



Emilie Cademartori <ecademartori@town.lynnfield.ma.us>

Vallis Way

1 message

Mullen, Thomas <tmullen@thomasamullenpc.com>

Fri, Feb 11, 2022 at 4:46 PM

To: Emilie Cademartori <ecademartori@town.lynnfield.ma.us>, Brian Charville <bcharville@gmail.com>

Emilie:

When I met with you and Page Wilkins in your office on December 28, 2021 to review the plans for Vallis Way, I came to share the misgivings that the Planning Board has expressed with respect to the effectiveness of the 1973 Form H-1 as a means of ensuring that water could be looped in this subdivision. I accept Attorney Kimball's assurance that the Registry of Deeds will permit the recording of the form, notwithstanding its age. But I am concerned that the said form only grants easement rights with respect to the land in, through and under certain named ways and not with respect to any lots. It appeared to me from the plans we reviewed that at least one lot owner may be able to block the proposed looping. I also worry that the easement reflected in the unrecorded instrument may now be unenforceable because the original developer, who granted the easement to the Town, sold off all the lots without the H-1 having been recorded. The Planning Board may want the developer to obtain written confirmation from the Water District and all persons through whose property the looping would go that they will honor the easement.

As I mentioned in our meeting, I have no qualms about enforcing the Board's 500-foot limit on the length on dead-end streets. It is theoretically true that when a condition has been systematically waived by a planning board over a long period of time, if the board chooses for no good reason to enforce it in a subsequent case it may be prevented by a reviewing court from doing so. In fact, however, I am not aware of any such cases and I am convinced that the Board has good, defensible justification for insisting on compliance in this case.

Please call me when you can with respect to the HOA, as I need to understand the order in which it and other documents are contemplated to be recorded.

Thanks.

Tom

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