

MARTHA COAKLEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

WESTERN MASSACHUSETTS DIVISION  
1350 MAIN STREET  
SPRINGFIELD, MASSACHUSETTS 01103-1629

RECEIVED AND FILED  
TOWN OF MONTEREY

2009 JUL 23 P 6:29

*Linda E. Thoyre*  
(413) 784-1240  
OFFICE OF THE TOWN CLERK

July 21, 2009

Barbara B. Swann, Town Clerk  
P.O. Box 277  
Monterey, MA 01245

**RE: Monterey Special Town Meeting of April 2, 2009 - Case # 5058  
Warrant Articles # 3, 4, 5, and 6 (Zoning)**

Dear Ms. Swann:

**Articles 3, 4, and 5** - We return with the approval of this Office the amendments to the Town by-laws adopted under these Articles on the warrant for the Monterey Special Town Meeting that convened on April 2, 2009.

**Article 6** - We return with the approval of this Office the amendments to the Town by-laws adopted under this Article, except as provided below. **[See page # 1 below for Disapproval # 1 of 1].**

The amendments adopted under Article 6 make a number of changes to the Town's zoning by-laws pertaining to common driveways. Specifically, the amendments add a new Section VII.H., "Common Driveway General Regulations," to the Town's zoning by-laws. Section VII.H. provides as follows:

The Easement Agreement, Maintenance Association Agreement, and Form A plan showing the common driveway that has been endorsed by the Planning Board, shall be recorded with the Southern Berkshire Registry of Deeds or Land Court where appropriate. The Form A Plan shall provide space for two endorsements, one for the Form A endorsement "Approval Not Required", and the second for the Planning Board's approval of the common driveway.

We disapprove and delete the above underlined text from Section VII.H. because it is inconsistent with G.L. c. 41, §§ 81K-81GG, the Subdivision Control Law. **[Disapproval # 1 of 1]** The Subdivision Control Law is a "comprehensive statutory scheme designed for the safety, convenience, and welfare of the inhabitants of the cities and towns." Nantucket Land Council, Inc. v. Planning Bd. of Nantucket, 5 Mass. App. Ct. 206, 208 (1977). See also Constanza & Bertolino v. Planning Bd. of Randolph, 340 Mass. 677, 679 (1971). As a comprehensive statutory scheme, the Subdivision Control Law preempts any local regulations, including local zoning by-laws, that seek to govern how subdivision plans and "Approval Not Required"



("ANR") plans are reviewed, submitted, and approved. Thus, a local zoning by-law cannot mandate what is shown on an ANR plan or how the planning board reviews such plans. The above underlined text in Section VII.H. requires certain endorsements on an ANR plan as a condition of the Planning Board's review of an application for common driveways, and, as such, it is inconsistent with G.L. c. 41, §§ 81K-81GG. For this reason, we disapprove and delete the above underlined text from Section VII.H.

We also offer the following comment regarding that portion of Section VII.H entitled, "Design and Construction Standards." The Design and Construction Standards provide in pertinent part as follows:

At its option, the Planning Board may require that the applicant provide a covenant or other financial performance guarantee to assure completion of the common driveways prior to the issuance of a certificate of occupancy. The performance guarantee shall be in a form acceptable to Town Counsel.

The above quoted text authorizes the Planning Board to require a covenant or other financial performance guarantee to assure the completion of a common driveway. We approve the above quoted text but caution the Town that the financial security does not become Town funds unless and until the applicant defaults on its obligation imposed under the proposed by-law.

In the event funds are received from the financial security, the Town must comply with the requirements of G.L. c. 44, § 53. That statute provides that "[a]ll moneys received by a city, town or district officer or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officers or department upon their receipt into the city, town or district treasury." Under G.L.c. 44, §53 all moneys received by the Town become a part of the general fund, unless the Legislature has expressly made other provisions that are applicable to such receipt. In the absence of any general or special law to the contrary, performance security funds of the sort contemplated here must be deposited with the Town Treasurer and made part of the Town's general fund, pursuant to G.L. c. 44, § 53. The Town cannot then use the money to complete work in accordance with the proposed by-law unless in accordance with an appropriation made by Town Meeting.

We also caution the Town that it should establish a clear policy for the receipt and handling of such performance security funds. The Town must clearly communicate to the applicant and Town Treasurer what events trigger a default under the proposed by-law. We suggest that the Town discuss this issue in more detail with Town Counsel.

