



**PARRY & PARRY**  
PROFESSIONAL CORPORATION

*P.B. Scan, filed  
N Jain  
Tech Group*

4 MERRIMAC SQUARE  
MERRIMAC, MA 01860  
T | 978.346.0005  
F | 978.346.0066

PHILIP A. PARRY | Admitted in MA and NH  
ATTORNEY AT LAW phil@parrylawandtitle.com

DENISE L. PARRY | Admitted in MA  
ATTORNEY AT LAW denise@parrylawandtitle.com

44 MERRIMAC STREET  
NEWBURYPORT, MA 01950

April 15<sup>th</sup>, 2015

Town of Amesbury  
Planning Board  
c/o Community & Economic Development Department  
attn: Joan Baptiste  
62 Friend Street  
Amesbury, MA 01913

RE: Extension for date to conduct public hearing and period to render decisions – BC Realty Trust, Petitioner – Property: 47 ½ - 57 Kimball Road - Definitive Plan Approval and Special Permit Requests for Common Access Driveway, Cluster Residential, and Water Protection Resource District

Dear Ms. Baptiste:

Relative to the above-referenced matters, on Monday, April 13<sup>th</sup>, I requested that the Planning Board continue the hearing until its next available date. One Board member was absent from the meeting, and another member recused himself due to a conflict of interest. In addition, I had been informed earlier that day that the project would require an additional Special Permit for which I had not yet filed.

As I discussed with the Planning Board, please accept this letter as verification that I have agreed that Section X.8 of the Zoning Bylaw requiring the Special Permit Granting Authority to act within ninety (90) days following the date of public hearing is waived, and the period for consideration of all matters pending before the Planning Board is extended to *135 days following the date of the first public hearing*, which is anticipated to be June 8<sup>th</sup>. In addition, my client waives the requirement pursuant to Section X.3 of the Zoning Bylaw that public hearings on Special Permits be held within sixty-five (65) days after filing of an application for same. I agree that the April 13<sup>th</sup> meeting did not constitute the first public hearing. For purposes of compliance with the Board's time periods, I agree that June 8<sup>th</sup> shall also be considered the filing date for all of the applications, including the definitive plan submission.

The reason for this agreement is so that all of the Special Permits may be considered concurrently within the same time period as the definitive plan, which provides the Board a longer review period. Section 6.09 of the Planning Board Rules and Regulations states that, *within 135 days ...* the Board shall approve, approve with modifications, or disapprove the Definitive Subdivision Plan. In addition, my client is filing herewith the request for the additional Special Permit affecting the project, which must be published and noticed in a timely manner. I anticipate that

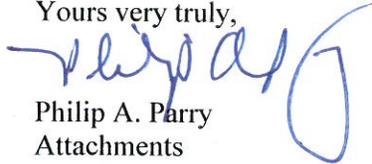
that will occur before June 8<sup>th</sup> so that all matters can be considered simultaneously, with the same applicable review periods. That is a more practical use of the Board's time.

These extensions have been accepted and approved by the Planning Board.

Please schedule these matters for a hearing with the Planning Board On June 8<sup>th</sup>.

Thank you for your consideration.

Yours very truly,



Philip A. Parry  
Attachments  
cc: John Cormier

# CITY OF AMESBURY

## SCHEDULE OF DEPARTMENTAL PAYMENTS TO TREASURER

No. \_\_\_\_\_ Dept. Planning Board Date April 21 20 15

FROM WHOM	SOURCE	AMOUNT	TOTAL
JMC Construction INC 64 School St. Merrimac, MA 01860 (508) 962-1356	01014543-430150 ① Filig Fee: New Special Permit for Application for Water Retention Protection	500.-	500.-
	Abutters Filig Fee 47 1/2 - 57 Kimball Road	69.58	69.58



**JMC CONSTRUCTION INC**  
64 SCHOOL STREET  
MERRIMAC, MA 01860

3567

53-7133-2113

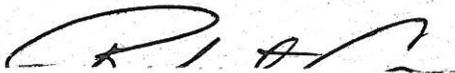
DATE 4-21-2015

PAY TO THE ORDER OF City of Amesbury \$ 569.58

Five hundred sixty nine dollars & 58/100 DOLLARS



LOWELL, MASSACHUSETTS 01852



No. \_\_\_\_\_ April 21 20 15

To the Departmental Officer making the Payment:

Received of Planning Board, the sum of

Five hundred + sixty-nine + 58/100 Dollars

for the \_\_\_\_\_ ending \_\_\_\_\_ for

collections as per schedule of this date, filed in my office.

