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**TOWN OF WEST NEWBURY
OFFICE OF THE PLANNING BOARD
381 MAIN STREET
WEST NEWBURY MA 01985
978-363-1100 X125 Fax: 978-363-1119**

**CERTIFICATE OF VOTE
APPROVAL OF SPECIAL PERMIT APPLICATION FOR
A COMMON DRIVEWAY SERVING THREE LOTS
87 MAIN STREET
CONCORD RIVER PROPERTIES (OWNER/APPLICANT)
(Assessor's Map R-2, Parcel 28)**

December 4, 2018

At a meeting of the West Newbury Planning Board (hereinafter the "Board") held on December 4, 2018, Board members voted to approve with Conditions the Application filed for a Special Permit for a Common Driveway serving three lots (Zoning Bylaw Section 7.D.) (hereinafter the "Application") for 87 Main Street.

The application was received by the West Newbury Planning Board on August 28, 2018 and the public hearing was held over the course of three meetings held on October 16, 2018, November 20, 2018 and December 4, 2018. At the December 4, 2018 meeting, Planning Board Members voted 5-0 (Ann Bardeen, Richard Bridges, Raymond Cook, Brian Murphey and Kim Monahan in favor) (no one in opposition) to approve the Application with conditions. The approval herein incorporates by reference all the plans and drawings noted below as submitted by Concord River Properties, (hereinafter the "Applicant/Owner") and to the Applicants' and Owners' heirs, successors and assigns as their interest may appear, subject to the Conditions of this Decision to be met.

I. APPLICATION FILED: Special Permit for a Common Driveway serving 87 Main Street

II. OWNER/APPLICANT: Concord River Properties

III. REFERENCES:

- Special Permit Application for Common Driveway at 87 Main Street, West Newbury, MA 01985; Prepared for Concord River Properties (Michael Longo); Prepared by Christiansen & Sergi Engineers & Land Surveyors; Received by the Planning Board and Town Clerk on August 28, 2018.
- Letter dated October 10, 2018 to the Planning Board from Mead, Talerman & Costa, LLC Attorneys at Law
- Letter dated December 3, 2018 from Christiansen & Sergi to Leah Zambernardi, which is a formal written request for waivers of the submittal requirements.
- Plan Set Entitled "Common Driveway Plan for 87 Main Street West Newbury, Mass.", Sheet 1 of 1; scale: 1"=20'; dated 8/27/18, revised 10/10/18, 11/13/18 & 11/20/18; Sheet 2 of 2,

various scales; dated 8/27/18, revised 11/20/18. Drawn by Christiansen & Sergi Professional Engineers & Land Surveyors, 160 Summer Street, Haverhill, MA 01830.

IV. FILING and PUBLIC HEARING INFORMATION:

The Application was filed with the Planning Board as noted above on August 28, 2018, was published in the Daily News of Newburyport on 10/2/18 & 10/9/18, posted with the Town Clerk on 9/24/18 and was mailed to Parties in Interest and Planning Boards of abutting cities and towns on 9/25/18.

Copies of the Application package were distributed to the Board of Health, Building Inspector, Conservation Commission, Department of Public Works, Fire, Police, and Water Departments in compliance with Section II.2.a. of the Planning Board Rules and Regulations Governing Special Permits. Written comments were received from the Conservation Commission dated 10/2/18, the Water Department dated 10/11/18, the Fire Department dated 12/2/18 and the Town Planner dated 10/11/18 & 11/14/18.

The Public Hearing was held over the course of three meetings held on October 16, 2018, November 20, 2018 and December 4, 2018.

V. PLANNING BOARD MEMBER ATTENDANCE

Planning Board Members Ann Bardeen, Raymond Cook and Brian Murphey were present for each segment of the public hearing. Planning Board Member Richard Bridges and Associate Member Kim Monahan were present for all hearings but 10/16/18. Both provided certifications pursuant to G.L. c. 39, Section 23D that only one single hearing session was missed and that they reviewed all the evidence introduced at the hearing session that was missed including a review of the audio recording of the missed session. Associate Member Kim Monahan was appointed as a Planning Board Member on November 26, 2018 and voted in that capacity.

VI. DESCRIPTION OF PARCEL:

The parcel is located in the Residential C Zoning District. The Planning Board endorsed a plan for 87 Main Street as one not requiring approval under the Subdivision Control Law on 9/4/18 (Plan Book 467, Plan 72) which divides the parcel into three lots.

VII. WAIVERS:

The Owner/Applicant has requested and the Planning Board hereby approves waivers contained in the letter dated 12/3/18 from Christiansen & Sergi to Leah Zambernardi, pursuant to Section II.5.4 of the Planning Board's Rules and Regulations Governing Special Permits, revised through January 7, 2014 (hereinafter "the Rules") as follows:

Section 4.2.4.7 - Property lines at street intersections shall be rounded or cut back to provide for a curb line radius of not less than 15 feet.

