

10

DECISION OF THE ANDOVER PLANNING BOARD
AS A SPECIAL PERMIT GRANTING AUTHORITY

ON THE APPLICATION OF
289 RIVER ROAD LLC
JILLIAN WAY/FERRY CROSSING

For a Special Permit for Earth Movement under Section 6.3 of the Zoning By-Law.

Decision: SP13-05

YES (with conditions)

A public meeting of the Planning Board was held on October 8, 2013, in the Third floor conference Room of the Town Office Building. Present and voting in the affirmative on the matter were members Joan Duff, Vincent Chiozzi, James Doherty, Eric Macaux and Zachary Bergeron.

RECEIVED
TOWN CLERK'S OFFICE
2013 OCT 15 A 9:57
TOWN OF ANDOVER, MASS

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on May 23, 2013 and May 30, 2013, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, Chapter 40A, a public hearing was convened on June 11, 2013 on the application by 289 River Road LLC for a Special Permit for Earth Movement associated with a Definitive Subdivision and Special Permit for Cluster Development of a residential subdivision. The hearing was continued and closed on October 8, 2013, with the aforementioned members of the Board present with a certification pursuant to G.L. c. 39 Section 23D received.

Jillian Way

Premises affected is property owned by 289 River Road LLC located off River Road and shown on Assessors Map 214 Lot 13, comprising of 11.88-acres, hereinafter referred to as the "site", on which the subdivision plan entitled "Ferry Crossing" would take place.

Board must also find that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood or the town, and further that there are adequate public roadways and municipal utilities. In considering a special permit the Board can, and will, impose such conditions or safeguards, as it deems reasonably necessary.

The Board finds that the subdivision as a whole makes the best feasible design of existing topography and complies with the requirements of Section 6.3, the findings of Section 7.1.5, Section 9.4 of the Andover Zoning Bylaw, is in conformance with the Subdivision Control Law, the Rules and Regulations Governing the Subdivision of Land in the Town of Andover, and the recommendations of the Board of Health.

In consideration of all the reviews, presentations, discussions and testimony at the hearings, the Board granted approval of the Definitive Subdivision, Special Permit for Earth Movement and Special Permit for Cluster Development entitled "Ferry Crossing" to be known as Jillian Way 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, 289 River Road LLC, 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 and drawings prepared by Merrimack Engineering Services:
 - a. Sheet 1 of 13, Title Sheet, dated 5/7/13 last revised 8/28/13;
 - b. Sheet 2 of 13, Overall Plan/Index Plan, dated 5/7/13 last revised 8/28/13;
 - c. Sheet 3 of 13, Existing Conditions, dated 5/7/13 last revised 9/24/13;
 - d. Sheet 4 of 13, Lot Layout Plan, dated 5/7/13 last revised 8/28/13;
 - e. Sheet 5 of 13, Lot Layout Plan, dated 5/7/13 last revised 8/28/13;

- f. Sheet 6 of 13, Grading, Drainage & Utilities Plan, dated 5/7/13 last revised 10/01/13;
 - g. Sheet 7 of 13, Grading, Drainage & Utilities Plan, dated 5/7/13 last revised 9/24/13;
 - h. Sheet 8 of 13, Street Plan & Profile, dated 5/7/13 last revised 9/24/13;
 - i. Sheet 9 of 13, Off Site Plan & Profile, dated 5/7/13 last revised 9/24/13;
 - j. Sheet 10 of 13, Soil Erosion and Sedimentation Control Plan, dated 5/7/13 last revised 10/01/13;
 - k. Sheet 11 of 13, Soil Erosion and Sedimentation Control Plan, dated 5/7/13 last revised 9/24/13;
 - l. Sheet 12 of 13, Details, dated 5/7/13 last revised 9/24/13;
 - m. Sheet 13 of 13, Details, dated 5/7/13 last revised 10/01/13.
3. Original mylar prints of the above mentioned plans must be submitted for endorsement to the Planning Division within 30-days following the statutory 20-day appeal period.
 4. Sheets 4 & 5 of the 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;
 5. 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.
 6. This subdivision approval is limited to six (6) building lots as shown on the plan referenced above;
 7. 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;

