

TOWN OF ROWLEY

PLANNING BOARD



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OPEN SPACE RESIDENTIAL SUBDIVISION SPECIAL PERMIT (\$6.4) DEFINITIVE SUBDIVISION APPROVAL (with waivers)

Decision Date: August 30, 2022
Petitioner/Owner: DANIELSVILLE, LLC, (the "Petitioner")
Property Address: Daniels Road, MA (the "Property")
Assessor's Map: Assessor's Map 9, Parcel 23
Title Reference: ESRD – Book 40898, Page 498
Relief Granted:

1. Special Permit under §6.4 of the Rowley Protective Zoning Bylaw (the "Bylaw") for a 49 Lot Open Space Residential Development ("OSRD Special Permit").
2. Definitive Subdivision Approval under the Rowley Planning Board Rules and Regulations (the "Subdivision Rules and Regulations") pursuant to §7.8 of the Bylaw ("Definitive Subdivision Approval")

PROCEDURAL HISTORY

By virtue of its authority under M.G.L. Chapter 40A, §11 and the Bylaw and M.G.L. c. 41, §81U and the Rules and Regulations, the Planning Board of the Town of Rowley (the "Board") held public hearings concerning the above-referenced OSRD Special Permit and the Definitive Subdivision Approval each of the public hearings were closed and the Board members deliberated during duly held and noticed public meetings using a virtual meeting space that was accessible by online access or telephone in compliance with an Emergency Order issued by Charles D. Baker - Governor of the Commonwealth of Massachusetts (the "Governor's Order") pursuant to which certain provisions of the Open Meeting Law were suspended in order to authorize remote participation by all members of the Board, representatives of the Petitioner and the public and in person meetings.

Notice of said hearing was duly advertised in a newspaper having general circulation in the Town of Rowley; posted in a conspicuous place in Town Hall; and mailed, postage prepaid, to all interested parties as certified by the Board of Assessors in conformance with M.G.L. Chapter 40A §9 and §11, and .G.L. Chapter 41, §81BB and the Governor's Order. The matter came to be heard before Chairperson – Christopher Thornton, members of the Board – David F. Jaquith, John Urbanczewski, Kevin Moriarty and Jena Haag (who was not on the Board for several meetings and therefore not eligible to vote).

In support of the Application, the Board heard from Jill Elmstrom Mann (Petitioner's legal counsel from MANN & MANN, P.C. "M&M") and James Decoulos, P.E. (Petitioner's civil engineer from Decoulos & Company, LLC "Decoulos"). The Board also heard from its peer reviewing engineer, H.L. Graham Associates, Inc ("Graham") and various Town Boards and Department Heads. During the Public Hearing (as defined below) the Board listened to various presentations, took questions and comments by those in attendance at the various sessions of the Public

Property Address: DANIELSVILLE - Daniels Road, Rowley, MA

Hearing, and obtained and reviewed the reports and letters from various experts and Town departments. All of the above-referenced information that was gathered by the Board during the Public Hearing together with the Evidence (as defined below) constitute the “**Record**” for the Public Hearing.

The Board opened the public hearing regarding the Petitioner’s OSRD Permit on October 14, 2020 and properly continued it until the final hearing on August 30, 2022. The Board opened the public hearing regarding the Petitioner’s Definitive Subdivision Approval on October 14, 2020 and properly continued it until the final hearing on August 30, 2022. All public hearings hereinafter referred to collectively as the “**Public Hearing**.”

EVIDENCE

The following materials (the “**Evidence**”) were submitted to the Board and are incorporated herein by reference:

- a. **Application and Memorandum**, dated September 23, 2020, prepared and submitted by Decoulos & Company for the OSRD Special Permit (in accordance with §6.4.4.1(a) of the Bylaw)
- b. **Yield Plan** prepared by Decoulos and dated September 23, 2020 amended through December 3, 2020 (in accordance with §6.4.4.1(b) of the Bylaw)
- c. **Application and Required Forms for Subdivision Filing** dated September 23, 2020, prepared and submitted by Decoulos & Company in connection with Petitioner’s request for subdivision approval (in accordance with the Rules and Regulations)
- d. **Definitive Subdivision Plans** entitled “Danielsville Open Space Residential Development” prepared by Decoulos & Company and dated June 8, 2022 revised through August 24, 2022 (see §6.4.4.2 of the Bylaw and the Rules and Regulations) (the “**Plans**”)
- e. **List of Waivers** set forth on Title Sheet of the Plans.
- f. **Stormwater Management Documents** consisting of Project Data/Environmental Impact Report, Drainage Analysis, Appendix A and all associated Stormwater Plans prepared by Decoulos & Company updated through June 21, 2022.
- g. **Correspondence from the Board of Selectmen and Conservation**
- h. **Reports and Comments** between Peer Reviewer and Town Departments and Petitioner’s Engineer (Decoulos)

Existing Site Description

As shown on the Plans, the Property consists of a single parcel of land that contains 20.6± acres (895,756± sf) of land of which approximately 11.8± acres (510,578± sf) consist of upland and 8.8± acres (385,178± sf) of wetlands. Approximately 43% of the Open Space will be classified as wetlands. The entire Property is located in the Outlying District.

Development Description

Petitioner is developing the Property as an open space residential subdivision (“OSRD Subdivision”) under §6.4 of the Bylaws and Rowley’s Subdivision Rules and Regulations. As shown on the Plans, the development section of the OSRD Subdivision contains approximately 5.66± acres (243,139± sf) of upland (the “Development Area”) that will be divided into (i) nine (9) residential lots (individually a “Lot” and collectively, the “Lots”) and (ii) the subdivision roadways. There are no areas classified as wetlands within the Development Area.

As shown on the Plans, the Petitioner created five (5) Open Space parcels (A, B, and C-1, C-2 and C-3) that contain approximately 15.07± acres (656,663± sf) of land (which equals 73% of the total area of the Property) of which approximately 6.14± acres (267,439± sf) consist of upland and 8.8 acres (385,178 sf) of wetland, which is approximately 59% of the Open Space. Lot A has an area of 37,764 sf of land and will serve as the location for the common septic system for the OSRD Subdivision. Lot B has an area of 5,416 sf of land. C-1, C-2 and C-3 has a combined area of 613,483 sf of land and will serve as the location for an Underground Sewer Easement to a lot on Emily Lane and a possible 55’ right of way easement as shown on the Plans.¹

Pursuant to §6.4 of the Bylaws, Petitioner shall convey a conservation restriction to the Town of Rowley under the custody and care of the Rowley Conservation Commission on the entire Open Space, substantially in the form attached hereto as Exhibit A. As shown on the Plans, the Open Space has direct access to the new subdivision roadway and sidewalk and will have the benefit of three (3) parking spaces dedicated to public use.²

PLANNING BOARD FINDINGS

After considering the entire Record of the Public Hearing, the Board makes the following specific findings:

1. **Eligibility.** The Property is eligible to be developed as an OSRD Subdivision under §6.4.3 of the Bylaw. It contains more than five (5) acres of land and will create more than two (2) single family homes.
2. **Pre-Application Conference.** Petitioner complied with §6.4.5.1 of the Bylaw by appearing before the Board on September 30, 2020 prior to filing an application for the OSRD Special Permit.
3. **Compliance with OSRD Special Permit Application Process.** Petitioner complied with §6.4.4 of the Bylaw by submitting the following materials:

¹ The amount of upland contained in the Open Space exceeds the requirement of §6.4.8.2 by 12,149 sf. The 55’ Easement has an area of 24,688 sf which consists of approximately 8,859 sf of wetland and 15,289 sf of upland. In the event the 55’ Easement is improved and used as a right of way to provide access to abutting property, the Board acknowledges that the Petitioner will supplement the upland included in the Open Space parcel by adding an additional 3,140 sf of upland to the Open Space.

² In the event the 55’ Easement is improved and used as a right of way to provide access to abutting property, the Board acknowledges that the Petitioner will be required to relocate the 3 public parking space and the portion of the proposed trail system that lies within the 55’ Easement area.

