



Planning Department

TOWN OF ACTON  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (978) 264-9636  
Fax (978) 264-9630  
planning@acton-ma.gov

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**MEMORANDUM**

**To:** Planning Board **Date:** October 19, 2007  
**From:** Roland Bartl, AICP, Planning Director *R.B.*  
**Subject:** Triangle Farm Bond

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Triangle Farm is a common driveway at 372 Pope Road near the Concord and Carlisle lines approved by the Planning Board in 1996. Since 1999, we are holding a \$12,000 bond in a Town account for the construction of a sidewalk on Pope Road in accordance with section 3.2.5 of the decision of approval (attached). Other pertinent sections of the decision are 2.3, 2.4, and 3.2.4. The plan for this sidewalk is on record in this office.

It appears that this sidewalk will not be built by the original developer of Triangle Farm. See attached correspondence with Attorney Steve Graham, who originally posted the bond for his client. Mr. Graham has suggested that the Town takes the bond as there is no other entity still existing to the work.

Accordingly, I recommend that that Board vote to instruct staff to take the bond and advise the Finance Department to transfer the amount to the Town's sidewalk gift fund, and to suggest to the Town's sidewalk committee that, while the developer's attorney has suggested the Town may use the funds as it sees fit, the funds should be used to complete the sidewalk in the originally intended location on Pope Road.

**Roland Bartl**

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**From:** Steven Graham [SGraham@graham-harsip.com]  
**Sent:** Thursday, October 18, 2007 10:15 AM  
**To:** Roland Bartl  
**Subject:** RE: Triangle Farm Bond

Roland,

I don't recall which entity did the Triangle Farm project but can tell you it no longer exists. I think under any circumstances the Town might as well take the funds and apply them as it deems appropriate.

Let me know what you want to do.

Steve

Steven R. Graham, Esq.  
Graham & Harsip, P.C.  
289 Great Road, Suite 101  
Acton, MA 01720  
978-264-0480  
fax 978-264-4990

\*\*\*\*\*  
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>>> "Roland Bartl" <rbartl@acton-ma.gov> 10/18/07 09:51AM >>>  
Steve:

Thanks for reminding me on this. I have been mulling this around for a while amid all the other things. If I recall correctly, there is a section of sidewalk missing on Pope Road which this bond was intended to cover. Generally, I would say it is our preference for developers to build the infrastructure themselves. I realize the odd circumstances with Trinagle Farm. Ron has the obligation under the bond, but is he at all still an asset holder at Triangle Farm? Was he ever?

In any case. I would certainly like very much myself to wipe this off the list of outstanding items to chase. By copy of this I am asking Bruce Stamski to see if the Town Highway Department has the capacity and time to use the bond money in the foreseeable future and complete the work.

Roland Bartl, AICP  
Planning Director, Town of Acton  
472 Main Street  
Acton, MA 01720  
978-264-9636

-----Original Message-----  
From: Steven Graham [mailto:SGraham@graham-harsip.com]

Sent: Friday, September 14, 2007 10:02 AM  
To: Roland Bartl  
Subject: Triangle Farm Bond

Hi Roland,

I had a reminder come up on my calender this week. If the bond is still being held Ron suggested we release it to the Town since there is no entity to do the work.

If you will prepare a release of the bond I will get it signed.

Steve

Steven R. Graham, Esq.  
Graham & Harsip, P.C.  
289 Great Road, Suite 101  
Acton, MA 01720  
978-264-0480  
fax 978-264-4990

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RECEIVED & FILED

DATE *August 13, 1996*

*Barbara Brown*  
for TOWN CLERK, ACTON

TOWN OF ACTON

472 Main Street

Acton, Massachusetts, 01720

Telephone (508) 264-9636

Fax (508) 264-9630

Planning Board

**DECISION**

96-9

**Common Drive Special Permit**

Triangle Farm Lane

August 12, 1996

Decision of the Planning Board (hereinafter the Board) on the application of 372 Pope Road Trust, Winston Bridge trustee, of 225 Great Road, Littleton, MA 01460 (hereinafter the Applicant) for property located at 372 Pope Road. The property is shown on the 1996 Acton Town Atlas Map D-6, Parcels 3, 3-1, 3-2, 3-3 and 3-4 (hereinafter the Site).

This decision is in response to an application for a Common Drive Special Permit for Triangle Farm Lane, received by the Acton Planning Department on June 28, 1996 pursuant to MGL Ch. 40A, S. 9, Section 3.8.1.5 of the Acton Zoning Bylaw (hereinafter the Bylaw), and under the Common Drive Special Permit Rules and Regulations (hereinafter the Rules).

The Applicant presented the application to the Board at a duly advertised public hearing on August 12, 1996, at 8:00 PM in Room 204 of the Acton Town Hall. The Applicant was represented by Ian Rubin of Lancewood Engineering, Inc. Board members William Shupert III, (Chairman), Greg Niemyski (Clerk), David Hill, Joshua Chernin, Richard Crowell, and associate members Pat Halm and Christopher Tolley were present. The minutes of the meeting and submissions, on which this decision is based upon, may be referred to in the Office of the Town Clerk or the Acton Planning Department.

