



## TOWN of WILMINGTON

### DEPARTMENT OF PLANNING & CONSERVATION

121 GLEN ROAD, WILMINGTON, MA 01887 [www.wilmingtonma.gov](http://www.wilmingtonma.gov) (978) 658-8238

#### Planning Board Minutes March 10, 2020

The Planning Board met on Tuesday, March 10, 2020 at 7:30 p.m. in the Town Hall Auditorium. The following members were present: Michael Sorrentino, Chair; Randi Holland, Terence Boland and Sean Hennigan. Valerie Gingrich, Director of Planning & Conservation, and Sierra Pelletier, Assistant Planner were also present. Angela Marcolina was absent.

#### Minutes

There were no minutes to review.

#### Form A

**Mink Run Road – Map 11 Parcels 61U & 61V, “Plan of Land in Wilmington, Massachusetts (Middlesex County)”, Kenneth Chisholm, Applicant**

#### MATERIALS CONSIDERED:

PLAN “Plan of Land in Wilmington, Massachusetts (Middlesex County)”, dated February 13, 2020

V. Gingrich said the purpose of the plan is to take a piece of lot 12A and give it to 13A. That is owned by K. Chisholm and it will square off his lot. She said it is in the R20 zone and they are creating a non-buildable lot to convey a piece of land. She said one parcel is a hammerhead and one is a regular lot.

Upon motion duly made and seconded it was

VOTED: To receive the ANR Plan and Application #20-02 for 85 & 87 Mink Run Road – Map 11 Parcels 61U & 61V, “Plan of Land in Wilmington, Massachusetts, (Middlesex County)”, dated February 13, 2020, Kenneth Chisholm, Applicant

Upon motion duly made and seconded it was

VOTED: That approval under Subdivision Control is not required for ANR Plan and Application #20-02 for 85 & 87 Mink Run Road – Map 11 Parcels 61U & 61V, “Plan of Land in Wilmington, Massachusetts, (Middlesex County)”, dated February 13, 2020, Kenneth Chisholm, Applicant

The Board endorsed the plan.

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TOWN OF WILMINGTON, MA

**7 & 15 Kelley Road – Map 51 Parcels 106 & 103, “Plan of Land in Wilmington, MA, 7 Kelley Road”, Debra Ann Goldberg, Applicant**

**MATERIALS CONSIDERED:**

PLAN “Plan of Land in Wilmington, MA, 7 Kelley Road”, dated February 10, 2020

V. Gingrich said there is new construction. She said they are taking a piece of the back corner of a non-buildable lot and conveying it to the adjacent lot that is already built on. T. Boland asked if there is a requirement that the plan show the other piece of land. V. Gingrich said not specifically.

Upon motion duly made and seconded it was

VOTED: To receive the ANR Plan and Application #20-01 for 7 & 15 Kelley Road – Map 51 Parcels 106 & 103, “Plan of Land in Wilmington, MA”, dated February 10, 2020, Debra Ann Goldberg, Applicant

Upon motion duly made and seconded it was

VOTED: That approval under Subdivision Control is not required for ANR Plan and Application #20-01 for 7 & 15 Kelley Road – Map 51 Parcels 106 & 103, “Plan of Land in Wilmington, MA”, dated February 10, 2020, Debra Ann Goldberg, Applicant

The Board endorsed the plan.

**Matters of Appointment**

**Public Hearing – Reasonable Accommodation to modify the approved Site Plan for a detox facility at 362 Middlesex Avenue, Bettering LLC, Applicant**

PRESENT IN INTEREST: Attorney Mark Bobrowski, Blatman, Bobrowski & Haverty, LLC  
Benjamin Osgood, Ranger Engineering & Design LLC

**MATERIALS CONSIDERED:**

PLANS “Site Plan, 362 Middlesex Avenue, Assessor’s Map 89 Lot 6A, Wilmington, MA” dated February 2, 2020 and last revised March 10, 2020

STORMWATER MANAGEMENT REPORT dated February 5, 2020 and last revised February 28, 2020

LIGHTING LAYOUT dated November 7, 2019

ARCHITECTURAL dated January 31, 2020

REVIEW LETTER dated February 24, 2020

RESPONSE TO COMMENTS LETTERS from Benjamin Osgood date February 28, 2020 and March 6, 2020

HYDROLOGICAL COMPUTATION dated March 9, 2020

ENGINEERING MEMO dated February 24, 2020

M. Bobrowski said this was the subject of a Special Permit application for the Board of Appeals about a year and a half ago. He said they have worked with Magistrate Judge Bowler. He said they talked their way through most issues and are now before the Board again. He said the Site Plan was approved into 2018.

B. Osgood said this is on Middlesex Avenue and the railroad tracks are on the right side of the plan, which is north. He said the residential neighborhoods are south and west with Middlesex Avenue on the east. He said the site plan previously had a small cul-de-sac with the building closer to the rear property line. B. Osgood said this layout has a typical driveway that enters off Middlesex Avenue with circulation around the building. He said there is a 22' access road. He said there are 59 parking spaces where 48 is required. He said the parking for the facility is in the front with another row of parking in the back. On the west side there are additional spaces. The service entrances are towards the back on the west side there is additional parking. All the services entrances are towards the back on the west, which is a loading zone. The dumpster is in the top right corner as far away from residential properties as could be. B. Osgood said there is a row of trees between the residential properties and the development. He said the septic system is on the west side of the property but it has been redesigned to take up half the area as before. They will now clear less land in the northwest corner. M. Sorrentino asked if there is a wall in the back and B. Osgood said there is 3' high wall that runs 150' along the back. He said the wall is set back 6' from the property line and buffer screening trees will go between the property line and the wall. B. Osgood said it is still municipal water and the septic system is in the back. The stormwater system remains in the same location. It's a buried stormwater system under the parking lot, with catch basins flowing into the stormwater system which provides treatment and retention and allows for a large amount of infiltration. B. Osgood said they meet all stormwater regulations and for small storms they exceed stormwater regulations. He said there is a small pond in the front on the left that receives a small amount of water. M. Sorrentino asked the width of the driveway opening and B. Osgood said 24' which is a standard width. M. Sorrentino asked if the fire truck makes the turn. B. Osgood said yes, he included Fire Department turning plans in the plan set which he believes were approved, and delivery trucks can maneuver through the site as well. M. Sorrentino asked about snow storage and B. Osgood said it's outlined in the plan and in the same location that it was before along edge of the parking lot and dedicated areas. M. Sorrentino asked about the architectural. B. Osgood said they added a different roof treatment, architectural siding, stone apron and hardy plank siding and solid panels on top. The entrance was moved closer towards the roadway. M. Sorrentino asked the height of the building and B. Osgood said it is 33' with two-stories. M. Sorrentino asked if the height changed from the last time and B. Osgood said it is a bit taller but it does comply with zoning. R. Holland said she is concerned with one of the snow storage areas in front of the property and she suggested moving it to the reserve area because it could affect sight distance on Rte. 62. B. Osgood said there is a depression where he designed it but R. Holland said the piles still get high. M. Sorrentino asked if the green space was increased and B. Osgood said only a little. T. Boland said with respect to the patio areas, one is enclosed and one is not so he asked what the difference is and B. Osgood said both are enclosed. M. Sorrentino asked if the access is better engineering-wise. B. Osgood said it is about the same but it's not a cul-de-sac with not as much pavement, but it has adequate sight distance in each direction and the perfect location on the curb. He said it is adequate width for fire trucks and large vehicles. He said the driveway on the bottom would be one-way so you enter and drive straight and come out the driveway on the south side of the building.

M. Sorrentino asked for comments. V. Gingrich said there are comments from engineering from February 24, 2020. She said the applicant has revised the plans to address those comments so there are no outstanding comments from engineering. M. Bobrowski said this is a reasonable accommodation which is covered under laws to protect people with disabilities and drug addicts and alcoholics are such persons. This is to override the hospital zone. He said they are 12' short on the frontage which is the reasonable accommodation that they seek. M. Bobrowski said this is a better plan and some of the changes came from the Board of

Appeals. He asked that a condition of the accommodation include the two plan sets that were explained at this public hearing. T. Boland said the look of the building is not something that the Planning Board can hold the applicant to but asked if the Board of Appeals can. He said the Planning Board looks at the site plan. M. Bobrowski said the Board of Appeals has same plan set.

M. Sorrentino explained that if a member of the audience would like to speak, they must state their name, address, and speak clearly. They are to speak one at a time addressing the Chairman and they are not to be repetitive.

