

TOWN OF CONCORD

BOARD OF APPEALS

TOWN HOUSE

*12/10/55*

Please take notice that in the matter of the PETITION of THE TOWN OF CONCORD, WITH THE CONCORD HOUSING TRUST, under Article 10, for a Planned Residential Development of 12 single-family residences at 35B Virginia Road, Concord, Massachusetts, the Board of Appeals has this day rendered a decision GRANTING said petition, and the record therein has this day been filed with the Town Clerk, Town House, Concord, Massachusetts. Appeals, if any, shall be made pursuant to Section 17 of the Zoning Act, Chapter 40A of the Massachusetts General Laws, and shall be filed within 20 days after the date of this notice.

*Janet G. Manzell*  
CLERK, BOARD OF APPEALS

October 19, 1999  
DATE

MSD 11/22/00 01:00:45 646 10.55

*Return to  
Public Works  
69 Pleasant St  
Concord MA 01742*

TOWN OF CONCORD

BOARD OF APPEALS

The Petition of The Town of Concord, with the Concord Housing Trust, under Article 10 for a Planned Residential Development of 12 single-family residences at 35B Virginia Road, Concord, Massachusetts.

RECORD OF PROCEEDINGS

The Petitioner, The Town of Concord, with the Concord Housing Trust, filed with the Board of Appeals on July 1, 1999, a petition, copy of which is hereto annexed.

The Board determined that the following constituted the parties interested in the petition and the owners of all property affected thereby, as they appear upon the most recent tax list, viz:

Town of Concord Natural Resources  
New England Farm Ltd. Part.  
Mark C. Reynolds  
Frank J. & Dolores D. Granato  
Nicholas G. & Susan M. Pappas  
Margareta K. & Niklas A. Lidskog  
Eric D. & Ellen B. Braaten  
George W. & Doris L. Smith  
N. E. Tech. Center Associates

The Board set the 12<sup>th</sup> day of August, 1999, at 8:00 P.M. as the time and the Meeting Room, 141 Keyes Road, Concord, Massachusetts, as the place of the public hearing upon said petition. The hearing was postponed to September 9<sup>th</sup> because *THE CONCORD JOURNAL* failed to publish the legal notice on July 29.

The following notice was published in *THE CONCORD JOURNAL* in the issues of August 26 and September 2, 1999, and a copy of said notice was sent by mail to each of the aforementioned parties in interest and property owners.

## SEPT. 9 MEETING

**LEGAL NOTICE  
BOARD OF APPEALS  
TOWN OF CONCORD  
141 KEYES ROAD  
MEETING ROOM**

The Board of Appeals will hold a public hearing on Thursday, September 9, 1999, at 8:00 P.M. in the Hearing Room, Town House, Concord, Massachusetts, on petitions for variations, applications for special permits or appeals from decisions of the Building Inspector. A public meeting for a work session will be held at 7:30 P.M. **INFORMATION IN SUPPORT OF EACH AGENDA ITEM MAY BE REVIEWED AT THE BOARD OF APPEALS OFFICE, 141 KEYES ROAD, MONDAY THROUGH FRIDAY, 8:30 A.M. TO 4:30 P.M.**

1. Hall's Christmas Tree Farms, Inc., for renewal of a Special Permit, under Sections 5.4.1.2, 5.4.2 and 11.6, for the sale of Christmas trees, and for the use of a trailer as a temporary dwelling and for the security purposes from November 24 to December 24, 1999, at 50 Beharrell Street.

2. John Kress Williams, under Sections 4.2.2, 7.1.2, 7.1.4 and 11.6, for a special permit to alter an existing nonconforming structure and use by converting a barn to a second dwelling unit at 212 Hubbard Street.

3. Peter and Pamela Callahan, under Sections 4.2.2, 7.1.2, 7.1.4 and 11.6, for a special permit to alter an existing nonconforming structure and use by enlarging the existing garage to provide for an additional dwelling unit at 52 Simon Willard Road.

