



TOWN OF FOXBOROUGH
Planning Board
40 South Street
Foxborough, Massachusetts 02035

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FOXBOROUGH, MA 02035

September 8, 2016

Robert E. Cutler, Jr., Town Clerk
Foxborough Town Hall
40 South Street
Foxborough, MA 02035

Re: SPECIAL PERMITS & DEFINITIVE SUBDIVISION APPROVAL GRANTED TO:

Lawson Farm, LLC
23 Southport Drive
Mashpee, MA 02649

on land owned by:
Chester M. Lawson, Jr. & Richard J. Lawson

for a Definitive Subdivision Plan entitled:

"Lawson Farm"

Located at:
242, 244, 246 Main Street
Foxborough, MA 02035

Assessors' Map 51 Parcels 1384, 1389 & 5175
Assessors' Map 52 Parcel 1390

Mr. Cutler:

Please file the following decision by the Planning Board ("the Board") pursuant to the requirements of Massachusetts General Laws (MGL) Chapters 40A and 41, Sections 9 & 81-U accordingly. The Board, acting in its capacity as the Special Permit Granting Authority (SPGA) as authorized by Section 10.4 of Chapter 275 Zoning of the Code of the Town of Foxborough (the "Zoning Bylaws"), and pursuant to Section 4.04 of the Foxborough Subdivision Regulations hereby grants Special Permits and Definitive Subdivision Approval to the above applicant. The application was submitted under Section 8.5 Innovative residential development of the Zoning Bylaws.

The Special Permit approval under Section 8.5.4. Extended Dead-End Roads was made by an affirmative vote of 4-0 (Greene abstained) and Subdivision Approval by an affirmative vote of 4-0 (Greene abstained) of the Planning Board at its regularly scheduled meeting on September 1, 2016.

The 79.8 (+-) acre site, referred to as "Lawson Farm" is located on the south side of Main Street opposite the intersection of Main Street and Pierce Street and consists of thirty (30) proposed lots with twenty-eight (28) new single family dwellings and two (2) existing single family dwellings. The subdivision is in the Residential R-40 Zoning District and partially within Zone II and Zone III of the Water Resource Protection District. The subdivision is illustrated on plans dated June 6, 2016 (last revised on August 8, 2016) as drawn by Bay Colony Group, Inc., Foxborough, MA (the "Plans") and are by reference, considered a part of this approval.

NOTICE

The Public Hearing was advertised in the Foxboro Reporter on June 30, 2016 and July 7, 2016 and the Notice of Public Hearing was duly posted in Town Hall on June 27, 2016. Due to failure to provide notice to parties in interest for the July 14, 2016 hearing, the Public Hearing was re-advertised on July 28, 2016 and August 4, 2016, the Notice of Public Hearing was duly posted in Town Hall on July 22, 2016, and all parties in interest were properly notified by mail. The public hearings occurred in the Foxborough High School Media Center, 120 South Street, Foxborough, Massachusetts all according to the subdivision regulations and the Zoning Bylaws.

Members of the Board present and acting on the petition throughout were:

Kevin Weinfeld, Chairman (Mullins Rule Affidavit for August 11, 2016 meeting)

John Rhoads, Vice Chairman

Gordon Greene

Gary Whitehouse

Ronald P. Bressé

Several abutters/residents were present at the August 11, 2016 hearing and expressed concerns about traffic and access to the open space. All commended the developer for the open space being gifted to the Town. During the continued hearing on September 1, 2016, no abutters were in attendance and no additional abutter comments were received.

DISCUSSION:

Paul J. Folkman of Lawson Farm, LLC, the applicant, appeared before the Board with engineer William Buckley, Jr. of Bay Colony Group, Inc. and Attorney Francis J. Spillane of Spillane & Spillane. The applicant is seeking approval to create a 30-lot subdivision for single family dwellings with two subdivision roads off of Main Street. The first subdivision road ("Goodwin Drive") extends approximately 650 feet from Main Street to the first intersection with the second subdivision road ("Conway Lane") and then continues approximately 1533 feet, where it ends at the second intersection with the second subdivision road ("Conway Lane"). The second subdivision road ("Conway Lane") is approximately 1780 feet. The Board and applicant discussed the requested waivers from the Foxborough Subdivision Regulations and the requested Special Permits under Section 8.5.4. of the Zoning Bylaws for extended dead-end roads. William Buckley, Jr. filed at the request of the Board and discussed with the Board a Traffic Impact Assessment prepared by Gillon Associates, dated July 2016 which concluded that the thirty (30) residential units will not noticeably change levels of service. Attorney Francis J. Spillane filed and discussed with the Board a phasing plan, which was subsequently revised, for construction of the subdivision ("Lawson Farm Revised Phasing Of Construction Dated 08/22/2016") and also discussed the payment of the bond as each phase is started for the roadway and improvements associated with each phase. Mr. Folkman informed the Board that the applicant had obtained from the owners their commitment to deed to the Town of Foxborough Parcel A for no consideration. Prior to the September 1, 2016 continued public