Resident, K. Brander, 5 Casper Avenue, said M. Bobrowski said he submitted a letter to the Board about reasonable accommodation. He said that current drug users are not covered under ADA or FHA and he asked that the Chairman send it to Town Counsel to address. M. Sorrentino asked Town Counsel, J. Silverstein to address it. Attorney Silverstein said for the Federal Court case, the Town's insurance counsel did the representing and that attorney is present as well to answer questions. Attorney Silverstein said the case law cited in K. Brander's letter deals with a separate section of the ADA referred to as the safe harbor section and does not apply with land use regulation. Attorney Silverstein said there are a number of cases though out the country treating people with drug and alcohol addictions and asked if Attorney Silverfine had anything to add. Attorney Silverstein said there is still pending litigation and Attorney Silverfine needs to be careful. K. Brander respectfully disagreed and said if it were a sober house or group home, those protections are obviously in place but he feels this reasonable accommodation request is not supported. Resident, C. Prendergast, 7 Pinewood Road, said she wanted to make sure she understood what was being asked. She asked the applicant that under the FHA and ADA, if they are requesting an override that it be designated as a nursing home. M. Sorrentino asked if she is asking why they are back. C. Prendergast said she thought the applicant is requesting to override the initial filing. M. Sorrentino asked the applicant to explain how it's filed. M. Bobrowski said when they initially applied in the 2017-2018 period, a hospital nursing home was allowed by Special Permit in this district. The applicant froze rights under the existing Zoning Bylaw prior to the vote at Town Meeting and preserved rights to apply for that under Special Permit which they did at the Zoning Board of Appeals. He said with the accommodation request they are not seeking Special Permits as previously. B. Osgood said the use is a broad use as defined in the Zoning Bylaw. He said this use is based on the number beds. It is 7900 gallons a day. M. Sorrentino asked if the septic system was approved by the Board of Health and B. Osgood said it was previously approved but it was redesigned so it is going through the approval process. C. Prendergast asked how she could challenge that based on EPA recommendations that commercial establishments such as restaurants, nursing homes and other facilities do not generally use septic tanks. M. Sorrentino said that will have to be taken up with the Board of Health. M. Sorrentino reminded the audience that the Board is reviewing Site Plan Review and other departments look at other aspects of the project so anything related to the septic system or design should be addressed with the Board of Health. Resident, S. Sullivan, 60 Lawrence Street, said the request for Reasonable Accommodation references the approved Site Plan and since they closed their case in Superior Court, there is no existing Site Plan. M. Sorrentino asked why that would change. S. Sullivan said when they came before the Board, the plan had a cul-de-sac, and there was a public process. M. Sorrentino said during the process they locked in the zoning, and the project was approved. There were legalities, it went to court and has come back. S. Sullivan said the so-called approved plan no longer exists because it was appealed. She said the subdivision never went forward so there is no approved plan. M. Bobrowski explained that the Board approved two plans, one was a site plan that was not appealed and the other was a subdivision plan that was appealed. He said

that during his conference with Judge Ruben two weeks ago, he told her about the filing of the reasonable accommodation with the Planning Board and his filing with the Board of Appeals on the 18<sup>th</sup>. He said he told her if the reasonable accommodation is granted, it would moot the subdivision appeal because they would no longer need the subdivision plan to vest rights under zoning and she understood. M. Bobrowski said the subdivision is still alive but it is on a stay. S. Sullivan said the so-called approved plan has a different septic system on it and the applicant is asking to modify the plan. She said to modify is to change something in a small manner. S. Sullivan said this is a major change and the applicant does not meet zoning. She asked what jurisdiction the Planning Board has to waive zoning. She said Site Plan Review is to help an applicant come into compliance with zoning. She pointed to Section 3.4 of the Bylaws. She said the original subdivision plan was appealed. S. Sullivan said ignoring the underlying zoning is not reasonable. She said in the judge's decision, he notes this is a prohibited use. She said their grandfather status is questionable. S. Sullivan said the Board is reviewing this case and M. Sorrentino asked what case she was referring to, as the Board are not lawyers. S. Sullivan corrected herself and said the Board is reviewing Site Plan and asked if it had the authority to approve something that is asking for the Board to grant a waiver. M. Sorrentino said the Board has a right to grant a waiver if the plan presented is a better plan. S. Sullivan said the Board may be able to waive certain things but it cannot waive the Bylaw. M. Sorrentino asked what bylaw the Board is waiving and S. Sullivan said that it is a prohibited use in the district and they no longer have a valid subdivision and they are no longer grandfathered because the case was closed in superior court. She said the Board cannot ignore the Bylaws. She gave examples of what a reasonable accommodation would be and said what the applicant is asking for is not reasonable. She asked that the Board uphold the Bylaws. She said they do not have a right to build the project because it was always a Special Permit and not a right-by-use. S. Sullivan said they screwed up on the subdivision plan, went to court, and dropped the case with the Zoning Board of Appeals. M. Bobrowski said that could not be more untrue. He said that matter was moved to the Federal Court by Town Counsel and the Land Court case of the subdivision plan that the neighbors filed is still alive. The Federal Court took jurisdiction over the federal questions and they had a mediation as a result of that. M. Bobrowski said with regard to reasonable accommodations, that's exactly what it is supposed to do. It waives zoning requirements to the extent that such requests are reasonable. He said there is no blanket prohibition on waiver of zoning otherwise there would be no accommodation. The court has said on several occasions that waivers of zoning, prohibitions and bylaws is in fact consistent with a motion of reasonable accommodation. S. Sullivan told the applicant they can make a request to change the zoning, not to change the underlying zoning but to give variances to the Bylaws. She said a reasonable accommodation is a variance. She said the underlying zoning cannot be ignored and the applicant cannot put a brand new building there. S. Sullivan asked that Town Counsel point to a case where zoning has been ignored, and a new building is constructed for a detox or any medical facility. S. Sullivan said the FHA doesn't apply because it's a medical facility.

Resident, J. Sawyer, 58 Lawrence Street, said the Board of Appeals voted no. She asked why the Planning Board will vote on this reasonable accommodation or if the Board was told it needs to by somebody and if the Board was told, who was the one that told them to vote on it. She asked if it is even the Board's job to entertain a reasonable accommodation. M. Sorrentino said it is because of the Board of Appeals vote that Planning Board has the application in front of it now. J. Sawyer asked if each member of the Board believes it is their job to entertain a reasonable accommodation. M. Sorrentino answered that it's the Board's job to review the plan as presented. J. Sawyer said the Board is reviewing a reasonable accommodation, not a Site Plan. M. Sorrentino said the reasonable accommodation is the revised Site Plan. R. Holland said the Board is making a decision to approve the Site Plan for

the reasonable accommodation. J. Sawyer asked if the Board is not voting on the draft decision for the reasonable accommodation. Attorney J. Silverstein said the purpose of the Board looking at this is because it previously approved the Site Plan and that Site Plan has changed. He said any vote the Board takes will be subject to whether or not the Zoning Board of Appeals approves the underlying accommodation request on the frontage and usage. He believes that the applicant worded his submission that way because the decision hinged on if the Board of Appeals grants a reasonable accommodation. He said the Site Plan cannot go forward if the Zoning Board of Appeals votes no. He said when cases get removed from State Court to Federal Court by a defendant the case is closed in superior court. J. Silverstein said the case is closed administratively, not substantively. J. Sawyer said the applicant is showing a random plan with a brand new design, new building, new frontage, new septic design and she asked if a land deal or land trade was ever offered as a reasonable accommodation as opposed to having the building built on an inappropriate site. M. Sorrentino said he does not understand how the public feels the Board is throwing away all the zoning. He asked if the height, parking, setbacks, and green space is being met? He asked what specific section of zoning the Board is throwing out. Members of the audience yelled that it is a prohibited use. M. Bobrowski said it became a prohibited use when Town Meeting changed the zoning in 2017, deliberately to sabotage the application proposal, proving that discriminatory intent of the Town at that time.

Resident, R. Fasulo, 28 Marjorie Road, asked if the proposal meets zoning and if the use fits. V. Gingrich said they are short on frontage by 13'. She said currently the use is prohibited but their rights were vested by process. R. Fasulo quoted from the Law Journal with regards to FHA. He said it requires a fundamental alteration of the town zoning and the Board does not have to approve it. He said he thinks this is a fundamental alteration because of the use. He asked if he came before the Board with a plan that did not meet zoning, would the Board allow him to go through this process. M. Sorrentino said it would depend on where it was proposed.

