

**TOWN OF HOPEDALE
PLANNING BOARD**

78 Hopedale Street - P.O. Box 7
Hopedale, Massachusetts 01747

**Certificate of Action
Modification of Subdivision Approval
Hopedale Ridge Subdivision**

RECEIVED

By Lisa M. Pedroli at 11:27 am, Mar 07, 2023

To: Town of Hopedale, Town Clerk

From: Town of Hopedale, Planning Board

Date: March 6, 2023

Re: Modification and Amendment of Subdivision Approval of the plan entitled “Hopedale Ridge A Definitive Subdivision Plan on Overdale Parkway in Hopedale, MA 01747”, prepared by Allen Engineering & Associates, Inc., dated February 11, 2022

Property: Land on Overdale Parkway, Hopedale Assessor’s Parcel ID Map 6, Block 4, Lot 0

Notice is hereby given that on January 4, 2023, the Town of Hopedale Planning Board opened a duly noticed public hearing to consider modifying, amending or rescinding the Planning Board’s constructive approval of the subdivision plan entitled “Hopedale Ridge A Definitive Subdivision Plan on Overdale Parkway in Hopedale, MA 01747”, prepared by Allen Engineering & Associates, Inc., dated February 11, 2022 (the “Plan”). The public hearing was continued to February 1, 2023 and to March 1, 2023 at which time the Planning Board closed the public hearing, deliberated, and voted, acting pursuant to G.L. c. 41, § 81W, and based on the Findings set forth in this Certificate of Action to modify and amend said constructive approval by approving a revised version of the Plan, with a final revision date of January 10, 2023 subject to the conditions set forth herein.

The vote of the Planning Board to so modify and approve was as follows: three (3) affirmative votes to two (2) negative votes (Stephen Chaplin, Michael Costanza, and Jimmy Khokhar, affirmative; Kaplan Hasanoglu and Christopher Chase, negative).

Additionally, the Planning Board found that, due to the location of the property, existing conditions, proposed improvements and anticipated impacts, granting certain requested waivers was in the public interest and not inconsistent with the intent and purpose of the subdivision control law, and accordingly, the Board voted to approve waivers as specified herein.

Findings

On February 23, 2022, Black Brook Realty Corp. and Ricardo Lima (each a “Private Applicant,” and collectively, the “Private Applicants”) applied to the Planning Board for definitive subdivision approval of the Plan. The Town of Hopedale joined in that application, in a passive role, relative to its ownership interest in Overdale Parkway. The Planning Board opened, and with the cooperation of the Private Applicants, continued the public hearing over a period of months into September of 2022. The Planning Board and the applicants did not, however, enter into a written agreement, pursuant to G.L. c. 41, § 81U, to extend the time for the Planning Board to vote on the application and file its certificate of action with the Town Clerk. Accordingly, as of July 9, 2022, the Plan was constructively approved.

The Private Applicants first filed a written request for waivers under the Planning Board’s Subdivision Rules and Regulations in August of 2022 and thus the constructive approval of the Plan did not include any waivers.

The Planning Board, acting pursuant to G.L. c. 41, §§ 81T and 81W, noticed a new public hearing so that it could consider modifying, amending or rescinding the constructive approval of the Plan, including the grant of any waivers.

During the public hearing, the Private Applicants and the Board confirmed and agreed that unless and until the Town takes or accepts the subdivision way or any of the stormwater or drainage systems within the subdivision, the Private Applicants shall remain solely and exclusively responsible for the construction thereof, the maintenance thereof and all costs associated therewith.

During the public hearing, the Private Applicants and their representatives as well as members of the public and Town Officials were provided with the opportunity to ask questions and present information to the Planning Board. The Planning Board, in issuing this Certificate of Action, considered the information it received relative to the Private Applicants’ original application and during the new public hearing¹:

1. Correspondence from Mark S. Bourbeau, Esq., counsel for the Overdale Parkway Association, dated February 7, 2022
2. Definitive Subdivision Plan Set dated February 11, 2022²
3. Subdivision Application of Private Applicants together with 61-page Addendum consisting of a project narrative and five (5) exhibits in support (a total of 61 pages)
4. Soil Testing Data Sheets (a total of 60 pages)
5. Public Hearing Notice of the Hopedale Planning Board

¹ All of the referenced documents/items of correspondence are publicly displayed on the Planning Board’s Section of www.hopedale-ma.gov as of the date of this Certificate of Action.

