



TOWN OF HANOVER  
2019 AUG 13 AM 8:30  
TOWN CLERK

## TOWN OF HANOVER TOWN CLERK

MUNICIPAL BUILDING  
550 HANOVER STREET  
HANOVER, MA 02339

DATE:

9/3/19

### Decision of the Planning Board

Applicant:	McSharry Brothers, Inc.
Owner:	Steven J. Sheftel, Trustee, The Steven J. Family Trust, 2697 N. Ocean Blvd., #F510, Boca Raton, Florida, 33431
Site:	Winter Street, Map 76, Lot 018
Planning File Number:	PB-18-12
Date of Decision:	July 10, 2019

I hereby certify that is decision and any authorized signatures are true copies of the original and that the 20 days have elapsed from the filing date of the decision and that no appeal has been filed in this office.

Attest: A True Copy

Catherine Harder-Bernier  
Town Clerk

Registry of Deeds, Plymouth County District  
50 Obery Street  
Plymouth, MA 02360  
(508) 830-9200



**Community Development and Municipal Inspections**

TOWN HALL

550 Hanover Street

Hanover, MA 02339

Tel: 781-896-5000

Fax: 781-826-5950

[www.Hanover-ma.gov](http://www.Hanover-ma.gov)

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***Hanover Planning Board***

***Notice of Decision***

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To: Catherine Harder-Bernier  
Town Clerk  
550 Hanover Street  
Hanover, MA 02339

July 23, 2019

Re: Approval of Definitive Subdivision Plan and Special Permits for the plan entitled "Definitive subdivision Plan, Winter Street, Hanover, Massachusetts" (latest revision date 9/18/2018), Owned Steven J. Sheftel, Trustee, The Steven J. Sheftel Family Trust, 2697 N. Ocean Blvd., #F510, Boca Raton, Florida, 33431. Planning File #: PB 18-12

Dear Ms. Catherine Harder-Bernier:

Please accept this Notice of Decision for 'Definitive Subdivision Plan, Winter Street, Hanover, MA' This is for a Special Permit Approval and is ready for recording by the Hanover Town Clerk's Office as discussed below.

**I. General**

On July 2, 2019 by McSharry Bros., Inc. (hereinafter referred to as "the Applicant") submitted to the Hanover Planning Board (hereinafter referred to as "the Board") an application for Special Permit to allow the construction of a non-residential subdivision plan at Winter Street (the "Project" and the "Site"). The Special Permit application seeks approval for:

a. Non- Residential Subdivision Plan

The above noted Application has been submitted pursuant to Sections 8 1T and Section 3B Definitive Plan of the Hanover Planning Subdivision Bylaw. The subject property lies within the Industrial District.

The Application includes:

- Non Residential Subdivision

Three instruments locally control site development:

- a. Massachusetts General law Chapter 41
- b. The Planning Board Rules and Regulations Section 8 1 T and Section 3 B.
- c. Zoning Board of Appeals Section 7.660 and Section 10.00

All phases of the project development were required to be consistent with the above noted documents and in accordance with the procedures as provided for in the Planning Board Rules and regulations (hereinafter "Subdivision R&R"),

## **II. Plans and Documents Submitted in Support of the Application**

The following documents (hereinafter referred to as the "The Plans") and supporting documents were submitted to and reviewed by the Planning Board either with the associated application, or during the Public Hearing process, and form the basis of this Decision.

- Materials denoted with \* were provided by the applicant.

Materials denoted with # were prepared on behalf of the Town

Relevant document date information is also noted within Table 1. Certified Abutters Lists with Assessors Maps were also received. All applications were processed simultaneously or incorporated into the process as received.



