

KNOW ALL MEN BY THESE PRESENTS

This instrument is intended as a restriction on a certain approved 2-lot Definitive Subdivision Plan entitled "5 Lakeside Circle" dated June 18, 2015 last revised August 27, 2015.

The plan was filed with the Planning Board on June 29, 2015. The Public Hearing was held on August 11, 2015, and the plan approved on October 27, 2015.

The definitive plan was approved subject to the following conditions:

Conditions of Approval:

General Conditions

1. For purposes of this approval the subdivision shall be defined as all features depicted on the plans described under condition number 2; the developer shall be defined as the applicant, Dennis F. and Denise P. McCarthy and its assigns or successors in title to the development, and all contractors and subcontractors under control of or in service to the developer;
2. Except as otherwise provided for in these conditions the construction of the subdivision and all activities associated therewith shall be in conformance and compliance with the information, details, notations, grading and features shown on the following plans, drawings and documents prepared by Andover Consultants, Inc;
 - a. Sheet 1 of 3, Definitive Subdivision Plan, dated June 18, 2015;
 - b. Sheet 2 of 3, Existing Conditions Plan, dated June 18, 2015;
 - c. Sheet 3 of 3, Site Layout Plan, dated June 18, 2015 revised through August 27, 2015;
 - d. Planting Plan, dated September 23, 2015;

5 Lakeside Cir And.

3. A record plan and an instrument containing these conditions, shall be recorded at the North Essex Registry of Deeds pursuant to the requirements of the Subdivision Rules and Regulations of the Andover Planning Board;
4. Prior to the recording of the definitive plan, the applicant shall provide to the Planning Department a digital file containing the plan if produced using computer aided drafting and design (CADD) software. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2004 or earlier and Adobe PDF, delivered on CD-ROM or DVD-R media. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet. A review of the digital file shall be made by the Department of Public Works prior to the recording of the definitive plan. Four prints and a mylar of the final set and record plan shall also be provided;
5. This subdivision approval is limited to two (2) building lots (one existing and one new lot) as shown on the plan referenced above;
6. The owner and applicant shall, pursuant to statute, have twenty (20) days following the approval action of the Andover Planning Board to file an appeal of said action, and in the absence of an appeal shall be deemed to have accepted said action and these conditions;
7. Within five (5) days of the transfer of ownership of this subdivision, in whole or in part, the developer shall notify the Andover Planning Department of the name and address of the new owner(s). The developer shall provide the new owner(s) with a copy of these conditions;
8. No permits for construction of the new dwelling may be issued by the Inspector of Buildings for any lot within this subdivision unless and until the provisions of Section V.E. of the Rules and Regulations of the Board have been satisfied. Once a building permit has been issued for any particular lot this condition will be deemed to have been complied with and considered released for that lot;
9. Any blasting operations shall require proper permits, and may not be undertaken on any weekend or holiday;
10. All grading and earth disturbance within the subdivision shall be governed by Sections VI.F.6., and VI.F.7. of the Rules and Regulations of the Board, as well as the Special Permit for Earth Movement as issued under the Planning Board Decision SP15-05;
11. Import or export of earth materials from within the subdivision is prohibited except as may be provided for under the special permit issued under Planning Board Decision SP15-05, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;

12. Deeds for all building lots, as shown on the plan shall be granted the right to pass and re-pass over the private way;
13. Yard sprinklers or other privately owned underground devices shall not be installed within the roadway or utility easements, nor shall private recreational features be allowed within the roadway. Landscaping within the roadway in the form of grass, flowers, and small shrubbery is permitted at the risk of the lot owner, provided that such landscaping does not interfere with the use or safety of the roadway;
14. Except as herein be waived, the subdivision shall be constructed in accordance with and subject to all applicable provisions of the Rules and Regulations of the Board. The approval and these conditions shall be enforced under the provisions of Section V.H. of the Rules and Regulations of the Board;
15. Prior to the recording of the definitive plan at the Registry of Deeds the developer shall provide the Planning Department with a municipal lien certificate indicating that all taxes, assessments and charges have been paid in full as required by MGL, Chapter 60, Section 23;
16. The owner of Lot 9B shall be responsible in perpetuity for all maintenance of the drainage systems and pavement within the Private Right of Way as shown on the plans referenced in Condition # 2, modifications and plantings within the drainage systems is prohibited;

