Town of Georgetown

2020 SEP 21 PM 3: 47

RECEIVED
TOWN CLERK
GEORGETOWN, MA

PLANNING BOARD
1 LIBRARY STREET
GEORGETOWN, MA 01833

TEL. (978) 352-5713

NOTICE OF DECISION
APPROVAL of a COURT SPECIAL PERMIT/DEFINITIVE SUBDIVISION

26 August 2020

Ms. Kerri Ann McManus
Town Clerk
Georgetown Memorial Town Hall
1 Library Street
Georgetown, MA 01883

Re: Court Special Permit/Definitive Subdivision Application for Merrill Court, 196 W. Main St., Map 6B, Lot 57.

Date of Public Hearings: 12 JUN 19, **14** AUG 19, 25 SEPT 20, 23 OCT 19, 11 DEC 19, 22 JAN 20, 11 MAR 20, 25 MAR 20, 8 APR 20, 27 MAY 20, 24 JUN 20, 22 JUL 20 and 26 AUG 20.

Petition of: **OPM Adventures LLC**
c/o David Henry
56 West Street
Georgetown, MA 01833
Deed Ref. Bk. 37122 Pg. 444 & Bk. 32796 & Pg. 430

Premises affected: Map 6B, Lot 57

Dear Ms. McManus:

Referring to the above petition for a Court Special Permit/Definitive Subdivision at Merrill Court (former street address: 196 W. Main St.), Map 6B, Lot 57, the application was

determined to be complete and was noticed and reviewed in accordance with Town of Georgetown Chapter §365, the Rules and Regulations Governing the Subdivision of Land, Town of Georgetown Chapter §165, Zoning Bylaws and MGL. §Ch. 41 Section 81, Subdivision Control.

So as to allow: for a two (2) lot Court subdivision, made up of one (1) existing single-family dwelling on its own lot, i.e., new Lot 57 and (1) new single-family residential house lot, i.e., new Lot 57A, both fronting along and accessing, via Merrill Court, the new private way off 196 W. Main St., Map 6B, Lot 57, and as shown on the approved Definitive Subdivision Plan, as referenced in this Notice of Decision.

After a public hearing given on the above dates, the Planning Board voted to APPROVE the Definitive Subdivision, based upon the conditions attached herein.

NOTE TO CLERK: The Planning Board should be notified immediately of any appeal to the Superior or Land Court on this subdivision approval made within the statutory twenty (20) day appeal period.

If no appeal is filed with your office the Planning Board should be notified at the end of the twenty (20) day appeal period in order that the approved plan may be endorsed.

Signed: _____
Harry LaCortiglia, Chairman

At a meeting of the Planning Board held on **26 August 2020,** the Board voted to APPROVE WITH CONDITIONS the **Court Special Permit/Definitive Subdivision Application for Merrill Court, Map 6B, Lot 57,** Georgetown, Massachusetts, submitted on 14 April 2019. Please find attached to this Certificate of Vote the Court Special Permit/Definitive Subdivision Approval with Conditions decision.

Respectfully,

Georgetown Planning Board

_____
Harry LaCortiglia, Chairman

_____
Bruce Fried, Vice Chairman

_____
Robert Watts, Clerk

_____
Joanne Laut, Member

_____
George Comiskey, Member

cc:

- ☐ Conservation Commission
- ☐ Highway Surveyor
- ☐ Board of Health
- ☐ Building Inspector
- ☐ Police Chief
- ☐ Fire Chief
- ☐ Light Department
- ☐ Water Department
- ☐ Assessor
- ☐ Zoning Board of Appeals
- ☐ OPM Adventures LLC, Applicant
- ☐ Planning Office: SPA-234

The Planning Board herein Approves the Court Special Permit/Definitive Subdivision Application for Merrill Court, Map 6B, Lot 57, Georgetown, Massachusetts, WITH CONDITIONS set forth below, calling for the construction of a two (2) lot Court subdivision, made up of one (1) existing single-family dwelling on its own lot, i.e., new Lot 57 and (1) new single-family residential house lot, i.e., new Lot 57A, both fronting along and accessing, via Merrill Court, the new private way off 196 W. Main St., Map 6B, Lot 57. Said Merrill Court and improvements thereto are shown on the Approved Plan-of-Record entitled: Definitive Subdivision Plan Merrill Court (A Private Way For Two Single-Family Lots), located at 196 West Main Street, Map 6B – Parcel 57, Georgetown, Massachusetts., prepared by ASB Design Group, Thad Berry, PE, 363 Boston St., Topsfield, MA 01983, dated 3 APR 2019, last revised 1 JUL 2020, consisting of Sheets 1 – 6, 6 General Notes and 3 Waivers on Sheet 1 of 6. This Approval is in accordance with the provisions for a Special Permit, whereby, the Planning Board is the Special Permit Granting Authority (SPGA) for Courts, pursuant to Chap. 365-37 of the Planning Board's Subdivision Regulations and for approval of the Definitive Subdivision Plan, pursuant to Chap. 365-21 of said regulations; and the site is located in the Residential A Zoning District and shown on Town Assessor's Map 6B, as Lot 57, consisting of approx. 37,948 sf (0.87117 acres).