**Table 1.**

*Application for Special Permit	McSharry Bros., Inc.	July 2, 2018
* Application for Site Plan Review	McSharry Bros., Inc.	July 2, 2018
*Application for Definitive Plan	McSharry Bros., Inc.	July 2, 2018
*Definitive Subdivision Plan, Winter Street 5/2/2018	McKenzie Engineering Group	July 2, 2018
*Drainage Calculations & Stormwater Plan	McKenzie Engineering Group	July 2, 2018
McSharry Winter Street Development	Frank & Mary Griffiths	July 2, 1018
*21E Site Assessment Report	Inland Professional Corp.	August 10, 2018
*Project Review letter from CEI	CEI	September 10, 2018
# Letter from Water Dept.	Neal Merritt Dep. Super of DPW Water Operation	September 5, 2018
*Traffic Study	McMahon Transportation Engineers & Planners	May 10, 2018
# Letter from Fire Dept.	Fred Freeman, Captain	September 6, 2018

### **III. Public Hearing and Vote(s) of the Planning Board**

In accordance with the provisions of M.G.L., Chap. 41, Sec. 81T and the Town of Hanover Planning Board Rules and Regulations for the Subdivision of Land, the Planning Board held Public Hearings on Monday, August 13, September 10, and October 15, 2018 at 7:00 p.m. in the second floor hearing room and a public meeting held on October 29, 2018 at 6:45PM in the second floor hearing room of the Hanover Town Hall, 550 Hanover Street, Hanover, MA 02339 for the purpose of hearing the application for a non-residential Definitive Subdivision Plan, to be known as "Winter Street Subdivision" and application for Special Permit under Zoning Bylaw Section 7.660 (grade change of 1-foot over an area of 500 square feet. At the public meeting on October 29, 2018, the Planning Board voted to close the Public Hearing and deny the Definitive



Subdivision Plan and Special Permit. On November 13, 2018, the Planning Board issued its Decision which was appealed by the Applicant to the Plymouth Superior Court in the action entitled McSharry Bros., Inc. v. Town of Hanover Planning Board, Civil Docket No. 1883CV01296.

Thereafter, the Planning Board agreed to re-open the Public Hearing to reconsider its Decision. On each of June 19, 2019 and June 26, 2019, the Planning Board advertised Notice that it would open the Public Hearing on Wednesday, July 10, 2019 at 7:00 p.m. in the second floor hearing room of the Hanover Town Hall, 550 Hanover Street, Hanover, MA 02339 for the purpose of hearing the application for a non-residential Definitive Subdivision Plan, to be known as “Winter Street Subdivision” and application for Special Permit under Zoning Bylaw Section 7.660 (grade change of 1-foot over an area of 500 square feet.

“Winter Street Subdivision” subdivision contains one (1) lot and the property on which the subdivision is to be located consists of approximately 6.50 ± acres. The property is shown as Lot: 18 on Assessors’ Map: 76. The entrance road to the subdivision is proposed to be located off of Winter Street. The entrance road to the subdivision is proposed to be located at Winter Street. The applicant proposed to construct 7 buildings with 27 units on the subdivision.

#### **IV. Review Criteria**

##### **Special Permit Approval**

A Special Permit shall be granted only upon determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition, the determination shall include consideration of each of the following:

- a. Social, economic, or community needs which are served by the proposal.
- b. Traffic flow and safety, including parking and loading.
- c. Adequacy of utilities and other public services.
- d. Neighborhood character and social structures.
- e. Impacts on the natural environment.
- f. Potential fiscal impact, including impact on town services, tax base, and employment.





## **V. Site Plan Review and Approval**

After conducting the public hearings, and after its own analysis and deliberation relative to the proposed project and the supporting documents and plans described above and herein, the Board hereby makes the following Site Plan determinations:

- a. In addition to the conditions imposed herein, the Project approved by this Decision is governed and controlled by:
  1. The Planning Board Rules and Regulations (as Amended June 15, 1998).
- b. The subject property affected by this application is within the zoning district designated as Industrial.