8. 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;
9. No permits for building 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;
10. Any blasting operations shall require proper permits, and may not be undertaken on any weekend or holiday;
11. 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 SP13-05 and Special Permit for Cluster Development SP13-06;
12. Import or export of earth materials from within the subdivision is prohibited except as may be provided for under special permit issued under Planning Board Decision SP13-05 and SP13-06, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;
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;

Prior to Construction

16. 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, 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;

17. 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.
18. 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;
19. 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;
20. Prior to any construction activities, the documents establishing the Homeowners' Association must be reviewed by Town Counsel, approved by the Planning Board and recorded at the Essex North Registry of Deed. The account referred in section 25b shall have been established and funded in a manner prescribed by the town. The Homeowners' Association documentation shall provide for:
 - a. Short and Long Term maintenance of the stormwater management facilities as described in the Project Drainage Report dated June 7, 2013 last revised September 20, 2013;
 - b. The HOA shall be provided an easement for the 20 foot wide sanitary sewer and the HOA shall be responsible for the maintenance and repair to said system within the easement as prescribed by the Board of Health Sewer Forcemain Special Permit issued on July 15, 2013;
 - c. The establishment of an account in an amount recommended by the Town Engineer and approved by the Planning Board and secured in a manner and form approved by the Board. Following establishment, the developer shall provide the Planning Department with written proof that said account has been established running to the benefit of the Homeowners' Association. The account once established shall be kept for the purpose of maintenance, repair and/or restoration of said items with a minimum balance as recommended by the Town Engineer to be maintained at all times;
 - d. The terms and method of assessments; the method of drawing on such funds; shall restrict any alteration of those facilities; shall indemnify the Town from any responsibility or liability for maintenance and operation of those facilities; and shall further provide that the Town will be reimbursed for any expenses incurred

in the event the Town is required to perform any work in or on any of the facilities;

- e. In the event that any of the facilities are damaged to such an extent that they no longer perform its intended function, and such damage is not repaired by the Homeowners' Association, the Town shall have the right to make such repairs and lien the property owners or use any other remedy available under the law to effect the same;
 - f. The Town shall be provided with an easement to maintain and repair said facilities if necessary but all financial responsibility for any such repairs, inspections and maintenance shall be solely on the Homeowners' Association and all lot owners by virtue of their interest in said association;
21. Once paved, the roadway Jillian Way 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;

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 any cul-de-sac island. 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. Stockpiles of earth materials shall not be permitted in any area, which necessitates removal of trees for such purpose, nor within fifty (50') feet of any wetland boundary, drainage channel, or watercourse. Stockpiles shall be designated on a plan, which shall be submitted to the Planning Department, said locations to be determined by the developer and approved by the Planning Department. Stockpiles shall be prohibited in areas, which have not been approved by the Planning Department;
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. Stockpiling must be removed from the site if there has been no activity for two years;

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 and/or side under drains as 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. Prior to issuance of Clearance Certificates the buried materials located on Open Space 2 must be removed from the site;
32. Prior to issuance of Clearance Certificates for any lot open space 1 and 2 shall be offered and conveyed first to the Andover Village Improvement Society (AVIS), or, should they decline, shall be conveyed to Town under the care and control of the Conservation Commission. Said conveyance shall be free of any encumbrances, except for the reservation of any easement shown in said parcel and all taxes shall have been paid through the year of conveyance;
33. Immediately following the installation of water lines the developer shall prepare a plan pursuant to Sections VII.W.3., and VIIW.4. of the Subdivision Rules and Regulations showing the location of all service connections to the building lots. The developer is responsible for the installation of the water main through the easement located on 4 Furnari Farm Lane. No Clearance Certificate for any lot shall be issued until said plan has been submitted to the Department of Public Works;
34. Prior to the issuance of clearance certificates, 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 # 5 above;
35. Prior to issuance of any Clearance Certificates for the site, the developer shall have established a segregated account, which shall be used to secure proper stabilization and

removal of all erosion controls prior to completion of the subdivision. Said account shall be established in an amount recommend by the Town Engineer and approved by the Planning Board and secured in a manner and form approved by the Board. This account once established shall be used as a mechanism to assure all unnecessary erosion controls are promptly removed upon receipt of Certificate of Compliance from the Conservation Commission. The Planning Department, in a cooperative effort with the Conservation Commission, will coordinate times and dates in which the erosion controls can be removed. Upon removal of all erosion controls the segregated account may be released in full;