**1 EXHIBITS**

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

1.1 An application for a Common Drive Special Permit including the following:

- a) "Triangle Farm Lane Common Driveway" plan dated 6/27/96 and prepared by Lancewood Engineering, Inc. Of 178 Great Road, Acton, MA 01720 consisting of the following sheets:
  - Sheet 1 Cover Sheet
  - Sheet 2 Driveway Plan & Profile I
  - Sheet 3 Driveway Plan & Profile II
  - Sheet 4 Details
- b) Approval Not Required Plans
- c) Easement Plans
- d) Letter requesting waivers

- e) Application cover letter from Lancewood Engineering, Inc.
  - f) Certified abutters list
  - g) Copies of the deeds for each of the 5 lot owners to be served by the common drive
- 1.2 Interdepartmental communication received from:
- Acton Fire Chief, dated 7/31/96;
  - Acton Tree Warden & Municipal Properties Dir., dated 7/5/96;
  - Acton Engineering Administrator, dated 6/3/96;
  - Acton Building Commissioner, dated 7/3/96;
  - Acton Treasurer's Office, dated 7/2/96; and
  - Acton Planning Department, dated 8/7/96.
- 1.3 Other:
- Letter from Spenbrook Associates, Inc., dated 8/12/96

Exhibit 1.1 is 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 Plan shows a common drive at 372 Pope Road, Triangle Farm Lane, that will serve five (5) lots as allowed under Section 3.8.1.5 of the Bylaw.
- 2.2 The Plan shows three record owners; however, the Application for Common Drive Special Permit is signed by only one record owner. The Board finds that all record owners shall sign a statement acknowledging and consenting to the application.
- 2.3 The Plan complies with the design requirements of Section 3.8.1.5 of the Bylaw except that the required sidewalk along the frontage on Pope Road is not shown. The length of the required sidewalk is four hundred feet (400').
- 2.4 In a letter dated June 5, 1996, the Applicant's engineer requested that the Board within its authority under Section 3.8.1.5 of the Bylaw, waive construction of the sidewalk and designate another area in which the Applicant can construct the same length of sidewalk (400'). There is a missing link of sidewalk along Pope Road from Stoneymeade Way toward Strawberry Hill Road.
- 2.5 There is an existing common driveway at this location which was constructed during the summer/fall of 1995. The work completed to date is not in accordance with the Plan and does not comply with the design standards in the Bylaw.
- 2.6 The Engineering Department issued a Permit to Construct Within a Public Way for the drainage work in Pope Road as shown on the Plan. The Engineering Department has advised that there are some outstanding issues with regard to finishing up the work within the Pope Road right-of-way. The Engineering Department is holding a deposit of \$2000.00 to cover the work remaining to be done within the public way.
- 2.7 The Engineering Department and the Building Commissioner advise that they have received a substantial number of complaints from abutters regarding the drainage from Triangle Farm Lane. The Engineering Administrator further advises that the complaints are based on the fact that the common drive was not constructed or paved in accordance with the Plan.

- 2.8 The Director of Municipal Properties has advised that damage was done to 10 public shade trees along Pope Road during the course of construction of the common drive. He further advises that no attempt has been made to repair the damage as of this time.
- 2.9 The Acton Fire Chief has advised that residential sprinklers are needed due to the lack of public water and the lengthy response time to the Site.
- 2.10 The Acton Historical Commission has advised that Triangle Farm Lane may have been constructed on a cart path that is an ancient way layed out by the Town of Concord in 1734 and constructed with public funds before Acton was incorporated. The cart path provides access to Wheeler's Mill, an historical site. The Board finds that a clear determination of the location and status of the public way is necessary.
- 2.11 The Treasurer's Office has advised that property taxes in the amount of \$10,785.97

### **3 BOARD ACTION**

Therefore, subject to and with the benefit of the following waivers, conditions and plan modifications, the Board voted to GRANT a Common Drive Special Permit for the Triangle Farm Lane Common Driveway at its meeting of August 12, 1996.

#### **3.1 WAIVERS**

The applicant has requested three waivers from the design standards in the Common Driveway Special Permit Rules And Regulations. However, the common drive as shown on the Plan complies with the design requirements of Section 3.8.1.5 of the Bylaw except as noted. The design standards in the Bylaw supersede those in the Rules and Regulations. The Board GRANTS the requested waivers from the Rules and Regulations.

#### **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 issuance of a building permit for any lot served by the common drive.

