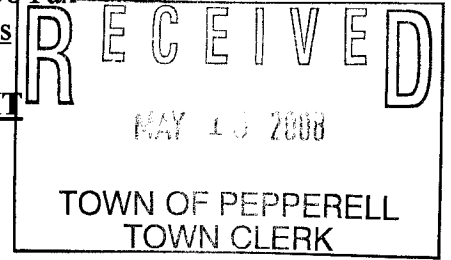


8



# TOWN OF PEPPERELL Planning Board

1 Main Street, Pepperell, Massachusetts 01463-1644  
978-433-0336 Phone 978-433-0338 Fax  
[planning@town.pepperell.ma.us](mailto:planning@town.pepperell.ma.us)



## NOTICE OF DECISION - SPECIAL PERMIT

**FILE: SP 2008-01**

Notice is hereby given that a Special Permit has been granted:

**To:** Steven M. Gilbert, 19B Tucker Street, Pepperell, MA 01463  
**For:** Site Plan Special Permit for a Multi-family Residential Development (10 units)  
**Property located at:** 17, 19, 19B Tucker Street  
Assessor's Map 23, Lot 18, 19, 20, 36  
Book 7477, Page 033/Book 20730 Page 037/Book 25883 Page 422  
Middlesex South Registry of Deeds

<b>Owned by:</b> Joseph P. Czarnionka	Jane Czarnionka	Steven M. Gilbert
17 Tucker Street	19 Tucker Street	19B Tucker Street
Pepperell, MA 01463	Pepperell, MA 01463	Pepperell, MA 01463

The Decision of the Planning Board is on file with the papers on this matter in the office of the Town Clerk.

Certified this 15<sup>th</sup> day of May, 2008.

**PLANNING BOARD:** Susan Snyder  
**Susan Snyder, Planning Administrator**

### **RIGHT TO APPEAL**

Appeals of this decision are to the Court pursuant to M.G.L., Chapter 40A, Section 17 and must be taken within twenty (20) days of the filing of this Decision with the Town Clerk.

### **TOWN CLERK CERTIFICATION**

I certify no appeal has been received within twenty (20) days of the filing of this notice in my office, or that if an appeal has been filed, it has been dismissed or denied.

**TOWN CLERK:** Lois A. Libby **DATE/TIME:** Dec 11, 2008  
3:05 P.M.

### **NOTICE TO APPLICANT**

Having received certification from the Town Clerk, it shall be the responsibility of the applicant to have recorded both this NOTICE OF DECISION and the SPECIAL PERMIT DECISION at the Middlesex South Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Fee for recording shall be paid by the owner or applicant. **NO BUILDING PERMITS** or **CERTIFICATES OF OCCUPANCY** shall be issued by the Building Inspector until notice of attestation by the Register of Deeds is made to the Town Clerk by filing a copy of this notice with the recording date and document number noted.

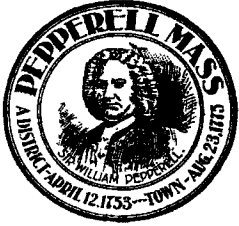
### **ATTESTATION**

Received and entered with the Register of Deeds in the County of Middlesex, South.

**ATTEST:** \_\_\_\_\_  
Register of Deeds



Bk: 52190 Pg: 99 Doc: DECIS  
Page: 1 of 8 02/05/2009 09:41 AM

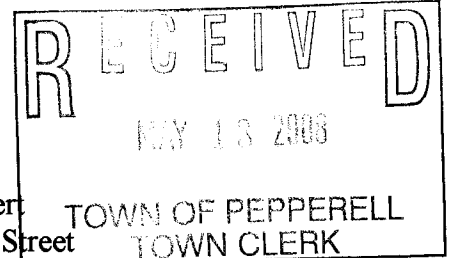


# TOWN OF PEPPERELL

## Planning Board

1 Main Street, Pepperell, Massachusetts 01463-1644  
978-433-0336 Phone 978-433-0338 Fax  
[planning@town.pepperell.ma.us](mailto:planning@town.pepperell.ma.us)

### SPECIAL PERMIT DECISION



File: SP 2008-01

Applicant: Steven Gilbert  
19B Tucker Street  
Pepperell, MA 01463

Granted with conditions: Site Plan Special Permit for a Multi-family Residential Development at 17, 19, & 19B Tucker Street, Pepperell, MA 01463 in the Urban Residence district, shown on Assessor's Map 23 as Lot 18, 19, 20, & 36.

