

DETAILS REPORT

**Note: Report is Sorted in Ascending Order by Office, Recorded Date, Document Number

Doc#	Document Type	Town	Book/Page	File Date	Consideration
95078	DECISION	BOLTON	46258/41	09/02/2010	
Street		Street Name		Description	
		SUGAR RD			
Grantors	Grantees		Street	Property Description	
BOLTON TOWN PLANNING , HIGH OAKS REALTY TRUST			SUGAR RD		
References	Book/Pg	Description		Recorded year	
46258/41		DECISION			
References Certificate					



TOWN OF BOLTON PLANNING BOARD

Filed with the Town Clerk on:

 APR 9 7 2010
 AHP

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

 Pamela H. Powell
 TOWN CLERK


Bk: 46258 Pg: 41

Page: 1 of 7 09/02/2010 12:01 PM WD

FINDINGS AND DECISION

 SEE DEED IN BOOK
 42561 AT PAGES
 345 & 349

RE: Application of High Oaks Realty Trust, P.O. Box 381, Groton, MA 01451

DECISION: On April 14, 2010, the Bolton Planning Board (hereinafter referenced as the "Board") voted 5-0 to approve the special permit to allow construction and use of a common driveway to serve five lots and part of the Subdivision Houghton Farm of Bolton, located off of Sugar and Golden Run Roads.

PROCEDURAL HISTORY

An application for a special permit to authorize construction and use of a common driveway to serve four lots by the above-referenced party was filed with the Planning Board on January 19, 2010. The application contained the following items:

- 1) Application Form for Common Driveway Special Permit;
- 2) \$3,100 Application Fee;
- 3) Plan entitled "Proposed Common Driveway Lots 8-11 Bolton, Massachusetts Houghton Farm" prepared for High Oaks Realty Trust by Ducharme and Dillis, Civil Design Group, Inc., (Bolton, MA) dated January 19, 2010;
- 4) Certified Abutters List from Assessor's Office dated October 22, 2009.

A duly posted hearing was opened on February 10, 2010, and continued to February 24, 2010, March 10, 2010 and closed on March 24, 2010. The applicant submitted revisions to the above referenced Common Driveway Profile Plan with revision dates of February 16, 2010 and March 2, 2010 (hereinafter referred to as the "Plan").

1. The Board received an email dated January 30, 2010 from an abutter Mike Guerin in support;
2. Fire Department dated February 10, 2010 with concerns of the angle of the common driveway as well as the signage;
3. Review letter dated February 8, 2010 and February 23, 2010 and an email dated April 5, 2010 from consulting engineer, Rob Oliva of Hamwey Engineering indicating that all previous comments made have been addressed and there are no further comments on the common driveway.
4. Response letter from Ducharme and Dillis Civil Design Group, dated February 18, 2009.

FINDINGS

 * BOOK 17313 PG 497
 MIDDLESEX

A. General

1. The subject property is owned by High Oaks Realty Trust, P.O. Box 381, Groton, MA 01451. Deed reference is Book No. 42561, Page 345-349 at the Worcester District and

identified by the Bolton Assessors as Map 5D-1- & 6D-32.

2. The subject property is located at the intersection of Sugar Road and Golden Run Road and is part of the Houghton Farm Definitive Subdivision of Land entitled "Houghton Farm", dated October 16, 2009 with revisions February 10, 2010 and March 2, 2010 (hereinafter, the "Plan"), prepared by Ducharme and Dillis Civil Design Group, Inc., submitted by High Oaks Realty Trust.
3. The subject property is zoned Residential.
4. The applicant is proposing a common driveway to access four lots shown on a Required" lots (Lots 1 and 2). Lots are shown on the Common Driveway Plan entitled "Proposed Common Driveway Lots 8-11 Bolton, Massachusetts Houghton Farm" prepared for High Oaks Realty Trust by Ducharme and Dillis, Civil Design Group, Inc., (Bolton, MA) dated January 19, 2010 with revision dates February 16, 2010 and March 2, 2010.

Special Permit Criteria

Zoning Bylaw 2.3.5.5 requires the following design criteria for granting a common driveway special permit:

- (a) A common driveway, approved under 2.4.1.2 may serve:
 - three or four lots if at least one is a backland lot.
 - three, four or five lots if two or more are backland lots.

Backland Lots are as defined in and permitted by Special Permit issued under the Town of Bolton's Zoning Bylaw 2.3.5.5 Backland Zoning. A lot served is any lot crossed by, whether or not any building or any dwelling on the lot, is actually accessed and/or served by this Common Driveway, or lot on which any building or any dwelling is accessed and/or served by this Common Driveway. All such lots must be included in the list and number of lots served.

