



TOWN OF WAYLAND
MASSACHUSETTS
01778
PLANNING DEPARTMENT

Sarkis Sarkisian
Wayland Town Planner

TOWN BUILDING
41 COCHITUATE ROAD
TELEPHONE: (508) 358-3788

MEMO

DATE: July 13, 2020
TO: Town Clerk, Applicant
FROM: Sarkis Sarkisian, Town Planner
SUBJECT: Certification of Planning Board Action on 81 West Plain Street Subdivision

As required by MGL Ch. 41, s. 81-U, this memo certifies the attached Notice of Action, namely, that on June 23, 2020 the Board voted to approve with conditions the application for the a Definitive Subdivision Approval submitted by Silver Leaf Homes LLD. This decision may be appealed in accordance with MGL Ch. 41, s. 81-BB, that is within twenty (20) calendar days of the filing of this decision at the office of the Wayland Town Clerk.

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TOWN OF WAYLAND
TOWN CLERK
2020 JUL 13 PM 12:44



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

RECEIVED
TOWN OF WAYLAND
TOWN CLERK

2020 JUL 13 PM 12:45

PLANNING BOARD

Notice of Action

RE: Application for Definitive Subdivision Approval
Silver Leaf Homes, LLC (Applicant)

Date: July 7, 2020

Location: 81 West Plain Street, Assessor's Map 51A-Lot 071 (the "Project Site")

I) Procedural History

- A) The applicant Silver Leaf Homes, LLC ("Applicant") filed an application for preliminary subdivision approval on November 15, 2019. The Planning Board met on November 19, 2019 to review and discuss the submission and continued the discussion to December 10, 2019, at which time the Board stated its support of the plan and the requested waivers with conditions as stated in the minutes of the December 10, 2019 meeting.
- B) A Definitive Subdivision Application was filed with the Board on February 19, 2020.
- C) Notice of the public hearing appeared in the *Wayland Town Crier* on February 20, 2020 and February 27, 2020. A second revised notice appeared in the *MetroWest Daily News* on June 6, 2020 and June 13, 2020.
- D) A public hearing on the Definitive Subdivision Application was opened on March 10, 2020 and was continued to: March 17, 2020; April 7, 2020; April 8, 2020; April 29, 2020; May 5, 2020; May 19, 2020; May 26, 2020; and June 23, 2020 at the conclusion of which the Board closed the public hearing.
- E) Planning Board members conducted site visits on November 29, 2019 and May 28, 2020.
- F) The Plans and other submission materials were reviewed by the Planning Board and its consulting engineer BSC Group. Throughout its deliberations, the Planning Board took into consideration the statements of the Applicant and its representatives, and the comments of the parties in interest and the general public, all as made either at the public hearing or in written submissions to the Planning Board while the hearing record was open.

II) Application Submittals and Related Documents

The following documents were submitted to the Board in connection with the above referenced Application for Definitive Subdivision Approval:

A) Application Submittals

1. Application Transmittal cover sheet by The Jillson Company for Silver Leaf Homes, LLC submitted on February 13, 2020.
2. "Definitive Subdivision Plan 81 West Plain Street" prepared by The Jillson Company, Inc., 32 Fremont Street, Needham Heights, MA 02494 comprised of the following three (3) sheets:
 - a. "Definitive Subdivision Plan 81 West Plain Street" dated February 5, 2020 and revised on May 12, 2020 and May 26, 2020;
 - b. "Grading Site Plan 81 West Plain Street" dated January 23, 2020 and revised on May 12, 2020 and May 26, 2020;
 - c. "Stormwater Detail Plan 81 West Plain Street" dated January 23, 2020 and revised on May 12, 2020 and May 26, 2020.
3. "Landscape Plan L-1" prepared by The MacDowell Company, LLC dated May 26, 2020 and last revised June 2, 2020
4. "Lotting Sketch Plan-D1" prepared by The Jillson Company, Inc. dated March 23, 2020 and revised using that same date
5. "#81 West Plain Street Sketch Plan F" prepared by The Jillson Company, Inc. dated May 29, 2020

