



ZONING Board of APPEALS
718 Main Street – Suite 201B
Fitchburg, MA 01420

FITCHBURG CITY CLERK

2023 MAY 22 AM 9:57

MEETING MINUTES – MARCH 16, 2023
Legislative Building, 700 Main Street

Note: This meeting was with remote option!

1. **Call to Order** Christine Tree **PLEDGE OF ALLEGIANCE** ALL
2. **Communications** Christine Tree
3. **MEMBERS IN ATTENDANCE:** Christine Tree (Chair), Michael McLaughlin (Vice-Chair), Joseph Byrne (Clerk), Brian Gallagher & James Reynolds
4. **ABSENT MEMBERS:** Eric Chartrand
5. **ALSO IN ATTENDANCE:** Atty. Vincent Pusateri II (City Solicitor) & Mark Barbadoro (Building Commissioner) Remotely.
6. **Hearings:** Start at 6:11 pm

CASE No.	APPLICANT	PROPERTY	TIME
ZBA-2023-08	JoAnne Hamberg	1341 RINDGE RD	6:00PM
<i>Special Permit under §181.94 of the Fitchburg Zoning Ordinance to complete expand a Planned Unit Development adding 13 additional homes and permitting another two existing homes to be reconstructed pursuant to §181.332 located in the Rural Residential District Map MBL 69R Block 8 Lot 0</i>			

CT – I now declare the public hearing reopened, continued from our last meeting February 14, 2023.

The presentation was given by Alex Parra (Attorney) and JoAnne Hamberg stating:

This afternoon I emailed to your administrator a letter from Haley Ward regarding the earth removal calculations. The essence of the letter is that after the initial calculations Mr. Ward provided, which were based upon takeoffs from the original design plan. Perhaps the simplest way visually is to look at the aerial photograph that was provided with the letter, and you'll see that instead of the sloping that was in the original design plan, it's a very clearly defined line behind the existing units, and that was done because of the presence of ledge, making it possible to stabilize the site without grading out a slope. The net result of that is when you take the whole plan together, both what has been done and what is proposed to be done, the amount of earth removal is approximately 32,000 cubic yards instead of 52,700, and it brings you under the definition or below the definition of earth removal for the purposes of your zoning ordinance. The calculations set forth in the Haley Ward letter are twofold. One, it was submitted as a potential application for special permit to the planning board, which we intend to withdraw. Secondly, the significance for the purpose of your review of this special permit application is the amount of earth removal. We've heard the Board and the abutters; we understand that the earth removal is a is an issue for them.

What this means is that the amount of earth removal and the associated blasting, processing, trucking is significantly lower than it was proposed on the original plan. So, that's a new information we wanted to provide to the Board, given your vote of the 41 units which were constructively approved. This the baseline from which we are proceeding and the application in front of you, is to increase from 41 to 54-units of manufactured homes and the proposed recreational building. In the Haley ward calculations the first 41 units that stockpile is included, is not something additional. So, the question is: Will you grant a special permit to extend the nonconforming use, with the specific standard in your ordinance; is it substantially

more detrimental to the neighborhood than the existing nonconforming use. In terms of traffic flow, all units have at least two-parking spaces. We have a designed road, there's any evidence on Traffic Safety issues. In addition, there is adequacy of utilities and other public services, all new public water and sewer, electric, cable and drainage systems except for the portion of roadway that isn't complete. This application has been subject to detailed Conservation Commission order of conditions, with oversight of the drainage and the construction of the drainage structures. On natural environment impacts have been clearly considered and appropriately addressed, and the neighborhood character is not going to change it's certainly far more limited than many other developments.

CT - Do you want to say a few words about completion of the project? – Atty. Parra – We've been stopped on the project for several months; it's going to take some time to coordinate the contractors and get up and running again. First, we need to remove the existing stockpiled material, and that's a trucking matter of finding a place to take the material. Next step would be to prepare the site for blasting, which the survey flags, the blasting area, so there's a process. Realistically, that is going to take nine months, we're perfectly willing to accept the conditions on how and when that can be done.

