



# Town of Groveland Planning Board

183 Main Street  
Groveland, MA 01834

## MEMORANDUM OF DECISION DEFINITIVE PLAN

**PUBLIC HEARINGS:** September 17, 2019, October 1, 2019, October 15, 2019,  
November 19, 2019, December 3, 2019  
**DATE OF DECISION:** December 3, 2019

Any appeal shall be  
filed within (20) days  
after the date of filing  
this notice in the office  
of the Town Clerk.

TOWN CLERK  
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2019 DEC -6 AM 11:59

TOWN OF GROVELAND

**Application of:** William and Heather Klosowski  
245 Center Street  
Groveland, MA 01834

**Premises Affected:** 245 Center Street  
Groveland, MA 01834 (Assessors Map 26, Parcel 23)

Referring to the above petition for Approval of a Definitive Plan according to the requirements of the Groveland Subdivision Rules and Regulations: So as to construct a roadway and the installation of stormwater management infrastructure for the construction of a single family dwelling in the Residential 1 Zoning District.

After a public hearing given on the above dates, and upon a motion by Brad Ligols and second by Robert Arakelian to APPROVE the Application for a Definitive Plan as amended and based upon the following conditions. A vote of 3-0 was made in favor of the application.

On behalf of the Groveland Planning Board  
Robert Danforth, Chair  
Robert Arakelian  
Brad Ligols, Associate Member

The Planning Board herein APPROVES the Application for a Definitive Plan to construct a roadway and the installation of stormwater management infrastructure for the construction of a single family dwelling. The site is located in the Residential 1 (R-1) Zoning District. The proposed subdivision is located at 245 Center Street Groveland, MA 01834 (Assessors Map 26, Parcel 23).

The application was filed with the Planning Board on August 20, 2019. The Applicant submitted a complete application conforming to the requirements of the Regulations Governing the Subdivision of Land, which application was noticed on September 3, 2019 and September 10, 2019 in the Lawrence Eagle Tribune. The public hearing on the above referenced application was opened on September 17, 2019 and closed on December 3, 2019. A quorum of Planning Board members was present.

The Planning Board makes the following findings as required by the Regulations Governing the Subdivision of Land:

### **FINDINGS OF FACT**

- 1) The proposed Project as designed will protect and provide for the public health, safety, and general welfare of the Town of Groveland.
- 2) The proposed Project as designed will protect and conserve the value of land throughout the Town of Groveland and the value of buildings and improvements upon the land, and will minimize the conflicts among the uses of land and buildings.
- 3) The proposed Project will ensure that public facilities and services are available, concurrent with development, and will have a sufficient capacity to serve the proposed subdivision.
- 4) The proposed Project as designed will provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic.
- 5) The proposed Project is the result of discussions with the Planning Board, municipal department staff and outside consultants with respect to site design, grading, landscaping and stormwater management. The resulting proposal limits impacts on neighboring residents.
- 6) The Peer Review Engineer, TEC, provided a final comment letter dated November 19, 2019 and waiver memo dated December 3, 2019. (See letters from Peter Ellison, Project Engineer.)
- 7) The Applicant filed a Notice of Intent (NOI) with the Groveland Conservation Commission.
- 8) The Applicant formerly filed a Notice of Intent (NOI) May 9, 2001 and received an Order of Conditions (OOC) recorded at the Southern Essex Registry of Deeds as Book 17379 Page 108 for a culvert crossing off of Center Street. The OOC had conditions with the land to be held in perpetuity. Specifically, "No further alteration of wetlands greater than 502 square feet will be permitted for any future work anywhere on the entire property." Additionally, "No rock salt or other deicing chemicals shall be used on the roadways on the site...."
- 9) The single family dwelling will have a private well and on-site septic.
- 10) The Water and Sewer Commission stated that the house is proposed to sit around 1,100 feet from the street, a water service or a dead-end water main of that length would cause water quality

problems for the future residents of the home and the Water Department determined that they will not require the owner to connect to the water system. (See letter from Water and Sewer Superintendent, Colin Stokes, dated November 19, 2019.)