Resident, A. Saragosa, 25 Marcia Road, said the attorney stated that at Town Meeting the zoning was changed specifically for this project and that is absolutely not true. He said it had to do with future projects as well. Resident, K. Richards, 31 Shady Lane Drive, said under normal circumstances if a site plan came before the Board in a zone where it was not zoned for, what would the Board do? M. Sorrentino said it would not get that far. K. Richards read from the Federal Judge: This lawsuit arises out of the planned construction building addiction treatment center. The complaint alleges that plaintiff Bettering LLC via property in Wilmington which it plans to operate .....because local zoning bylaws prohibited the construction of the facility that when applied to the Zoning Board of Appeals in Wilmington, for Special Permit and Reasonable Accommodation which were denied. She asked if the Building Inspector will issue a permit for a building where the use does not meet zoning. She said normally the Board understands their roles but in this situation, the Board does not seem confident. M. Sorrentino said there is an ongoing lawsuit so the Board needs to be careful with what it says. M. Sorrentino said that the project met zoning when it was submitted. There was a lawsuit and it changed, and now it's coming back as reasonable accommodation. He said the Board is looking at the Site Plan. K. Richards said the accommodation piece is manipulation of the law. M. Sorrentino reminded the audience that they are at a Planning Board meeting and not a court. M. Bobrowski said the doctrine of reasonable accommodation notation that it is only for renovations to buildings is not true. There are new uses and that is the way the law is allowed to work. Resident, F. West, 2 Birchwood Road, said the attorney said the Town created a Special Town Meeting to specifically block this parcel of land. He said there were many parcels of land that were rezoned at that meeting. F. West said they all keep saying there is a lawsuit out there and the Board needs to be careful with what is said but the lawsuit is

generated by the residents of this community. F. West said his opinion is that the Board delay its vote until the lawsuit is settled so that the results of the lawsuit can be brought out in public. M. Sorrentino said the lawsuit is with the vote of the Board of Appeals and residents. F. West asked if there is any lawsuit with the Town and the residents of the Town of Wilmington and Attorney J. Silverstein said there are two lawsuits: the subdivision appeal which was brought by a group of neighbors and the Federal Court discrimination case. The Federal Court discrimination case is making him be careful so that it does not increase the judgement against the Town. He said the residents' appeal of the subdivision approval doesn't carry any monetary damages. He said Town staff worked very diligently for a land swap but what happened cannot be discussed. He does not think the Federal Court would share the view that the ADA does not apply. F. West said there are two lawsuits and asked the Board to delay their action until the cases are settled. M. Sorrentino said as a result of the lawsuits, the applicant is back before the Board. F. West asked if the Board is willing to wait to make its decision until after the matters are settled. M. Sorrentino said the Board will not wait until the matters are closed. F. West asked why and M. Sorrentino explained that the reasonable accommodation is before the Board because of the cases. M. Bobrowski said they are at a 60-day remand order and per the judge this should be settled with a decision filed in the Clerk's Office by April 1, 2020. Resident, J. Morris, 55 Andover Street, asked if the Federal Court is directing the Town to consider whether this is a reasonable accommodation and whether it is grandfathered. He said he cannot tell who is directing who. M. Bobrowski said that what he said is accurate. J. Morris said the Planning Board is being directed to undertake a decision on this revised plan as a result of some agreement between the Town and applicant. M. Sorrentino said yes. J. Morris said the Board is going to decide that this is a reasonable accommodation. M. Bobrowski said the purpose of the remand is to ask both the Planning Board and the Board of Appeals to make that judgement. M. Sorrentino said the Planning Board is looking at this as a site plan and the Board is making a recommendation to the Board of Appeals that it believes the plan presented is a good site plan. J. Morris said there are underlying thresholds and two questions that need to be answered before the Board can vote are: is this a reasonable accommodation that the applicant has the right to come before the Planning Board under the ADA regardless of whether the ADA applies or not, and two is this grandfathered under whatever their previous filing is? He said he is trying to figure out if the Board is going to vote on those threshold questions. R. Holland said there is a draft decision that lists all the plans reviewed and that information is made available to the public before the vote. She explained that some of the Site Plan conditions, because the proponent has asked that the Board waive certain things, and M. Sorrentino said if this went away as not being a reasonable accommodation, then it would go back to the original Site Plan assuming the applicant does not want to go back to court. J. Morris asked if the Board will vote with respect to the current zoning and M. Sorrentino said yes. J. Morris told the Board this is the first time the Town is being asked to make an ADA reasonable accommodation. M. Sorrentino said he has been here for more than 20 years and it his first time. J. Morris asked how the threshold questions would be viewed and asked if the Board would take separate votes or if they will vote on the Site Plan and the residents should assume the vote will incorporate the threshold questions? M. Sorrentino said yes. R. Holland said the two threshold questions, underlying use and frontage, are the waivers that the applicant has asked the Board to consider. J. Morris asked if the plan is approved under present zoning, does that mean this Board thinks it's a reasonable accommodation? M. Sorrentino said in his personal opinion it is and as the Board votes, the individuals can speak for themselves.

The draft decision was reviewed and M. Sorrentino read the entire draft decision. V. Gingrich said during this evening's discussion, there was a comment on the snow storage on the front of the property. The Board could consider adding a prior to endorsement condition that the



plan should be revised to move the proposed snow storage area along the front entrance to the rear of the property.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To close the public hearing for Request for Reasonable Accommodation to Modify the Approved Site Plan for 362 Middlesex Avenue as shown on plan entitled, "Site Plan, 362 Middlesex Avenue, Assessor's Map 89 Lot 6A, Wilmington, MA 01887", sheets 1-16, dated February 5, 2020 and last revised March 10, 2020, prepared by Benjamin C. Osgood, Jr., P.E., Ranger Engineering Group, Inc., 13 Branch Street, Suite 101, Methuen, MA 01844.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To approve with conditions the Request for Reasonable Accommodation to Modify the Approved Site Plan for 362 Middlesex Avenue as shown on plan entitled, "Site Plan, 362 Middlesex Avenue, Assessor's Map 89 Lot 6A, Wilmington, MA 01887", sheets 1-16, dated February 5, 2020 and last revised March 10, 2020, prepared by Benjamin C. Osgood, Jr., P.E., Ranger Engineering Group, Inc., 13 Branch Street, Suite 101, Methuen, MA 01844. Said property is located at 362 Middlesex Avenue, Wilmington, MA 01887 and shown on Assessor's Map 89 Parcel 6A.

This is to certify, at a public hearing of the Wilmington Planning Board (Board) opening on March 10, 2020 and closing on March 10, 2020, by a motion duly made and seconded, it was voted:

We, the Wilmington Planning Board, as requested by Bettering LLC, under the Request for Reasonable Accommodation to modify the approved site plan, consider the contemplated site plan development for property addressed at 362 Middlesex Avenue for a 48 bed detox facility with 59 parking spaces as shown on plan entitled "Site Plan, 362 Middlesex Avenue, Assessor's Map 89 Lot 6A, Wilmington, MA 01887", sheets 1-16, dated February 5, 2020 and last revised March 10, 2020, prepared by Benjamin C. Osgood, Jr., P.E., Ranger Engineering Group, Inc., 13 Branch Street, Suite 101, Methuen, MA 01844 submitted on February 3, 2020 (the "Site Plan") (the "Project"), do hereby vote to **APPROVE** the Site Plan and the Project, subject to the Findings and Conditions below.

#### **MATERIALS:**

The following materials in addition to the Site Plan were submitted into the public record:

<u>Date submitted</u>	<u>Description</u>
1. February 6, 2020	Stormwater Management Report, prepared by Benjamin C. Osgood, Jr., P.E., Ranger Engineering & Design, LLC, 13 Branch Street, Suite 101, Methuen, MA 01844 and dated February 5, 2020 and last revised February 28, 2020.
2. February 6, 2020	Architectural Renderings prepared by Bettering LLC, 355 Middlesex Avenue, Wilmington, MA 10887 and dated January 31, 2020.



3. February 6, 2020 Floor Plan, prepared by Bettering LLC, 355 Middlesex Avenue, Wilmington, MA 10887 and dated April 12, 2018 and last revised December 10, 2019.
4. February 6, 2020 Photometric Lighting Layout Plan and Lighting Specifications, prepared by Donald G. Andrews, RAB, 170 Ludlow Avenue, Northvale, NJ, 07647 dated November 7, 2019.
5. March 9, 2020 Supplemental Hydrological Computations dated February 28, 2020.

