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

ON THE APPLICATION OF
FIELDSTONE MEADOWS DEVELOPMENT CORP

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

Decision: SP09-13

YES (with conditions)

A public meeting of the Planning Board was held on May 25, 2010, in the Third floor conference Room of the Town Office Building. Present and voting in the affirmative on the matter were members Paul Salafia, Vincent Chiozzi, Linn Anderson, John McDonnell and Joan Duff.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on December 24, 2009 and December 31, 2009, 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 January 12, 2010 on the application by Fieldstone Meadows Development Corp for a Special Permit for Earth Movement associated with a Definitive Subdivision. The hearing was continued and closed on May 11, 2010, with the aforementioned members of the Board present with a certification pursuant to G.L. c. 39 Section 23D received.

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Premises affected is property owned by Fieldstone Meadows Corp and Mason Associates, LLC located off Acorn Drive and Clark Road and shown on Assessors Map 156 Lots 3B, 4C, 5A & 45, comprising of 3.0-acres, hereinafter referred to as the "site", on which the subdivision plan entitled "Arbor Lane" would take place.

In consideration of the Special Permit for Earth Movement, the applicant had submitted an earth quantities plan and an erosion and sedimentation control plan for review. In the analysis, as prepared by Andover Consultants, Inc. approximately 740 cubic yards of material will be generated from the site. It has been the past practice of the Planning Board to regulate the hours and days of the earth movement activities. In this instance, the Planning Board has conditioned their approval by restricting the time period between the last morning pick-up of school children, and the first afternoon drop off.

In considering a special permit for earth removal and regrading the Planning Board must find that the subdivision plan with which it is associated, as a whole, makes the best feasible use of existing topography. The 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.

In considering the change in topography, the extent of cuts and fills, the amounts of earth materials involved, the removal of existing vegetation, the preservation and protection of significant natural topographic features and the type and size of the plan, 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 of the Andover Zoning Bylaws, as well as Section 9.4 of the Andover Zoning Bylaw.

It is the Board's opinion that the arrangement of lots, streets and buildings are in harmony with the existing surrounding properties, and the layout and design of the development is the best use of this site.

Further the Board finds that the proposed use of this site for a residential development will not be unreasonably detrimental to the established or future character of the neighborhood and town and that such use is in harmony with the general purpose and intent of the Zoning Bylaw. The Board has considered the social, economic and community needs which would be served by this proposal, and has reviewed the traffic flow and safety, and has verified the adequacy of utilities and other public services, and has evaluated the neighborhood character and has reviewed impacts of the natural environment, the Board find that the application for a Special Permit for Earth Movement uses comply with Section 9.4 of the Andover Zoning Bylaws.

In consideration of all of the foregoing, including the plans, documents, and testimony given during the public hearings, the Planning Board hereby approves and issues a Special Permit for Earth Movement to Fieldstone Meadows Corp, applicable to the property earlier described, and subject to the following conditions which are the same as those imposed on the aforementioned Definitive Subdivision Plan:

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, Fieldstone Meadows Development Corp., 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 4, Definitive Subdivision Plan, dated November 9, 2009 revised through March 31, 2010;
 - b. Sheet 2 of 4, Grading Plan and Erosion Control Plan, dated November 9, 2009 revised through April 27, 2010;
 - c. Sheet 3 of 4, Plan and Profile, dated November 9, 2009 revised through April 27, 2010;
 - d. Sheet 4 of 4, Construction Details, dated November 9, 2009 revised through March 31, 2010;
3. Sheet 1 of said plan entitled "Definitive Subdivision Plan", dated November 9, 2009, revised through March 31, 2010, as prepared by Andover Consultants, Inc.; 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.

5. This subdivision approval is limited to three (3) building lots 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 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;
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 SP09-13;
11. 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 SP09-13, or as otherwise allowed under the applicable provisions of the Zoning Bylaw;
12. Deeds for all building lots, as shown on the plan shall reserve the fee and/or interest in the streets and/or easements, said fee and/or interest to be conveyed to the Town at the time of street acceptance;
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 developer shall be responsible for all maintenance of the drainage systems within the Arbor Lane right of way and Acorn Drive as shown on the plans reference in Condition # 2 until such time as the street is accepted as a public way.

