



**TOWN OF SUTTON** ZONING BOARD OF APPEALS  
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ZONING BOARD OF APPEALS  
MINUTES  
December 1, 2016

Approved by:   
Date: 2/2/17

Zoning Board Members Present: Rick Deschenes, Chairman; Brittanie Reinold, Clerk;  
Michael McGovern; Richard Haskins; Stephanie Forsythe; Dan Petrelli  
Secretary: Lynn Dahlin

All others present: John Couture, Building Commissioner; John Burns; Stephen O'Connell,  
G. O'Connor, Debra Pinto

**7:30 pm- Public Hearing – 11 West Sutton Road**  
**Debra Pinto**  
**Variance / Finding**

Steve O'Connell from Andrews Engineering represented the petitioner noting that this was the third meeting and the site walk done. It was believed that the new plan being presented to the Board reflected the discussions that took place and significantly narrowed the structure and reduced the elevation of the peak. There was also an improvement of the distance between the sideline and the structure. The man door located in the street façade had been removed and a cantilevered type deck which allowed foot access to a side door replaced it. The reduction allowed them to get the lot coverage down below 25%. New architectural plans were available for viewing and presented by Greg O'Connor the architect of record.

R. Haskins questioned if the concrete walk was existing and it was answered yes and it sloped rather than having steps. It was also noted that it would remain.

It was questioned what the front set back from the property line would be and it was stated 16-ft+/-.

All others present in favor or opposition: none

M. McGovern motioned, S. Forsythe seconded and the vote unanimous to close the public hearing.

**Bond Reduction-** Leland Hill Estates  
John Burns

(R. Deschenes and S. Forsythe step down)

John Burns stated that Graves Engineering performed a site visit and supplied the Board with a new Bond estimate which he was in agreement with and was asking the Board to approve the reduction. M. McGovern questioned the wall situation and it was noted that both engineers agreed that it should be monitored. It was said that the wall was built in 2006-2007 and there hadn't been any movement. He added that a year ago he supplied L. Dahlin with the monitoring report which his engineers are requested to look at 3+ times a year. J. Burns noted that in regards to the wall, Graves



Engineering had sent the Board a letter regarding a drainage change adding that in laymen's terms "water is supposed to flow over the wall and not behind it". The wall originally was intended to have a 150' swale which actually introduced water behind the wall which was determined shouldn't be done. Rather than a swale, they had been taking out blocks at the lower end of the wall with water running over that. Jeff Walsh was asked to look at it and he recommended that both the Board and Conservation Commission be contacted for their input.

J. Couture explained ramifications of water behind the wall and that he had looked at it with Jeff Walsh and totally agreed with him that it was "not the best of designs". He noted that at some point the town was going to take over the structure and added that "we want to make sure it lasts."

J. Burns again noted that it was suggested that he approach both Boards/Commissions and with their agreement he would move forward with an engineered plan for approval. J. Burns also noted that if it was questioned why now the issue has come up it was because it was brought to their attention by the Wall Specialist when out at the site. J. Couture added that Rob Johnson, (the Board's outside consultant) was at the site with the wall specialist for his review and found that the best course would be monitoring the wall as he saw no issues with the structure and found it stable.

M. McGovern discussed seeding and grading and J. Burns noted that they were waiting to see in which direction the Board wanted him to proceed and if allowed to proceed with the correction which would be planned for the spring, he would most likely come back in January looking for a plan approval.

J. Burns noted that the numbers in the Bond included the bridge and with the change it would be a wash. He also noted that Jeff Walsh went to the site and performed his check list and provided the numbers of which he thought the bond should be. Question arose on how the motion should read so L. Dahlin left to obtain past documents.

While waiting, John Couture went over a field revision made at Hunter's Court which he felt was the right thing to do. The approved plan called for 64 trees at the corner of Hunter's Ct. which were going to be used as screening. They were processing 4-5 thousand yards of material which would have been trucked through a completed portion of the subdivision so to avoid that they came up with the idea to leave the material and berm it creating a better screening. It was stated that a tree screening was limited whereas the berm was a significant visual and noise barrier, less damage to the roads and no need for trucking. At a site visit with The Planning Director and Jeff Walsh as well as J. Burns' representative, it was requested that they submit an "as built" plan of what was there and from there it would be decided how many trees were needed. It was thought rather than 64 trees they may only need 25-30 trees that will acclimate to dry gravelly rocky materials.

R. Haskins asked where the house on lot 26 would go of which J. Couture noted it could be moved forward. J. Burns added that his predecessor had clear cut the trees in the area in 2008 and it had since grown in and up. He stated that he did not think they could even plant 64 trees there but wanted the Board to know that the Bond still covered the trees and it could be readdressed in the spring. He added that there was potentially 6,000 yards of materials that would have been trucked out, each truck only handled 20 yards so they would have had dump trucks constantly on Leland Hill Road.

M. McGovern questioned how the sales were going on the affordable units and it was answered that out of the 13 homes, 9 were sold.

R. Haskins motioned and D. Petrelli seconded to amend the Form K surety agreement dated August 6, 2015 between the Town of Sutton, Leland Hill Estates LLC and Middlesex Bank, relative to an approved Comprehensive Permit Definitive Subdivisions Plan, Leland Hill Estates, dated June 3, 2012 revised through February 24, 2011, and recorded in the WDRD in Plan Book 889, Plan 108



with said surety agreement having been recorded at the WDRD Book 54194 Page 224. The surety amount specified in said Surety Agreement is amended from \$554,990.00 to \$322,000.00. The owner shall complete the required construction no later than December 1, 2018.

Vote: 4-0 in favor.

**General Board Business:**

**Discussion:** Special Permits/ legal non-conforming lots and structures  
John Couture, Building Commissioner

J. Couture discussed with the Board the use of a recently town meeting approved special permit requirement rather than variances for the purpose of extending/increasing non-conforming structures both in and out of the setback. He reviewed the guidelines and potential conditions the Board should consider when reviewing.

M. McGovern had concerns on what the special permit would allow and who would ensure it was followed. He noted that that they would need to make sure more than ever that plans were correct. When concerned about being a blanket approval, L. Dahlin noted that the approval would be based on the submitted plan and is attached to the special permit. J. Couture noted that the special permit bylaw outlined findings that the Board should refer when reviewing which was commonly done by the Planning Board as well.

**Decision:** 11 West Sutton Road, Debra Pinto

M. McGovern motioned, R. Haskins seconded and the vote unanimous to approve the tear down of the shed and permit the construction of a new garage with a right side setback of  $\pm 15.1$  feet, a left side setback of  $\pm 12$  feet, a front setback of  $\pm 16$  feet, a rear setback of  $\pm 45.1$  feet and a lot coverage of 24.7%.

The Board includes in the decision the architectural drawings from G. O'Connor Associates dated 11/11/16 and the site plan drawn and dated 11/30/16 by ASE as reference in decision.

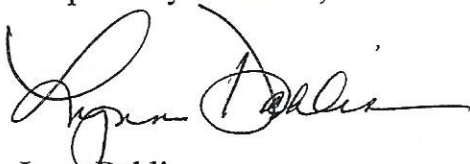
**Approval of Meeting Minutes**

M. McGovern motioned, D. Petrelli seconded and the vote unanimous to approve the October 6<sup>th</sup> meeting minutes.

D. Petrelli motioned, M. McGovern seconded and the vote unanimous to approve the October 18<sup>th</sup> meeting Minutes

8:35pm– Meeting Adjourned

Respectfully submitted,



Lynn Dahlin  
BOA Secretary