### **FINDINGS:**

1. The Project site is located at the parcel shown on Assessor's Map 89 Parcel 6A.
2. The Site Plan contains a design that is sufficiently developed to provide the basis for the Board's determinations regarding the provisions, requirements, standards and guidelines of Section 6.5 of the Wilmington Zoning Bylaws and the Board's Site Plan Review Rules and Regulations.
3. The development of the site as set forth in the Site Plan and ancillary materials submitted by the Applicant complies with the provisions, requirements, standards and guidelines of Section 6.5 of the Wilmington Zoning Bylaws and the Board's Site Plan Review Rules and Regulations except that the existing lot does not have sufficient frontage.
4. The proposed Project can be accommodated on the existing non-conforming lot and requiring conformance to current frontage requirements would be a substantial impediment of the use of the property as proposed.
5. The Applicant satisfactorily addressed the comments made or submitted by the general public and various Town of Wilmington departments except as contained in specific conditions that follow.

### **CONDITIONS:**

The following Conditions shall be required at the Applicant's sole expense, unless otherwise noted:

### **GENERAL:**

1. The Project shall be constructed and operated in accordance with the Site Plan.
2. The Project shall obtain approval pursuant to, and be constructed and operated in accordance with, all applicable local, state and federal bylaws, statutes, ordinances, rules and regulations.
3. If no substantial construction has commenced within two (2) years of a site plan approval, the approval shall lapse and a new application, fees and public hearing will be required, provided that if there is an appeal to the Board of Appeals and/or to the courts, the two-year period shall run from the date of the final decision on the appeal.
4. The provisions of this conditional approval shall apply to and be binding upon the Applicant, its employees and all successors and assigns in interest or contract.
5. The project shall conform to all existing Massachusetts Laws, Regulations and Applicable Codes regarding fire protection and building safety standards.

6. Any revisions shall be submitted to the Director of Planning & Conservation for review. If these are deemed substantial, the applicant must submit revised plans to the Planning Board for approval.
6. During construction work will not start before 7:00 a.m. and will be completed by 7:00 p.m. No work is allowed on Sundays and Holidays. Construction equipment will not be started before 7:00 a.m.

**PRIOR TO ENDORSEMENT OF THE PLAN:**

7. Following review by the Wilmington Board of Appeals, the applicant must revise the Site Plan to show all changes (if any) required by the Board of Appeals.
8. The Applicant's Engineer shall submit a fully compiled Stormwater Management Report.
9. The Plan shall be revised to move the proposed snow storage area located along the front entrance to the rear of the property.

**PRIOR TO ISSUANCE OF A BUILDING PERMIT:**

10. The Wilmington Fire Department shall review and approve all building plans.
11. The Applicant shall receive approval for the proposed septic system.

**PRIOR TO START OF CONSTRUCTION:**

12. A pre-construction meeting shall be scheduled with the Department of Planning & Conservation and Town Engineer. The Applicant shall submit a construction schedule at the time of the pre-construction conference.
13. If applicable, a Stormwater Pollution Prevention Plan shall be submitted prior to the pre-construction meeting.
14. Erosion controls shall be installed in accordance with the Stormwater Management Plan and shall be inspected by the Department of Planning & Conservation at least two (2) business days prior to the start of construction.
15. Abutting property owners shall be notified in writing at least seven (7) days prior to the start of construction.
16. The rear property line shall be staked out.

**PRIOR TO OCCUPANCY:**

17. As-Built Plans shall be submitted to the Town Engineer and Director of Planning & Conservation in form(s) and format(s) acceptable to them.
18. The Applicant shall give reasonable notice to the Engineering Division for inspection prior to backfilling any proposed underground stormwater management system or installation of any other critical design components.
19. All site work shall be substantially completed in accordance with the approved site plans prior to issuance of a Certificate of Occupancy. In the event that winter season conditions prohibit final landscaping and/or finish paving course from being installed prior to tenant occupancy, the Applicant may post a bond, in a form and amount acceptable to the Planning Board and Town Engineer, covering the cost of completion. This will be considered on a case by case basis. The Applicant must have received all other required Department sign offs on Occupancy prior to eligibility.

## **POST CONSTRUCTION:**

20. Trash pick-up on the site shall occur during normal business hours.
21. The Applicant shall maintain or replace landscaping and fencing as shown on the approved Site Plan for the duration of the use. The Applicant shall use best practices to maintain the required landscaping and fencing in presentable and healthy condition.
22. The Applicant shall maintain the Project site in a clean and tidy condition clear of debris and trash. All dumpsters located on the Project site shall be enclosed by a fence and be of a side entry design. Dumpsters shall remain closed and enclosures locked.
23. The Applicant shall use good housekeeping practices as outlined in the Operation and Maintenance Plan to maintain the site and keep it in good working condition. The Applicant shall provide copies of completed maintenance and inspection logs for the construction period and copies of logs of the long term pollution prevention plan to the Department of Planning & Conservation.
24. The Project shall be operated in accordance with the Operation and Maintenance Plan. The operation, maintenance, repair and replacement of all drainage structures constructed pursuant to the Project and located within the site shall be the Applicant's responsibility.
25. Snow in excess of the areas provided for snow storage on the Site Plan is to be removed from the site within five (5) days of a snow event. Snow shall not be pushed into stormwater management areas, and drainage structures shall remain clear of snow.
26. Final As-Built Plans in form(s) and format(s) acceptable to the Town Engineer shall be submitted to the Engineer and Director of Planning & Conservation.

### **Continued Public Hearing – Definitive Subdivision #19-03 & Stormwater Management Permit #19-13 for Jackie Drive, 635 Main Street - Map 40 Parcel 1 – Art Hayden, Applicant**

A request to continue the public hearing and extend the action deadline was received.

#### **MATERIALS CONSIDERED:**

ENGINEERING MEMO dated March 2, 2020

Upon motion duly made and seconded, it was unanimously (4-0)

**VOTED:** To extend the action deadline for Definitive Subdivision #19-03 and Stormwater Management Permit #19-13 for 635 Main Street to April 30, 2020.

Upon motion duly made and seconded, it was unanimously (4-0)

**VOTED:** To continue the public hearing for Definitive Subdivision #19-03 and Stormwater Management Permit #19-13 for 635 Main Street to April 7, 2020 at 7:45 p.m. in Room 9 of the Town Hall.

**Continued Public Hearing - Site Plan Review #19-17 & Stormwater Management Permit #19-14 for 228 Andover Street - Map R1 Parcel 18C – Richard Penna, Arrow Paper, Applicant**

PRESENT IN INTEREST: Attorney Robert G. Peterson  
Andrew Pojasek, Dana Perkins

**MATERIALS CONSIDERED:**

PLAN "Proposed Building Additions, 228 Andover Street, Wilmington, Massachusetts" dated November 5, 2019 and last revised February 24, 2020

FLOOR PLAN dated February 21, 2020

TRAFFIC MEMO from Andrew Pojasek dated February 24, 2020

CONSTRUCTION PERIOD POLLUTION PREVENTION PLAN submitted March 5, 2020

RESPONSE TO COMMENTS from Andrew Pojasek dated February 24, 2020

ENGINEERING MEMO dated March 3, 2020

STORMWATER MANAGEMENT CALCULATIONS submitted February 25, 2020

Attorney R. Peterson told the Board there have been changes to the project since the last Planning Board meeting and revised plans were submitted. He said they reduced the building by 2,000 s.f., they eliminated the loading docks and parking was put in its place. The plan is fully compliant with the parking regulations. He said there are 163 spots provided where 161 are required. Attorney R. Peterson said that they have responded to all Engineering comments with the exception of two. He publically thanked the Town Engineer and Planning Director for meeting with the applicant to help make the plans work, as it is a difficult site. M. Sorrentino asked if the Board was satisfied and they all were. V. Gingrich asked if the applicant intended to withdraw the Parking Relief Special Permit and Attorney R. Peterson said yes.

Attorney R. Peterson said they saw the draft decision and have no issues with it.

Upon motion duly made and seconded, it was unanimously (4-0)

**VOTED:** To close the public hearing for Site Plan Review #19-17 for 228 Andover Street as shown on plan entitled, "Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts", dated November 5, 2019 and last revised February 24, 2020, prepared by Andrew M. Pojasek, P.E., Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876.

Upon motion duly made and seconded, it was unanimously (4-0)

**VOTED:** To approve with conditions Site Plan Review #19-17 for 228 Andover Street as shown on plan entitled, "Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts", dated November 5, 2019 and last revised February 24, 2020, prepared by Andrew M. Pojasek, P.E., Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876. Said property is located at 228 Andover Street, Wilmington, MA 01887 and shown on Assessor's Map R1 Parcel 18C.

