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PLANNING BOARD

Town Hall

APPLICATION FOR SPECIAL PERMIT

Date July 26, 2016

Name BC Realty Trust, John Cormier and Robert O. Cormier, Trs.

Address 64 School Street, Merrimac, MA 01860

Title Reference - Book 5697 Page 435

Application is hereby made for a special permit under the requirements of Section V, Paragraph D of the Amesbury Zoning Bylaw.

Premises affected are situated on Kimball Road Street, Amesbury, Massachusetts, and on Map # 60, Lot # 6, 6A, 6B, 6C, 6D, & 6E of the Assessor's Map.

1. Type of Special Permit Required: Common Access Driveway; Section XI.O of the Zoning Bylaw.

2. Zoning District: R40

3. Has there been any previous appeal or permit on this property: No

If yes, explain: _____

4. Lot Size: 19.3350 acres

5. Size of Building(s) existing or proposed: Eight single family residences to be constructed, approximately 28' by 60' in size as shown on the plan. The ninth lot will remain common open space.

6. Occupancy of Use, existing /proposed: Eight single family residential lots and one lot of Common Open Space is proposed; the site is currently unimproved.

7. Is site plan review required: No

8. Is Subdivision Control Law approval required: Yes

SPECIAL PERMIT REQUIREMENTS

1. All special permit applications must be presented by individuals, partnerships or corporations being parties of interest in the permit applied for. No application will be acted upon unless accompanied by the name or names of the person having title to the property involved, and the book and page of the recording of the deed to said property. The applicant, their attorney, or representative must be present at the time of the public hearing; otherwise the application may be dismissed.
2. All applications shall be accompanied by a plot plan in ink, drawn to scale, showing the actual dimensions of the lot and the exact location and size of the existing building(s) or structure(s) or of the building(s) or structure(s) to be erected. Included on the plan should be the streets or ways adjacent to the lot. The Planning Board shall keep on file in their office a copy of the application and a copy of the plan.
3. The application must include the names and addresses of all abutters to the property in question, including property across the street or right of way, the owners of land within three hundred (300) feet of the property line; all as they appear on the most recent applicable tax list and certified by the Board of Assessors.
4. Applications requiring a recording of a plan must be accompanied by a recordable linen plan, plus copy, and said plan must contain an engineer's seal. A plan that is to be recorded in the Registry of Deeds must be at least 14 by 9½ inches.
5. All applications must specifically set out the nature of the special permit sought. Only the appeal that is specifically set forth in the application will be considered by the Board unless a change is voted by a majority of the Board.
6. A public hearing will be held by the Planning Board within 65 after filing of an application. Notice of public hearing will be given by publication in the newspaper once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of the hearing. Cost of the mailing and publication will be paid by the applicant.
7. No application will be accepted or published until the application form, the plan, the list of abutters, review fees and the filing fee have been submitted to the Planning Board or their representative.
8. Complete regulations for special permits are found in Section X, Paragraph J of the Amesbury Zoning Bylaw.

**Application for Special Permit – Common Access Driveway Special Permit –
BC Realty Trust, 47.5 – 57 Kimball Road, Amesbury, MA**

Approval of the application of BC Realty Trust for a Common Access Driveway Special Permit is sought for the following principal reasons.

The subject site contains 19.3350 contiguous acres in area and approximately 860 feet of frontage on Kimball Road. It is located in the R40 zone. The parcel is a wooded, sloped parcel interspersed with wetlands and resource areas. It is a vacant tract of land. Access to the site is via Kimball Road and a 30 foot wide Right of Way extending from Lake Attitash Road. The site currently consists of six approved single family lots, each of which conforms to conventional bulk criteria for lots in the R40 zone. Each lot maintains its road frontage on Kimball Road. The plan dividing the lots into their current configurations was endorsed as Approval Not Required by the Planning Board in the year 1999. The Approval Not Required plan superceded a definitive subdivision plan constructively approved in 1971 which created 14 lots, 10 of which were to be accessed via a proposed roadway stretching from Kimball Road to the 30 foot wide Right of Way extending from Lake Attitash Road.

The Petitioner proposes to create a Cluster Residential development consisting of eight residential lots, with a ninth lot comprising common open space. A Cluster Residential Special Permit is being sought simultaneously herewith pursuant to Section XI.D of the Amesbury Zoning Bylaw. The development is also contingent upon the grant of Definitive Subdivision Plan approval and a Special Permit for a Common Access Driveway pursuant to Section XI.O of the Amesbury Zoning Bylaw. Access to five of the proposed subdivision lots will be via the Common Access Driveway, which as proposed is approximately 255 feet in length extending from Kimball Road. The other three subdivision lots will be accessed via driveways on Kimball Road. The Definitive Plan application has also been filed for consideration simultaneously herewith.

