



TOWN OF BOLTON

PLANNING BOARD

Town Hall, 663 Main Street, Bolton, MA 01740
Phone 978-779-3308 Fax 508-779-5461

PLANNING BOARD TOWN OF BOLTON, MASSACHUSETTS FOSPRD SPECIAL PERMIT

September 27, 2017

Pam Powell, Town Clerk
Town of Bolton
663 Main Street
Bolton, Worcester County, Massachusetts

It is hereby certified by the Planning Board of the Town of Bolton (the "Board"), that at a duly called and properly advertised public hearing of the Board opened and held on August 8, 2017, September 13, 2017 and closed on September 27, 2017, the Board considered a Special Permit application (the "Application") under the Town of Bolton's Zoning Bylaw Section 250-14, Farmland and Open Space Planned Residential Development (FOSPRD), for land located at 649 Main Street and identified by the Assessors as Map 2.0-12 (the "Site").

The Application was submitted on June 22, 2017 by 2 Rock Development LLC (the "Applicant") as the representative for the property owners listed in Exhibit "A" attached hereto and incorporated herein (the "Property Owners"). The Site is shown on a plan entitled "Plan of Land in Bolton, Massachusetts", dated April 19, 2017, and on a plan entitled "Common Driveway, 649 Main Street, Bolton, Massachusetts" dated June 8, 2017 and last revised September 11, 2017 (together, the "Plans"), both prepared by Ducharme and Dillis Civil Design Group, Inc. and submitted as part of the Application.

The Application proposed a division of the Site, as shown on the Plans, as follows: one (1) existing house to be located on Lot 1, four (4) new house lots designated as Lots 2 through 5, and a 17.10-acre parcel designated as "Open Space" consisting of 7.42 acres of upland and 9.68 acres of wetland resource area and/or floodplain.

True copies of the Application, the Plans, all materials submitted to the Board relevant to the Application, and the notices of the public hearing, are made a part of the record of this decision and listed in Exhibit "B" attached hereto and incorporated herein. These materials are on file with the Office of the Planning Board and the Town Clerk. The Applicant and the Board complied with all requirements of M.G.L. c. 40A and the Bolton Zoning Bylaw necessary for the issuance of a special permit.

Members of the Board attending sessions of the public hearing, deliberating and voting on the Petition were David Yesue, Erik Neyland, Mark Sprague, Michal Gorr, and Danielle Spicer.

On September 27, 2017, pursuant to M.G.L. c.39, Section 23.D, Danielle Spicer, a member of the Board, certified in writing that she examined all of the evidence received by the Board including a video recording of the hearing held on September 13, 2017 which she had failed to attend.

Throughout the Board's deliberations, the Board was mindful of the statements of the Applicant and its representatives and the comments of the general public, all as made or received at the public hearing.

When considering the granting of the requested Special Permit, the Board considered and found that the Application and the Plans met the requirements of Section 250-14.H(3) of the Zoning Bylaw, as follows:

1. The proposal restricts development on the Open Space parcel which contains significant farm soils, fields, stone walls, and other areas important to Bolton's rural character;
2. The proposal results in the preservation of buildings with historic significance, as the historic buildings and structures located on the Site will be preserved as required by this decision; and
3. The proposal serves the intent of the FOSPRD Bylaw better than the alternative of a traditional subdivision, as the Plans demonstrate that the proposal would preserve open space, preserve the rural character of Bolton, and provide the Property Owners with an alternative to a traditional subdivision that allows houses to be built in a way that is more in harmony with the local site conditions, without increasing the overall project density of new development.

In addition, based upon the Board's findings under the FOSPRD Bylaw set forth above, in accordance with Section 250-7.B of the Zoning Bylaw, the Board determined that the proposed division and development of the Site, as shown on the Plans, may be carried out without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw, upon consideration during the public hearing and during the Board's deliberations of environmental, economic, fiscal, traffic, public facility, visual, and social consequences of the Applicant's proposal.

With five (5) members present, the Board on September 27, 2017, voted unanimously to approve and issue the Special Permit with the following conditions:

1. The areas designated on the Plans as Open Space shall be designated as Open Space Restriction (OSR) Land, as defined in the FOSPRD Bylaw, and restricted as follows:
 - (a) No buildings may be constructed on the OSR land. No dwellings are allowed to be developed in the OSR area.
 - (b) The OSR Land shall be granted to the Town of Bolton and preferably under the care and custody of the Bolton Conservation Commission. In no event may the OSR in any manner be combined, included or joined with or considered as part of the individual dwelling lot area(s). No portion of the OSR land may be included in determining the minimum dwelling lot areas(s) as prescribed in Section 250-13 or Subsection G(1) of the Bolton Bylaws.
 - (c) The OSR land can be used for passive or active recreation. Active recreation uses cannot cover more than ten (10%) percent of the OSR land.
 - (d) The above three restrictions must be written into the deed of the land in OSR area.
2. The agricultural fields with the ORS Land situated easterly of Lot 5 as shown on the attached Garden Sketch Plan shall remain undisturbed as noted on the Plans. Exclusive farming rights to these agricultural fields may be retained to the Property Owners, Paul & Lynn Landers, for a period of 20 years or until the deed for 649 Main Street (Lot 1 as shown on the Plans) is transferred to another entity unrelated to Paul or Lynn Landers.
3. All recordable instruments necessary to comply with Condition #1 and any supporting agreements shall be submitted to the Board for review and approval by Town Counsel prior to the

