Subdivision Plan Waiver Request Form

Under Subdivision Plan Regulations 5.4-Request for Waivers, 8.5-Waivers for Specific Plan Submission Requirements and 11.1-General Waiver Provision

If there is more than one waiver requested, each waiver request is to be individually listed and described, as each waiver is considered individually by the Town of Barrington Planning Board. A petition for waiver shall be submitted in writing by the applicant with the application for review. The request shall fully state the grounds for which the waiver is requested and all facts supporting this request with reference to the applicable Barrington Subdivision Regulations article, section and paragraph. **Each waiver granted shall be listed on the approved subdivision plan which is to be recorded at the Strafford County Registry of Deeds.**

Name of Subdivision Plan (See Title Box):
River's Peak Subdivision

Case Number: _____

Site Location: Boulder Drive

Zoning District(s): General Residential

Owner (s): Cabernet Builders

Address of Owner(s): PO Box 291, Stratham, NH 03885

Address Line 2: _____

Name of Applicant (if different from owner): _____

Phone Number 765-3173 Email _____

Land Surveyor: _____

I Cabernet Builders seek the following waiver to the Town of Barrington Subdivision Regulations for the above case submittal:

Please see attached.

Scott Dole 1/23/14

Signature of Owner/Applicant Date

Revised 07/27/2011

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January 23, 2014

VIA EMAIL AND US MAIL
Chairman, Planning Board
Town of Barrington
333 Calef Highway
Barrington, NH 03825

Re: River's Peak Subdivision Waiver Request

Dear Mr. Chairman and Board Members:

This firm represents the interest of Cabernet Builders ("Cabernet") pursuant to its Project Application for a subdivision proposed to be located on property off of Boulder Drive identified as Tax Map 215 Lot 1. This letter represents Cabernet's formal request for a waiver from application of Article 15.1.2 of the Town's Subdivision Regulations ("regulations") which caps the maximum length of dead-end roads at 1,000 feet through incorporation of Table 1 – "Road Design Standards."

1) Introduction

By way of brief background, Cabernet appeared before the Planning Board ("Board") at its 7 January 2014 meeting seeking acceptance of its application which was previously approved in 2005 with the road network as currently shown. Cabernet's application, however, was not accepted as it did not include a waiver request for relief from application of Article 15.1.2 of the regulations. On 22 January, Cabernet participated in a productive technical review meeting with Town officials during which time various public safety concerns, arising out of the proposed subdivision road's length, were raised and discussed. In response to those discussions, Cabernet revised its proposed subdivision plan in an effort to address the concerns of the Town and present a reasonable and functional plan which is similar, in many ways, to the successful Autumn Lane subdivision off of Route 202 in Barrington.

Cabernet's revised plan contains a few noteworthy additions. First, for fire protection purposes, an additional cistern has been added to the plan and is proposed to be located in Lot 1 at the entrance of the subdivision from Boulder Drive. This cistern will complement the already proposed cistern inside the subdivision loop immediately adjacent to Lot 19. Previously, Lot 19 was the northerly abutter to Open Space "B." Pursuant to the revised plan, Open Space "B" has been removed, Lots 19 and 20 have been enlarged, and the R.O.W. was extended 50 feet around the center cistern and the mailbox kiosk to promote ease of access to public safety personnel. Additionally, a 10 foot gravel shoulder is proposed between the two which will enhance emergency access.

In addition to the second cistern, the proposed road is now 24 feet in width, two feet larger than 22 feet required by the regulations. The widened road will allow greater flexibility in accessing the subdivision in the event of an emergency. Lastly, Cabernet plans to dedicate what is depicted as a 50 foot R.O.W. connecting the eastern side of the subdivision loop with New Bow Lake Road, as a Class VI road. This amendment promotes flexibility for future development and potential public safety access.

2) Article 11.1 Waiver Criteria

Article 11.1 of the regulations permit the Board to approve waivers to the regulations in two instances: 1) where the Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the regulations; or 2) where the purpose of the regulations may be served to a greater extent by an alternative proposal. Additionally, the Board will not approve a waiver request unless a majority of the members determine that:

- The granting of the waiver will not be detrimental to the public safety , health or welfare or injurious to other property and will promote the public interest;
- The waiver will not, in any manner, vary the provisions of the Barrington Zoning Ordinance, Master Plan, or Official Maps;
- Such waiver will substantially secure the objectives, standards and requirements of the regulations; and
- A particular and identifiable impediment exists or a specific circumstance warrants the granting of the waiver.

