

**NOTICE OF DECISION**  
Drumlin Development, LLC  
d/b/a Orchard Hill  
lot 31-761 Boston Post Road  
Sudbury ZBA Case 96-15  
**REQUEST FOR CHANGE**

January 7, 1998

*Dead in Book 27932, Page 242*

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TOWN CLERK  
SUDBURY, MASS

**A.. Background**

On September 3, 1997 the Sudbury Zoning Board of Appeals received a notice (together with supporting preliminary plans and drawings) from Drumlin Development, LLC d/b/a Orchard Hill, hereinafter referred to as Drumlin, Owner or Petitioner, pursuant to MGLA Chapter 40 B and CMR 760 31.03 et seq. advising of certain proposed Changes in Use and Site from those identified in and approved in the Board's October 2, 1996 Conditional Approval of Drumlin's application for a Comprehensive Permit.

The October 2, 1996 Comprehensive Permit Conditional Approval was for the construction and operation of one building of 45 units of assisted living housing for the elderly ( including reservation of nine (9) units for low or moderate income residents) at 761 Boston Post Road.

The September 3, 1997 Request for Change proposed amending the assisted living use to include, in addition, the operation of a "child (day) care facility", within the meaning of MGLA Ch. 40 A Sec. 3; and, for physical changes to the as previously approved building and site to accommodate a child day care facility on the same premises, at 761 Boston Post Road, Sudbury, MA..

At a meeting on September 23, 1997, the Board considered whether the Requested Changes ( after approval of a Comprehensive Permit) were "substantial", or "insubstantial." On that date the Board determined, unanimously, that the requested / proposed changes were "substantial", requiring a Public Hearing before the Board..

The Petitioner, Drumlin, filed a formal letter of Application, dated September 25, 1997, further detailing the proposed Changes; and, on October 8, 1997 Drumlin filed additional / updated site, building, landscape and building plans..

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The Board also receive written comments and advise from various Town Boards and Departments prior to the Public Hearing.

On October 22, 1997, the Board convened the public Hearing to consider the requested changes, and held subsequent public sessions on October 30, November 10, November 20 and December 3, 1997. At each session information and / or additional documentation was presented to the Board by the Petitioner, and on each occasion the residents attending the sessions were allowed time for their comments and questions to Board, Petitioner and witnesses..

The Board finds that the Changes requested to the conditionally approved Comprehensive October 2, 1996 Permit, as modified by the Petitioner during the sessions of the Public Hearing, commencing October 22, 1997; and, as supplemented / modified by the attached conditions is consistent with the local needs within the meaning of MGLA Ch 40 B, Sec 2-23 and that it is consistent with the character of the zoning district.

The Board notes that Drumlin submitted its proposal for changing the use and redesign of the site to the Commonwealth of Massachusetts Housing Finance Agency as a child day care center, and received advise on October 28, 1997 (MFHA #97-001-N) that such revised use would continue to be in -line for permanent loan financing (having received preliminary approval for assisted - living facility and use) under the MHFA's Elder CHOICE financing program; and that the MHFA has previously provided financing under the program for assisted living and day care use at another location.

Therefore, the Board finds that there is sufficient evidence to support the granting of the Requested Changes to the Comprehensive Permit approved on October 2, 1996 to enable the construction of an assisted living and child day care center, as described and documented during the public hearing, subject to the October 2, 1996 Conditions; and, as further subject to and conditioned upon compliance by the Petitioner with the following supplemental and or modified Comprehensive Permit conditions occasioned by the Request For Change in both use and site.

#### **B. Application Details**

*Strike Paragraph 1 of October 2, 1996 Conditional Approval Permit and insert in its stead:*

1. This approval of Petitioner's September 25, 1997 Request For Change is based on : (i) a Plan entitled "Comprehensive Permit, Site Development Plan, Orchard

Hill, Assisted Living Residence, Sudbury, MA, dated December 10, 1997, Applicant and Owner: Clifford T. Hughes, Drumlin Development, LLC, 20 Oak Street, Beverly Farms, MA," with modifications as required by Board, consisting of cover Sheet and eleven (11) Drawings [ Cx 1.1, CE 1.1; CE2.1;CE 4.1; CE 4.2; CE 5.1; CE 5.2; CE 5.3; CE 6.1; CE 6.2]; (ii) together with, seven ( 7 ) Architectural, Elevation and Floor Plan drawings [ A.1.1;1.2;1.3;1.4; A 2.1 & 2.2.], dated 12/10/97, with cover sheet entitled "Orchard Hill at Sudbury, 761 Boston Post Road, Sudbury, MA 01776," all prepared by Samiotes Consultants, Inc., 10 Central Street, Framingham, MA 01701; (iii) for purposes of identifying the location and boundaries of the child care facility student play areas, such areas shall be as shown on Geller Associates color rendering entitled "Orchard Hill, Drumlin Development, LLC, Proposed October 22, 1997," filed with the Town Clerk on Oct. 8, 1997; and, (iv) Preliminary Landscape Plans LA 1.1 as Revised 12/10/97.; and , all updates and /or revisions of same required by conditions and provisions of this Decision.