The Applicant submitted a complete application, which was noticed and reviewed in accordance with Chap. 365-37 and Chap. 365-21 of the Planning Board's Subdivision Regulations, as the former pertains to Courts and the later to Definitive Subdivision Plans, and pursuant to the provisions set forth in MGL c.40A, Section 9.

The Planning Board makes the following findings with the approval of this subject Special Permit and Definitive Subdivision:

FINDINGS OF FACT:

1. Location of the proposed Court Special Permit/Definitive Subdivision and associated site improvement features (i.e., the construction of one (1) new single-family dwelling on new Lot 57A, one (1) existing single-family dwelling remaining on new Lot 57 and construction of a new private way to be known as Merrill Court are properly located on the development parcel;

2. Adjacent properties are protected from nuisance caused by noise, fumes and glare of lights, and from detracting visual features;

3. Unique man-made features, such as stone walls, and significant natural features, e.g. trees, wooded areas, wildlife habitats and other areas of aesthetic and ecological interest, on the site are preserved as much as possible;

4. Adequate parking, loading facilities, drainage and methods of solid waste disposal are provided on-site;

5. Access driveways, and parking facilities are properly designed for the convenience and safety of their users;

6. The project, as approved, maintains to the extent possible the village like character of the Town and its' relation to the prevailing character and scale of dwellings in the neighborhood;

7. Water resources are protected from depletion and contamination including drinking water supplies, watershed protection land, aquifers and Rock Pond; and

The Planning Board, herein, grants this Special Permit/Definitive Subdivision, because it determined that the proposed subdivision has less detrimental impact on the tract than a conventional development (a.k.a., as standard subdivision) would have posed for the tract, and after careful and thoughtful consideration of the following factors:

(1) The proposed Court achieves greater flexibility and creativity in the design of residential development than a conventional development plan;

(2) The proposed Court promotes preservation of open space and other natural resources including waterbodies and wetlands.

(3) The proposed Court promotes a less sprawl, less land consumption and more efficient and compact form of development that consumes less open land and conforms to existing topography and natural features better than a conventional development plan;

(4) The proposed Court reduces the total amount of disturbance on the site compared to a conventional development plan;

(5) The proposed Court furthers the goals and policies of the Town of Georgetown Community Development Plan (2004) and Town of Georgetown Open Space Plan (2014) as amended from time to time;

(6) The proposed Court, being a private way, facilitates the construction and maintenance of streets, utilities, and public service in a more economical and efficient manner;

(8) The construction of housing, landscape and streetscape is in harmony with the architectural heritage of the Town of Georgetown.

Further, the Planning Board finds that this application generally complies with the Planning Board's Subdivision Regulations, and hereby grants its approval subject to the following conditions:

1. Prior to the sign-off of the new single-family dwelling Building Permit by the Planning Board:

a) The Plan, consisting of Sheets 1 – 6, must be issued on mylar, then reviewed and approved by the Planning Board and/or its' agent(s); further because this Plan includes modifications to W. Main Street (a public way) and construction of a new private way, namely, Merrill Court, prior to endorsement of the Plan, the Applicant or his assigns shall submit a Covenant Agreement to the Planning Board, which shall prohibit the conveyance of any lot within this Subdivision, i.e., (i) without said way being completed in its entirety or (ii) the establishment of a surety, determined sufficient by the board to ensure the completion of said way in its entirety or as otherwise determined by the board sufficient for individual lot conveyance purposes. Said Covenant Agreement shall be recorded, together with the Plan, and each lot within the subdivision shall be released from the terms of the Covenant Agreement only by approval by the Planning Board.

b) The Planning Board will endorse the project with application of signatures to the approved Plan mylar; and

c) The Applicant must submit this decision to the Town Clerk for 20 day appeal period with subsequent certification and then record the certified decision at the Registry of Deeds and required signed Plan mylar, with executed Covenant Agreement, within 30 days with proof of same sent to Planning Office;

d) A paper copy set of the signed and recorded Plan, as well as other plans requested by the Planning Board (if any) shall be delivered to the Planning Office, together with the recorded Covenant Agreement, and all utility and maintenance deeds, to include operation and maintenance documents, relative to the perpetual maintenance by the HOA for all structural, landscaping and conservation demarcation features within the boundaries of this development. Note: as shown on the Plan, the edge of the B.V.W. is delineated as the shoreline of Rock Pond, which is also the south border of new Lot 57, having the existing single-family dwelling. No bounds are included in said delineation.