- a. Pursuant to §6.4.4.1(a), Petitioner filed an application and all associated fees for the OSRD Special Permit.
- b. Pursuant to §6.4.4.1(b), the Yield Plan demonstrates Petitioner's ability to subdivide the Property into nine (9) single family home lots under a conventional subdivision plan and shows the location of all soil testing in support of the Petitioner's assertion that the soils and ground water conditions are suitable for a nine (9) lot development.
- c. Pursuant to §6.4.4.2, the Plan demonstrates Petitioner's ability to develop the Property in compliance with the requirements of the Town of Rowley's Subdivision Rules and Regulations as well as §6.4.10.1 and §6.4.10.2 of the Bylaw. The Plan identifies all primary and secondary conservation areas; outlines the potential developable area and the open space areas; locates the streets; shows the possible locations for the homes, driveways, yards and all areas and components of the shared septic system and any tanks and piping required for each of the nine (9) lots and the lot on Emily Lane (Lot 24A on a Plan recorded with said Registry of Deeds in Plan Book 424, Plan 11).
- d. Pursuant to §6.4.10.2, the Plan demonstrates Petitioner's continued ability to develop the Property in compliance with the requirements Town of Rowley's Subdivision Rules and Regulations as well as §6.4.10.1 and §6.4.10.2 of the Bylaw, subject to the waivers referred to below. The Plans were engineered to show adequate access to each of the Lots that is safe and convenient for travel and that ensures adequate provision for water, drainage, and underground utilities and that provide for sufficient access by fire, police and other municipal equipment and that each lot will be serviced by municipal water. In addition, Petitioner provided credible evidence as part of the Record that each of Lots is able to be supported by a Title 5 compliant common septic system and has sufficient area for no less than two (2) parking spaces for each Lot. The Plan also shows that the areas along the entrance to the OSRD Subdivision will be suitably landscaped.
- e. The OSRD Subdivision will result in the creation of many amenities to the Town, including but not limited to improvements to the intersection of Daniels Road and new pavement along a 125' stretch of the public way, new walking trails, a pedestrian bridge, and public parking for people accessing the Open Space.

4. Compliance with Open Space Requirements. Petitioner complied with §6.4.8 of the Bylaw by consolidating the Development Area for the Lots and creating the Open Space as follows:

- a. In fulfillment of the conditions set forth in §6.4.8.1, the Open Space contains seventy-three (73%) of the Property. The Open Space will not contain any structures (other than the pedestrian bridge as approved by the Rowley Conservation Commission), or impervious surfaces. If the 55' Easement is developed as a roadway for the purpose of accessing abutting land, the area will be excluded from the Open Space and the Petitioner will provide additional upland will be added to the Open Space to ensure that a minimum of 373,029 square feet of upland is contained with the Open Space. Other than those portions of the Open Space that will support the Subdivision's storm water management facilities, its common septic system, certain septic easements, the public trails and the

pedestrian bridge, the entirety of the Open Space shall remain undisturbed and left in its natural condition as shown on the Plans.³ All disturbed areas shall be regraded and thereafter maintained to assure that the area may be used for passive recreation and will be a visual amenity.

- b. As shown on the Plans, the Open Space has direct access to the new subdivision roadway. Petitioner will create a public parking area with three (3) parking spaces, walking paths within the Open Space and a pedestrian bridge that will connect two (2) areas of upland that are separated by a wetland.
- c. In accordance with §6.4.8.4 and §6.4.11 of the Bylaw, Petitioner will create a condominium association that will own the Open Space and will convey a conservation restriction on the Open Space to the Town under the care and custody of the Conservation Commission.
- d. Lots A, B, C-1, C-2, and C-3, which make up the Open Space, comply with the spirit of the Open Space contiguity requirement of §6.4.8.3 of the Bylaw.
- e. Due to the topography, soil conditions, and shape of the Property all of the wetlands are included within the Open Space. Accordingly, based on the importance of preserving the wetland resources contained in the Open Space and the other amenities being provided by the Petitioner, the Board agreed to waive requirement that the Open Space not include a greater percentage of wetland resource areas than the percentage contained in the entire Property.

5. ***Development Base Density and Density Bonus.*** Not applicable

6. **Dimensional Requirements.** Based on the Board's issuance of certain waivers, as described below and as shown on the Plans, the OSRD Subdivision satisfies all of the applicable dimensional and density requirements under §§6.1 and 6.4. The OSRD Subdivision has been designed to include reduced sized lots and reduced front, rear and side setbacks as shown on the Plans.