**Note: Under G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of this section. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is**

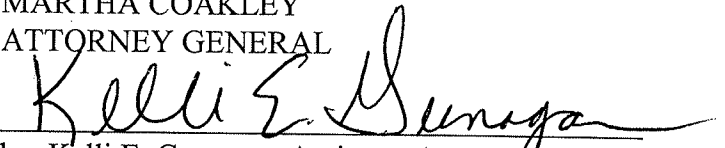
prescribed in the by-law.

If the Attorney General has disapproved and deleted one or more portions of any by-law or by-law amendment submitted for approval, only those portions approved are to be posted and published pursuant to G.L. c. 40, § 32. We ask that you forward to us a copy of the final text of the by-law or by-law amendments reflecting any such deletion. It will be sufficient to send us a copy of the text posted and published by the Town Clerk pursuant to this statute.

Nothing in the Attorney General's approval authorizes an exemption from any applicable state law or regulation governing the subject of the by-law submitted for approval.

Very truly yours,

MARTHA COAKLEY  
ATTORNEY GENERAL

  
by: Kelli E. Gunagan, Assistant Attorney General  
By-law Coordinator, Municipal Law Unit  
1350 Main Street, 4<sup>th</sup> Floor  
Springfield, MA 01103-1629  
(413) 784-1240, x 7717

enc.

cc: Town Counsel

ARTICLE 3. The Town voted to amend the following sections of the zoning by-laws by  
a. deleting the words "Bylaw" or "bylaw" located anywhere in the Monterey Zoning by-laws and replacing them with "by-law" b. deleting all the words "single-family" located anywhere in the Monterey Zoning by-laws and replacing the word with "single family"  
c. deleting all the words "multi family" located anywhere in the Monterey Zoning by-laws and replacing the word with "multi-family" d. deleting all the words "non-conforming" located anywhere in the Monterey Zoning by-laws and replacing the word with "nonconforming" e. deleting all the words "set-back" located anywhere in the Monterey Zoning by-laws and replacing the word with "setback".

The report by the Planning Board was as follows:

Planning Board Report regarding By-Law Clerical Changes

The Monterey Planning Board held a Public Hearing on March 12, 2009 at 7:00 PM at the Monterey Town Hall to receive public comment about the proposed zoning by-law. The public notice of the public hearing was advertised twice in the Berkshire Record on February 20, 2009 and February 27, 2009, and a copy of the by-law was posted at the Town Clerk's Office.

Five members of the Planning Board and several town residents attended the public hearing. The proposed bylaw was discussed and the comments and recommendations from the public were considered.

The purpose of this by-law to make clerical changes so that the wording in the different sections of the Zoning By-laws will be consistent. This By-law makes no substantive changes.

The Planning Board voted unanimously in favor of recommending approval of this bylaw at town meeting.

Thank you. Cynthia T. Hoogs, Planning Board Chair

Discussion included the suggestion of an amendment asking that all terms be hyphenated and that the title "Monterey Zoning bylaws" be capitalized. That amendment failed on a voice vote.

Orthography suggested by the Planning Board was drawn from usage in Chapter 40 of Massachusetts General Laws, the legislation enabling Zoning Bylaws. Acceptance of the set of changes called for in this article was by voice vote.

Unanimously

*A true Copy. Attest:*  
*Sabrina J. Swann*  
*Town Clerk*

## **ARTICLE 4.**

### **SUBMISSION #2: TOWN MEETING ACTION**

The Town voted to amend the zoning by-laws of the Town by deleting the header in Section VII "3. Signs Not Requiring Permits:" and replacing it with a header entitled "4. Signs Not Requiring Permits:"

With no discussion, this article was approved:

Unanimously

*Attest: Barbara J. Swan*  
*Town Clerk*

**ARTICLE 5. MONTEREY SPECIAL TOWN MEETING**  
**APRIL 2, 2009**

**SUBMISSION #2: TOWN MEETING ACTION**

ARTICLE 5. The Town of Monterey voted to amend the zoning by-laws of the Town by adding a new Use Category for "Camp and/or Recreational Facility, Seasonal or Year Round", as noted in the Warrant.

Discussion centered around an amendment offered by Rob Hoogs which would have included the term "Multiple Use Facility" in the header of this section of the bylaws. Concern was expressed that if there were not an explicit noting of allowed activity, a special permit might be denied. Alan Salamon noted that if "multiple use" were to be included, it would mean any activity anywhere, and would be too broad in meaning.