Location of Property: 17, 19, 19B Tucker Street  
Assessor's Map 23 Lot 18, 19, 20, 36

Owner of Property: Steven M. Gilbert, 19B Tucker Street, Pepperell, MA 01463  
Jane Czarnionka, 19 Tucker Street, Pepperell, MA 01463  
Joseph P. Czarnionka, 17 Tucker Street, Pepperell, MA 01463

Date of Decision: May 12, 2008

### STATEMENT OF FACTS

Application Submitted to Town Clerk: February 11, 2008

Applicable Section of the Zoning Bylaw, Town of Pepperell, Massachusetts, September 17, 2001, as amended: Section 7300 Multi-family Residential Development.

Dates of Published Notice of Hearing: March 7 & 14, 2008 in *The Pepperell Free Press*.

Notification of Parties in Interest: Mailed notices, including notification to the abutting towns of Groton, Townsend, and Dunstable in Massachusetts and Brookline, Hollis and Nashua in New Hampshire on March 10, 2008.

Date(s) of Hearing: March 24, 2008, April 8, 2008, April 22, 2008.

Planning Board Members present at the Hearing: Nick Cate, Jeff Chabot, Mark Marston, Rick McHugh, and Steve Themelis.

**Contents of the Application:**

- Exhibit A Certified list of parties in interest
- Exhibit B Application Booklet including Drainage Report
- Exhibit C Site Plans 11 x 17
- Exhibit D Site Plans, full scale
- Exhibit D<sub>1</sub> Revised Site Plans for 4/8/08 hearing, full scale
- Exhibit D<sub>2</sub> Revised Site Plans for 4/22/08 hearing, full scale
- Exhibit E Board of Health comment
- Exhibit F Conservation Commission comment
- Exhibit G Chief of Police comment
- Exhibit H Town Engineer comment
- Exhibit H<sub>1</sub> Additional Comments of Town Engineer
- Exhibit H<sub>2</sub> Additional Comments of Town Engineer
- Exhibit I Letter to Applicant from Building Inspector re: 3 bedroom units
- Exhibit J Comments of Highway Department
- Exhibit K Comments of Water Department
- Exhibit L Supplemental Information from Applicant
- Exhibit M Operations & Maintenance Manual
- Exhibit N Stormwater Management Plan
- Exhibit O Comments of Fire Chief
- Exhibit P Letter from Town Counsel re: 3 bedroom units

**Fees:** Applicant paid to the Town of Pepperell a filing fee of \$300.00 and a postage fee in the amount of \$32.80 to notify the parties in interest of the public hearing and decision; and a fee in the amount of \$146.20 to *The Pepperell Free Press (Nashoba Publications)* for the legal advertising of the public hearing notice.

**Circulation of Application to Other Boards:** Referred on February 12, 2008 to Board of Health, Board of Fire Engineers, Building Inspector/Zoning Officer, Conservation Commission, Police Chief, DPW/Highway, DPW/Water, DPW Director/Town Engineer and Communications. Responses were received and marked as exhibits as shown in the list above.

**TESTIMONY:**

A multi-family development consisting of ten (10) units is proposed on the lot located at 17, 19, & 19B Tucker Street. The property has an existing structure that will be removed from the site to allow for new construction. The site is accessible for sewer, water, and gas utilities.

The proposed project is in a neighborhood of other multi-family residential developments. The ten (10) dwelling units will be single family detached units on 100,165 total square feet. Adequate parking is proposed for each dwelling unit as well as additional parking for guests.

The proposed units will be approximately 30 feet apart and each unit will be serviced by a private driveway off of a single roadway approximately 200 feet in length off of Tucker Street. Each unit will have a lamppost marker for lighting and identification.

The following waivers were requested by the Applicant with regard to the proposal: (1) to allow the units to be less than fifty (50) feet apart (2) to allow the curb cut to be 68 feet (3) to not require trees larger than 6" in diameter proposed for removal be shown on the plans (4) to not require dense screening of the detention basin.