The above referenced Plans and Drawings incorporate in one complete set: (1) the Board approved Plans dated July 18, 1996 and incorporated by reference as part of the October 2, 1996 "Assisted Living" Comprehensive Permit conditional approval; (2) the Plans submitted with Request for Change presented to the Board at a July 8, 1997 meeting ( "found to be insubstantial and that the Comprehensive Permit is deemed modified to incorporate those changes"); (3) and, those additional changes requested by Petitioner to site, building and floor plan to accommodate the additional "child day-care facility" use, the latter as discussed and approved during the Request for Change Hearing which commenced on October 22, 1997.

*Add, as a new provision in this Section B:*

5. This conditional approval approves construction of facilities in the previously approved assisted living residence building in accordance with the above plans to include, accommodate and permit the additional use and operation of a "child (day) care facility ", as such facility is defined by MGLA Ch 40A Sec.3. Any substantial deviations, as determined by the Zoning Board of Appeals, from the approved Plan, including but not limited to changes in building size, floor plans, parking , exterior play spaces, shall require approval of the Board.

### **C. General Conditions**

*Strike paragraph 11, and insert in its stead:*

11(a) In the North Parking area there may be eight (8) parking spaces as provided for on the Plan. A Reserve area for five (5) additional spaces is provided for on the Plan. The Board reserves the right to require the Owner to construct to specification the five (5) reserve spaces if, at any future time, it is determined that additional parking is required for safety, convenience or circulation at the site. The Owner may not on its initiative construct parking spaces in the reserve area without first advising the Board of a Request for Change and receiving the Board's approval.

11(b) In the South Parking Area there may be nineteen (19) parking spaces, plus two (2) handicapped spaces, as provided for on the Plan. There is no reserve area for additional spaces in the South Parking area.

*Add, a new Paragraph 14 and 15;*

14. Changes to the proposed drainage system required by the additional impervious surfaces must be approved by the Conservation Commission, as all drainage will discharge into a wetland jurisdiction area. The revised design of detention basins #1 & #2 must continue to infiltrate the first one inch of surface runoff. Detailed plans of the detention basins are required to be submitted to the Commission for approval prior to the start of construction, and the revised design is also required to be approved by the Director of Public Works.

15. Outdoor play areas totaling approximately 3,000 square feet may be constructed by the Owner. The locations shall be in the approximate locations and comparative size as identified in the Geller Associate drawing dated October 22, 1997. The playground equipment shall be standard sized and type generally found at equivalent child day care centers.

#### **D. Plan Revisions**

*Modify, Paragraph 5, by adding, at its end:*

"In no event shall the final location or size or design ( including lighting) of any entrance or other sign impede the sight line of persons entering or exiting the Site."

*Add, new Paragraphs 7, 8 and 9:*

7. All construction plans for modifications relating to the child day care facility must comply with the 6th edition of the Massachusetts Building Code requirements for the 1-2 Use Group, as applicable for children aged two years 9 months and less. If the center is in mixed ages, including 1-2, then the entire center is considered 1-2, and the code for the new construction for that Use Group must be utilized.

8. The final septic design plans must be reviewed and approved by the Sudbury Board of Health as being adequate for both the assisted care living and the child day care facility.

9. The service driveway to the child day care facility shall have four foot shoulders one each side, and the 4 foot shoulders shall be extended to the facility entrance at its intersection with route 20.

#### **E. Landscape/Buffering**

*Modify Paragraph 2, by adding, at end of second sentence:*

2. "...and along the westerly property boundary."

*Add, a new paragraph 4:*

4. As part of the Owner's permit from the Conservation Commission, a plan must be submitted to the Commission for approval showing the limit of tree clearing and stabilization plans for the slope to the southwest of the building.

#### **G. Driveways**

*Strike, Paragraph 4, and insert in its stead:*

4 (a) A 12' deceleration lane shall be constructed on the eastbound lane of Route 20 to provide a turning lane for vehicles entering the site. The location and length of the deceleration lane shall be as provided in the Plans, or as same may be revised after review with, and as finally approved by the Sudbury Director of Public Works and the Massachusetts Highway Department. Approval from the Massachusetts Highway Department is required for this improvement.

(b) The Owner shall provide in its final deceleration lane / drive way plans for a four (4) foot shoulder along the deceleration lane.. The construction materials and design shall be as approved by the Sudbury Director of Public Works and , as applicable, with the Massachusetts Highway Department.

(c) The Owner shall be responsible for periodic mowing of the shoulder area along Route 20, and for snowplowing of the deceleration lane and deceleration lane and driveway shoulder, to keep the sight line distance free of visual obstacles.

(d) The Board has determined that there is a need for a sight line from the driveway entrance / exit , both east and west, at its intersection with Route 20, to the Owner's easterly and westerly property lines. The Sudbury Director of Public Works shall view the development and sight distance lines at or shortly before completion of the development to determine the need for a sight easement, which would permit Town to maintain a clear line of sight along Route 20.