This is to certify, at a public hearing of the Wilmington Planning Board (Board) opening on December 3, 2019 and closing on March 10, 2020, by a motion duly made and seconded, it was voted:

We, the Wilmington Planning Board, as requested by Richard Penna, Arrow Paper, under the provisions of Section 6.5 of the Zoning Bylaws of the Town of Wilmington and Board's Site Plan Review Rules and Regulations, to consider the contemplated site plan development for property addressed at 228 Andover Street for constructing a 34,450± addition to the existing warehouse building and parking lot restriping, as shown on plan entitled, "Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts", dated November 5, 2019 and last revised February 24, 2020, prepared by Andrew M. Pojasek, P.E., Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, submitted on November 7, 2019, (the "Site Plan") (the "Project"), do hereby vote to **APPROVE** the Site Plan and the Project, subject to the Findings and Conditions below.

**MATERIALS:**

The following materials in addition to the Site Plan were submitted into the public record:

<u>Date submitted</u>	<u>Description</u>
November 7, 2019	"Stormwater Management Permit" (Stormwater Report), prepared by Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, dated November 6, 2019 and last revised January 6, 2020.
November 7, 2019	"Test Pit Plan, Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts," prepared by Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, dated November 5, 2019.
January 8, 2020	"Existing Drainage Divide, Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts" and "Proposed Drainage Divide, Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts", prepared by Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, dated November 5, 2019, January 6, 2020, and last revised February 24, 2020.
January 8, 2020	Response to Comments, prepared by Andrew M. Pojasek, P.E., Dana F. Perkins, Inc., dated January 7, 2020.
January 8, 2020	Traffic Memo, prepared by Andrew M. Pojasek, P.E., Dana F. Perkins, Inc., dated January 7, 2020.
February 25, 2020	Letter from Andrew Pojasek, P.E., dated February 24, 2020.
February 25, 2020	Traffic Memo, prepared by Andrew Pojasek, P.E., Dana F. Perkins, Inc., dated February 24, 2020.
February 25, 2020	Floor Plan and Elevations, prepared by Maggiore Construction Corp., 13 Wheeling Avenue, Woburn, MA 01801, dated February 21, 2020.

February 25, 2020

Stormwater Management Calculations, prepared by Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, dated November 6, 2019 and last revised February 24, 2020.

March 5, 2020

Construction Period Pollution Prevention Plan and Long-Term Pollution Prevention Plan, prepared by Andrew Pojasek, P.E., Dana F. Perkins, Inc., dated November 6, 2019 and last revised March 5, 2020.

### **FINDINGS:**

1. The Project site is shown on Map R1 Parcel 18C on the Site Plan.
2. The Site Plan contains a design that is sufficiently developed to provide the basis for the Board's determinations regarding the provisions, requirements, standards, and guidelines of Section 6.5 of the Wilmington Zoning Bylaws and the Board's Site Plan Review Rules and Regulations.
3. The development of the site as set forth in the Site Plan and ancillary materials submitted by the Applicant complies with the provisions, requirements, standards, and guidelines of Section 6.5 of the Wilmington Zoning Bylaws and the Board's Site Plan Review Rules and Regulations.
4. The Applicant satisfactorily addressed the comments made or submitted by the general public and various Town of Wilmington departments except as contained in specific conditions that follow.

### **CONDITIONS:**

The following Conditions shall be required at the Applicant's sole expense, unless otherwise noted:

#### **GENERAL:**

1. The Project shall be constructed and operated in accordance with the Site Plan.
2. The Project shall obtain approval pursuant to, and be constructed and operated in accordance with, all applicable local, state and federal bylaws, statutes, ordinances, rules and regulations.
4. The provisions of this conditional approval shall apply to and be binding upon the Applicant, its employees and all successors and assigns in interest or contract.
5. The Project shall conform to all existing Massachusetts Laws, Regulations and Applicable Codes regarding fire protection and building safety standards.
6. Any revisions shall be submitted to the Director of Planning & Conservation for review. If these are deemed substantial, the Applicant must submit revised plans to the Planning Board for approval.
7. During construction, work shall not start before 7:00 a.m. and shall be completed by 7:00 p.m. No work is allowed on Sundays and holidays. Construction equipment shall not be started before 7:00 a.m.

#### **PRIOR TO ENDORSEMENT:**

8. The Construction Period Pollution Prevention Plan, Long-Term Pollution Prevention Plan, and Operation and Maintenance Plan shall be updated to reflect the most current design plan set. A full updated Stormwater Management Report shall be submitted.

**PRIOR TO ISSUANCE OF A BUILDING PERMIT:**

9. The Wilmington Fire Department shall review and approve all building plans.

**PRIOR TO START OF CONSTRUCTION:**

10. A pre-construction meeting shall be scheduled with the Department of Planning & Conservation and Town Engineer. The developer shall submit a construction schedule at the time of the pre-construction conference.
11. If applicable, a Stormwater Pollution Prevention Plan shall be submitted prior to the pre-construction meeting.
12. Erosion controls shall be installed in accordance with the Stormwater Management Plan and shall be inspected by the Department of Planning & Conservation at least two (2) business days prior to the start of construction.

**DURING CONSTRUCTION:**

13. The Applicant shall retain a licensed Resident Engineer to inspect the excavation and installation of both subsurface stormwater infiltration systems. If changes to the design are necessary due to the presence of unsuitable subsurface materials, or other unforeseen conditions, the Applicant or their representative shall notify the Director of Planning & Conservation and the Town Engineer immediately. The Director of Planning & Conservation will determine if any such changes are substantial enough to require review and approval through the Planning Board.

**PRIOR TO OCCUPANCY:**

14. As-Built Plans shall be submitted to the Town Engineer and Director of Planning & Conservation in form(s) and format(s) acceptable to them.
15. The Applicant shall give reasonable notice to the Engineering Division for inspection prior to backfilling any proposed underground stormwater management system or installation of any other critical design components.
16. All site work shall be substantially completed in accordance with the approved site plans prior to issuance of a Certificate of Occupancy. In the event that winter season conditions prohibit final landscaping and/or finish paving course from being installed prior to tenant occupancy, the Applicant may post a bond, in a form and amount acceptable to the Director of Planning & Conservation and Town Engineer, covering the cost of completion. This will be considered on a case by case basis. The Applicant must have received all other required Department sign-offs on Occupancy prior to eligibility.

**POST CONSTRUCTION:**

17. The Owner shall maintain or replace landscaping and fencing as shown on the approved Site Plan for the duration of the use. The Owner shall use best practices to maintain the required landscaping and fencing in presentable and healthy condition.
18. The Owner shall maintain the Project site in a clean and tidy condition clear of debris and trash. All dumpsters located on the Project site shall be enclosed by a fence and be of a side entry design. Dumpsters shall remain closed and enclosures locked.
19. The Owner shall use good housekeeping practices as outlined in the Operation and Maintenance Plan to maintain the site and keep it in good working condition. The Owner



shall provide copies of completed maintenance and inspection logs for the construction period and copies of logs of the long-term pollution prevention plan to the Department of Planning & Conservation.

20. The Project shall be operated in accordance with the Operation and Maintenance Plan. The operation, maintenance, repair and replacement of all drainage structures constructed pursuant to the Project shall be the Owner's responsibility.
21. Snow shall be removed from the site in a timely manner following a snow event to ensure adequate parking and circulation.
22. Snow shall not be pushed into stormwater management areas, and drainage structures shall remain clear of snow.
23. Final As-Built Plans shall be submitted to the Town Engineer and Director of Planning & Conservation in form(s) and format(s) acceptable to them.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To close the public hearing for Stormwater Management Permit #19-14 for 228 Andover Street.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To approve Stormwater Management Permit #19-14 for 228 Andover Street as follows:

**DECISION OF THE WILMINGTON PLANNING BOARD  
AS PERMIT GRANTING AUTHORITY FOR STORMWATER MANAGEMENT PERMITS  
UNDER SECTION 51 OF THE BYLAWS OF THE INHABITANTS OF THE TOWN OF  
WILMINGTON**

March 13, 2020

ISSUED for Property located at 228 Andover Street, Wilmington, Massachusetts (Map R1 Parcel 18C)

Case No.: Stormwater Management Permit #19-14

Applicant: Richard Penna, Arrow Paper, 228 Andover Street, Wilmington, MA 01887

The Wilmington Planning Board has reviewed and approved the Stormwater Management Permit application and plan entitled, "Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts", dated November 5, 2019 and last revised February 24, 2020, prepared by Andrew M. Pojasek, P.E., Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876. Said property is located at 228 Andover Street, Wilmington, MA, and shown on Assessor's Map R1 Parcel 18C; material originally submitted on November 7, 2019, subject to the conditions below.