(the plans referenced in paragraphs 2. – 5. above are hereafter collectively referred to as "the Plans")

6. Form C Application for Approval of Definitive Plan- dated February 5, 2020.
7. Form D Designers Certificate dated February 5, 2020
8. Form K Board of Health Application – received by Board of Health on February 13, 2020
9. Stormwater Report entitled "Definitive Subdivision Plan 81 West Plain Street" dated February 5, 2020 and a revised drainage report entitled "Definitive Subdivision Plan 81 West Plain Street" dated May 12, 2020 both reports prepared by Jillson Company, Inc.
10. Environmental Data Form O dated March 6, 2020
11. Memo dated March 6, 2020 from Kevin O'Leary to Sarkis Sarkisian, Town Planner regarding requested list of waivers
12. Certified List of Abutters Within 300' dated January 27, 2020.

13. \$2,000.00 Filing Fee Check (#480) Silver Leaf Homes, LLC.

B) Documents including memos, letters, reviews and others information regarding the application for Definitive Subdivision Approval.

1. Memo dated February 19, 2020 from Town Planner Sarkis Sarkisian to Town Clerk regarding filing and completeness of the application.
2. Definitive Plan Submission Requirements Checklist completed by the Town Planner on [insert date].
3. Memo dated March 2, 2020 from Town Planner Sarkis Sarkisian to Planning Board regarding the Application.
4. Memo dated March 4, 2020 from Department of Public Works Town Engineer Paul Brinkman regarding the Application.
5. Memo dated February 25, 2020 from Fire Chief Neil McPherson regarding 81 West Plain Street driveway width.
6. Letter from Thaddeus Thompson, 77 West Plain Street to the Planning Board dated March 8, 2020
7. Boston Survey peer review report dated March 9, 2020 to Wayland Planning Board and Wayland Board of Health.
8. Letter to Planning Board from Kray A. Small, Massachusetts Certified Arborist License #1797, on behalf of the Applicant dated March 15, 2020.
9. Letter from Ann Rappaport, 69 West Plain Street to the Planning Board dated April 7, 2020.
10. Email from Bradford Young, 11 Bent Avenue to Chair Ira Montague and Town Planner Sarkis Sarkisian dated April 27, 2020
11. Email dated May 21, 2020 from Fire Chief Neil McPherson to Town Planner Sarkis Sarkisian regarding 81 West Plain Street road width of 16 feet.
12. Letter from Thaddeus Thompson, 77 West Plain Street dated May 17, 2020.
13. Letter from Lucia Thompson, 77 West Plain Street dated May 17, 2020.
14. Letter dated May 21, 2020 from: Mark Harmon, 1865 NW Beca Avenue, Corvallis, Oregon; Susan Harmon Stasny, 206 Brickett Hill Road, Pembroke, NH; and Janet Harmon, 10 Harold Avenue, Pembroke, New Hampshire.
15. Email from Geoffrey Larsen, Building Commissioner to Town Planner, Sarkis Sarkisian dated June 23, 2020 regarding zoning overview of Lot 3.

III) Findings

Project Site

1. The Project Site is located in the R20 zoning district. The minimum lot area in the district is 20,000 square feet. The minimum frontage is 120 feet.
2. The Project Site consists of 2.1 acres and has 87.45 feet of frontage on West Plain Street.
3. There is an existing single-family house and detached two-car garage on the Project Site which are both in disrepair. According to the Assessor, the house was constructed in 1860. It is a Victorian-style, 1 ½ story house with a gabled end facing Main Street, framed by a 40-inch silver maple street tree on the edge of the West Plain Street right-of-way. The house has three bedrooms and 1,323 square feet of living area.
4. The existing house is set back approximately 30 feet from Main Street. The existing driveway runs along the east side of the house, with the eastern edge of the driveway approximately 14 feet from the eastern property boundary.

