



Town of Danvers  
**Planning Board**

Danvers Town Hall  
One Sylvan Street  
Danvers, MA 01923  
www.danvers.govoffice.com

Planning Board Members:

Aaron Henry, Chairman  
Kristine Cheetham  
Margaret Zilinsky  
William Prentiss  
James Sears

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**Daniel J. Toomey Hearing Room  
September 25, 2012**

**7:00 p.m.**

**MINUTES**

Chairman Aaron Henry called the meeting to order at 7:00 p.m. Planning Board members Aaron Henry, Margaret Zilinsky, Kristine Cheetham, James Sears and William Prentiss were present. Planner Kate Day was also present.

**STAFF BRIEFING**

Day informed the Board that the Danvers Rail Trail was awarded a \$50,000 grant to complete the stone dust surface. She indicated that Iron Horse may be able to complete the work by the fall, which means it took 2 ½ years to complete the Rail Trail.

Day stated that there was an outstanding matter that needed to be cleaned up regarding the Ellerton Lane/Locust Groves subdivision. It seems that the Planning Board Covenant was never released. The subdivision is complete, the as-built plans were submitted and the Board took surety, drew down the funds and then released the remaining funds. The release of the covenant has never formally been recorded.

**MOTION:** Sears moved to approve the release the Planning Board Covenant relative to the subdivision for Ellerton Lane/Locust Groves. Zilinsky seconded the motion. The motion passed by unanimous vote.

**FORM A**

**356 & 360 Andover Street. Approval Not Required.** Request by PF Danvers, LLC for endorsement of Form A plan to combine two lots to make one buildable lot which complies with zoning regulations for zoning district Residential – III. (Assessor's Map 21, Lots 23 & 23A). (*Approval Not Required Action Date: September 27, 2012.*)

Scott Cameron, from McKenzie Engineering Group, Inc., appeared before the Board on behalf of the applicant, PF Danvers, LLC. Cameron stated this is the site of the future Rose Landing apartment complex where they are consolidating two lots into one to bring the property into compliance with zoning requirements.

**MOTION:** Sears read the Certificate of Action and moved to find that Planning Board approval is not required to combine two lots at 356 & 360 Andover Street. Prentiss seconded the motion. The motion passed by a unanimous vote.

## **OTHER BUSINESS**

**Bridle Spur Extension.** Request by Bridal Spur Extension, LLC for extension of completion date for incomplete site improvements for the Definitive Subdivision known as Bridle Spur Extension. (Assessors Map 24, Lot 1).

Attorney James Cote appeared before the Board on behalf of Bridal Spur Extension, LLC. The developer, Daniel Lemieux, was also present. Due to the economic downturn, they have had problems selling lots and they are requesting a one year extension to complete the subdivision.

Michael Tripoli of 5 Bridle Spur addressed the Board. He is an abutter to the property and his home is located on the cul-de-sac which was removed to extend the road. The developer had proposed to put dirt and grass seed on the new area. Tripoli hired a landscaper to grade the property down to the street which cost them \$22,000.00. He stated that the developer had provided them with dirt and hydroseed. He presented pictures to the Board for their review along with an invoice for the cost of the landscaping. Tripoli informed the Board that the developer had agreed to give them \$1,500.00 towards the landscaping.

Tripoli brought up a second issue concerning his driveway. He told the Board that when the cul-de-sac was being removed, the workers removing the asphalt shattered his driveway, and he would like the area that was cracked to be repaired. There is also a sink hole at the end of the driveway that keeps getting worse. Tripoli stated the developer had offered to put a top coat on the driveway, which never happened.

Tripoli directed the Board to the picture of the dirt lot on his property which provides parking for three vehicles. This area is used by the people that help take care of their severely handicapped son. If the berm is replaced, it will block this driveway. A discussion ensued as to the location of the right of way.

Henry questioned where the sidewalk was located and Tripoli told him it was located on the other side of the street. Henry confirmed that Tripoli was requesting that the berm not be replaced at the time of the final paving of the street.

Cote addressed the Board and stated that he spoke with his client and he is willing to cut out the area where the driveway was cracked and have it repaired when the street is paved. Cote stated that the developer built walls at the end of the cul-de-sac which were not necessary. He pointed out if a berm needs to be removed, they would need to come back before the Planning Board for a minor modification.

Tripoli stated they had no idea what they were getting into and did not realize the costs they were going to incur as the project progressed.

Henry confirmed that the developer would repair the driveway.

Daniel Lemieux, the developer for Bridle Spur, addressed the Board stating the binder coat has been completed as well as the curb on the left hand side of the road. There are areas of the binder coat that need to be touched up and there is no curbing on the right side of the road. He stated that he has no problem repairing the driveway. He told the Board that he is already down \$2,000,000.00 and they are looking to complete this project.

Zilinsky asked where the sink hole was located and Tripoli responded that it was located on his property. Cote stated Lemieux did not have a problem not to replace the berm, but pointed out that Rick Rodgers would have to approve this. Cote pointed out that Lemieux is agreeing to do something that he does not have to do.

Zilinsky wanted confirmation that Tripoli's property extended into a portion of the cul-de-sac and Cote responded that it was reserved by the developer.

Tripoli drew a plan and described it to Henry.

Lemieux stated he had the before and after plans in his car and left the meeting to retrieve them.