4. Louisa May Alcott Memorial Association, under Sections 3.2.4, 4.3.1, 4.3.4, 7.7, 7.7.3.6 and 11.6, for a special permit, site plan approval and off-premises parking to allow an existing single-family dwelling on a residentially-zoned parcel to be used for educational, charitable and philanthropic uses at 352 Lexington Road. (The Planning Board will discuss its recommendation to the Board of Appeals at its August 24th meeting).

5. Town of Concord, with the Concord Housing Trust, under Sections 10.2.10 and 11.6, for a special permit to allow a Planned Residential Development of 12 single-family residences at 35B Virginia Road. (The Planning Board will discuss its recommendation to the Board of Appeals at its September 7th meeting).

6. Bethye Ann Blatman, Esq. for Stona Fitch and Thomas Cote, under Sections 6.3.1, 6.1, 11.4.2, with an appeal from a decision of the Building Commissioner at 188 Central Street.

7. John H. and Ellen F. Denison, under Sections 7.1.2, 7.1.4 and 11.6, for a special permit to extend a nonconforming structure and use at 862 Strawberry Hill Road.

**THE BOARD RESERVES THE RIGHT TO CONTINUE THE HEARING ON ANY ITEM THAT HAS NOT BEEN ADDRESSED BY 11:00 P.M.**

By order of Board of Appeals  
Eiise F. Woodward, Chairman

AD#927830, 927831  
Concord Journal 8/26, 9/2/99

A hearing on said petition was held at the time and place above specified.

The following persons appeared in support of the appeal:

KATE FLORA  
170 The Valley Road

RICK BEINEKE  
61 Lang Street

CARRIE FLOOD  
89 Main Street

SALLY SCHNITZER  
1155 Lowell Road

The following persons appeared in opposition thereto:

JOHN KAY  
262 Virginia Road

JULIA ANASTOS  
74 Virginia Road

LEE ANN KAY  
262 Virginia Road

DAVID STEPHENS  
104 Phillip Farm Road

MARK REYNOLDS  
328 Virginia Road

MARGARETA LIDSKOG  
60 Quail Run Drive

FRANK GRANATO  
312 Virginia Road

MICHAEL SMITH  
54 Quail Run Drive

The Planning Board reported its action on the application as follows: Following public hearings on September 7 and 21, 1999, the Planning Board at its meeting of October 5, 1999 voted unanimously to recommend issuance of the Special Permit for a Planned Residential Development under Section 10 of the Zoning By-law for the construction of twelve affordable single family dwellings, including access road. The Planning Board submitted a Report dated October 8, 1999 which the Board has reviewed and given due consideration.

The Board notes that the Natural Resource Commission has issued its Order of Conditions dated October 12, 1999 pursuant to the Notice of Intent filed August 25, 1999 authorizing the work related to the construction of the twelve affordable single family dwellings, including road access, which affects wetlands.

The Board further notes that the Board of Health is processing the applicant's permit for the sewage disposal system.

The Board thereupon took the following action:

VOTED: To grant a special permit under Section 10 of the Zoning By-law for the construction of twelve affordable single family dwellings as applied for with the following conditions:

1. Approval is based upon the following plans prepared for the Town of Concord and the Concord Housing Trust as amended by Condition #2 and Condition #3:

Samiotes Consultants, Inc., 10 Central Street, Framingham MA 01701 and titled

- a. Sheet CE-1.1 & 1.2, Soil Erosion and Sediment Control Plan dated August 18, 1999
- b. Sheet CE-2.1 & 2.2, Grading Plan dated August 18, 1999
- c. Sheet CE-3.1 & 3.2, Storm Drainage and Utilities Plan dated August 18, 1999
- d. Sheet CE-4.1 & 4.2, Layout Plan dated August 20, 1999
- e. Sheet CE-5.1 & 5.2, Road Profile Plan dated August 18, 1999

Linea 5, Inc., 195 State Street, Boston MA 02109 and titled

- a. Development Area Landscape Plan dated August 18, 1999
  - b. Typical Cluster Plan dated July 1, 1999 and revised through August 18, 1999
  - c. Elevations and Floor Plans labeled Unit A - Saltbox dated August 4, 1999
  - d. Elevations and Floor Plans labeled Unit - Cape dated July 1, 1999 and revised through August 4, 1999
  - e. Elevations and Floor Plans labeled Unit C - Colonial dated July 1, 1999
2. Prior to the issuance of any building permit, the applicant shall provide the Town Planner for review and written confirmation of compliance, three sets of revised plans showing the following:
    - A. All revisions required by any Order of Conditions issued under the Wetlands Protection Act;