7. ***General Compliance.*** The information contained in the Record confirms that Petitioner complied with §6.4.5.2 and §7.8.2 of the Bylaw as follows:

- a. Petitioner designed the OSRD Subdivision in compliance with the requirements of §6.4 and all other applicable sections of the Bylaw, including §7.8.3.2, as well as the applicable Subdivision Rules and Regulations, subject to the issuance of the waivers.
- b. The OSRD Subdivision is superior to a conventional subdivision. It will result in less impervious areas, allow for the preservation of the Open Space that will protect the wetland areas and other valuable environmental resources including habitat for

³ As noted in the Conservation Restriction attached hereto as Exhibit A, the Open Space parcel abuts land that is adjacent to the Rowley Golf Course and could represent an opportunity to expand the golf course. While this was not part of the application and is not currently contemplated the Conservation Restriction has been drafted to allow for the future expansion.

flora and fauna, and it will preserve vistas and a large passive recreation area for walking trails.

- c. The OSRD Subdivision promotes the purposes set forth under §6.4.1.1 which are to “promote integrated, creatively-designed residential development that results in the preservation of open space and natural resources, the reduction of infrastructure and site development costs, and the promotion of attractive standards of appearance consistent with Town character.”
- d. Petitioner’s conveyance of the Conservation Restriction on the Open Space to the Town supports the social, economic, and community needs of the Town.
- e. The OSRD Subdivision will have a positive impact on public health and safety, town services, and the tax base by consolidating development, increasing density, reducing impervious areas, creating a large tract of open space.
- f. The OSRD Subdivision and each Lot will have adequate utilities and sufficient water supply.
- g. Petitioner incorporated several low impact development techniques into its design of the OSRD Subdivision, which have been supported by the waivers granted by the Board. The OSRD Subdivision has less impervious area and results in far less disturbance than a conventional development and the preservation of native trees and vegetation, the roadway pavement width is reduced to 24’ and 18’; the Lots all have reduced front yards and smaller area requirements; the storm water management system incorporates two underground infiltration basins and a bioretention basin (rain garden); there is a single common septic system; and permeable pavers are used for the surface of the public parking area.
- h. The convenience and safety of vehicular and pedestrian movement within the OSRD Subdivision and in relation to adjacent streets, will not be compromised.
- i. The OSRD Subdivision is a creative residential subdivision that will preserve more than fifteen (15) acres of open space and minimize disturbance by consolidating the Development Area and reducing impervious areas and set back requirements. The overall effect of the OSRD Subdivision is in harmony with the character of the surrounding properties and the natural environment of the Town.
- j. The OSRD Subdivision preserves the rural character of the neighborhood, it allows Petitioner to separate areas of disturbance and to create open spaces that act as buffers to abutting neighbors.

CONDITIONS

The Findings of the Board and this Decision are conditioned upon the Petitioner's compliance with each of the following Conditions (the "Conditions"):

1. **Conformity.** The construction, operation and maintenance of the OSRD Subdivision and all associated Infrastructure shall be consistent with all of the facts contained in the above Findings and in substantial conformity with the Plans. The issuance of all other permits shall be considered conditions of approval under the OSRD Special Permit. In the event that said permits contain conditions conflicting with the conditions hereof, the Board reserves the right to amend the conditions of the OSRD Special Permit, after hearing public meeting, so as to render it consistent with such other conditions. The Petitioner shall notify the Director of Planning & Inspections in writing a minimum of 48 hours prior to starting construction on the Property and shall conduct an onsite preconstruction meeting in accordance with Section 6.A. below.
2. **Subdivision Roadways.** Petitioner and its successors in interest shall retain the fee interest in the Property including but not limited to the subdivision roadways and all infrastructure (the "Roadways and Infrastructure") required for the construction of the OSRD Subdivision as shown on the Plans. Petitioner shall grant to the Town an easement to enter upon, locate, construct, reconstruct, repair, replace, maintain, operate and inspect the Roadways and Infrastructure in accordance with the Easement attached hereto as Exhibit E (the "Easement"). Petitioner shall record the Easement simultaneously with the recording of this Decision.

