

**Call to Order:**

The meeting was called to order at 7:02 p.m. Present were Chairman Zach Bergeron, members Vincent Chiozzi, Joan Duff and Ann Knowles; also present were Lisa Schwarz, Senior Planner and Jacki Byerley, Town Planner.

**139-143 Elm Street and 26 Pine Street – Deliberations:**

Mr. Bergeron opened the deliberations for 139-143 Elm Street and 26 Pine Street, a Definitive Subdivision Plan, Special Permit for Earth Movement, and Special Permit for Elderly Housing. He explained the deliberative process for the audience.

Ms. Byerley reviewed the Definitive Subdivision Plan. She noted that the subdivision proposed is a 2-lot subdivision with a standard 40 foot right of way and 24 ft wide of pavement; 18 feet of pavement is required for a local street. She reviewed the waivers that the applicant is requesting. The waiver to the mylars is a standard request, as the Board does not ask for mylars until after an approval takes place. They have requested a waiver to the maximum grade of 8% on the driveway to allow for a 10% grade on a portion of the roadway. She noted that they could meet the 8% grade, but the 10% grade will cause less earth movement. The applicant is requesting a waiver to the standard that calls for all driveways to occur with the first 150 feet of the right of way. This standard as well as the standard that they are requesting a waiver on for the use of vitrified clay pipes are regulations in the Subdivision Rules and Regulations that need to be corrected by the Town. Finally the applicant is requesting a waiver for the placement of a street sign with the understanding that the street is a driveway and development will use an Elm Street address.

Mr. Bergeron asked if the intent with the unbuildable lot is for the development to be the only building on the street. Ms. Byerley stated that the first lot is technically buildable, but the applicant is requesting that the lot become open space, and she has drafted conditions as such. Mr. Bergeron stated that in regards to the waivers, he only sees the grade differential as a potential issue, but the Fire Department has stated it is a non-issue. Mr. Chiozzi stated that he has no problem with the grade because it will be a private driveway used by one entity.

Ms. Byerley reviewed the non-standard conditions she is recommending for the subdivision. Condition 21 states that prior to construction, all roadway and utilities maintenance documents are to be reviewed by Town Counsel, DPW and the Planning Department for approval prior to recording to make sure that they owners and the entities will take care of the drive and utilities. Mr. Chiozzi asked if the first 30 conditions are standard, and Ms. Byerley stated that he was correct. Ms. Byerley noted that Condition 34 pertains to a request from the Department of Municipal Services to require that the utilities are in place and the roadway is to binder coat prior to clearance certificates being issued. The applicant will not be able to obtain building permits until certain items are completed. She added that there is a standard hauling condition restricting hauling of earth material to the hours after the last morning pickup of school children and before the first afternoon drop-off.

Ms. Byerley noted that a correction needs to be made to Condition 1 to list the Robert J. and Lisa H. Maye as the only applicants on the Definitive Subdivision Plan. She added that on the earth movement application both the Mayes and CSH need to be listed as the applicants.

**139-143 Elm Street and 26 Pine Street – Deliberations (cont'd):**

Mr. Chiozzi noted that Condition 36 references service connections to the lots. He questioned if there will be service connections or if there is a water main on the property. Ms. Byerley stated that there is not a water main on the property and there are service connections. Mr. Chiozzi asked if the water main is in Elm Street and Ms. Byerley stated that he was correct. Mr. Chiozzi stated that he had no problems with the Definitive Subdivision Plan because it complies with the Rules and Regulations of the Subdivision Control Law.

On a motion by Mr. Chiozzi seconded by Ms. Knowles the Board found that the Definitive Subdivision Plan is in conformance with the Subdivision Control Law, the Rules and Regulations Governing the Subdivision of Land in the Town of Andover, the recommendations of the Board of Health and also complies with the applicable provisions of the Andover Zoning Bylaw. And also moved the Board grant the waivers as requested as they are in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law. On the second paragraph of Ms. Byerley's July 17, 2015 memo CSH Andover LLC should be deleted from the 3<sup>rd</sup> line of the 2<sup>nd</sup> paragraph and also in Condition number 1 of the General Conditions also delete the reference to CSH Andover LLC. **Vote:** Unanimous (4-0).

On a motion by Mr. Chiozzi seconded by Ms. Knowles the Board approved with conditions the application for a Definitive Subdivision Plan for 139-143 Elm Street and 26 Pine Street. **Vote:** Unanimous (4-0).