CT – So, I'll call that process the basic site preparation, and then the remainder of the work is going to be installing the utilities and installing the units to finishing it up. - JH - Realistic time period for completion of the project is two years. Two years to slab, I can't predict when buyers will appear to bring the manufactured home, but depending upon market conditions it may take longer than for two years.

CT - Member of the public whether virtual or in person, I note that we have at least two persons virtually.
Those seeking for information – None
Those in support – 7
Those against the petition – 5 plus 2-virtual participants

Mr. Commissioner - Wanted to bring to the board's attention that a construction general permit is required from stormwater management, and if I misheard, I would like some clarification at some point. It sounded like the applicant was going to change the contour of the plan from what was initially proposed, to create less blasting and earth removal. However, if they need to do that, they're going to need a storm water management permit from DPW commissioner. In addition, they're going to need a construction general permit modification from DEP.

Fleming City Councilor - I've spoken to several of the park residents, and many of them are in favor of this project ending. Especially, the ones that have been there from the very beginning, they do not want to come forward and I will never reveal their names because they're worried. They're being told that their costs are going to go up, so that's one of the reasons why I believe many of them aren't coming forward. I want to add this on a personal note; I'm going throw this back on the developer. She has built herself a beautiful home on the lake in a nice quiet area; I'm curious how she would feel about something like this going in her backyard.

Kathleen Deschamps of 1307 Ridge Rd., as a direct abutter and I've been with projects since the beginning. We used to have several trees around our properties; I couldn't even see my neighbors. I'd have to walk very close and yell to say hi, and right now we can see each other on the porch. So, it has caused us a problem with privacy, we put a fence up at my cost. In the last several years we cannot even garden in our yard, because of the water problem as a consequence that all the trees are gone. We have the wetlands above us, I'm not sure how that was done but we have been flooding every spring. I'm not in support of this increased plan; I would like to get this finished six months.

Peter Burger of 114 Nijal Ct., I'd like to defend truck drivers. Truck drivers are victims, we don't like going over tonnage on bridges, but what happens is if the boss tells you to go over; it is your job. Unfortunately, that's what you end up doing, one case to use, as example is the British American club when the state posted signs all over the place. Over my lifetime, I've heard that's what they were supposed to do with every posted bridge, if you can put a sign out front that says right turn only. Can you take a right turn out?

MaryEllen Mara-Christian of 71 Bennett Rd., at this point, we've provided you with more than enough proof that the property has been used as a working quarry for 17 years. Material has been processed and sold, and I want to remind everyone the board that we have had an existing problem with water ponding from Woodland Estates on our property. This has destroyed vegetation and trees, and last spring the applicants engineer promised a ditch and temporary pump until the water goes into the catch basin. Which it did help the water move out, but a couple months later was filled in completely and it's causing the natural drainage to be interrupted, creating a larger pond of water 50 yards into our property, and that's causing more damage. If a new permit is allowed, why is it a planned unit development? Does this rural residential property qualify for? Will the new special permit require an earth removal permit? Because it is not allowed under rural residential in the city zoning ordinances, if you look into §181.6934 it states; soil shall not be disturbed with 100 feet of the boundaries. As it stands, material has been blasted and removed, up to most all abutters property lines with no setbacks at all. I am opposed to the request for a new special permit, I feel that we all have made enough compromises for the last 17 years. There's been no regard to the city's noise ordinance and it has been years of dealing with quite frankly disturbance of our peace with the excessive ongoing noise and air pollution; caused by rock processing. Windows needing to be closed due to the amount of dust, and smell, the nuisance's project has caused abutters and neighbors for 17 years; it has made our lives miserable. Never mind, what it has done to our mental health. In conclusion if anything is allowed I feel the applicant should make right of any promises made, given to the residents at Woodland Estates including a large area of open green space, trees and vegetation should be planted. A community garden for the residents, consider using one of the reconstructed units as a gathering place for social events, natural barriers should be replanted, along all abutting property lines. In addition, the water being dropped and causing damage to our property, it needs to be opened and tied into the catch basin. If any number of new units is approved, not one should be constructed or sold until the other work is complete.

