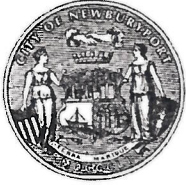


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CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400

DEFINITIVE SUBDIVISION PLAN APPROVAL

APPLICANT: Gorman Homes LLC
3 Archelaus Hill
West Newbury, MA 01985

FILE NO: 2017-DEF-03

PROPERTY ADDRESS: 32 Union Street

DECISION DATE: 4/18/2018

MAP/PARCEL(S): 31-29-A

BOOK/PAGE: 35300-509

ZONING DISTRICT: R2

DESCRIPTION: 2 lot subdivision

PROCEDURAL HISTORY:

An application for Definitive Subdivision Plan approval pursuant to the Rules and Regulations Governing the Subdivision of Land was made by the above-referenced owner and filed with the Planning Board on 6/15/2017.

Notice of the public hearing was published on 7/3/2017 and 7/11/2017 in the Newburyport Daily News.

A public hearing on the application for a Definitive Subdivision Plan approval was held at Newburyport City Hall on 7/19/2017 and continued to 9/6/17, 9/20/17, 10/4/17, 11/1/17, 12/6/17, 1/17/18, 2/21/18, 3/21/18, and 4/18/18.

After the close of the public hearing on 4/18/2018, the Planning Board, upon a motion made by member Leah McGavern and seconded by Anne Gardner, voted to **APPROVE** the Definitive Subdivision Plan. The motion having received the necessary two-thirds super majority vote of all the members of the Planning Board, in accordance with M.G.L. Chapter 41 Section 81, as amended, the petition for the Definitive Subdivision Plan approval was therefore granted.

The members of the Planning Board voted as follows with respect to the petition subject to the following terms and conditions:

Bonnie Sontag, Chair	<u>Yes</u>	James Brugger	<u>Abstain</u>	M.J. Verde	<u>Absent</u>
Don Walters	<u>Yes</u>	Anne Gardner	<u>Yes</u>	Joe Lamb	<u>Absent</u>
Leah McGavern	<u>Yes</u>	Andrew Shapiro	<u>Yes</u>	Tania Hartford	<u>Abstain</u>

PLANS AND DOCUMENTS:

- 1) This Definitive Subdivision Plan application is accompanied and augmented by the following plans and drawings:
 - Plan Set titled, 'Definitive Subdivision Newburyport, MA Assessors Map 31 Lot 29-A', prepared by Millennium Engineering, Inc., 62 Elm Street, Salisbury, MA 01952, dated June 14, 2017 and revised to March 21, 2018:
 - Cover Sheet, Sheet 1 of 6
 - Existing Conditions, Sheet 2 of 6
 - Lot Layout Plan, Sheet 3 of 6
 - Site Plan, Sheet 4 of 6
 - Plan & Profile, Sheet 5 of 6
 - Site Details, Sheet 6 of 6
 - Long-Term Pollution Prevention Plan and Operation & Maintenance Plan, prepared by Millennium Engineering, Inc., dated March 21, 2018.
 - Architectural Elevations, prepared by Scott M. Brown, 29 Water Street, Suite 209, Newburyport, MA 01950, dated March 28, 2018.
 - Landscape Concept prepared by Howard Snyder, 68 Warren Street, Newburyport, MA, 01950, dated March 30, 2018.
- 2) The plans and other submission material were reviewed by the Planning Board, its legal counsel and consulting engineer as follows:
 - Peer Review Comments prepared by Christiansen & Sergi, Inc., 160 Summer Street, Haverhill, MA 01830, dated July 19, 2017, April 5, 2018, and April 17, 2018.
 - Comments from City Officials: Molly Ettenborough, Recycling and Energy Manager, 6/21/17; Dan Lynch, Distribution System Manager, 6/21/17; Jamie Tuccolo, Collection System Superintendent, 6/27/17; Crispin Miller, Chair, Tree Commission, 7/2/17; Frank Giacalone, Director of Public Health, 7/6/17; Steve Bradbury, Deputy Chief, Fire Department, 7/10/17 and 2/26/18.
- 3) Throughout its deliberations the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing.