FINDINGS:

The Board made the following specific findings applicable to this proposal:

1. The multi-family residential development will consist of ten (10) newly constructed single-family dwellings on 100,165 square feet of property located in the Urban Residence Zoning District. Each dwelling unit is proposed as a single-family, three bedroom unit.
2. The multi-family residential development is served by Town water services. A fire hydrant is within 500 feet of the property.
3. The Board determined that based on the land planning and topographical specifications of the site with regard to drainage and stormwater management the distance between dwelling units shall be allowed to be less than 50 feet at 30 feet apart as proposed.
4. The proposal adequately provides for on-site drained parking areas, visitor parking areas, and safe vehicular and pedestrian flow.
5. The dwelling units are proposed as single family detached, three bedroom units as a more desirable and marketable development. There shall be no limitations on floor area or number of bedrooms in each unit except as it relates to the size of the dwelling and the distance between each dwelling.
6. The multi-family residential development will be a condo-type development with maintenance and easements being specified for each homeowner.
7. The proposal meets all of the dimensional and design requirements for a multi-family residential development as prescribed in the zoning bylaws with the Board allowing the units to be less than fifty (50) feet apart.
8. The proposal is in harmony with the general purposes and intent of the zoning bylaws and will not cause substantial detriment to the Town or the neighborhood.
9. The proposal is in character with the surrounding areas of the neighborhood and does not impose any impacts on the neighborhood. The surrounding neighborhood consists of several multi-family residential developments.
10. The proposal allows for development that is consistent with the goals and guidelines of the Master Plan and Affordable Housing Plan of the Town of Pepperell. The proposed units will be single-family detached condo dwellings.
11. The proposal minimizes the amount of disturbance to the site and utilizes best practices for stormwater management on the site.

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) the applicant of record; (b) his assigns; (c) his heirs; or (d) any successors in title.
2. This Special Permit and the Plans shall be recorded at the Middlesex South Registry of Deeds prior to the issuance of any other 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. No building permits shall be issued until proof of recording has been received.
3. Construction shall be in accordance with this Decision and the Site Plan for 17, 19, & 19B Tucker Street prepared for Steven Gilbert, P.O. Box 534, Pepperell, MA 01463, prepared by Cornerstone Land Consultants, Inc., Job No. 07-194, dated 4/10/08. The applicant shall supply five (5) copies of this plan to the Planning Board.
4. The existing dwelling at 17 Tucker Street shall be razed prior to construction and no building permits shall be issued until proof of demolition has been received by the Inspections Department.
5. The existing dwelling at 19B Tucker Street shall be razed but shall be allowed to remain on site until such time as any building permit request for unit 6, 8, or 10 is requested. Building permits for any of these three units shall not issue until proof of demolition has been received by the Inspections Department.
6. Prior to the issue of any building permits the roadway shall be completed and all municipal services shall be installed per the construction plans or shall be secured by a sufficient deposit of money, as determined by the Board and recommended by the Town Engineer, and a time within which such construction shall be completed must be specified. A completed Form H-1 or H-2 shall be properly executed with the Board.
7. Each dwelling unit shall be clearly marked as described with black lettering and numbering of at least six inches (6") in height in a location of clear visibility. A permanent marker of engraved granite not greater than six (6) square feet in area shall be placed at the driveway entrance where it meets the public way and shall have a diagram of the unit locations. The specific location of the marker shall be coordinated with the Town Engineer and/or Highway Superintendent.
8. Addressing of each unit shall be as follows:
  - a. The existing dwelling at 19B Tucker Street shall retain this address until such time that the dwelling is razed.
  - b. Each new unit shall be addressed as 17 Tucker Street, Unit 1-10, as shown on the construction plans.

9. Final as-built drawings confirming compliance with the approved site plans shall be submitted for review and approval by the Planning Board prior to the issuance of the final occupancy permit.
10. The driveway shall be constructed per the plans and a curb cut of 68 feet shall be allowed.
11. The Applicant shall provide a copy of the homeowner's documents to the Board for review and approval prior to the issuance of any building permits. This document must contain a restriction that allows for no obstruction(s) between the dwellings. These obstructions shall include, but are not limited to, recreational vehicles, plantings, and fencing of any type.
12. Construction activities shall not encroach onto abutting properties, rights of way, sidewalks, or roadways. Pedestrian and vehicle traffic shall not be impaired by any construction activities. All sidewalk and street areas shall be kept clear of any and all construction equipment and debris at all times. Appropriate measures for dust control shall be maintained throughout all construction activities.
13. Construction shall not impair pedestrian or vehicular travel for the dwelling at 19B Tucker Street at any time. Once the construction of the new roadway is complete a new temporary unpaved access to the existing dwelling shall be provided for the residents.
14. The buildings shall comply with all current rules, regulations, and fees of the Pepperell Water Division and the Pepperell Sewer Division.
15. Any and all deeds for the dwelling units 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.
16. 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.
17. If during judicial review, any condition stated herein is declared null and void, the remaining conditions shall still apply.
18. This Special Permit shall lapse after two (2) years from the grant thereof if a substantial use thereunder has not begun, except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.
19. 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 Zoning By-law; (2) demand that all construction activities shall cease until the project has been brought into conformance with this special permit; and/or (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 of the five members of the Planning Board.