2. Prior to the start of and during construction:

a) A preconstruction conference shall be held with the General Contractor, Applicant, Town Planner, Technical Review Agent (TRA), Site Inspecting Engineer (SIE), Highway Surveyor and available Planning Board members. After the pre-construction meeting all site inspection scheduling will be done through the Site Inspecting Engineer. It will be the responsibility of the contractor to contact the Site Inspecting Engineer and arrange a mutually agreeable schedule. The Site Inspecting Engineer shall make every effort to inspect the development site when active. If the development site is inactive for periods of time (e.g., 30 successive days or more), inspections shall occur only with the approval of the Town Planner; and

b) Prior to any work, on-site erosion control shall be in-place and approved by the Site Inspecting Engineer (SIE). (Note: erosion control is to be maintained in accordance with approved Erosion Control Program.) The SIE will make weekly inspections

during active periods of construction to confirm that erosion control has been maintained; and

c) The SIE will make periodic site visits during stripping, cut and fill; and

d) The burial of stumps and woody debris is prohibited; and

e) The burial of boulders in excess of 24-inches diameter may only be buried in a site approved by the Planning Board and/or its' agent(s) and must be shown on the As-Built Plan(s);

f) The SIE shall perform daily site visits as scheduled, required or requested by the Planning Board during the active installation of utilities water and drainage, etc.

g) If applicable, location of the proposed electric trenches shall be checked for horizontal and vertical requirements. Contractor shall provide an instrument and assistant to aid the Site Inspecting Engineer, relative to confirming compliance with approved plan(s). Utility placement shall not conflict with installation of lot boundary monuments, in the type specifically designated by the Planning Board, without the express written permission of a majority vote of the Planning Board; and

h)The SIE shall provide to the Board a monthly summary of construction activity. The SIE shall provide the Board a monthly Master Detailed Invoice Table (MDIT), summarizing of construction-related activities on the project, the hours allocated to each activity and the responsible party used for the inspection service. All items listed on the MDIT shall also be accompanied with a copy of the Construction Observer's Daily Report. The level of detail on such reports shall be commensurate with the level of effort for each task listed on the MDIT. The table shall clearly indicate the employee from the SIE was responsible for each line item on the MDIT: If more than one employee was involved in the specific task then all employees shall be listed as separate items with hours and sub-tasks; and

I) The SIE shall provide final site visits for preparing "punch lists" or to verify As-Built Plans will be conducted as requested by the Planning Board.

3. Stockpiling of materials:

a) In connection with the construction of the site as approved (dirt, wood, construction material, etc.) must be shown on a plan and reviewed and approved by the Planning Staff. Any approved piles must remain covered at all times to minimize any dust problems that may occur with adjacent properties.

4. Construction Operation:

a) During construction, the site must be kept clean and swept regularly; and

b) The hours for construction shall be limited to between 7:00 a.m. and 7:00 p.m. Monday through Saturday; and

c) The Contractor shall contact Dig Safe at least 72 hours prior to commencing any excavation; and

d) Utilities and municipal services shall be installed underground as required and specified by the respective utility companies.

e) The Applicant shall be responsible for all road repairs that may be needed on W. Main Street, resulting from the construction of Merrill Court.

5. **Prior to issuance and verification of the Certificate of Occupancy:**

a) The landscaping included in the Plan, which will be installed by the Applicant, shall be completed prior to the issuance of the Certificate of Occupancy for the new single-family dwelling.

b) The Applicant must submit a letter from the project engineer, stating that Merrill Court, together with all required development improvements substantially comply with the Plan endorsed by the Planning Board; and

c) The site must comply with applicable State fire and building codes. The Applicant shall have conducted Fire Flow Tests, if applicable, as required by the Water Department;

d) Applicant shall submit proof of site improvements, as depicted on the approved Definitive Plan entitled: Definitive Subdivision Plan Merrill Court (A Private Way For Two Single-Family Lots), located at 196 West Main Street, Map 6B – Parcel 57, Georgetown, Massachusetts., prepared by ASB Design Group, Thad Berry, PE, 363 Boston St., Topsfield, MA 01983, dated 3 APR 2019, last revised 1 JUL 2020, consisting of Sheets 1 – 6, 6 General Notes and 3 Waivers on Sheet 1 of 6.