Asked whether change to include "multiple-use" could only be in the title, and not in the body of the bylaw, Rob Hoogs answered that he could accept that change. Objection was raised then to adding it in the title, since uses are carefully defined in the body of the text, and perhaps including the concept of multiple use anywhere else might lead to unintended consequences. Asked whether the Town could restrict any use, one Planning Board member noted that this proposed bylaw use would have to go through the Special Permit process of the Zoning Board of Appeals and there it would have to conform to State law, thus that is where you have the control.

The lawyer was asked whether "recreational facility" was too limiting and "multiple-use facility" too broad. The reply was that "multiuse" may or may not be better for the town, because what is proposed here is just one use: from seasonal camp to year-round uses, to allow not just recreational uses. Further, it would not apply in the business district.

Gige O'Connell noted that we have closed our eyes to the fact that what were once areas for children's camps are now needed for more uses. Jonathan Sylbert added that one camp with a new owner in town and two other existing camps would all be able to benefit by this bylaw change. We should wish to make the change beneficial because now we are not allowing enough uses through the year, but, with the change, these facilities can look to generate income and activity over more seasons. With the recent talk about a need for a Community Center, he noted perhaps one or more might fill that need.

Alan Salamon made it clear that some members of the Planning Board would prefer to keep activities in a more restrictive mode than opening areas other than camps up to changes. Gige O'Connell noted that uses for weddings and parties were once conducted for a time next to Lake Garfield but that a change in the bylaws would have been required to allow them to continue in that location, according to the Town Counsel of that time.

Rob Hoogs then withdrew his amendment changing the bylaw title and his suggestion that events "may" include "a common kitchen" but left in place an amendment to add the words "for any one or more" to the sentence as follows:

"A land use in operation either seasonally or year round, for guests and staff, which provides for **any one or more** organized athletic and/or recreational activities, meetings, functions, events, and including common kitchen and dining facilities, and sleeping quarters in dormitories or separate cabins..." in order to keep the uses restricted to such facilities.

This amendment was then approved by voice vote: Unanimously  
Bringing the entire bylaw to a vote, as amended, this bylaw change was approved by voice vote:  
Unanimously

*A true copy. Attest: [Signature] Town Clerk*

**FINAL VERSION OF ARTICLE 5.**  
**TOWN OF MONTEREY**  
**SPECIAL TOWN MEETING, APRIL 2, 2009**

**SECTION II. DEFINITIONS**

(August 24, 1982. amended May 3, 1986; August 5, 1989; May 4, 1996; April 2, 2009)

**Agricultural Use:** Any use of land for the purpose of raising agricultural products, livestock, poultry or dairy products, including necessary farm structures, vehicles and equipment. This does not include kennels, commercial stables, commercial greenhouses or slaughterhouses.

**Building:** A roofed or walled structure used or intended for supporting or sheltering any use or occupancy.

**Camp, Recreational Facility, Seasonal or Year Round:** A land use, in operation either seasonally or year round, for guests and staff, which provides: for any one or more athletic and/or recreational activities, meetings, functions, events and including common kitchen and dining facilities, and sleeping quarters in dormitories or separate cabins. One single family dwelling may be provided for the purpose of administration or owners' residence.

**Common Driveway:** A private roadway shall be considered a common driveway when said road is used to provide access to two, three, or four lots. A common driveway will begin where it accesses public ways or suitable private ways, and ends at the property line of the last lot being served.

**Customary Home and Professional Occupations:** Resident occupants working at an occupation involving use of space in the home and carried forth in the home, including but not limited to accountant, architect, artisan, artist, bookkeeper, carpenter, caterer, dentist, doctor, dress-maker, electrician, home-cooking, house painter, lawyer, plumber, potter, photographer, the giving of private music and dance lessons, a one-chair beauty parlor, real estate agent, telephone, computer-related, and mailing services. Customary home occupation does not include gift shop, antique shop or art gallery or similar retail establishments.