Prior to Construction

17. Prior to any construction activity of any kind within the subdivision the developer shall submit for review and approval to the Planning Department a proposed construction sequence schedule in a form provided by the Department, said schedule to be used as a guide to activities within the development including construction of roadways, utilities, drainage systems, stabilization, and stockpiling. This schedule once established shall not be deviated from, but may for good and demonstrated reason, be modified by agreement between the developer and the Planning Department;
18. Construction traffic associated with this subdivision shall be regulated by the Inspector of Buildings. Prior to commencing hauling operations, a hauling route shall have been reviewed and approved by the Inspector of Buildings. Any deviation from the approved route and/or scheduling once established shall require proper notification and approval from the Inspector of Buildings. Construction traffic shall be defined as large trucks hauling earth moving equipment, dump trucks, trucks hauling building materials, cement trucks, and contractors' vehicles larger than panel trucks. It shall be the developer's responsibility to inform all contractors, subcontractors, vendors, and workmen of this restriction, which shall be enforced under the provisions of Section V.H. of the Board's Rules and Regulations;

19. Prior to any construction activity of any kind within the subdivision the developer shall submit for review and approval to the Planning Department a detailed schedule of the anticipated earth operations;
20. Prior to introduction of construction equipment onto the site a meeting shall be conducted between the developer, the developer's contractors, and the Planning Department, as well as the Conservation Department, and Department of Public Works for the purpose of reviewing these conditions and the construction sequence schedule;
21. Once paved, the roadway shall be kept clear and passable at all times. No equipment shall be parked in such a manner as to render the roadway impassable, and no refuse containers, trailers, or construction materials of any kind shall be placed or stored upon the street nor within the cul-de-sac island;

Throughout Construction

22. Construction equipment or materials shall not be parked, stored, or placed in any area directly adjacent to or upgradient of any drainage channel or wetland area, nor in the cul-de-sac. Repairs and maintenance to equipment shall be conducted in areas where no spills or leakage of fuels or other fluids could pose a pollution hazard;
23. Earth disturbed by construction activities associated with the roadway or easements, such as tree cutting, stump grubbing, cutting, filling, and regrading, shall be appropriately stabilized by methods determined by the Planning Department within sixty (60) days of such disturbance unless otherwise approved by the Planning Department;
24. No building lot shall remain in an open condition longer than sixty (60) days. "Open" shall be defined as that period of time between initial preparation of the lot for building (clearing of trees, stripping of topsoil), and the time that the foundation has been installed, backfilled, and the rough grading has been established and stabilized by use of temporary seeding, mulching, or netting. This restriction shall remain in force until the lot has been properly stabilized and shall survive changes in ownership of the lot;
25. Only locations approved by the Planning Department may be used for stockpiles of earth materials;
26. Long term (more than sixty days) stockpiles of earth materials shall be shaped and secured by butted haybales around the perimeter, and shall be promptly stabilized by temporary seeding or netting;
27. Burial or burning of vegetation, stumps, or construction debris is strictly prohibited anywhere within the subdivision. Such materials shall be removed and properly disposed of off the site;
28. All construction activities within the subdivision shall be confined between the hours of 7:00 a.m., and 6:00 p.m., Monday through Friday, unless otherwise approved by the

Planning Board. Once fully framed, interior construction related activities are allowed on Saturdays between 8:00 a.m. and 6:00 p.m. unless otherwise restricted or prohibited by the Inspector of Buildings in response to complaints. Construction activities include the transport of equipment, materials and supplies to and from the subdivision;

29. As field conditions warrant, berms of type and design specified by the Department of Public Works shall be installed in locations determined by the written decision of the Director of Public Works;
30. Construction activities on individual lots shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the developer of lots through stabilization, wetting down, and proper storage and disposal methods;

Prior to Clearance Certificates

31. No Clearance Certificate shall be issued for any lots until such time as a the right of way and open space has been granted to the Andover Village Improvement Society (AVIS) and an access and utility easement has been granted from AVIS to Lot 9B. The easement will need to be reviewed by Town Counsel, approved by the Planning Staff and recorded at the Essex North Registry of Deeds. Said easement shall reference the Operation and Maintenance Plan and must restrict the alteration of the infiltration trench and infiltration features;