A waiver is granted to provide a 10-foot radius for the eastern radius only, a 15-foot radius is provided for the western radius.

Section 4.2.5.1 - Modified Cape Cod berm shall be required along all edges of pavement unless an alternative design is approved by the Board

The request for a waiver from providing curbing is granted. A stone diaphragm infiltration trench is approved for the common driveway. This is done to provide low impact technique drainage design.

Section 4.2.7.1.- The centerline grade of streets shall not be less than 2% nor more than 6% for local collector roads and not more than 10% for local access roads

A waiver is granted to provide a 12% profile grade for the last 75-feet of the 225-foot long common drive. The remaining 150-feet of common drive meets the 10% requirement.

Section 4.2.7.2- All vertical curves shall be so graded as to provide 200 feet of sight distance to drivers. Minimum length of a sag or crest vertical curve shall be 100 feet.

A waiver is granted to provide a 25-foot sag vertical curve. This request will minimize earthwork and maintain a large maple tree and does not jeopardize safety given the level of service with the common driveway use.

Section 4.2.7.3 - Any local access road at the approach to an intersection shall be provided with a leveling area having no greater than +3% for a distance of 100 feet measured from the lowest edge of traveled way of the intersected road. Negative grades greater than -1% shall not be allowed within a distance of 100 feet measured from the highest edge of traveled way of the intersected road.

A waiver is granted to provide a 20-foot leveling area of +3%. This request will minimize earthwork and maintain a large maple tree and does not jeopardize safety given the level of service with the common driveway use.

Section 4.2.10.2 - Construction shall not be proposed of roads, stormwater management systems, driveways, pipes, or other infrastructure construction shown on a subdivision plan on a land area which slopes at a pre-construction grade of 25% or more.

A waiver of this requirement is granted. There is 25-foot length of existing grades over 25%. This steep grade was created by previous construction activity and does not represent the natural topography.

Section 5.2.3.- Roadways shall be constructed of Class I Bituminous Concrete Pavement, Type I-1. This type of pavement shall be composed of mineral aggregate, mineral filler and bituminous material, plant mixed and laid hot. The pavement shall be constructed in three (3) courses being a 2 ½" binder course, a 2" binder course and 1 ½" top course for a final compacted pavement

A waiver of the requirement to provide the second 2" binder course of binder is granted. A pavement section of 2.5" binder and a 1.5" top course is approved. This pavement section is appropriate design for the proposed level of service of the common driveway.

Section 5.3.5.2.- A minimum Class 5 reinforced concrete pipe (used on all cross drains under pavements) shall be installed according to the size as shown on the plan

A waiver is granted to provide high density polyethylene N-12 pipe. This pipe meets H-20 loading requirements and will be maintained by homeowner association.

VIII. FINDINGS:

The Planning Board made the following findings pursuant to Section 7.D. "Common Driveways" and Section 8A.2.f. of the Zoning Bylaw.

Section 7.D.

- a. The common driveway provides a reasonable public benefit, which would not otherwise be obtained without use of a common driveway. Said benefit includes the reduction in the number of curb openings onto Main Street.
- b. All three lots have frontage on an acceptable way as defined in MGL C.40 §81-L, and each lot frontage provides the possibility of reasonable practical access from the proposed structure or use to the way without using a common driveway.
- c. The common driveway meets the dimensional and construction standards of the Town of West Newbury minor roadway standards as are outlined in the West Newbury Subdivision Regulations with the exception of the waivers granted under Section VII.

Section 8A.2.f.

- a. The specific site is an appropriate location for the use.
- b. The use developed will not adversely affect the neighborhood.
- c. There will not be an undue nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities have been provided to ensure the proper operation of the proposal.
- d. The proposed use is in harmony with the general purpose of the West Newbury Zoning Bylaw as amended.
- e. The requested use will not overload any public water, drainage, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting health, safety or the general welfare.

IX. CONDITIONS OF APPROVAL:

- a. No more than three residential lots shall ever be served by the common driveway.
- b. The length of the common driveway shall not be used to satisfy zoning frontage requirements.
- c. If the easement granted in Article IX of the Homeowners Association and Declaration of Trust is ever changed, the easement or easement conditions obtained by the future owners of the lots is subject to the approval of the Planning Board.
- d. Prior to construction of the common driveway, covenant restrictions for the proper maintenance of the common driveways by all affected property owners are required. The restrictions shall be recorded at the Registry of Deeds, Essex County South and referenced on the plan. The Applicants have provided and the Board has approved the Homeowner's Association and

Declaration of Trust document which satisfies this condition. Once recorded, copies shall be provided to the Planning Board.