Application History

5. The Applicant originally proposed razing the existing house and garage and creating a two-lot subdivision with a dead end cul-de-sac road. Lot 1 would have 38,733 square feet and Lot 2 would have 30,099 square feet. The road would consume 24,317 square feet.
6. In its initial definitive subdivision application and plan, the Applicant requested several waivers from the Board's Subdivision Rules and Regulations ("SRR").
 - a. Of particular note, the Applicant proposed to reduce the paved surface width of the road from 22 feet (required) to 18 feet for most of the length of the road, and to 16 feet from West Plain Street to approximately Station 1+00 as shown on the Plans.
 - b. The Applicant also requested a waiver from Section IV ("Design Standards"), §B(1)(4), which requires new streets to be aligned with cross streets, or offset a minimum of 150 feet, to minimize turning conflicts. By razing the existing house, the Applicant placed the centerline of the proposed road almost directly across from Parkland Drive – there is a 10 foot variance, hence the need for the waiver.
 - c. The Applicant also requested a waiver from Section IV(B)(1)(c), which requires 50 feet of separation between the subdivision boundary and the right-of-way of any street. The front of the Project Site is narrow, and it is geometrically impossible for any 40-foot right-of-way to comply with this dimensional standard on this site. The purpose of this 50-foot setback requirement is to protect residential abutters from the construction of new roads adjacent to their properties. On its initial plan, the new road layout would have been very close to the lots at 11 and 15 Bent Avenue. Subsequent revisions moved the road closer to 77 West Plain Street.
7. During the public hearing, the Board asked the Applicant to try to reduce its nonconformity with the 50-foot separation rule, and indicated to the Applicant that it could be flexible on the width of the right-of-way and the paved surface, given that the "road" would only serve two homes, one more than what exists today.
8. Despite the Applicant's best efforts, it could not materially improve the setback distances for the right-of-way given the shape of the lot. The Board considered the fact that the existing driveway on the Project Site, which runs along the eastern property boundary for approximately 120 feet until it meets the garage, has likely been in existence since the construction of the house in the 1860's. The Board also considered the fact that the burden on the two homes on Bent Avenue was limited to traffic generated by two homes, which could be substantially mitigated by trees and other screening on this relatively flat site.
9. After hearing the Board's concerns:
 - a. The Applicant proposed shrinking the width of the right-of-way to 25 feet, maintaining the 18-foot paved surface width, and pulling the right-of-way at least 20 feet away from the neighbors on Bent Avenue.
 - b. The Applicant has also agreed to construct the road in the general location of the existing driveway, which would be adjacent to the property at 77 West Plain Street for approximately the first 60 feet before it turns westerly into the center of the lot, and to within 20 feet of the Bent Avenue lots.
 - c. This revised design also enabled the Applicant to preserve the existing house and the 40 inch silver maple tree, which are significant elements in the public realm of West Plain Street.
10. The revised plan submitted on May 12, 2020 featured three lots – the two proposed (conforming) lots in the rear of the Project Site, and a new (non-conforming) lot in the front of the Site, which will contain the existing house.

11. On the current plan iteration dated May 26, 2020, as modified by Sketch Plan F, Lot 1 is shown as having 39,256 square feet, Lot 2 would have 33,695 square feet, and Lot 3 would have 9,768 square feet. The road would consume 10,514 square feet.
12. To address concerns noted during the public hearing, the Applicant undertook the following efforts.
 - a On May 29, 2020, the Applicant prepared "Sketch Plan F," which shows the first segment of the proposed road (to Station 1+00) to be only 16 foot wide pavement, in order to provide a greater buffer to the abutter on the east side (Thompson).
 - b The Applicant agreed to seek dimensional variances to permit the existing home to be located on an undersized lot (9,768 square feet).
 - c The Applicant offered to renovate the existing home and then restrict the home as an affordable housing unit in perpetuity.
13. The Board finds that the overall density of the Project, 3 lots on approximately 93,233 square feet, is still below the allowable density in the R-20 zoning district (one lot per 20,000 square feet), and that this West Plain Street location is appropriate for this level of density and affordable housing, being within walking distance to public amenities (groceries, bank, retail, Cochituate field, the town beach, etc.).
14. The Board finds, on balance, that the public benefits afforded by the proposal justify waiving the 50-foot right-of-way setback provision, given the number of homes being served by the road, the likely presence of the existing driveway within 50 feet of the easterly property boundary for more than 100 years, and the ability of the Applicant to mitigate the impacts of the proposed road on abutters by vegetated screening and fencing.

