

Jack,

So they need a Special Permit to do the second phase.
The criterion is below with red font for the interesting parts.

- Scott

11.6 Special Permit

Certain uses are designated in this Bylaw as requiring a special permit. The Board and the Planning Board may, in accordance with Chapter 40A of the General Laws, grant such special permits for such designated uses without any finding of hardship. A special permit is a permit to use property for the purpose specified and shall not reverse, alter or vary any provision of this Bylaw applicable thereto. Application for a special permit must be made by the owner of the property noted in the permit or with the owner's written permission. Special permits may be issued only following public hearings held within sixty-five (65) days after filing an application.

Special permits shall be granted by the Board or the Planning Board, unless other criteria are otherwise specified herein, only upon the written determination of either board, as applicable, that **the adverse effects of the proposed use will not outweigh its beneficial impacts to the public interest, the town and the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.** In addition to any other specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

11.6.1 Impacts on economic or community needs;

11.6.2 Traffic flow and safety concerns, including parking and loading;

11.6.3 Adequacy of utilities and other public services;

11.6.4 Impacts on neighborhood character;

11.6.5 Impacts on the natural environment; and

11.6.6 Fiscal impacts, including impacts on town services, the tax base and employment.

From: Elizabeth Hughes <ehughes@concordma.gov>

Sent: Friday, April 24, 2020 8:26 AM

To: Scott Richardson <scott@longwoodsoftware.com>

Cc: Jack Madigan <jmadigan1@gmail.com>; Nancy Hausherr <nhausherr@concordma.gov>; Heather Carey <hcarey@concordma.gov>

Subject: Re: 04/28 PB meeting

Good morning Scott,

I have tried to answer your questions below in **RED**.

Symes can start immediately on the six houses that front the streets. No approval/review is needed from PB/ZBA. **Correct. No approval/review is needed from PB/ZBA. However, Symes has an approved ANR Plan creating the six lots that needs to be recorded with the Middlesex South Registry of Deeds for the creation of the lots to be final. I was not able to find the recorded plan on-line this morning. They would have to provide that to the Building Commissioner with a building permit application.**

But the tree bylaw would apply? **Correct. The Tree Preservation Bylaw applies to the construction of a dwelling on any vacant lot.**

Regarding the road, they can remove as much dirt as they want for it without approval. **No. Section 7.5.2 is for the removal of not more than 1,000 cubic yards without review by the Board. A special permit is required for the construction of the road. Should the Planning Board approve a Definitive Plan, it would be a condition that they receive the special permit prior to the endorsement of the Plan and recording that Plan with the Registry of Deeds.**

Regarding excess earth removal for lots, the approval of the required Special Permit hinges on these three conditions, and nothing more:

[7.5.3.1](#) The volume proposed for removal does not exceed the minimum practical removal required to accomplish the construction, development, or improvement in accordance with the plans therefor;

[7.5.3.2](#) The plans submitted in connection with the removal are designed to minimize changes in existing contours to enhance attractive land utilization, effective drainage, suitable road gradients, access or other design considerations; and

[7.5.3.3](#) Effecting the removal will not be detrimental or injurious to abutters or the neighborhood, either by the alteration of existing topography or by a substantial change in the use of the streets in the neighborhood.

No. The ZBA will also have to make the findings required under Section 11.6 Special Permit.

Regarding the subdivision, the attached Rules and Regulations from 2007 are current/relevant? **Correct. June 2007 is the most current version.**

Please let me know if you have any other questions.

Sincerely,

Elizabeth

Elizabeth Hughes

Concord Town Planner

141 Keyes Road

Concord, MA 01742

978-318-3290

From: Scott Richardson <scott@longwoodsoftware.com>

Sent: Wednesday, April 22, 2020 4:58 PM

To: Elizabeth Hughes

Cc: Jack Madigan

Subject: 04/28 PB meeting

Hi Elizabeth,

Regarding the subdivision plan by Symes for 1440 Main Street, I want to make sure I have this correct.

Can you confirm or correct please?

- Symes can start immediately on the six houses that front the streets. No approval/review is needed from PB/ZBA.
 - But the tree bylaw would apply?
- Regarding the road, they can remove as much dirt as they want for it without approval.
- Regarding excess earth removal for lots, the approval of the required Special Permit hinges on these three conditions, and nothing more:

[7.5.3.1](#) The volume proposed for removal does not exceed the minimum practical removal required to accomplish the construction, development, or improvement in accordance with the plans therefor;

[7.5.3.2](#) The plans submitted in connection with the removal are designed to minimize changes in existing contours to enhance attractive land utilization, effective drainage, suitable road gradients, access or other design considerations; and

[7.5.3.3](#) Effecting the removal will not be detrimental or injurious to abutters or the neighborhood, either by the alteration of existing topography or by a substantial change in the use of the streets in the neighborhood.

- Regarding the subdivision, the attached Rules and Regulations from 2007 are current/relevant?

Thank you.

-- Scott --

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