- 11) The road constructed will be a private roadway and will remain private in perpetuity. There will be no Town services, such as trash pick-up, snow plowing, sanding and general roadway maintenance.
- 12) Per the MassDOT Design Manual and AASHTO-Policy on Geometric Design of Highway and Streets the driveway will meet the stopping distance of 200' as required when traveling south along King Street but will not meet the stopping distance of 200' when traveling north along King Street. The site distance measured traveling north is 187'. The Speed Limit for King Street is 25 mph.
- 13) The Fire Department reviewed the submitted plans and noted the Applicant shall provide documentation demonstrating that the largest fire apparatus can safely use the access road/driveway and turnaround.
- 14) The Applicant is seeking a waiver from the Stormwater Management and Land Disturbance Permit under Section 14.4.2, pending an Order of Conditions issued by the Conservation Commission and an approved Stormwater Pollution Prevention Plan.

## **DECISION**

After considering the required standards and factors set forth in the Groveland Subdivision Rules and Regulations, the Planning Board grants approval of the Application for a Definitive Plan to construct a roadway and the installation of stormwater management infrastructure for the construction of a single family dwelling for the Project as shown on the Record Plans, subject to the following conditions:

## **DEFINITIONS**

- The "Locus" or "Site" refers to the 9.6 acres of land with land fronting on Center Street as generally shown on Assessors Map 26, Parcel 23, as more particularly depicted on the "Plans" as defined below.
- The "Plans" refer to the plans prepared Hancock Associates, 185 Centre Street, Danvers, MA titled, "Subdivision Plan 245 Center Street", 1-4 dated August 19, 2019 and a final revision date of November 8, 2019.
- The "Project" refers to the construction of a roadway and the installation of stormwater management infrastructure for the construction of a single family dwelling The property is shown on Assessors Map 26, Parcel 23 located in the Residential 1 Zoning District.
- The "Applicant" refers to William and Heather Klosowski, the applicant for the Approval, its successors and assigns.
- The "Project Owner" refers to the person or entity holding the fee interest to the title to the Locus from time to time, which can include but is not limited to the applicant, developer, and owner.

## **SPECIAL CONDITIONS**

- 15) The roadway, utilities, and stormwater management infrastructure will be constructed according to the Plans, with requested waivers granted. With respect to waivers concerning development

standards, the Planning Board makes a finding, in accordance with Section 1.10.1 of the Subdivision Rules and Regulations, that the waived requirements will not be detrimental to the public safety, health, or welfare or injurious to other property; the conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property; because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and the relief sought will not in any manner vary the provisions of the Zoning Bylaw, Master Plan, or Official Map, except that those documents may be amended in the manner prescribed by law. These waivers consist of:

- a. Section 3.4.2.14 – Waiver from showing existing profiles of exterior lines. The Applicant has provided a centerline profile for the existing and proposed condition which is adequate for a single family residential driveway.
  - b. Section 3.4.2.18 – Waiver from locating all trees over 12” in diameter to be removed. The Owner intends to retain as many trees as possible.
  - c. Section 3.4.2.22 – Waiver from traffic analysis.
  - d. Section 3.4.4 – Waiver from Site Specific Soil Testing. The Applicant has provided soil testing in specific areas where stormwater/septic is proposed.
  - e. Section 4.3.5 – Waiver from street lights. The development is for a single family home.
  - f. Section 4.3.7.1 – Waiver from cul-de-sac requirement at dead end streets. The Fire Department is requiring documentation to prove the turnaround designed is adequate.
  - g. Section 4.3.8 – Waiver from subdivision roadway standards. The “roadway” will function as a residential driveway for a single family home.
  - h. Section 4.3.9 – Waiver from width of ROW of 50-feet. The plan proposes a ROW of a minimum of 49.3-feet which provides adequate space for the proposed single family residential driveway.
  - i. Section 4.3.10 – Waiver from roadway standards. The road will be used as a single family residential driveway.
  - j. Section 4.4 – Waiver from stormwater design standards. The project will provide a stormwater basin that will mitigate the 10-year design storm.
  - k. Section 4.7.3 – Waiver from street lights. The development is for a single family home.
  - l. Section 4.8 – Waiver from curbing requirement. The road will be used as a single family residential driveway.
  - m. Section 4.9 – Waiver from sidewalks requirement. The road will be used as a single family residential driveway.
  - n. Section 4.11 – Waiver from minimum side slopes of 3:1. The plan proposes a maximum side slope of 2:1. Jute mesh erosion control shall be installed on all vegetated slopes exceeding 3:1.
  - o. Section 4.14 – Waiver from preservation of natural features and amenities. The Applicant’s intent is to save as many trees as possible.
- 16) The Applicant shall install a curve warning sign and speed advisory placard to be posted on the southern side of the proposed driveway on King Street and shall be approved by the Highway Superintendent.
- 17) The Applicant shall provide for the long-term maintenance of the proposed stormwater infrastructure. Evidence of a long-term maintenance agreement must be provided to the Planning Department; either in the form of a Homeowner’s Association Agreement, or other formal

- documentation, such that the funding, access, and preventative maintenance of the proposed stormwater infrastructure is assured for each lot within the subdivision.
- 18) The Applicant shall provide an approved Order of Conditions and approved Stormwater Pollution Prevention Plan in order to be in compliance with Article 14, Stormwater Management and Land Disturbance Permit.
  - 19) In consideration of the approval of the Plan, there is to be no further division or subdivision of a part or portion of the parcels created through this Subdivision Plan. This restriction is to be documented in the respective deeds for each lot within this subdivision.
  - 20) No additional mortgage(s) or lien(s) may be applied to any lots in the subdivision in which the Town of Groveland has a security interest.
  - 21) Vital access must be maintained at all times and is the sole responsibility of the Owner/Applicant/Developer. This access includes plowing, sanding and general up keep.
  - 22) The subdivision is to remain a private roadway. The fifty-foot right-of-way providing access from King Street shall remain a private way and be maintained by the owner of said lot. The Town shall never accept the roadway as a public right-of-way. This restriction is to be documented in the respective deeds for each lot within this subdivision.
  - 23) Driveways must be accessible for emergency vehicles and approved by the Town's Fire and Police Chiefs.
  - 24) Groveland Board of Health approval and a copy of their decision shall be filed with the Planning Department concerning each individual lot as to potable water and septic or sewer approval.
  - 25) Violations of any terms of this Decision or covenants relating thereto shall be just cause for recession, modification or amendment pursuant to G.L. c.41 Section 81W.

#### **PRIOR TO THE ENDORSEMENT OF THE PLAN**

- 26) A Covenant (Form F) securing all lots within the subdivision for the construction of ways and municipal services must be submitted to the Planning Department. Said lots may be released from the covenant upon posting of security as required.
- 27) A Conveyance of Easements and Utilities (Form H) for all utilities and easements placed on the subdivision must be submitted to the Planning Department.
- 28) The Owner/Applicant/Developer shall obtain general liability insurance covering the development in the amount of Two Millions Dollars (\$2,000,000.00), and further that the Owner/Applicant/Developer shall indemnify and hold harmless the Town of Groveland from any and all claims which may arise from the development and construction relating thereto.
- 29) A development schedule must be submitted to the Town Planner.

- 30) The final plan set to be endorsed shall update the requested waivers on page one (1), the cover sheet, to reflect the list of waivers as documented in this Memorandum under Special Conditions, condition number 14.
- 31) The Applicant must meet with the Town Planner in order to ensure that the final plans conform to this Memorandum of Decision. These plans must be submitted within ninety (90) days of this Memorandum of Decision.

