

References

"Sub": Rules and Regulations Governing the Subdivision of Land in Millbury, Massachusetts, December 7, 2005

"ZB": Town of Millbury Zoning Bylaws, Accepted May 1, 2018/May 2, 2018

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**Sub: Sec. 2: Definitions**

**ACCESS STREET:** "sometimes called a place, lane drive, court or cul-de-sac, the access street is designed to conduct traffic between dwelling units and higher order streets. As the lowest order street in the hierarchy, the access street **USUALLY** carries no through traffic." pg 3

**SUBCOLLECTOR:** "providing passage to access that conveys traffic to collectors, the subcollector providing frontage and access to residential lots but also carries some through traffic to lower-order (access) streets. The subcollector is a relatively low-volume street." pg 4

**Sub: Section 6: Design Standards**

**Sub: 6.7 Streets and Ways:**

**1. General, Paragraph 2:** "The Board may **disapprove** a plan where it determines that **dangerous traffic conditions** may result from inadequacy of the **proposed access** or of the proposed ways within the subdivision, or of any of the ways adjacent to or **providing access** to the subdivision. " pg 36

**Sub: 6. WIDTH:** "The width of street right-of-ways and traveled ways **SHALL NOT BE LESS** than the following:

Right-Of-Way Type	No. of Dwelling Units Potentially Served	Right -Of- Wa y Width	Traveled Way Width
<b>ACCESS</b>	<b>0 to 20</b>	<b>40 Feet</b>	<b>22 Feet</b>
<b>SUB-COLLECTOR</b>	<b>21 to 149</b>	<b>50 Feet</b>	<b>26 Feet</b>

**GREATER WIDTH shall be REQUIRED** by the Board when **DEEMED NECESSARY** for present and future vehicular travel." pg 39

**Sub: 6.7 Streets and Ways:**

**Sub: 4. LOCATION and ALIGNMENT**

i. "Subdivisions containing **more than TWENTY (20) dwelling units** SHALL REQUIRE not less than **TWO SEPARATE means of ACCESS** with an existing street or streets deemed sufficient per Section 4.2 or shown on an approved subdivision plan for which a performance guarantee has been filed. The Board may require more than two means of access based on the proposed number of dwelling units, proposed commercial/industrial building square footage or anticipated development impacts." pg 37

**Sub: 6.22 IMPROVEMENTS OUTSIDE THE SUBDIVISION**

"*Existing streets* and sidewalks **PROVIDING ACCESS** to streets and sidewalks within a proposed subdivision shall be considered to provides adequate access where, **prior to construction** on any lots, the Applicant ensures that such access **WILL BE IN COMPLIANCE** with the Rules and Regulations for right-of-way width, pavement width, maximum grade, and sight distance requirements applicable to ways within a subdivision. When **existing street**, sidewalks and utilities to service a proposed subdivision are **DEEMED INADEQUATE TO HANDLE THE IMPACT** of the development, the Applicant may be **REQUIRED to complete, at the APPLICANT'S EXPENSE IMPROVEMENTS OUTSIDE** the boundaries of the subdivision to insure for drainage and other requirements as may be necessary. Said street, sidewalk and utility improvements outside the boundaries of the subdivision shall not exceed fifty percent (50%) of the total cost of the street, sidewalk and utility coast within the subdivision. " pg 51 & 52

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**ZB: ARTICLE 1. ADMINISTRATION AND PROCEDURE**

**ZB: 12.47 Conditions, Limitations and Safeguards:** "In granting approval of an application, the Planning Board may impose conditions, limitations, and safeguards which shall be in writing and shall be a part of such approval. Such conditions may include among other matters and subjects:

(c) **REQUIREMENTS for OFF-SITE IMPROVEMENTS** to improve the **CAPACITY and SAFETY of ROADS, INTERSECTIONS, PEDESTRIAN WAYS,** water, sewer, drainage and other public facilities which are likely to be affected by the proposed development.

(e) **REQUIREMENTS for SECURING** the performance of all proposed work, **including proposed OFF-SITE IMPROVEMENTS** by either or both of the following methods:

- (1) A performance bond, a deposit of money, negotiable securities, or bank passbook in an amount determined by the Planning Board to be sufficient to

cover the cost of all or any part of the improvements required as conditions of approval;

- (2) A covenant running with the land, executed and duly recorded by the owner of record, whereby the required **improvements** shall be **completed before** the **property** may be **conveyed** by other than a mortgage deed." pg 15

**ZB: 12.45 Design Standards:** "All site plan review applicants **SHALL ADHERE** to the following **GENERAL PRINCIPLES** when designing a site plan for land within the Town of Millbury.