*New Special Permit  
for 47 1/2 - 57 Kimball Road  
JMC Construction Inc*

  
 Treasurer  
  
 Department Signature

DOCUMENT INTAKE FORM



Date 4-21-15  
 Property Owner BC Realty Trust  
 Property Address (Street, City, Zip) 64 School Street Merrimac MA 01860

If not the Property Owner, then state your relation to the Property Owner  
 Applicant's Representative

Name Robert Cormier  
 Name of Firm BC Realty Trust  
 Your Address (Street, City, Zip) 64 School Street Merrimac MA 01860-1951  
 Email Address JMCCORP1 at Gmail  
 Telephone 508 962-1356 Fax \_\_\_\_\_

City of Amesbury Board/Committee/Permit Granting Authority - PGA (Choose That Apply)

- Planning Board
- Conservation Commission
- Zoning Board of Appeals
- Other \_\_\_\_\_
- Historical Commission
- Tree Board
- Design Review Committee

Project Name: 47.5 - 57 Kimball Road.  
 Materials Submitted (Choose That Apply) Have you already filed an Application with PGA

- Permit Application - NEW Special Per. If Yes, then List ALL Permits
- Supplemental Information Permit Type \_\_\_\_\_
- Information Requested by PGA \_\_\_\_\_
- Responses to Peer Review \_\_\_\_\_
- Responses to Technical Assistant Group \_\_\_\_\_
- Other \_\_\_\_\_ Permit Filing Date \_\_\_\_\_

Materials	Description	Original Date	Revision Date	No. of Copies
Plans	<u>App. for Water Rec. Protection</u>			
Technical Documents	<u>Filing fees \$500 plus 69.58 - Mailing for Abutters</u>			
Other	<u>Letter Dated 4-15-2015 from Attn. Parry</u>			

Purpose of Submission / Requested Action To have a public hearing on June 8, 2015 for Def. Sub Plan w/ three Special Permits

Acknowledgement I understand that the materials submitted here are subject to the submission deadline of respective PGA and give my consent to be placed on the PGA's Agenda accordingly.

Signature Mr. Cormier

Office Use Only	
Office of Community & Economic Development, 62 Friend Street Amesbury MA 01913	
Received By <u>BM Foley</u>	Date <u>4-21-15</u>

Form # AD-001

Last Revised - 02/01/2015

Public Hearing Invoice to: June 8<sup>th</sup>, 2015



*PB, Scan, file  
Clerk  
Tech Group*

4 MERRIMAC SQUARE  
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44 MERRIMAC STREET  
NEWBURYPORT, MA 01950

April 15<sup>th</sup>, 2015

Town of Amesbury  
Planning Board  
c/o Community & Economic Development Department  
Attn: Joan Baptiste  
62 Friend Street  
Amesbury, MA 01913

RE: Water Resources Protection District Special Permit – BC Realty Trust, Petitioner – Property:  
47 ½ - 57 Kimball Road

Dear Ms. Baptiste:

Please accept the enclosed Application for Water Resources Protection District Special Permit and filing fee check. The accompanying plans, owner's consent, copies of stormwater management reports and data have been previously filed with the definitive plan which is pending.

The affected property is known as 47 ½, 49, 51, 53, 55 and 57 Kimball Road, and is shown on Assessor's Map 60 as Lots 6, 6A, 6B, 6C, 6D, and 6E. The premises is owned by Yvon Cormier Construction Corp.

Please review the application for needed corrections and advise me whether any editing is required.