hearing, a “Phasing Plan” prepared by Bay Colony Group, Inc., dated July 21, 2016 (PH1) and August 31, 2016 (PH2A and PH2B) was submitted to the Board.

Acting Chairman Rhoads referenced the comments received from Town officials and other Boards and Commissions:

- Deputy Fire Chief Kelleher wrote in an email on July 22, 2016 that the Fire Department does not have an issue with the two proposed temporary cul-de-sacs as long they are built to the current standards. Fire also reserves the right to request additional steps if the proposed design or staged construction deviates substantially to what was presented.
- Health Agent Zajdel wrote on July 1, 2016 that soil evaluations/perc testing had been witnessed by the Health Department and the lots are suitable for on-site septic disposal systems.
- Water & Sewer Superintendent Bob Worthley had e-mail exchanges with Mr. Buckley regarding the plans of the proposed project.
- Building Commissioner William Casbarra wrote on July 12, 2016 that he had no objection to the layout as shown on the filed plans under Section 8.5 of the Zoning Bylaws.
- Conservation Manager Jane Pierce wrote on June 27, 2016 her initial concerns with the plans.
- Norman R. Mullaney reported on June 29, 2016 to the Board his comments for consideration.

The Board received comments from the Board’s consultants BSC Group, Inc. as follows:

- Memo dated July 1, 2016 detailing several items regarding compliance with the Subdivision Regulations, Zoning Bylaws, and DEP Stormwater Standards as well as providing information/opinions on the waivers requested.
- Memo dated August 6, 2016 confirming that Bay Colony Group, Inc. had modified the plans to their satisfaction with the exception of a seed mixture for the storm water basin (which Bay Colony Group, Inc. subsequently corrected with plan modifications to rectify that omission).

No correspondence was received from residents.

FINDINGS:

Prior to granting the Special Permits, the Board made the required findings and determinations (as noted below) that the proposed thirty (30) lot subdivision achieves greater flexibility and creativity in the design of residential development, promotes the preservation of community character and natural resources, is compatible with the existing neighborhood, reduces impact on natural resources and roadways, will not have a detrimental impact on the neighborhood or abutting properties, facilitates the efficient delivery of services and complies with the requirements of Section 8.5 of the Zoning Bylaws. The plans also comply with the applicable requirements of the subdivision regulations unless otherwise waived herein.

- Stormwater management was a concern of the Conservation Commission and the Board. An initial proposed storm water management system was modified due to comments received from the Conservation Commission. The pre-filing modifications changed the plan from one (1) storm water basin to four (4) storm water basins spaced throughout the Site which is more in compliance with the DEP Stormwater Standard to treat stormwater where it is generated and addressed the Conservation Commission’s request to not have one large basin. This approved system will be beneficial to the environment.
- The extended dead-end road(s) provide the following:
 1. Vehicle and pedestrian safety with the elimination of a second curb cut on Main Street.

2. Preservation of land features such as existing trees and the protection of natural resources with the elimination of a second curb cut and a second roadway crossing which minimizes the amount of wetland filing, and the gifting of Parcel A to the Town of Foxborough.
 3. Abutting lots and land use patterns are compatible and similar to the dead-end subdivision as compared to the existing lot and the other land uses which are allowed on the lot.
 4. Maintenance costs for the Town will be reduced with the elimination of approximately 700' of roadway.
 5. Homeowners, the public, and public safety providers will not be inconvenienced with the proposed dead-end subdivision.
- The applicant has demonstrated that the phasing of the project into three (3) separate phases is in the best interest of the Town and the Project. The first phase will include Goodwin Drive from Main Street to the first intersection with Conway Lane and Conway Lane from the first intersection with Goodwin Drive to Lot 7. The second phase being either from Lot 7 on Conway Lane to the cul-de-sac at the second intersection of Goodwin Drive and Conway Lane including Lot 12 or Goodwin Drive continued from the first intersection with Conway Lane to the cul-de-sac at the second intersection with Conway Lane including Lot 12. Phase 3 will be whichever phase is not built in Phase 2. At each phase, a bond will be provided to secure the completion of the street work and associated improvements for said phase. The "Lawson Farm Revised Phasing Of Construction dated 08/22/2016" prepared by Attorney Francis J. Spillane and Phasing Plan Sheets Numbers PH1, dated July 21, 2016, and PH2A and PH2B, August 31, 2016, by Bay Colony Group, Inc. are by reference considered a part of this approval.

