

Town of Sudbury

Planning Board

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September 9, 2020

CONVENTIONAL DEFINITIVE SUBDIVISION PLAN DECISION COLD BROOK CROSSING 16 & 36 North Road

DECISION of the Planning Board (the Board) on the application of Quarry North Road LLC (the Applicant) for a Conventional Definitive Subdivision Plan for the property located at 16 and 36 North Road (Assessor's Maps C12-0003, C12-0004, and C12-0100) in Sudbury, Massachusetts and 48Y Fitchburg Turnpike (Assessor's Map 15E, Parcel 3419) in Concord, Massachusetts. The subject property, owned by Quarry North Road LLC, the Sudbury Water District, and the Town of Sudbury, is located in the Research-1, North Road Residential Overlay District, Melone Smart Growth Overlay District, and Water Resource Protection Overlay District Zone II Zoning Districts in the Town of Sudbury, and in the Residence AA Zoning District in the Town of Concord.

This Decision is in response to an application filed on August 12, 2020 under Massachusetts General Laws, Chapter 41, Sections 81K through 81GG, the Town of Sudbury Zoning Bylaw (the Zoning Bylaw), and the Planning Board Rules and Regulations Governing the Subdivision of Land to subdivide approximately 55 acres into three (3) lots with associated improvements.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Applicant, Owners, abutters, and other parties in interest as required by law, the public hearing was opened, conducted, and closed on September 9, 2020. The Board deliberated on the proceedings on September 9, 2020. The following members of the Board were present throughout the proceedings: Stephen Garvin, Charles Karustis, John Hincks, Justin Finnicum, and John Sugrue. The record of the proceedings and submissions upon which this Decision is based may be referred to in the office of the Town Clerk or the Planning and Community Development Department.

After due consideration of the application, the record, and based upon the findings set forth herein, the Board voted 5 to 0 to **GRANT** conditional approval of the Conventional Definitive Subdivision Plan on September 9, 2020 pursuant to the following findings and conditions:

FINDINGS

1. The approximately 55 acre property is located off North Road and is located in the Research-1, North Road Residential Overlay District, Melone Smart Growth Overlay District, and

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Water Resource Protection Overlay District Zone II Zoning Districts in the Town of Sudbury, and in the Residence AA Zoning District in the Town of Concord.

2. The Applicant proposes to create three (3) lots with associated improvements.
3. The Board finds the proposed Conventional Definitive Subdivision Plan is in harmony with the purposes and intent of the Zoning Bylaw and the Rules and Regulations Governing the Subdivision of Land.
4. Each of the proposed lots shown on the Conventional Definitive Subdivision Plan will have frontage on an approved way or a way which meets the standards of the Rules and Regulations Governing the Subdivision of Land.
5. Each of the proposed lots is of a size and shape that will provide a site within which a building or buildings may be constructed which is/are in harmony with the natural terrain and other features of the property.
6. In reviewing the Conventional Definitive Subdivision Plan, the Board has considered the existing and probable future development of surrounding areas and has imposed conditions relating to these factors.
7. The Conventional Definitive Subdivision Plan, as presented, is designed to take advantage of the natural terrain of the land as much as possible.
8. The Board has incorporated the recommendations of other Town Boards, Committees, Commissions, and departments into this conditional approval.

CONDITIONS OF APPROVAL

This Conventional Definitive Subdivision Plan Decision is subject to and with the benefits of the following restrictions:

1. Approval is based upon the following Plans and Documents:
 - a. Proposed Plan of Land # 16, 36, 0 North Street, Sudbury, MA & Map 15E, Parcel 3419, Concord, Mass. (Sheet 1 of 1) prepared by Sullivan, Connors and Associates dated August 7, 2020 with a date stamp of August 12, 2020.
2. This subdivision shall be limited to three (3) lots. Any further subdivision of said property into more than three (3) lots shall require Board approval pursuant to the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land.
3. **Prior to the commencement of any site work**, the Applicant/Owner shall submit to the Director of Planning and Community Development an acceptable Performance Guarantee in compliance with Section IV.C.9 of the Rules and Regulations Governing the Subdivision of Land, and have it reviewed and approved by Town Counsel and Town Engineer.

