

**Stamski And McNary, Inc.**

Engineering - Planning - Surveying

80 Harris Street  
Acton, MA 01720

# Application for Approval of a Definitive Plan

Under the Subdivision Control Law and the Acton Planning  
Board Subdivision Rules and Regulations

for

**MICMAC LANE  
RESIDENTIAL COMPOUND  
ACTON, MA**



283  
\$5370  
(14)

**Location:** Assessors Map D-2 Parcels 15, 15-1 & 11-1  
#48 Nashoba Road & 6 Wampanoag Drive  
Acton, MA

**Applicant:** **Judith Kotanchik**  
48 Nashoba Road  
Acton, MA 01720

**Owners:** Judith Kotanchik  
48 Nashoba Road  
Acton, MA 01720  
  
Ruth Porter  
6 Wampanoag Drive  
Acton, MA 01720

**Date:** August 7, 2008

SM-3727

## TABLE OF CONTENTS

- 5.2.1 FORM DP – APPLICATION FOR APPROVAL OF DEFINITIVE PLAN
  - 5.2.2 DEVELOPMENT IMPACT REPORT
  - 5.2.3 FILING FEE – COPY OF CHECK
  - 5.2.4 SEE ATTACHED DEFINITIVE SUBDIVISION PLAN
  - 5.2.5 FORM DC – DESIGNERS CERTIFICATE
  - 5.2.6 CERTIFIED LIST OF ABUTTERS
  - 5.2.7 A STATEMENT FROM THE DEVELOPER
  - 5.2.8 NOT APPLICABLE
  - 5.2.9 WAIVER REQUEST LETTER
  - 5.2.10 LETTER AUTHORIZING TOWN TO COMPLETE DRIVEWAY
  - 5.2.11 NOT APPLICABLE
  - 5.2.12 COPIES OF DEEDS
  - 5.2.13 LIST OF MORTGAGE HOLDERS – TO BE PROVIDED
  - 5.2.14 FORM RC DRAFT RESTRICTIVE COVENANT
- APPENDIX A: PRIVATE WAY AND MAINTENANCE AGREEMENT

### Attached Full Size Plans

**“Definitive Subdivision Plan”**  
Spring Farm Circle  
A Residential Compound  
Acton, Massachusetts  
For: James Kotanchick  
Scale: 1”=40’; December 31, 2007  
By: Stamski And McNary, Inc.

**“Proof Plan”**  
Acton, Massachusetts  
For: James Kotanchick  
Scale: 1”=40’; February 16, 2007  
By: Stamski And McNary, Inc.

**5.2.1**

**FORM DP  
APPLICATION FOR APPROVAL OF DEFINITIVE PLAN**

**ACTON PLANNING BOARD**

**FORM DP**

**APPLICATION for APPROVAL of DEFINITIVE PLAN**

The undersigned herewith submits the accompanying Definitive Plan of property located in the Town of Acton for Approval as a subdivision under the requirements of the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the Town of Acton.

(Please type or print information in blanks below.)

1. Name of Proposed Subdivision Micmac Lane

2. Name of Applicant(s) JUDITH KOTANCHIK

Contact Address 48 Nashoba Road, Acton, MA 01720 Phone (978) 263-4268

3. Name of Property Owner(s) Judith Kotanchik, Ruth Porter

4. Name of Engineer Stamski & McNary, Inc.

Address 80 Harris Street, Acton, MA 01720 Phone (978) 263-8585

5. Name of Land Surveyor Stamski and McNary, Inc.

Address 80 Harris Street, Acton, MA 01720 Phone (978) 263-8585

6. Deed of property recorded in Middlesex South Registry Of Deeds, Book Number 29880 & 46566, Page Number 478 & 262; and/or registered in Middlesex Registry of Land Court, Certificate of Title Number \_\_\_\_\_.

7. Zoning District R-8/4, Town Atlas Map No. D-2 Parcel No. 15, 15-1, & 11-1

Approximate acreage in subdivision 14.77 +/-; Number of Lots 5

Total length of road(s) in feet 678 ft. +/-

Location and Description of Property 48 Nashoba Road is an existing single family residence with detached garage, barn, and associated driveway.

8. Said plan has ( x ) / has not ( ) evolved from a preliminary plan submitted to the Board on 02/16 2007; and approved (with modifications) ( x ) or disapproved ( ) on 04/24 2007.

