

**Zoning Board of Appeals
February 28, 2012 Regular Meeting**

Location Meeting Room #1
Town Hall
7A Spofford Road
Boxford, MA 01921

Present William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice-Chair
Robert W. Conroy, Clerk
Paula Meagher, Secretary

Absent Pat Canonica, Planning Board Liaison

8:03 p.m. William Cargill called the meeting to order

**Case #903 John C. Sanidas, Trustee
Sagamore Realty Trust
Lots 8 and 9 Sagamore Lane**

Special Permit to construct a shared driveway serving two (2) lots on the property from Article III, §196-13 (B)(11)(l) of the zoning bylaw.

Members Sitting William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice Chair
Robert W. Conroy, Clerk

Applicant Present John C. Sanidas, Trustee for Sagamore Realty Trust
James H. MacDowell, Engineer from Eastern Land Survey Associates, Inc.

Plans Supplied Site Plan prepared by Eastern Land Survey Associates, Inc. dated December 12, 2011 consisting of two (2) sheets labeled F11546A

Declaration of Shared Driveway Maintenance Covenant
Signature Release forms for Public Safety as follows:
Fire Chief Kerry Stickney dated 2/13/12
Police Traffic Officer Thomas Nentwig dated 2/15/12
DPW Superintendent John Dold dated 2/22/12

Robert Conroy read aloud the legal ad.

Mr. MacDowell stated the facts for the proposed shared driveway. Sagamore Lane is a new road off Middleton Road. Proposed lots are in the back and are approximately six (6+) acres and one is a frontage exception lot. The width will be twelve (12') feet paved with one (1') foot each side of drive of crushed stone. The first 25 feet will be constructed at a 3% slope and the maximum of the rest of the drive is 9% and going down the hill will be at a 7% slope. The bylaw reads that the maximum slope along the centerline shall be 12%; therefore it meets the requirements of the bylaw. Maximum cut and fill is three (3') feet and at the low end is six and one half (6½') feet; the bylaw maximum is nine (9') feet. Site distance provided is one hundred (100') feet and the bylaw minimum is fifty (50') feet. They have provided where the two drives split a T shaped turn around with crushed stone approximately forty (40') feet in length in order to make a three point

turn or for an emergency vehicle. There will also be turning points at all of the homes approximately fifty (50') feet of paved area.

In regards to drainage Storm water Management policy is governed by MA DEP and the applicant has been to Conservation Commission and since has closed that hearing. Our bylaw states specifically no water runoff; therefore, there will be a detention and infiltration basin installed near the lot line which most of the water from the drive will be directed to. There will also be a rain garden (country drainage) which is a low impact development solution which provides infiltration as well and provides a cleaning function. There are two proposed catch basins. Any runoff will be going toward the wetland resource area and goes downhill from Sagamore Lane.

The length of the driveway is 450 feet to the intersection – the length to Lot 8 is 750 feet and Lot 9 is 980 feet (inclusive of the 450 to where the drive splits). The distance from intersection to Lot 8 is 300 feet and Lot 9 is 530 feet. Mr. McDowell said that he would provide the map that he has been using for the office file and another for whoever writes the decision for this application.

The public safety release forms were distributed with comments from the Fire, Police and DPW with comments from the Fire Chief that there needs to be a pull off area on the main drive to hold fire apparatus and support H2O wheel loading; comments from DPW stating owner to file for driveway permit with the Planning Board and no issues from Police.

There was no one in the public to speak in favor or opposition of the application and the Board had nothing further for discussion.

Motion Robert Conroy – continue pending Planning Board recommendation until a date certain of March 22, 2012.

Second Paula Fitzsimmons

Unanimous vote

**8:20 p.m. Case #904 John C. Sanidas, Trustee
Sagamore Realty Trust
Lots 1, 2 and 7 Sagamore Lane**

Special Permit to construct a shared driveway serving three (3) lots on the property from Article III, §196-13 (B)(11)(I) of the zoning bylaw.

Members Sitting William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice Chair
Robert W. Conroy, Clerk

Applicant Present John C. Sanidas, Trustee for Sagamore Realty Trust
James H. MacDowell, Engineer from Eastern Land Survey Associates, Inc.

