



Town of Pepperell

Planning Board

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“Corrected & Amended”

March 3, 2016

SPECIAL PERMIT DECISION

File: **2015-04**

Applicant: Albert Patenaude
12 Village Road
Pepperell, MA 01463

Granted with conditions: Special Permit for an Open Space Residential Development consisting of thirteen (13) single-family lots in the Town Residence Zoning District.

Location of Property: 68-72 and 76-78 Hollis Street
Assessor's Map 15 Lots 31-1, 31-2, 31-4, 31-5, 31-6 and 31-7

Owner of Property: Albert Patenaude
12 Village Road
Pepperell, MA 01463

Date of Decision: _____

STATEMENT OF FACTS:

Corrections and amendments to this Decision do not alter the outcome of the existing decision or plan.

Application Submitted to the Town Clerk on November 10, 2015 per Section 7100, Open Space Residential Development, of the Town of Pepperell Zoning Bylaws. An Application Fee in the amount of \$1,450 was submitted with the Application. A check in the amount of \$182.58 was received and forwarded to the newspaper for Public Hearing notices which appeared in the Nashoba Valley Voice on November 20, 2015 and November 27, 2015. A check in the amount of \$17.64 was received for notification of parties of interest which were mailed on November 23, 2015.

Copies of the Application were referred to other Boards and Departments on November 17, 2015. Comments and/or replies were received from the Board of Health, Town Engineer, and Conservation Commission. All comments were read aloud at the Public Hearing.

A Public Hearing was held on December 7, 2015 and continued to December 14, 2015. Following the filing of an Open Meeting Law complaint regarding this application, the application was re-advertised in the Nashoba Valley Voice on January 8, 2016 and January 15, 2016, with new notice mailed to parties of interest, for a new Public Hearing opened on February 1, 2016, but continued to February 8, 2016 and February 10, 2016. Planning Board members present at the hearing were Anna MacDonald, Richard McHugh, Michael Dapcic, George Clark and Dennis Kane.

TESTIMONY:

Representative for the Applicant, Mark Piermarini of Whitman & Bingham Associates and the Applicant presented to the Board a plan for thirteen (13) lots in an Open Space Residential Development ~~at the former horse cart~~ racing track on Hollis Street in the Town Residential District.

The proposed project contains 30.46 acres of land. The plan proposes protection of over 60% of the land. The property is located adjacent to the Nissitissit River and existing protected conservation lands.

The project will be served by Town water and sewer. One proposed roadway will terminate in a cul-de-sac to serve ten of the proposed lots. Three proposed lots will have frontage and access on Hollis Street.

The Applicant requested four (4) additional or “bonus” lots based on the Yield Plan. These bonuses are requested based on conserving 10% over the required 40%, utilizing low impact development standards, and by creating a contiguous link to existing conservation land. ***A “yield plan” shows twelve (12) conventional lots. By calculation, according to the Bylaw, an additional two (2) “bonus” lots are allowed. This would allow for fourteen (14) open space lots. The final OSRD plan shows thirteen (13) lots.***

The Applicant will be required to submit a Definitive Subdivision for approval. This shall include any request for waiver from strict compliance with the Subdivision Rules & Regulations of the Town of Pepperell.

FINDINGS:

The Board made the following findings applicable to this proposal:

1. The reduction in dimensional controls will result in improved protection of natural and scenic resources. Wildlife habitat areas and riverfront areas will be protected allowing for passive recreation in the area.
2. ***A “yield plan” shows twelve (12) conventional lots. By calculation, according to the Bylaw, an additional two (2) “bonus” lots are allowed. This would allow for fourteen (14) open space lots. The final OSRD plan shows thirteen (13) lots.***
3. The open space will be under the ownership and management of a land trust or nonprofit organization.
4. The design and layout of the project will preserve the natural features of the property while also incorporating residential dwellings and associated infrastructure in a quality design.
5. The project will promote permanent preservation of the designated open space areas.
6. The project proposes minimal disturbance to the existing landscape.
7. This project supports the goals of the Master Plan and the Open Space Plan.
8. The proposed use is in harmony with the general purposes and intent of the zoning bylaws. An open space residential development is a permitted use allowed by Planning Board Special Permit in the Town Residential District under Section 7100 of the Town of Pepperell Zoning Bylaw.
9. The proposed project is not located in an area that would be detrimental to protecting the Town’s water quality and supply.

DECISION:

The Board shall GRANT this Special Permit under the following conditions:

1. The word "Applicant" as used in this decision shall be defined as any of the following: (a) applicant of record in this submission; (b) his assigns; (c) his heirs; (d) any successors in title.
2. This Special Permit shall be recorded at the South Middlesex Registry of Deeds prior to the issuance of any permits for this lot. Proof of recording shall be provided to the Town Clerk as stated in the Notice of Decision for this Special Permit.
3. This special permit shall lapse two (2) years from the grant thereof unless a substantial part of the proposed construction work shall have commenced and is proceeding continuously toward completion.