## MATERIALS

The following materials in addition to the Site Plan were submitted into the public record:

<u>Date submitted</u>	<u>Description</u>
November 7, 2019	"Stormwater Management Permit" (Stormwater Report), prepared by Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, dated November 6, 2019 and last revised January 6, 2020.
November 7, 2019	"Test Pit Plan, Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts," prepared by Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, dated November 5, 2019.
January 8, 2020	"Existing Drainage Divide, Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts" and "Proposed Drainage Divide, Proposed Building Addition, 228 Andover Street, Wilmington, Massachusetts", prepared by Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, dated November 5, 2019, January 6, 2020, and last revised February 24, 2020.
January 8, 2020	Response to Comments, prepared by Andrew M. Pojasek, P.E., Dana F. Perkins, Inc., dated January 7, 2020.
February 25, 2020	Letter from Andrew Pojasek, P.E., dated February 24, 2020.
February 25, 2020	Stormwater Management Calculations, prepared by Dana F. Perkins, Inc., 1057 East Street, Tewksbury, MA 01876, dated November 6, 2019 and last revised February 24, 2020.
March 5, 2020	Construction Period Pollution Prevention Plan and Long-Term Pollution Prevention Plan, prepared by Andrew Pojasek, P.E., Dana F. Perkins, Inc., dated November 6, 2019 and last revised March 5, 2020.

## STANDARD CONDITIONS

1. Waivers granted: None
2. The development shall not alter the flow of stormwater runoff leaving the site, nor shall it alter the stormwater flow to any adjoining properties, public ways or wetland resource areas.
3. The development shall comply with the performance standards of the most recent version of the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Handbook.

4. The Applicant shall provide and maintain erosion and sedimentation controls until the site is permanently stabilized.
5. The Applicant shall inspect and maintain the site and stormwater management systems. Maintenance requirements for the site shall remain in perpetuity with the parcel.
6. To the maximum extent practicable, the development shall provide on-site infiltration and meet the Recharge Additional Performance Standards as specified in Appendix E of the Town of Wilmington Comprehensive Stormwater Management Regulations adopted February 2, 2010 and last amended on October 2, 2018.

## **SPECIAL CONDITIONS**

1. If applicable, a Stormwater Pollution Prevention Plan shall be submitted prior to the pre-construction meeting.
2. Erosion controls shall be placed around all areas of disturbance and shall be inspected by the Department of Planning & Conservation two (2) business days prior to the start of any land disturbing or land altering activity.
3. The Applicant shall give reasonable notice to the Engineering Division for inspection prior to installing any stormwater management system or any other critical design components.
4. Snow shall not be pushed into stormwater management areas and drainage structures shall remain clear of snow.
5. The Operation and Maintenance Plan shall be recorded prior to issuance of a Certificate of Occupancy.

ISSUED ON March 13, 2020

## **Continued Public Hearing – Definitive Subdivision #19-04 & Stormwater Management Permit #19-17 for 203 Lowell Street – Map 48 Parcel 73 - William Yetman, Applicant**

PRESENT IN INTEREST: Jacqueline Welch, Mass Equity Investors  
Matt Dusenberry, Land Engineering & Environmental Services

## **MATERIALS CONSIDERED:**

PLAN "Veterans Way in Wilmington, Massachusetts" dated November 22, 2019 and last revised February 12, 2020

STORMWATER MANAGEMENT SUPPLEMENT dated February 10, 2020

WAIVER REQUEST dated February 12, 2020

RESPONSE TO COMMENTS dated February 12, 2020

ENGINEERING MEMO dated March 2, 2020

M. Dusenberry told the Board he made changes to the plan, mostly drafting and labeling. He said one of the significant changes was towards the end of the cul-de-sac, where he reduced the grade from 4% to 3%, as was a condition in the preliminary subdivision decision. He increased the drainage easements to 30'. He said all Planning and Engineering comments have been met.

M. Sorrentino said the applicant asked for one waiver on locating all the trees on the plan.

V. Gingrich said condition #17 is just compiling everything related to Stormwater into one report. She said conditions #19, #20, and #21 have to do with the easements along Lowell Street for the proposed roadway improvements. One is the right-of-way, another is for the utilities and another is for the drain easement along Woburn Street frontage.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To close the public hearing and approve with conditions and waivers the Definitive Subdivision #19-04 for Veterans Way, as shown on plan entitled: "Definitive Subdivision Plan, Veterans Way, Wilmington, Massachusetts," dated November 22, 2019 and last revised February 12, 2020, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., 130 Middlesex Road, Tyngsboro, MA 01879, for the property located at 203 Lowell Street and shown on Assessor's Map 48 Parcel 73.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To approve the Definitive Subdivision #19-04 for Veterans Way, as shown on plan entitled: "Definitive Subdivision Plan, Veterans Way, Wilmington, Massachusetts," dated November 22, 2019 and last revised February 12, 2020, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., 130 Middlesex Road, Tyngsboro, MA 01879, for the property located at 203 Lowell Street and shown on Assessor's Map 48 Parcel 73.

The proposed subdivision is for a new roadway and three (3) lots. Approval is subject to the following standard and special conditions and waivers:

### PROCEDURAL HISTORY

1. Application for Definitive Subdivision approval pursuant to M.G.L. Chapter 41, Section 81-L was made by the above-referenced owner and filed with the Planning Board on November 26, 2019. Definitive Subdivision Plan entitled: "Definitive Subdivision Plan, Veterans Way, Wilmington, Massachusetts," dated November 22, 2019 and last revised February 12, 2020, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., 130 Middlesex Road, Tyngsboro, MA 01879 for the property located at 203 Lowell Street and shown on Assessor's Map 48 Parcel 73 and containing a new roadway and three (3) lots.
2. A public hearing on the Definitive Subdivision application was first held on January 7, 2020. The public hearing was continued to February 4, 2020, and the public hearing closed on March 10, 2020.
3. The plans and other submission material were reviewed by the Planning Board and the departments represented in the Community Development Technical Review Team. 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.

## **MATERIALS**

The following materials in addition to the Definitive Subdivision Plan were submitted into the public record:

<u>Date submitted</u>	<u>Description</u>
November 26, 2019	Stormwater Management & Erosion Control Plan, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., dated November 22, 2019 and last revised January 16, 2020.
November 26, 2019	"Existing Condition Drainage Plan in Wilmington, Massachusetts, 203 Lowell Street", prepared by Land Engineering & Environmental Services, Inc., dated November 22, 2019 and last revised January 16, 2020.
November 26, 2019	Waiver Request memorandum, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., 130 Middlesex Road, Tyngsboro, MA 01879, dated November 22, 2019.
February 18, 2020	Stormwater Management Supplement, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., dated February 10, 2020.
February 18, 2020	Response to Comments, prepared by Matt Dusenberry, Land Engineering & Environmental Services, Inc., dated February 12, 2020.
February 18, 2020	Waiver Request memorandum, prepared by Matt Dusenberry, Land Engineering & Environmental Services, Inc., 130 Middlesex Road, Tyngsboro, MA 01879, dated February 12, 2020.

## **DECISION**

### **STANDARD CONDITIONS:**

1. Subdivision shall be constructed in accordance with the requirements of the Town of Wilmington Rules and Regulations Governing the Subdivision of Land (with the exception of the waivers listed below) and any other applicable regulations of the Town of Wilmington, including:
  - a. State Wetlands Protection Act.
  - b. Title 5 and local regulations of the Board of Health.
  - c. Requirements of the Water and Sewer Department and Fire Department.
2. Any modification to the approved plans must receive the prior approval of the Planning Board.

