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

SPECIAL PERMIT DECISION

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

FILE NO: 2018-SP-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: allow a court to service one home in a two lot subdivision

PROCEDURAL HISTORY:

An application for a Special Permit pursuant to Section XXIII Courts and Lanes of the City of Newburyport's Zoning Ordinance was made by the above-referenced owner and filed with the Planning Board on 1/31/2018.

Notice of the public hearing was published on 3/6/2018 and 3/13/2018 in the Newburyport Daily News.

A public hearing on the application was held at Newburyport City Hall on 3/21/2018 and continued to 4/18/18.

After the close of the public hearing on 4/18/2018, the Planning Board, upon a motion made by member Don Walters and seconded by Anne Gardner, voted to **APPROVE** the application for a Special Permit. 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 40A Section 9, as amended, the petition was therefore granted.

The members of the Planning Board voted as follows with respect to the petition for a Special Permit 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>Yes</u>

PLANS AND DOCUMENTS:

1. This Special Permit application is accompanied and augmented by the following plans, drawings, and submittals:
 - 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., 62 Elm Street, Salisbury, MA 01952, 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:

The Project involves the subdivision of the existing parcel into two, single-family, properties. The existing frontage along Beacon Avenue will be improved and will provide access to the home on Lot 1 while the existing frontage on Union Street shall provide access to the home on Lot 2. The proposed homes, the landscaping, and the public improvements as described and indicated on the aforementioned plans and documents result in a development that will not adversely impact the surrounding neighborhood and meets all of the Special Permit criteria.

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.

In view of the foregoing, the Planning Board hereby decides to grant a XXIII Courts and Lanes Special Permit in accordance with the terms and conditions stated below:

1. Recording of Decision and Approved Plans: Recording of Special Permit Decision: The special permit (with all plans, elevations, and referenced exhibits) shall be recorded at the Southern Essex District Registry of Deeds against the existing parcel prior to the two lots being created, and a note reference to the special permit on the Definitive Subdivision Plan shall be used in connection with creating the two lots and the deeds for both lots shall reference the recorded special permit (including all required stipulations) – binding and running with both lots.
2. Engineer Certification: Prior to the granting of a Building Permit, the applicant shall submit the written certification of a registered Architect or Civil Engineer to the Building Commissioner that the project will be constructed in accordance with the approved plans and conditions.
3. Provision of Construction Documents to DPS: Prior to applying for a permit to conduct site work, including tree clearing, a Building Permit, and/or a foundation permit, the applicant, owner, his successors or assigns, shall provide construction documents showing water and sewer utilities, details, and design at the 25%, 50%, and 75% and 90% design phase to ensure compliance with Newburyport Department of Public Services standards for water and sewer utilities. The applicant shall submit four complete sets of the approved 100% design plans to DPS before the building permit is issued. 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.
4. 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.
5. 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.
6. 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.

7. 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.
8. 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.
9. 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 and 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 Special Permit.
10. Validity of Approval: This special permit is valid for two years. The permit shall no longer be valid if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause, within this two-year period. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL, Chapter 40A, Section 17.
11. Conformance with Conditions of the Definitive Subdivision Approval: Unless otherwise specified in this decision, the applicant, owner, and/or developer shall comply with all of the conditions listed in the Definitive Subdivision Approval, especially those listed as 'Special Conditions'.
12. Construction in the AE Flood Zone: The applicant, property owner, successors or assigns, shall file a Request for Determination with the Newburyport Conservation Commission for the proposed home on Lot 2 – a portion of which is in the AE flood zone and the City's Floodplain Overlay District. The applicant shall not apply for any permits, including foundation permits, nor conduct any site work, including tree clearing, until such filing is made with the Commission and all approvals are issued by same for this work in the flood zone.
13. Restrictive Covenant: A restrictive covenant shall be recorded at the Southern Essex District Registry of Deeds to the benefit of the City and directly abutting property owners that (1) restricts the use of the principal structures on Lot 1 and Lot 2 to a single-family use, (2) requires preservation (during and after construction) of the existing five evergreen trees along Union Street and, to the extent feasible, the existing hedges along Perkins Playground, and (3) prohibits any future upward extension of the garage structures or any future encroachment of the principal structures toward the abutting MEC property (Map 31 Lot 29).
14. Turnaround Easement Language and Recording: Prior to any site work and/or construction, the applicant shall submit draft language for the 'Proposed Turnaround Easement' to the Office of Planning & Development for review. This language shall include provisions regarding maintenance by the owner of proposed Lot 1 to ensure that the paved turnaround area is kept free and clear of snow and other debris at all times and that there shall be no plantings or fencing in

the designated paved turnaround easement area. Upon review and approval of said language and prior to obtaining a building and/or foundation permit for Lot 1, the applicant shall record the easement at the Southern Essex District Registry of Deeds. Proof of said recording shall be submitted to the Office of Planning & Development.