CT - If this board were to consider granting the request, what is the most important issue to you that needs to be addressed? – MaryEllen - I would like to say no more blasting, and no more earth removal that jackhammering does cause a mess. It's been frustrating, we've been complaining for many years on the city's deaf ears.

Douglas Caves of 1345 Rindge Rd., you asked; what was the most important issue it needs to be addresses? I agree with Maryellen's statement about the blasting it's what we want to see go away, but also its important the time limit of this project can continue. I'd like to see one year rather than two years.

Pat O'Hearn of 151 Nijal Cr., for less than a year, but I think this community can be an asset to the Fitchburg community. It's providing affordable housing to a lot of people as an alternative from a condo, with provided ownership. They have their own yard, driveway, backyard, and I think a housing community like this is an asset. If you can help this community, come to an end and finish it. It's going to be a benefit to all, residents, neighbors, and the city.

CT - You've lived there for approximately one year. When you moved in, what were the amenities that you expected in this? Did you have expectations when you move in? – PO - No I didn't, but it would be nice to have a recreational area for people to gather

CT - Is your particular unit located in front of a finished paved road, or it's not finished? Did you have an expectation of how long it would take to finish the road when you moved in? – PO - Well, I thought it would be finished until the cease-and-desist order came. So, she landscapes one side of my home, but not the other side. Because it was used as a construction site.

CT – Counsel, can you address the building commissioners' question on the modification on the stormwater management permit. - Atty. Parra - Stormwater management systems except for the incomplete area, all the entire system was approved. To the extent that there's a change in this site plan. It's less disturbance so we're not asking for a change in the stormwater management system, as part of this permit and I don't believe it's necessary. If the DPW wants to review it, then we'll do what they want. In terms of the state once we know where we're going, we'll submit for the permit.

JR - How long have we been under construction, I heard the word tonight 17-years, is that true? – JH – Yes, is the original permit was 2006, but we started in 2012 breaking ground, so that's 12-years

JR - My issue is more about timing, than anything else

BG - There was an issue in the past, where there had been some damage to the wall of an abutter's property line, has that issue been addressed? – JH - I believe that was one of those old boundaries stonewall line wall, and yes it has been

BG - On the previous agreement was 8:00 AM to 5:00 PM, but heard you been working at seven o'clock. Is a little early, would you agree with that to be blasting? – JH - Not for contractors, and we wouldn't be blasting that early. It takes some time to prepare the process, it's usually late afternoon. We would not object to a condition, if blasting itself wouldn't start until 11 or 12 or something that's more reasonable as long as we can prep and put the mats and stuff.

BG - In terms of erosion control – JH - I'm very interested in organic also, I'd like to use S&M farms. We usually have waddles and silt fence whenever we're in the area working.

MM - On the original plan what are some of the amenities that were laid out on? – JH - We had an outdoor recreational area, which has been installed. It's on the right-hand side four homes up, we have two horseshoe pits, Apache court, and a couple of residents made a Jenga, they have a little pavilion where they put together once or twice a week meetings and a couple times a year we do community events. The gazebo has already been installed, and the plan was eventually to put in a recreational building. Which is down in that same area on lot 77.

MM - What about landscaping on peripheral restoration of the site? JH - Anything on our property that we're working on, it would be restored as designed in the plans.

MM - Was there going to be some type of walking path, as well? – JH - I wanted to put in a nature trail, but I don't know if we'll ever put that in. We'll have to go in front of conservation for approval, but there is a nice little area out behind where the recreational building is going to be. So, the area that we're constructing that's going be seeded and loamed, and anything that we've worked on, yes.