[Signature] 2/10/08  
Applicant(s) Signature, Date

\_\_\_\_\_  
Applicant(s) Signature, Date

[Signature] Feb. 7, 2008  
Owner(s) Signature, Date

[Signature] 02-11-08  
Owner(s) Signature, Date

All owners (in the case of a corporation, an authorized officer; in the case of a trust, all trustees) must sign.

**5.2.2**

**DEVELOPMENT IMPACT REPORT**

**FORM DIR**

**DEVELOPMENT IMPACT REPORT**

The Development Impact Report (DIR) is intended to serve as a guide to the applicant in formulating the development proposal, as well as a guide to the Planning Board in its evaluation of the proposed development in the context of existing conditions and planning efforts by the Town. The DIR should be prepared as early in the development process as possible, even if certain aspects are unknown at that time. It is recommended that the various aspects of the DIR, together with a conceptual development plan, are discussed with the Planning Department staff as soon as possible, prior to the filing of an application for approval of a preliminary plan.

The DIR seeks to raise the broad range of issues generally associated with development plans in a form and in a language that is understandable to a layperson. It assesses development impacts which could possibly be avoided or mitigated if recognized early in the development process. Other portions of the DIR request information which will help the Town plan ahead and ensure adequate services in the future. It is the hope of the Planning Board that the use of the DIR, along with early consultations with the Planning Department staff and the applicant's continuing cooperation throughout the development process, will foster a development of excellent quality and design sensitive to Acton's natural and historic heritage and other community concerns.

The DIR shall be filed with an application for approval of a preliminary and a definitive subdivision plan. The DIR shall clearly and methodically assess the relationship of the proposed development to the natural, physical, and social environment. In preparing the DIR, professionals of the respective fields shall be consulted and a systematic, interdisciplinary approach shall be utilized which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning, designing and engineering of the proposed project.

## DEVELOPMENT IMPACT REPORT

Please type or print information in blanks below.

1. Name of Proposed Subdivision: **MICMAC LANE**
2. Location: **48 Nashoba Road and a portion of 6 Wampanoag Drive**
3. Name of Applicant(s): **James Kotanchik**
4. Brief Description of the Proposed Project: **A proposed Residential Compound consisting of one existing and four proposed detached single family dwellings to be served by a private way, "MICMAC LANE", designed to the standards for a common driveway. The existing dwelling and structures at 48 Nashoba Road will remain.**
5. Name of Individual Preparing this DIR: **Richard J. Harrington, P.E. #41298**  
 Address: **Stanski and McNary, Inc., 80 Harris Street, Acton, MA**  
 Business Phone: **978-263-8585 x211**
6. Professional Credentials: **Commonwealth of MA Registered Professional Engineer**

### **A. Site Description**

7. Present permitted and actual land uses by percentage of the site.

<i>Uses</i>	<i>Percentage</i>
Industrial	0
Commercial	0
Residential	100
Forest	0
Agricultural	0
Other (specify)	0

8. Total acreage on the site: **14.77+/-**

Approximate Acreage	At Present	After Completion
Meadow or Brushland (non agriculture)	0.33 +/-	0
Forested	1.67 +/-	1.59 +/-
Agricultural (includes orchards, cropland, pasture)	0	0
Wetland	6.41 +/-	6.41 +/-
Water Surface Area	0	0
Flood Plain	0	0
Unvegetated (rock, earth, or fill)	0	0
Roads, buildings and other impervious surfaces	0.34 +/-	0.99 +/-
Other (indicate type)    Lawn Area	6.02 +/-	5.78 +/-

9. List the zoning districts in which the site is located and indicate the percentage of the site in each district. *Note: be sure to include overlay zoning districts.*

<b>District</b>	<b>Percentage</b>
R-8/4 (Residence 8/4)	100
Groundwater Protection District Zone 4	61
Subdistrict A	100
Groundwater Protection District Zone 3	39

10. Predominant soil type(s) on the site: **Soil Map Unit 307D-Paxton Fine Sandy Loam**

Soil drainage (Use the US Soil Conservation Service's definition)

<b>Soil Type</b>	<b>% of the Site</b>
Well drained	52
Moderately well drained	14
Poorly drained	34

11. Are there bedrock outcroppings on the site?  yes  no

12. Approximate percentage of proposed site with slopes between:

<b>Slope</b>	<b>% of the Site</b>
0 - 10%	57
10 - 15%	14
greater than 15%	29

13. In which of the Groundwater Protection Districts in the site located? How close is the site to a public well?

Zone(s): **4&3** Proximity to a public well: **6,600'+/- (Whitcomb Well)**

14. Does the project site contain any species of plant or animal life that is identified as rare or endangered? (Consult with the Massachusetts National Heritage Program and the Acton Natural Resources Director).