REQUESTED WAIVERS:

Section 4.00A of the subdivision regulations allows the Board to waive specific provisions of the subdivision regulations provided such waiver(s) is, "...in the public interest and not inconsistent with the intent of the Subdivision Control Law..." The Planning Board discussed and decided the following requests and granted them pursuant to the Section noted:

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| Section 5.02.A. | To waive the requirement for the street layout to be 50' wide. |
| Section 5.02.D. | To waive the requirement for the maximum center line grade to be no more than 6%. |
| Section 5.03.D. | To waive the requirement for dead end streets not exceeding eight hundred (800) feet. |
| Section 5.04.B. To waive the requirement for sidewalks on both sides of the road. | |
| Section 5.06.D.1.c. | To waive the requirement for retention facilities with two feet of freeboard at the maximum water level. |
| Section 5.06.D.7. | To waive the requirement for the drainage basin to not be located in a side yard. |
| Section 5.06.D.7. | To waive the requirement for drainage basin to be located 50' from all the proposed structures. |

All waivers shall run with the land and bind any successors or assigns. The Board reserves the right to modify waivers without a public hearing but during a regularly scheduled meeting.

CONDITIONS OF APPROVAL:

The following conditions shall apply to this approval:

1. Prior to the Board's endorsement of its approval on the definitive subdivision plan, the subdivider shall secure its completion by one or a combination of methods outlined in Section 4.05 of the subdivision regulations. However the subdivider **shall** execute a covenant with the Board and no lot may be sold from each Phase until;
 - a) The street work and associated improvements detailed on the approved definitive plan have been completed and inspected in accordance with the subdivision regulations, or
 - b) The Board is in receipt of an Irrevocable Letter of Credit, cash, or a Tri-Partite Agreement in an amount agreed to by the Board as necessary to secure the completion of the street work and associated improvements for the lot(s) within that Phase where construction is proposed and,
 - c) A Lot Release Form K has been endorsed by a majority of the Board indicating that the provisions of Paragraph 1a. or 1b. (pursuant to Section 4.07 of the subdivision regulations) above have been fulfilled. The Form K must be recorded at the Registry of Deeds or Land Court.
2. All work covered under the performance guarantee shall be completed to the satisfaction of the Planning Board prior to the release of such guarantee. Final release of the performance guarantee shall occur after street acceptance.
3. Street signs shall be placed at the intersections of Goodwin Drive and Main Street and at both intersections of Goodwin Drive and Conway Lane as directed by the Highway Department. All street signs shall be constructed and installed in accordance with the Highway Department requirements.
4. Standard STOP signs shall be placed at the intersections of Goodwin Drive and Main Street and at both intersections of Goodwin Drive and Conway Lane and installed in accordance with the Highway Department requirements as shown on the plans.
5. A representative from the Planning Board shall review and approve the limits of clearing **prior to** the removal of the trees for construction of the roadway. The intent of this provision is to ensure that as many mature trees as possible are retained on the site.
6. The applicant or successors are required to maintain the drainage system prior to the street being accepted as a public road by Town Meeting. The drainage system shall be maintained in accordance with the Operation and Maintenance Plan. Failure by the applicant or successors to maintain the drainage system prior to acceptance will be considered a violation of this approval.
7. Roof runoff for all structures shall be directed into a dry well/infiltration system, located on each individual lot.
8. The drainage system for each phase shall be functional (re: soil stabilized, riprap installed, basins grassed, etc.) prior to a building permit being issued for any new building within that phase. The Applicant shall install Planning Board approved oil & grease traps in the catch basins.