IV) Decision

Based on the aforementioned findings, application submittals, public comment, comments from Boards and Commissions, Land Use meetings, comments of Town Consultants, and the information submitted at the hearing or in written submissions to the Planning Board while the hearing record was open, the Planning Board hereby approves said Application for the Definitive Subdivision Plan Approval, subject to the following conditions:

A. General Conditions

- A.1 The Project shall be built in conformity, and shall be in compliance, with the Plans, as may be modified by the conditions set forth in this Decision, all of which shall appear on the final endorsed Mylar plans. Failure to so comply shall be cause for rescission of this Decision. All references to specific lots shall coincide with the designated numbers as shown on the Plans.
- A.2 If there is no appeal of this decision, a reproducible set of the plans shall be revised to incorporate the conditions of this Decision, and returned to the Planning Board within forty-five (45) calendar days after the expiration of the appeal period and notification to the Planning Board by the Town Clerk that no appeal has been filed. If there is an appeal, the Applicant shall consult with the Planning Board regarding the resolution of the appeal and relevant timetables. The revised reproducible plans shall be endorsed by the Planning Board if the Board determines that the plans comply with this Decision.
- A.3 A properly executed Form I, Approval with Covenant Contract, or its equivalent shall be submitted in a form acceptable to the Planning Board.

- A.4 This Decision and the revised and endorsed plans, and the Form I, Approval with Covenant Contract, or its equivalent, if applicable, all properly executed, shall be recorded or registered, as appropriate, at the Middlesex South District Registry of Deeds within ninety (90) calendar days after the endorsement of the revised plans by the Planning Board; and within the same ninety (90)-day period, one reproducible set and four (4) sets of plans of the fully endorsed revised plans, plus a copy of the layout plan in electronic form suitable for use by the Town Surveyor, shall be returned to the Planning Board, together with documentation verifying that said recording(s) have been completed, noting the specific location (referenced by deed book and page, etc.) where said document(s) and plans have been recorded, and the date of recording; all recording information shall be attached to said notification. Neither the entire subdivision, nor any portion thereof, to include any lot or lots, shall be sold or offered for sale until said notification occurs.
- A.5 The owners of Lots 1 and 2 shall be jointly and severally responsible and liable for the costs of the maintenance, snow plowing, repairs and construction of the roadway serving those lots, and, to the extent applicable, all utilities the installation of which are required in connection with this approval, or which may be installed at any time, including, without limitation, water, sewer, stormwater management system, and other utilities, and including all actions of any kind or nature necessary or appropriate in order to maintain the roadway in a good safe and passable condition, providing access from each lot to West Plain Street and to provide adequate services to Lots 1 and 2; provided, however that both owners of Lots 1 and 2 shall also be jointly and severally responsible and liable for the roadway stormwater management system. For purposes hereof, "owner" shall mean the record owner of the said lot or lots as of the date that maintenance, repair or reconstruction work, as the case may be, is begun. All such maintenance, etc. shall be done under the supervision of the appropriate Town department if applicable, and shall comply with and conform to all requirements of the Town of Wayland and other requirements imposed by law or governmental authority. If applicant is successful in obtaining approval for a home on lot 3 the applicant will provide an access and utility easement as needed for development of the property per the plans approved by the zoning board of appeals.
- A.6 The appropriate Town officials, employees, agents and contractors and their designees shall have the right to enter upon the roadway for all purposes for which ways are used in the Town of Wayland.
- A.7 The Applicant shall establish a homeowners association and execute and record a declaration of covenants and easements ("Declaration") to govern the roadway and each lot owner's rights and responsibilities in the same. The Declaration shall include a snow and ice removal plan that does not rely on salt treatment. A copy of the draft Declaration shall be provided to the Town Planner and the Planning Board for review and comment prior to the recording of the same.
- A.8 The roadway shall not be eligible for acceptance by the Town of Wayland as a public way, and the Applicant and its successors-in-title shall never petition the Town of Wayland, whether through town meeting or otherwise, for public acceptance of the roadway as a public way.
- A.9 With the exception of initial development and construction activities, the owners of Lots 1 and 2 shall not use or permit the use of the roadway for any purpose other than utilities and ingress and egress from the lots by the residents of the lots and their guests and invitees, such