15. Conformance to Approved Plans: The final construction drawings associated with a Building Permit(s) for the proposed single-family structures on Lot 1 and Lot 2 and the construction of those buildings shall strictly conform to the elevations, including the proposed maximum building height under both the Zoning Ordinance and the Ridge as shown (+/- 6 inches), labelled "Proposed Elevations", for 'Proposed New Residence: Lot No.1' and 'Proposed New Residence: Lot No.2', prepared by Scott Brown, AIA, dated 3-28-18 (as revised) and the proposed setbacks, lot grading, drainage, and footprints shown on the "Definitive Subdivision Plan of Land" showing 'proposed subdivision at 32 Union Street, Newburyport, MA', prepared for Gorman Home, LLC by Millennium Engineering, Inc., dated 3-21-18 (as revised). For quality assurance and consistency with the approval, the Registered Design Professional and Civil Engineer for the project shall certify such conformance with a written affidavit that shall be submitted to the Planning Department in advance of construction.
16. Preservation of Existing Evergreen Trees: All five (5) of the existing evergreen trees located directly along the Union Street frontage of Lot 2 shall be preserved and they shall be protected during construction with a hurricane fence located along the drip line. Such fencing shall be installed prior to commencement of the pre-construction meeting.
17. View Easement: A view easement to the benefit of 7 Beacon Ave. shall be recorded at the Southern Essex District Registry of Deeds that permanently protects the 58 foot +/- view corridor on both lots from #7 Beacon Ave., between the two proposed houses, easterly to the Merrimac River and Plum Island. Such easement area shall be shown on the recorded Definitive Subdivision Plan and, except for: (1) fences or vegetation less than 5 feet in height from grade; (2) in-ground pools; (3) accessory structures less than 100 SF in size and 10 feet in height; and, (4) a single shade or evergreen tree planted within 15 feet of the proposed single family house on Lot 2 (as shown on the revised Landscape Plan dated 3-30-18 and subject to approval of the easement holder), no other trees or permanent structures shall be permitted within the recorded view easement area.
18. Construction Management Plan: A detailed Construction Management Plan (CMP) shall be submitted to the Office of Planning & Development and a copy shall be posted on the property during construction. The plan shall be used to coordinate contractors and provide a primary point-of-contact, manage on- and off-street parking for the general- and sub-contractors, any sidewalk closures, construction sequencing, and ensure the hours of operations for construction adhere to all applicable city ordinances. All dumpsters and portable toilets shall be located on-site during construction and be located toward the southeastern corner of Lot 1. The CMP and written notification for a Pre-Construction Meeting shall be provided to the abutting property owners (on both side of the street) at least ten (10) business days prior to the meeting. The applicant, owner, and/or developer shall contact the Office of Planning & Development to begin the process of scheduling this meeting.
19. Simultaneous Construction of Homes: If feasible, the CMP shall require construction of Lots 1 and 2 simultaneously so as to constrict the overall construction time period and associated neighborhood disturbance.
20. Utility Connections for Lot 1: As requested by the Public Works Department, the sewer and water connection to the structure on Lot 1 shall be off Beacon Ave.

21. Conformance to Health Department Regulations: As required by the Health Department, the slab grades for both lots shall meet the city's separation requirements from the seasonal high ground water level.
22. Fire Prevention for Lot 1: The new home on Lot 1 shall include a sprinkler system. The water line for this system shall be installed as per indicated by the City of Newburyport Water Services Division. The applicant, owner and/or developer shall consult with said division prior to obtaining a building permit to ensure that the water access is sufficient.
23. Prior to Occupancy Permit:
 - a. On-Site Improvements: The Registered Landscape Architect shall certify with a written affidavit that the landscaping has been installed in adherence to the approved landscape plan dated 3-30-18. A surety bond or other performance guarantee in an amount that shall cover the costs of the remaining site work as reviewed and approved by the Planning Board at a regular meeting, shall be provided to the City for instances where the landscaping is incomplete due to weather conditions at the time of occupancy.
 - b. Off-Site Improvements: The following improvements shall be completed as follows,
 - i. As shown on the landscape plan, subject to approval from the Department of Public Works, 100 feet +/- of the existing concrete sidewalk in front of 31.5 and 33 Union Street and 330 feet +/- of the existing grass, concrete, & asphalt sidewalk in front of 30-32 Union Street & 7 Beacon Ave. shall be replaced with a full-depth brick;
 - ii. A granite cobblestone apron (at least 5 feet in width) shall be used to delineate both the existing and proposed driveways from Beacon Ave. and Union Streets; and
 - iii. The existing concrete curbing along the frontage of Lot 2 shall be replaced with granite curbing and a full-depth brick sidewalk, to match the existing sidewalks on Union Street, shall be extended and installed to the MEC park entrance.

DATE OF FILING OF DECISION:

This decision was filed with the Newburyport City Clerk on 4/23/18 and sent registered mail to the applicant. Notice of decision is also sent by regular mail to the Parties in Interest and the abutting municipalities.

SIGNATURE OF THE BOARD:



Bonnie Sontag, Chair, Newburyport Planning Board

NOTICE OF APPELLATE RIGHTS:

Appeals shall be made within twenty (20) days after the date of filing of this decision in the Office of the City Clerk directly to a court of competent jurisdiction in accordance with the provision of M.G.L. Chapter 40A Section 17.

CITY CLERK CERTIFICATION:

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Special Permit decision for the property known as 32 Union Street was filed in the Office of the City Clerk on 4/23/18. Twenty (20) days have elapsed since the decision was filed and NO APPEAL has been filed.

City Clerk

Date