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4. **Prior to the commencement of any site work**, a covenant satisfactory to the Board guaranteeing the construction of ways and installation of infrastructure in the subdivision by November 30, 2023, shall be reviewed and approved by Town Counsel.
5. **Prior to the commencement of any site work**, the Applicant/Owner shall record the Decision, the Plan, and all easements and covenants with the Middlesex South Registry of Deeds and provide verification of recording to the Planning and Community Development Department.
6. **Prior to the commencement of any site work**, the Applicant/Owner shall submit to the Planning and Community Development Department written confirmation from the Tax Collector that all taxes, including any roll back taxes, have been paid in full for the property.
7. **Prior to the commencement of any site work**, the Applicant/Owner shall, if necessary, receive an Order of Conditions, or Superseding Order of Conditions, issued under the Wetlands Protection Act and be subject to any conditions placed on the project and provide a copy of a recorded Order of Conditions, or Superseding Order of Conditions to the Building Department.
8. **Prior to the commencement of any site work**, the Applicant/Owner shall install erosion control barriers as may be required by an Order of Conditions or Superseding Order of Conditions, and as indicated in the Board's Final Plan Approval and Plan Approval Decision for the property dated August 12, 2020.
9. **Prior to the commencement of any site work**, the Applicant/Owner shall provide to Town Engineer an approved copy of the Stormwater Pollution Prevention Plan as required for the National Pollutant Discharge Elimination System (NPDES) permit.
10. **During construction of the roadway**, the Applicant/Owner shall provide 48 hours notice to the Director of Planning and Community Development and the Town Engineer for the following required inspections:
 - a. Pre-construction meeting with contractor after installation of erosion control, demarcation of the limit of work including the installation of plaques, signage, or bounds every few hundred feet indicating the fencing is the limit of work for the project and other site features identified as to remain.
 - b. After clearing, grubbing, stump removal, excavation to subgrade, and excavation of ditches for utilities. Each utility is responsible for inspections of their respective utility installation.
 - c. After drainage system (pipe, manholes, catch basins, and other drainage structures) is installed, but before it is covered. The Town Engineer or designee shall sight drainage

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pipe runs to adjacent basins. Any defective runs shall be corrected before approval is given.

- d. Following vegetation clearing, sight distance lines at the driveway/roadway shall be inspected to ensure adequacy.
 - e. Prior to the installation of binder course. The Town Engineer shall inspect and verify the roadway base is adequate. The Town Engineer reserves the right to require any material sample testing and compaction testing (95% Proctor). All sampling, testing, and analysis shall be at the sole expense of the Applicant/Owner.
 - f. The roadway binder course shall be laid within one week of the completion of construction of the roadway base, unless otherwise authorized by the Town Engineer.
 - g. During the installation of binder and finish bituminous concrete. The Town Engineer reserves the right to be on-site during the installation of any pavement for the roadway.
 - h. Periodic inspection of erosion control practices.
 - i. Review of completed As-Built plans for accuracy.
 - j. At other specific times deemed necessary by the Board, Director of Planning and Community Development, Building Inspector, or Town Engineer.
11. The Applicant/Owner shall provide a stone construction entrance to prevent soil from being tracked out onto North Road/Route 117 and shall install erosion control (straw bales, wattles, silt and construction fencing, drainage diversion channels, and swales and/or temporary siltation ponds) to prevent wash outs of the subdivision roadway until such time as it is paved.
 12. The Applicant/Owner shall be responsible for maintaining the stormwater management structures in the subdivision in conformance with the Massachusetts Department of Environmental Protection Stormwater Guidelines. Regular cleaning and maintenance of the catch basins is critical to proper functioning of the system, especially during construction when siltation is likely to occur. **Prior to final release of the Performance Guarantee**, the Applicant/Owner shall have the catch basins cleaned, and the Town Engineer shall inspect the structures to determine that the drainage system is functioning properly.
 13. Any underground irrigation system installed in this subdivision shall comply with the Town Bylaw regulating in-ground irrigation systems.
 14. In the event removal of earth from the site will be required, the Applicant/Owner shall comply with the Town of Sudbury General Bylaws, Article V(A), Removal of Earth.