² The initial plans were posted twice, once in a high-definition format, and a second time in a smaller file size received by Planning Board in September of 2022.

6. Memorandum of Approval from Town of Hopedale Board of Health dated May 2, 2022
7. Correspondence from Katharine Lord Klein, Esq., counsel for Town of Hopedale, date June 1, 2022
8. Peer review correspondence from Graves Engineering dated June 14, 2022
9. Correspondence from A. Eli Leino, Esq. entitled “Request for Subdivision Waivers” dated August 31, 2022
10. Correspondence from Timothy Watson, Manager of Town of Hopedale Water and Sewer Departments, dated September 7, 2022
11. Email correspondence from Katharine L. Klein, Esq., counsel for Town of Hopedale, dated September 26, 2022
12. Correspondence from Chris Leduc, Town of Hopedale Road Commissioner, dated September 28, 2022
13. Correspondence from Len Guertin (Hopedale resident) dated October 6, 2022
14. Email correspondence from A. Eli Leino, Esq. on behalf of Private Applicant Ricardo Lima dated October 5, 2022
15. Correspondence from Chris Leduc, Town of Hopedale Road Commissioner, dated October 20, 2022
16. Correspondence from Lou Arcudi (Hopedale Resident and former Selectboard Member) dated October 21, 2022
17. Correspondence from a group of citizens operating under the name of “Overdale Parkway Association” dated October 24, 2022
18. Peer review correspondence from Graves Engineering dated November 2, 2022
19. Email correspondence from Becca Solomon, Hopedale Tree Warden, dated November 2, 2022
20. Certificate of Lisa M. Pedroli, Hopedale Town Clerk, Pursuant to G.L. c. 41, § 81V, dated November 21, 2022
21. Correspondence from Thomas Daige, Town of Hopedale Fire Chief, to Ricardo Lima, dated December 12, 2022

22. Correspondence from Kurt Gaertner, Assistant Secretary to the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs dated January 3, 2023
23. Correspondence of Allen Engineering & Assoc., Inc. dated January 10, 2023
24. Drainage Analysis prepared by Allen Engineering & Assoc, Inc. dated February 11, 2022 and revised January 10, 2023
25. Revised Definitive Subdivision Plans dated February 11, 2022 and revised January 10, 2023
26. Correspondence from A. Eli Leino, Esq. entitled “Request for Subdivision Waivers” dated January 12, 2023
27. Email correspondence from Jeffrey Walsh of Graves Engineering (peer reviewer for Town of Hopedale) dated February 15, 2023
28. Peer review correspondence of Graves Engineering dated February 15, 2023.

Waivers

The Planning Board granted the following waivers from its Subdivision Rules and Regulations:

1. Section IV.A.2 - Width

Required: The minimum width of street right of ways shall be fifty (50) feet. Greater width may be required by the Board when deemed necessary for major and secondary streets. The minimum width of pavement in all proposed streets shall be thirty (30) feet.

Proposed: the proposed paved road width is 24 feet.

Voted: By a unanimous vote (Stephen Chaplin, Michael Costanza, Jimmy Khokhar, Christopher Chase, and Kaplan Hasanoglu affirmative; no negative votes), the Planning Board granted a waiver from Section IV.A.2. to allow a paved road width of 24 feet instead of 30 feet.

2. Section IV.H and V.H.1– Sanitary Sewers

Required by IV.H: Whenever the existing sanitary sewers are within 2,000 feet of a proposed subdivision, the developer shall make all necessary arrangements and shall construct the connecting sewer. Before connecting to any Town sewer, the developer must enter into an agreement with the Board of Sewer Commissioners for this right.

When the Town's sanitary sewer system is not available to the proposed subdivision, the developer may be required to install a sanitary sewer system and connect it to a lot or lots, depending upon the size of the development. This system must be approved by the local Board of Health and the Massachusetts Department of Public Health.

Required by V.H.1: Collector systems shall be vitrified clay or asbestos cement of a class specific by the Sewer Commission at least eight (8) inches in diameter laid to a minimum slope of one-half (1/2) foot per 100 feet and shall be deep enough to drain basement fixtures and prevent freezing. Precast concrete manholes shall be constructed at the end of each line, and at all changes in grade, size and alignment. They shall not exceed a spacing of 300 feet, and shall be in accordance with the typical details for same in the appendix.