Specific Conditions

32. If 5 Lakeside Cir. (lot 9B) wishes to connect to the Town of Andover's water distribution system then the existing water main shall be extended to the end of the street with a hydrant on the end and each property shall have its own separate water service connected to the water main extension;
33. Prior to start of construction additional test pits are to be conducted, and witnessed by the DPW to be in compliance with the Massachusetts Stormwater Handbook of one test pit for every 50 feet of infiltration trench;
34. The Turtle Mound as shown within the right of way shall be preserved in perpetuity;
35. Prior to the clean up of the Turtle Mound the owner of the right of way shall provide a detailed cleanup/maintenance schedule to the Planning Division;
36. Prior to the occupancy of Lot 9B, the applicant shall submit to the Planning Department digital files of as-built plans of the features listed above, including utilities and approximate building location, following the format described in # 4 above;
37. Prior to occupancy the developer shall provide the Planning Department with a surveyor's certification that lot corners have been established on the ground and an engineer's certification that the infiltration trenches and swales have been constructed in

accordance with the approved plan. Once established, maintenance of these temporary corners shall be the responsibility of the lot owner;

38. A sign shall be posted limiting the visitors to the Turtle Mound to daylight hours.

It was demonstrated the granting of the waivers would be in the public interest and is not inconsistent with the intent and purpose of the Subdivision Control Law. The Board grants waivers to:

- Article XIII, Sec. VI.C.2.1 – 75 foot clear sight distance triangle - Existing vegetation located at the intersection of the proposed driveway and Lakeside Circle will be cut back to provide clear sight lines to the maximum extent practicable. A small triangle (12'x12'x16') of vegetation will remain on the abutter's property (3 Lakeside Circle) within the 75' Clear Sight Triangle. As the proposed driveway will access one dwelling with no possibility of additional homes being built, and considering the speeds of cars traveling on Lakeside Circle will be greatly reduced compared to the speed of the cars this requirement was intended for, a waiver is granted from this requirement.
- Article XIII, Sec. VI.C.3-Pavement Width- The applicants' design team has requested a reduction of pavement width from 18' to 12' to reduce the amount of impervious cover on the site and within the Watershed Protection Overlay District and to help preserve the Turtle Mound. The applicant has also chosen to provide sprinklers in the new home as opposed to constructing a 20 foot wide driveway as required by the Fire Department.
- Article XIII, Section VI.C.4.e Local Street driveways to occur within the first 150 feet – The applicant is requesting to place the only driveway after 150 feet. This request is made with the understanding the regulations need to be revised for these types of designs, not all subdivisions have three driveways to allow the first two to happen within the first 150 feet.
- Article XIII, Sec. VII.C.5.g – No existing street may be extended through its turnaround - The proposed driveway is located close to the turnaround of the existing cul-de-sac, however, based on the existing conditions survey, the proposed driveway or right-of-way does not extend the existing street past its terminus or through its turnaround or cul-de-sac. However, as the proposed driveway is nearing the turnaround, a waiver is requested from this requirement. The applicant believes a waiver should be granted as the "road" will not be extended, instead, the proposed plan will essentially add a driveway that will have access to Lakeside Circle, and at no point in the future will it be possible for the driveway to be extended and widened to add future lots, as the Turtle Mound's presence would prevent this. Further, as the driveway will access only a single dwelling, and there is little traffic on the existing road, it would present little possibility of any conflicts occurring at the intersection of the proposed driveway and the existing road. For these reasons, a waiver is granted from this requirement.
- Article XIII, Sec. VII.K.1 – Underground Utilities – a waiver is granted to continue to allow the existing home to be serviced with overhead electrical service. The proposed

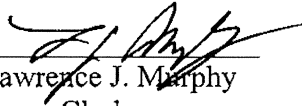
dwelling will be serviced by underground utilities as required. The existing house is currently serviced by overhead electric and it would be very costly to convert the home to underground service, further, the proposed underground stormwater management system would make it difficult to move the existing overhead electrical service to underground.

Applicant: McCarthy
Subdivision Street Name: 5 Lakeside Circle
Decision on: Definitive Subdivision Plan

CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that the above referenced decision of the Andover Planning Board was filed in the office of the Town Clerk on October 28, 2015, that a notice of appeal to the Superior Court Department of the Trial Court, Docket Number 1577CV01882 was filed in the Town Clerk's Office on November 17, 2015, and that said appeal has been dismissed.

September 13, 2016



Lawrence J. Murphy
Town Clerk
Andover, Massachusetts

U:AppCerts:Cert7PB