issuance of any building permits for any of Lots 1 through 5 (with the goal that such review and approval shall be accomplished within 30 days of submittal). No certificates of occupancy for Lots 1 through 5 shall issue until the original, executed and acknowledged instruments necessary to comply with Condition #1, as approved by Town Counsel, have been delivered to Town Counsel.

4. The existing historical buildings and structures at the Site, including the dwelling and barn, located on Lot 1, shall be preserved and maintained in their present conditions, for at least twenty-four (24) months following the grant of this decision. During that time period, exterior modifications to these buildings and structures, excluding the maintenance and repair of existing façades, may only be allowed through an amendment to this decision.
5. The proposed dwellings to be constructed on Lots 2 through 5 shall be sprinklered in accordance with Section 250-19.1 of the Bolton Zoning Bylaws. The design of the systems shall be reviewed and approved by the Bolton Fire Department.
6. Lots 1 through 5 created pursuant to this decision shall not be subsequently divided to create new building lots not shown on the Plans, and the initial deeds to Lots 1 through 5 shall include a restriction, or shall be subject to a restrictive covenant, (i) prohibiting any subsequent division of the lots to create new building lots not shown on the Plans, and (ii) prohibiting any future use of the Site to provide a right-of-way, common driveway, single or shared driveway, or other means of access to any lots or parcels not shown on the Plans, said restriction or restrictive covenant to be submitted to the Board and for review and approval by Town Counsel prior to the recording of said deeds or other related instruments (with the goal that such review and approval shall be accomplished within 30 days of submittal).
7. Written notice shall be sent to the Board advising the Board that construction will commence not sooner than seven (7) days from the date of the notice given. The Board may elect to impose on the applicant a pre-construction meeting among the applicant and the Board.
8. Construction activities shall be permitted on Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m., and on Saturdays only at the prior approval of the Board in its sole discretion. Construction activities shall not occur on Sundays or on federal holidays. For purposes of this condition, construction activities shall include, but not be limited to each of the following: start-up of equipment or machinery, delivery of building materials and supplies, removal of trees, grubbing, clearing, grading, filling, excavating, import or export of earth materials, installation of utilities both on and off the site, demolition of existing structures, removal of stumps and debris and erection of new structures.
9. Written notice shall be sent to the Board advising the Board that construction will commence not sooner than seven (7) days from the date of the notice given.
10. The Applicant shall submit a Stormwater Pollution Prevention Plan prior to the commencement of any of the improvements and/or work shown on the Plans.
11. All erosion and sedimentation control measures shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediment be deposited in a wetland or waterbody. During construction, the Applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediment as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Town.

12. Utmost care shall be taken in the preservation of a natural woodland buffer as between (a) each of the lots served by the common driveway which is the subject of this special permit, and (b) the Site and its frontage along Main Street.
13. The Planning Board acknowledges the applicant's generous donation of \$10,000.00 (onetime payment) to the Town of Bolton towards Bolton's Pedestrian Mobility Fund, which shall be paid to the Town of Bolton prior to the issuance of the fifth (5th) certificate of occupancy.

This Special Permit shall lapse twenty-four (24) months following the grant thereof (excepting such time required to pursue or await the determination of an appeal referred to in Section 17, Chapter 40A of the General Laws. The Applicant shall submit to the Board within twenty-four (24) months following the grant of the Special Permit (excepting such time required to pursue or await the determination of an appeal referred to in Section 17, Chapter 40A of the General Laws) certified copies evidencing the filing with the Worcester County Registry of Deeds of this Special Permit and any approved plans.

Appeals, if any, to this decision, must be made pursuant to Mass. Gen. Laws C.40A § 17 and must be filed within twenty (20) days after the date of filing of this decision in the office of the Bolton Town Clerk

NOTE TO BOARD: Conditions should be written on the endorsed plan which is to be recorded or should be set forth in a separate instrument, which could be a copy of the approval vote and which should be referenced on the endorsed and recorded plan.

NOTICE TO CLERK: The Board should be notified immediately of any appeal to the Superior Court or Land Court of this Subdivision Approval made within the statutory twenty (20) day appeal period. If no appeal is filed with your office, the Board should be notified at the end of the twenty (20) day appeal period in order that the plans may be endorsed.