use to be limited to pedestrian and private passenger vehicular traffic, delivery or customary and usual household services incidental to residential uses, and vehicles or equipment in connection with the maintenance, repair or reconstruction of the roadway and any utilities installed thereon and thereunder. No owner or owners shall park or cause to be parked any motor vehicle on the roadway, except for occasional, temporary and non-overnight parking that does not impede access to all of the lots.

- A.10 All easements, including the Declaration of Covenants and Easements for the roadway, shall be reviewed and approved by the Planning Board prior to recording with the Middlesex South Registry of Deeds, and prior to the issuance of Certificate of Occupancy for Lots 1 or 2. All easements, if any, shall be referenced in the deeds for the lots encumbered by and/or benefiting from said easements. Copies of said deeds shall be submitted to the Planning Board.
- A.11 In any sale or transfer by the owner or any successor owner of the lots, the deed or other instrument of conveyance shall reference this Decision and its recording book and page.
- A.12 No lot shall be further divided so as to create additional lots. This restriction shall be noted on the recorded plans and shall be incorporated into the Declaration of Covenants and Easements governing the private way. Further, the Applicant shall convey a Declaration of Restrictive Covenant to the Town of Wayland in substantially the same form as used for the Board's 74 Moore Road Conservation Cluster special permit decision dated December 13, 2017, prohibiting the division or subdivision land to create additional lots, additional housing units, or vehicular access to abutting land. This Declaration shall be in a form acceptable to the Board to render it enforceable in perpetuity, or for the longest period allowed by law, and shall be recorded in the Registry of Deeds ahead of any transfer of title or lien, voluntary or involuntary, of or on the subdivision land or any portion thereof by the Applicant, unless a subordination agreement is obtained from all parties who hold existing title interests (i.e., a construction financing mortgagee).
- A.13 Any fill that is imported to the site shall be clean and any debris found within the fill, such as but not limited to asphalt, metal, and wood shall be removed.
- A.14 The base coat of the roadway shall be constructed and capable of providing safe vehicular access to Lots 1 and 2 prior to the commencement of construction of the homes.
- A.15 A permit to construct individual sewage disposal system for sanitary wastewater disposal shall be obtained from the Wayland Board of Health for each individual lot prior to the issuance of a building permit.

B. Waivers Granted/ Special Conditions

B.1. The Planning Board hereby grants the following waivers from the Subdivision Rules and Regulations Section IV Design Standards as part of its approval and finds that granting the following waivers is in the public interest and not inconsistent with the purpose of the Subdivision Control Law:

