

TOWN OF LANCASTER
BOARD OF APPEALS
Mary Rowlandson Elementary School
Thursday, May 30, 2019

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Present: Chair Jeanne Rich, Sarah Gulliver, Robert Baylis, Hannah Meyer, Frank Sullivan and Matthew Mayo

Absent: Scott Miller, David Stadtherr

Also Present: Legal Counsel for the Town Adam Costa, from Mead, Talerman and Costa; Debra Dennis, Community Development & Planning

List of Documents:

- Board of Appeals Agenda: May 30, 2019
- Updated List of Waivers dated May 27, 2019
- Revised Site plan dated May 15, 2019
- Revised Fire Truck Auto-turn template dated May 15, 2019
- Designate Fire Access Plan dated May 15, 2019
- Memo dated May 24, 2019 from HEI, Engineer Fred Hamwey.
- Letter dated May 24, 2019 from Lancaster Sewer District Commission.
- Letter from NRWS Association dated May 28, 2019
- Letter from VAI dated April 26, 2019
- Patrick Garner Environmental Report
- Lancaster Fire Department letter dated May 30, 2019
- Mass Department of Fire Services dated May 28, 2019
- Commission of Disabilities email dated May 31, 2019
- Conservation Commission letter dated April 19, 2019
- Crescent Builders Response Letter
- CEI Letter dated April 19, 2019
- Letter from resident Greg Jackson
- Memo from Attorney Adam Costa dated April 25, 2019
- Attorney Hill Letter dated May 30, 2019

There being a quorum present, Chair Rich called the meeting to order at 7:00 PM.

Old Business

1. Continuation of Public Hearing, Comprehensive Permit Goodridge Brook Estates Development, Iqbal Ali, Crescent Builders, Inc., Dean Harrison, Housing Consultant

Jeanne Rich gave an overview of the order of the meeting.

49 Mark Bobrowski, applicant's attorney, present to represent the applicant.
50 Mark Arnold, Goddard Consulting, discussed CEI's review letter and discussion of biological
51 criteria of vernal pool on the property. Recommended order of conditions through the
52 Conservation Commission to include Vernal pool certification.
53
54 Attorney Bobrowski went through GLM Engineering list of waivers.
55
56 Adam Costa, Attorney, stated that the waivers were substantially the same as the last meeting.
57
58 Attorney Bobrowski commented on the INI issue and a letter from the Sewer Commission.
59
60 Bob Hartzel, CEI, gave a recap of the environmental analysis and issues. Mr. Hartzel went
61 through the additional field data collection to certify vernal pools. Mr. Hartzel also discussed the
62 physical criteria for a vernal pool.
63
64 Bob Baylis asked what the adverse impacts of the detention basins and road salt to the
65 environment.
66
67 Mr. Hartzel discussed the potential impacts with noted nuance but stated he could not give
68 specific answers.
69
70 Chair Rich asked for clarification on the location of the basins within the 25 foot buffer zone.
71
72 Sarah Gulliver asked for clarification on the location of the vernal pool.
73
74 Fred Hamwey, Engineer, gave an overview of the location of the site improvements with regard
75 to the wetland buffers.
76
77 Chair Rich asked what concessions could be made on the part of the design of the project to
78 avoid requiring waivers from the local wetlands bylaw.
79
80 Mr. Hamwey through design critiques of the new plan and discussed drainage and parking.
81
82 Attorney Costa gave an overview of substantial changes per Chapter 40B of MGL.
83
84 Tom Christopher spoke as representative of the Conservation Commissioner and requested the
85 wetland protection bylaw be upheld.
86
87 Mike McCue, Commissioner on Disabilities, commented on elevators and the proximity of units
88 to the elevator.
89
90 Don Chaisson, Conservation Commission, asked about the 6% encroachment into the 25 foot
91 wetland buffer.
92
93 Mark Arnold stated the 6% is not contiguous.
94
95 Mr. Chaisson asked about the percentage of the vernal pool area and the impact of 6% on
96 critical wetlands. Mr. Chaisson also asked that the local wetland bylaw not be waived.