#### **PRIOR TO SITE WORK/CONSTRUCTION**

- 32) A Performance Guarantee bond in the amount of \$50,000.00 shall be posted for the purposes of ensuring that the site is constructed in accordance with the approved plans and that a formal as-built plan is provided.
- 33) The Memorandum of Decision and accompanying plans must be recorded with the Southern Essex Registry of Deeds, and the list of approved waivers must appear on the Mylar plans. The Applicant shall provide the Planning Department with two copies of the recorded Memorandum of Decision and accompanying plans.
- 34) Each and every Form F, Form H, Form G-1, G-2, Covenant, easement document, Homeowner's Association Agreement, and other pertinent maintenance document must be recorded with the Southern Essex Registry of Deeds as noted in this decision. The Applicant shall provide the Planning Department with two copies of each document filed.
- 35) The Applicant shall carry out the Stormwater Prevention Pollution Plan (SWPP) and copy the Planning Department on all inspection/monitoring reports. The Applicant is responsible for the reasonable cost of said services.
- 36) The Applicant shall provide construction monitoring, in conjunction with the monitoring required under the SWPP, for the observations as specified under the Subdivision Rules and Regulations Section 6.4.3. Documentation identifying the firm to provide these services shall be provided to the Planning Department. The Applicant is responsible for the reasonable cost of said services.
- 37) A pre-construction meeting must be held with the developer, contractors, Planning Department, Applicant, and other applicable representatives to discuss scheduling of inspections and construction schedule.
- 38) The Applicant shall provide documentation to the Planning Department that the Fire Department has reviewed and approved the access road/driveway and turnaround.
- 39) Yellow "Caution" tape must be placed along the limit of clearing and grading as shown on the plan. The Planning Department must be contacted prior to any initial cutting and/or clearing on-site.

#### **PRIOR TO ISSUANCE OF A BUILDING PERMIT**

- 40) The Applicant shall conduct test pits to analyze the soil conditions along the ROW for the installation of underground utilities. These test pits must be witnessed by the monitoring

engineer. If the test pits show refusal and blasting is required for the installation of underground utilities, the Applicant shall provide documentation of such, and the Planning Board at the next regularly scheduled meeting will vote on whether to waive Section 4.7.1 of the Subdivision Rules and Regulations.

- 41) All roads depicted on the plan must be constructed and stabilized.
- 42) A Plot Plan for the lot in question must be submitted to include:
  - a. Location of the structure
  - b. Location of the driveway
  - c. Location of all water and sewer lines
  - d. Proposed grading
  - e. Location of drainage infrastructure
  - f. Identification of all easements
- 32) The lot in question shall be staked in the field; the location of any major departures from the plan must be shown.
- 33) Appropriate erosion control measures for the lot shall be in place.
- 34) Catch basins shall be adequately protected and maintained to prevent siltation into drainage structures.
- 35) Lot numbers, visible from the frontage, must be posted on lots.

#### **DURING CONSTRUCTION**

- 36) The construction contractor shall employ all available best-management-practices for the control of dust, including but not limited to watering, planting, stabilization, track-out shaker plates, and/or stockpile coverings.
- 37) It shall be the responsibility of the Applicant to assure that no erosion from the construction site shall occur which will cause deposition of soil or sediment upon adjacent properties or public ways, except as normally ancillary to off-site construction. Discovery of off-site erosion will be a basis for the Planning Board to make a finding that the project is not in compliance with the approved Plans. In the event off-site erosion is discovered as a result of construction activity, the Planning Board shall give the applicant written notice of any such finding with three (3) days to provide evidence of corrective-action.
- 38) In an effort to reduce noise levels, the Applicant or contractor shall keep in optimum working order, through regular maintenance, any and all equipment that shall emanate sounds from the structures or site.
- 39) Exterior construction of the Project shall not commence on any weekday before 7:00AM and shall not continue beyond 6:00PM except for emergency repairs. Exterior construction shall not commence on Saturday before 8AM shall not continue beyond 5PM with the same exceptions. The Building Commissioner may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant except for emergency circumstances, where oral communication shall be followed by written confirmation.