## **VI. Special Permits - Findings of the Planning Board:**

After conducting the public hearings, and after its own analysis and deliberation relative to the proposed project and the supporting documents and plans described above and herein, the Board hereby makes the following written determinations, for each Special Permit requested.

the following findings comply with the requirements for the issuance of Special Permits as described in Section 7.660 and 10.00 "Criteria" of the ZBL:




**Planning Board vote: to GRANT a Special Permit, Approval of Definitive Subdivision Plan to allow a non-residential subdivision Use subject to the Conditions of Approval below.**

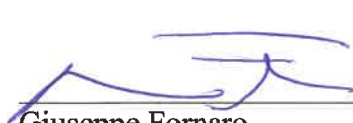

Maryann Brugnoli	Yes
Richard Deluca	Yes
Ken Blanchard	Yes
Giuseppe Fornaro	Yes
Bernie Campbell	Yes

HANOVER PLANNING BOARD

  
\_\_\_\_\_  
Maryann Brugnoli, Chairman      DATE

  
\_\_\_\_\_  
Richard Deluca, Vice Chairman      DATE

  
\_\_\_\_\_  
Ken Blanchard      DATE

  
\_\_\_\_\_  
Giuseppe Fornaro,       DATE

\_\_\_\_\_  
Bernie Campbell,      DATE

## **Special Conditions**

1. The Applicant shall obtain a Street Opening Permit from the Hanover Department of Public Works by submitting all material and information as may be required by the DPW and shall adhere at all times to such permit.
2. The applicant will provide mitigation fund in lieu of the street trees, sidewalk and granite curbing for a total of \$75,000.00 to be deposited into the town Mitigation Fund.
3. The applicant will work with the Town Planner and the abutter located at 298 Winter Street to an agreed upon planting plan on the 298 Winter Street property that will shield vehicles exiting the subdivision headlights from her residence.
4. The proposed septic system will need to be approved by the Board of Health prior to installation of utilities.
5. The proposed tapping sleeve and valve on Winter Street shall be performed by a Water Department approved contractor.
6. The installation of all drainage and water service and utilities shall meet all requirements of the Department of Public Works. The applicant shall request and obtain proper visual inspection from the Department of Public Works prior to backfill of any pipes, gates, catch basins, curbing and other utility structures. Additionally, the time for installation of any utilities and/or paving work (including seasonal deadlines for the completion of all paving work) shall be subject to approval by the DPW Director and Board of Public Works.

The proposed 10" inch cement-lined ductile (CLDI) water main tie in to the existing 10" inch cast iron (CI) water main on Winter Street shall be installed by an approved contractor of the Department of Public Works.

The Proposed 10" inch cement-lined ductile (CLDI) water main and hydrants shall be installed in accordance with the Hanover Department of Public Works rules and regulations. Gate valves shall be Mueller resilient seat gate valves and the fire hydrants shall be Mueller Super Centurion 250.

A minimum 10' foot separation shall be maintained between proposed 10" inch cement-lined ductile (CLDI) water main and any other utilities. If a 10' foot separation is not feasible, the applicant shall use a concrete cradle or other method approved by the Department of Public Works.

A minimum 10' foot separation shall be maintained between proposed water service main and any other utilities. If a 10' foot separation is not feasible, the applicant shall use a concrete cradle or other method approved by the Department of Public Works.

A minimum 10' foot separation shall be maintained between proposed water service main and any other utilities. If a 10' foot separation is not feasible, the applicant shall use a concrete cradle or other method approved by the Department of Public Works.