JB - In 2007 you requested from a board here in Fitchburg to build 41 units plus a recreational building, is that correct? - JH - I don't remember the dates, but yes

JB - When you came before the board for that request, did you have the funding available to get that project completed? – JH - They never asked

JB – Did they ever put a completion date on? – JH - They never put a completion date

JB – So, it's been going on since 2007 – JH - Yes

JB - This has gone on way too long, Mike and I took a ride up there once when they were crushing rocks. It was a decibel sound; it was unbelievable the dust was flying.

Mr. Commissioner – An observation on the Haley Ward letter began its calculation at above station 6, so that meant that the first 600 feet of development that included the area of 13 Holmes was not included in the volume calculation. Or unless I'm misreading the calculated area was allowable to be removed. Was utilizing 55 mobile homes, and I believe the board believes that 42 mobile homes were the actual number that are allowed to be installed. Therefore, the volume calculation is in excess, and I still hanging pretty firmly on the fact that the developer has moved forward into the reliance upon a constructive grant. Which means and in essence a special permit was granted, and that the topographical plan that was presented by the applicant is theoretically what was approved in that constructive grant that needs to be built. If it's going to be modified then they need to go back to get a modification, because I don't know that the zoning board of appeals has the authority to modify a special permit.

CT - What is the source of funding to complete the project? – JH - I have financing through Main Street Bank, and I have funds for this.

CT - Is the financing approved and sufficient in amount to complete the work? – JH - I believe so
CT - Is there any condition on that financing that would need to be satisfied before the financing paid out?
– JH - The homes come, and they do an inspection and then they release the funds

CT - Attorney Parra this is a request to modify a pre-existing non-conforming use, can you please tell me what use you are deeming in the pre-existing non-conforming use? - Atty. Parra - We don't have a written decision, but at the last meeting you vote to be an approval or a determination that had been approved under the special permit. And that's what I took to be the preexisting nonconforming use, certainly we are in a confused territory. Given the absence of records, conflicting views between boards, as to building commissioners and to what's what, but I think we provided the baseline from which to move forward by your last decision.

CT - I wanted to clarify whether you were proceeding based on the original mobile Home Park, was there which was discussed as part of the possible expansion, as part of the PUD. But I take it's the constructively granted special permit that you're referring to, and the Planned Unit Development that was issued. – Atty. Parra - I didn't want to get tied up in knots over terminology, but I think everybody understands what's being built and what's being proposed. If you're going to call it a mobile Home Park, or if you call it a PUD, you call it that. We have a confused history; I don't think the petitioner did anything here intentionally in violation. People have different views about whether the permit was valid or not, but it was issued. We're trying to resolve a situation that I don't think is anybody's fault.

CT – So, given your application you would agree that what you're proposing is a substantial extension of the pre-existing nonconforming use? – Atty. Parra - We submitted the application without prejudice to the appeals, which one of those has been determined unfavorably. Second one has been half allowed, but I'm not conceding that we need the permit, I'm trying to do this as a way to resolve the issue.

CT - How many additional units can be installed without any further blasting? – JH - I don't know, but the biggest thing is we need to remove that material that's on site. Which is minimal compared to what we've already completed, the blasting shouldn't take more than about a month. I think what's bothers the neighbors is the hammering, the blasting it's a drill machine to drill the holes, it's not loud and they load the dynamite and set the mats and it's a boom. The hammerings what's a nuisance problem is, after you blast the Rocks, you could get are smaller pieces, or you can get pieces that are as the size of SUV's. So, those you can't move them, and we must be broken down.

CT - How much earth removal needs to be to take place, and do you need to do further grinding to remove the earth product, that has already been dug-up? – JH - The stuff that's on site it's already been processed. All the loam will be used on site, but I have been looking around to see if I could find someone who would be willing to take the blasted rock, not many people want large pieces of rock. It cost me 40,000 a month to rent the crusher, never mind the hammer, guys, and the fuel.