In the event the 55 Foot Subdivision Roadway is extended along the 55 Foot Easement to provide access from the land that is located to the north of the Property, the Board shall endorse the acceptance of the 55 Foot Right-of-Way and the 30 Foot Right-of-Way by the Town as public ways for the purpose of not creating an unreasonable burden on the owners of the OSRD Subdivision.

3. **Order of Condition and Stormwater Management Permit.** Petitioner shall obtain and record orders of conditions and storm water management permits for the OSRD Subdivision from the Rowley Conservation Commission prior to beginning any work.
 - A. Petitioner shall obtain orders of condition or requests for determination from the Conservation Commission for construction on Lots 1 – 7, inclusive, prior to beginning any construction on the individual Lots.
 - B. Petitioner shall confirm that the proposed construction on all Lots within the OSRD Subdivision will substantially comply with the locations of the driveways and structures as shown on the Plans and will result in no increase in impervious areas.
 - C. For purposes of confirming continued compliance with the Stormwater Management Permit and the conditions of this Decision, Petitioner shall submit a plot plan for each Lot that shall be signed by a licensed surveyor or engineer confirming that the proposed construction plan is in substantial compliance with Sheets C-7, C-8, and C-9 of the Plans. Such plot plan shall be submitted to the Planning Department and to the Building Inspector, provided such plan is in substantial compliance, the Petitioner or its successor in interest shall be entitled to submit an application for a building permit for such Lot.

4. **Utility Lines:** All utility lines shall be installed underground. Petitioner shall work with the electric light department to install streetlights along the subdivision roadway.
5. **Caliper of trees:** Trees installed by the Petitioner shall have a minimum caliper of two (2") inches and shall be twelve (12) feet tall and be consistent with the specifications provided in the Definitive Plans. In the event any tree needs replacement within twenty-four (24) months of the completion of the Roadways and Infrastructure, it shall be replaced with an equivalent tree.
6. **Pre-Construction Meeting; Construction Hours.**
 - A. Prior to any activity on the Property, Petitioner shall arrange for an onsite, pre-construction meeting with the Petitioner, Petitioner's site contractor, Petitioner's civil engineer, the Town Planner, Rowley DPW, Conservation Agent, and the Board's Consulting Engineer (if deemed necessary). The purpose of the meeting will be to review the various aspects of the construction of the Roadways and Infrastructure including but not limited to erosion control, site stability, construction scheduling, and site design.
 - B. The hours of operation for onsite construction activities shall be between the hours of 7 a.m. and 7 p.m. Monday through Friday and 7:30 a.m. and 6 p.m. on Saturdays. During construction, no noise producing activities shall be permitted at the Property on Sundays or on legal holidays without first obtaining permission from the Rowley Police Department.
7. **Construction Maintenance.** Petitioner shall undertake reasonable efforts to ensure that no debris from the construction of the OSRD Subdivision will make its way onto any abutting public ways or any abutting properties. In the event any debris makes it way off the Property, the Petitioner shall immediately clean all debris and or runoff by street sweeping and other cleaning activities, as may be required to remedy the situation. In addition, Petitioner shall use best practices for reducing dust, including but not limited to spraying water within any of the areas being disturbed.
8. **Access During Construction.** Petitioner shall ensure safe and convenient vehicular access to the Property during construction of the OSRD Subdivision. The Board and its representatives shall be permitted access by appointment to observe and inspect the construction progress until such time as the OSRD Subdivision has been completed. Petitioner shall limit the travelled route for all construction vehicles entering and exiting the Property to the section of Daniels Road that is south of the Property and onto Route 133.
9. **Construction Reports.** While there is ongoing construction, Petitioner shall submit monthly reports to the Town Planner, either in hand or by email, or as may be requested by the Planner. The reports shall evidence compliance of the construction in substantial accordance with the Plans as follows: (a) erosion control devices, clearing, site preparation, site clearing and rough grading; (b) installation of water system; (c) roadway sub-grade preparation and subbase construction; (d) roadway binder course installation; (e) installation of drainage system; (f) installation of the septic system; and (g) roadway surface course, berms, lighting, finish grading, loam/seed, and tree planting. Such reports shall be provided to an independent engineering firm, hired by the Town of Rowley, to review and confirm that the work described in the reports accurately reflects the conditions at the Property and that the work has been completed in substantial conformity to the

Plans. Said independent engineering firm shall conduct site inspections as deemed necessary by the Board and or Planner. The Petitioner shall be responsible for paying for all of the costs of such independent review and shall deposit with the Town a sum of money from which such payments shall be made.

