

**BALLANTINE WOODS, LLC**

**BLOCK 6, LOT 3.02; BLOCK 7, LOTS 10, 10.02, AND 10.03**

**PHASE B PRELIMINARY SUBDIVISION APPROVAL: Requests for Final Approval and Extension as described herein**

**APPLICATION NO. P-699-04**

**ANDOVER TOWNSHIP PLANNING BOARD**

Ballantine Woods, LLC (“Applicant”) is seeking to Split Phase B Preliminary Subdivision Approval, previously granted by the Board, as follows:

Previously Approved Phase B into two Phases:

Final Subdivision Approval Application for New Phase B – 9 lots

and an Extension of New Phase C- 10 lots until January 22, 2027

The following is a summary of the history of this matter and the associated approvals

In 2004, the Applicant submitted plans to the Board applying for preliminary major subdivision approvals. The Applicant proposed to subdivide an area greater than seventy-five (75) acres into twenty-four (24) building lots with open space and stormwater detention basin lots. Applicate sought one (1) variance for the retention of a barn/garage on the original homestead lot in the front yard setback. On April 4, 2005, the Board granted Applicate preliminary major subdivision approval with variances, and a de minimus exception from the Residential Site Improvement Standards (“RSIS”) to allow existing portions of Ballantine Road that were not proposed for improvements to be maintained as an existing dirt and gravel road (except for limited improvements required by the resolution.)

Condition 9 of the April 4, 2005 Resolution (“Condition 9”) required Applicant to install two (2) monitoring wells on the property. The approval was the subject of litigation in Alex Roberts, et al, v. Planning Board of the Twp. Of Andover, et al., Docket No. SSX-L-267-05. Said litigation resulted in an Order of Judgement issued by the Hon B. Theodore Bozonelis, A.J.S.C. on January 18, 2006. The Order affirmed the Board’s approval but found that the Board improperly delegated its authority to the Township Engineer with regards to Condition 9 and ordered a limited remand for purpose of considering the purpose of considering the Applicant’s compliance with the condition. Accordingly, the Board conducted public hearings to determine whether Applicate fulfilled Condition 9 by submitting well test date to show the property would have an adequate supply of water to provide for the twenty-four (24) proposed new homes without substantial detriment to the

available water supply for existing and future homes in the area. At the end of the hearings, the Board found that the Applicant did not satisfy Condition 9. Additionally, the Board ruled that the Applicant's approval had lapsed due to its failure to fulfill Condition 9. The determination was memorialized in a Resolution on October 30, 2006.

The matter was subsequently appealed again to by Judge Bozonelis who on March 23, 2007 reversed the Board's ruling that the Applicant's approval had lapsed, and ordered that the issue of compliance with Condition 9 be remanded to the Board for public hearing. Accordingly, the Board conducted a public hearing in July 2007, at which time they reviewed the results of additional tests. The Board determined that Applicant fulfilled Condition 9 (Resolution memorialized August 7, 2007.)

In July of 2008. Applicant applied to the Board for Phase A Final Major Subdivision approval. A public hearing was held in September 2008 and the Board granted approval with conditions (Resolution memorialized on October 7, 2008.)

Later that year, Applicant requested an extension of the Preliminary Subdivision (Phase B) approval, and a public hearing was held in October 2008. The Board found that Applicant was prevented from proceeding with the development due to delays in obtaining required approvals. The Board granted a one-year extension to January 18, 2010 (Resolution memorialized October 21, 2008.)

On November 5, 2009, Applicant requested another one (1) year extension of the Preliminary Subdivision (Phase B) approval. A public hearing was held in December 2009, and the Board granted the extension to January 18, 2011 (Resolution memorialized December 1, 2009.)

In 2010, Applicant requested an additional one (1) year extension of the Phase B Preliminary Subdivision and Phase A Final Subdivision approvals. The Board granted the extensions – Phase B to January 18, 2012 and Phase A to October 7, 2011. (Resolution memorialized December 21, 2010).

In 2011, Applicant requested a five (5) year extension of time for Phase B Preliminary (5) year extension of Phase B approval to January 18, 2017 and a three (3) year extension of Phase A approval to October 7, 2014. (Resolution memorialized on January 17, 2012).

In 2017, Applicant requested and received an extension of the Phase A Final Subdivision Approval to 10/17/2019 and an extension of Phase B Preliminary Subdivision Approval to 1/22/2022. (Resolution memorialized February 21, 2017).

**Unfortunately, conditions beyond applicant's control include the Covid pandemic, labor shortages, supply chain issues and cost of materials have continued to impact the project.**

**As approved, Phase B consists of 19 lots. The Applicant is requesting to Split Phase B into two Phases, as follows:**

**Final Application for New Phase B – 9 lots**

**and an Extension of New Phase C- 10 lots until January 22, 2027.**

**To the best of the Applicant's knowledge the relevant municipal ordinances have not changed; certain significant site improvements have been installed; and the project has not been impacted by other environmental regulatory changes. Consequently, a development of the project, as originally contemplated, will not have negative consequences to the municipality, the surrounding community, or the surrounding environment.**

**Accordingly, the Applicant is hoping that the Board would be willing to grant the requests.**

**Updated :10/21/21**

# **BALLANTINE WOODS HISTORY**

- 8/31/04 Application for Preliminary Subdivision
- 4/04/05 Resolution for Preliminary Approval
- 5/18/05 Court case filed by Roberts vs Preliminary Approval
- 9/29/05 Developers Agreement signed with Township Committee
- 1/03/06 Court case heard
- 1/18/06 Judge's Decision received
- 5/25/06 Applicant's water test results submitted to Planning Board. Requested to be heard on 6/20/06. Request denied because Board needed to hire water expert.
- 7/18/06 Board Expert's report of July 14, 2006, received day of Board meeting. Meeting postponed since Board did not have enough time to review report.
- 8/15/06 Hearing on water
- 9/19/06 Continuation of water hearing
- 10/08/06 Resolution Denying Subdivision
- 12/08/06 Motions filed by Applicant for remand due to Board's denial of subdivision
- 3/14/07 Remand heard – Judge sent back to Planning Board.
- 7/17/07 Back to Board – 2<sup>nd</sup> found of water testing per Judge's remand

8/07/07 Resolution Reinstating Approval from July 17,2007 meeting

9/18/07 Notice to proceed from Engineer

6/24/08 Developers Agreement extension/ deferment regrading Ballantine Road work

10/07/08 Final Phase A; Map Filed: 7/22/2009; Registered Map #1454

10/21/08 Resolution of extension Phase B to 1/18/10

4/13/09 Resolution amending Developers Agreement.

12/01/09 Resolution Extension Phase B to 1/18/11

6/14/10 Resolution COAH Obligation Fulfilled

12/21/10 Resolution Extension Phase A Final to 10/07/11  
Extended Phase B Preliminary to 1/18/12

1/17/12 Resolution Extension 3 year Phase A to 10/7/14 and  
Extension 5 year Phase B to 1/18/17

2/21/17 Resolution Extension Phase A to 10/17/19  
Extension Phase B to 1/22/22

10/21/21 Application to split Phase B into 2 Phases:  
New Phase B: Final Application for 9 lots  
New Phase C: 10 lots Request for Five Year extension to 1/22/27