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. Hauling of earth materials and heavy equipment on Acorn Drive is restricted to the time period between the last morning pick-up of school children, and the first afternoon drop off. 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 Arbor Lane 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. Locations of stockpiles of earth materials on site shall be designated on a plan, which shall be submitted by the developer to the Planning Department for approval. Stockpiles shall be prohibited within fifty (50') feet of any wetland boundary, drainage channel or water course, and prohibited in any area which necessitates removal of trees for such purpose. 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 the deed restrictions must be reviewed by Town Counsel, approved by the Planning Board and recorded at the Essex North Registry of Deed. Said deed restrictions must reference the Operation and Maintenance Plan and must restrict the alteration of pervious pavement, infiltration trenches and depressions;
32. 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. No Clearance Certificate for any lot shall be issued until said plan has been submitted to the Department of Public Works;
33. 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 # 4 above;
34. 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 developer will coordinate with the Planning Department times and dates in which the erosion controls can be removed. Upon removal of all erosion controls as depicted on sheet 2 of the approved plan, the segregated account may be released in full;
35. Prior to the issuance of a Clearance Certificate for any lot, the limit of disturbance shown on sheet 2 of said plan shall have been clearly marked on the ground on the subject lot, and said marking shall consist of siltation fencing, surveyor's flagging, ribboned stakes at appropriate intervals, and/or a combination of such devices as determined suitable by the Planning Department, and following the installation of such markings no earth disturbance or removal of vegetation of any kind shall be permitted within the protected areas. This condition may not be released until an occupancy permit has been issued at which time this condition will be deemed satisfied;
36. Prior to the issuance of a Clearance Certificate for Lots # 1 through 3, 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 the issuance of a Clearance Certificate for Lots # 1 through 3, grading and drainage as shown on sheet 2, shall have been fully graded and approved by the Department of Public Works;
38. Prior to release of any Clearance Certificates for building purposes, a sign depicting "Arbor Lane" shall have been erected at a location determined by the Department of Public Works;

Prior to conveyance of lot

39. 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 Selectmen's layout meeting, 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;
40. The drainage areas, inlets, outlets and all associated piping shown on the plans shall be fully constructed, stabilized, operational and all off-site improvements completed prior to pavement of the streets and development of any house lot;

The Board further grants the waivers as they are in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law:

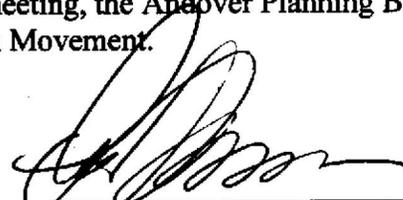
In the opinion of the Board, a waiver from Section III.3- Original Mylars would be in the public's interest and would not be inconsistent with the intent and purpose of the Subdivision Control Law. The delivery of the original mylars within 30 days after the 20 day appeal period is reasonable to allow for plan revisions during the public hearing process.

In the opinion of the Board, a waiver from Section VI.D.-Sidewalk would be in the public's interest and would not be inconsistent with the intent and purpose of the Subdivision Control Law whereas the width of the public roadway and the anticipated traffic would not be detrimental to pedestrian usage.

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 May 25, 2010, at a regularly scheduled public meeting, the Andover Planning Board voted (5-0) to issue the foregoing Special Permit for Earth Movement.

Date: 5/28/10



Paul J. Salafia, Chairman

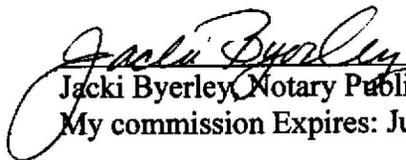
Essex, ss

COMMONWEALTH OF MASSACHUSETTS

Date: 5/28/10

On this 28th day of May, 2010, by Paul J. Salafia 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 his knowledge and belief and who acknowledged to me that he 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,



Jacki Byerley, Notary Public
My commission Expires: July 4, 2014

CERTIFICATION

I, Randall L Hanser ^{acting} Town Clerk of the Town of Andover, Massachusetts, do hereby certify that twenty (20) days have elapsed since this decision of the Andover Planning Board was filed in my office on May 28, 2010 and no appeal against said decision has been filed.

Date: 06/18/10



Acting Town Clerk