

**MILLIS PLANNING BOARD      April 11, 2023**  
**MEETING MINUTES**  
**ROOM 229, VETERANS MEMORIAL BUILDING, 900 MAIN ST., MILLIS, MA**

The meeting was called to order at 7:30 p.m. by Mr. Richard Nichols, Chair.

Members present:     Richard Nichols, Chair  
                              Nicole Riley, Clerk  
                              Joshua Guerrero  
                              Alan Handel  
                              George Yered, Associate Member  
  
                              Melissa Recos, PE, BETA Group

Members Absent:     Bodha B. Raut Chhetry

Also present:         Scott Fuzy, 411 Union St.  
                              Bob Fox, 38 Benjamin Gate, Plymouth  
                              Linda Chiarizio, 139 Spring St.  
                              Ted Cannon, Emerson Place

**ANNOUNCEMENT-BETA GROUP**

Mr. Nichols thanked Ms. Recos of BETA for providing excellent peer review services over the years. BETA will no longer be available to provide peer review services for the Planning Board.

**WAIVER OF SITE PLAN REVIEW/APPROVAL REQUEST**  
**139 SPRING STREET – TANGERINI'S SPRING STREET FARM**  
**TEMPORARY EVENT TENT**

Ms. Linda Chiarizio presented the request for waiver of site plan review letter, dated April 5, 2023, and plans/sketches for Tangerini's Spring Street Farm.

The Chiarizios are requesting permission to install/erect a temporary, 30' x 60' seasonal event tent. The Planning Board found they have more than adequate parking on-site, including handicapped accessible spots, and overflow parking available. There is a maximum number of one hundred people per event allowed based on the architectural designs submitted to the Building Department, she said.

During the discussion, Mr. Guerrero referenced Section XIII. Special Permit Conditions J. Temporary Structures of the Zoning Bylaws. It appears that a Special Permit is required for certain temporary structures "if they are intended to exist for a period of more than seven days." It was advised that the Chiarizios apply for the Special Permit for the tent for next year.

A motion was made by Mr. Nichols, seconded by Ms. Riley, pursuant to Section XIII (Special Permit Conditions) C., of the Town of Millis Zoning By-laws, to waive the requirements of Site Plan Review for 139 Spring Street, Tangerini's Spring Street Farm, for Mr. Steven & Ms. Linda Chiarizio, for installation of a 30' x 60' temporary event tent. The motion passed unanimously.



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**“EMERSON PLACE” SUBDIVISION**

**ROBERT FOX, TD DEVELOPMENT**

**PHASE 1 (MAY ROAD) CONSTRUCTION BOND ESTIMATE DISCUSSION**

Atty. Cannon, representing the applicant, stated that he is not asking for any action by the Board this evening, rather, they would like to work with the Board to find an agreeable amount for the bond required to ensure that Mr. Fox completes the subdivision infrastructure as required by the Board's Decision. The attached letter from Atty. Cannon, dated April 11, 2023, was presented and discussed regarding items for the Board to consider.

According to Atty. Cannon, all the retention areas have been installed and only 1000 feet of May Road is left to be constructed. The only remaining work on the roads will be utility installation and paving, he said.

Atty. Cannon stated that a small section of May Road near Rolling Meadow Drive is on registered land. This will prove problematic for Mr. Fox to grant easement rights to the Town. A petition was filed with Land Court to withdraw the land in question from registered land and they are waiting for them to act on the petition. Atty. Cannon said that they may request a minor administrative modification be made to the Decision to allow Lots 30-33 remain held under the recorded Covenant until such time as Mr. Fox can grant to the Town the necessary easements.

Atty. Cannon stated he is “hopeful” that additional work will be completed over the next few weeks. They would like to come back to the May meeting to discuss reductions and a revised bond estimate.

**OTHER BUSINESS:**

**MINUTES**

On a motion made by Mr. Nichols, seconded by Mr. Guerrero, it was voted unanimously, with Ms. Riley abstaining, to approve the regular session meeting minutes from March 7, 2023, as written.

**ADJOURN**

There being no further business, on a motion made by Mr. Nichols, seconded by Ms. Riley, it was unanimously voted to adjourn the meeting at 8:26 p.m.

Planning Board Meetings:    May 9, 2023  
    June 6, 2023

*Respectfully submitted,*

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*Camille Standley, Administrative Assistant*





Doherty, Dugan, Cannon,  
Raymond & Weil, P.C.

*Celebrating 20 Years*

124 Grove Street, Suite 220  
Franklin, MA 02038  
Tel. (508) 541-3000  
Fax (508) 541-3008  
<https://ddcrwlaw.com>

Edward V. Cannon, Jr., Esq.  
[evc@ddcrwlaw.com](mailto:evc@ddcrwlaw.com)

April 11, 2023

**Via Email:** [cstandley@millisma.gov](mailto:cstandley@millisma.gov)

Planning Board  
Town of Millis  
Attn: Camille Standley, Administrative Assistant  
Veterans' Memorial Building  
900 Main Street  
Millis, MA 02054

RE: Emerson Place Development  
Performance Bond

Dear Board:

This office has been retained by the applicant, TD Development LLC, Robert Fox, Manager ("Fox"), to assist with various aspects of appropriately documenting several of the subdivision requirements and to work with the Board to find an agreeable amount for the bond required by the Board to ensure that Fox completes the subdivision infrastructure as required by the Board's decision. I look forward to speaking with you at your meeting on April 11, 2023, and I thought this letter would be helpful for all of us to frame the discussion points. We plan to return to the Board in May for the actual meeting to set the amount of the bond.