3. The conditions of approval of this subdivision shall be placed on the original plans prior to endorsement by the Planning Board.
4. Following the statutory 20-day appeal period, the Planning Board will sign the original subdivision plans, which shall be recorded at the Middlesex North Registry of Deeds. Prior to the endorsement of plans, the following items must be submitted for approval by the Planning Board:
  - a. A Covenant or financial surety, in a form and amount acceptable to the Planning Board, to secure the construction of ways and installation of municipal services, including required description of mortgages and assents of mortgages.
  - b. Required Covenant shall reflect a condition that the work under the approved subdivision plan shall be completed within one (1) year from the date of approval of the plan. Failure to complete the work prior to that deadline shall require a new application and Definitive Plan in accordance with the then in effect Subdivision Rules and Regulations to be filed with and approved by the Board unless an extension of time is requested and granted.
  - c. Acceptable form of grants of easements.
5. Within five (5) days of the transfer of ownership of the subdivision, the Planning Board shall be notified in writing of the new property owner's name and address.
6. A financial surety of 10% of the total value of the work within the subdivision shall be held by the Planning Board for eighteen (18) months following completion of streets and municipal services to ensure maintenance of the subdivision infrastructure.
7. At least one (1) week prior to the start of work, a pre-construction meeting shall be scheduled with the Department of Planning & Conservation, Engineering Division, and any other Town Department to review the construction schedule, permitted drawings, and permit conditions.
8. At the time of the pre-construction meeting, the developer may also be required to submit a soil erosion and sedimentation control plan, information on plans for stockpiling of earth materials, and/or any plans for hauling of earth materials (if approved under the Earth Removal Bylaw) for review and approval by the Planning Board or its agent.
9. The Developer shall be required to show evidence that all required local, state, or federal permits and approvals have been obtained at the time of the pre-construction meeting.
10. The Applicant shall assume the cost of construction monitoring and other consultant costs and fees incurred in connection with ensuring compliance with these conditions. An estimate of hours required and costs of monitoring shall be provided at the time of the pre-construction meeting. The Applicant shall, prior to the start of construction, be required to place on deposit with the Planning Board an amount sufficient to cover the anticipated cost of monitoring by the Planning Board or its agent. Any remaining funds at the conclusion of the 18-month monitoring period set forth in Condition 6 shall be returned to the Applicant. If additional funds are required, the Applicant shall provide such funds within fourteen (14) days to the Department of Planning & Conservation.
11. Prior to the release of any lots within the subdivision, the following conditions shall be met:

- a. The Wilmington Board of Health shall have approved on-site septic system plans, if applicable.
  - b. The construction of the roadway shown on the subdivision plan shall be completed through the binder course, as well as corresponding utilities and stormwater management system.
  - c. Acceptable form and amount of surety shall be on deposit with the Planning Board along with a proposed schedule of releases. If partial release of surety is to be requested, the Planning Board may, at its discretion, require deposits to be broken down in amounts of anticipated requests for release.
12. Developer shall maintain fee interest in the roadway until such time as it is transferred to the Town. As-Built Plans and Street Acceptance Plans in accordance with the Town's Rules and Regulations Governing the Subdivision of Land and Section 11.2.3 of the Town of Wilmington Stormwater Management Regulations will be required.
  13. Upon completion of work in the subdivision and prior to final release of surety, the Developer shall submit As-Built Plans and Street Acceptance Plans for review and approval by the Planning Board.
  14. Blasting materials, if needed, must be reviewed for ground water contaminants with the Board of Health and Fire Department.
  15. During construction, work shall not start before 7:00AM and be shall be completed by 7:00PM Monday-Friday. No work is allowed on Sundays and Holidays. Work on Saturdays may be permitted with written consent from the Department of Public Works. Construction equipment shall not be started prior to 7:00AM.
  16. Notice of the start of construction will be distributed to abutting properties two (2) weeks prior to the commencement of construction.

**PRIOR TO ENDORSEMENT:**

17. A full Stormwater Report, inclusive of the supplemental information dated February 10, 2020, shall be submitted.

**PRIOR TO CONSTRUCTION:**

18. Erosion controls shall be installed in accordance with the Stormwater Management Plan and shall be inspected by the Department of Planning & Conservation at least two (2) business days prior to the start of construction.
19. The Owner shall provide a fully executed drain easement, in a form approved by Town Counsel, along the Project's Woburn Street frontage to the Town for perpetual operation and maintenance of the existing twenty-four (24) inch drain line.
20. The Owner has agreed to provide a fully executed easement along the Project's Lowell Street frontage to Reading Municipal Light Department and Verizon for relocation of utility poles for the planned roadway improvements.
21. The Owner has agreed to and shall provide a fully executed permanent twelve (12) foot wide easement, in a form approved by Town Counsel, along the length of the Project's



Lowell Street frontage to the Town of Wilmington for all purposes for which a public way may be used, including to facilitate planned roadway improvements. The Owner has agreed to work cooperatively with the Town in facilitating planned transportation improvements at the intersection of Lowell Street and Woburn Street.

22. If applicable, the Applicant shall demonstrate compliance with NPDES permit filing requirements and shall submit one (1) copy of the checklist for the Stormwater Pollution Prevention Plan to the Department of Planning & Conservation AND one (1) copy to the Engineering Division prior to commencing construction.

#### **DURING CONSTRUCTION:**

23. The Applicant or designated authority shall give reasonable notice to the Engineering Division for inspection prior to installing any utility, roadway sub-base, pavement, proposed stormwater management system or installation of other critical design components identified during the pre-construction meeting.
24. The Applicant must maintain the construction entrance in an appropriate manner throughout the course of construction to prevent sediment from accumulating in Lowell and Woburn Streets. Street sweeping and replacement of the stones for the construction entrance may be needed from time to time throughout the phases of the construction.

#### **POST CONSTRUCTION:**

25. All maintenance responsibility for drainage structures and Best Management Practices (BMPs) for the Project within the private property lines shall remain with the Owner.

#### **WAIVERS:**

The Planning Board has reviewed the request for waivers of the Subdivision Rules and Regulations and approves or denies the same as specifically contained hereinafter.

1. Approves a waiver of Section V(B) paragraph a.25 to allow the Applicant to omit the required identification of all existing trees with trunks over twelve (12) inches in diameter within the minimum front, side, and rear yards and all other trees which are to be retained. Individual lots will be reviewed for tree clearing prior to construction.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To close the public hearing for Stormwater Management Permit #19-17 for 203 Lowell Street, Wilmington, Massachusetts, Map 48 Parcel 73

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To approve Stormwater Management Permit #19-17 for 203 Lowell Street, Wilmington, Massachusetts, Map 48 Parcel 73 as follows:

**DECISION OF THE WILMINGTON PLANNING BOARD  
AS PERMIT GRANTING AUTHORITY FOR STORMWATER MANAGEMENT PERMITS  
UNDER SECTION 51 OF THE BYLAWS OF THE INHABITANTS OF THE TOWN OF  
WILMINGTON**

March 13, 2020

ISSUED for Property located at 203 Lowell Street, Wilmington, Massachusetts  
(Map 48 Parcel 73)

Case No.: Stormwater Management Permit #19-17

Applicant: William Yetman, 155 West Street, Wilmington, MA 01887

The Wilmington Planning Board has reviewed and approved the Stormwater Management Permit application and plan entitled, "Definitive Subdivision Plan, Veterans Way, Wilmington, Massachusetts," dated November 22, 2019 and last revised February 12, 2020, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., 130 Middlesex Road, Tyngsboro, MA 01879. Said property is located at 203 Lowell Street, Wilmington, MA, and shown on Assessor's Map 48 Parcel 73; material originally submitted on November 26, 2019, subject to the conditions below.

**MATERIALS**

The following materials in addition to the Site Plan were submitted into the public record:

<u>Date submitted</u>	<u>Description</u>
November 26, 2019	Stormwater Management & Erosion Control Plan, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., dated November 22, 2019 and last revised January 16, 2020.
November 26, 2019	"Existing Condition Drainage Plan in Wilmington, Massachusetts, 203 Lowell Street", prepared by Land Engineering & Environmental Services, Inc., dated November 22, 2019 and last revised January 16, 2020.
November 26, 2019	Waiver Request memorandum, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., 130 Middlesex Road, Tyngsboro, MA 01879, dated November 22, 2019.
February 18, 2020	Stormwater Management Supplement, prepared by Douglas E. Lees, P.E., P.L.S., Land Engineering & Environmental Services, Inc., dated February 10, 2020.
February 18, 2020	Response to Comments, prepared by Matt Dusenberry, Land Engineering & Environmental Services, Inc., dated February 12, 2020.

February 18, 2020

Waiver Request memorandum, prepared by Matt Dusenberry,  
Land Engineering & Environmental Services, Inc., 130  
Middlesex Road, Tyngsboro, MA 01879, dated February 12,  
2020.