- e. The Town of West Newbury is not responsible for repair, maintenance, plowing or snow and ice control of the Common Driveway. This is the responsibility of the owners, and shall be noted in the Homeowner's Association and Declaration of Trust document as in perpetuity.
- f. Future lot owners shall not petition the Board of Selectmen for repair, maintenance, plowing, or snow and ice control of the Common Driveway. This Condition shall be noted in the covenant restrictions as in perpetuity.
- g. The project shall be constructed in accordance with the above-referenced plans. No further amendment, alteration, waiver or other change in the Special Permit shall occur other than compliance with the procedures for Modifications in Section 8.A.2.g.4 of the Zoning Bylaw.
- h. House numbers for each lot shall be posted at the intersection of the Common Driveway and the private driveways.
- i. This approval is subject to the conditions of the Memorandum with attached plans from Mike Gootee of the Water Department to Leah Zambenardi dated 10/11/18, as may be amended by the Water Department, which are on record in the Planning Office, incorporated herein by reference and summarized as follows:
 - 8"X6" Tap and Sleeve connected to the existing 8" water main.
 - One 20' 6" section of water main connected to the Tap and Sleeve and brought into the site. This doesn't need to be installed under the proposed driveway as shown on the attached plan. It can be installed to the right or left of the proposed driveway.
 - One 1" K copper blow-off connected to the end of the 6" water main and brought over to a grassy area for sediment removal.
 - Six 1" K copper water services connected to meter pits. From there, 6 - 1" polyethylene service lines to each dwelling. Each side of the duplex is required to have its own water service. Each water service is required to be located a minimum of 10' from any septic system and 5' to any other utility.
 - The water service to the existing dwelling closest to Main Street will need to be abandoned back to the corporation stop connected to the 8" water main on Main Street.
 - A three thousand dollar Connection Fee will be required for each service line.
 - The developer is responsible for all work and cost for the proposed development.

X. CONDITIONS OF APPROVAL, INSPECTION SERVICES:

In accordance with MGL Chapter 44, Section 53G, as amended and the West Newbury Planning Board Regulations Governing Special Permits, the Planning Board shall retain the services of an outside consultant, for construction inspection services at the Applicant's expense. Said services shall guarantee compliance with this Certificate of Vote, the approved Special Permit and ANR plans and the applicable Zoning and Subdivision Bylaws. The Applicant shall establish an Escrow Account for said inspections, with an initial deposit of \$1,400. Any unused funds, with interest, shall be returned to the Applicants upon project completion.

ADMINISTRATION:

Following the expiration of the applicable appeal periods, the Applicant shall record this endorsed Certificate of Vote and the approved Special Permit Plan at the Registry of Deeds. The Applicant shall also secure a statement for recording from the West Newbury Town Clerk, indicating that the applicable appeal periods have lapsed and that there have been no appeals or that if any appeal has been filed that it has been dismissed or denied. A copy of the recorded documents shall be provided to the Planning Board.

All applicable laws, bylaws, rules, regulations, and codes of state law, federal law, and the Town of West Newbury shall be complied with, and the Owner shall obtain all necessary permits, licenses, and variances, as applicable.

The action of the Planning Board does not waive or alter any other permit or approval requirements, including, but not limited to, those of the Board of Health, the Inspection Department, and the Conservation Commission.

In accordance with Section 8.A.2.h. of the Town of West Newbury Zoning Bylaw, this approval shall lapse within two years from the date of the Planning Board's filing of this Certificate of Vote with the Town Clerk if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

The Conditions of this Special Permit shall run with the land and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The owners and purchasers of all lots shall be forever bound by all applicable conditions and restrictions contained in this Certificate of Vote.

APPEALS: Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the filing of this Certificate of Vote in the Office of the Town Clerk of the Town of West Newbury.

**CERTIFICATE OF VOTE
87 MAIN STREET
CONCORD RIVER PROPERTIES (OWNER/APPLICANT)**

At a meeting of the West Newbury Planning Board held on December 4, 2018, Board Members voted to approve the Application for a Special Permit for a Common Driveway subject to the following:

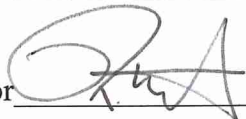
- Final Certificate of Vote and Conditions, as approved by the Board,
- Final Plans, as approved by the Board,
- Other documents, as referenced in the Certificate of Vote.

The Vote was as follows:

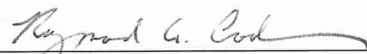
Ann E. Bardeen

In favor 

Richard W. Bridges

In favor 

Raymond A. Cook

In favor 

Kim A. Monahan

In favor 

Brian R. Murphey

In favor 