

16 & 0 Bishops Lane Definitive Sub-Division

Applicant's Supplemental Response to Waiver Concerns

July 14, 2023

As a point of clarification, the proposed sub-division submitted is entirely within the 16 & 0 Bishops Lane property owned by the applicant.

There is an existing and currently constructed first segment of Bishops Lane from the South Street public way to the 16 Bishops Lane property line located adjacent to and wholly outside of the proposed subdivision property.

This portion is an existing way with a Right of Way width of 40 feet. It was formed in 1925 (Plan Book 3 Page 628), then revised in 1926 (Plan Book 4 Page 260) and again revised in 1944 (Plan Book 6 Page 790). This portion of Bishops Lane provides the access from South Street to the property being subdivided. The 1944 layout revision was for the purpose of addressing the house constructed at 2 Bishops Lane being partially located in Bishops Lane as shown in the 1926 layout. By 1944, via a recorded agreement of the predecessors in title of the owners of all lots abutting the property, the 1926 layout was revised to its current version to eliminate the encroachment of house 2 Bishops Lane into Bishops Lane. This is shown on a plan recorded in Plan Book 6 Page 790. Of note, the 40-foot Right of Way was maintained throughout said revisions and still exists today.

This first section of Bishops Lane located adjacent to South Street currently has construction deficiencies, including the condition and width of the pavement. The applicant proposes to address and remedy those deficiencies within the applicant's control, and that work shall cause this segment of Bishops Lane to be adequate for the connection of the property being subdivided to the South Street public way.

The applicant specifically proposes to improve the circumstances of the first segment of Bishops Lane to meet the requirements of the Planning Board for new subdivision roads other than the 40-foot Right of Way (which is pre-existing and the expansion of which is beyond the applicant's control).

The applicant respectfully submits that the issue of waivers is not implicated when it comes to making improvements to the existing first section of Bishops Lane. Rather, the issue is whether or not the improvements that are within the control of the applicant shall result in adequate access from South Street to the applicant's property line. This appears to be the approach of the Board in addressing a recent similar scenario for the Lewis Court subdivision project.

Nonetheless, and without waiving applicant's position, should the Board believe that a Right of Way width waiver is required then the applicant would request one at that time. Please note the existing Right of Way width of 40 feet provides adequate room to meet all of the road design requirements (other than layout width), including, but not limited to: 22 foot paved surface width, as well as the sidewalk width of 5 foot (if required by the Board).

Of note, the 24 Lewis Court decision dated May 4th, 2015, states, *"Because the proposed road extension was designed with the proposed improvements to the existing public way, the comments and suggested conditions associated with the construction speak to the proposed extension as well as the existing way in some instances. The waivers only apply to the proposed extension of Lewis Court."*

PLANNING BOARD WAIVER REQUESTS:

ALL WORK MUST BE CONSTRUCTED IN COMPLIANCE WITH SECTION 5 OF THE PLANNING BOARD RULES AND REGULATIONS AS AMENDED THROUGH AUGUST 18, 2014, EXCEPT AS WAIVED HEREIN:

1. SECTION 4-B (3) (a) - MINIMUM STOPPING SIGHT DISTANCE.

REQUEST TO WAVE THE MIN. STOPPING SIGHT DISTANCE OF 250 FT FOR MINOR STREET. ALLOW MIN. 146 FT STOPPING SIGHT DISTANCE TO MEET EXISTING SITE TOPOGRAPHY.

Developer Commentary: Deb Keller of Merrill Engineering, has revised the drawings and no longer requires a waiver on this subject.

2. SECTION 4-B (3) (a) & TABLE 1 - MAXIMUM CENTERLINE GRADE

REQUEST TO WAIVE THE MAXIMUM CENTERLINE GRADE OF 8% ALLOW MAXIMUM CENTERLINE GRADE OF 10% TO MEET EXISTING SITE TOPOGRAPHY.

Developer Commentary: Deb Keller of Merrill Engineering (the Engineer of Record), has put in the effort to engineer an 8% grade solution complying with Town requirements. The drawings associated with this 8% design have been submitted to the Board and do comply with the Town By-Laws regarding maximum grade.

However, the applicant still requests a waiver from the Town's 8% requirement to 10% as it results in a better project, and maintains more of the rural character. The 10% grade is a vast improvement from the existing grade which is over 17% in places. A granted waiver on this subject will result in less disturbance of the existing physical landscape; maintaining as much of the current topography as possible while still complying with State and National Fire standards. In discussions with Hingham Fire Department (Lt. DiNapoli), it was confirmed that the State requirement for maximum grade is 10% as stated in NFPA 1 Sec.18.2.3.4.6.1.

Numerous letters from abutters state the amount of ledge removal as a concern. A granted waiver on this subject substantially reduces the amount of ledge to be removed, "is in the public interest, and is not inconsistent with the intent and purpose of the subdivision control law".

3. SECTION 4-B (3) (8) - LEVELING AREA

REQUEST TO WAIVE THE LEVELING AREA WITH MAXIMUM 3% GRADE FOR 100 FT AT INTERSECTION ALLOW TO MAINTAIN EXISTING LEVELING AREA WITH 4.5% GRADE AT BISHOPS LANE AND SOUTH STREET INTERSECTION TO MINIMIZE IMPACT TO ABUTTING PROPERTIES.

Developer Commentary: After initial appearance in front of the Hingham Planning Board on May 15th, 2023, and reviewing the Town's Comments, Deb Keller of Merrill Engineering (the Engineer of Record), has designed a 3% grade solution that no longer requests a waiver on this item. The drawings associated with this re-design have been submitted to the Board.

4. SECTION 4G SIDEWALKS

REQUEST TO WAIVE SIDEWALK REQUIREMENT ALLOW NO PROPOSED SIDEWALK.

Developer Commentary: The request for a sidewalk waiver was driven by a few factors. The proposed plan adds only 3 additional homes, and is in close proximity to abutting single family homes. Although the work performed will lie within the Right of Way, some abutters have felt anything wider (road and/or sidewalk) than existing, will encroach upon their perceived property boundaries. Although this is not the case, a granted sidewalk waiver would disturb less area within the Right of

Way. The new road will be much safer than the existing paved surface in every capacity. Lastly, there is an existing sidewalk on abutting South Street; however, it is across the street, presumably requiring a cross-walk at Bishops Lane, should the Board not grant a waiver on this subject.

At the May 4th, 2015 Planning Board meeting, the Board stated the following justification for a sidewalk waiver for, 24 Lewis Court, a similar 3-Lot Definitive Plan:

“The Board found that the original layout of the roadway was a constraint, this waiver had been granted before and this is a short road with only 3 additional houses proposed, and that the proposed reconstructed design of the way is safer than the existing condition. In addition, requiring the sidewalk would not be practical as it would take lawn and trees and detract from the rural character”.

A granted waiver on this subject is “in the public interest and not inconsistent with the intent and purpose of the subdivision control law”.

5. SECTION 5-B4, STREET TREES

*REQUEST TO WAIVE 50' ON CENTER SPACING REQUIREMENT FOR STREET TREES.
ALLOW STREET TREES TO BE PLANTED ONLY IN FEASIBLE LOCATIONS SHOWN ON THE PLAN
(REFER SHEET C5.1)*

Developer Commentary: The waiver request on this subject was driven by the amount of existing ledge on the property. The engineer, Deb Keller has designed a solution providing the amount of required trees, but simply modifying the spacing & locations to ensure future health of the new plantings. This waiver is “in the public interest and not inconsistent with the intent and purpose of the subdivision control law”.