Ms. Byerley explained that for the Earth Movement Special Permit the Board needs to find that the subdivision as a whole makes the best feasible design of the existing topography, that the special permit will not be unreasonably detrimental to the established or future character of the neighborhood and Town, and that they are in harmony with the general purpose and intent of the Zoning Bylaw. For any subdivision, the Zoning Bylaw requires an Earth Movement Special Permit. The applicant submitted a geotechnical report of anticipated truckloads for the 6,700 cubic yards of material that will be taken offsite over a few weeks period. Ms. Byerley stated that with the approval of the subdivision she feels that the Board can find that this is the best feasible design of the existing topography, and added that the 10% grade of the driveway will lessen the earth movement.

Mr. Bergeron asked if there has ever been a denial of an earth movement special permit. Ms. Byerley stated that there has never been a denial with an approval of a subdivision. Ms. Duff stated that the Town Departments have looked at this and she doesn't see why the Board would have to add any more conditions. Ms. Byerley noted that there are conditions placed on the permit for hours and route of hauling and construction hours. Mr. Chiozzi noted that the applicant has to apply to the Fire Department for blasting permits if necessary. Ms. Byerley noted that blasting permit requirements are part of the subdivision conditions.

Mr. Bergeron stated that he had looked at the hauling numbers of comparable sites and this site was within the same range. He added that the 10% grade and the lack of a basement lessens the impact. Ms. Schwarz noted that past projects have shown a range of 5,000 to 20,000 cubic yards of material brought into or out of a site. Ms. Knowles agreed that the River Road site has significantly more earth disturbance. Mr. Chiozzi stated that septic systems drive up the earth

**139-143 Elm Street and 26 Pine Street – Deliberations (cont'd):**

movement numbers in subdivisions and allowing the waiver for the 10% grade lessens the earth movement. Mr. Bergeron added that if rock crushing is utilized onsite the earth movement can be lessened even more. He added that the hauling route is a marked up document regulating where trucks can idle and move. Ms. Byerley agreed that a route has to be approved by the Inspector of Buildings before construction can begin and the route would not go through Town or residential neighborhoods. Mr. Bergeron asked if the condition linking hauling times to the times school buses are not on the road is specific to this project. Ms. Byerley stated that it is a standard condition.

On a motion by Ms. Duff seconded by Mr. Chiozzi the Board found that the subdivision as a whole makes the best feasible design of existing topography, that the Special Permit for Earth Movement will not be unreasonably detrimental to established or future character of the neighborhood and Town and that they are in harmony with the general purpose and intent of the Zoning Bylaw. **Vote:** Unanimous (4-0).

On a motion by Ms. Knowles seconded by Mr. Chiozzi the Board approved with conditions the application for an Earth Movement Special Permit for earth work associated with the Definitive Subdivision Plan for 139-143 Elm Street and 26 Pine Street. **Vote:** Unanimous (4-0).

The Board began deliberations on the Special Permit for Elderly housing. Ms. Schwarz noted that the Board opened the public hearing process in November 2014 and held 10 public hearings on the application over the course of 8 months. The Board listened to the applicant and asked questions, and received input from residents, experts and Town staff. The Board closed the public hearing on July 14, 2015 after collecting and reviewing numerous documents, studies, reports and letters from residents.

Ms. Schwarz noted that a special permit regulates the middle tier of uses between as of right uses and prohibited uses. This is an opportunity to take a proposed project and turn it into something that fits for the Town of Andover, which the Planning Board has been doing for fifty years. Mr. Bergeron agreed that as the Special Permit Granting Authority, the Board can offer mitigation to the process. Ms. Knowles asked Ms. Schwarz to review the changes that have been made to the plan since it was first submitted. She noted that over 130 units would have been allowed on the site, and the applicant revised the plan to 96 units. The site setbacks were increased significantly throughout the process. She noted that when the Bylaw was put into place, careful thought was put into the setbacks in consideration of the fact that these facilities would be allowed in the SRA and SRB district. She added that the Town would have also been able to know at the time what sites in Town were over five acres and available for this type of facility. The bylaw requires 30% open space and this development almost doubles the size of the open space requirement. Mr. Bergeron reviewed the zoning requirements and how this application meets or exceeds every requirement. Mr. Chiozzi noted that when the Bylaw was written in 1997, the Planning Board spent many meetings discussing the setback from residences before it settled on 200 ft. Ms. Schwarz stated that in regards to access and circulation, the Fire Department early on in the process made sure that they have emergency access on all sides of the building.