- (b) **Relation of Building to Environment:** Proposed developments **SHALL BE related HARMONIOUSLY** to the **Terrain** and to **USE, SCALE,** and **SITING** of **EXISTING BUILDINGS** in the vicinity that have functional or visual relationship to the proposed buildings. All building and other structures shall be sited to minimize disruption of the topography. Strict attention shall be given to proper functional, visual and spatial relationship of all structures, landscaped elements and paved areas." pg 9

- (l) **Circulation:** "With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls), width of interior drives, and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities and arrangement of parking areas that are safe and convenient an, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties. insofar as practicable, **PARKING** should be **LOCATED** on the **SIDE** or **REAR** of the **BUILDINGS.**" pg 11

**ZB: Section 16. APPLICABILITY**

**16.1 OTHER LAWS:** "Where the application of **this by-law IMPOSES GREATER RESTRICTIONS** than those imposed by any other regulations, permits, easements, covenants or agreements, the provisions of **THIS BY-LAW SHALL CONTROL.** (By-Laws 4-1-78, Art. 40)" pg 21

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**Sub: Section 3: GENERAL**

**Sub: 3.6 WAIVERS** "The Board may waive strict compliance with any of these Rules and Regulations if it deems it **IN THE PUBLIC INTEREST** in accordance with the M.G. L. Ch. 42, S. 81-R." pg 7

**Sub: Section 6: DESIGN STANDARDS**

**Sub : 6.0 GENERAL**

**2. "All standards under this section shall be considered MINIMUM STANDARDS and may be VARIED FROM or WAIVED where the Board considers that alternative conditions will serve substantially the same objective. ALL WAIVERS requested and granted by the Board shall be MADE IN WRITING, with an EXPLANATION for the REASONS therefore.**

**3. Design and Construction SHALL MINIMIZE, to the extent possible, the following:**

c. Areas where **existing vegetation** is located **within two-hundred feet (200')** of a river, wetland, or **WATER BODY**, or in areas having a slope of more than fifteen percent (15%)." pg 31

**Sub: 6.13 SIDEWALKS and BICYCLE PATHS:** "Sidewalks shall be placed generally parallel to roadways as follows:

**6. On ONE SIDE of the street on an ACCESS STREET.**

Sidewalks shall be **INSTALLED** in accordance with the **REQUIREMENTS** of the **Massachusetts Architectural Access Board (21 CMR)** in effect at the time of application.

Sidewalks shall be at least **FIVE FEET (5') WIDE.**" pg 42

**Sub: Section 3: GENERAL**

**Sub: 3.5 SEVERABILITY:** "**IF** any part or **portions** of these Rules and Regulations be **ADJUDICATED** as **INVALID**, the adjudication shall apply only to the material so adjudged, and the **REMAINING** Rules and Regulations shall be deemed **VALID** and of **full force and effect.**" pg 6 & 7

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Steven F. Venincasa, as the applicant, under the business entity of Whitney Street Home Builders, LLC, has submitted a proposed project whereas the applicant proposes to build 46-residential condominium units with a proposed site address of 17 Rice Road in Millbury, Massachusetts, owned by the McLaughlin Family Living Trust. The applicant has requested numerous waivers, dated September 7, 2021, that are as follows:

1. Article 1, Section 12.44 (a) of the Zoning Bylaw, that site plans be drawn at a scale of 1-inch equals 20 feet;
2. Article 1, Section 12.44 (c) of the Zoning Bylaw for an isometric line drawing showing the entire project;
3. Article 1, Section 12.44 (d) of the Zoning Bylaw, that a locus plan at a scale of 1-inch equals 100 be included in the Site Plans;
4. Section 5.3 of the Subdivision Regulations that proposed contours at a 1-foot interval be shown on plans;
5. Section 6.7.4.i of Subdivision Regulations that developments with 20 or more dwelling units have 2 or more points of access;
6. Section 6.7 (6) of Subdivision Regulations that roads serving 21 to 149 dwelling units have a 26-foot-wide traveled way;
7. Section 6.10 of Subdivision Regulations that curbing shall be vertical granite curbing; and
8. Section 7.5 of the Subdivision Regulations for a grass strip between the curb and the proposed sidewalk.

According to our regulations, the Millbury Planning Board does have the right to waive requirements only if it is in the "public interest" to do so. None of these waivers requested are in the "public interest"; however, the applicant and the McLaughlin Family Living Trust would derive financial benefits from the granting of these requested waivers for this proposed project in the way of cost saving and profits.