7. As the proposed Subdivision requires the applicant to excavate and install utilities within the existing Right-of-Way (Winter Street), the applicant shall be required to pay the cost of any and all damages caused to the base, paved surface, or shoulder of Winter Street and repair the roadway to the satisfaction of the Department of Public Works. The applicant shall perform proper repairs including but not limited to cold plane and overlays of Winter Street at the effected or damaged areas, as required by the Department of Public Works. The DPW shall certify in writing to the Town Planner that all such work has been properly completed, or that sufficient financial security is in place (funds held in escrow) to ensure proper completion of such work.
8. The applicant shall arrange for weekly sweeping of affected Town streets (Winter Street) during the period of construction truck traffic.
9. Prior to the required Pre-Construction meeting the applicant shall provide to the Planning department a copy of the following properly Recorded items: (A) This Decision and (B) Definitive Subdivision Plan.
10. Prior to the required Pre-Construction meeting and prior to any construction for this project, the applicant shall provide to the Planning Department an estimated Construction Schedule and Contact List for the General Contractor and any emergency contacts during construction.
11. The applicant/owner shall be responsible for operation and maintenance of the roadway and all related infrastructure in perpetuity to include but not limited to all snow removal and repairs of any portion of the water distribution system outside the layout of Winter Street.
12. The applicant/owner shall perform a complete leak detection survey of all water distribution infrastructure and services on an annual basis by a qualified contractor acceptable to the Department of Public Works and shall submit a written inspection report to the Department of Public Works. In addition, the applicant/owner shall also allow the Town to perform its own survey at least twice a year.
13. Town water shall not be used for the irrigation of any common areas.
14. The applicant shall provide a Traffic Control Plan (including truck traffic) to the Planning Department which has been approved by the Police Department prior to the required Pre-Construction meeting and prior to any construction. The applicant shall adhere at all times to the required Traffic



Control Plan, providing Police Details as deemed necessary for work within the Winter Street right of way.

15. The proposed construction will require regular inspection by the Planning Board's consultant engineer as well as the Department of Public Works (DPW) inspector and consultant engineer. Such inspections are necessary to ensure that the proposed project is constructed in accordance with the approved plans, to summarize and estimate the cost of remaining work, and to immediately address any issues which may arise during the construction of the project. The cost of such review and inspections shall be borne by the applicant. To cover the cost of these services the applicant shall replenish and maintain the Consultant Review Fee of \$6,000 (utilized for peer engineering review) required by the Planning Board during the permitting process. Such funds shall be held by the Planning Board in an escrow account. Whenever notified that the funds in said escrow account have depleted to less than \$3,000, the applicant shall immediately thereupon deposit sufficient funds to return the account to the \$6,000 balance. The balance of said consultant review account shall be replenished to \$6,000 prior to the required Pre-Construction Meeting and any construction on site. Upon completion of the project, any remaining funds shall be returned to the applicant. Such fund will provide for regular inspections of the construction progress by the Planning Board Consultant and DPW Inspector and Consultant on an as-needed basis. The purpose of regular inspections is to ensure a qualified peer review of work performed in the field, to ensure the work complies with the approved plans, and to quickly respond to and address any issues which may arise during construction.
16. Tree planting and landscaping shall be as provided on the above referenced and approved plan sheet 5 and detail sheets according.
17. All construction activities, including the maintenance, startup, and operation of any construction vehicles or trucks on site, shall be in accordance with the Hanover Noise Bylaw. Any exception to these limitations shall be through written and specific approval of the Building Inspector and Police Department.
18. All site construction within the approved definitive subdivision shall conform fully to the above referenced and approved site plan. Any change in the location of structures or any other site features shall require prior written approval of the Planning Board, in the form of an approved plan modification.
19. In order for the Department of Public Works to monitor the applicant's operation of the stormwater system, the applicant shall furnish to the DPW copies of all stormwater operation and maintenance records on a biannual





basis. Additionally, the applicant agrees to allow representative from the DPW to inspect the property on an annual basis to ensure compliance with the water quality certificate.