Line and grade shall be controlled by the use of laser instruments. All sewer pipe and manholes will be subject to an exfiltration test upon completion and before putting into service. The maximum allowable infiltration or exfiltration rate shall be 500 gallons per mile of pipe per inch of pipe diameter in a twenty-four (24) hour period. The developer shall be responsible for furnishing all necessary materials, equipment and labor to conduct the tests which must be witnessed by the Planning Board or its designated agent.

House services shall be at least five (5) inches in diameter, laid at a minimum pitch of one-quarter (1/4) inch per foot. All sewers, including house services, shall be laid in an envelope of three-quarter (3/4) inch washed gravel. Deflections in line or grade in excess of one-half (1/2) inch will be cause for rejection.

Proposed: Individual septic systems instead of connecting to or installing a sanitary sewer and related improvements.

Voted: By a vote of three (3) to two (2) (Stephen Chaplin, Michael Costanza, and Jimmy Khokhar, affirmative; Kaplan Hasanoglu and Christopher Chase) the Planning Board granted a waiver from compliance with Section IV.H so as to allow the subdivision to be constructed with individual septic systems.

3. Section IV.J – Fire Hydrants

Required: Hydrants shall be provided every 500 running feet on one (1) side of each street unless a greater distance is approved.

Proposed: Installation of a 30,000 gallon cistern compatible with the Hopedale Fire Department's current equipment and firefighting apparatus and the plan for proposed cistern location on file with the Planning Board and dated March 1, 2023.

Voted: By a unanimous vote (Stephen Chaplin, Michael Costanza, Jimmy Khokhar, Christopher Chase, and Kaplan Hasanoglu affirmative; no negative votes), the Planning Board granted a waiver from Section IV.J on the condition that the

proposed cistern be installed and operational prior to the first certificate of occupancy being issued.

4. Section V.B.6 – Berms

Required: Berms shall be of a dense mix, tack coated to the bituminous base course, machined formed of an approved configuration, eight (8) inches in height, on both sides of the roadway with and in conformance with Massachusetts Department of Public Works Standard Specifications for Highways, Bridges and Waterways.

Proposed: Swales as shown on the Plan as modified and amended.

Voted: By a unanimous vote (Stephen Chaplin, Michael Costanza, Jimmy Khokhar, Christopher Chase, and Kaplan Hasanoglu affirmative; no negative votes), the Planning Board granted a waiver from Section V.B.6 in favor of the said proposed swales.

5. Section V.C. – Sidewalks

Required: The subgrade for five (5) foot wide sidewalks shall be compacted, shaped and rolled. A foundation of not less than six (6) inches of gravel conforming to the requirements for roadway base shall be placed in the subgrade and rolled to a grade two (2) inches below finish top of walk. The gravel foundation shall be increased to twelve (12) inches at driveways. Two one-inch (1) compacted layers of top and bottom bituminous concrete shall be placed and thoroughly rolled on the graded gravel foundation. All rolling shall be done with a self-propelled roller weighing not less than three (3) tons.

Proposed: A sidewalk on one side of the subdivision way as shown on the Plan as modified and amended.

Voted: By a unanimous vote (Stephen Chaplin, Michael Costanza, Jimmy Khokhar, Christopher Chase, and Kaplan Hasanoglu affirmative; no negative votes), the Planning Board granted a partial waiver from Section V.C to allow a sidewalk on one side of the subdivision way as shown on the Plan as modified, amended and approved hereby.

6. Section V.D – Grass Plots

Required: A four and one-half (4 1/2) foot wide grass plot shall be constructed between the hack edge of berm and front edge of sidewalk. Loam topsoil shall be placed to a depth of four (4) inches after rolling with a hand roller weighing not less than one hundred (100) pounds per foot of width. The source of loam shall be inspected and approved by the Planning Board before placing. It shall have a normal amount of organic matter and be reasonably free from roots, hard dirt, heavy or stiff clay, stones larger than one (1) inch,

lumps, coarse and noxious weeds, stick brush or other litter. Ground limestone, where necessary, shall be spread and thoroughly incorporated into the loam. Fertilizer shall be spread at the rate of two-tenths (0.2) of a pound per square yard and thoroughly incorporated into the loam. Seed conforming to the following proportions:

Red Fescue or Chewing's Fescue	60%
Red Top	20%
Kentucky Blue	20%

shall be spread at the rate of three and six-tenths (3.6) pounds to each one hundred (100) square yards. After raking a fine layer of loam over seed, the area shall be rolled with a hand roller weighing not less than one hundred (100) pounds per foot of width.