FINDINGS:

Pursuant to Section 5.7 of the Rules and Regulations Governing the Subdivision of Land in Newburyport, the Board generally finds the following to be credible statements about the proposed Subdivision:

1. Complete and technically adequate plans and supporting material: The Board and its Peer Review engineers have reviewed all submission materials and supporting documents and have found that the application is complete and the plans, as revised and conditioned hereto, are technically adequate to merit an approval of the Definitive Subdivision Plan under the

City's Rules and Regulations Governing the Subdivision of Land.

2. Adequate access to all of the lots in the subdivision by ways that will be safe and convenient for travel: The small court shall provide adequate and safe access to the home on Lot 1 while the home on Lot 2 will be accessed via existing frontage on Union Street.
3. Lessened congestion in such ways and in the adjacent public ways: The two-lot subdivision is not anticipated to contribute to congestion on adjacent public ways.
4. Reduced danger to the life and limb in the operation of motor vehicles: The court shall be constructed so as to reduce danger to the life and limb in the operation of motor vehicles. The paved-width of 16' is sufficient to provide access to the single-family dwelling. The turnaround easement, which is to be placed on a portion of the driveway, will allow for safe movement of emergency vehicles and first responders.
5. Secured safety in the case of fire, flood, panic and other emergencies: The applicant and/or owner of Lot 1 shall install a sprinkler system within the dwelling unit so that there is an increase in fire safety measures given the reduced pavement width of 16' along the court that provides access to said lot.
6. Compliance with applicable zoning ordinances: The project shall be in compliance with applicable zoning provisions upon the applicant obtaining a Courts and Lanes Special Permit from the Planning Board.
7. Adequate provisions for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision: This two-lot subdivision has been engineered to provide all public and private utilities.
8. Coordination of the ways in neighboring subdivisions: The scale of the subdivision and its location is such that coordination with neighboring subdivisions is not required. The access point from Beacon Street exists and will be improved for use by Lot 1 and the existing public way, Union Street, will provide access to Lot 2.
9. Conformance with the design and construction standards described in the Rules and Regulations Governing the Subdivision of Land and in the attached Appendices: The subdivision conforms to the applicable standards with the exception of those waived via this approval. These approved waivers as listed and described herein.
10. Conformance with all applicable zoning requirements: The project shall be in conformance with applicable zoning provisions upon the applicant obtaining a Courts and Lanes Special Permit from the Planning Board.

WAIVERS:

In accordance with M.G.L. Chapter 41 Section 81-R Waiver of Compliance and in consideration of the above referenced findings, the following waivers are granted as such actions are in the public interest and not inconsistent with the intent and purpose of the subdivision control law.

- 6.8.1 - Applicant to pave a width of 16' rather than the required 20' wide pavement from Beacon Street to Lot 1 since this accessway will essentially serve as a driveway to one residential lot. This will maintain the feeling of a rural roadway and will minimize impervious surface while providing safe vehicular access to the site. The Newburyport Fire Department has approved of this reduced pavement width so long as the applicant installs a sprinkler system in the new home.

- 6.8.1 - Applicant will place an easement on a portion of the proposed driveway for the home on Lot 1 to allow for turnaround capability for emergency responders rather than construct the required cul-de-sac.
- 6.9 and Appendix 1B - The Applicant shall not install granite curbing along the Court since the roadway essentially serves as a driveway. This absence of curbing will maintain the feeling of a rural roadway.
- 6.11 and Appendix 1C - The Court shall not feature sidewalks since the roadway is private and will essentially serve as a driveway to the home on Lot 1.
- 6.18 - The Applicant is including extensive landscaping throughout and around the project site and therefore does not need to meet the requirement for providing street trees along the court.
- 6.21 - The lighting for the court will be provided through landscape lighting and lights to be installed on the new dwellings and therefore does not need to meet the requirement to provide street lighting.

CONDITIONS:

This Planning Board approval represents a schematic approval for the project. This approval does not represent a final approval of the utility design and details or fire safety measures. The applicant, owner, successors or assigns shall be responsible for designing the utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval.