The proposed Common Access Driveway (CAD) shall be built to the design standards stated in the Zoning Bylaw, and as shown on the Definitive Subdivision plan. The use of the CAD for five of the lots is preferable to the use of individual driveways for the following reasons. Public safety is enhanced by reducing the number and frequency of points at which vehicles may enter onto Kimball Road, particularly in the area of the proposed subdivision. The development site consists of approximately 860 feet of frontage on Kimball Road, and is located on the inside of a long, gradual curve which limits sight distances for vehicles travelling southeasterly and southerly. The development site is currently comprised of six individual lots, each of which, if built upon, would maintain a separate driveway onto Kimball Road. Across from the southerly portion of the site, Ashley Drive intersects Kimball Road. Ashley Drive is a public roadway which serves approximately eight residences. In order to provide the safest access to the development site and balance those needs with the interests of the public travelling along Kimball Road, the Applicant proposes on the Subdivision plan to convey a parcel of land to the City for the future purpose of widening Kimball Road, thereby reducing the severity of the curve in the road and increasing sight distances. This proposal, along with the use of a CAD for the proposed development, would greatly address public safety concerns.

A CAD would further serve to preserve, protect and enhance environmentally sensitive lands located on the site by allowing the development of smaller lots within the Cluster Residential Development, thereby preserving wetlands and open space. The area of land that would otherwise need to be cleared, excavated, filled and/or covered with impervious surface is diminished. Further, the use of a CAD encourages the protection and preservation of significant natural features and vistas located on the development site, which will now be maintained as Common Open Space. The proposed CAD will not serve as a primary means of access to any property which is publicly-controlled or which serves a public purpose. To the extent possible, the CAD has been designed and located so as to minimize soil disturbance, vegetation removal, drainage impacts, and preserve existing trees of over 12" caliper, while minimizing the impact upon other natural features of special significance.

The Applicant does propose that the CAD shall be used to satisfy zoning frontage requirements as a waiver under the Cluster Residential Special Permit as it applies to Lots 6, 7 and 8 on the proposed plan, the remaining Lots all maintaining frontage on Kimball Road. The CAD will have a minimum surface width of sixteen (16) feet, exclusive of two foot shoulders on either side cleared of brush and trees, and shall provide access to the Lots served thereby.

The Applicant proposes that Planning Board allow the CAD to serve three (3) dwelling units for single family detached structures within the Cluster Residential development, while also permitting access to and from the CAD two (2) additional abutting dwelling units located along the intersection of the CAD and Kimball Road. Vital access to Kimball Road is reasonably available to the two (2) additional lots, but in the interests of safety, it is preferable that vehicles enter and exit those lots from the CAD.

The Applicant, upon the sale of any lot within the Cluster Residential development, shall establish within such deed that a grantee shall have rights of access, and ownership in common with the other lot owners, in and to the CAD.

The Applicant shall adopt restrictive covenants affecting the subdivision lots that state that the CAD shall not become a public or private way maintained by the City. Further, it shall be stated that the City of Amesbury shall not be required to provide construction, reconstruction, maintenance, snowplowing, school bus pickup or police patrols along the CAD, unless by contract duly entered into by the City and all landowners served by the CAD. A covenant shall be placed on the property stating that the owners of property served by the CAD shall not petition the City for accepting the way as a public way and that it shall always remain a private way. Each landowner served by the CAD shall be liable and responsible shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the CAD to which more than one landowner holds a right-of-way.

As a condition of the development and construction of the subdivision and CAD, the Applicant shall install mailboxes for all of the units being serviced by the CAD along Kimball Road. The location and height of the mail boxes shall be as per current rules and regulations of the United States Postal Services. A granite post(s) no greater than forty eight (48) inches in height shall be used to support the mailboxes, which shall be uniform in appearance, and the post or box shall indicate the street number address assigned to each lot served by the CAD.

The Applicant proposes that the owners of the dwellings to be constructed shall contract with a private trash disposal service, such that public trash service will not be used. However, in the event public service is utilized, a permanent storage shed shall be constructed and used for the temporary storage of household trash and recycling for all lots being served by the CAD in the style, configuration and location as specified in the Zoning Bylaw.

The proposed CAD is beneficial to the design of the Applicant's development, and as such, furthers the best interests of the City of Amesbury.

Wherefore, the Applicant requests that the Planning Board grant its application for a Common Access Driveway Special Permit upon such reasonable terms and conditions as it deems necessary to further the provisions of the Master Plan and Zoning Bylaw.