36. Prior to the issuance of a Clearance Certificate for any lot, all utilities, including all off-site improvements shall have been fully constructed and approved by the Department of Public Works. Immediately following the installation of said utilities, the developer shall prepare as-built plans pursuant to Section VII.W. of the Rules and Regulations Governing the Subdivision of Land in Andover;
37. Prior to release of any Clearance Certificates for building purposes, a sign depicting "Jillian Way" shall have been erected at a location determined by the Department of Public Works;
38. Prior to the conveyance of individual lots within the subdivision the developer shall provide the Planning Department with a surveyor's certification that temporary lot corners have been established on the ground for the lot to be conveyed. Once established, maintenance of these temporary corners shall be the responsibility of the lot owner. Upon completion of the street, and prior to the final release of any performance guarantee held, the developer shall provide the Planning Department with a surveyor's certification that all bounds and corners have been set in accordance with Section VII.U. of the Rules and Regulations of the Board;
39. The drainage areas, inlets, outlets and all associated piping shown on the plans shall be fully constructed, stabilized and operational prior to pavement of the streets and development of any house lot;
40. Prior to the issuance of any Clearance Certificates for the site, the developer shall have deposited an amount as determined by the Town Engineer and approved by the Planning Board equal to the construction cost of the sidewalk as herein waived in accordance with Section VI.D.5.

Specific Conditions

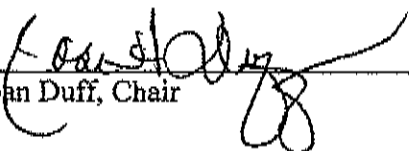
41. The overlay as described on Sheet 9, Off Site Plan & Profile shall be placed within one year of the installation of sewer in River Road;
42. Prior to occupancy of each of the lots engineered as-built plans must be submitted to the Planning Division and Inspector of Buildings demonstrating the final grading of the lot and the construction and connection of the roof drains and infiltration trenches.

43. At the time of construction of the individual lots test pit results of the individual lot chamber systems identifying the Estimated Seasonal High Groundwater (ESHGW) must be completed and submitted to the Planning Division. If the ESHGW is found to be within the 2-foot minimum separation to the bottom of the individual lot chamber systems, a redesign of the lot infiltration systems and additional review will be required.

Following the statutory twenty-day appeal period, and in the absence of any appeal, the plan and an instrument containing the foregoing restrictions will be filed in the Registry of Deeds. The applicant is responsible for the costs associated with the Registry filings.

On October 8, 2013, at a regularly scheduled public meeting, the Andover Planning Board voted (5-0) to issue the foregoing Special Permit for Cluster Development.

Date: 10/15/13


Joan Duff, Chair

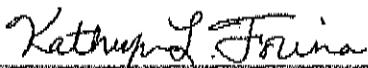
Essex, ss

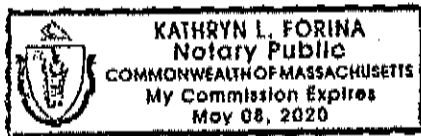
COMMONWEALTH OF MASSACHUSETTS

Date: 10/15/13

On this 15th day of October, 2013, by Joan Duff, the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of her knowledge and belief and who acknowledged to me that she signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me,


Kathryn Forina, Notary Public
My commission Expires:



Applicant: 289 River Road, LLC
Special Permit for Earth Movement
Decision: SP13-05

CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that the preceding or attached decision of the Andover Planning Board was filed in the office of the Town Clerk on October 15, 2013 and that no appeal has been filed.

Nov 5, 2013
Date

LJ Murphy
Lawrence J. Murphy
Town Clerk
Andover, Massachusetts