10. Covenant: In order to assure the proper completion of all Roadways and Infrastructure, including but not limited to drainage facilities, utilities, (water, electricity, telephone, cable and gas, if any), and Septic System and all component parts, as shown on the Plans, prior to commencing construction, Petitioner shall execute a Covenant in the form set forth as Exhibit B to this Decision (the “Covenant”) and record said Covenant at the Southern Essex District Registry of Deeds at its sole cost and expense prior to engaging in any activity on the Property. Following the delivery of evidence of the recorded Covenant, Petitioner shall have the right to begin work at the Property including construction of the Infrastructure.

11. Releases, Tripartite Agreement: When the Roadways and Infrastructure have been completed or when a tripartite agreement, substantially in the form set forth as Exhibit C to this Decision (the “Tripartite Agreement”) among Petitioner, its Bank and the Rowley Planning Board, has been signed and recorded with the appropriate Registry of Deeds or the delivery of an alternative security mechanism reasonably acceptable to the Board and with sufficient security to insure completion of the Infrastructure, the Board shall issue a Release of Covenant or partial release of the Covenant, as may be appropriate, in the form set forth as Exhibit D to this Decision (the “Covenant Release”). Such Tripartite Agreement shall contain a construction cost line-item schedule identifying the work covered by the Covenant with line items. Once the Board issues a Covenant Release, the Petitioner shall be entitled to sell Lots and or apply for a building permit for the construction of homes on each of the Lots.

12. Conservation Restriction. Prior to the issuance of the first building permit, Petitioner shall convey the Conservation Restriction on the Open Space to the Town under the care and custody of the Conservation Commission, see Exhibit A. In satisfaction of this requirement, the Petitioner shall deliver a recorded copy of the Conservation Restriction to the Board, Conservation Commission and the Town Administrator.

13. Maintenance of Roadways and Infrastructure. Petitioner or its successors in interest shall be responsible for maintaining the Roadways and Infrastructure including but not limited to all stormwater management systems.

14. Easements. Petitioner or its successors in interest shall be responsible for maintaining all easement areas as shown on the Plans. Petitioner shall grant the Town an easement over the Roadways and Infrastructure in substantially the form set forth as Exhibit E.

15. Septic System. Petitioner or its successors in interest shall be responsible for maintaining all components of the septic system including all easement areas associated therewith. In the event that any required maintenance disturbs the area, Petitioner or its successors in interest shall be responsible for restoring the area.

16. Condominium Documents. Petitioner has informed the Planning Board that it intends to submit the Property to a condominium regime and to create a condominium (the “Condominium”) by granting a Master Deed and creating a Declaration of Trust for the Condominium Association (the

“Condominium Documents”) pursuant to the Massachusetts Condominium Act, M.G.L. c. 183A. Petitioner shall deliver to the Planning Board for review by its Town Counsel, copies of the draft Condominium Documents prior to the issuance of the first occupancy permit. A copy of this Decision, any Order of Conditions, the Conservation Restriction, easements, and all operations and maintenance plans for the Stormwater Management System, the Septic System, and landscaping shall be attached to the Condominium Documents.

17. Condominium Association Obligations. Following the creation of the Condominium by the Petitioner or its successors in interest, the Condominium Association, which consists of each owner of a Lot in the OSRD Subdivision, shall be solely responsible for the operation and maintenance plans for the shared septic system and Roadways and Infrastructure, the landscaping and for compliance with all obligations and conditions set forth in this Decision, the Conservation Restriction and in any Order of Conditions. In addition, the Condominium Association shall be responsible for maintaining all easement areas created and or reserved for the benefit of the Lots as shown on the Plans and the 55’ Easement that was created for the benefit of an abutting parcel of land.

