

PRACTICE

Land Use, Permitting & Development

KEY CONTACTS

Katherine Garrahan

T. 508-416-2474

E. kgarrahan@bowditch.com

Joshua Lee Smith

T. 508-926-3464

E. jsmith@bowditch.com

PARTNERS

[Paul C. Bauer](#)

[Katherine Garrahan](#)

[Joshua Lee Smith](#)

OF COUNSEL

[Robert D. Cox, Jr.](#)

[Randi K. Stempler](#)

[Amanda Zuretti](#)

ASSOCIATES

[Joseph R. Duquette](#)

[Katherine A. Pham](#)

PARALEGALS

[Rebekah E. Ayuso](#)

[Stephanie R. Fleming](#)

OVERVIEW

LAND USE, PERMITTING & DEVELOPMENT

Seeking advice at the start of a development project can keep potentially costly land use and environmental issues manageable. Our real estate and environmental team has the background to guide you through these issues, such as those relating to wetlands, storm water, solid waste, and traffic, resulting in the successful permitting and development of your property.

Our real estate team has extensive experience helping clients to address zoning and environmental issues and obtain permits and approvals from federal, state and local authorities for all types of real estate developments in Massachusetts including MEPA, NEPA and wetlands regulations. We also have experience with 40B affordable housing regulations and the opportunities they offer developers, and have appeared before local zoning boards to argue successfully for 40B status for real estate developer clients.

How we can help

- Municipal land use and zoning regulations
- Variance applications
- Building permits, development permits and construction permits
- Business licenses, such as operating, entertainment and liquor licenses
- Compliance with environmental regulations
- Appealing zoning board decisions
- Litigating title matters

Who we help

- Owners and developers
- Colleges, universities and other educational institutions

- Companies in the biotech, life sciences and health care industries
- Energy and power companies
- Financial services institutions
- Retailers
- Manufacturers
- Nonprofit organizations
- Government entities
- Redevelopment authorities

EXPERIENCE

Getting a permit in a complex design, planning and zoning case

A large, regional developer needed to get permit approval to close the acquisition of a site in MetroWest, a former big-box retail facility slated for mixed-use commercial and residential reuse. While there wasn't a lot of opposition, it was an oddly-shaped site and needed a creative site plan and design. We quarterbacked a team comprising civil, traffic and stormwater engineers and architects to address key issues, such as traffic and pedestrian accommodations. The permit was issued, and the project has ramped up for construction.

Complicated jurisdictional and environmental issues in a permitting process

When a global corporation was developing a new, MetroWest headquarters campus, it ran into a thorny jurisdictional issue. A key part of the project, a large parking garage containing offices and training center, straddled two town lines. This meant two, complex sets of hearings and applications. There was also an environment compliance component, because of the development's proximity to a wetlands. We, along with a team of engineers and environmental experts, successfully addressed state and federal regulatory factors, and the permits were issued.

Successfully making the case for a building expansion

A railroad company wanted to expand an existing freight terminal in order to help build its passenger service. The proposal stirred push back from an abutting neighborhood, which feared a potential increase in odors, noise and truck traffic. We appeared and presented on behalf of our client before state and local regulators. We also held public meetings with neighbors, explaining what the project would look like...especially during construction. In addition, we detailed the steps our client would take to mitigate any impacts. We negotiated with the state and local governments to fund various neighborhood improvements, such as parks. All of the approvals were granted, and the project moved forward.

Obtaining approval for a non-profit's proposed change in use

A national non-profit wanted to establish a residential treatment center for people with chemical dependency, its second in Massachusetts. The company proposed to renovate and adapt an existing commercial structure and the neighbors were concerned about the change in use. We pointed out to the town that the Americans with Disabilities Act and the federal Fair Housing Act forbade discrimination against the patients by denying use or imposing restrictive conditions. After prolonged public hearings, approvals were granted and the local permits were issued. We also negotiated several

conditions, such as limiting the outpatient census.

Using the Dover Amendment to keep a construction project on schedule

A private school began construction of a new athletic field in the fall of 2015. Shortly after work began, the city government issued a cease and desist order, claiming that our client needed to obtain a special permit for earth excavation before work could continue. Appealing the cease and desist order or obtaining the special permit would have delayed construction, resulting in substantial damage to the project due to erosion and winter conditions. We convinced the Building Commission and the City Law Department that the new athletic field was a use protected by the Dover Amendment and that the school was not required to obtain a special zoning permit. We were able to get the City to revoke the cease and desist order within 14 days of issuance, and construction moved forward.

Helping obtain a permit for a public utility

A public utility wanted to install a gas-insulated substation, a large, enclosed building within sight of abutting property owners. In the course of the permitting process, we appeared at a series of public hearings, often in the media spotlight. We explained that the improvements would increase power-generating capacity, distribution and reliability for the town. The client agreed to mitigation, including lighting, plant screening, changes to the layout and other creative solutions.

OTHER EXPERIENCE

- For a Massachusetts college, we obtained permitting for a highly-publicized 46,000 square foot renovation and 139,000 square foot expansion of a collegiate athletic complex.
- Permitting for various public utility infrastructure and improvement projects throughout the Commonwealth, including projects involving two high-profile casino developments.
- Serving as expert zoning witness for Department of Public Utility hearings for high profile, interstate transmission line project.
- For a Massachusetts college, we completed the purchase and ground leasing of property and permitting for development of 36,000 square foot academic center.
- Leasing and development of large-scale solar photovoltaic generation facilities in various communities, including consultation of one of the largest multi-community solar build outs in the state's history, with over 50,000 solar panels.