97
98 Mike Hanson, Fire Chief, explained the Fire Departments involvement in development projects.
99
100 Chair Rich opened the hearing to public comment.
101
102 Arthur Johnson, resident, present to be heard. Mr. Johnson described process of appealing Fire
103 Department determinations to the state Fire Marshal's office. Mr. Johnson gave an overview of
104 fire code as it may apply to the development.
105
106 Thomas Frain, resident, present to be heard. Asked the board if they will vote on issuing a sewer
107 permit.
108
109 Adam Costa discussed that the board has not given an opinion on this issue.
110
111 Mr. Frain gave an overview of the issues regarding sewer and the ability for the ZBA to issue
112 permits on the sewer district's behalf. Mr. Frain also gave an overview of issues surrounding the
113 administrative consent order.
114
115 Greg Jackson, presented the board a list of conditions that residents have compiled.
116
117 Attorney Dan Hill discussed a letter from Scott Horsley, regarding water budget impacts.
118
119 Patrick Garner gave an overview of the issues about vernal pools, formal vernal pool
120 certification, DEP guidelines, as well as the water budget impacts.
121
122 Mr. Arnold responded to points raised by Mr. Garner, stating compliance with stormwater
123 regulations.
124
125 Attorney Hill brought up the issue of site control.
126
127 Attorney Costa, described a process about inquiring into site control.
128
129 Jeanne Rich stated that at a previous meeting the board decided not to pursue inquiry into site
130 control.
131
132 Attorney Hill stated that the board has no jurisdiction over granting sewer permits. Attorney Hill
133 also commented on water budget and waste water capacity. Attorney Hill suggested denying all
134 waivers regarding wetland bylaws. Attorney Hill discussed impacts regarding Environmental
135 Justice policy.
136
137 Matt Mayo had questions about Massachusetts stormwater standards and vernal pool
138 certification. Mr. Hartzel responded with a description of the vernal pool certification process.
139
140 Jeanne Rich asked the applicant if they would authorize CEI to submit the Vernal Pool
141 Certification.
142
143 Mr. Arnold stated that the applicant is willing to submit for vernal pool certification pending
144 approval with the conservation commission as an order of conditions.

145
146 Mr. Chaisson stated certification of a vernal pool is not necessary to protect the uncertified
147 vernal pool.

148
149 Attorney Hill opined that the vernal pool should be certified now.

150
151 Attorney Costa gave an overview of the jurisdiction of the board regarding authorization of
152 payment for vernal pool certification.

153
154 Upon a motion by Bob Baylis and seconded by Sarah Gulliver the board voted 5-0, Jeanne Rich
155 abstains, that the board authorize CEI to submit Vernal Pool certification based on available
156 funds.

157
158 Sarah Gulliver raised the issue of site control.

159
160 Nina Kilbourne, aka Gail Kilbourne, present to be heard, stated the intention to sell the property.

161
162 Attorney Costa stated that the board cannot accept substantive information during
163 deliberations.

164
165 Tom Frain stated that site control is an essential component to the comprehensive permit.

166
167 Chair Rich went through the requested waivers and the board gave preliminary indications on
168 how they may vote during deliberations.

169
170 Mr. Hamwey gave the board technical assistance through evaluation of the waivers.

171
172 The board discussed the requirements of town road widths and the limit of properties served as
173 per the subdivision rules and regulations.

174
175 The board discussed the logistics of maintaining the proposed roads as private.

176
177 Attorney Costa stated that conditions as a part of an approval may become in the opinion of an
178 applicant too onerous and become subject of an appeals and described the process by which
179 the board can request a pro forma.

180
181 Sarah Gulliver suggests not approving environmental waivers.

182
183 Attorney Costa reminded the board they need to tie denials of waivers to specific concerns or
184 issues submitted on the record.

185
186 The board continued to go through the waiver list and get clarification from the applicant on
187 requested waivers.

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189 Mr. Frain commented on acceptance of the road as public and the logistics of preventing that
190 within a public hearing.

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192 Mr. Jackson commented on the 25 foot local wetlands bylaw.

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Jeanne discussed the voting members as Hannah Meyer, Bob Baylis, Matt Mayo, Jeanne Rich and Sarah Gulliver.

Upon a motion by Bob Baylis and seconded by Sarah Gulliver the board voted 5-0 to close the public hearing.

Adam Costa asked the board to provide guidance as to whether to begin to work on an approval with conditions or denial.

Jeanne opined that Attorney Costa should draft approval with conditions. Sarah Gulliver agreed with the approval with conditions for the single family homes. Bob Baylis agreed. Matt Mayo agreed on approval with conditions. Hannah Meyer agreed with approval within conditions.

The board discussed further meeting dates for deliberations.

Adjourned at 10:55 PM