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Beverly Ann Guanno
Beverly Ann Guanno,
Town Clerk

THE MEADOWS-30 WILDES ROAD

DECISION OF THE TOPSFIELD PLANNING BOARD ON THE STORM WATER MANAGEMENT PERMIT APPLICATION OF NEW MEADOW ENTERPRISES, LLC FOR THE PROPERTY AT 30 WILDES ROAD, TOPSFIELD, MASSACHUSETTS,

PROCEDURAL HISTORY

1. On or about November 26, 2008, New Meadows Enterprises, LLC applied to the Topsfield Planning Board ("Board") for a Storm Water Management Permit pursuant to Chapter LI of the Topsfield General Bylaw (the "Bylaw") and the Topsfield Stormwater and Erosion Control Regulations ("Regulations") to allow Multi-Family Residences for the Elderly with appurtenances in conjunction therewith to be located on a 10.100 acre parcel of land on Wildes Road, Topsfield, Massachusetts, which property is shown as Lot 4 on a Plan of Land, entitled "Subdivision Plan of Land. Located in Topsfield, Mass. Prepared by Eastern Land Survey Associates. Christopher R. Mello, PLS, 104 Lowell Street, Peabody, MA, 01960, Scale 1" = 100', dated August 25, 2008" which plan is recorded with the Essex South District Registry of Deeds in Plan Book 416 as Plan 64, (hereinafter referred to as the "Subdivision Plan.") Also, part of this Application pertains to Lot 5 as shown on the Subdivision Plan. The Application was submitted pursuant to the requirements of Chapter LI of the Topsfield General Bylaw and the Topsfield Stormwater and Erosion Control Regulations. Details of the proposal were contained in the application and other materials submitted to the Board, which are on file with the Board. New Meadows Enterprises, LLC is referred to in this decision as the Applicant.

2. Notice of the public hearing scheduled to consider the Application was given in the manner provided in Massachusetts General Laws Chapter 40A, section 11 by publication in the *Salem News* newspaper on December 2, 2008 and December 9, 2008, and by posting such notice in a conspicuous place in the Topsfield Town Hall. Notice was also mailed to the individuals and agencies required to receive such notice pursuant to the provisions of the aforesaid Chapter 40A, section 11.
3. A duly advertized public hearing was convened by the Board on December 16, 2008, and was continued with subsequent sessions of the public hearing being held. The public hearing closed on September 15, 2009.
4. The Public Hearing relating to the Application was attended by some interested persons. At the Public Hearing, some members of the public asked questions regarding drainage and other matters pertaining to the stormwater management for the proposed Project which they requested that the Board carefully consider.
5. During the hearing process, additional documents were submitted and plans were revised to address issues identified during the hearing and the review process. These additional documents included a peer review of the stormwater management plan by Beals And Thomas, Inc. and its endorsement by the Conservation Commission as expressed in its Order of Conditions.
6. The Planning Board retained the services of Beals and Thomas, Inc. of Southborough, MA to provide a peer review of the Application and accompanying materials in order to evaluate the Project, confirm the suitability of its design, and recommend improvements as they may be appropriate.

FINDINGS

The Board makes the following specific findings:

1. The drainage system design and controls will protect and maintain the public health, safety, environment and general welfare by controlling the adverse effects of increased post-development storm water runoff and nonpoint source pollution associated with the proposed development; and shall protect the public safety, environment and general welfare by controlling runoff and prevent soil erosion and sedimentation resulting from construction/alteration and development. The Project complies with the performance standards of the most recent version of Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy.

2. The development and related activities shall maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics from the site in order to avoid flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
3. The development is designed to avoid damages due to increases in volume, velocity, frequency, duration, and peak flow rate of storm water runoff. The Project conforms to the general performance criteria of the Bylaw and Regulations.
4. In addition to structural components, the Project design uses nonstructural storm water management, storm water better site design practices or “low-impact development practices”, such as reducing impervious cover and the preservation of greenspace and other natural areas, to the maximum extent practicable.
5. The development plans establish provisions for the long-term responsibility for and maintenance of structural storm water control facilities and nonstructural storm water management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety.
6. The development plans establish provisions to ensure there is an adequate funding mechanism for the proper review, inspection and long-term maintenance of storm water facilities implemented as part of the Bylaw.
7. A portion of the Project falls within the jurisdiction of the Conservation Commission. The Conservation Commission, with technical assistance from an independent peer reviewer, has issued a permissive Orders of Conditions that protects the environment with drainage controls that controls storm water runoff.
8. The applicant has submitted a Stormwater Management Report and Project description and Operation and Maintenance Plan, both of which are satisfactory.
9. The Board finds that the requirements contained in the Elderly Housing Special Permit (issued contemporaneously with this decision) that the Applicant execute a covenant and such other surety as permitted therein provide adequate security as to the construction of the drainage system. It is the intention of the Board that the Security required pursuant to the Elderly Housing Special Permit act as the Surety required pursuant to Section 8.0 of the Regulations and the Applicant consents to incorporate all surety matters relating to this permit within the surety as set forth in the Elderly Housing Special Permit.