JR - have you looked into other processing plants to deliver the product? – JH – Yes, I've talked to PJ Keating's, Powell's, Onyx, if they're not interested. I've even gotten the graves, because they use it for concrete, but it depends how clean it is.

CT - We are in an attempt to complete this decision tonight, I can see that more time is needed, but the Airport Commission is here. They are ready to go forward, it is approximately 7:15PM and they expect to take approximately one hour. So, I am going to take a motion to continue this meeting to 8:15PM, at which point in time we will reconvene.

MM - Motion under ZBA-2023-08 to take a recess and reconvene the hearing at 8:15PM

BG – Motion Seconded

Vote 5 – 0 to take recess until 8:15 PM this evening.

CT - Welcome back to the March 16th, 2023, meeting of the Fitchburg Zoning Board of Appeals. The hearing is again open, and we are starting with some questions for attorney Parra

CT - Atty. Parra, I understand you have said that you are not conceding that the proposed special permit is a substantial expansion of the prior nonconforming use, which are deeming to be the use allowed under the constructively granted special permit. Atty. Parra - The enforcement order that was issued indicated that we had to apply for this permit. I think this's confused and inadequate, that it's just makes sense for this board to use the baseline to determine what's was approved. When the planning board looked at it some years ago, and they said it isn't substantial, road doesn't change, the infrastructure it hasn't changed, just the number of units. We're here because the building commissioner has directed us to file this application, and it's for the board to determine whether it's substantial or not.

CT - I'm going to note, that in order for this board to grant relief under the special permit, we have to find that there is a substantial expansion. If we don't find that there is a substantial extension of the use, then the permit that you have applied for; is not before us. So, you would then be left to look for another resolution but given that you are not conceding that matter; we will need to make a finding as we go forward. – Atty. Parra - I'm not conceding the necessity of the permit.

Public hearing ends.

Move to Deliberation

CT – There are three traditional ways to look at whether there is a substantial extension of the use. This is the test under Powers v. Building Inspector of Barnstable. If we find that the answer to any of these questions is “yes”, then there's a substantial extension.

First question: Does the use reflect the nature and purpose of the use prevailing when the zoning bylaw took effect, which made the use nonconforming?

Second question: Is there a difference in the quality, the character, or the degree of use from the original nonconforming use?

Third: Is the current use different in kind and effect on the neighborhood than the original proposed use?

CT - There was a proposal to move from the 41-units plus the recreational building, the new plan kept the same length of roadway, but it did change the lots substantially. So, I viewed this as a substantial change. There was a reduction in the area size of the lots, from the original 2006 plan of which we have the December 2006 copy. Obviously, there was an increase by 13 units, and to me taken these two things together; definitely, we have an increase in the degree of use from the original 41 that were proposed.

JR, BG & JB – Agreed with the Chair

MM - Motion on ZBA-2023-08 to make a finding that due to an increase in the degree of use, the proposed special permit is a substantial extension of the prior nonconforming use.

JB – Motion Seconded

Vote 5 – 0 to make a finding that due to an increase in the degree of use, the proposed special permit is a substantial extension of the prior nonconforming use.

CT - In order to grant the special permit, we need to make a finding under Section 181.3321, whether the proposal is substantially more detrimental than the existing non-conforming use to the neighborhood, as granted. There were a lot of concerns brought before us tonight, and there were a lot of concerns brought on previous nights as well as the other proceedings last year before the planning board, which did not result in a decision. Thanks to the work of the clerk's office, the planning board minutes from April 2022 are available to us as. So, as listed therein the conditions considered were:

No work on Sundays or holidays

No blasting or rock hammering on weekends or holidays

Construction hours limited to 8:00 AM to 5:00 PM Monday through Saturday

Perform another pre-blast survey within a 300-foot radius, and must notify all abutters of every proposed blast.

