bobrowski]," he said.

Groton is one of many Massachusetts towns that have been straining under development pressures. Today, the town has about 3,400 homes, and if the six affordable housing proposals now before the town are approved, they'll generate another 360 housing units.

These projects are being proposed under Chapter 40B, the state's affordable housing law that was written in 1969 to create housing for people with low and moderate incomes. In communities where less than 10 percent of the housing stock is state-certified as "affordable," developers can avoid many local zoning ordinances, as long as 25 percent of the units in their projects are set aside as affordable. Only 5 percent of Groton's housing stock is classified as affordable.

Opponents of 40B say the law allows developers to build on otherwise unbuildable land, and reap massive profits along the way. To some developers, the 40B battles are worth it. They can expect to take home as much as a 20 percent profit on their investment -- a better deal than the 7 percent profit developers expect on a standard subdivision.

In this environment, Bobrowski has flourished. A Concord resident, he teaches land-use law at New England School of Law. In 1993, he wrote the still-circulating "Handbook of Massachusetts Land Use and Planning Law."

In 2003, Governor Mitt Romney appointed him to the 40B task force, whose goal was to assess the law's effectiveness and recommend ways to improve it -- so the state could generate more affordable housing.

When facing a 40B proposal, many communities turn to the Massachusetts Housing Partnership for help. The partnership, a state agency that supports the development of affordable housing, has a list of land-use experts, including Bobrowski, and often provides communities with a $10,000 grant so that they can hire one of them.

In other cases, communities require developers to pay into escrow accounts. That money is used by the towns to pay for consultants who help the zoning boards understand the proposed developments and their impact.

When Bobrowski arrives, he tells people there's very little that zoning boards can do to stop affordable housing developments, and the harder the community fights, the more it will suffer.

"The numbers are irrefutable," Bobrowski said. "There have been about 2,000 40B applications filed in the state, and there have been 200 to 300 denials."

Groton's Schulman said he appreciates Bobrowski's directness.

"The brutal truth is that there's very little towns can do," he said.

Other land-use consultants disagree.

"There's tremendous confusion out there about what communities' rights are," said Dick Heaton of H&H Associates, which serves as a consultant for communities on 40B developments. "Zoning boards have a wide degree of latitude to implement 40Bs."

"I tell communities that 66 percent of the 40Bs that are reviewed at the local level are approved at the local level, and the other third tend to get appealed. Of that third, 66 percent of those get resolved before they get to" the state appeals committee.

Some officials in Groton say Bobrowski hasn't used all the leverage available to local governments.

One proposal, the 44-unit Oak Ridge on the Groton-Littleton line, spans what is believed to be the largest vernal pool in the state.

The Groton Conservation Commission wanted the developer to pay for a study to determine if any rare species were living in it. The developer resisted, "for obvious reasons," commission member Bruce Clements said, and the commission eventually abandoned its efforts.

Months later, after abutters began asking about the pool's wildlife, the state came in to take a look. Clements said he now knows that the commission could have pushed harder for the study, and that it learned a lot about the 40B process, thanks in part to Heaton, whom the abutters hired as a consultant.

Groton Health Board member Susan Horowitz said she learned about the developer's efforts to be exempt from the town's septic system laws just one month ago from the abutters. The zoning board had been reviewing the developer's plan for about 18 months.

Horowitz said the zoning board told her they sent the developer's request to the health board, but she never saw it. "I was under the impression that someone would knock on our door and say, 'What do you think?' That didn't happen."

Bobrowski said he was told the plans were sent to all the town boards. Recently, the zoning board told the developer the request for health-related exemptions won't be approved, he said.

As for Clements's concerns, Bobrowski said, "If someone wants the board to do something, all they have to do is ask."

Another negotiating tool available to towns is an examination of the developer's finances for a project.

The law requires the developer to give the town what's known as a "pro forma," which details a developer's projected costs and projected income. The law also allows the developer to request permission to waive any number of requirements that most builders must contend with. The reasoning is that placing too many restrictions on an affordable housing developer would make the project a losing proposition.