18. Signage. Prior to the issuance of any occupancy permit, Petitioner shall install stop signs, speed limit signs, and one-way signs (along the looped roadway) at the designated locations as shown on the Plans.

19. Walls. Prior to beginning construction, Petitioner shall provide to the Board stamped structural design plans for all walls that are in excess of 4’ tall or that require a building permit under the Massachusetts Building Code.

20. Architectural Thresholds. Petitioner shall insert a provision in the Condominium Documents outlining uniform requirements for home construction within the OSRD Subdivision. Such requirements shall include but not be limited to the following: all homes shall have an attached garage and a basement and the architectural design and landscaping plans shall be subject to the review and approval of the Petitioner, Condominium Trust or its successors and assigns as well as a final as built approval by Petitioner or its successors and assigns.

21. Amenities. Prior to the Town releasing the Covenant or the Tripartite Agreement, as applicable, Petitioner or its successor shall complete all amenities referenced herein, including but not limited to the Roadways and Infrastructure and the improvements to the intersection of the subdivision roadway and Daniels Road.

WAIVERS

The Planning Board during its May 24 public hearing, unanimously approved each of the following:

A. A waiver from the requirement under §6.4.8.2 of the Bylaw that the percentage of the open space parcel that consists of wetlands not exceed the percentage of the entire tract that is wetlands and instead the allowable percentage of wetlands within the Open Space shall be fifty-nine (59%) percent of the Open Space. Mr. Thornton made the motion and Mr. Jaquith seconded it.

B. A waiver from the requirement under §6.4.8.3 of the Bylaw that the Open Space be entirely contiguous and instead allow the Open Space to be separated by the subdivision roadway. Mr. Thornton made the motion and Mr. Jaquith seconded it.

C. A waiver from the requirement under §6.4.9.1 of the Bylaw that all Lots have a minimum frontage of one hundred fifty (150') feet and a minimum lot area of sixty thousand (60,000) square feet and instead Petitioner shall maintain a minimum lot frontage of no less than fifty (50') feet and a minimum lot area of not less than twenty (20,000) thousand square feet for each Lot. Mr. Thornton made the motion and Mr. Jaquith seconded it.

D. A waiver from the requirement under §6.4.9.3 of the Bylaw that all structures be located no less than twenty-five (25'), which is 50% of the applicable fifty (50') foot required front setback and instead Petitioner shall maintain a twenty (20') setback on each Lot from the front property line. Mr. Thornton made the motion and Mr. Jaquith seconded it.

E. A waiver from the requirement to locate and identify the species of all proposed street trees and of all existing trees with trunks over twelve inches in diameter measured 4 feet above the finished grade under §3.3.2.6 of the Subdivision Rules and Regulations. Mr. Jaquith made the motion and Mr. Moriarty seconded it.

F. A waiver from the requirement to maintain a 55' minimum width for a right of way under §4.1.4.1 of the Subdivision Rules and Regulations for the one-way looped roadway and instead Petitioner shall maintain a right of way for the looped roadway with a minimum width of thirty (30') feet. Mr. Jaquith made the motion and Mr. Moriarty seconded it.

G. A waiver from the requirement to maintain a 26' minimum width of pavement under §5.2.2 of the Subdivision Rules and Regulations and instead Petitioner shall maintain a 24' minimum pavement width along the entry drive and an 18' minimum pavement width around the looped roadway. Mr. Jaquith made the motion and Mr. Moriarty seconded it.

H. A waiver from the requirement that no dead-end street exceed 500' in length under §4.1.6.2 of the Subdivision Rules and Regulations and instead Petitioner shall be allowed to construct a new subdivision roadway as shown on the Plans. Mr. Jaquith made the motion and Mr. Urbanczewski seconded it.

I. A waiver from the requirement to install one fire alarm box for each 1,000 linear feet under §4.9.1. and §5.15 of the Subdivision Rules and Regulations in its entirety. Mr. Jaquith made the motion and Mr. Urbanczewski seconded it.

