

TOWN OF LENOX
ZONING BOARD OF APPEALS
DECISION



The Lenox Zoning Board of Appeals heard the petition of Frank A. Costantini/Twelve Oaks, LLC on Wednesday June 26, 2002 at 7:30 PM. The petitioner was seeking to amend a Special Permit issued February 23, 2001 under Section 6.6-1A(4) and 9.6 of the Lenox Zoning By-law. The petitioner wanted to amend the site plan to allow the incorporation of the single-family home known as "The Dormers" into the Twelve Oaks Retirement Community along with the 31.1 acres of land that the building occupies. The project lender felt that the property should be included in the Retirement Community. The building will be used for a private clubhouse for the Twelve Oaks Retirement Community and is to be overseen by the Board of Directors.

Members of the board hearing the petition were Clifford Snyder, Susan Lyman, Shawn Considine Harold Brown and Kevin Hall. Attorney Emil George represented the petitioner.

The petition was filed on May 20, 2002 and advertisements were published in the Berkshire Eagle on June 11 and June 18, 2002. The public hearing and decision meeting took place on June 26, 2002.

A letter from Planning Board Chairman Steve Sample indicating a favorable endorsement with a vote of three in favor and one opposed (one absent) was read into the record. The letter included suggestions for modifications.

At the decision hearing the Zoning Board of Appeal voted unanimously (5-0), to grant the amended Special Permit and site plan. The Board also imposed several conditions that were also approved unanimously (5-0).

1. That the original site of the pool and Tennis Courts be abandoned and that the pool and tennis courts be placed according to the amended site plan as submitted May 20, 2002
2. That the internal road indicated on the amended site plan extending to "The Dormers" is to service the clubhouse and NOT for use in further development of the 31.1 acres attached to the property.
3. That the southerly driveway originally used to access "The Dormers" as a private home and on which Frank Costantini retains an option for use in reaching a potential single family home on adjacent property, is NOT to be converted to a subdivision road for access to either the 31.1 acres now part

page 1 of 2

of the Retirement Community or adjacent properties.

The Board found that the proposed amendments meet the following requirements for a Special Permit: 1) The proposed use is in compliance with the provisions and requirements of the By-law and in harmony with its intent and purpose; 2) the proposed use is desirable to the public convenience at the proposed location; 3) The proposed use will not be detrimental to adjacent uses or to the established or future character of the neighborhood; 4) The proposed use will not create undue traffic congestion, or unduly impair pedestrian safety and; 5) The proposed use will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting public health, safety or general welfare.

Any appeal from this decision must be made pursuant to MGL Chapter 40A, Section 17 as amended, and must be filed within twenty (20) days after the filing of this decision with the Lenox Town Clerk. Petitioner is hereby notified that he must obtain all necessary permits. Pursuant to the requirements of Section 11.4 of the Zoning by-laws, notice of this decision must be recorded in the Middle District Registry of Deed.

Filed this 9th day of July 2002 with the Lenox Town Clerk, Planning Board, Building Inspector and Zoning Board of Appeals.



Kevin Hall

For the Lenox Zoning Board of Appeals

TOWN OF LENOX
INCORPORATED 1767
MASSACHUSETTS

OFFICE OF THE
ZONING BOARD OF APPEALS

NOTICE FOR RECORDING IN THE REGISTRY

Notice is hereby given that a Special Permit has been granted in compliance with the statutory requirements as set forth in Chapter 40A MGL, as amended, by the Lenox Zoning Board of Appeals to:

Petitioner: Twelve Oaks Investment, Inc. and
Anita I. Costantini

Land Owner: Same

Premises: 138, 160 and 168 Pittsfield Road
Lenox, MA 01240

The decision of the Board is filed this date with the Town Clerk and the Planning Board.

Signed and certified this 23rd day of February 2001 .

Dawn M. Williams

Zoning Board of Appeals

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CERTIFICATE BY THE TOWN CLERK FOR FILING OF THE DECISION IN
THE REGISTRY

This is to certify that twenty (20) days have elapsed since filing of the above decision with this Office and no appeal has been filed, or appeal has been filed and denied in the case.

RECORDED
FEB 23 2001
10V.C.



Maria P. Polverini
Town Clerk

TOWN OF LENOX
ZONING BOARD OF APPEALS

DECISION

On January 10, 2001 the Lenox Zoning Board of Appeals heard the petition of Anita I. Costantini and Twelve Oaks Investment, Inc. for a special permit under Sections 6.6-1A(4) and 9.6 of the Zoning Bylaw to allow petitioners to develop a retirement community consisting of thirty-four (34) individual retirement units in seventeen (17) duplex buildings with private club house, pool and tennis on 21.5 acres of land at Routes 7 and 20. The property is located primarily in the C-3A zone with its easternmost section in the R-40-30-20 zone.

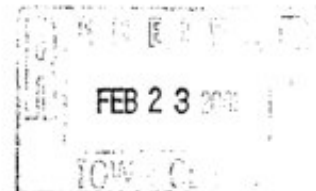
Members of the Zoning Board sitting at the hearing were Clifford Snyder, Robert McNinch, Susan E. Lyman, Kevin Hall and Arlene Schiff.

After hearing the petitioners, their attorney Kelton M. Burbank and representatives of their engineering firm S-K Design Group, Inc. and reviewing the site and other related plans, members of the Board expressed concern over the project density and the extent of its visibility from the state highway and the public hearing was continued to January 31, 2001 to allow petitioners the opportunity to revise the site plan and provide additional information in order to address the Board's concerns.

At the continued public hearing on January 31, 2001, the Board with the same five members sitting read into the record a letter from the Planning Board supporting the project and considered a revised site plan dated January 16, 2001 which slightly enlarged the project site to 22.4 acres and resited the proposed seventeen (17) duplex buildings to allow greater spacing between buildings and less visibility from the state highway.

Following further discussion of various aspects of the proposed project the public hearing was closed and the Board convened its decision meeting. At the decision meeting the Board unanimously (5-0) voted to grant the special permit and approve the requested retirement community as shown on the revised site plan dated January 16, 2001 subject to certain conditions.

Prior to the granting of said special permit, the Board found in substance that the proposed use:



- (a) Is in compliance with all provisions and requirements of the Bylaw, and in harmony with its general intent and purpose;
- (b) Is essential or desirable to the public conveniences or welfare at the proposed location;
- (c) Will not be detrimental to adjacent uses or to the established or future character of the neighborhood;
- (d) Will not create undue traffic congestion, or unduly impair pedestrian safety;
- (e) Will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting public health, safety or general welfare.

The special permit was granted subject to the following conditions which were unanimously imposed by the Board:

1. A site visit will be made after construction of the ten buildings containing Units 1-16 and 31-34 has been completed to determine whether the amount of light emanating from the project needs reduction.
2. The permanent project sign at the entrance drive to the project shall be subject to prior review and approval by the Board.

The petition was filed with the Town Clerk on November 29, 2000; the Notice of Public Hearing was published in The Berkshire Eagle on December 19, 2000 and December 26, 2000; the public hearing was held on January 10, 2001 and January 31, 2001; and the decision meeting was held and this decision rendered on January 31, 2001.

Any appeal from this decision must be made pursuant to M.G.L. Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the filing of this decision with the Lenox Town Clerk.

Filed this 23rd day of February, 2001 with the Town Clerk and the Planning Board.



Robert McNinch
For the Zoning Board of Appeals

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