yes  no

If yes, specify:

15. Are there any unusual or unique features on the site such as trees larger than 30 inches D.B.H., bogs, kettle ponds, eskers, drumlins, quarries, distinctive rock formation or granite bridges?

yes  no

If yes, specify: **Large stonewall along edge of wetlands**

16. Are there any established foot-paths running through the site or railroad right of ways?  
 yes  no

If yes, specify:

17. Is the site presently used by the community or neighborhood as an open space or recreation area?  
 yes  no

Is the site adjacent to conservation land or a recreation area?  yes  no

If yes, specify:

18. Does the site include scenic views or will the proposed development cause any scenic vistas to be obstructed from view?  
 yes  no

If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

19. Are there wetlands, lakes, ponds, streams, or rivers within or contiguous to the site?  
 yes  no

If yes, specify: An ORAD has been issued by Acton. (DEP File No. 085-0940).

20. Is there any farmland or forest land on the site protected under Chapter 61A or 61B of the Massachusetts General Laws?  
 yes  no

If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

21. Has the site ever been used for the disposal of hazardous waste? Has a 21E Study been conducted for the site?  
 yes  no (to the best of the our knowledge)

If yes, specify results:

22. Will the proposed activity require use and/or storage of hazardous materials, or generation of hazardous waste?  
 yes  no

If yes, specify \_\_\_\_\_  
\_\_\_\_\_

23. Does the project contain any buildings or sites of historic or archaeological significance?  
(Consult with the Acton Historic Commission or the Action Historical Society.)  
 yes  no

If yes, please describe \_\_\_\_\_  
\_\_\_\_\_

24. Is the project contiguous to or does it contain a building in a local historic district or national register district?

yes  no

25. Is the project contiguous to any section of the Isaac Davis Trail?

yes  no

If yes, please describe \_\_\_\_\_

**B. Circulation System**

26. What is the average weekday traffic and peak hour traffic volumes generated by the proposed subdivision?

<b>Single Family</b>	
Average weekday traffic	<b>38.28</b>
Average peak hour volume AM	<b>3.08</b>
Average peak hour volume PM	<b>4.08</b>

27. Existing street(s) providing access to proposed subdivision:

Name: Nashoba Road, Town Classification: Local

28. Existing intersection(s): list intersections located within 1000 feet of any access to the proposed development:

Names of ways: Mohawk Dr., Wachusett Dr., Wampanoag Dr., Huron Rd., Cherokee Rd.

29. Location of existing sidewalks within 1000 feet of the proposed site:

a. Southerly side of Wampanoag Drive

30. Location of proposed sidewalks and their connection to existing sidewalks: No sidewalks are being proposed. Applicant to provide donation to sidewalk fund.

31. Are there parcels of undeveloped land adjacent to the proposed site?  yes  no

Will access to these undeveloped parcels be provided within the proposed site?

yes  no

If yes, please describe \_\_\_\_\_

If no, please explain why \_\_\_\_\_

**C. Utilities and Municipal Services**

32. If dwelling units are to be constructed, what is the total number of bedrooms proposed? 16

33. If the proposed use of the site is nonresidential, what will the site be specifically used for and how many feet of Gross floor area will be constructed? N/A site is residential

34. Storm Drainage

a. Describe nature, location and surface water body receiving current surface water of the site: Under current conditions, runoff from the westerly portion of the site flows into a wetland system located near Central Street, which borders on Fort Pond Brook. Runoff from the remainder of the site flows to Nashoba Road.

b. Describe the proposed storm drainage system and how it will be altered by the proposed development: Catch basins will direct runoff from the remainder of the private way and the driveways behind the existing house into the drainage basins to control peak rates of runoff. Excess runoff will be then directed back into its natural drainage patterns prior to leaving the site.

c. Will a NPDS Permit be required?      \_X\_yes      \_\_\_no

35. In the event of fire, estimate the response time of the fire department (consult with Fire Dept.)  
4 minutes

36. Schools (if residential)

a. Projected number of new school age children: 1.67 x 4 new units = 6.68

b. Distance to nearest school: 1.2 miles (Douglas School)

E. Measures to Mitigate Impacts

Attach brief descriptions of the measures that will be taken to:

37. Prevent surface water contamination.

38. Prevent groundwater contamination.

39. Maximize groundwater recharge.

40. Prevent erosion and sedimentation.

41. Maintain slope stability.

42. Design the project to conserve energy.

43. Preserve wildlife habitat.

44. Preserve wetlands.

45. Ensure compatibility with the surrounding land uses.

46. Control peak runoff from the site so that the post-development rate of runoff will be no greater than the predevelopment rate of runoff for the 10-year storm event..