This Definitive Subdivision Plan approval is conditioned upon the following:

1. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the approved plans which are incorporated herein by reference. Should the applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the Board of the proposed modifications in writing and obtain approval from the Planning Board for such modifications prior to making any changes 'in the field'. The Board shall then determine whether such modifications are minor or major in nature and shall subsequently schedule a public meeting or hearing, respectively, to review the proposed changes.
2. Performance Guarantee: After expiration of the appeal period yet before its endorsement of the plan, the Board shall require a performance guarantee pursuant to the City of Newburyport's Rules and Regulations Governing the Subdivision of Land (the 'Subdivision Regulations') Section 5.8 to insure the construction of ways and the installation of municipal services.
3. Project Review Fees: Per Section 4 of the Planning Board's Regulations Governing Fees and Fee Schedules, Project Review Fees shall be paid in full prior to endorsement of the plan. When the balance in an applicant's project review account falls below twenty-five percent (25%) of the initial project review fee, the applicant shall replenish said account to the initial amount of the project review fee.
4. Planning Board Endorsement: In accordance with Subdivision Regulations Section 5.9, the Definitive Plan must receive endorsement by a majority of Planning Board members and be stamped by the City Clerk. Said endorsement shall follow the expiration of the twenty (20) day appeal period.

5. Recording of Decision and Approved Plan(s): As per Subdivision Regulations Section 5.9.2, the applicant/developer shall record this Definitive Plan approval, subject to its waivers and conditions, along with plans, covenants, and easements, at the Southern Essex District Registry of Deeds and notify the Planning Board of such recording. If the endorsement on the plan or the certificate which accompanies the plan is not dated within six (6) months of the date of recording, the applicant shall apply to the Planning Board for a certificate which shall be endorsed on the plan or referred to on the plan and recorded with the plan. The certificate must be dated within thirty (30) days of the recording. The certificate shall state: "the approval has not been modified, amended, or rescinded, nor the plan changed."
6. Digital Plans: Prior to any construction, the applicant shall provide the Office of Planning & Development with one (1) copy of the entire approved plan set in both CAD and .pdf formats. All digital mapping data must be delivered in the Massachusetts State Plane Coordinate system with a horizontal datum of NAD83, units of U.S. survey feet and a vertical datum of NAVD 88.
7. Construction Schedule and Contact List: Prior to any construction, the applicant shall provide to the Office of Planning & Development an estimated Construction Schedule and a Permit Compliance Contact Form (available in the Office of Planning & Development).
8. Privately-Owned Infrastructure: Approval by the Board of a Definitive Subdivision Plan shall not constitute acceptance by the City of Newburyport of any street, sidewalk, or other municipal service within the subdivision as per Subdivision Regulations Section 5.14.1.
9. Board of Health Approval: Approval by the Planning Board of this Plan shall not be treated as, nor deemed to be, approval by the Board of Health for a permit for the construction and use on any lot. No building or structure shall be placed on any lot without the consent of the Board of Health, if required.
10. Provision of Construction Documents to DPS: Prior to applying for a permit to conduct site work and/or a Building Permit, the applicant, owner, his successors or assigns, shall submit to DPS construction documents showing water, sewer, and drain utilities, including plan/profiles, details, and technical specifications at a minimum of a 90% design phase for their review and approval. DPS will not approve the design until they are satisfied it complies with applicable federal, state, and local standards and regulations. The applicant shall provide documentation to the Building Commissioner with the application for a Building Permit illustrating that the project, as designed, has been reviewed and approved by the Water, Sewer, and Engineering Divisions.
11. Curb Cuts: Any new driveway curb cuts that has egress to the public right of way, must be approved in advance of the building permit by the Director of Public Services or Designee.
12. Fire Department Review and Approval: Prior to applying for a permit to conduct site work and/or a Building Permit, the applicant, owner, his successors or assigns, shall submit to the Fire Department construction documents showing compliance with fire safety codes and regulations at a minimum of a 90% design phase for review and approval. The Fire Department will not approve the design until it is satisfied it complies with applicable federal, state, and local standards and regulations. The applicant shall provide documentation to the Building Commissioner with the application for a Building Permit illustrating that the project, as designed, has been reviewed and approved by the Newburyport Fire Department.
13. Stormwater Management Permit: Prior to beginning any site work and/or construction, the applicant, owner, and/or developer shall obtain a Stormwater Management Permit under the City of Newburyport Stormwater Management Ordinance (Code of Ordinances, Chapter XVII) from the Department of Public Services since the project involves more than 10,000