Waiver No.	Regulation	Description/Request	Action
1	III.B.3.t	Waive requirement that plans show sidewalks, street lights and trees, where none are proposed.	Waived to preserve existing vegetation and green space
2	III.B.4.f	Roadway center line grades at 50' & 25' stations	Waived
3.	III.B.4.k	All center lines and curb lines (with elevations every 25 feet) of streets for 200 feet either side of each intersection on a connecting street.	Waived
4.	III.B.5.a	Technical memorandum regarding traffic standards and information	Waived
5.	IV.B.1.c	A minimum of 200 foot length tangent be provided between the point of tangency (PT, the end) of one curve and the point of curvature (PC, the beginning) of any following curve.	Waived
6.	IV.B.1.d	Requirement of a cul-de-sac and a minimum turnaround radius to allow a hammerhead as depicted on the approved Plans.	Waived to preserve existing vegetation and green space, which would have to be removed to construct a compliant cul-de-sac.
7.	IV.B.1.d	Requirement for 50' separation from the subdivision boundary of the proposed right of way.	Waived because the limited frontage precluded conformity. Lack of centering the roadway was granted because of the strong public interest in preserving the existing 19 th century home, adding to the town's affordable housing stock, utilizing the existing driveway, and preserving a landmark tree on scenic road.
8.	IV.B.1.e	Street lines at intersections shall be cut back so as to provide for curb radii of not less than twenty-five feet (25').	Waived

9.	IV.B.2.	Requirement of a 22-foot roadway pavement width to allow for a reduced width of pavement of 16-18 feet as shown on the approved Plans.	Waived to reduce the amount of impervious surface and impacts associated with the construction of the roadway.
10.	IV.B.4.	Requirement for 290' Right of Way design of a roadway curve radius and the 150' minimum separation of streets entering on opposite sides of another street	Waived
11.	IV.D.	Pedestrian ways	Waived
12.	IV.E.	Open Space, Parks and Playgrounds	Waived
13.	V. 3	Curbs and Berms	Waived
14.	V.4	Walkways	Waived
15.	V.12	Street Signs	Waived
16.	V.13	Street Lights	Waived

B.2. Lot 3 – Applications for Other Permits

Lot 3 shall be considered a “NON-BUILDABLE LOT” and as a result, may not be occupied for residential use absent additional zoning relief. Within sixty (60) days after the issuance of this Decision and expiration of the applicable appeal period without the filing of an appeal, or in the event of an appeal, after the conclusion of successful defense of an appeal, if any, the Applicant shall apply for (a) all necessary variances from the dimensional requirements of the Zoning Bylaw for the maintenance of the existing home at 81 West Plain Street on Lot 3, and (b) all septic system and stormwater permits for Lot 3, all as shown on the final definitive subdivision plan. The Applicant shall diligently pursue said permit applications in good faith and expeditiously.

B.3. Variance Application Denied or Not Acted Upon

If, following a period of six (6) months after filing the variance application under Section B.2., the Zoning Board of Appeals (“ZBA”) has not granted the necessary variance relief, the Applicant may transfer title to Lot 3 to the Town or its designee as provided under Section B.6. below (“Transfer of Title to Town or its Designee”).

B.4. Appeals from Variance or Other Permitting Decisions

If the Applicant obtains all necessary variances, septic and stormwater permits and approvals, and any one or more of those permits and approvals is appealed by a third party to a court of competent jurisdiction, the Applicant shall have the option of not defending its permits in the judicial appeals. In the event the Applicant wishes to exercise that option, it shall give written notice to the Planning Board within 20 days of the service of the Complaint in any such appeal, exercising its option not to defend. The Planning Board and the Town of Wayland shall then inform the Applicant whether (a) the Town elects to take the lead in defending the permit(s) in the appeals; or (b) the Town elects for title to Lot 3 to be transferred to the Town or its designee, in which case the Applicant shall proceed under Section B.6.; or (c) the Town has no interest in defending the permit(s) or taking title to Lot 3, in which case Lot 3 shall be made part of Lot 1 and/or Lot 2 or divided between them. If the Town elects to defend the permit(s) in the appeals, and the Town is successful in such defense, evidenced by either the dismissal of such appeals without further appellate application, or the issuance of a Final Judgment in support of the permits is issued, all within twelve (12) months of the filing of the Complaint, the Applicant shall proceed in accordance with Section B.5. After the lapse of said twelve (12) month period without either the dismissal of the appeal or the issuance of a Final Judgment in support of the permits, the Applicant shall proceed under Section B.6.