10. The Final Plans relating to the construction of the stormwater management system before the Board are comprised of a set of civil engineering plans, including 15 sheets entitled: "Site Development Permit Plan for New Meadows Enterprises, LLC, 30 Wildes Road, in Topsfield, Massachusetts," Prepared by Eastern Land Survey Associates, Inc. Dated September 2, 2008 revised through September 16, 2009 consisting of sheets 1-14 and sheet A.

CONDITIONS

The Board imposes the following conditions as part of this approval:

1. Conformity: All construction at the site shall be in substantial conformity with the Final Plans, as revised, which have been submitted to and are on file with the Board.
2. Access During Construction: The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the construction of the Project. The Board and its representatives shall be permitted access to the Site to observe and inspect the site and construction progress until such time as the Project has been completed.
3. Surety: The Applicant shall execute and comply with the requirements to execute such sureties as required by the Elderly Housing Special Permit that is issued contemporaneously with this decision.
4. Orders of Conditions: The Applicant shall comply with the Order of Conditions (DEP File # 307-0643) issued by the Topsfield Conservation Commission dated Sept 4, 2009 and recorded with Essex South District Registry of Deeds together herewith, as they may be modified by the Conservation Commission. Any violation of the Order of Conditions shall also be a violation of this Permit.
5. Notice of Construction Commencement. The Applicant must notify the Planning Board at least a week in advance before the commencement of construction. In addition, the applicant must notify the Planning Board in advance of construction of critical components of the storm water management facility.
6. Inspections: The Planning Board or its designee at the Applicant's expense may inspect the Project site at the following stages, at a minimum:
 - a. Initial Site Inspection: prior to the commencement of construction;
 - b. Erosion Control Inspection: to ensure erosion control practices during and after construction are in accordance with the Final Plans;

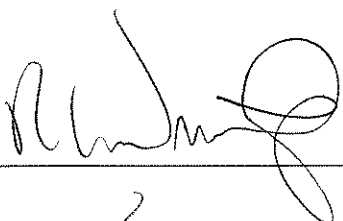
- c. Stormwater Management System Inspection: An inspection will be made of the completed stormwater management system, prior to backfilling of any underground drainage or stormwater conveyance structures.
 - d. Final Inspection: After the stormwater management system has been constructed and before the certificate of occupancy for any unit in the final building has been issued, the Applicant shall submit actual as-built plans for any stormwater management facilities or practices after final construction is completed and must be certified by a Professional Civil or Environmental Engineer selected by the Applicant and at the Applicant's expense. The Planning Board or its designee at the Applicant's expense shall inspect the system to confirm its "as-built" features are in accordance with the Regulations. If the system is found to be inadequate by virtue of physical evidence of operational failure corrective action shall be taken as required by the Regulations. The Planning Board will issue a letter certifying completion upon receipt and approval of the final inspection and reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Regulation.
7. Operation and Maintenance Plan Compliance: The condominium association shall pay fees, if any, incurred by the Planning Board in monitoring compliance with the Operation and Maintenance Plan dated September 2008, revised June 2009 as to the drainage system. This condition continues in perpetuity. The condominium documents shall reflect this obligation. If at any time, maintenance of the drainage facilities does not comply with the provisions hereof, then the Planning Board may provide written notice thereof to the condominium association specifying the nature of the non-compliance (a "Default Notice"). The Association shall remedy the default not later than thirty (30) days following receipt of the Default Notice, or such longer period of time as may reasonably be required to so remedy the non-compliance provided the Association commences the cure within the aforesaid thirty (30) day period and diligently prosecutes the cure to completion. If the Association fails to cure such default as aforesaid, then the Town may take any and all necessary action to assure proper compliance and may assess against the Association all costs incurred by the Town, including reasonable attorneys' fees, for such purpose. Any such assessment not paid within thirty (30) days after demand therefore shall bear interest from the date of demand at the rate established by law for interest upon money judgments, and the Town may bring an action at law to collect such assessment, and

there shall be added to the amount of such assessment in such event, all costs incurred by the Town for such collection, including reasonable attorneys' fees.

There has been full compliance with the statutory requirements for the issuance of this Storm Water Management Permit. This Decision has been filed with the Topsfield Town Clerk. A decision of the Planning Board shall be final. Further relief of a decision by the Planning Board made under this Bylaw and these Regulations shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 249. § 4.

TOPSFIELD PLANNING BOARD

Dated: Nov. 3, 2009



Sanice M. Adams

Being a Majority of the
Planning Board

