



TOWN OF HOPKINTON

OFFICE OF THE PLANNING BOARD

TOWN HALL
18 MAIN STREET
HOPKINTON, MASS. 01748
(508) 497-9755

December 20, 2005

DECISION

Petition for approval of a Special Permit entitled **MASPENOCK WOODS** under Hopkinton Zoning Bylaw Chapter 210, Article XIII, Garden Apartments in Residential Districts, filed by West Elm Street Acquisition, LLC and H.C.H.T.F. Inc., 20 Park Plaza, 4th Floor, Boston, MA, for property located at 5 and 11 West Elm Street, Assessors Map R22 Block 29, Map R23 Block 4, and Map R23 Block 7.

Application to construct a multi-family development pursuant to Article III, Garden Apartments in Residential Districts ("GARD") of the Hopkinton Zoning Bylaws was made by the above-referenced applicants and filed with the Planning Board on April 28, 2005. A public hearing was held on June 13, 2005, June 27, 2005, September 12, 2005, November 14, 2005, and December 12, 2005.

The Special Permit application is accompanied and augmented by plans entitled "Maspenock Woods", prepared by Guerriere & Halnon, Inc., dated April 20, 2005, revised through November 2, 2005. There are two alternative plans dated November 2, 2005, and the one approved by this Decision is stamped received by the Planning Department on November 16, 2005.

The original application to the Planning Board requested 41 condominium units, which was then revised to 38 units, and finally to 31 units.

The plans and other submission material were reviewed by the Planning Board and its consulting engineer, Fay, Spofford & Thorndike, LLC. Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing. Written comments and recommendations were received from the Hopkinton Public Health Administrator, Conservation Commission, Department of Public Works, Fire Department, Police Department, and several residents and abutters to the property.

Findings

a. General

1. The subject property is located at 5 and 11 West Elm Street, as shown on the plan entitled “Maspenock Woods”. The property consists of 15.1 acres, 11.36 acres of which is considered “useable” by GARD bylaw definition. The property has frontage on West Elm St. in two locations, about 150 feet in one location and about 250 feet in the other. There are 4.16 acres of wetland on the property. The property also contains three single family dwellings, two of which are occupied.
2. The land is zoned Residence B and Residence Lake Front.
3. The property is directly adjacent to Lake Maspenock and residential property abutters.
4. The Application proposes 31 condominium units on the property, one of which would be located in the existing house at 5 West Elm St. The other existing buildings on the property would be demolished, with the possible exception of an old camp building which may be converted into a boat storage building. The new units would be located in two, three, and four unit townhouse style buildings. All units would have two bedrooms.
5. The development would be served by a private roadway network. The initially submitted Concept Plan showed the entrance located at the frontage for the house at 5 West Elm St. However, it was relocated on the latest revised Concept Plan to the frontage for 11 West Elm St. due the location of a potential vernal pool on abutting property. An emergency access drive is also shown on the Concept Plan.
6. In accordance with the requirements of the GARD bylaw, 30% of the property will be preserved as common open space used for passive recreation, and additional land will be set aside for an active recreation area.
7. Garden Apartments in Residential Districts, as defined by the GARD bylaw, are allowed by Special Permit in zoning districts where residential uses are permitted by right if the criteria contained in the Bylaw are met. Residential uses are permitted by right in the Residence B and Residence Lake Front districts.
8. The parcel of land qualifies for application under the GARD bylaw by virtue of the site acreage, useable land acreage, and frontage. The proposed density will be 5.46 bedrooms per acre of useable land, which is less than the maximum allowed density of 8 bedrooms per acre of useable land.
9. The following waivers of the provisions of the GARD bylaw were requested:
 - a. 75 ft. setback for buildings instead of 100 ft. (Section 210-74.B(7))
 - b. Setback reduction to allow the existing house at 5 West Elm St. to remain in its present location. It is currently 48 feet from the side lot line. (Section 210-74.B(7))

10. The following waivers of the provisions of the Subdivision Rules and Regulations (pursuant to Section 210-74.B(17) of the GARD bylaw) were requested:
 - a. Roadway centerline radius of less than 150 ft. Fifty feet is requested (Subdivision Rules & Regulations Sec. 8.2.1).

b. Special Permit Criteria

In the Commonwealth of Massachusetts, no one has an absolute right to a Special Permit. While the Planning Board must act fairly and reasonably on the evidence presented, keeping in mind the objectives and purposes of the Zoning Act and the Bylaw, the Planning Board has the discretion to deny a Special Permit even if the facts show that such a permit could have been lawfully granted.