B.5. Renovation of Home on Lot 3, and Sale to Income Eligible Purchaser.

If the Applicant obtains all necessary variances, septic and stormwater permits and approvals, without the filing of an appeal under any of said permits and approvals, the Applicant shall, within thirty (30) days of the last of said approvals to become final and unappealable, apply for a building permit for the renovation of the home on Lot 3.

Under the circumstances of this Section B.5., pending commencement of renovation, the Applicant shall maintain the existing house in its current condition or better, and shall not permit the house to suffer any further deterioration or waste, and shall carry property casualty insurance for its replacement cost. In the event of a casualty, the Applicant shall restore the house, or transfer the insurance proceeds to the Planning Board’s designated grantee under this condition, as the case may be.

The Applicant shall diligently and expeditiously pursue renovation after issuance of a building permit. Upon completion of the home, evidenced by issuance of an occupancy certificate, the Applicant at the Planning Board's election shall transfer title to Lot 3 to an income-eligible household designated by the Wayland Affordable Housing Trust, or other municipal or non-profit entity or organization selected by the Board in accordance with the Local Initiative Program ("LIP"). The purchase price for Lot 3 and the renovated home thereon shall be determined under the rules of the LIP as set by the Department of Housing and Community Development (DHCD), and the transfer of title to Lot 3 shall be subject to a deed restriction for permanent affordable housing, and by quitclaim deed. The Applicant shall not be required to make any representations concerning the condition of the premises or the title to the premises to the grantee of Lot 3, except those made in the customary title insurance affidavits executed at closing. The Applicant shall not impose any terms or conditions on the transfer of Lot 3 beyond those found in the standard form purchase and sale agreement published by the Greater Boston Real Estate Board.

B.6. Transfer of Title to Lot 3 to the Town or its Designee

If any of the following conditions exist: (i) the Applicant is denied any of the required variances, (ii) the Applicant is denied septic and/or stormwater permits, or (iii) conditions set forth in Sections B.3. and B.4.(b) above are triggered, or (iv) any of said permits are annulled following an appeal to the trial court and after the exhaustion of all further appeal rights that may be exercised by the Town of Wayland at the Town's option (subject to the twelve (12) month limitation set forth in Section B.4.), then the Applicant shall be relieved of the requirement to preserve the existing home on Lot 3, and shall give the Town of Wayland an option to take title to Lot 3 (or to designate an assignee to take title) upon written notice to the Planning Board (the "Option"). If the Town exercises its Option under this Section B.6. within sixty (60) days of receipt of the notice, the Applicant shall, at the Town's option and direction, demolish the existing home within sixty (60) additional days and, at the Planning Board's election, transfer title to Lot 3 for nominal consideration to the Town or its designee for use for single family affordable housing purposes or for open space purposes. If the Planning Board or Town does not exercise the Option, or if the Town or its designee does not accept title to Lot 3 within 180 days after exercising the Option, the Applicant shall demolish the existing home, and Lot 3 shall be made part of Lot 1 and/or Lot 2 or divided between them.

- B.7. All drainage and access easements shall be reviewed and approved by the Planning Board and shall be recorded with the Middlesex South Registry of Deeds, prior to the recording with the Plan. All such easements shall be referenced in the deeds for the lots encumbered by and/or benefiting from said easements. Copies of said deeds shall be submitted to the Planning Board.
- B.8. No fill material or any products of excavation or erosion resulting from or arising in connection with such work shall be discharged into the storm drainage system, wetlands, or abutting properties. Soil and other materials or debris shall be removed from the site only to the extent necessary in connection with the construction of the subdivision and shall be subject to any other by-laws regulating the same and shall be subject to the Town's earth movement by-law.
- B.9. The construction of all ways and installation of all associated municipal services and utilities shall be completed within two (2) years from the date of this Approval with Conditions unless a request for an extension thereof is filed with, and approved by, the Planning Board. Failure to so complete the ways, municipal services and utilities may result in the rescission of this Definitive Subdivision Plan Approval with Conditions. Prior to the commencement of

construction, all applicable approvals for the roadway, from, but not limited to, the Conservation Commission, Board of Public Works, and Water Department, shall be obtained.