RECORD OF VOTE

The following members of the Planning Board vote to grant a special permit subject to the above-stated terms and conditions:

David YESUE, Chairman Clark Heyland
[Signature] [Signature]
[Signature]

Filed With the Town Clerk:

Date: October 3, 2017

By: [Signature]

Title: ASST. Town Clerk

CERTIFICATE OF NO APPEAL

The undersigned, being the Town Clerk of the Town of Bolton, certifies that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Date: _____, 2017

By: _____

Title: _____

Copies sent to:
Applicant/Owner
Ducharme and Dillis
Abutters
Abutting Towns
Bolton Boards and Committees

2017 OCT -3 AM 11:11

Exhibit "A"

PROPERTY OWNERS

Paul & Lynn Landers

C/O Law Offices of Philbin & O'Neil LLC

43 High Street

Clinton, MA 01510

Exhibit "B"

List of Documents

Original Application Documents

1. Common Driveway Application for Special Permit Form dated May 19, 2017.
2. Certified Abutters List.
3. Application Fee.
4. Site Plans entitled "Proposed Common Driveway, 649 Main Street, Bolton, Massachusetts" prepared for Paul & Jennifer Landers by Ducharme & Dillis Civil Design Group, Inc. dated June 8, 2017, Sheets 1-5.
5. Stormwater Report prepared by Ducharme & Dillis Civil Design Group, Inc. for Paul & Jennifer Landers, 649 Main Street, Bolton, MA 01740, dated June 8, 2017.
6. FOSPRD Application dated May 19, 2017.
7. Site Plan entitled "Plan of Land in Bolton, Massachusetts" prepared for Paul & Jennifer Landers, 649 Main Street, Bolton, MA by Ducharme & Dillis Civil Design Group, Inc. dated April 19, 2017.
8. Site Plan entitled "Conceptual Conventional Subdivision, 649 Main Street, Bolton, Massachusetts" prepared for Paul & Jennifer Landers, 205 School Street, Framingham, Massachusetts by Ducharme & Dillis Civil Design Group, Inc. dated June 8, 2017.

August 8, 2017 Hearing Documents

1. Response to Comments Letter, RE: Application for Site Plan Review and Special Permit, 649 Main Street, Bolton, MA, prepared by Ducharme & Dillis Civil Design Group, Inc. dated July 31, 2017.
2. Peer Review Letter, RE: 649 Main Street, Bolton, MA (HEI File no.17003.00), prepared by Hamwey Engineering, Inc. dated August 8, 2017.
3. Site Plans entitled "Proposed Common Driveway, 649 Main Street, Bolton, Massachusetts" prepared for Paul & Jennifer Landers by Ducharme & Dillis Civil Design Group, Inc. revised August 1, 2017, Sheets 1-5.
4. Stormwater Report prepared by Ducharme & Dillis Civil Design Group, Inc. for Paul & Jennifer Landers, 649 Main Street, Bolton, MA 01740, revised August 1, 2017.
5. Site Plan entitled "Conceptual Conventional Subdivision, 649 Main Street, Bolton, Massachusetts" prepared for Paul & Jennifer Landers, 205 School Street, Framingham, Massachusetts by Ducharme & Dillis Civil Design Group, Inc. revised August 1, 2017.
6. Soil data submitted to Hamwey Engineering, Inc.

September 13, 2017 Hearing Documents

1. Response to Comments Letter, RE: Application for Site Plan Review and Special Permit, 649 Main Street, Bolton, MA, prepared by Ducharme & Dillis Civil Design Group, Inc. dated August 31, 2017.
2. Response to Comments Letter, RE: Application for Site Plan Review and Special Permit, 649 Main Street, Bolton, MA, prepared by Ducharme & Dillis Civil Design Group, Inc. dated September 13, 2017.
3. Site Plans entitled "Proposed Common Driveway, 649 Main Street, Bolton, Massachusetts" prepared for Paul & Lynn Landers by Ducharme & Dillis Civil Design Group, Inc. revised August 31, 2017, Sheets 1-5.

4. Site Plans entitled "Proposed Common Driveway, 649 Main Street, Bolton, Massachusetts" prepared for Paul & Lynn Landers by Ducharme & Dillis Civil Design Group, Inc. revised September 11, 2017, Sheets 1-5.
5. Stormwater Report - 649 Main Street Common Driveway prepared by Ducharme & Dillis Civil Design Group, Inc. for 2 Rock Development LLC, 205 School Street, Framingham, MA 01701, dated August 31, 2017.
6. Declaration of Common Drive and Drainage Easements, Main Street, Bolton MA.

Exhibit “A”

GARDEN SKETCH PLAN