Proposed: A grass plot installed only on the side of the way with the sidewalk.

Voted: By a unanimous vote (Stephen Chaplin, Michael Costanza, Jimmy Khokhar, Christopher Chase, and Kaplan Hasanoglu affirmative; no negative votes), the Planning Board a partial waiver from Section V.D to allow a grass plot to be installed only on the side of the way with the sidewalk.

7. Section V.G – Trees

Required: Trees shall be installed at an average spacing of 100 feet on both sides of the proposed roadways. All trees must be Norway Maples, one and one-half (1 1/2) to two (2) inches caliper, ten (10) to twelve (12) feet tall with good, straight stems. These trees shall be planted either in the sidewalks four and one half further (4 1/2) foot grass plots feet or behind the sidewalks no further than 10 (10) feet.

The planting cavity shall be of sufficient depth and width to accommodate the root system without cramping. A minimum of one (1) foot of loam and sufficient fertilizer shall be placed at each planting, and a minimum of a three (3) foot circle, two (2) inches deep of woodchip mulch shall surround each tree at the surface. The trees shall be well watered when planted.

Each tree shall be supported with a 2" x 2" x 8' wooden stake and shall be fastened at the top with a loop of rubber or suitable fabric hosing.

All trees shall be subject to a one (1) year guarantee.

Proposed: To locate at least two Norway Maples, or trees of similar quality and size as required, on each house lot.

Voted: By a unanimous vote (Stephen Chaplin, Michael Costanza, Jimmy Khokhar, Christopher Chase, and Kaplan Hasanoglu affirmative; no negative votes), the Planning Board, finding the comments of the Tree Warden dated

November 2, 2022 both helpful and persuasive, granted a waiver from Section V.G so as to allow the Private Applicants to locate at least three (3) Red Maples or Sugar Maples, or trees of similar quality and size as required, on each house lot, taking care to ensure such trees will not be located in a manner where they will grow into overhead electrical lines in the future, and taking care wherever practicable to preserve the existing tree canopy and natural vegetation (i.e., consistent with principles of low-impact development).

8. Section V.H.2- Storm Drains

Required: All drain pipes shall be reinforced concrete conforming to A.S.T.M. Designation C76, Class III pipe, or such higher class as may be required by depth of trench, and shall be at least twelve (12) inches in diameter, and shall be laid to a slope which will remain a velocity of three (3) feet per second when flowing full using $N = .015$.

Manholes shall be constructed at the end of each line, catch basins connections, at changes in grade, size and alignment, and shall not exceed a spacing of 300 feet.

Catch basis with three (3) foot sumps shall be built at all low points and on continuous upward grades at a spacing not to exceed 300 feet from the low point or preceding catch basins.

Drains shall be laid with open bottom joints in a three-quarter (3/4) inch washed gravel cradle.

Provisions shall be made to collect and remove silt from the drainage system during the construction period.

Proposed: Instead of the catch basins, manholes and pipes, the design alternatively uses grassy swales along the road to collect stormwater runoff.

Voted: By a vote of three (3) to two (2) (Stephen Chaplin, Michael Costanza, and Jimmy Khokhar, affirmative; Christopher Chase and Kaplan Hasanoglu, negative) the Planning Board granted a waiver from Section V.H so as to allow grassy swales along the road to collect stormwater runoff instead of catch basins, manholes and pipes.

Conditions

The Planning Board's approval of the modified and amended Plan and its grant of the aforesaid waivers are subject to conditions one (1) through twelve (12) set forth below.

1. The subdivision shall be constructed in substantial conformance with the Plan, as revised through January 10, 2023, with the following additional revisions which shall be made to the Plan prior the Planning Board's endorsement thereof:

- a. The Plan shall be updated to show a 30,000 gallon cistern, instead of a 20,000 gallon cistern;
- b. The Plan shall be revised to show black line-type instead of greyed-back; and
- c. The hydrologic/hydraulic modeling of Culvert 8R shall be re-analyzed and the Plan shall be updated, if necessary, to the satisfaction of the Planning Board.