**SECTION IV.B. Agricultural-Residential District**

(Amended May 7, 1977; August 24, 1982; August 25, 1989; May 4, 1996 April 2, 2009)

**1. Uses by right:**

- a. Single family dwellings.
- b. Any municipal or non-profit recreational purpose.
- c. Any religious or non-municipal educational purpose subject to Section VII.
- d. Any agricultural use.
- e. The following commercial purposes but no others:
  1. The display and sale of natural products, the major portion of which are raised in the Town.
  2. The use of a room or rooms within a residence, or use of an accessory building of six hundred square feet or less in area, for a customary or

professional home occupation as defined, with no more than two employees per residence, and provided there is no external evidence of business other than a permitted sign and required off-street parking, and further provided that no offensive noise, fumes, smoke, dust, odors, glare or injurious electromagnetic fields shall be created. The display and sale of products produced on the premises is permitted. Traffic generated shall not exceed that normal to a residential neighborhood. The required off-street parking shall be provided for employees and clientele.

3. Renting of rooms and furnishing of board by an owner in his residence provided no independent kitchen facilities are maintained.

f. Buildings or structures accessory to the above uses.

**2. Uses by Special Permit Only**

The Board of Appeals may issue a Special Permit under Section IX.B.2. for the following uses:

- a. Commercial greenhouse
- b. Icehouse
- c. Sawmill
- d. Antique, craft or gift shop
- e. (1) Camp and/or Recreational Facility, Seasonal or Year Round  
(2) Summer Camp, golf course, boat livery, riding stable
- f. Commercial ski area (as limited by Sec. 2.m.)
- g. Restaurant
- h. Facilities for generating power from wind, sun or water
- i. Enclosed veterinary hospital
- j. Municipal and public service buildings and structures.
- k. Display and sale of natural products, the major portion of which are raised outside of Town.

**SECTION IV.D. Lake Shore District**

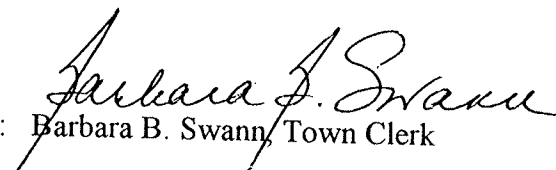
**1. Uses by Right:**

Land may be used for single family residential purposes only.

**2. Uses by Special Permit:**

- a. The use of a room or rooms in a dwelling as described in Section IV.B.1.e.2.
- b. Summer Camp.
- c. Camp and/or Recreational Facility, Seasonal or Year Round

A TRUE COPY, ATTEST:

  
Barbara B. Swann, Town Clerk



## ARTICLE 6.

### SUBMISSION #2

### TOWN MEETING ACTION

Discussion began with a question regarding whether or not there are some common driveways now in existence with access to more than five lots. The answer was that there were some; but that any now in existence would be grandfathered. If this passes, any private way created after this would be affected. If there are five or more lots involved, then it would be a subdivision. It was noted that "private way" is defined in State law, and that a "way in existence" would not be considered a common driveway. There was a motion made to add the words "or driveway" to the fifth paragraph of the bylaw, changing the wording there to read:

"A private way **or driveway** accessing five (5) or more lots shall be considered a subdivision road and must be approved under the Subdivision Control Regulations.

This amendment was brought to a voice vote and was approved

By voice vote, Unanimously

Turning to the requirement for a maintenance agreement, the Planning Board noted that the details of each maintenance agreement would run with a deed, and that the legal means to force equal contribution toward upkeep would be in that deed. While there was the comment that many shared driveways and private ways now have difficulty forcing equal shared upkeep costs, and that the requirement for betterments might be a better solution since the Town would collect the funds for driveway improvements, no amendment on this subject was offered. Stephen Rose of the Planning Board commented that some of the language in this bylaw comes close to the use of betterments.

When asked why there was no requirement for a maintenance agreement regarding a two-lot common driveway, the reply by the Planning Board Chair noted that it was felt there would be undue hardship to meet the specifications of a common driveway when there were only two lots involved. Muriel Lazzarini queried whether or not this would not set one landowner up with the entire cost of maintenance or risk blockages to emergency vehicles. In response it was felt that anyone involved in a two-lot driveway would likely either be related or have an agreement in place for this matter.

It is a requirement of this bylaw that you have to have access from your own frontage, and there was discussion of illusory frontage and the need to determine the possibility that some part of your frontage must allow access, whether or not it is used. With no further discussion, the entire bylaw, as amended, was voted, and approval by voice vote was

. Unanimous

*A true copy. Attest: Julia J. Sana  
Town Clerk*

**FINAL VERSION OF ARTICLE 6.**  
**TOWN OF MONTEREY**  
**SPECIAL TOWN MEETING, APRIL 2, 2009**

**SECTION II. DEFINITIONS**

(August 24, 1982. amended May 3, 1986; August 5, 1989; May 4, 1996; April 2, 2009)

**Agricultural Use:** Any use of land for the purpose of raising agricultural products, livestock, poultry or dairy products, including necessary farm structures, vehicles and equipment. This does not include kennels, commercial stables, commercial greenhouses or slaughterhouses.