- B. All revisions required by any changes needed to comply with a final approval of the Septage Disposal System.
3. Prior to the issuance of any building permit, the applicant shall submit to the Fire Department for review two sets of stamped plans from a fire protection engineer for the fire alarm system.
  4. Prior to the issuance of any building permit, the applicant shall receive approval from the Public Works Commission for water service.
  5. Prior to the issuance of any building permit, the applicant shall receive approval from the Board of Health for the sewage disposal system.
  6. Substantial changes, as determined by the Planning Director, shall be reviewed by the Planning Board and Board of Appeals for approval. Substantial changes shall include any revisions which would result in:
    - (a) Any reduction in the number of parking spaces;
    - (b) A relocation of driveway by more than five feet (provided no building is located closer to the right-of-way than already proposed and no building shall be constructed within the right-of-way);
    - (c) Any increase of pavement area for parking or vehicular access by more than 300 s.f. in the aggregate;
    - (d) Any changes to the exterior building foot prints, gross floor areas, and exterior design treatments (excluding future extensions as shown on the Condominium site plan or other record document).
  7. This approval is subject to an Order of Conditions issued under the Wetlands Protection Act.
  8. Prior to the removal of any earth from the site, the applicant shall provide to the Building Inspector a building permit, written notification of the volume of earth to be removed and approval from the Chief of Police as to the days of operation, the trucking route and type of vehicle to be used on any street for removal of earth. This information shall be provided to the Building Inspector at least forty-eight (48) hours prior to any removal of earth.
  9. Prior to the issuance of a final occupancy certificate, the applicant shall comply with all Fire Department requirements as outlined in a memorandum dated July 9, 1999, unless an alternative measure has been approved by the Fire Chief.

10. Prior to the issuance of any building permit, the applicant shall have submitted a written agreement for construction and maintenance of the underground electric facilities with CMLP and shall have deposited adequate funds as required by CMLP.
11. Prior to the issuance of any final occupancy permit, approval shall be obtained from the Natural Resources Commission, the Planning Board and the Board of Selectmen for the perpetual restriction as provided under M.G.L. Ch. 184, section 31. Said conservation restriction shall include provisions for public access.
12. Prior to the issuance of any final occupancy permit, the applicant shall submit to the Planning Director all PRD documents, including the perpetual restriction, the Conditions, Covenants and Restrictions for the condominium association and deed restrictions.
13. No occupancy permit shall be issued for any of the units until the following improvements have been completed to the satisfaction of the Town Engineer:
  - (a) Driveway construction to binder course;
  - (b) Installation of all utilities, including electric, water, drainage, sewage, fire alarm, telephone and cable television;
  - (c) Rough grading and soil stabilization.
14. The project must be completed within two years of the effective date of this Special Permit.
15. The water main, drainage and appurtenances shall be constructed in accordance with Town standards.
16. At the completion of the development, the applicant shall submit to the Building Commissioner and the Planning Director as-built drawings and a ~~certified plot plan showing all structures, paving and utilities.~~
17. The Special Permit shall be referenced on the record plan of the property.
18. The statement "No further subdivision of these parcels shall be permitted" shall be noted on the record plan of the property (condominium site plan).
19. On the understanding that the applicant is proposing this road as a private way, the Planning Board granted the requested waivers from the Subdivision Rules and Regulations and noted that the proposed street layout provides safe, reasonable and appropriate access to the house sites. The road shall remain a private way unless and until the Planning Board

grants waivers in connection with Town acceptance of the road as a public way.