There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of construction operation shall be enforced by the Police Department.

#### **PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY**

- 40) The Applicant shall submit a letter from the architect and engineer of the project stating that the landscaping and site layout substantially complies with the Plans referenced in this Memorandum of Decision as endorsed by the Planning Board. Alternatively, the applicant may provide a bond, determined by the Planning Board, to cover the full amount of the landscaping materials and installation if weather conditions do not permit the completion of the landscaping prior to use of the building.
- 41) It shall be the Applicant's responsibility to assure the proper placement of driveways, regardless of whether individual lots are sold. The Planning Board requires any driveway to be moved at the owner's expense if such driveway is at a catch basin or stone bound position.
- 42) All slopes must be stabilized with regard to erosion and safety.
- 43) The lot must be raked, loamed, and seeded, sodded or mulched.
- 44) The Planning Board reserves the right to review the site after construction is complete and require additional site screening as it deems necessary and reasonable.

#### **PRIOR TO THE RELEASE OF ALL SECURITY AND ESCROWED FUNDS**

- 45) The Applicant shall submit an as-built plan stamped by a Registered Professional Engineer in Massachusetts that shows all construction, site design, including stormwater structures and other pertinent site features. One paper copy and one electronic copy (PDF) shall be submitted to the Town Planner. If over one (1) year has elapsed from the issuance of the Certificate of Occupancy, the Applicant must submit a second letter from the architect and engineer verifying that the landscaping and site layout substantially complies with the Plans referenced in this Memorandum of Decision as endorsed by the Planning Board.
- 46) The Planning Board must, by a majority vote, make a finding that the site is in conformance with the approved plan.
- 47) The Town Planner shall verify that all Planning, Conservation, Board of Health, and Highway Department requirements are satisfied and that construction was in compliance with all respective approved plans and conditions.

#### **GENERAL CONDITIONS**

- 48) Subject to the Conditions contained herein, the Project shall be substantially constructed in accordance with the Record Plans, which are on file with the Planning Board.
- 49) Any action taken by a Town Board, Commission or Department which requires changes in the plan or design of the buildings, as presented to the Planning Board, may be subject to modification by the Planning Board.



- 50) If the Applicant wishes to modify the approved Record Plans, it shall submit proposed modifications to the Planning Board. Where such modification is deemed substantial, the same standards and procedures applicable to an original application for site plan approval, aquifer protection district special permit and stormwater management and land disturbance permit shall be required by the Planning Board; provided, however, that the Planning Board may determine that a proposed modification is insubstantial and approve the same without the need for any further Planning Board approval or hearing. Authorization to modify the Record Plans shall be obtained prior to any substantial modification in the field.
- 51) The endorsement of the plan approval by the Planning Board shall be valid for a period of three (3) years from the date of filing by the Planning Board of the approval with the Town Clerk. See section 3.4.7.3 of the Regulations Governing the Subdivision of Land
- 52) The provisions of this conditional approval shall apply and be binding upon the Applicant, its employees, and all successors and assigns in interest or control.
- 53) The contractor shall contact Dig Safe at least 72 hours prior to commencing any excavation.
- 54) Gas, telephone, cable, and electric utilities shall be installed underground as specified by the respective utility companies.
- 55) The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area.
- 56) The following information shall be deemed part of the decision:

**Plan titled:** Subdivision Plan for 245 Center Street  
**Prepared for:** William and Heather Klosowski, 245 Center Street Groveland, MA 01834  
**Prepared by:** Hancock Associates, 185 Centre Street, Danvers, MA  
**Scale:** 1" = 100'  
**Date:** August 19, 2019 and a final revision date of November 8, 2019.  
**Sheets:** 1-4

**Report:** Stormwater Memo  
**Prepared for:** William and Heather Klosowski  
**Prepared by:** Hancock Associates  
**Date:** October 1, 2019, revised October 30, 2019

cc:

Town Departments  
Applicant  
Abutters