No construction vehicles over the weight limit of the Rindge Road bridge south of the site.

Resolve drainage problems on abutters' property.

Provide dust mitigation stemming from blasting/construction activities.

Repair damage to wall on abutter's property line.

Install appropriate erosion controls.

By 12/31/24 all infrastructure including drainage, site grading, and installation of building pads shall be complete. Manufactured homes may be placed on the pads after that date.

I want to note that: I think that any construction vehicles going over that bridge are going to be limited anyway, and where there have been complaints put forth on that issue, as well as others. I certainly think any that truck drivers, whose work I respect, should be very careful driving over that bridge because that's an enforcement matter no matter what we order.

According to the Planning Board minutes, there was some disagreement as to whether the date for completion was too long, but the vote in the end set 12/31/2024 as the completion date.

Those were the conditions discussed after the review of the Planning Board. My primary concern is how many units might be allowed without it being substantially more detrimental to the existing neighborhood. Given the past history of construction, I'm going to say for me the line is further blasting, I think any building that requires further blasting is going to cause a substantial detriment to the neighborhood. Looking at the existing buildings, on the site there is some area where might be additional units placed without blasting. On the last revised plan from September 29th, 2016, that has been submitted to us, there's an existing building on the right, as you're going towards the end of Nijal Court, further down than the last existing building on the left. I believe that last existing building on the right is number 167, but because of the size of the plan I can't quite identify the lot number. On the other side of the road, the last built is 154. To me, those units can be built on the left-hand side, bringing it even with the current existing building on the right-hand side, and the road ends there, with the circular turnaround being installed at that point, which it looks that can be done without further blasting. If we stick to the lot sizes that are on that September 29th, 2016 plan as depicted, that is going to result in five additional units to bring it even.

Adding additional units further at the end, even if the turnaround is moved. It looks like there is additional blasting work, certainly site work, that would need to be done. I'm going to note that neither this board, nor any other board in the city can grant a new special permit for earth removal in the Rural Residential zoning district. It would require a use variance and use variances in residential districts cannot be granted by any board by our ordinance. Whether or not you met the criteria for a use variance, this Board is without the power to grant one on this site. You would need to be able to stay within the definition of what does not constitute earth removal.

JR - I'm interested in bringing this to some closure, I believe that there's positive intent from everybody. So, how do we get it done and move on, that's the challenge. I think more particularly it's not just blasting, it's more about the enduring nature of rock processing. Which is kind of longer and pounding, and I'm at the end for any more rock processing.

Atty. Pusateri - You can attach any reasonable condition to an issuance of a special permit, once you make your special permit findings.

CT - We also have the option in this case of fashioning a remedy. That option was not open to us while we were hearing appeals. This is an application for special permit, so we can fashion a remedy that offers a special permit to the applicant, and it will then be up to the applicant whether they would like to exercise that special permit or whether they would like to appeal.

JB - On the original application it was asked for 41-units, and the recreation building. All 41-units and the recreational building are completed.

CT - We don't have a recreational building yet.

JB - Totally unfair to everybody, to the city, and to everybody who's coming in here and asking to add more stuff when they haven't even completed, yet.

MM - Some clarification points, the application states nonconforming use. Our agenda states planned unit development, which I find to be an error. If you go back to 2006 the building commissioner deemed that

use a mobile home park twice. Which by the way nobody has brought this up, but in 2005 this project was before the zoning board appeals, and it was denied as an extension of a mobile home park, which is not allowed in this district of the city. This project does not meet the criteria for a Planned Unit Development. Earth removal, I don't know what relevancy it has but we have this new document from Haley Ward, and it gives us calculations. Isn't my line of work, but my presumption is that when these calculations were conceived the intent was probably to allow for homes to be built. Typically in this geography a home with a foundation requires far more earth removal, then just putting a slab up. So, this may be some calculation that was formulated somewhere, I think it's irrelevant to this project and I think far more removal has been done than ever should have. What's before us, it is a Rural Residential district, not B or C. Therefore, this project has gone well beyond the scope of what should be allowed. I've never seen anything take this long and I think that this project needs to close.

