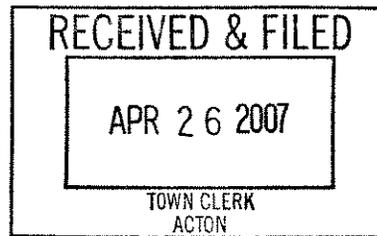




Planning Board



FYI

TOWN OF ACTON
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DECISION

07-06

Micmac Lane

Preliminary Subdivision

April 24, 2007

APPROVED with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of James Kotanchik, 48 Nashoba Road, Acton (hereinafter the Applicant) for property in Acton, Massachusetts owned by Judith R. Kontanchik of 48 Nashoba Road, Acton, and Ruth E. Porter of 6 Wampanoag Drive. The property is located at said addresses and shown on the Acton Town Atlas map D-2, as parcels 15 and 15-1 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Preliminary Subdivision Plan entitled "Micmac Lane", received by the Acton Planning Department on February 28, 2007, pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules).

The Applicant presented the subdivision proposal to the Board at an advertised public meeting of the Board on April 24, 2007. Mr. Richard Harrington of Stamski and McNary, Inc. assisted the Applicant with the presentation. Board members Gregory E. Niemyski (Chairman), Christopher R. Schaffner (Vice Chairman), Edmund R. Starzec, Ruth M. Martin, Bruce Reichlen, Michael C. Densen, Alan R. Mertz, and associate member Roland A. Bourdon, III were present at the meeting. The minutes of the meeting and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 A plan entitled "Preliminary Plan, Micmac Lane, a Residential Compound", dated February 16, 2007 drawn by Stamski and McNary, Inc. consisting of two sheets.
- 1.2 A "Proof Plan" for the same Site dated February 16, 2007.
- 1.3 Supplemental items and documentation required by the Rules consisting of:
 - An Application for Approval of a Preliminary Plan, form PP, dated December 28, 2006.
 - Filing fee.
 - A completed Development Impact Report, form DIR.
 - Abutters lists.
- 1.4 Interdepartmental communication received from:
 - Acton Building Commissioner, dated 03/12/2007;
 - Acton Engineering Administrator, dated 03/28/2007;
 - Acton Health Director, dated 03/07/2007;

- Acton Planning Department, dated 04/18/2007;
- Acton Treasurer's Office, dated 03/05/2007;
- Acton Tree Warden & Municipal Properties Dir., dated 03/08/2007;
- Acton Water District, dated 03/09/2007;

1.5 Other:

- Letter from Stamski and McNary, Inc. dated 03/08/2007 granting of decision deadline extension to April 27, 2007.

Exhibits 1.1 through 1.3 are referred to herein as the Plan.

2 FINDINGS and CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The proposed subdivision is located within the Residence 8/4 zoning district, the Affordable Housing Overlay Sub-District A, the Groundwater Protection District Zones 3 and 4. Fort Pond Brook runs along the westerly side and may extend an associated Flood Plain onto the Site.
- 2.2 The Site consists of the Porter lot at 6 Wampanoag Drive with +/-9.6 acres, and the Kotanchik lot at 48 Nashoba Road with +/-12.4 acres, together +/-22 acres. Both said lots have also frontage on Central Street. The Plan indicates the Applicant's intent to alter the line between the two lots through an Approval Not Required (ANR) plan filing before submission or recording of the definitive subdivision plan. The subdivision would then occur on the modified Kotanchik lot.
- 2.3 The Plan shows on the modified Kotanchik lot the division of +/-14 acres into five new residential lots. One of the new lots would have the existing houses on it.
- 2.4 The proposed single family dwellings are allowed on the Site in accordance with the zoning bylaw (hereinafter the Bylaw), including all overlay district requirements.
- 2.5 The proposed lots comply with the area and frontage requirements of the Bylaw, including all overlay district requirements.
- 2.6 The Plan shows a +/-600 foot long subdivision street that intersects with Nashoba Road.
- 2.7 The Applicant proposes the subdivision as a Residential Compound under Section 10 of the Rules. It provides for broad waivers to "permit small-scale residential subdivisions in a manner that minimizes Town maintenance responsibility and cost, while simultaneously preserving the rural character of the Town". It refers to the common driveway standards of the Bylaw as a guideline for laying out and constructing residential compound subdivisions.
- 2.8 The Applicant has also submitted a "Proof Plan" that shows a 5-lot subdivision on the modified Kotanchik lot with a street and lot layout that comply with the Bylaw requirements, and the standard requirements of the Rules in the absence of section 10. Two lots on the proof plan would have legal minimum frontage on Central Street and additional frontage for practical access from the proposed subdivision street.
- 2.9 The Tree Warden has identified a potential public shade tree on Nashoba Road that may be affected by the proposed subdivision.
- 2.10 The Board has received comments from various Town departments, which are listed as Exhibit 1.4. The Board has considered these comments in its deliberations and made them available to the Applicant.
- 2.11 The Applicant has not requested any specific waivers from the Rules. However, the proposal as a Residential Compound contemplates waivers from sections 8 and 9 of the