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15. Town water shall be extended to serve all the lots within this subdivision. Installation of water mains and hydrants shall be under the direction of the Sudbury Water District and the Sudbury Fire Chief.
16. The following deed restrictions regarding the roadway and associated subdivision infrastructure shall apply to Lots 1, 2, and 3 in this subdivision:
 - a. The Applicant/Owner agrees as a condition of approval of the Conventional Definitive Subdivision Plan that each and every owner or owners of Lots 1, 2, and 3 shall be severally responsible and liable for the costs of the maintenance, snow plowing, repair, and reconstruction of the roadway shown on the Plan and designated thereon and all services the installation of which is required in connection with this approval, or which may be installed at any time, including, without limitation, maintenance, repair, and reconstruction of roadways, water and drainage facilities, and other common utilities and related equipment, curbs, monuments, sidewalks, and street signs, as and whenever necessary, and including all actions of any kind or nature necessary or appropriate in order to maintain the roadway in a good, safe, and passable condition, providing access from the lots to the public way, as shown on the Plan and to provide adequate services to said lots, all in accordance with these conditions. For purposes thereof, owner shall mean the record owner of the said lots as of the date the maintenance, repair, or reconstruction work, as the case may be, is begun.
 - b. The Applicant/Owner agrees as a condition of approval of the Conventional Definitive Subdivision Plan that all maintenance, snow plowing, repairs, and reconstruction required and performed hereunder shall comply with and conform to all requirements of the Town of Sudbury and other requirements imposed by law or governmental authority.
 - c. The Applicant/Owner agrees as a condition of approval of the Conventional Definitive Subdivision Plan the respective owner or owners of Lots 1, 2, and 3 shall neither use nor permit use of the roadway for any purpose other than ingress and egress from the lots, by the residents of the lots and their guests and invitees, such use to be limited to pedestrian and private passenger vehicular traffic, and such other vehicular traffic as is necessary from time to time in cases of emergency, delivery, or customary and usual household services and equipment or in connection with the maintenance, repair, or reconstruction of the roadway and services installed thereon, or thereunder, or other uses specifically approved by the Board in this decision. No owner or owners of the lots shall park or cause to be parked any motor vehicle on the roadway in such a way as to impede or obstruct the passage of pedestrian or vehicular traffic on the roadway.
 - d. The Applicant/Owner agrees as a condition of approval of the Conventional Definitive Subdivision Plan that any and all maintenance, repair, or reconstruction work performed on or to the roadway or in connection with services installed thereon or thereunder by or at the direction of any owner or owners of Lots 1, 2, and 3 as provided herein, shall be carried out so as to ensure that no fill material or any products or excavation or erosion resulting from or arising in connection with such work shall be discharged into the storm

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drainage system, and soil and other material or debris shall be removed from the site only to the extent necessary in connection with such work.

- e. The Applicant/Owner agrees as a condition of approval of the Conventional Definitive Subdivision Plan that neither the owner nor any successor owner or owners of Lots 1, 2, and 3 shall at any time request that the roadway be laid out or accepted as public ways in the Town of Sudbury.
 - f. The Applicant/Owner agrees as a condition of approval of the Conventional Definitive Subdivision Plan that neither the owners nor any successor owners of Lots 1, 2, and 3 shall at any time request or petition any drainage system, water or sewer pipes, or related equipment or any other improvement within the subdivision, for which design or improvement requirements have been waived by the Board as provided herein, be accepted or maintained by the Town of Sudbury.
 - g. The Applicant/Owner agrees as a condition of approval of the Conventional Definitive Subdivision Plan that the Town of Sudbury and its designees shall have the right to enter upon the roadway for all purposes for which ways are used, constructed, and maintained in the Town of Sudbury.
 - h. The fee in the subdivision roadway shall be owned by the owners of Lots 1, 2, and 3. The right-of-way created as part of this subdivision shall not become part of any adjacent property.
 - i. The Applicant/Owner agrees as a condition of approval of the Conventional Definitive Subdivision Plan that in any sale or transfer by the owners or any successor owners of Lots 1, 2, and 3, the deed or other instrument shall refer to and incorporate Condition 16 a) through h) inclusive. To this end, the Applicant/Owner agrees the language of conveyance of the first deeds out of the subdivision shall be subject to the approval of the Board.
17. All signage at the property shall comply with Section 3200. Signs and Advertising Devices of the Zoning Bylaw, and Case 20-12 or other approvals issued by the Zoning Board of Appeals.
18. All utilities shall be installed underground, including any extensions from existing service lines or poles.
19. All required work on the ground shall be completed by November 30, 2023, unless a new application is filed with, and approved by, the Board extending such time.
20. All lighting shall be consistent with the provisions of Section 3427.f. of the Zoning Bylaw. Lighting shall be extinguished or dimmed between the hours of 10:00 PM and 6:00 AM to the greatest extent possible so as to provide minimum lighting for security proposed consistent with adjacent properties. All lighting on the premises shall be Dark Sky Compliant

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per the International Dark Sky Association, such as the Fixture Seal of Approval lighting standard that has a correlated color temperature of 3000K or less (ANSI C. 78.377).