e) The Applicant shall submit proof that Final As-Built Plan(s), showing final elevations and layout of site improvements, have been submitted to the Planning Board and the SIE; and

f) The Planning Staff, Planning Board and/or SIE may review the site; and

6. **Provisions:**

a) This approval shall apply to and be binding upon the Applicant, employees and all successors and assigns in interest or control of this development; and

b) Any action by a Town Board, Commission, or Department, which requires changes in the Plan may be subject to modification by the Planning Board; and

c) Any revisions shall be submitted to the Planning Board for review. If these revisions are deemed substantial, the Applicant must submit revised plans to the Planning Board for approval and could warrant a new public hearing process.

7. Other Special Conditions:

a) This decision does not invalidate any previous conditions required by any other permit granting authority relative to the subject property; and

b) The perpetual maintenance, repair and snowplowing of Merrill Court (a private way), as depicted on the Plan, shall be the responsibility of the Applicant or his assigns, and until such time that the HOA becomes the party of responsibility for said maintenance, repair and snowplowing activities. To the effect of the foregoing special condition, prior to the commencement of construction of this development, the Applicant shall submit to the Planning Board, for Town Counsel review and approval, a deed rider, particular to each of the 2 single-family dwelling lots, which shall cite that the aforementioned perpetual maintenance, repair and snowplowing of Merrill Court shall be the shared responsibility of the owners of said lots.

c) This approval is subject to three (3) waivers granted by the Planning Board and as specifically cited below and on Sheet 1 of the Plan:

Waivers Granted and Reasons Specified for Granting Same:

(1) 365-35(B)	To waive the title block layout requirement and allow the title block shown herein, because it serves the purpose of demarcating Planning Board's signatures.
(2) 365-35(C)	Street Name in pencil (graphite) shall be substituted with ink, because it is harder to erase.
(3) 365-38(C)	Property Line Radius = 30' at Interior of Roadway to 10' on the easterly (egress) side of Merrill Court and 30' on the westerly (ingress) side of Merrill Court, as deemed adequate for the proposed use by the board's consulting engineer.

8. Expiration of Approval:

a) This Special Permit and Definitive Subdivision Approval shall be deemed to have lapsed on 26 August 2023 **(three years from the date approval granted)** unless substantial use or construction has commenced. Substantial use or construction will be determined by a majority vote of the Planning Board.

9. **Documents considered in Decision:**
The following engineer drawings shall be deemed part of the decision:
Definitive Subdivision Plan Merrill Court (A Private Way For Two Single-Family Lots), located at 196 West Main Street, Map 6B – Parcel 57, Georgetown, Massachusetts., prepared by ASB Design Group, Thad Berry, PE, 363 Boston St., Topsfield, MA 01983, dated 3 APR 2019, last revised 1 JUL 2020, consisting of Sheets 1 – 6, 6 General Notes and 3 Waivers on Sheet 1 of 6.

Prepared For: **OPM Adventures LLC**
c/o David Henry
56 West Street
Georgetown, MA 01833
Deed Ref. Bk. 37122 Pg. 444 & Bk. 32796 & Pg. 430

Prepared By: ASB Design Group
Thad Berry, P.E.
363 Boston St.
Topsfield, MA 01983

The following owner provided information shall be deemed part of the decision:

Applicant testimony, presentations and documents submitted during the following Public Hearing dates, 12 JUN 19, 14 AUG 19, 25 SEPT 20, 23 OCT 19, 11 DEC 19, 22 JAN 20, 11 MAR 20, 25 MAR 20, 8 APR 20, 27 MAY 20, 24 JUN 20, 22 JUL 20 and 26 AUG 20.

This document shall serve as a letter of notification to the Georgetown Town Clerk and applicant as to the above described action of decision taken by the Georgetown Planning Board, relative to this Court Special Permit/Definitive Subdivision Application described herein and in accordance with the applicable Georgetown Planning Board's Subdivision Regulations.

By order of the Planning Board this the 26th day of August 2020.

Harry LaCortiglia, Chairman

Bruce Fried, Vice Chairman

Robert Watts, Clerk

Joanne Laut, Member

George Comiskey, Member