**Building:** A roofed or walled structure used or intended for supporting or sheltering any use or occupancy.

**Camp, Recreational Facility, Seasonal or Year Round:** A land use, in operation either seasonally or year round, for guests and staff, which provides: for any one or more athletic and/or recreational activities, meetings, functions, events and including common kitchen and dining facilities, and sleeping quarters in dormitories or separate cabins. One single family dwelling may be provided for the purpose of administration or owners' residence.

**Common Driveway:** A private roadway shall be considered a common driveway when said road is used to provide access to two, three, or four lots. A common driveway will begin where it accesses public ways or suitable private ways, and ends at the property line of the last lot being served.

**Customary Home and Professional Occupations:** Resident occupants working at an occupation involving use of space in the home and carried forth in the home, including but not limited to accountant, architect, artisan, artist, bookkeeper, carpenter, caterer, dentist, doctor, dress-maker, electrician, home-cooking, house painter, lawyer, plumber, potter, photographer, the giving of private music and dance lessons, a one-chair beauty parlor, real estate agent, telephone, computer-related, and mailing services. Customary home occupation does not include gift shop, antique shop or art gallery or similar retail establishments.

(And)

**SECTION VII.H. Common Driveway General Regulations**

The purpose of this by-law is to encourage the use of common driveways in the Agricultural-Residential District and the Lake Shore District: 1) in order to minimize the frequency of curb cuts along town ways; 2) provide for the safest possible locations for curb cuts; 3) avoid or minimize the need for alterations of wetlands, tree lines, and stone walls; 4) minimize the amount of impervious surfaces created by driveways providing access to dwellings; and 5) provide standards for safe driveways that are adequate for access by emergency vehicles and delivery vehicles such as home heating oil.

A private way shall be considered a common driveway when said road is used to provide access to two, three or four lots.. A common driveway will begin where it accesses public ways, or suitable private ways, and ends at the property line of the last lot accessed.

Any common driveway in existence prior to the date of this by-law shall not be subject to these regulations.

A common driveway providing access to two lots shall be allowed by right.

A private way or driveway accessing five (5) or more lots shall be considered a subdivision road and must be approved under the Subdivision Control Regulations.

A common driveway shall be connected to a public way, or a suitable private way, at one and only one point. No common driveway shall be allowed within one hundred (100) feet of the intersection of public ways. A common driveway shall provide access to the lots from the way on which the lots accessed have their frontage.

Approval of a common driveway does not constitute acceptance of said common driveway as an approved town road. Common driveways do not constitute road frontage, and each lot served by a common driveway must meet all the requirements of the Zoning By-laws. Issuance of a permit to construct a common driveway does not constitute a Building Permit by right.

A common driveway approval does not preclude the necessity for an applicant to apply for and obtain a curb cut from the Department of Operations and to comply with all curb cut regulations.

Each lot served by the common driveway shall have permanent access to the common driveway pursuant to an Easement Agreement that runs with the land.

Any deeds or ownership of lots served by a common driveway shall require that the owners of said lots be members of a maintenance association, whose purpose is to provide for maintenance of the common driveway, which shall include, but not be limited to, snow plowing, road maintenance, maintaining drainage structures and other components of the driveway necessary to provide safe and adequate access to the lots. This maintenance association must be created by a Maintenance Association Agreement.

The Easement Agreement, Maintenance Association Agreement, and Form A plan showing the common driveway that has been endorsed by the Planning Board, shall be recorded with the Southern Berkshire Registry of Deeds or Land Court where appropriate. The Form A Plan shall provide space for two endorsements, one for the Form A endorsement "Approval Not Required", and the second for the Planning Board's approval of the common driveway.

The Director of Operations shall be the enforcement officer of the Common Driveway Bylaw.

### **Application for approval of a common driveway**

All applications for a common driveway shall be accompanied by the following:

An application form completed by the applicant.

There shall be an application fee as determined by the Monterey Planning Board.