21. **One week prior to the paving of the roadway**, the Applicant/Owner shall contact the Department of Public Works Director to arrange an inspection of the paving.
22. **Prior to the issuance of any Certificate of Occupancy**, the Applicant/Owner shall confirm with the Fire Chief the preferred addresses for these lots. The Applicant/Owner shall install a street sign in conformance with Sudbury Department of Public Works standards at its intersection with North Road/Route 117.
23. **Prior to the release of the Performance Guarantee**, the Director of Planning and Community Development shall verify that all plantings shown on the approved Landscape Plan have been installed. Any minor modification or substitutions shall be reviewed and approved by the Director of Planning and Community Development. Plantings shall be guaranteed for a period of 2 years following occupancy. Any plantings deemed to be diseased or dying within a period of 2 years shall be replaced in kind.
24. **Prior to the release of the Performance Guarantee**, the Director of Planning and Community Development and/or the Town Engineer shall confirm that all site work has been maintained within the "Limit of Clearing" as defined on the Plan. Should it be determined that work has been done outside of the "Limit of Clearing", the Planning Board will withhold the release of the Performance Guarantee until the area has been restored.
25. All roadways, internal driveways, infrastructure, walkways, parking areas, stormwater management systems, roof drains, snow plowing, landscaping and landscape maintenance, lighting, utilities, wastewater disposal systems, water systems for both domestic use and fire protection, including automatic fire sprinkler systems, hydrants, and other facilities and services for the development, to the extent located on the property, shall be and shall remain forever private, and the Town shall not have, now or ever, any legal responsibility for the operation, repair, or maintenance of these items.
26. The Applicant/Owner shall maintain the roadways, including plowing and treating, and all other improvements within the subdivision in a condition which meets all the requirements of the Rules and Regulations Governing the Subdivision of Land.
27. No earth work operation shall be conducted, maintained, and/or left in a condition so as to alter the natural drainage flow beyond the property; or cause dust, silt, soil, or other materials to be deposited on adjacent properties; or to otherwise cause nuisances, hazards, or other objectionable conditions detrimental to health, safety, or property values in adjacent areas.
28. The Applicant/Owner shall provide to the Building Inspector final As-Built plans showing the location of all buildings, structures, and driveways, including the locations of septic systems and leaching areas.

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29. The Applicant/Owner shall pay all outstanding fees incurred for the Board's consultants including Town Counsel and the Board's Consulting Engineer, for the performance of any of the review and inspection services contemplated herein, and including any such fees incurred prior to the date of this Decision.
30. If at any time, the construction of the roadway is not in compliance with this Decision or the Rules and Regulations Governing the Subdivision of Land, the Planning Board may order that work on the construction of the roadway be stopped, and request the Building Inspector defer the issuance of any Building Permits or Certificates of Occupancy until the non-compliance is corrected.
31. Violation of any of the conditions of this Decision, as acknowledge by the permit holder or determined by a court of competent jurisdiction to have occurred, shall be grounds for enforcement of this Decision, or of any Building or Occupancy Permit granted hereunder. The Town may enforce compliance with the conditions of this Decision by any action of injunctive relief before any court of competent jurisdiction.

The authority granted to the Applicant/Owner by this Decision is limited as follows:

APPLICABILITY OF APPROVAL: This Decision applies only to the site which is the subject of this application. All construction to be conducted on the site shall be conducted in accordance with the terms of this Decision and shall be limited to the improvements shown on the plans.

OTHER PERMITS OR APPROVALS: This Decision applies only to the Conventional Definitive Subdivision Plan. Other permits or approvals required by the Sudbury Zoning Bylaw, other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this Decision.

BYLAW COMPLIANCE: The foregoing conditions are stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Sudbury Zoning Bylaw or the Rules and Regulations Governing the Subdivision of Land.

AMENDMENT OF THIS DECISION: Under the provisions of the Rules and Regulations Governing the Subdivision of Land and Massachusetts General Laws, Chapter 41, Sections 81K through 81GG inclusive, the Board shall have the power to modify or amend the terms and conditions of this Decision on the application of the owner, lessee, or mortgagee of the premises, or upon its own motion. All the provisions of the Subdivision Control Law applicable to approval shall, where appropriate, be applicable to such modification or amendment. Such power is hereby reserved.

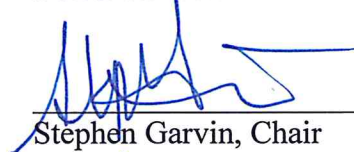
The provisions of this Decision shall be binding upon every owner or owners of each of the lots, as shown on the Plan, and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with said land in full force and effect for the benefit of and enforceable by the Town of Sudbury.


The Applicant/Owner, by acceptance of this Decision and recording thereof, acknowledges the binding effect of the conditions of this Decision.

Appeals, if any, shall be made in accordance with MGL Chapter 41 Section 81BB or MGL Chapter 40A Section 17 within twenty (20) days after this Decision is filed with the Town Clerk.


Witness our hands this 9th day of September, 2020.


SUDBURY PLANNING BOARD


Stephen Garvin, Chair


Charles Karustis, Vice Chair


John Hincks, Clerk


Justin Finnicum


John Sugrue

This is to certify that no notice of an appeal against this Decision was filed in the Town Clerk's Office within 20 days after such Decision was filed.

A True Copy Attest:

Rose M. Miranda
Assistant Town Clerk

Date

cc: Applicant
Town Clerk
Building Inspector
Board of Health
Planning & Community Development Department

Conservation Commission
Department of Public Works
Fire Chief
Sudbury Water District
Board of Selectmen

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