## **STANDARD CONDITIONS**

1. Waivers granted: None
2. The development shall not alter the flow of stormwater runoff leaving the site, nor shall it alter the stormwater flow to any adjoining properties, public ways or wetland resource areas.
3. The development shall comply with the performance standards of the most recent version of the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Handbook.
4. The Applicant shall provide and maintain erosion and sedimentation controls until the site is permanently stabilized.
5. The Applicant shall inspect and maintain the site and stormwater management systems. Maintenance requirements for the site shall remain in perpetuity with the parcel.
6. To the maximum extent practicable, the development shall provide on-site infiltration and meet the Recharge Additional Performance Standards as specified in Appendix E of the Town of Wilmington Comprehensive Stormwater Management Regulations adopted February 2, 2010 and last amended on October 2, 2018.

## **SPECIAL CONDITIONS**

1. If applicable, a Stormwater Pollution Prevention Plan shall be submitted prior to the pre-construction meeting.
2. Erosion controls shall be placed around all areas of disturbance and shall be inspected by the Department of Planning & Conservation two (2) business days prior to the start of any land disturbing or land altering activity.
3. The Applicant shall give reasonable notice to the Engineering Division for inspection prior to installing any stormwater management system or any other critical design components.
4. Snow shall not be pushed into stormwater management areas and drainage structures shall remain clear of snow.
5. The Operation and Maintenance Plan shall be recorded.

ISSUED ON March 13, 2020

**Continued Public Hearing – Site Plan Review #20-02 & Stormwater Management Permit #20-02 for 330 Ballardvale Street – Map R3 Parcel 29 - Edward O'Connor, C.E. Cyr Construction Co., Inc., Applicant**

PRESENT IN INTEREST: Edward O'Connor, C.E. Cyr Construction Co., Inc.  
John Judd, Gateway Consultants, Inc.  
Ron Basta, Monogram Gourmet Foods

**MATERIALS CONSIDERED:**

PLAN "Site Plan" dated January 7, 2020 and last revised February 25, 2020; "Existing Conditions Plan" dated January 7, 2020 and last revised February 25, 2020  
STORMWATER MANAGEMENT REPORT dated February 25, 2020 and last revised March 5, 2020  
PLANNING REVIEW LETTER dated March 5, 2020  
RESPONSE TO COMMENTS from John Judd dated March 5, 2020 and March 9, 2020  
ENGINEERING MEMO dated March 2, 2020

E. O'Connor introduced the team and said they are here to resubmit the loading dock addition they proposed at the Monogram facility. It receives bread and they are looking to add a couple of loading docks onto a paved surface. He said they provided a site plan to show drainage and parking information.

M. Sorrentino asked the applicant if they received a copy of the Town Engineer's comments. J. Judd said he had and said they were addressed in a letter sent to the Town Engineer dated March 5, 2020. He said another letter was sent to V. Gingrich dated March 9, 2020. He said in the March 5<sup>th</sup> letter he addressed the recharge volume calculations that were revised as requested and water volume quality calculations that included a 1" depth and the Engineer had asked for the 2 and 10 year event. He said the drainage was modeled for the 100 year and they wanted the 2 and 10 as well so that was included. J. Judd said they asked for a modification of the storage calculations for the subsurface structure and he said they are not modifying that because it is a pre-existing structure. M. Sorrentino commented that everything has been addressed but the Town Engineer has not seen the revisions and V. Gingrich said the Town Engineer has not reviewed plans because they were just submitted today. M. Sorrentino read the Town Engineer's memo and every comment was addressed. R. Holland said since nobody has had a chance to review the revised plans that were submitted today, a decision can be drafted and the public hearing could be closed at the next Planning Board meeting and V. Gingrich agreed.

V. Gingrich asked that the applicant point out the 5% landscaping requirement. J. Judd showed that it was shaded on the plan. V. Gingrich explained that landscape islands should be made on the end of the parking rows. J. Judd said this is more of an industrial use with large trucks entering the site.

E. O'Connor told the Board about green space on the neighboring property that now has a gravel surface and is now being used for parking. He said Monogram has a long-term lease. He said this has been a hardship and asked if there is anything the Board could do. M. Sorrentino said there is no draft decision at this time. V. Gingrich said she has another question for the Board and said typically the Board requires lighting be added to the plan. She asked if they would be requiring that. There is mounted building lighting. V. Gingrich asked if the applicant could show the proposed condition, wiping out the parking under the proposed addition. J. Judd said a lot of everything is on the architectural plans as well. V. Gingrich said that all three things could be done at one meeting. R. Basta asked if the Board could do

anything because this is causing a great hardship on his company. He said he came from Memphis and is here to beg to get this project started. He requested a conditional approval from the Board. R. Holland said the addition is very small. If the Town Engineer is satisfied, closing the public hearing, decision and endorsing the plan can all be done at one meeting.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To extend the action deadline for extend the deadline for action to April 30, 2020.

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To continue the public hearing for Site Plan Review #20-02, Stormwater Management Permit #20-02 for 330 Ballardvale Street to April 7, 2020 at 7:40 p.m. in Room 9 of the Town Hall.

**Continued Site Plan Review #20-01, Stormwater Management Permit #20-01, Multi-Family Special Permit #20-01 & Inclusionary Housing Special Permit #20-01 for 168 Lowell Street - Map 40 Parcel 1 – Joseph Langone, Applicant**

PRESENT IN INTEREST: Matt Dusenberry, Land Engineering & Environmental Services

A request to extend the action deadline and continue the public hearing was received.

**MATERIALS CONSIDERED:**

PLANS "Site Development Plan, 168 Lowell Street, Wilmington, Massachusetts" dated January 6, 2020 and last revised February 17, 2020, "Photometric Plan in Wilmington, Massachusetts" dated January 16, 2020 and last revised February 17, 2020, "Landscape Plan in Wilmington, Massachusetts" dated February 17, 2020, "Floor Plans" dated August 23, 2019 STORMWATER MANAGEMENT & EROSION CONTROL PLAN dated January 6, 2020 and last revised February 17, 2020

RENDERING "168 Lowell Street" received March 10, 2020

TRAFFIC ASSESSMENT dated February 19, 2020

MEMO from Engineering dated March 3, 2020

PLANNING REVIEW LETTER dated March 2, 2020

RESPONSE LETTER from Doug Lees dated February 17, 2020

A request to continue the public hearing for Site Plan Review #20-01, Stormwater Management Permit #20-01, Multi-Family Special Permit #20-01 & Inclusionary Housing Special Permit #20-01 for 168 Lowell Street was received.

Upon motion duly made and seconded with 4 in favor and 1 recused it was

VOTED: To extend the action deadline for Site Plan Review #20-01, Stormwater Management Permit #20-01 to April 30, 2020.

Upon motion duly made and seconded with 3 in favor and 1 recused it was

VOTED: To continue the public hearing for Site Plan Review #20-01, Stormwater Management Permit #20-01, Multi-Family Special Permit #20-01 & Inclusionary Housing Special Permit #20-01 for 168 Lowell Street to April 7, 2020 at 8:35 p.m. in Room 9 of the Town Hall.

## **Board of Appeals**

At its meeting on Tuesday, March 10, 2020, the Planning Board voted to recommend as follows:

### **Case 5-20 for 9 Cushing Drive – Map 21 Parcel 8E**

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To recommend approval. Groundwater recharge is proposed to mitigate the increase in impervious area in the Groundwater Protection District.

### **Case 6-20 for Church Street (Town Common) Map 52 Parcel 38 and 140-150 Middlesex Avenue (Swain School Lot) – Map 66 Parcel 1**

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To recommend approval.

## **Old Business**

There was no Old Business

## **New Business**

### **Request to endorse plans for Non-Conforming Lot Special Permit #20-01 – 11 Forest Street Map 8 Parcel 4 – Michael Tkachuk, Applicant**

#### **MATERIALS CONSIDERED:**

PLAN "Proposed Subsurface Septic Disposal System, 11 Forest Street, Wilmington, Massachusetts" dated March 12, 2018

Upon motion duly made and seconded, it was unanimously (4-0)

VOTED: To endorse plan for Special Permit #20-01 for a Non-Conforming Lot under Chapter 139 of the Acts of 1998, entitled, "Proposed Subsurface Septic Disposal System, 11 Forest Street, Wilmington, Massachusetts" dated March 12, 2018, prepared by Luke J. Roy, P.E., LJR Engineering, Inc., 234 Park Street, North Reading, MA 01864.

There being no more business to come before the Board, it was unanimously

VOTED: To adjourn the meeting at 10:00 p.m.

Respectfully submitted,

  
Cheryl Licciardi  
Recording Clerk