As explained in greater detail below, a waiver from Article 15.1.2 is appropriate under the facts and circumstances of this case.

A. Strict Compliance with Article 15.1.2 of the regulations would result in extraordinary hardship, practical difficulties, and unnecessary and unreasonable expenses.

Reconfiguration of the subdivision to comply with the 1,000 foot rule would result in extraordinary hardship, significant practical difficulties and an unreasonable expense. There are two primary options which could, in theory, bring the proposed subdivision into compliance with the 1,000 foot rule. First, Cabernet could propose to

upgrade that portion of New Bow Lake Road until such point as it intersects with the R.O.W. off the eastern side of the loop which is situated between lots 6 and 7 of the revised plan. Under this scenario, the R.O.W. would be developed and dedicated to the Town and would provide two access points to the subdivision. This proposal is impractical for several reasons to include the infeasibility of upgrading New Bow Lake Road, a Class VI road, and the staunch objection anticipated from its residents.

The second option is similar and would require Cabernet to develop a road through what is now proposed as Lots 3 or 4, as depicted on the revised plan, to join New Bow Lake Road further south. This option would also require an upgrade to the effected portion of New Bow Lake Road. In addition to the reasons stated above, option two is made impractical by the topography and grade of Lots 3 and 4. This proposal would also reduce Open Space "C" and defeat its purpose.

Proceeding with either of these options would be physically impractical, financially burdensome, and would be met by fierce objection from the abutters who appeared, for all intents and purposes, to be satisfied with Cabernet's proposal at the 7 January Board meeting during which Cabernet promised to return New Bow Lake Road to a better condition than it found it upon completion of the development. Cabernet reaffirms that commitment now. Moreover, as outlined below, Cabernet's revised plan addresses the public safety concerns regarding the length of the proposed road.

B. The granting of the waiver will not be detrimental to the public safety and will not vary the provisions of the Barrington Zoning Ordinance, Master Plan, or Official Maps. Additionally, the proposed waiver secures the objectives of the regulations and the circumstances of this application warrant the granting of the waiver.

In addition to widening the road, adding a second cistern and dedicating the ROW off the loop as a Class VI road, Cabernet commits to ensuring that there is no tree abutting the road that is large enough to block the road in the event that it were to fall thereon.

In light of all of the above, the public safety concerns regarding the length of the road in the proposed subdivision have been reasonably addressed through the revisions to the plan and the commitments made by Cabernet. The new cistern proposed to be placed at the entrance of the subdivision will enable fire personnel to address any fires up to the beginning of the loop. The cistern adjacent to Lot 19 will enable the personnel to adequately address the remainder of the subdivision. The removal of trees that could potentially fall across the road and block access will minimize the potential of an unreachable emergency. Accordingly, the revised plans and commitments of Cabernet secure the objectives of the regulations as each proposed lot is adequately accessible and protected.

Cabernet's application also promotes the public interest. The additional cistern at the entrance of the subdivision will be available to residents within 1,000 feet of it on

Boulder Drive. The dedication of the R.O.W. connecting the eastern side of the loop with New Bow Lake Road as a Class VI road will leave flexibility for future development and may one day provide a second access road to the subdivision. Moreover, the enlarged R.O.W. around the center cistern was designed to accommodate the Town's snow storage efforts.

Finally, the granting of the requested waiver will not vary the provisions of the Barrington Zoning Ordinance, Master Plan, or Official Maps and as explained above, substantially secures the objectives, standards and requirements of the regulations.

3) Conclusion

The unique circumstances of this subdivision application make compliance with Article 15.1.2 impractical because they would necessitate cost-prohibitive measures and may make compliance impossible altogether. Cabernet has addressed the public safety concerns expressed by the Town in a reasonable manner such that the spirit and objectives of the regulations are satisfied. For those reasons, we request that the Board approve Cabernet's waiver request.

Very truly yours,
Donahue, Tucker & Ciandella PLLC

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cc: Cabernet Builders
Scott Cole