



TOWN OF HINGHAM

Board of Appeals

SPECIAL PERMIT DECISION

IN THE MATTER OF:

Applicant: Christina & Thomas Farren

Premises: 5 Martins Cove Lane
Hingham, MA 02043

Title Reference: Certificate of Title No. 115998 issued by the Plymouth County Registry District of the Land Court

Plan References: "Existing Conditions Plan," prepared by Cavanaro Consulting, 687 Main Street, Norwell, MA, dated April 4, 2014, Drawing No. EC; "Site Preparation & Demolition Plans," prepared by Dan K. Gordon Associates (DKGA), 267 Washington Street, Wellesley, MA, dated April 20, 2015, Sheets L-1.0 and L-1.1; and "Site Improvements Plans," prepared by DKGA, dated April 20, 2015, Sheets L-2.0 and L-2.1; "Stormwater & Erosion Control Plan," prepared by Columbia Design Group, LLC, 14 Upham Avenue, Boston, MA, Sheet C-1.

SUMMARY OF PROCEEDINGS:

This matter came before the Zoning Board of Appeals (the "Board") on the application of Christina & Thomas Farren (collectively the "Applicant") for a Special Permit A2 under § V-C of the Zoning By-Law (the "By-Law") to allow the removal of earth material from 5 Martins Cove Lane in Residence District C. The Applicant simultaneously filed an application with the Planning Board for Site Plan Review under § I-G and § I-I of the By-Law.

A joint public hearing was duly noticed and held on June 29, 2015 at Hingham Town Hall, 210 Central Street. During the initial hearing, the Planning Board voted to waive its review in connection with the Special Permit A2 application since it had previously review the proposed work in accordance with § IV-B, 6 and issued a Site Plan Approval on June 2, 2015. The Zoning Board continued the hearing at the Applicant's request on several occasions thereafter while the Applicant determined the intended destination for the removed material and developed a proposed truck

route. At the conclusion of the public hearing on January 20, 2016, the Board voted unanimously to conditionally grant the requested Special Permit to allow the removal of earth material from the Premises.

The Board panel consisted of its regular members: Joseph M. Fisher, Chairman, Joseph W. Freeman, and W. Tod McGrath. The Applicant was represented during the initial hearing by Peter Stephens with Dan K. Gordon Associates. Applicants Christina and Thomas Farren were in attendance at subsequent hearings.

Throughout its deliberations, the Board has been mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public hearing.

BACKGROUND and DISCUSSION:

The subject property consists of approximately one acre (44,896 SF) improved by a single-family dwelling, swimming pool, garden shed, and landscaping. The owners also seasonally install a skating rink in the back yard. The property has varying topography with a slope of more than 10% along the eastern property line that runs toward the rear of the lot. The side and front yards slope toward the street.

The proposed project involves significant earth work in support of an expanded hockey rink and lawn area. The proposed work also includes installation of a seashell parking area, drainage improvements, plantings, and fencing. The project landscape architect, Dan K. Gordon Associates, Inc., estimated that approximately 975 cubic yards of material will be removed and 125 cubic yards will be brought into the site. Based on estimates made by the landscape architect, the excavation is expected to occur over the course of a week and require almost 50 truckloads of material.

Earth Removal Regulations (§ V-C) prohibit the removal of any "soil, loam, sand, gravel, or other earth material from any lot within the Town unless such removal will constitute an exempt operation...or is done pursuant to a Special Permit A2..." The Building Commissioner determined that the amount of earth work proposed for this project exceeds that allowed by exemption (975 c.y. proposed, where less than 10 c.y. is exempt) and the applicant subsequently filed the required Special Permit A2 application.

In addition to the special permit approval criteria specified in § I-F, 2., the Earth Removal Regulations require the Board to consider whether the proposed removal would be contrary to the "best interests of the Town," as that term is defined under § V-C, 1.b. After discussion during the initial hearing, the Board determined that the project as proposed would have no negative impacts with respect to all but one of the identified interests. The Board was unable to make the required finding regarding congestion or hazardous conditions in public streets (item iii.) since the application did not include any information about the destination of the material or proposed truck route. As noted above, the hearing was continued while the Applicant prepared the requested information.

During the final hearing on the matter, the Applicant relayed a revised estimate of truckloads required to complete the proposed work from the project contractor, Iaria Bros. According to the Applicant, the contractor estimates that 7 truckloads of material will be brought to their contractor yard at 33 Oak Street, Hingham. The Applicant submitted a Google Map highlighting the transportation plan for the earth removal. After exiting the World's End neighborhood, trucks would travel on Rockland Street for approximately 8/10ths of a mile before turning left onto Canterbury Street. After 1/2 a mile, trucks would then turn right onto Hull Street and shortly thereafter turn right again onto Pine Street to Oak. Since portions of the route fall within residential neighborhoods, the Board expressed concern about the proposed route. Members suggested instead that trucks take Summer Street and Rte. 228 to the final destination on Oak Street. The Applicant agreed and offered to limit hours of removal from the site to minimize potential conflicts with school bus routes.

FINDINGS:

Based upon the information submitted and received at the hearing, the Board made the following findings with respect to the Special Permit approval criteria:

1. In accordance with Section V-C, 1.b., the Board finds that the operations conducted under this Special Permit, subject to the conditions imposed herein, will not be contrary to the best interests of the Town.
2. The Board finds that the project complies with the relevant approval criteria specified in Section I-F, 2. Specifically, the Board finds that:
 - a. the proposed use of the site following removal of earth material, which includes allowed accessory uses to the principal residential use, is in harmony with the general purpose and intent of the By-Law;
 - b. the submitted application complies with the submittal standards specified in the Earth Removal Regulations;
 - c. the proposed earth removal and use of the area post-construction for accessory uses is compatible with the characteristics of surrounding area;
 - d. impacts associated with the earth removal operation will temporary and mitigated by compliance with the conditions of this permit;
 - e. there will be no hazard to vehicles or pedestrians resulting from the proposed removal route as modified during the hearing;
 - f. the earth removal and subsequent regrading project will be properly conducted; and
 - g. the proposal meets accepted design standards for stormwater management and site construction.
3. The Board finds that a bond or other security to ensure compliance with conditions contained herein is not warranted based on the scope of the project and residential nature of the proposed earth removal.

DECISION and CONDITIONS:

Upon a motion made by W. Tod McGrath and seconded by Joseph W. Freeman, the Board voted unanimously to **GRANT** the requested Special Permit A2 under § V-C of the Zoning By-Law (the "By-Law") to allow the removal of earth material from 5 Martins Cove Lane in Residence District C, subject to the following conditions:

1. The Project shall be completed in accordance with the approved plan referenced herein and the representations made to the Board by the Applicant.
2. No blasting shall be permitted during the project.
3. Earth removal operations shall be limited to the following: weekdays from 8:00 AM to 5:00 PM. No construction vehicles shall idle on site outside of these hours.
4. A gravel construction entrance, 50' in length, shall be installed.
5. Roadways shall be cleaned at the end of each work day.
6. The Applicant shall notify the Engineering Department 10-days before the removal project commences.
7. Removal of earth material from the subject property by truck shall be limited to the hours between 9:30 AM and 1:30 PM to avoid conflicts with school bus routes.
8. The Applicant shall complete the earth removal and related landscaping project within two years.

The zoning relief granted herein shall not become effective until (i) the Town Clerk has certified on a copy of this Decision that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, that it has been dismissed or denied, and that (ii) a copy thereof has been duly recorded in the Plymouth County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

For the Zoning Board of Appeals,



Joseph W. Freeman

February 25, 2016