Please schedule these matters for a hearing with the Planning Board at its next available meeting.

Thank you for your consideration.

Yours very truly,

Philip A. Parry  
Attachments  
cc: John Cormier



# Amesbury

PLANNING BOARD

Town Hall

## APPLICATION FOR SPECIAL PERMIT

Date April 13th, 2015

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 and 6E of the Assessor's Map.

1. Type of Special Permit Required: Water Resources Protection Special Permit; XIV of the Zoning Bylaw.
2. Zoning District: R40
3. Has there been any previous appeal or permit on this property: No; definitive plan, Cluster Res. and Common Access Driveway Special Permits pending  
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
7. Is site plan review required: No
8. Is Subdivision Control Law approval required: Yes

9. **Other permits required:** Wetlands; Definitive Plan; Common Access Driveway & Cluster Special Permit.

10. **Description of proposed work/use:** Construction of a Cluster development and related infrastructure;

construction of eight single-family residential dwellings on eight lots is proposed, with an additional lot for common open space. More than 15% of each lot and/or 2500 square feet will be rendered impervious by the development.

11. **Principal Points upon which application is based:** \_\_\_\_\_

This application is made pursuant to Amesbury Zoning Bylaw Section XIV, Table of Use Regulations as a Specially Permitted use under section XIV. The Petitioner states that the Special Permit may be appropriately granted for the reasons stated in the attached narrative.

John M. Cain Tr. by Willard Atty In Fact  
Signature of Applicant

John Cain by Willard Atty In Fact  
Owner (if not Applicant)

Filing Fee: \$500.00 plus \$100 per lot (CAD, Cluster) or \$50 per dwelling unit (multi-family)  
Received: \_\_\_\_\_  
Distributed: \_\_\_\_\_  
Hearing: \_\_\_\_\_

Application must be filed in duplicate, accompanied by five (5) sets of plans, a list of abutters, and a Building Inspector refusal; If site plan approval or subdivision control law approval is necessary, eight (8) sets of plans shall be submitted.

## 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 gearing. 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 – Water Resources Protection District  
Special Permit – BC Realty Trust, 47.5 – 57 Kimball Road, Amesbury, MA**

Approval of the application of BC Realty Trust for a Water Resources Protection District 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 previously.

The subject parcel is located within the Water Resource Protection District Zone C. Pursuant to Section XIV.E.8. of the Zoning Bylaw, the following uses are allowed: *“Residential, commercial and industrial development outside of the Zone A and Zone II area and subject to Sections F, G, and H (prohibited uses) and Section I (special permitted uses).”* Sections F, G and H do not apply, as the Petitioner does not propose any prohibited uses.

Section XIV.I.B. states in part that: *“The following uses and activities are allowed within district Zones B and Zone C of the WRPD only upon the issuance of a special permit by the Planning Board under such conditions as the board may require...”*

*7. (a) Any new construction; and (b) any use that will render impervious more than fifteen percent (15 %) or two thousand five hundred (2,500) square feet of any lot, whichever is greater, shall require a system of stormwater management and artificial recharge of precipitation is developed which is designed to prevent untreated discharges to wetland resource areas and surface water; preserve hydrologic conditions that*

*closely resemble pre-development conditions; reduce or prevent flooding by managing peak discharges and volumes of runoff; minimize erosion and sedimentation; not result in significant degradation of ground water; reduce suspended solids and other pollutants to improve water quality and provide increased protection of sensitive natural resources. These standards may be met using the following or similar best management practices:*

*(1) For lots occupied, or proposed to be occupied, by single or two family residences recharge shall be attained through site design that incorporates natural drainage patterns and vegetation in order to maintain pre- development stormwater patterns and water quality to the greatest extent possible. Stormwater runoff from rooftops, driveways and other impervious surfaces shall be routed through grassed water quality swales, as sheet flow over lawn areas or to constructed stormwater wetlands, sand filters, organic filters and/or similar systems capable of removing nitrogen and phosphorus from stormwater...and*

*11. New road construction shall conform to all specifications listed in the Amesbury Subdivision Rules and Regulations as well as any conditions of approval required by the Planning Board relative to the purposes and requirements of this bylaw and the protection of the public drinking water supplies.”*

The Petitioner proposes a development of newly constructed single-family homes, and more than 15% of the area of the lots will be rendered impervious, for which stormwater management designs have been proposed.