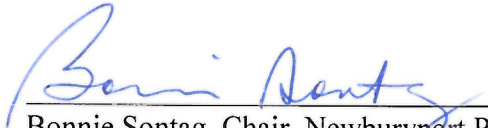
square feet of land disturbance.

14. Completion of Ways and Utilities: Pursuant to Subdivision Regulations Section 5.15, plan approval shall automatically lapse if the applicant/developer fails to complete construction of all ways and installation of municipal services in a subdivision within three (3) years of the date of approval. No way shall be laid out, constructed, or opened for public use unless and until a new Definitive Plan application has been filed in accordance with the Subdivision Regulations then in effect and the new plan has been approved by the Board. The applicant, owner, and/or developer may request an extension from the Board prior to the lapse in the Definitive Subdivision approval.
15. Inspections: The Board, its officers, and agents may enter upon any lands and there make examinations and surveys or to place and maintain monuments and marks as far as they deem necessary in carrying out the subdivision control law, pursuant to Subdivision Regulations Section 5.16.
16. Hours of Construction: The developer shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 5 p.m. Monday through Friday and 8 a.m. and 4 p.m. on Saturday, unless a specific waiver is requested. The Planning Board and the City Marshal shall approve such waiver.
17. Lot Releases: Before any lots are released for building purposes, the necessary drainage (including retention and/or detention basins) shall be installed, water mains and water services to lot lines shall be installed, rough and finished grading shall be at proper grades and the first or base course of bituminous concrete shall be installed, all to the satisfaction of the Planning Board, its delegated inspection agent, and the Department of Services. Lots shall be released upon deposit of suitable financial security against the completion of the subdivision. Whenever the applicant seeks approval for the issuance of Lot Releases or whenever the applicants seek to alter the amount of financial security being held by the board, the applicant shall submit a written request to the Office of Planning & Development to initiate the requisite inspectional services.
18. Certification of Completed Installation: Subdivision Regulations Section 5.10 requires that the applicant shall send by registered mail to the City Clerk and to the Planning Board a written statement that said construction or installation has been completed in accordance with the Subdivision Regulations upon the completion of such construction and installation to serve any lot or lots. The statement shall include the address of the applicant.
19. Submission of As-Built Plans: One hard copy and one .pdf copy of as-built plans stamped by a professional engineer showing new construction, renovation, or expansion shall be submitted to the Office of Planning & Development at the completion of the project. Said plans shall contain a certification, made by a registered architect or civil engineer, that what was constructed is consistent with approved plans and conditions set forth by the Planning Board as part of this Definitive Subdivision Plan approval.
20. Conformance with Conditions of the Special Permit Decision: Unless otherwise specified in this decision, the applicant, owner, and/or developer shall comply with all of the conditions listed in the Special Permit decision, especially those listed as 'Special Conditions'.

DATE OF FILING OF DECISION:

Filed with the Newburyport City Clerk on 4/23/18 and sent registered mail to the applicant.

SIGNATURE OF THE BOARD:



Bonnie Sontag, Chair, Newburyport Planning Board

NOTICE OF APPELLATE RIGHTS:

Appeals shall be made pursuant to M.G.L. Chapter 41 Section 81BB and filed within twenty (20) days after the date of filing this decision in the Office of City Clerk.

CITY CLERK CERTIFICATION:

I, Richard Jones, City Clerk of the City of Newburyport, Massachusetts, hereby certify that this Definitive Subdivision Plan approval was received and recorded in this office on 4/23/18. Twenty (20) days have elapsed since the decision was filed and NO APPEAL has been filed.

City Clerk

Date