Phase I includes the installation of May Road and all four (4) retention areas. All of the retention areas have been installed and only 1000' of May Road is left to be constructed. The unfinished portion of May Road as well as April Way and June Way are all at finished grade. The only remaining work on the roads will be utility installation and paving. The subdivision also includes four (4) retaining walls. By the time of the Board's May meeting, three of the four retaining walls will be complete. I encourage Board members to visit the site to see the extent of the work that has already been completed, so that the Board can keep that in mind when considering the bond amount.



Reclaimed Asphalt vs. Borrow Gravel

Fox and BETA believe that the MassDOT price per square yard is confusing and unclear. We would like to discuss the calculation for this item with the Board and BETA to arrive at an agreeable figure.

Stored Material Credit

BETA defers to the Board on giving any kind of credit for stored material, so BETA does not take into account any kind of credit. Please note the line item for "Loam Borrow Shoulders", which is 687 cy @ \$70.00/cy = \$48,090.00. Fox has approximately 8,000 cy of loam on site being held in reserve for road loam and house lots. A credit for the stored loam would be 8,000 cy @ \$70.00/cy = \$560,000.00.

Please consider giving Fox credit for the loam stored on site and remove the \$48,090.00 for "Loam Borrow Shoulders".

Stormwater & Construction Reserves

BETA has assigned a 20% contingency of \$272,289.00 to be held now. Please consider waiting until Phase III to establish the final contingency/reserves. Please consider the following:

- a) The amount of infrastructure work that has been completed as of the Board's May meeting. As mentioned in the first paragraph, most of the more expensive projects will be completed by the Board's May meeting.
- b) The leverage that the Board retains over Phases II & III. Fox will have to come back to the Board to discuss the appropriate bond amount prior to beginning those phases. The Board will retain the ability to require a higher bond amount if the Board is not satisfied with the progress and/or quality of work for Phase I.
- c) With respect to the stormwater reserve, the Board has experienced Fox's work via the Hickory Hills project. In that instance the Hickory Hills HOA, which maintains the retention areas in the same manner that the Emerson Place HOA will do here, immediately addressed any concerns raised by the town prior to road acceptance as an incentive for the town to complete the acceptance of the roads as public ways. Otherwise, the HOAs would be forced to continue paying for the cost of road plowing and maintenance.

Please consider assigning a 10% contingency now (\$136,145.00) and establishing the final reserve amount at Phase III. Please also consider eliminating the \$40,000.00 post construction clean up and site restoration at this time. The Board will have the opportunity to revisit this line item at Phase III.

Wetlands Planting & Monitoring

All of the planting has been completed. The only monitoring the growth needs to be included. Fox respectfully suggests that \$1,000.00 should be more than enough to cover a few visits to the site to make sure the plantings are thriving. This would result in additional savings of \$24,000.00.



Summary of Proposed Bond Adjustments

\$56,225.94 – reclaimed asphalt  
\$48,090.00 – stored material credit  
\$40,000.00 – reserves  
\$24,000.00 – wetland planting  
\$168,315.94 - Total

We're hopeful that by the time we return in May to actually set the bond amount, additional work will be completed, which may allow for some additional reductions in the bond amount.

The above-referenced bond adjustment enables Fox to better manage the timing of the infrastructure work and eliminates any need to consider the use of the recorded covenant to offset the bond amount. Unfortunately, without said adjustments Fox will be placed in the position of having to complete the infrastructure completely first to reduce the time the bond funds are being held. Fox typically prefers to put a binder coat on the roadways, complete all the homes, and then install the final asphalt topcoat, which helps to reduce damage to the final topcoat from heavy construction vehicles.

Once we are at the point when we appear before the Board to request bond reductions, we respectfully request that the Board return the bond funds first before reducing the amount under the tri-partite agreement.

Minor Modification to Decision

The decision provides that Fox must grant easement rights to the town to the subdivision roads. Unfortunately a small section of May Road near Rolling Meadows Drive is on registered land. This means in order to grant this section of roadway, Fox must either have a new Land Court Plan approved, which is expensive and time-consuming, or Fox must withdraw the land in question from registered land. The withdrawal process is generally much less expensive and typically doesn't take as long. Fox filed a complaint in the Land Court to withdraw the land on Dec. 22, 2022. All interested parties have assented to this process. We're just waiting on the Land Court to act on the petition, which could happen anytime.

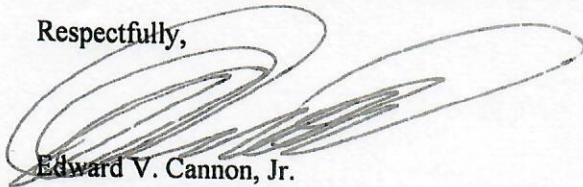
We would like to ask the Board to modify their decision by allowing that Lots 30-33 remain held under the recorded Covenant until such time as Fox can grant to the town the necessary easements over the registered land section, either because the land has been withdrawn or by having a new Land Court Plan approved. Rather than requiring the grant of all easement rights at this time. The town will not be prejudiced because the town will still have access off Ridge Street.

This concept was considered favorably by town counsel subject to ensuring that the town retained adequate security, and subject to the caveat that only the Board can make the decision – not town counsel.

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Thank you for considering these points and the opportunity to discuss them in person.

Respectfully,

A handwritten signature in dark ink, consisting of several overlapping loops and a long horizontal stroke, positioned above the printed name.

Edward V. Cannon, Jr.

cc: James F. McKay, Director – Public Works  
Robert Fox