CT – Other than the number of units, let's discuss conditions if the special permit were to be allowed, other than the number of units.

No blasting or processing of materials on site.

JR – Is removing the existing stockpile going to create additional space for these additional units?

CT - Removing that would then create space for X-number of units. Earth removal is removal from the lot, it's not moving it around. So, there's another option available, if it's necessary to remove more than 150% of the first floor of the building from a particular lot. If there's a need to move it off that lot for regrading, moving it somewhere else on the lot is an option. It's my opinion that up to five additional lots shown on the plan could be completed without blasting or earth removal.

MM – I would be in favor of four additional units be permitted, with site cleanup to be done prior to issuance of building permits for any work, all remaining outstanding components and recreation building to be completed. The project to be regraded and reseeded, and once completed they could proceed on the additional four units with a six month time frame.

JR – The issue for me is primarily time and the effect on the neighborhood, which is the blasting and the noise.

CT – I would like to include an order of completion, with the recreational building to be completed first, and the driveway paving on the existing units. The paving may have to wait until the utilities are completely installed in the road. The erosion controls and regrading, the road paving to be finalized and then the additional units will be last. I would propose a specific date for completion. Bathrooms should be available for workers at all time, with the site to be kept clean of construction debris at all time.

The Planning Board's conditions on dust mitigation, hours of construction as stated by Mr. McLaughlin, not to be operated as a public nuisance, and a review date and timing for completion.

JB – Suggested date of completion June 30, 2024.

MM – Any outstanding components of the original project and site restoration by the end of the summer.

CT – Let's consider a date of October 1, 2023 for the first phase of the work to be completed, and July 1 2024 for all infrastructure including drainage, site grading, and installation of building pads to be complete.

MM - No permits should issue for additional units until the special permit conditions are completed, viewed and inspected by the Board with a site visit.

CT – Condition for Phase 1 to be completed by October 31, 2023, and Phase 2 to be completed later. Phase 2 would be infrastructure including utilities in, drainage, site grading, installation of building pads, paving of the roads.

MM - Is paving done this year? – CT - It's not, the paving would not be done, it would be part of the last Phase. The heavy construction equipment needs to go in to do the regrading, and if any earth needs to be moved, they need to do that. They need to bring in equipment to install utilities, paving is going to look like the last item. Otherwise, you're going to pave a road, then you're going to ruin it, and then you're going to pave a road again.

MM – I would like that the site area be prepped for the pads this year, with any heavy construction equipment in this year, so that would be any site regrading so then the only real site work that needs to be done would be what? – CT - Installation of utilities if there's any necessary in the road drainage, it doesn't include blasting as the applicant is aware of that.

BG – I think June 30, 2024 is more reasonable for completion of Phase 2 given the spring weather.

CT – I'm willing to amend to that. So for Phase 1, we have:

- Construction of the recreation building
- Site regrading
- Outside perimeter of project to be regraded, restored and reseeded to a natural rural look with erosion control.
- Any necessary permits from DPW and DEP be obtained.
- Existing units to have driveways paved if not already paved.

On Phase 2, we have:

- All infrastructure including drainage, utilities and installation of building pads and paving of Nigel Court.
- No building permits for installation of the four additional manufactured home units (except the slabs and utility connections) to be issued for new units until a site visit is conducted by the Board and all conditions are found to be satisfied.

