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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 TWO LOTS
151 & 153 MIDDLE STREET
TOM COOK, JR. (APPLICANT); HADDOCK REALTY TRUST (OWNER)
(Assessor's Map R-8, Parcels 5D & 5E)**

August 15, 2017

At a meeting of the West Newbury Planning Board (hereinafter the "Board") held on August 15, 2017, Board members voted to approve with Conditions the Application filed for a Special Permit for a Common Driveway serving two lots (Zoning Bylaw Section 7.D.) (hereinafter the "Application") for 151 and 153 Middle Street.

The application was received by the West Newbury Planning Board on June 20, 2017 and the public hearing was held on July 13, 2017. Members discussed the matter amongst themselves at the August 1, 2017 and August 15, 2017 meetings. At the August 15, 2017 meeting, Planning Board Members voted 5-0 (Ann Bardeen, Richard Bridges, Raymond Cook, Brian Murphey and John Todd Sarkis 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 Tom Cook, Jr. and Haddock Realty Trust, (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 151 and 153 Middle Street
- II. OWNERS/APPLICANTS:** Haddock Realty Trust, 157 Middle Street, West Newbury, MA (Owner); Tom Cook, Jr., 28 Meadowview Road, Georgetown MA (Applicant)
- III. REFERENCES:**
 - Special Permit Application for Common Driveway at 151 and 153 Middle Street, West Newbury, MA 01985; Prepared for Tom Cook, Jr.; Prepared by Cammett Engineering, 297 Elm Street, P.O. Box 329, Amesbury, MA; Received by the Planning Board and Town Clerk on June 20, 2017.

- Letter dated June 20, 2017 from Robert B. Blanchette, Jr., PE, Cammett Engineering to West Newbury Planning Board, which includes a formal written request for waivers of the submittal requirements.
- Plan Set Entitled "Special Permit Common Driveway, 151 and 153 Middle Street, West Newbury, MA" drawn by Cammett Engineering, 297 Elm Street, Amesbury, MA, which includes 5 sheets labeled: "Title Sheet", Sheet T1-1 of 5, various scales, dated 2/17/17, rev. 6/20/17 & 7/28/17; "Existing Conditions", Sheet EC-2 of 5, scale: 1"=30', dated 2/17/17, rev. 6/20/17 and 7/28/17; "Easement Plan of Land", Sheet EA-3 of 5, scale: 1"=40', dated 3/1/17, rev. 6/13/17; "Site Plan", Sheet SP-4 of 5, scale: 1"=20', dated 2/17/17, rev. 6/20/17 and 7/28/17; "Details", Sheet DT-5 of 5, various scales, dated 2/17/17, rev. 6/20/17 and 7/28/17.

IV. FILING and PUBLIC HEARING INFORMATION:

The Application was filed with the Planning Board as noted above on June 20, 2017, was published in the Daily News of Newburyport on June 29, 2017 and July 6, 2017, and was mailed to Parties in Interest on June 29, 2017.

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 Board of Health on July 10, 2017.

The Public Hearing was held on July 13, 2017.

V. PLANNING BOARD MEMBER ATTENDANCE

Planning Board Members Ann Bardeen, Richard Bridges, Raymond Cook, Brian Murphey and John Todd Sarkis were in attendance at the public hearing. Associate Member B. Dennis Lucey was also in attendance during the public hearing.

VI. DESCRIPTION OF PARCEL:

The parcels are located in the Residential B Zoning District. 151 Middle Street (Lot 4) has 145,675± square feet of area and 300 feet of frontage on Middle Street. 153 Middle Street (Lot 5) has 98,010± square feet of area and 257.18 feet of frontage on Middle Street.

VII. WAIVERS:

The Owner/Applicant has requested and the Planning Board hereby approves waivers contained in the letter dated June 20, 2017 from Robert B. Blanchette, Jr., PE, Cammett Engineering to the West Newbury Planning Board, 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:

a. Section II.5.1.j - Proposed Utilities

A waiver was requested from the requirements of this section due to the unknown nature in which certain utilities (telephone, cable tv, and electricity) will be installed per the privately owned utility provider's requirements (underground or aerial).

- b. Section II.5.1.m - Elevation and Perspective Drawings
A waiver was requested from the requirements of this section due to the small size and nature of this project (two single family houses).
- c. Section II.5.1.o -- Screening Information
A waiver was requested from the requirements of this section due to the small size and nature of this project (two single family houses).

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 Middle Street.
- b. Both 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.

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. The easement or easement conditions obtained by the future owners of 151 Middle Street (Lot 4) over 153 Middle Street (Lot 5) 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 Declaration of Easement and the Common Driveway Maintenance Covenant shall be recorded at the Registry of Deeds, Essex County South and referenced on the plan. 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 Common Driveway Maintenance Covenant 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 Common Driveway Maintenance Covenant 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 driveway.

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.



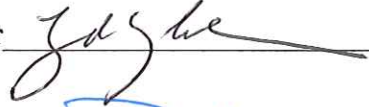

APPEALS: Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the filing of this Notice of Certificate of Vote in the Office of the Town Clerk of the Town of West Newbury.

CERTIFICATE OF VOTE
151 & 153 MIDDLE STREET
TOM COOK, JR. (APPLICANT); HADDOCK REALTY TRUST (OWNER)

At a meeting of the West Newbury Planning Board held on August 15, 2017, 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	
Brian R. Murphey	In favor	
John Todd Sarkis	In favor	