Rules. The Board, in its discretion, may grant waivers to any or all, or to none of the portions of these sections.

- 2.12 The application did not include a draft common driveway maintenance agreement and covenant as required under section 10 of the Rules.

3 BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, conditions, and plan modifications, the Board voted to APPROVE the preliminary subdivision.

3.1 WAIVERS

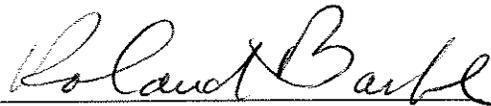
Waiver are granted from sections 8 and 9 of the Rules to allow the proposed subdivision to proceed more or less as depicted on the Plan including the length of the proposed street, subject to the required conditions and plan modifications below. Usually, the Board does not grant waivers from the requirement for sidewalks, except for locating new sidewalks to other nearby locations. The applicant has proposed a contribution to the sidewalk fund. This is an option that may be acceptable where there is no logical nearby location to add a new or to replace an existing sidewalk that may be in need of repair.

3.2 CONDITIONS and PLAN MODIFICATIONS

Unless stated or implied otherwise, the conditions shall be fulfilled and the modifications to the Plan shall be made before filing the application for approval of a definitive plan.

- 3.2.1 The ANR plan for the modified Porter and Kontanchik lots shall be submitted prior to or concurrently with the filing of the definitive plan, or this re-division shall be incorporated into the subdivision plan.
- 3.2.2 Submit a standard private way maintenance agreement and covenant as required in the Rules, including an O & M plan for the drainage system. Samples are available in the Planning Department.
- 3.2.3 Show how domestic water supply will be provided.
- 3.2.4 Whether the 24" Oak along Nashoba Road is a public shade tree or not, its condition and health shall be ascertained and, if healthy, its removal shall be avoided if possible.
- 3.2.5 Indicate that existing trees and other screening vegetation shall be maintained on lot 1 where it abuts #11 and #12 Wachusett Drive.
- 3.2.6 Determine and label the 100-year Flood Plain elevation on the Central Street side of the lots.
- 3.2.7 Show all existing easements of record and indicate their disposition going forward.
- 3.2.8 Determine the sight distance on Nashoba Road for the proposed intersection.
- 3.2.9 Since the Plan indicates a house replacement on the abutting Cartier lot, consider driveway access to the Cartier lot from the new subdivision street and the elimination of the existing driveway from Nashoba Road.
- 3.2.10 The addresses of the new homes must carry the name of the new street, presumably Micmac Lane, since there are no reserve street numbers on Nashoba Road. The existing dwelling, now 48 Nashoba Road, shall have a new Micmac Lane address. A Micmac lane address should also be considered for the new house on the Cartier lot if driveway access is relocated to the Micmac Lane.
- 3.2.11 Provide practical easement access to the drainage facility beside lot 4.

- 3.2.12 Investigate the usefulness and practicality for adding a new sidewalk on the existing street system particularly with an eye of enhancing the sidewalk connection to the Douglas and Gates Schools.
- 3.2.13 Unless directed otherwise by this decision, the definitive plan shall comply with all requirements of the Rules, and shall address all departmental comments received by the Board to date in a manner that resolves any concerns raised therein to the satisfaction of the Board. **SEE DEPARTMENTAL COMMENTS FOR MORE DETAILS - NOT ALL COMMENTS RECEIVED ARE LISTED IN THIS DECISION.** The departmental comments are listed in exhibit 1.4 and are on file in the Planning Department.
- 3.2.14 All property taxes and other municipal charges due at the time must be paid prior to the application for approval of the definitive plan.



Roland Bartl, AICP, Town Planner
for the Acton Planning Board

Copies to:

Applicant - certified mail #
Engineering Administrator
Conservation Administrator
Town Assessor

Building Commissioner
Municipal Properties Director
Town Manager
Historical Commission

Board of Health
Town Clerk
Fire Chief

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