But the state requires a developer to prove that without the waiver, the project would be financially unfeasible. As a result, many 40B consultants tell communities to get the pro forma, and before any negotiating begins, to triple check the developers' numbers with an independent auditor.

Kristen McEvoy, whose backyard abuts the Oak Ridge proposal, said she asked the zoning board to review the developer's numbers for a year. Finally, in August 2004, a consultant recommended by Bobrowski reviewed the pro forma, and agreed with the developer, that once all 44 condominiums were sold, the team would take home $2.2 million, a 20 percent profit, on its investment.

McEvoy went to Dick Heaton for a second opinion. He determined that if the developers built 24 units, the developers could still make a 16 percent profit, of $1.2 million, while responding to the community's requests for lower density. The law allows a profit of up to 20 percent.

McEvoy said she hoped the zoning board would use that opinion as a negotiating tool with the developer, but that hasn't happened.

Bobrowski said his practice is to skim the pro forma early on, to make sure the developer isn't inflating acquisition or construction costs. He leaves the hard scrutiny for later.

"It's an evolving document," he said. "The civil engineers, the traffic engineers, they take their best whack at the project. They may order extensive traffic improvements, and that throws off a developer's numbers."

When the zoning board's review is nearly complete, he has the pro forma sent to the Massachusetts Housing Partnership and the state's Department of Housing and Community Development, which also supports the development of affordable housing.

But, he cautioned, whatever is ultimately negotiated is up to the board.

"I tell them, 'You have a choice. You can ask the developer to reduce the density, or make more affordable units, or ask the developer to make contributions, such as traffic improvements, or sewer line installations,' " he said.

Others in Groton are upset that Bobrowski is representing at least one 40B developer in neighboring Dunstable. The two communities share a school system.

On Aug.12, Bobrowski informed the Dunstable selectmen of a developer's plan to build a 150-unit 40B project on Mill Street. After a public outcry against his role in the project, Bobrowski said last week that the project was supposed to be a "friendly" 40B. This week, he said he didn't plan to represent the project at all.

But in September, he told the Groton Planning Board he also would represent the developers of a "friendly 40B" in Dunstable. That's a 30-unit development on Pleasant Street.

Degen of Groton's Planning Board sees a conflict.

"How can he work as a paid consultant and advise our ZBA on ways to protect the amount of development that occurs, while representing a development . . . that will have an unquestionable impact on us?" Degen asked.

Bobrowski sees no conflict.

"There's nothing inconsistent about it," he said. "I'm an attorney. I represent clients. That's what attorneys do."

Groton residents have asked selectmen to have town counsel review the way the zoning board reviews 40B projects, but selectmen took no action. Now Degen is asking the town to terminate Bobrowski's services. "I want him out of Groton," he said.

But Bobrowski still has the state's support.

Department of Housing and Community Development spokeswoman Beth Bresnahan said, "his resume speaks for itself."

Christine McConville's e-mail is cmcconville@globe.com

Mixed reviews for work on other projects
Some hoped for more advocacy

By Christine McConville, Globe Staff | November 18, 2004

Mark Bobrowski's work on projects proposed under the Chapter 40B affordable housing law has created controversy in several communities around the state.

In Marion, he was hired by the town in 2001 as its facilitator, to deal with a proposed 192-unit 40B project for Front Street. Tom Magauran, a Marion resident who later cofounded Citizens for Responsible Growth, said people initially thought Bobrowski would argue on the community's behalf.

Instead, Magauran realized, "being a facilitator means assuming a project will succeed, and helping it along." The facilitator is an independent agent who talks to both sides to resolve differences and make the project happen.

Magauran added, "Bobrowski is a very talented and knowledgeable individual on 40B, [who] made it clear to the town, 'You have no choice. This is a fait accompli.' "

So the residents hired Jon Witten, another land-use consultant. With his help, the town granted the developer a permit for 96 units, with lots of conditions. The developer rejected those terms, and the matter is pending before the state's Housing Appeals Committee.