**139-143 Elm Street and 26 Pine Street – Deliberations (cont'd):**

Ms. Schwarz noted that significant changes have been made to the landscaping plan from the initial application regarding the buffers, species, the stone wall, pervious material and lighting reduction. Many of these changes were made based on feedback from abutters and Board members. Mr. Bergeron noted that the rotation of the building caused many things to fall into place.

Ms. Schwarz reviewed the traffic and vehicular movements and noted that the Public Safety Officer made recommendations that she incorporated into her memo. The applicant also agreed to improving the sidewalks and staggering the shifts of employees. Ms. Knowles asked if a decision was made on a reserve parking area, and if so, where the area is located. Ms. Schwarz stated that the reserve parking will be a flat area in the rear of the site. Ms. Knowles asked if the area would be able to be made permanent if necessary, and Ms. Schwarz stated that it could. Ms. Knowles stated that she does not want parking spillover onto area streets. Mr. Bergeron stated that if the reserve parking area is made more permanent, he would like to see a permeable material used.

The Board reviewed the suggested traffic mitigation. Mr. Bergeron stated that he was unsure if the Board should decide what is appropriate for Elm Street, and felt more comfortable leaving that with the Public Safety Officer. Ms. Schwarz noted that the suggestion of visually narrowing the lanes of traffic is already happening Town wide. Mr. Chiozzi stated that Officer Edgerly is a great supporter of the data collection speed signs. Ms. Schwarz added that those signs are not bright and they do not catch light. Mr. Bergeron reiterated that he felt it was Officer Edgerly's decision on what is most appropriate for that area, but this project should contribute to any improvements.

Ms. Knowles asked in regards to the required police detail during construction, if a police detail would help with pedestrian crossing when sidewalks are closed. Ms. Byerley stated that a police detail is needed while heavy equipment is being operated, and the site has to be secured after hours. She added that there will not be a police detail 24 hours a day 7 days a week. Mr. Chiozzi noted that vehicular and pedestrian circulation during non-work hours can be discussed as part of the pre-construction meeting. He added that the peer reviewer and Officer Edgerly agreed that the original traffic study was adequate.

Ms. Schwarz reviewed the drainage on the property and noted that there was a lot of communication between the Town Engineer, the applicant's engineer and the peer reviewer. Mr. Bergeron acknowledged that abutters raised concerns about existing issues in the neighborhood, and this project will send less stormwater off of the site compared to today. Ms. Schwarz agreed that DPW is working on the pre-existing issues and this development will catch more stormwater onsite. Ms. Duff noted that the sewer capacity has been improved, and Merrimack College has come off of the system. Ms. Bergeron agreed that the stormwater and sewer have been thoroughly vetted.

The Board discussed affordability and the local preference criteria. Ms. Schwarz stated that Fair Housing laws state that only 70% of the affordable units can have a local preference. Ms. Knowles asked to discuss need. Ms. Schwarz stated that the peer review on the need was very

**139-143 Elm Street and 26 Pine Street – Deliberations (cont'd):**

helpful, and Ms. Knowles agreed that the need was amply demonstrated. Ms. Schwarz noted that the Master Plan is a wide ranging document and there are conflicts within it because it is so big. This need is for the segment of the population that is over the age of 85, not those who are over 55 and want independent living. There is currently only one facility in Town that offers similar services, and that facility is under construction to provide more independent units. This offers another option for Andover residents.

Ms. Knowles asked to discuss neighborhood character. Ms. Schwarz reviewed what a neighborhood is from a planning perspective. She noted that Elm Street consists of both single and multiple family homes, as well as commercial businesses closer to downtown. Mitigation can be used to create the best possible project. Ms. Knowles asked to touch on the term detrimental. Ms. Schwarz noted that any project has an impact, but the Board has the ability to massage an impact to make it tolerable. Ms. Knowles asked Ms. Schwarz to elaborate ways in which mitigation was suggested here. Ms. Schwarz stated that in regards to visual impact, the design of the building was changed to bring it more in character with the neighborhood. Mr. Bergeron noted that the applicant and its team jumped at how they could make the project better whenever any issue was raised. They demonstrated a willingness to work with the Board, abutters, the Town and the Design Review Board to come up with an appropriate project. Ms. Knowles agreed that the landscaping will go a long way to make the project acceptable. Mr. Bergeron added that the current home on the site has similar setbacks. The rooflines will bring the building down lower, and it is already below the maximum height limits. Ms. Duff stated that rotating the building made it more appealing from the road. Mr. Chiozzi stated that he could not find anything unreasonably detrimental about the project. He added that when Town Meeting voted in favor of this Bylaw, it was known that these facilities would go in residential districts. He stated that he could not see it rising to an unreasonably detrimental state. Ms. Knowles stated that the construction period will be difficult, but it is for any project. She added that unreasonably detrimental is a huge barrier to prove, and it has to be something that could not be mitigated. Mr. Chiozzi agreed and added that mitigation is meant to minimize effects, but not to eliminate them. Ms. Knowles stated that a positive social good also comes from this project. Mr. Chiozzi agreed and added that many times situations don't allow people to have choices or time to look for one of these facilities when it is needed. These types of facilities are a good service to have in Town.