The Bylaw states that before the Planning Board may issue the Special Permit, it shall determine each of the following:

1. That the proposed development constitutes a desirable development in the neighborhood and in the town.
2. That the proposed development will not be detrimental to the neighborhood or the town.
3. That the plans generally provide adequately for convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, property or improvements, with the understanding that review of such items will be more detailed at the site plan stage.
4. That the plans appear to provide adequate methods of disposal of sewerage, refuse and other wastes, adequate methods for drainage for surface water and seasonal flooding, if any, and adequate provision of water for domestic purposes, with the understanding that review of such items will be more detailed at the site plan stage.
5. That the plan complies with the Master Plan.
6. That the provisions of § 210-72A and B of the Article have been met.

The Bylaw states that if the Planning Board does not make all of the above determinations, it shall deny the application stating its reasons for such denial.

The Planning Board has considered all of the above-referenced criteria and will impose conditions in the Special Permit relating to these criteria.

c. Specific Findings

1. The proposed development will be screened from view from abutting property and provide for a mix of housing types without detracting from the surrounding area or the environment. The Board finds that the reduced setback requirement of 75 feet requested by the Applicant

in the locations shown on the Concept Plan will be sufficient to screen and/or separate the development from adjacent property. The Site Plan will show detailed planting for screening purposes in these areas.

2. The development will be designed to minimize impacts to the environment, and all activities will be located outside the 100 ft. buffer to a wetland resource area.
3. The dwelling units will be attractively designed and blend with the neighborhood, and be clustered on the portion of the site best suited for development.
4. The site is conveniently located near major roadways, highways, commercial uses, and other services.
5. The configuration of driveways and parking areas within the development is sufficient to minimize potential traffic congestion or safety hazards on the site, and provide for adequate emergency vehicle access.
6. West Elm St. in the vicinity of the site entrance shown on the Concept Plan will need to be modified in order to provide for adequate sight distance for drivers. The Applicant has committed to the modifications necessary, with the understanding that the final design will be provided with the Site Plan submittal.
7. Adequate provision of water and sewage disposal appear to be provided, with the understanding that full approvals of the connection to the municipal water system by the Town and a formal approval of a sewage disposal system by the Board of Health will be required.

Decision

In view of the foregoing, the Planning Board hereby decides that the aforesaid property is a proper parcel to be developed under Article XIII of the Hopkinton Zoning Bylaw in that it meets all requisite criteria. It is therefore decided to grant a Special Permit for a Garden Apartment Concept Plan in accordance with the terms and conditions stated below:

1. The request for a waiver of the 100 foot setback requirement for buildings is granted (Section 210-74.B(7)), and buildings may be located 75 feet from the property line as shown on the Concept Plan. The Site Plan shall show details of the additional planting which is necessary to increase the density of year-round screening to abutting properties, West Elm Street, and views from Lake Maspenock, in the opinion of the Board. If the Site Plan is ultimately approved and constructed, the Applicant shall return to the Planning Board for a review of the density and adequacy of the screening one year following completion of the landscaping and screening as shown on the Site Plan. If additional planting is required by the Board to fill in gaps at this time, the Applicant shall be responsible for planting additional materials as identified in the one-year review.