J. A waiver from the requirement to have sidewalks on two sides of the street under §4.10, §4.1.1.1 and §5.5 of the Subdivision Rules and Regulations and instead Petitioner shall install a sidewalk on one side of the new subdivision roadway. Mr. Thornton made the motion and Mr. Jaquith seconded it.

DECISION

OSRD Special Permit. Based on the information contained in the Record, this final Decision and the above Findings and Waivers and Petitioner's promise to comply with all of the above Conditions, the Board granted Petitioner's request for the OSRD Special Permit and Definitive Subdivision Approval as follows:

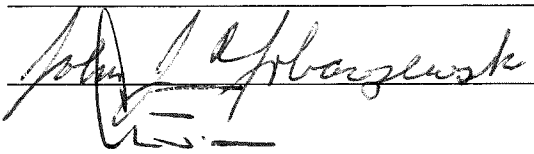
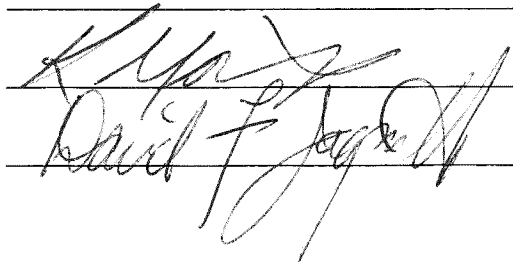
Mr. Thornton made a motion that (i) the Board close the public hearing; (ii) issue the OSRD Special Permit pursuant to §6.4 of the Bylaw; (iii) approve the Definitive Subdivision Plan for the OSRD Subdivision pursuant to the Subdivision Rules and Regulations (subject to the terms and conditions set forth in this Decision), and (iv) accept the form of this Decision and all Conditions set forth herein. Mr. Urbanczewski seconded the motion. Mr. Thornton asked for any further discussion, hearing none, he called for a vote. The voting members of the Board voted unanimously in favor of the motion; therefore, it carried.

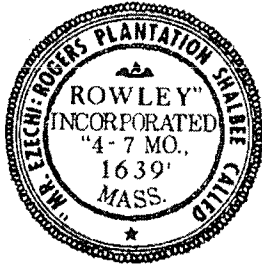
The OSRD Special Permit is granted for a period of three (3) years from the date hereof and shall lapse if substantial use or construction has not commenced by such expiration date and shall record. If any portion of this Decision is determined to be unenforceable, the remainder of the Decision shall be enforceable and remain in full force and effect.

This Decision has been filed with the Rowley Town Clerk and Planning Board. Any person aggrieved by the Decision of the Board has the right to appeal to the Land Court or Superior Court within twenty (20) days from the date of filing of this Decision with the Town Clerk under M.G.L. c.40A, §17 and M.G.L. c.41, §81BB. Notice of such an appeal with a copy of the complaint must also be filed with the Rowley Town Clerk within said twenty (20) days, all as provided in said §17 and §81BB.

Date 8/30/2022

Being at least four of the five
Members of the Rowley Planning Board



Office of the Town Clerk

Town of Rowley
139 Main St., P O Box 351
Rowley, MA 01969
Phone: 978-948-2081
Fax: 978-948-2162

October 3, 2022

Re: Decision of the Rowley Planning Board:

Open Space Residential Subdivision Special Permit (\$6.4)

Definitive Subdivision Approval (with waivers)

Applicant name & address:

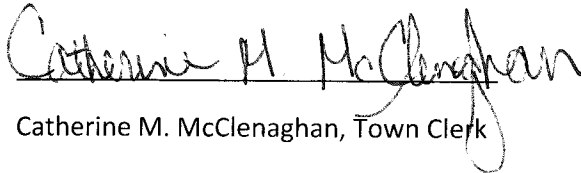
Danielsville, LLC

Daniels Rd, also identified as Parcel 23 on Rowley Assessors' Map 9

Rowley, MA 01969

I, Catherine M. McClenaghan, duly qualified and elected Town Clerk for the Town of Rowley, do hereby certify that the twenty (20) day appeal period has expired and no appeals have been filed with this office regarding the above decision.

Recorded in this office on October 3, 2022 at 9:29 AM. A copy of the decision is attached.


Catherine M. McClenaghan, Town Clerk

Town of Rowley