20. Prior to the issuance of an occupancy permit, the applicant shall be required to file a spill control plan with the Department of Public Works addressing the methods to be used to contain and control any spills on the site. This plan shall be reviewed each year to maintain compliance with DPW requirements.
21. During construction, each drainage structure that will be retained shall be dewatered, cleaned and inspected to note any pipe connections that could be a source of a non-stormwater discharge. If any such pipes are noted they shall be brought to the site engineer's attention and steps shall be taken to terminate any non-stormwater discharge. Records of such inspections along with photo documentation and records of corrective action should be provided to the Planning Department prior to the issuance of occupancy permits.
22. No work on the subdivision shall commence without an approved Storm Water Pollution Protection Plan (SWPPP) in place. The SWPPP must be submitted to the Planning Board, Conservation Commission and the Planning Board's peer review engineer for review a minimum of one month prior to the start of construction. The SWPPP must be phased consistent with any proposed phasing of the project and shall identify the detailed Erosion & Sedimentation Controls to be utilized during the different phases of the work.
23. Prior to the end of the 20-day appeal period and the signing of this decision by the Planning Board the applicant shall provide one copy of the revised and approved plan set to the Planning Department in PDF format.
24. If the applicant requires any extension to the time for completion, written request shall be provided to the Planning Board for review and approval of the extension.

## GENERAL CONDITIONS

1. **ENDORSEMENT OF DECISION:** Within thirty (30) days of the expiration of the twenty (20) day appeal period, and after having obtained the signature of the Town Clerk indicating that there has been no notice of appeal, the applicant shall present an original of this decision to the Planning Board for endorsement by the Chairperson of the Board.



2. **REQUIRED CERTIFICATION:** Prior to, or at the time of, submittal of the decision for endorsement, the applicant shall submit to the Planning Board a certification indicating, in effect, the following:

“I (We), \_\_\_\_\_, on this date,  
\_\_\_\_\_, do hereby certify that I  
(We) have completely read and do fully understand  
all Special and General Conditions of Planning Board  
Decision, TPL-18-12, relative to the “Winter Street  
Non-Residential” Definitive Subdivision.  
Furthermore, it is my (our) intention to comply fully,  
to the best of my (our) ability, with all aspects of the  
Definitive Subdivision Plan and with all Special and  
General Conditions of the Decision.

\_\_\_\_\_  
Signature(s)

3. **RECORDING AT REGISTRY OF DEEDS:** Within six (6) months of the expiration of the twenty (20) day appeal period, the applicant shall record the endorsed Decision at the Registry of Deeds. Evidence of such recording shall be submitted to the Planning Board and to the Building Inspector prior to the initiation of any construction activities.
4. **NO DEVIATION FROM APPROVED PLAN:** There shall be “no” material deviation from the approved Definitive Subdivision Plan and Conditions of this Decision without prior written approval of the Planning Board. In the event that the applicant anticipates that some deviation is either necessary or desirable, he (she) shall notify the Planning Board in writing requesting modification of the Plan or the Conditions. If the Planning Board determines that the requested modification is minor in nature, the Board may grant such request. If the Board determines that the modification is not minor in nature, no such request may be granted until after a subsequent Public Hearing conducted for the purpose of fully discussing such modification. In any event, no such modification shall be undertaken until such time as the Board has approved the request in writing. Any modification or deviation shall be fully processed in accordance with this General Condition prior to the applicant initiating a request for Final or Conditional Site Plan Sign-Off. In the event that the applicant intends to seek a Conditional Site Plan Sign-Off, any paving or landscaping relief shall be completely processed in accordance with this General Condition prior to the applicant initiating a request for Conditional Site Plan Sign-Off.
5. The applicant shall comply with the Rules and Regulations set forth by the Hanover Board of Health before commencing any work under its jurisdiction.
6. All development and construction sequences and activities shall be in conformance with any Order of Conditions issued by the Conservation Commission for this project.