Engineered plans showing the location of the proposed common driveway, along with design details of the proposed way, including grades, width and drainage.  
A proposed Maintenance Association Agreement and a proposed Easement Agreement.  
A copy of the proposed lot plan showing the lots to be served by the common driveway and including the metes and bounds of the common driveway easement.  
The applicant shall file three copies of the application documents with the Planning Board. In addition, the applicant shall file one copy with the Town Clerk, Conservation Commission, Fire Department, Building Commissioner, and Director of Operations for review and comment.

Application and approval of a common driveway does not preclude the need to obtain any and all other necessary permits and approvals from the Conservation Commission for wetlands and/or the Scenic Mountains Act, Curb Cut Approval from the Director of Operations, and any other necessary permits and approvals.

### **Design and Construction Standards**

The common driveway must meet the following design and construction criteria. The Planning Board may impose additional conditions depending on the topography and other site conditions.

Common driveways shall be located to take into consideration the intersection with the frontage road, sight distance conditions, topography, and minimizing impacts on wetlands, tree lines, stone walls, and stream crossings.

The traveled portion of the private way shall be a minimum of twelve (12) feet of wear surface plus a two (2) foot wide shoulder on each side of the roadbed.

The final surface of the roadbed shall have a minimum of eight (8) inches of gravel over a suitable sub grade.

The length of a common driveway shall not exceed 1000 feet.

Construct turnouts to allow emergency vehicles to pass at intervals of no more than 400 feet. Turnouts shall be at least 35 feet long plus tapers at each end, and create a traveled width of at least 18 feet wide. A branching driveway with adequate width and geometry may serve as an acceptable alternative to a turnout.

No driveway shall exceed an average grade of 10% nor have a maximum grade at any point exceeding 12%.

The common driveway shall have a minimum centerline radius of at least 40 feet.

A sign with the house numbers of the lots served by the common driveway shall be installed at the intersection with the frontage road in accordance with State and Town laws.

The Director of Operations shall be the Planning Board's agent for review of the Common Driveway during construction. The common driveway shall be constructed sufficiently to provide access to a building lot before the issuance of a building permit for a structure on said lot.

At its option, the Planning Board may require that the applicant provide a covenant or other financial performance guarantee to assure completion of the common driveway prior to the issuance of a certificate of occupancy. The performance guarantee shall be in a form acceptable to Town Counsel.

The work shall conform to the approved plans and any special conditions in the Planning Board's permit. Any proposed change to the approved plans or permit conditions shall require the applicant to inquire of the Planning Board in writing whether the change is significant enough to require the filing of a new Permit Application. Upon completion of the work, the applicant shall submit a Request for Certificate of Completion to the Director of Operations.

Upon satisfactory completion of construction, the Director of Operations shall issue a Certificate of Completion that said Common Driveway has been constructed in accordance with approved plans and permit conditions. No Certificate of Occupancy for a building on the lot served by the Common Driveway shall be issued until the Director of Operations has issued said Certificate of Completion. The Director of Operations may halt any construction not done in accordance with the approved plans.

#### **Final Decision**

When deciding whether or not to approve plans for a common driveway, the Planning Board shall consider:

1. The safety of the common driveway as designed for normal use.
2. The safety of the intersection with the Town way. See Regulations for Access to Public Ways.
3. The adequacy of the legal requirements for maintenance and access.
4. The adequacy of the common driveway to provide access for emergency vehicles.
5. Compliance with the purposes of the Common Driveway Bylaw.

The Planning Board in making its findings shall consider comments and reviews by the Town of Monterey Director of Operations, the Fire Department, and the Conservation Commission.

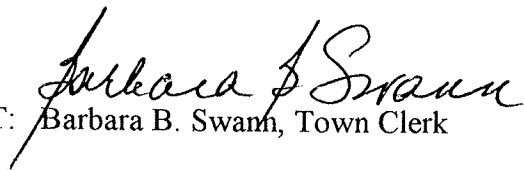
The approval of plans under this bylaw does not constitute a waiver of any other applicable bylaw or statute.

The Planning Board may waive strict compliance with the design or construction criteria upon a clear showing that the waiver will not adversely affect public safety or derogate from the intent and purpose of this bylaw.

If the Planning Board fails to act on a completed application for approval of a common driveway within 45 days it shall be deemed to have been approved.

#### **SECTION VIII. ADMINISTRATION**

*(Amended August 25, 1989)*

A TRUE COPY, ATTEST:  Barbara B. Swan, Town Clerk