- 20. The proposed street name of "Elm Brook Lane" is not unacceptable to the Planning Board; however, the Board seeks the input of the Fire Department and the Historical Commission prior to the final acceptance of the street name.
- 21. Installation of municipal services and construction of interior drives within the Planned Residential Development shall comply with the requirements of the Subdivision Rules and Regulations of the Planning Board, as waived in part by the Planning Board per its Report
- 22. Prior to commencement of work at the site, the applicant Concord Housing Trust, Inc. shall deliver to the Town Manager an unconditional letter of credit or other security satisfactory to the Town in the amount of \$200,000 to be held by the Town, and to be available for use by the Town in the event of non-performance by the applicant Concord Housing Trust, Inc., until such time as the project roadway is deemed fully completed by the Town Engineer and a final Certificate of Occupancy has been issued by the Building Commissioner's office for all twelve (12) units of housing. The Town Manager is authorized to reduce this security as the project progresses as he determines in the Town's best interest to protect the Town while advancing project affordability.

The members of the Board voted thereon as follows:

ELISE F. WOODWARD	GRANTED
PAUL F. WARE	GRANTED
MICHAEL J. FADDEN	GRANTED

The Board assigns the following as the reasons for the foregoing finding, ruling and decision:

The applicants, the Concord Board of Selectmen and the Concord Housing Trust, Inc. jointly, seek to develop twelve detached single family dwellings, all as inclusionary units of the type described in subsections 10.2.3.2, subject to long term restrictions assuring continued long term affordability. The Board finds that the Concord Housing Authority has waived its rights to acquire any of these dwellings under subsection 10.2.3.1.

The Board finds that, because this is an application of the Town for a project in which all units are to be inclusionary, under subsection 10.2.10 the requirements of subsection 10.2 (other than the height requirement of subsection 10.2.6, to which the project conforms) do not apply. The Board further finds pursuant to subsection 10.2.10 that the proposed design is generally consonant with the purposes of the Bylaw. The Board also



finds that, as more completely detailed in the Report of the Planning Board, the proposed project meets or exceeds most of the requirements of Section 10 which would apply if this were not an application of the Town for a project in which all units are to be inclusionary and that the deviations from the requirements stated in subsection 10.2 are for the purpose of, and result in, conserving more open space on the site, making the project more harmonious with other development in the neighborhood and enhancing the quality of living for the residents of the development, the immediate neighborhood and the Town generally, and making this project a suitable development for the neighborhood within which it is located.

The Board further finds that this special permit is in furtherance of the Town policy of promoting affordable housing in Concord and that the proposed design is generally consonant with Town of Concord Housing Partnership Guidelines and Procedures now in effect.

The Board further finds that the proposed Planned Residential Development is in harmony with the general purpose and intent of Section 10 and that the Planned Residential Development contains a mix of residential, open space and other uses in a variety of buildings to be sufficiently advantageous to the Town to render it appropriate to depart from the requirements of this Bylaw otherwise applicable to the Residential A district in which the Planned Residential Development is located.

A TRUE COPY: ATTEST

Janet G. Manzell  
Clerk, Board of Appeals

October 19, 1999  
Date

Filed with Town Clerk

Elm Brook

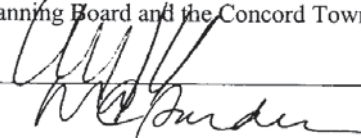
TOWN OF CONCORD  
BOARD OF APPEALS

THE BOARD OF APPEALS CERTIFIES as follows:

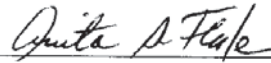
Name and Address of Owner: Town of Concord  
141 Keyes Road  
Concord, MA 01742

Property Identification: 35B Virginia Road  
Concord, Massachusetts  
D26733-0503

This application and all subsequent proceedings comply with the requirements of General Laws, Chapter 40A, Section 1, et seq., for the issuance of variances and permits. Copies of this decision and all plans referenced to herein have been filed with the Concord Planning Board and the Concord Town Clerk.

  
Hilise Woodward

I, ANITA S. TEKLE, Town Clerk for the Town of Concord, hereby certify that twenty (20) days have elapsed since the filing of this decision and no appeal has been filed, or, if filed, has been dismissed or denied.

  
Anita S. Tekle  
October 27, 2000

An appeal from this decision shall be made pursuant to General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date of filing such decision or notice thereof in the office of the Town Clerk.

Forms: Sig. pg.