20. The conditions of approval in this Special Permit may be amended by filing an application for a special permit which shall be acted upon by the Planning Board in the same manner as is written in the Planning Board Special Permit Rules & Regulations for all special permit petitions. Any necessary "field" changes or minor modifications to the Site Plans shall be submitted to the Planning Board for review and determination that an amended special permit shall not be required.

21. This decision is subject to appeal in accordance with M.G.L. Ch. 40A Sec. 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, the applicant (if other than owner) and the Town Clerk by the Planning Board Administrator. Additionally, the approved construction plan shall be distributed by the Planning Administrator to the Town Clerk, Building Inspector, Town Engineer, and Board of Assessors.

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, all with the notice of their right to appeal to court pursuant to Section 17 of the Zoning Act, by the Planning Administrator.

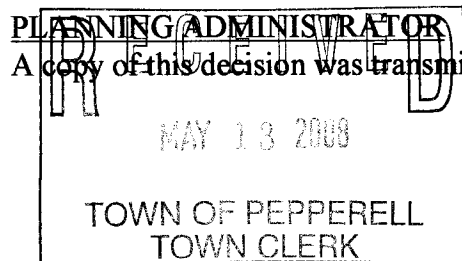
**CERTIFICATIONS:**

We, the undersigned members of the five member Planning Board of the Town of Pepperell certify we attended and participated in all of the hearings, the decision and the order in the above matter, that said hearings and decision were made at public meetings of the board and that we made the foregoing decision with the undersigned members voting by roll call vote as follows:

Date: May 12, 2008  
Motion by: Steve Themelis  
Seconded by: Mark Marston

<u>Member</u>	<u>Signature</u>	<u>Vote</u>
Nicholas Cate	<u>[Signature]</u>	<u>Aye</u>
Mark Marston	<u>[Signature]</u>	<u>Aye</u>
Richard McHugh	<u>[Signature]</u>	<u>Aye</u>
Stephen Themelis	<u>[Signature]</u>	<u>Aye</u>

*An affirmative vote by four of the five members of the Planning Board is necessary for the grant of a Special Permit.*



A copy of this decision was transmitted to the Town Clerk on 5-13-08, 2008.

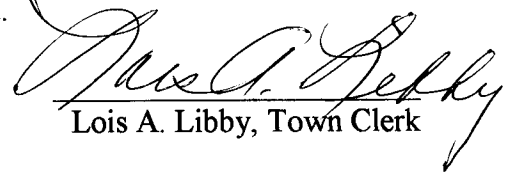
[Signature]  
Susan Snyder, Planning Administrator

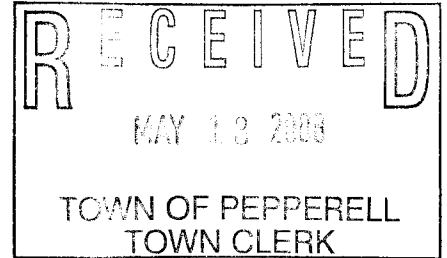
SP 2008-01  
17, 19, 19B Tucker Street

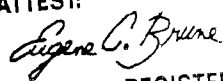
Page 7 of 7

TOWN CLERK

I certify that on May 13, 2008, a copy of the decision in the above matter was filed with me, that twenty (20) days have elapsed since said filing and that no appeal has been filed, or, if an appeal has been filed, it has been dismissed or denied.

  
Lois A. Libby, Town Clerk



REGISTRY OF DEEDS  
SOUTHERN DISTRICT  
ATTEST:  
  
REGISTER