(e) The Sudbury Director of Public Works shall view the Site and all final plans Plans before Owner commences construction on this part of the Site; and, again shortly before completion of construction, to approve all deceleration lane/ shoulder/ landscaping plans to determine if there is a clear sight line to the property line boundary for non-commercial passenger vehicles exiting the Site. The approval of the Director of Public Works that the requirements of this paragraph have been complied with is required before such construction; and , again after construction and before an occupancy Permit is granted.

(f) In order to enhance and provide for a clear sight line to the western and eastern property boundary, the Owner shall provide for shrub and tree clearance and landscaping, including reducing height of existing ridge along Route 20 on and adjacent to the public right of way, as is determined by the Sudbury Director of Public Works , necessary to provide a clear sight line to western boundary of Owner's property. In the event that it is determined that any site clearing/ landscaping is required inside of the Limit of Clearing ( beyond mowing , light branch pruning or small shrub clearance) to provide the required clear site distance lines , then the Owner shall consult with the adjacent property Owner (s) with whom it has any pre-existing covenants regarding removal of vegetation and notify the Board of the required and requested change. It is the clear intent of the Board, however, that any landscaping or clearing required by this provision leave as much of the existing vegetation, shrubbery and trees in its natural state as is consistent with the objective of Paragraph 4(b) , above.

*Add, a new Paragraph 7.*

7. The Owner shall request and work with ( on a good faith / best efforts basis) the Director of Sudbury Department of Public Works toward the end that a sign be designed and installed on the southerly side of Route 20 before the westerly boundary of the Owner's property in order to appropriately advise and warn easterly bound traffic on Route 20 of the fact that there is a deceleration lane/ turn/ or facility exit approaching. The design and location (before the curve at the westerly boundary of the Site) and wording shall be as determined by the Director of Public Works and , as applicable, the Massachusetts State Highway Department.

#### **H. Inspections/ Maintenance**

*Insert , in Paragraph 4, after "utilities "(line 1):*

4. " ...and deceleration lane and deceleration lane shoulders ...."

#### **I. Legal**

*Strike, Paragraph 11 d) and insert in its stead:*

11 d) The owner covenants to permit the use of the subject premises for elderly housing and for child day care facility for a period of fifty (50) years.

*Add, new Paragraphs 14 & 15:*

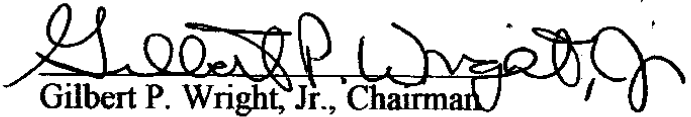
14. Wherever , in the October 2, 1996 Comprehensive Permit the Board refers to " The Town Engineer" or" Engineer", the " Director of Public Works " shall be substituted.

15. Except where specifically stricken or modified or supplemented in this Decision regarding the Owner's request for Change, all of the enumerated and lettered paragraphs, conditions and provisions of the October 2, 1996 Notice of Decision shall continue to apply and be in full force and effect.

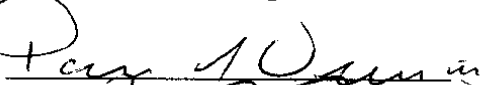
*On Motion:*

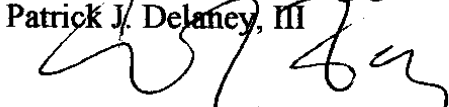
To conditionally approve the Request For Change of Drumlin Development, LLC ( hereinafter referred to as the Owner) for a Change in Use and Site , after conditional approval of a Comprehensive Permit for construction of an assisted living housing facility for the elderly, to permit the use and related construction of a child day care facility, under the provisions of general Laws chapter 40 B sections 20-23 inclusive, on land now owned by Owner and formerly owned by James J. O'Keefe Trust ( Assessor's map K05, parcel 31) in the building to be constructed on the premises consisting of 10 acres and otherwise known as lot 31-761 Boston Post Road, Sudbury, MA, as described in the Owner's Application to the Sudbury Zoning Board of Appeals, as modified during subsequent sessions of the public hearing, and as further described and subject to the conditions of this Decision .

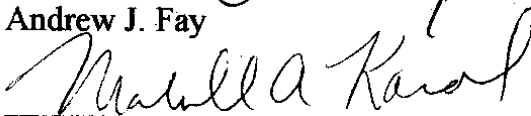
voted

  
Gilbert P. Wright, Jr., Chairman

  
Thomas W.H. Phelps, Co-Chairman/ Clerk

  
Patrick J. Delaney, III

  
Andrew J. Fay

  
Marshall A. Karol

98 JAN 14 PM 10:31  
TOWN CLERK  
SUDBURY, MASS

July 1, 1998

This is to certify that no notice of an appeal from the Board of Appeals decision #96-15 was filed in this office within 20 days after such decision was filed on January 14, 1998.

  
Kathleen D. Middleton, Town Clerk