Prior hereto, with the definitive plan and other special permit applications, the Petitioner has filed all necessary information for review by the SPGA, including the documents and information listed in Section XI.C.5 and the narrative of conditions subject to the special permit request. Such information provides sufficient detail and supporting information for the SPGA to issue a determination that a Special Permit may be granted, and that the proposed development and construction does not adversely affect the existing or potential quality or quantity of water that is available in the Water Resource Protection District, and that it is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed in accordance with the Bylaw.

Wherefore, the Petitioner requests that the Planning Board grant its application for a Water Resources Protection District Special Permit upon such reasonable terms and conditions as it deems necessary to further the provisions of the Master Plan and Zoning Bylaw.

## Barbara Foley

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**From:** Barbara Foley  
**Sent:** Thursday, April 23, 2015 9:42 AM  
**To:** 'Phil Parry'  
**Subject:** LEGAL NOTICE FOR 47 1/2 - 57 KIMBALL ROAD, AMESBURY, MA  
**Attachments:** 2nd - LEGAL NOTICE-ABUTTERS.doc; 2nd - LEGAL NOTICE-NEWSPAPER.doc

Dear Attorney Parry:

Thank you for your e-mail dated April 22, 2015. I have attached copies of the Legal Notice for Newburyport News and Abutter mailings.

A Planning Board Public Hearing for 47 1/2 - 57 Kimball Road (Definitive Subdivision Plan with three Special Permits) will be on Monday, June 8, 2015 at 7:00 pm, 62 Friend Street, Amesbury, MA, 01913

Newburyport News will send you an invoice for this Public Hearing publication for May 25 and June 1, 2015.

Regards,

Barbara Foley

## Barbara Foley

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**From:** Barbara Foley  
**Sent:** Thursday, April 23, 2015 9:45 AM  
**To:** 'NTLegals@newburyportnews.com'  
**Subject:** LEGAL NOTICE FOR: 47 1/2 - 57 KIMBALL ROAD, AMESBURY, MA  
**Attachments:** 2nd - LEGAL NOTICE-NEWSPAPER.doc

Hi Lil:

Attached is a New Legal Notice for 47 1/2 - 57 Kimball Road in Amesbury.  
Please publish for two days and send me tear sheet for each day published.

Thank you.

Regards,  
Barbara Foley



Planning Board

Tel: (978) 388-8110

Fax (978) 388-6727

City Hall

62 Friend Street

Amesbury, MA 01913-2884

TO: Newburyport News  
EMAIL: NTlegals@northofboston.com  
FAX: 978-463-9612  
FROM: Barbara Foley  
DATE: March 5, 2015  
RE: Legal Notice – 47 ½ - 57 Kimball Road, Amesbury, MA

~~~~~  
**CITY OF AMESBURY**  
**LEGAL NOTICE**

**BC Realty Trust** has submitted a **Definitive Subdivision Plan with three Special Permits, (1) Cluster Residential Permit, Section XI.D and (2) Common Access Driveway, Section XI.O, (3) Water Protection Resource District, Section XIV of the Amesbury Zoning Bylaw**, a copy of which is on file with the City Clerk. The proposed 8 lot subdivision is located at 47 ½ - 57 Kimball Road, Amesbury, MA as shown on a plan by Atlantic Engineering & Survey Consultants, Inc., 97 Tenney Street, Georgetown MA 01833, dated January 20, 2015. The Amesbury Planning Board will hold a public hearing on the proposed project at the Amesbury City Hall Auditorium, 62 Friend Street, on **Monday, June 8, 2015** at 7:00 PM, in accordance with the provisions of General Laws, Chapter 41, Section 81-T as amended of the Amesbury Zoning Bylaw.

Note: Copies of Applications may be viewed or purchased at the Office of Community & Economic Development by calling 978-388-8110.

David Frick

Planning Board Chair

**Publish: May 25 and June 1, 2015**