- 3.2.1 Prior to the issuance of any building permit for the Site, the incomplete common drive shall be constructed as shown on the Plan.
- 3.2.2 Prior to the issuance of any building permit for the Site, the Applicant shall conduct a proper and thorough research to determine the approximate location and legal status of the ancient way to Wheeler's Mill, and provide evidence to the Building Commissioner that any public rights to use the ancient way will not be diminished due to the construction of the common drive or any of the houses on lots served by the common drive. If, following proper and thorough research, the location of the ancient way has been identified and its status as a public way has been verified, the way shall be shown as a public way on a new plan duly recorded at the Middlesex South Registry of Deeds prior to the issuance of any building permit on the site and an as-built plan of the driveway shall be submitted to the Engineering Department prior to the issuance of the third building permit for the Site.
- 3.2.3 Prior to the issuance of any building permit for the Site, the Applicant shall provide evidence to the Building Commissioner of the record owners' knowledge and consent to the Common Drive Special Permit.
- 3.2.4 Prior to the issuance of any building permit for the Site, the applicant shall submit to the Board a sidewalk design plan acceptable to the Board for the required four hundred foot length of sidewalk along Pope Road (starting at Stoneymeade Way and continuing in a northerly direction toward Strawberry Hill Road on the side of Stoneymeade Way).

- 3.2.5 Prior to the issuance of any building permit for the Site, the Applicant shall post a bond (in compliance with Section 5 of the Acton Subdivision Rules and Regulations) in the amount of \$12,000 to cover the cost of constructing the required four hundred foot length of sidewalk along Pope Road (starting at Stoneymeade Way and continuing in a northerly direction toward Strawberry Hill Road on the side of Stoneymeade Way).
- 3.2.6 Prior to the issuance of the third building permit for the Site, the sidewalk along Pope Road as required herein shall be completed in accordance with the approved sidewalk design plan.
- 3.2.7 The Plan shall be modified to show a 25' wide sidewalk easement over the frontage of lots 1, 2, 3, 4 and 5 for future use by the Town of Acton, if needed. Prior to the issuance of any building permit for the Site, the Applicant shall submit a plan and a written description of the easement, suitable for recording, and a letter to the Board of Selectmen offering a gift of the easement to the Town of Acton. Upon acceptance of the gift by Town Meeting, the easement plan and description shall be recorded at the Registry of Deeds or Land Court.
- 3.2.8 Prior to the issuance of any building permit for the Site, the incomplete drainage work in Pope Road shall be completed in accordance with the Plan.
- 3.2.9 Prior to the issuance of any building permit for the site, the public shade trees along Pope Road that were damaged during the course of construction of the common drive shall be repaired or replaced with in-kind tree plantings to the satisfaction of the Director of Municipal Properties.
- 3.2.10 Prior to the issuance of any building permit for the Site, all overdue property taxes shall be paid.
- 3.2.11 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to the special permit.
- 3.2.12 This decision applies only to the requested common drive special permit. Other agreements, approvals, or permits required by the Bylaw, or other governmental boards, agencies, or bodies having jurisdiction, shall not be assumed or implied by this decision.
- 3.2.13 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw or the Rules.
- 3.2.14 The Board hereby reserves its rights and powers to modify or amend the terms and conditions of this decision with or without a public hearing upon the application of the owner, lessee or mortgagee of the premises, or upon its own motion.

### 3.3 APPEALS

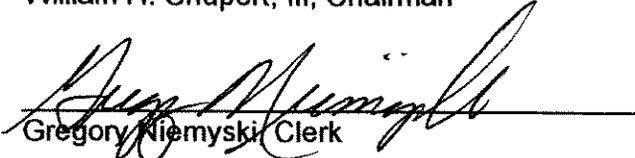
Appeals, if any, may be made pursuant to MGL Ch. 40A, S.17, and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

Signed this 12th day of August, 1996

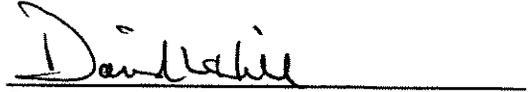


William H. Shupert, III, Chairman

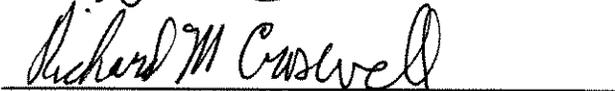
John M. Pavan, V. Chairman



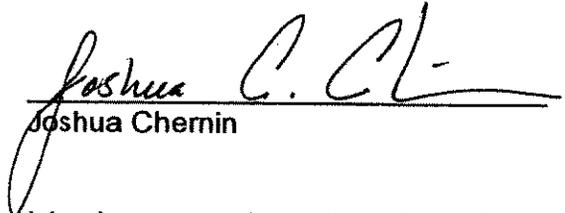
Gregory Niemyski, Clerk



David Hill



Richard Crosswell



Joshua Chernin

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Catherine Belbin, Town Clerk

\_\_\_\_\_  
Date

Copies to:

- |   |                               |                 |
|---|-------------------------------|-----------------|
| Applicant - certified mail # <del>P788878</del> 300 | Building Commissioner         | Board of Health |
| Engineering Administrator                           | Municipal Properties Director | Town Clerk      |
| Conservation Administrator                          | Town Manager                  | Fire Chief      |
| Town Assessor                                       | Historical Commission         |                 |
| Historic District Commission                        |                               |                 |

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