"My recommendation is to look very closely at the actual role that the facilitator plays," Magauran said. "Communities should understand from the outset that they do not represent the town's interest."

Bobrowski agrees. "I was the facilitator," he said. "My role was to facilitate. I didn't take sides."

In Cohasset, Planning Board member Michael Westcott said his town hired Bobrowski when Avalon Bay Communities came up with a plan to build a 200-unit 40B project on 62 acres of mostly unbuildable land. Westcott said residents spent a year asking the zoning board to review Avalon Bay's financial documents, but never received them. Finally, they also hired Witten.

"[Witten] told us to start with the pro forma [a document that details a developer's projected costs and income from the project] because that's the way to use leverage to scale down that type of project," Westcott recalled. Bobrowski, he said, "encouraged the ZBA not to worry about that."

Cohasset Water Commissioner John McNabb also said the zoning board ignored the water commission's concerns. The site sits 1 mile uphill from Lily Pond, where the town gets its drinking water. Water commissioners were worried that sewage from the development might leak into the pond.

Despite repeated efforts by the water commission, "the Cohasset ZBA in its decision eviscerated local bylaws that were designed to protect public health and the environment," McNabb said. "And their decision was based on recommendations by Mark Bobrowski."

Bobrowski said he was surprised by the comments. "Cohasset is a town with a lot of smart folks and a lot of sophistication. I don't see how I get credit for the zoning board's decisions."

The Cohasset zoning board OK'd all 200 units. The town's water commissioners have appealed the decision; the case is pending in the state's Land Court.

More recently in Hyannis, Barnstable Housing Committee members were furious when Bobrowski, who had been hired as a mediator by the town, called a meeting to discuss a controversial development -- but didn't invite them.

The meeting was attended by the developer, town officials, and neighbors. But committee member Laura Shufelt said the developer didn't want the Housing Committee at the meeting, and, she said, Bobrowski didn't realize how much that would upset the committee members.

Bobrowski agreed, saying he didn't know that the committee played such a large role in housing development there.

With Bobrowski acting as mediator, the development, Settlers Landing, evolved from a 168-unit 40B for people age 55 and older, to 49 three-bedroom homes on 13 acres.

Bobrowski's work in other communities includes:

- In 2002, Bobrowski helped Tyngsborough meet its 10 percent affordable housing threshold. When he was a zoning board consultant, the board approved the Merrimack Landing and Maple Ridge developments on Merrimack Road. Maple Ridge has 96 apartments, 72 senior units and 52 single-family homes. Merrimack Landing has 144 rental units and 32 townhouses.

- In September 2003, he represented a developer seeking a permit to build a 30-unit condo complex under 40B in Easton. That project is still pending. Bobrowski also is representing a developer looking to build a 144-unit "friendly 40B" -- one that town officials support -- there as well.

- In January 2004, he was a lawyer for Canton's zoning board, which approved plans for a 40B complex with 159 two-bedroom apartments called Pequit Village, and 80 condominiums and four single-family homes for the Pequit View development. The developer agreed to give $250,000 to the town in an escrow account, and to build soccer fields, a field house, and playgrounds. This allowed the town to meet the state goal of having 10 percent of the town's housing stock classified as affordable.

- In June 2004, he was before the Raynham zoning board, on behalf of a developer who was looking to complete a 225-unit 40B development he had started in 1998. The developer halted construction after building 91 units. This summer, Bobrowski asked town officials to allow the developer to finish the job as a "friendly 40B." The town refused, and the developer is exploring his options.

- In September 2004, Bobrowski agreed to represent Haverhill in its fifth 40B proposal, a 146-apartment project. He has represented the city on four other 40B projects, including an 88-unit project development that was approved in September 2003, and a 179-unit development approved in November 2003. Haverhill now is very close to the 10 percent threshold.