- (b) Each lot served by the common driveway must have permanent access to the Common Driveway pursuant to an Easement Agreement acceptable to the Planning Board and the Deed to each lot served on a Common Driveway must reference this Easement Agreement. The Easement Agreement is to be recorded along with the Special Permit with the Worcester Registry of Deeds or with the Worcester County Land Court.
- (c) Any deeds of ownership of lots served by a common driveway shall require that the owners of said lots must be members of a maintenance association, whose purpose is to provide for maintenance of the common driveway, which shall include, but not be limited to, snow plowing and maintaining design specifications. This maintenance association must be created by a Maintenance Association Agreement acceptable to the Planning Board and the Deed to each lot served on a Common Driveway must reference this Maintenance Association Agreement. This Maintenance Association Agreement is to be recorded along with the Special Permit with the Worcester Registry of Deeds or with the Worcester County Land Court.

- (d) The common driveway is defined as extending from the approved or accepted right-of-way to which it is attached, to the point it serves only one lot, the so-called terminus. A Common Driveway may have more than one terminus. The common driveway shall be connected to an approved or accepted right-of-way at one, and only one, point. The entire common driveway must lie within the lots served, and in the Town of Bolton.
- (e) The common driveway must meet the design criteria of this bylaw, and any additional design criteria established by the Planning Board in regulations duly voted by said Board according to law. The design criteria of this bylaw are:
1. Twelve (12) feet minimum width of wear surface.
 2. A minimum of eight (8) inches of gravel wear surface.
 3. The first forty (40) feet of the common driveway from an approved or accepted right-of-way must have a slope of four (4%) percent or less.
 4. Suitable drainage appurtenances to prevent excessive erosion. These Drainage appurtenances must further ensure to the satisfaction of the Planning Board that all proposed activity and all development, including the construction of dwellings, lawns and other impervious areas for all lots to be served by this Common Driveway, in no manner contribute to additional drainage onto any abutting property or onto any accepted or approved right of way.
 5. A maximum slope of twelve (12%) percent.
 6. The centerline intersection with an approved or accepted right-of-way must be sixty (60) degrees or more.
 7. A turnaround located near each terminus, which location must be acceptable to the Planning Board, of at least forty (40) feet width and thirty (30) feet depth.
 8. An intercept width with the approved or accepted right-of-way of at least fifty (50) feet.
 9. A staging area of at least forty (40) feet in length and a minimum of twenty (20) feet in width at the streetline, tapering to a minimum of twelve (12) feet in width at forty (40) feet from the streetline.
 10. Passing turnouts must be constructed which provide a total width of at least eighteen (18) feet along a distance of at least twenty five (25) feet, spaced no more than three hundred (300) feet between turnouts or at a lesser interval where in the Planning Board's opinion a lesser distance is warranted for safety considerations.
 11. The length must be such that the distance along the Common Driveway centerline to each building or dwelling served by the Common Driveway will not exceed 1800 feet from the street sideline, and that the length along any of its individual driveways measured from the centerline of the Common Driveway to any building or dwelling served by the Common Driveway shall not exceed 800 feet.
 12. Signs to direct emergency access must be installed at the streetline and at each driveway intersection with the Common Driveway.
 13. The centerline of the Common Driveway cannot be located closer than thirty five (35) feet to the centerline of any approved or constructed single dwelling driveway or Shared Driveway.

B. Specific Findings

1. The proposed activity may be carried out without substantial detriment to the public good;
2. The proposed activity may be carried out without nullifying or substantially derogating from the intent or purpose of the Town of Bolton Zoning Bylaws;
3. The Plan protects the safety, convenience and welfare of the inhabitants of the Town of Bolton and complies with the Bylaws of the Town of Bolton and with the Town of Bolton's Common Driveway Rules and Regulations;
4. The proposed Common Driveway exercises due respect for:
 - Town of Bolton's Bylaws;
 - The adequacy of the legal agreements for the maintenance of and access to the Common Driveway and Storm Water Management System;
 - The adequacy of the Common Driveway to provide access to vehicles carrying materials which are potentially hazardous if spilled, such as heating oil;
 - The environmental impact on wetlands and water resource areas.