~~~~~  
**SEND INVOICE TO:**

Philip A. Parry  
Parry & Parry Professional Corporation  
4 Merrimac Square  
Merrimac, MA 01860  
Tel: 978-346-0005  
Cell: 978-423-6760

**Please confirm receipt of this advertisement and publish the above for two days only.  
Please send a tear sheet for each day advertised to me at City Hall.**

HOLD

**Barbara Foley**

---

**From:** Barbara Foley  
**Sent:** Wednesday, April 22, 2015 11:39 AM  
**To:** 'Phil Parry'  
**Subject:** 47 1/2 - 57 Kimball Road - Definitive Plan Approval and Special Permit Requests

Dear Attorney Parry:

The Planning Board office has received your letter dated April 15, 2015 regarding:

Extension for date to conduct public hearing and period to render decisions - BC Realty Trust,  
Petitioner - Property: 47 1/2 - 57 Kimball Road - Definitive Plan Approval and Special Permit Requests for  
Common Access Driveway, Cluster Residential, and Water Protection Resource District.

In reference to the Planning Board Meeting minutes of April 13, 2015, the Board made a motion  
to continue the Public Hearing to June 8th. Motion was seconded and unanimous. This motion was  
for Definitive Plan Approval and (2) Special Permits.

My question to you is:

1. Do you want to create a new separate public hearing for the (1) new Special Permit for Water Protection  
Resource district for June 8th as well;

or

→ 2. Do you want to create a new public hearing for Definitive Plan Approval and (3) Special Permits for  
June 8th?

Please confirm to me what you would like to do. Thank you for your immediate response.

Regards,  
Barbara Foley

## Barbara Foley

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**From:** Phil Parry <phil@parrylawandtitle.com>  
**Sent:** Wednesday, April 22, 2015 1:59 PM  
**To:** Barbara Foley  
**Subject:** RE: 47 1/2 - 57 Kimball Road - Definitive Plan Approval and Special Permit Requests

Hi Barbara,

If I understand you correctly, I would prefer a new public hearing for all three. The Planning Board was pretty explicit that we acknowledge that it was not opening the public hearing on any of the matters we had before it. At the hearing, my client wanted to proceed with a full Board, so I requested an extension because one member was absent and another had to recuse himself. Because the Board would be running into time constraints (by not holding the first hearing within a certain period of time from the filing date), I agreed to waive the deadline to conduct the first public hearings and also to extend the periods of time for decisions on all of the matters, using the date of June 8 as if that was the actual filing date. I wanted to start a whole new time period for the Board, rather than see it get squeezed for time to make decisions. I also agreed that the Board would have 135 days from June 8<sup>th</sup> on all of the petitions to render its decisions (the effect being to extend the dates for decisions on the Special Permits to match the longer period of time permitted to approve or disapprove the definitive plan.) The Board asked if I wanted to withdraw and re-file the petitions to start the time periods running again, but I felt that would waste time, which was why I offered to simply use June 8<sup>th</sup> as Day One for the entire process.

I intended my letter to clarify those points, since I felt the discussion with the Board confused several members who may not have recognized that we had different hearing rules and time periods for Special Permits and definitive plans.

To answer your question, whatever makes the most sense for you is what I am in favor of, at the least additional cost to my client. I feel it is best to hold all of the hearings together. I agree we have to publish for the Water Protection Special Permit, but I don't want to incur any additional expenses for re-publication of the matters previously filed if at all possible.

I hope I'm not confusing things more.

Please let me know.

Thanks very much.

Phil

***Philip A. Parry, Esquire***  
***PARRY & PARRY, P.C.***  
***PARRY TITLE COMPANY, P.C.***  
4 Merrimac Square  
Merrimac, MA 01860  
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[phil@parrylawandtitle.com](mailto:phil@parrylawandtitle.com)