Plans Supplied Site Plan prepared by Eastern Land Survey Associates, Inc. dated December 12, 2011 consisting of three (3) sheets labeled F11546A

Declaration of Shared Driveway Maintenance Covenant

Signature Release forms for Public Safety as follows:

Fire Chief Kerry Stickney dated 2/13/12

Police Traffic Officer Thomas Nentwig dated 2/15/12

DPW Superintendent John Dold dated 2/22/12

Robert Conroy read aloud the legal ad.

Mr. James MacDowell represented John Sanidas and stated that Lots 1 and 2 front on Middleton Road and if you can remember back to the 40B hearings there is a pretty substantial wetland in the middle of those lots; therefore, they are proposing to construct a shared drive at the end of Sagamore Lane to serve three lots 1, 2 and 7.

They will provide turn out area in the common portion for turning ability and also at the three homes close to each site. The drive will be twelve (12') feet with one (1') foot of gravel on each side. The first fifty (50') feet coming down will be graded at 3% which meets the bylaw requirement of 25 of while the remainder will be 7.6%; although under 8% they are proposing to pave driveway. Maximum cut is three (3') feet and the maximum fill is just under eight (8') feet which is at a proposed bridge and is the only wetland crossing or alteration proposed within the subdivision -- they have found a pre-cast concrete bridge supplier from Henniker, NH using their own footing system and are pre-built in sections. It is a fairly quick installation and is a positive thing from a conservation standpoint.

Site distance is 100' and the length is 630 feet to the intersection and then to the houses on each is as follows -Lot 1 is 180 feet; Lot 2 is 170 feet and Lot 7 is 170 feet. Drainage and runoff- there will be no issues as any water will be directed to the wetland area and because the drive proceeds downhill there will be no opportunity for runoff to get to Sagamore Lane. Proposal is for one catch basin and one run off swale in the upper portion of the driveway and are discussing with Conservation Commission some type of country drainage approach like a 3 'wide by 2' deep stone rock swale on either side of the driveway. At the next hearing they will have a little more information after running some numbers and discussing at the next Conservation hearing with either this or an alternative method with no increased runoff during construction of the project.

There were no further questions from the Board and no one in the public to speak in favor or oppose the project.

Motion Robert Conroy – continue until date certain of March 22, 2012 pending Planning Board review and recommendation submission.

Second Paula Fitzsimmons

Unanimous vote

**8:35 p.m. Case #905 Crooked Pond Realty Company
Edwin & Kathleen Hill
(Lot 1) 45A and (Lot 2) 45B Crooked Pond Drive**

Special Permit to construct a shared driveway to shore two lots on the premises from Article III, §196-13 (B)(11)(I) of the zoning bylaw.

Members Sitting William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice Chair
Robert W. Conroy, Clerk

Applicant Present John Morin, PE from the Neve-Morin Group, Inc.

Plan Submitted As-built Plan of Land prepared by Hayes Engineering dated December 22, 2011 and revised January 11 and January 26, 2011 and further revised by Neve-Morin Group, Inc. for the driveway extension to Lot 2 with associated grading dated January 27, 2012.

Robert Conroy read aloud the legal ad.

John Morin stated Lot 1 is owned by Crooked Pond Realty and Lot 2 is owned by Edwin & Kathleen Hill. The lots were created in 2002 through an ANR application. Lot 1 consists of two (2) acres and Lot 2 six (6) acres (pork chop lot). In May 2002 a Special permit was issued for the shared drive. In August 2002 the permit was modified –the original drive had a horseshoe shape and the fire department had issues with it; therefore, it was modified to accommodate the fire chief's request with only one entrance from Crooked Pond and the drive spurred off into Lot 1 and the remaining drive continued onto Lot 2.

The house on Lot 1 was built and a paved drive was constructed and a gravel drive heading off to Lot 2 was constructed; however, not in the approved location- trees were cleared, land was graded and there was gravel installed up to a certain portion. Mr. Morin came before this Board looking for a modification based on the fact that it was not constructed in the original approved location and Board members agreed and requested they file for a new application based on the fact it was substantially different than the original Special Permit issued.

The spurred portion of the driveway heading to Lot 2 – the Fire Chief had issues with the inside turning radius and that it runs over the leach trenches. They have modified the inside radius and expanded so that fire equipment could make the turn without running off the back edge of the gravel. Hayes Engineering did some calculations and certified in writing that the septic lines will handle the loading associated with the fire equipment with a certain amount of stone covered over (approximately 1½" more of stone in certain locations and was actually done prior to this meeting and the last informal meeting of 1/26/12).