7. The applicant shall comply with all aspects of the Town of Hanover Planning Board “Rules and Regulations Governing the Subdivision of Land” and all definitions within the Hanover Zoning Bylaws in effect on said date. No waivers have been granted, except those provided herein.
8. The applicant shall comply with the rules and regulations of the Hanover Department of Public Works in effect when the plan was submitted and, to the extent practicable, with any future changes in these rules and regulations until the subdivision is completed. Since the D.P.W. has been given supervisory authority by the Planning Board over water, roadway and drainage installation and construction, the applicant shall comply with all reasonable requests by them as to the scheduling of inspections prior to covering any work.
9. The necessary drainage (including retention or detention basins) shall be installed, water mains and water services to lot lines shall be installed, rough and finished grading of the road shall be at proper grades and the first or base course of bituminous concrete shall be installed, all to the satisfaction of the Planning Board and to its delegated inspection agent, the Hanover Department of Public Works and/or to the satisfaction of the Conservation Commission in matters under its jurisdiction.
10. Work which is not completed in strict conformance with the definitive subdivision documents may be accepted by the Planning Board if such work is acceptable to all the Town bodies and departments involved and all such changes are accurately and fully recorded on the As-Built plans to be furnished at the time of completion of the subdivision. This paragraph shall not be construed as granting any specific or general relief from the Planning Board’s Rules and Regulations.
11. Work outside the subdivision required for curbcuts in existing streets, connections to existing water or drainage systems or similar off-site work shall not proceed until such work has been approved by the D.P.W. and in the case of curbcuts in existing Town streets, the Selectmen, as well. All such work shall be done at the applicant’s expense.
12. In accordance with Section VI.F. of the Planning Board Rules and Regulations, at least four (4) weeks before start of construction, the Developer shall request the Town Planner to arrange a pre-construction meeting. No work shall begin for this project until such time as the Pre-Construction Meeting has been held by the Town Planner.
13. The time for completion of the ways and installation of utilities and this decision will extend two (2) calendar years from the date of recording of the decision, and it is contemplated that the subdivision (but not the buildings) will be completed by that date. If it should appear that the completion will not take place by that date, a request for an extension, with the justification appropriate to the circumstances, shall be submitted to the Planning Board well in advance of the expiration date. The Planning Board reserves the right to make any such extension, if granted, conditional upon your acceptance of any



revisions in the Subdivision Control Rules and Regulations in effect at the time of the request.

14. This decision shall be recorded together with the plan of the subdivision in the Plymouth County Registry (or at the Land Court Office therein) and evidence of such recording shall be furnished to the Planning Board.
15. No Building Permit shall be issued for construction until after the applicant has satisfied all outstanding debts to the Town.
16. The Applicant shall submit interim “as-built” plans to the Town of Hanover within 60 days of the installation of all stormwater structures to verify installation in accordance with the approved site plans. The submitted “as-built” plan shall be prepared and stamped by a Massachusetts Registered Land Surveyor or Professional Engineer.

In addition, the Applicant shall submit a letter prepared and stamped by a Massachusetts Registered Professional Engineer certifying that the stormwater system has been installed in compliance with the approved plans. For stormwater detention, infiltration, or water quality pre-treatment and treatment structures, the letter shall be documented with construction phase photographs showing the prepared subgrade prior to placement of system components, and each major structural feature of the system (for example, embankment construction, placement of fill materials that replace unsuitable material beneath the system, stone bedding and backfill for subsurface components, subsurface structural units such as storage chambers or treatment devices, flow control structures, and inspection/access structures).

At the completion of all permitted work and prior to roadway street acceptance, the Applicant shall submit to the Planning Office two paper copies and a PDF copy of an “as-built” plan to verifying that all site improvements have been completed in accordance with the approved plans. The submitted “as-built” plan shall be prepared and stamped by a Massachusetts Registered Land Surveyor or Professional Engineer.

In addition, the Applicant shall submit a letter prepared and stamped by a Massachusetts Registered Professional Engineer certifying that the site improvements have been installed in compliance with the approved plans.

1. All construction shall be in accordance with the approved drawings and reports referenced above.
2. All water services and installations shall be in accordance with the requirements of the Town of Hanover Department of Public Works.
3. The applicants shall appoint a qualified professional who will be responsible for, and oversee, all aspects of implementation and monitoring of the erosion/sedimentation control measures. The name of such individual shall be submitted to both the Planning Board and Conservation Commission.





He/she shall also be responsible for coordinating and communicating with the Board and Commission regarding such matters.