Day stated Tripoli should have spoken to the Planning Board before performing this work and before any money was released from the surety. Using a portion of the Tri-partite Agreement was not possible and Town Counsel stated that a private contract should have been in place.

Lemieux returned to the meeting and showed the Planning Board members the plans. The cul-de-sac had to be removed pursuant to subdivision regulations.

Sears read from the narrative stating that finished pavement will be started if weather permits and he asked Lemieux if he is anticipating paving in the near future. Lemieux responded if two additional lots were sold, they would complete the sidewalks and possibly the curbing, but he is not sure if this would happen this fall.

Henry stated that the parking area depicted in one of the images needs a change order to approve this area. He is not opposed to this parking area, but it falls on Tripoli to modify the right of way that the Planning Board previously approved. He felt it may be Tripoli's responsibility to figure this out with engineering. He suggested that the developer may be able to help Tripoli. Tripoli needs to request that the berm not be replaced.

Cote stated to the Board that they are here for a one year extension and he felt they are beyond the bounds of why they are at the meeting. He stated the engineer and bank are fine with their request. They are not here to discuss paving and it is not in their purview to pave private property.

Henry replied that the Board does have limitations, but Tripoli is here trying to tell his side of the story.

Cote responded that it this issue is not within the Board's purview and this private matter should not be imposed on the developer.

Henry responded that Tripoli has been dealing with this project for four years and he has a right to be frustrated.

Cote stated that they are in front of the Board asking for a one year extension for the completion date, and this extension has nothing to do with Tripoli.

Sears inquired how many lots were sold and Lemieux stated they have sold one third of the lots. Sears asked if it was likely they would sell all the lots and stated that this driveway is a safety issue.

Lemieux stated that they did not damage the property.

Tripoli described how the damage to the property occurred.

Cheetham asked if the approval could be conditioned.

Henry stated that the berm cannot be shown on the plan, and Prentiss stated this would require a minor modification. Lemieux stated he would be happy to do this.

Zilinsky asked how the neighbor dealt with the front of their property being changed with the cul-de-sac being removed? Tripoli stated that the neighbor's property was not affected because the lot is flat. Lemieux informed Zilinsky that the neighbor had a sidewalk in front of their property.

Henry asked if Lemieux saw cut the area shown in the picture? Cote said Rodgers had no issues because they have done everything according to the plans.

Henry stated that this is their third extension.

Cheetham again asked if they could condition the approval. Sears stated this is no different than another project done on Vista Drive where they tried to get the developers to pave the street for safety issues. If this is a safety issue that can be done in ten minutes, they would like to have it done.

Lemieux stated that the pavement issue on the Tripoli property is completely new to him. He stated that he had pavers on site two weeks ago and this could have been easily addressed. He stated he would take care of this issue as soon as he completes the sidewalks. Lemieux told the Board to condition the approval that he would repair the driveway when the sidewalks are installed.

Lemieux stated that the bank will be satisfied in full after the sale of the third or fourth lot. After that time, the bank will be out of the deal.

Cheetham is in favor of extending the completion date for a year with a minor modification condition.

Lemieux stated he would have completed this work when the binder coat was done had he known about the problem. He stated he would repair the driveway when the sidewalks are done.

Henry stated he would like to approve the extension with a condition to repair the driveway when the sidewalks are installed.

Cheetham suggested to condition the approval to have the applicant come back before the Board for a minor modification to address the paving issues. This will give Rodgers time to review the berm and paving issues.

Prentiss asked if a modification was ever conditioned because he does not want to overstep the Board's purview. He pointed out that most of the complaints of the abutter are outside their purview.

Cheetham replied that these complaints were an unintended consequence that happened during development.

Zilinsky asked if the sink hole has a new binder coat on it, and Lemieux responded that the sink hole was above the area they paved.

Sears stated he would like the pot hole to be repaired by December 1<sup>st</sup>. Cote said they could move the date up.

Henry was happy that some of the issues were resolved. He stated that it is a bad situation and everyone is empathetic.

**MOTION:** Sears read the Certificate of Action and moved to approve the Extension of Completion Date for Incomplete Site Improvements for Bridle Spur Extension. Prentiss seconded the motion. The motion passed by a unanimous vote.

Henry addressed Lemieux and Cote stating he was appreciative that they were able to resolve some of the issues.

## **CONTINUED PUBLIC HEARING**

**77 High Street.** Request for Minor Modification to an approved Site Plan pursuant to Section 4 of the Zoning Bylaw submitted by Bohler Engineering on behalf of McDonald's USA, LLC for property located in the Industrial I Zone District. The applicant proposes to construct an on-site sidewalk that will provide pedestrian access between the restaurant and the public sidewalk along High Street. (Assessor's Map 51, Lots 307 & 308) (*SPA action date: September 21, 2012*).

**MOTION:** Sears moved to continue the request for Minor Modification to Site Plan for 77 High Street at the applicant's request to October 9, 2012. Prentiss seconded the motion. The motion passed by unanimous vote.

## **MINUTES**

September 11, 2012

**MOTION:** Prentiss moved to approve the draft minutes of September 11, 2012. Zilinsky seconded the motion. The motion passed by unanimous vote.

## **ADJOURNMENT**

**MOTION:** Prentiss moved to adjourn. Zilinsky seconded the motion. The motion passed by unanimous vote.

The meeting adjourned at 8:00 p.m.

Respectfully submitted:

Francine T. Butler

The Planning Board approved these minutes on October 23, 2012.