DECISION

In view of the foregoing, the Bolton Planning Board (hereinafter referenced as the "Board") voted unanimously to approve the special permit seeking construction and use of a common driveway to serve five building lots. The decision is subject to the following conditions:

1. Approval is conditioned upon recording of the "Declaration of Easements and Covenants for A Common Driveway with the Worcester Registry of Deeds satisfactory to and reviewed by the Board. The Plan and the Common Driveway Easement and Maintenance Agreement are to be recorded with the Worcester Registry of Deeds prior to the commencement of any of the improvements and/or work approved in the Plan. A copy of the recorded Common Driveway Easement and Maintenance Agreement is to be delivered to Board before work will commence. Such maintenance agreement shall contain a plan reference that demarcates the easement boundaries, and requires that any deeds of ownership of lots served by a common driveway will document that owners of said lots must be members of a maintenance association whose purpose is to provide for maintenance of the common driveway.
2. Each lot served by the common driveway must have permanent access to the Common Driveway pursuant to an Easement Agreement acceptable to the Planning Board and the Deed to each lot served on a Common Driveway must reference this Easement Agreement. The Easement Agreement is to be recorded along with the Special Permit with the Worcester Registry of Deeds or with the Worcester County Land Court.
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with the Special Permit with the Worcester Registry of Deeds or with the Worcester County Land Court.

4. The Applicant shall not transfer or be issued a building permit for the final building lot until an As-built Plan of the Common Driveway has been approved by the Board or until surety posted which in the reasonable judgment of the Board shall be sufficient to complete the work shown in the Plan.
5. If the Common Driveway and/or its drainage appurtenances are not built in substantial conformance with the approved Plan; or in accordance with subsequent changes approved by the Board after a public hearing, the Special Permit will be rendered invalid.
6. The Common Driveway is to be constructed and completed and an As Built Plan satisfactory to the Board must be filed with the Board upon completion of the driveway. The as-built plan shall be filed within twenty-four (24) months of the initial date of approval.
7. Three (3) copies of the As Built Plan shall be submitted to the Board. These As-built plans should reflect all of the improvements as constructed and as required by the original approved Plan. The Board shall have sixty (60) days to review the As Built Plan. If the Common Driveway has been constructed according to the Plan or with such changes as the Board has previously approved then the Board shall vote to endorse the As Built Plan. If significant changes to the approved design have been made without prior notice to the Board, the Board shall not endorse the As-Built Plan until such time as the Applicant has corrected those items which fail to conform to the Plan, which correction(s) shall be made within sixty (60) days of Applicant's receipt of written notice from the Board that such corrections are required. If necessary and appropriate, the Board may order the Applicant to make corrections on an "emergency" and/or temporary basis. If the Applicant fails to correct any such item within the times provided above, the Board will not endorse the As-Built Plan and the Special Permit will be rendered invalid.
8. Approval is conditioned on the applicant's full compliance with Bolton By-Law Section 1.13. The applicant shall obtain street numbers from the building inspector and immediately post street numbers pursuant to Bolton By-Law 1.13.3.
9. The driveway cannot be used to provide access to lots not shown on the approved plan.
10. The paving shall consist of a binder course (a minimum one and one-half (1.5) inches compacted thickness) followed by a wearing course (a minimum one and one-half (1.5) inches compacted thickness) per MDPW specifications section 460 class I bituminous concrete pavement, type I-1. The bituminous binder shall not be applied between November 15 and April 1 without prior written approval from the Board. Equipment having crawler tracks or other treads that mar or damage pavement shall not move or operate on newly constructed pavement unless precautions are taken to prevent damage to pavements.
11. Approval is conditioned upon only the two submitted and approved waivers requested by the Applicant to the Town of Bolton Bylaws:

1) Section 3.C (2) Cross Section of the Common Driveway Regulations


The Regulations require that the cross sections show the amount of crown and the shoulders and drainage ditches. The crown must be at least ½ inch per foot. The Board's consulting engineer, Hamwey Engineering indicated that the proposed crown of 2% (or 1/4" per foot) is adequate for a 12' wide driveway. **The Board approved this waiver request.**


2) Grassed Swales Velocity - Section 5233 (r) of the Subdivision Rules and Regulations.

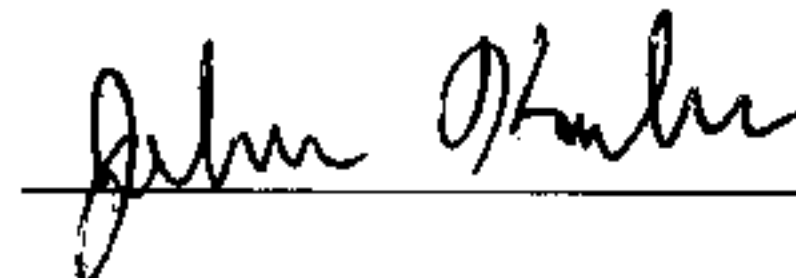
The Plan was revised to include riprap reinforcement where the velocity will exceed the maximum three feet per second. The Board's consulting engineer, Hamwey engineering is satisfied with the revisions. **The Board approved this waiver request.**