This two (2) year period shall not include the time required to pursue or await determination of an appeal referred to in MGL Chapter 40A Section 17.

4. Should the Applicant be unable to begin construction prior to the expiration of this Special Permit an extension request letter may be filed and the required fee submitted to the Planning Board for review. If the Planning Board sees fit an additional one (1) year may be granted to the Special Permit. This procedure must take place prior to the expiration of the Special Permit. Any request received after the expiration of the Special Permit shall require a new Special Permit filing.
5. Substantial changes to this Special Permit, as determined by the Planning Board, shall require a special permit public hearing process in accordance with the Planning Board Rules and Regulations.
6. The Planning Board may require a performance guarantee for the construction of the roadway and infrastructures per the procedures outlined in the Subdivision Rules and Regulations.
7. The Applicant shall submit an application for a Definitive Subdivision Plan for approval by the Planning Board in accordance with the Subdivision Control Law and the Town of Pepperell Subdivision Rules and Regulations. The grant of this Special Permit shall not substitute for an approval of a Definitive Subdivision Plan, nor shall it oblige the Planning Board to approve a related Definitive Subdivision Plan.
8. Final plans for the Open Space Residential Development shall be submitted to the Planning Board and shall include all calculations and square footage notations for all designated open space.
9. Waivers from strict compliance with the Open Space Residential Bylaw have been granted as follows *per Section 7170 and are found to be consistent with the intent of the Bylaw.*
 - Reduction in lot frontages for lot #6 as detailed on the Plans.
 - Two/family/duplex units may exceed 10 % of the total number of units within the development and shall not require twice the minimum lot area.
10. The naming of the roadways associated with the proposed development shall be approved by the Planning Board. House numbering shall be assigned by the Board of Assessor's and shall conform to the Street Numbering Bylaw.
11. A cluster mail box system shall be provided for the residents at or near the end of the roadway.
12. Signage and delineation of all open space areas shall be the responsibility of the Applicant in accordance with directive from the Conservation Commission.
13. Landscaping and screening shall involve utilizing as many of the existing trees and vegetation as possible; this may also include relocation of existing trees on the site.
14. Documents describing all necessary easements shall be provided to the Planning Board for approval.
15. Covenants outlining any restrictions, responsibilities, operations, and maintenance requirements for private areas, common areas, roadways, and other public areas shall be presented to the Planning Board for review. These covenants must be recorded as part of the deed for all properties within the development.
16. The proposed development shall comply with all current rules, regulations, and fees of the Pepperell Water Division. The Pepperell Water Division must have legal access to all water related valves and meters.

17. Unless connected to Town sewer, each lot shall meet full compliance with Title V and Pepperell Board of Health regulations.
18. Any and all deeds for the dwelling shall specifically refer to the conditions contained in this decision and shall contain reference to the Book and Page filing information of this Special Permit.
19. The Applicant shall conform to all necessary local, state, and/or federal application and permitting requirements. This shall include, but not be limited to, the Pepperell Conservation Commission.
20. The Building Inspector/Zoning Officer shall enforce all conditions stated in this decision. If the Zoning Officer determines that the applicant is in violation of the conditions of this Special Permit, he may: (1) levy a fine, as provided for in the Zoning Bylaws; (2) demand that all construction activities shall cease until the project has been brought into conformance with this Special Permit; (3) notify the Planning Board that the Applicant is in violation of the conditions of this Special Permit which may result in action by the Planning Board to revoke the Special Permit by written instrument voted upon and signed off by four (4) of the five (5) members of the Planning Board.
21. If during judicial review, any condition stated herein is declared null and void, the remaining conditions shall still apply.
22. This decision is subject to appeal in accordance with MGL Chapter 40A, Section 17 within 20 days after this decision is filed with the Town Clerk;

A copy of the SPECIAL PERMIT DECISION and NOTICE OF DECISION shall be transmitted to the owner, applicant (if other than owner), and the Town Clerk by the Planning Administrator. Additionally, the Planning Administrator shall provide a copy of the Special Permit Decision and Notice of Decision and approved construction plans, if applicable, to the Building Inspector, Board of Assessors, and the Town Engineer.

A copy of the NOTICE OF DECISION shall be transmitted to the parties in interest and anyone requesting such and providing their address at the public hearing, by the Planning Administrator.

PLANNING ADMINISTRATOR

A copy of this decision was transmitted to the Town Clerk on _____, 2016.

Susan Snyder, Planning Administrator

TOWN CLERK

I certify that on _____, 2016, a copy of the decision in the above matter was filed with me.

Lisa Ferolito, Town Clerk