- B.10. At least one (1) week prior to construction of the right-of-way and associated utilities, the Planning Board, Highway Department, Conservation Commission, Board of Health, Fire Department, Water Department, Building Department, and Wayland's Engineering Consultant shall be notified in writing of the construction commencement date and schedule, so that pre-construction conferences between the developer, his engineers and contractors, and all involved town agencies can be scheduled to discuss construction schedules, standards, and compliance with Town regulations. The Planning Board or its agent must be contacted for the required inspections throughout the development of the project.
- B.11. The water distribution system shall be installed in accordance with the requirements of the Town's Water Department. One (1) week's prior notice shall be given to the Town's Water Department before work on the ground commences. Specific cross-section details will be determined at the time of construction. Upon completion of the work, the connections shall be chlorinated and pressure tested at one hundred fifty (150) pounds for thirty (30) minutes. Samples for coliform bacteria must pass state (DEP) standards before any connections are made.
- B.12. Prior to final release of the lots shown on the Plan, or, if appropriate other security has already resulted in the release of said lots, prior to the release of such other remaining security, one reproducible copy, ten (10) blue line print copies, and an electronic copy (AutoCAD File Format) of an "as built" plan shall be submitted to the Planning Board or its agent. Said "as built" plan shall be suitable for locating all subdivision infrastructure required by this decision, both above and below ground. Said plan shall include sufficient elevations, tied to the NGVD Datum, so that the Town can verify that all infrastructures will perform as designed and approved. Said plan shall clearly indicate all deviations from the approved Plan. No deviations from the approved Plan shall be allowed or commenced without prior written approval from the Planning Board or its agent. All such deviations shall be requested in writing, clearly citing justifications for said deviations.
- B.13. All utilities within the subdivision shall be installed underground. Utilities shall be provided to the site underground. This condition can only be modified by the Planning Board acting pursuant to M.G.L. c. 41, §81W.
- B.14. In any sale or transfer by the owner or any successor owner of the lots, the deed or other instrument of conveyance shall refer to and incorporate by reference all conditions set forth herein.
- B.15. Prior to clearing and grading activity, compost sock and entrenched silt fencing shall be installed along the area of planned earth movement activities.
- B.16. The Applicant shall notify the Planning Board and its agent to schedule an inspection of the site prior to the clearing of land. No trees beyond the limit of clearing as delineated on the Plan shall be disturbed until the last Certificate of Occupancy for residential structures within the Subdivision is issued.

- B.17. Prior to the commencement of construction, a final Stormwater Drain System Operation and Maintenance Plan shall be submitted to the Planning Board for review and approval. The Operation and Maintenance Plan shall be recorded with the Middlesex South Registry of Deeds and shall be referenced in each deed or other instrument of conveyance for lots on the new public way.
- B.18. The Applicant shall post security in the amount equal to 200% of its actual cost of any landscape material not installed upon the issuance of the last Certificate of Occupancy for Lots 1 or 2. Landscaped materials shall survive for a minimum of two complete growing seasons following installation. In the event any plant material dies within such two year period it shall be replaced as soon as practical. An additional two-year period for survival shall apply to such replacement.

Vote

Constituting a majority of the Planning Board, on June 23, 2020, the following members voted to approve the application for Definitive Subdivision Approval with revised Plans all as subject to a written decision with findings and conditions: Ira Montague, Andrew Reck, and Daniel Hill. Jennifer Steel abstained.

DATE OF FILING OF DECISION:

BY ORDER OF THE BOARD


Ira Montague, Chair

CERTIFICATION:

The Planning Board, by delivery of a copy of this Decision to the Applicant Silver Leaf Homes, LLC does hereby certify that a copy of this Decision has been filed with the Town Clerk of the Town of Wayland on July 13, 2020.