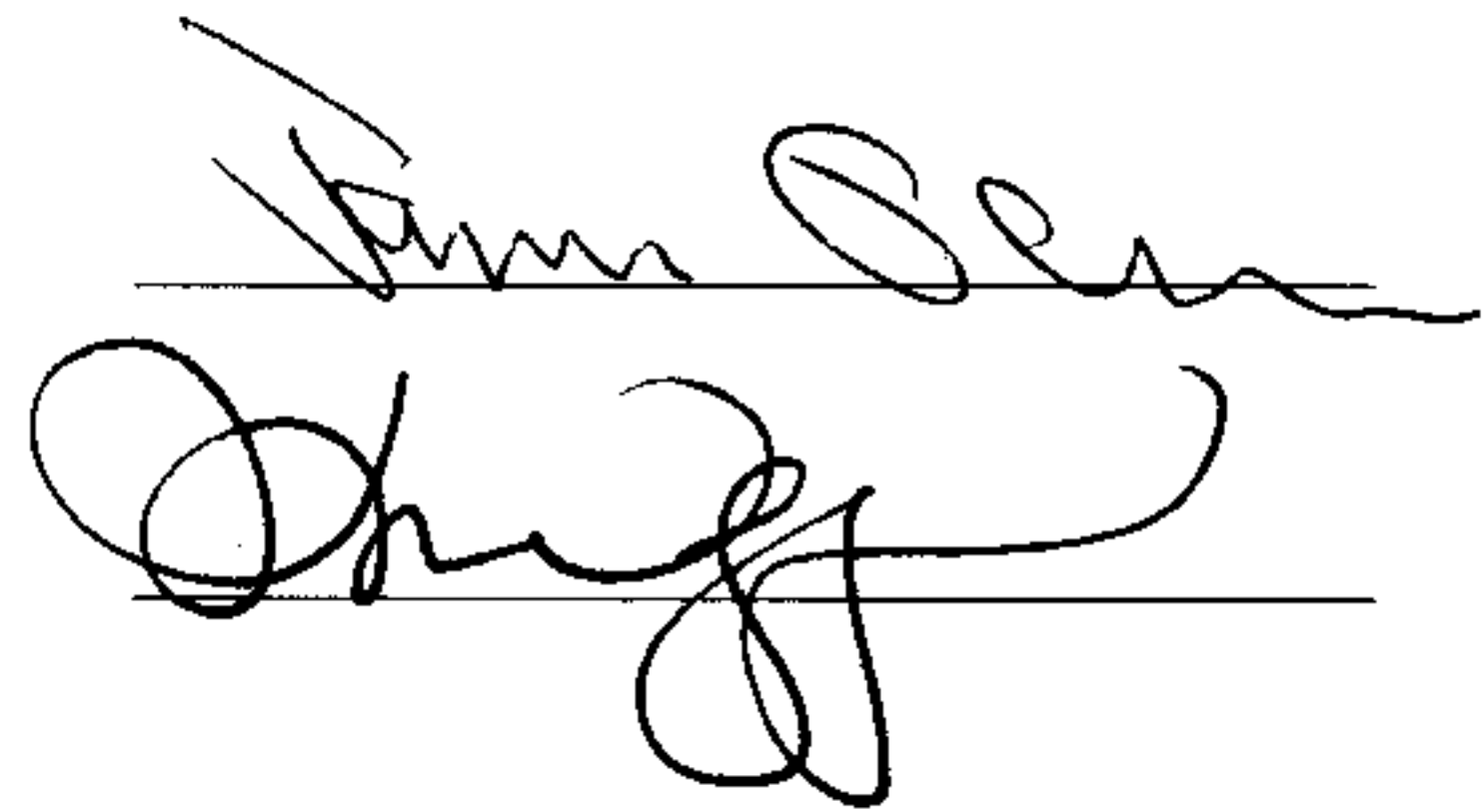
RECORD OF VOTE

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

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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).

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.

This decision shall not take effect until a copy of this decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after this decision has been filed in the office of the Town Clerk, and that no appeal has been filed within said twenty (20) days; or that, if such appeal has been filed, that it has been dismissed or denied. Further, this decision shall not take effect until it is recorded in the Worcester County Registry of Deeds and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certification of title.

APR 17 2010
PHP

Filed With the Town Clerk:

Date: _____, 2010

By: _____

Title: _____

Pamela H. Powell
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: May 18, 2010

By: _____

Title: _____

Pamela H. Powell
Town Clerk

Copies sent to:

High Oaks Realty Trust

Ducharme and Dillis

Abutters

Abutting Towns

Bolton Boards and Committees