9. The applicant or successors are required to maintain the drainage system until the street is accepted by the Town. Catch basins shall be cleaned yearly or more often if required by the Operation and Maintenance Plan, and prior to the street being accepted as a public road by Town Meeting. In the event of a maintenance failure, the applicant shall be provided notice and the reasonable opportunity to cure any such deficiency; the applicant's failure to cure such deficiency in maintaining the drainage system will be considered a violation of this approval.
10. The applicant or successors shall construct a 6' high vinyl fence on Lot 18 to screen the basin as shown on the Plans.
11. The required width of the roadway right-of-way on Roadway B (Conway Lane) between Lots 6 and 22 has been reduced to ensure the two existing house on the site are in compliance with front setbacks requirements. Permanent easements shall be established in the area of reduced right-of-way to ensure the Town has access to the full width of required right-of-way width.
12. The applicant has the option of either providing deeded public access to the open space within the subdivision, or to contribute \$10,000 to be used to improve access to open space elsewhere in Town. The Planning Board shall determine the location to be improved if the applicant chooses the cash in lieu option. The applicant shall deed access to open space within the subdivision or deliver a check for \$10,000 to the Planning Board prior to or simultaneous with the Town accepting the open space.
13. A construction schedule shall be submitted to the Planning Board for approval prior to the release of any lots.
14. The Applicant shall pay the required construction inspection fee prior to any site work occurring on the property.
15. During stadium events, there shall be no construction vehicle parking along Main Street.
16. The streets shall be public roadways.
17. All stump disposal shall occur off-site.
18. Lots shall be monumented as required by Section 3.02 C.1.k. and easements as required by Section 5.08 D.
19. The erosion control plan must incorporate measures to prevent storm-water and mud (from vehicles) from entering onto Main Street during construction.
20. All work covered under the performance guarantee shall be completed to the satisfaction of the Planning Board prior to the release of such guarantee. Final release of the performance guarantee shall occur after street acceptance. The completion of the project shall occur no later than December 31, 2021 unless extended by the Planning Board. Failure to do so shall be grounds for the Board to reopen the subdivision approval.
21. The subdivision shall be constructed in accordance with the Foxborough Subdivision Regulations unless waivers are specifically granted by the Planning Board.
22. The conditions of this Subdivision Approval shall be added to the final set of approved plans submitted to the Board for signatures.

23. If the project is not completed by December 31, 2021, the Board shall notify the applicant or his successors any time thereafter that the roadway condition and the bond amount shall be reevaluated to ensure adequate surety is being held by the Board based on the existing condition of the roadway, and the anticipated schedule of completion. The applicant has agreed to increase the performance guarantee if the Board determines that insufficient surety is being held. Further, the Board reserves the right to reevaluate the performance guarantee amount being held any time after three years has passed since a reevaluation by the Board has been voted and to increase said surety upon a vote of the Planning Board after notification to the applicant or his successors.
24. The applicant shall report the status of the construction, installation and completion of the subdivision to the Board every six (6) months from the date of the definitive approval.
25. Any proposed change(s) by the Applicant, his successors or assigns from the approved plans deemed substantive by any Town official shall be submitted for review to the Planning Board. The Board shall determine if there is a need for a public hearing and shall then act accordingly on the change(s). All approved revisions shall then be illustrated on the applicable sheets within the plans and submitted to the Planning Office.
26. Mylars of the definitive plans shall be supplied to the Planning Office for endorsement within twenty (20) days after the expiration of the 20 day appeal period has expired or within 20 days from the date of a court notification supporting the Board's approval of the plans if an appeal was filed.
27. The definitive plans, Covenant and this approval letter shall be recorded either at the Registry of Deeds or the Land Court. Three copies of the endorsed, definitive plan and all recording information shall be provided to the Planning Office.

If any of the conditions are not adhered to or are considered violated by the Board, it reserves the right to rescind or modify this Subdivision Approval and Special Permits Approval after proper notification and an opportunity for the subdivider to be heard. Any Appeals to this decision shall be made pursuant to MGL, Chapter 41, Section 81-BB and Chapter 40A, Section 17. They shall be taken within twenty (20) days of the filing of this decision with the Town Clerk.

I, John Rhoads, Vice Chairman of the Foxborough Planning Board, do hereby certify that the above Subdivision entitled "**Lawson Farm**" has been voted Special Permit approval by a super majority of the Foxborough Planning Board (4-0-1, Greene abstained) and Definitive Subdivision Approval (4-0-1, Greene abstained) of the Planning Board at its regularly scheduled meeting on September 1, 2016. A duplicate original of this approval letter shall be provided to the property owner and applicant.

SIGNED:


Vice Chairman

DATED: Sept 8, 2016

cc: Lawson Farm, LLC
 Bay Colony Group, Inc.
 Fire Department
 Building Commissioner
 Board of Selectmen
 Police Department

Chester M. Lawson, Jr. and Richard J. Lawson
Conservation Commission
Highway Department
Board of Assessors
Board of Health
Board of Water & Sewer Commissioners