2. The subdivision shall comply with the Planning Board's Subdivision Rules and Regulations, except as to those provisions for which a waiver has been granted herein. Construction of and compliance with all alternatives offered as bases for said waivers is a condition of this Certificate of Action.

3. Prior to substantial completion of the first home, the Private Applicants shall create a homeowners' association, in a form acceptable to the Planning Board, to be responsible for maintaining the stormwater and drainage systems in the subdivision until such time, if at all, that the Town may elect to accept responsibility for those systems.

4. Black Brook Realty Corp. owns land in the Town of Mendon that abuts this subdivision. Consistent with the Agreement recorded in the Worcester South District Registry of Deeds in Book 65903, Page 352, Black Brook Realty Corp. shall not subdivide or develop that land and shall limit the use of that land to the terms of a conservation restriction in a form reasonably acceptable to the Town of Hopedale, including a provision for public access. In the event that Black Brook Realty Corp. conveys the land to the Town of Mendon, any such conveyance shall include language necessary to cause the land to be subject to and protected by Article 97 of the Amendments to the Massachusetts Constitution.

5. The Conditions and Waivers included herein shall be noted on the Plan prior to endorsement by the Planning Board. After endorsement by the Planning Board, the Private Applicants shall record the Plan and this Certificate of Action at said Registry of Deeds and the Private Applicants shall provide the recording information to the Planning Board in writing forthwith upon recording.

6. Prior to the Planning Board's endorsement of the final Plan, the Private Applicants shall secure the construction of the subdivision way and the installation of municipal services as required by G.L. c. 41, § 81U.

7. Prior to the Planning Board's endorsement of the final Plan, the Private Applicants shall submit to the Planning Board a stand-alone Operation and Maintenance Plan acceptable to the Planning Board, which shall include all stormwater features and detailed maintenance as well as blank stormwater management documents such as checklists that may be copied and completed by the system operator.

8. The Private Applicants shall be solely responsible for all costs associated with the construction of the subdivision. The Private Applicants shall also pay the reasonable costs of the

Planning Board employing peer review services to review and inspect the construction of the subdivision way, infrastructure and municipal services, in accordance with G.L. c. 44, § 53G.

9. The construction of the subdivision way and installation of municipal services shall be substantially complete to the satisfaction of the Planning Board by two (2) years following the start of construction, which shall include any site improvements made relative to the construction of the way and the installation of the services. The private applicants shall provide the Planning Board with timely notice of the start of construction. Upon a request by the Private Applicants, the Planning Board, for good cause shown, may extend that deadline. Good cause shall include, but not be limited to, any delay caused by or resulting from litigation involving the subdivision or Overdale Parkway.

10. The conditions set forth herein shall run with the land and be binding upon the applicants and their respective beneficiaries, heirs, successors, assigns, officers, principals, directors, legal representatives and transferees.

11. The subdivision shall be limited to six (6) and four (4) single family house lots, respectively, from the frontage created through the improvement of the subdivision way, as shown on the Plan.

12. The Private Applicant shall inform the Planning Board in addition to any and all departments of the Town of Hopedale with applicable jurisdiction prior to all phases of construction (including construction of infrastructure) so that the Town of Hopedale may be apprised of all phases of construction and may perform inspections as the Town of Hopedale and its agents deem necessary in their sole discretion.

[The remainder of this page is left blank intentionally. Signatures to follow.]

Town of Hopedale Planning Board

/s/ Stephen J. Chaplin

Stephen J. Chaplin, Chair

/s/ Christopher Chase

Christopher Chase, Member

/s/ Michael Costanza

Michael Costanza, Member

/s/ Kaplan Hasanoglu

Kaplan Hasanoglu, Member

/s/ Jimmy Khokhar

Jimmy Khokhar, Member

Date: March 6, 2023

Filed with the Town Clerk on: March 7, 2023

In accordance with G.L. c. 41, §81BB appeals of this Certificate of Action may be taken with twenty (20) days of the recording of this Certificate of Action in the Office of the Hopedale Town Clerk.