What now is proposed extension of shared driveway issues are now Conservation Permit has expired, regulations are different than 2002; there is a vernal pool located in an isolated wetland. They have 100' minimum no touch for a vernal pool– even though there was work approved through Conservation in the no touch zone they are now pushing the driveway back to keep outside 100' zone to the extent practicable. When there is eventually a re-filing with Conservation- they will have the wetlands delineated again. The only portion of the drive that is common is the first twenty (20') feet. It is paved twelve (12') feet wide –the gravel part of the drive varies in width but at no portion is it less than ten (10') feet wide. Grades are 6.5% in one section is at 8% grade and 3% (meets all criteria) does not need to be paved and they are proposing to not pave the drive and only do gravel. There are one (1') foot shoulders on each side. The common section is twenty (20') feet in length and then one hundred twenty (120') feet to Lot 1 --- total length to Lot 1 (140') total length of drive to Lot 2 is approximately seven hundred fifty (750') from Crooked Pond Drive to the house on Lot 2 with a proposed turnaround at about 400' (1/2 way down drive). The structure itself will also have a turnaround at the garage for oil trucks, etc. They are setting up a meeting with John Dold in regards to drainage and runoff from this drive which cannot get onto the main road.

There is a maintenance agreement recorded at the Registry of Deeds which was done when the Special Permit was originally granted for both lots referencing the shared drive easement. In regards to the existing paved driveway for Lot 1 a Special Permit was granted in May 2002 and modified in August 2002 the client moved forward, cutting trees, grading driveway, etc. A building permit was issued in August 2008 and at that time the building inspector did not require a driveway permit. Currently it does not meet the new bylaw for Lot 1- their understanding of why the building inspector did not require a driveway permit was because there was a substantial amount of work completed on the original shared drive prior to bylaw and according to the conditions on the special permit should have been begun within twelve (12) months. John Morin does not know to what extent was constructed prior to a building permit being issued and cannot prove what was done prior to the bylaw of 2008.

Ross Povenmire was in attendance and said that there was an aerial photo from November 2007 showing pretty clear that there was no driveway yet and should comply with the driveway bylaw which went into effect 2008. The Planning Board recommended approval conditioned upon modification of Lot 1 meeting current bylaw.

After a very lengthy discussion amongst the Board members and John Morin – it was decided that there must be some sort of proof that the driveway was built prior to the 2008 bylaw with pictures or bring it into compliance with the bylaw. Clearly Lot 2 will need to be in compliance with the May 2008 bylaw.

Robert Conroy read aloud the Planning Board recommendation dated 2/15/12 with a unanimous vote to grant subject to conditions that it comply with Section 196-29.

Motion Robert W. Conroy – close evidence

Second Paula Lia Fitzsimmons

Unanimous vote

Motion Paula Lia Fitzsimmons – grant the Special Permit to construct a shared driveway to share two lots on the premises from Article III, §196-13 (B)(11)(l) of the zoning bylaw for Lots 1 and 2 45A and 45B Crooked Pond Drive and that the application is subject to the conditions the applicant provide proof that substantial construction of the driveway was begun prior to May 2008 and if no proof will bring into compliance and seek a permit for Section 196-29.

Second Robert W. Conroy

Unanimous vote

Paula Fitzsimmons will write the decision.

9:50 p.m. Ross Povenmire – discussion for Floodplain District Bylaw

Ross Povenmire distributed a draft bylaw. He explained that FEMA (Federal Emergency Management Agency) has modified their floodplain maps and will become effective July 1, 2012 and that prior to that date the town has to come into compliance with Chapter 60.3(d) (FEMA regulations). Our regulations are not in compliance; therefore, he worked with Richard Zangarelli, Coordinator for the State and gave a model bylaw for floodplain ordinance to bring the town into compliance.

They've drafted a bylaw and distilled the model supplied that doesn't apply with our town and reduced to two (2) pages and the state needs to approve prior to our annual town meeting. He showed the floodplain map to board members.

In order for the town to participate in the national flood insurance program we need to adopt an amendment to include the floodplain overlay district as proposed. If not, FEMA will most likely suspend eligibility for participation in the program. There are 20 people currently in Boxford that purchase and they would not be able to renew if expires without this bylaw.

Motion Paula Lia Fitzsimmons – adjourn 10:10 p.m.

Second Robert W. Conroy

Unanimous vote

*Respectfully submitted,
Paula Meagher*

APPROVED AS AMENDED JUNE 28, 2012