Mr. Bergeron stated that he does not see the traffic as a major impact to the people and children walking through the neighborhood, and conditions can lessen any impact. The Board reviewed the draft conditions for the elderly housing special permit. Ms. Schwarz noted that the first 25 conditions are standard, and specific conditions start at Condition 26. Mr. Bergeron asked who oversees the conditions. Ms. Schwarz stated that the DPW and Inspector of Buildings oversee and enforce the conditions. Ms. Schwarz stated that she will keep a list of what needs to be discussed in a preconstruction meeting.

Ms. Knowles had concerns about overflow parking. Ms. Schwarz stated that a condition can be added stating the overflow parking is not allowed on Elm Street or surrounding streets. If additional parking is needed, the applicant will construct it of pervious materials. Ms. Knowles asked if her concerns regarding pedestrian safety during construction should be made part of the

**139-143 Elm Street and 26 Pine Street – Deliberations (cont'd):**

conditions or handled in the preconstruction meeting. Ms. Schwarz stated that it should be further discussed in the preconstruction meeting that will be attended by the Inspector of Buildings, Public Safety Officer and representatives from the construction firm. Ms. Knowles stated that she is very concerned about the sidewalks during construction for those who live in the area with special needs. Ms. Schwarz suggested Condition 9 be revised to add after the word “stabilizations”, “safe pedestrian circulation during and after construction hours,”. Ms. Knowles stated that on Condition 36 should would like to include the words “and on the sign” after “in the parking area.” Ms. Knowles questioned Condition 39 regarding the marketing plan. Ms. Schwarz explained the affordable unit lottery and wait list process.

Ms. Knowles moved on to discuss the conditions regarding landscaping. For Condition 41, she asked what would happen with the Elm trees if they fail beyond the three year guarantee. She asked if the Elm is found to not be viable, do they have to replace it with an Elm each time. Ms. Schwarz stated that they could add to the condition that if any plant isn't viable, and alternative can be submitted to the Board for approval. Ms. Knowles suggested that they be allowed to consult with the Town Arborist. Ms. Schwarz suggested that they add to the condition, “After five years if any species that is not viable, the applicant shall consult with the Town Arborist for an alternative replacement.” Mr. Bergeron asked if Condition 42 was standard. Ms. Byerley stated that it is not, and that the Town usually requests bonds for erosion control and roadways. Mr. Bergeron stated that the bond amount doesn't seem like a lot of money. Ms. Schwarz stated that it is a cash bond for individual tree replacement. She added that the landscaping is a large element of the project.

Ms. Knowles asked for clarification that the asphalt pathway to Pine Street doesn't connect to the circular driveway. Ms. Schwarz stated that she was correct, the pathway connects to the sidewalk. Mr. Chiozzi questioned the suggested timing of placing the gate on Pine Street. Ms. Schwarz offered that Condition 44 could be changed to state that the gate must be installed prior to occupancy. Ms. Knowles noted that Condition 49 references the plan that the porte cochere is on. She questioned if the side fence needs to also be referenced or if the applicant has to install it because it is on the plan. Ms. Schwarz stated that any items on the landscaping plans have to be built.

Ms. Knowles asked if the Board is doing anything for traffic mitigation besides the speed signs. Mr. Chiozzi noted that the Board is conditioning the shift changes of employees. Mr. Chiozzi asked that Condition 51 in regards to the speed sign be changed to read “or equal/equivalent” after “All Traffic Solutions SpeedAlert 18.” He also asked that rather than placing a dollar amount on any maintenance, that the condition only state that the developer is responsible for the maintenance. It was agreed that in Condition 51, the sentence that begins with “The annual payment...” would be deleted.

Mr. Bergeron asked if any additions to the building would have to come back to the Board for approval. Ms. Schwarz stated that they would.

On a motion by Ms. Knowles seconded by Ms. Duff the Board approved the above mentioned 53 conditions as amended and the application for a Special Permit for Elderly Housing for 139-143 Elm Street and 26 Pine Street. **Vote:** Unanimous (4-0).

**Adjournment:** The meeting was adjourned at 8:47 p.m.