General conditions for the proposed special permit:

- No more than four additional units to be constructed.
- No earth removal.
- No blasting or processing of material on site.
- Hours of construction Monday – Friday 7 AM – 5 PM. No weekends or holidays.
- Applicant shall employ dust mitigation measures
- Not to be operated as a public nuisance
- Site to be kept clean of construction debris and dumpsters emptied regularly
- On-site toilets to be provided for all construction workers
- No construction vehicles over the weight limit of the Rindge Road bridge south of the site or any other bridge servicing the area.
- Resolve drainage problems on abutters' property.
- Applicant shall have an as-built plan reviewed and approved through site plan review before the Planning Board.
- Review date November 14, 2023.

Review of the City Ordinance Special Permit Criteria:

CT – On the proposal as conditioned, I agree that there is a community need which is served by the lower cost housing available for seniors, that that provides a benefit to the City.

There is adequate parking, and the traffic flow is not is an issue.

All utilities and public services are adequate to the property where municipal water and sewer are installed. Neighborhood character and social structure, given the point that we have an existing approval for 41-units, the addition of four more units is in keeping with the neighborhood character.

There are orders from DEP and the Conservation Commission regarding impacts on the natural environment, including drainage, and I trust that those entities are adequately addressing those issues.

Any potential fiscal impact on the city including city services and the tax base, we would have some additional value as additional units are sold and occupied, given the character of the housing. I think that a

perennial issue which is whether there would be an additional burden on the school system, is less likely to be present in this form of housing given the limited space.

MM - Motion in the affirmative on ZBA-2023-08 under 181.94 to **Approve the Special Permit** for JoAnne Hamberg to extend the existing use under the constructively granted Special Permit of 2006 at 1341 Ridge Road with the following conditions:

1. **No blasting, rock hammering or processing of earth, rock or similar materials may be conducted on site.**
2. **No earth removal, as defined in the zoning ordinance, may be conducted on site.**
3. **Applicant may construct no more than four additional residential units, according to the September 29, 2016 plan, on the western side of Nigel Court.**
4. **Hours of construction are limited to Monday through Friday 7:00AM to 5:00PM; no construction work on Saturdays, Sundays, or holidays.**
5. **The applicant shall employ dust mitigation measures during construction and regrading.**
6. **Not to be operated as a public nuisance.**
7. **Site to be kept clean of construction debris and dumpsters to be emptied regularly.**
8. **On site toilets to be provided for all construction workers**
9. **No construction vehicles over the weight limit of the Rindge Rd. bridge or any other bridge in the area**
10. **Drainage problems on abutters' property to be resolved.**
11. **The remaining construction work shall be completed in two phases, with deadlines for completion as follows:**
 - a. **Phase One of the work to be completed by October 31st, 2023:**
 - i. **Construction of the recreation building depicted on the September 29, 2016 plan to be completed.**
 - ii. **Outside perimeter of the project area to be re-graded, loamed, restored and seeded, preferably in the style of the natural rural character of the area prior to construction.**
 - iii. **Any erosion controls required to prevent further erosion of the existing slopes to be placed as necessary.**
 - iv. **Any necessary permits from DPW and DEP be obtained.**
 - v. **Driveways of existing homes to be paved if not already paved.**
 - b. **Phase Two of the work to be completed by June 30th, 2024:**
 - i. **All infrastructure work including drainage, utilities, and installation of up to four additional concrete building pads on the western side of Nijal Court, and the paving of Nijal Court to be completed.**
 - ii. **Building permits for the additional four units (excepting for the installation of concrete building pads and utilities) not to issue until a site visit is conducted by Board Members finding all conditions and completion of Phases One and Two have been satisfied.**
12. **The applicant to have an as-built plan reviewed and approved under site plan approval with Planning Board.**
13. **Review Hearing - November 14th, 2023.**

BG - Motion seconded.

Vote 5 – 0 to **Approve the Special Permit** with conditions

7. **MISCELLANEOUS**

8. **ADJOURNMENT 10:48PM**

MM - Motion to adjourn - BG – Motion Seconded – Unanimously Approve