2. A waiver of the 100 ft. setback requirement is granted so that the existing house at 5 West Elm St. may remain in its present location, 48 feet from the side lot line (Section 210-74.B(7)).
3. A waiver of the minimum centerline radius for curved streets is granted so that a vertical curve of 50 feet is permitted in the one location shown on the Concept Plan (Subdivision Rules & Regulations Section 8.2.1). This will permit a cluster of dwelling units in the center of the property and eliminate any activity within the 100 ft. buffer to wetland resource areas, which is important due to the proximity to Lake Maspenock.
4. The interior roadways shall have a 20 ft. wide minimum traveled way.
5. The Site Plan shall show an emergency access road in the general location shown on the Concept Plan. The Applicant shall consult with the Fire and Police Departments during preparation of the Site Plan to determine the adequate width, surface and location of the emergency access road. The Board will determine at the Site Plan stage whether an emergency access road will be required.
6. The development shall contain a maximum of 31 dwelling units, including the existing house at 5 West Elm St. New units shall be in a townhouse style as submitted to the Board.
7. The Site Plan submittal shall include all practical methods to ensure that the water quality of Lake Maspenock is not negatively affected by the development, both from stormwater runoff and wastewater disposal. The Site Plan submittal shall address the comments made during the public hearing process in the letters submitted by the Conservation Commission.
8. The Applicant shall continue to develop the unit designs to achieve an exterior appearance that fits with the neighborhood and is an asset to the area.
9. The request for a waiver of the plan scale is granted (GARD Submission Requirements and Procedures Manual Sec. A.1.f)
10. No new dwelling units shall be located within the 100 ft. buffer zone to any wetland resource area as defined by the Hopkinton Wetlands Protection Bylaw and Regulations.
11. The Site Plan shall be designed to provide at least 30% of the site as open space as required by the GARD bylaw. Every effort shall be made to provide open space in a wide contiguous area. The open space shall be clearly delineated on the Site Plan submitted to the Board and shall be permanently protected by a legally binding agreement running with the land, in accordance with the GARD bylaw.
12. Site lighting shall be minimal, and shall be directed downward, not up or outward. No lighting shall spill onto the street or abutting properties. The Site Plan shall show all outdoor lighting fixtures proposed, including a detail of the fixtures. A photometric plan shall be submitted with the Site Plan.

13. The drainage system shown on the Site Plan shall be designed to conform to the Massachusetts Department of Environmental Protection Stormwater Management Policy and Guidelines and to the applicable provisions of the Subdivision Rules and Regulations. It shall be designed to ensure that the water quality of the stormwater runoff is not detrimental to the wetlands and receiving water bodies. An operation and maintenance plan for stormwater management facilities shall be submitted with the Site Plan.
14. Low nitrogen and low phosphorus lawn fertilizers shall be used on lawn and recreation areas, or as further restricted by the Conservation Commission in an Order of Conditions, if required.
15. The review letters from Fay, Spofford, & Thorndike and Pressley Associates contained several comments and recommendations relative to the Concept Plan. These items shall be addressed at the Site Plan stage to the satisfaction of the Board.
16. An erosion and sedimentation control plan shall be submitted with the Site Plan. It shall address soil erosion and sedimentation control measures at and downstream of the site.
17. The Site Plan shall show the proposed locations for stockpiling of materials during construction.
18. The Site Plan shall show the limit of clearing proposed for the site, both temporary (for construction purposes) and permanent.
19. If construction is to be phased, a phasing plan shall be submitted with the Site Plan application.

Record of Votes

1. On the motion to determine that the Special Permit criteria contained in Zoning Bylaw Section 210-75.A(1)(d) have been met, Planning Board members voted as follows on December 12, 2005:

Yes: Mark Abate, Sandra K. Altamura, Evan Ballantyne, John H. Coolidge, Brian Herr, Claire Wright

No: R. J. Dourney, Jaime Goncalves

Abstain: Scott Aghababian

2. On the motion to grant a Special Permit and approve the Concept Plan entitled “Maspenock Woods”, prepared by Guerriere & Halnon, Inc., dated April 20, 2005, revised through November 2, 2005, stamped received by the Planning Department on November 16, 2005, subject to the above-stated terms and conditions, Planning Board members voted as follows on December 12, 2005:

Yes: Mark Abate, Sandra K. Altamura, Evan Ballantyne, John H. Coolidge, Brian Herr, Claire Wright

No: R. J. Dourney

Abstain: Scott Aghababian, Jaime Goncalves

Any person aggrieved by this decision may appeal in accordance with M.G.L. Chapter 40A Section 17 within 20 days of the filing of the decision with the Town Clerk.

This Special Permit shall become void within two years from the date of issue in accordance with Mass. General Laws, Chapter 40A, Section 9.

This Special Permit shall not be effective until filed with the Registry of Deeds by the Applicant.

Mark A. Abate
Chairman

cc: West Elm Street Acquisition Trust, c/o KSS Realty Partners
Town Clerk
Conservation Commission
Director of Municipal Inspections
Fire Department
Board of Health
Director of Public Works
Fay, Spofford & Thorndike, Inc.