47. Preserve historically significant structure sand features on the site.

48. To mitigate the impact of the traffic generated by the development.

Please use layman's terms where possible while still being accurate and comprehensive. Where appropriate, graphics shall be used. List sources of data, reference materials, and methodology used to determine all conclusions. Use additional sheets as necessary.

Development Impact Report  
Section E Measures to Mitigate Impacts

- 37. Prevent surface water contamination:** The proposed drainage system is typically designed in accordance with the Town of Acton Subdivision Rules and Regulations. The private way drainage will match existing characteristics of existing driveway runoff towards Nashoba Road. Runoff towards Fort Pond Brook will be directed into a closed drainage system comprised of a deep sump and hooded catch basin. The deep sump and hooded catch basin will act as pre-treatment, which will prohibit oil and gas from entering the remainder of the drainage system, and collect driveway sediment. The drainage system will be implemented prior to the discharge of runoff from the site. During construction, any silt, construction debris, etc. shall be removed from the public way or abutting property immediately upon discovery and all sediments spilled, dropped, or washed into public rights-of-ways shall also be removed immediately. Fill material used shall be free of hazardous material and construction debris. The developer shall comply with the Erosion and Sedimentation Control Plan.
- 38. Prevent groundwater contamination:** The septic system on each lot will be designed to meet or exceed Title V and the Town of Acton Board of Health standards. Each lot will be served by a municipal water supply.
- 39. Maximize groundwater recharge:** Re-charge of runoff for the site will be provided within the proposed drainage system. Roof Runoff to be directed towards vegetated surfaces in an effort to maximize recharge where possible.
- 40. Prevent erosion and sedimentation:** During construction, any silt, construction debris, etc. shall be removed from the public way or abutting property immediately upon discovery and all sediments spilled, dropped, or washed into public rights-of-ways shall also be removed immediately. Fill material used shall be free of hazardous material and construction debris. The developer shall comply with the Erosion and Sedimentation Control Plan.
- 41. Maintain slope stability:** Cut and fill slopes, if any, will be stabilized immediately with six inches (6") of loam and seed during the growing season (April 1 to November 1) or with hay-mulch during the non-growing season (November 1 to April 1). An Erosion and Sedimentation Control Plan has been prepared, which will provide the necessary details.
- 42. Design the project to conserve energy:** The proposed dwellings will meet the stringent requirements of the state and local building codes.
- 43. Preserve wildlife habitat:** The site is not located within an area of estimated habitat of rare wildlife. Existing vegetation shall be preserved wherever possible.
- 44. Preserve wetlands:** An Erosion and Sedimentation Control Plan has been prepared that will delineate the limit of work and also provide the necessary details for protecting the wetlands. All work is greater than 100' from BVW & potential vernal pool & 200' from Fort Pond Brook.
- 45. Ensure compatibility with the surrounding land uses:** The surrounding land uses are composed of residential single-family homes along Nashoba Road. The existing and proposed use of

**the property is also residential. The approval of this Residential Compound will minimize town maintenance, responsibility, and cost and preserve the rural character of the town.**

**46. Control peak runoff from the site so that the post-development rate of runoff will be no greater than the predevelopment. Control of peak rates of runoff will be realized using basic drainage techniques including a detention basin.**

**47. Preserve historically significant structures and features on the site: N/A**

**48. To mitigate the impact of the traffic generated by the development: The project will generate traffic from the proposed development. The vehicle trips generated from this proposed development are insignificant and will not require mitigation. The trip generation is also below the typical thresholds requiring traffic studies in the Town of Acton.**

**5.2.3**

**FILING FEE  
(COPY OF CHECK)**

**DEFINITIVE PLAN FILING FEE**

Following a Preliminary Plan - \$2,000.00 + \$5.00/foot of road

- 678 ft. of road x \$5.00 = \$3,390
- \$3,390 + \$2,000 = \$5,390

**5.2.4**

**DEFINITIVE SUBDIVISION PLAN  
(SEE ATTACHED)**

**5.2.5**

**FORM DC  
DESIGNERS CERTIFICATE**

ACTON PLANNING BOARD

FORM DC

DESIGNER'S CERTIFICATE

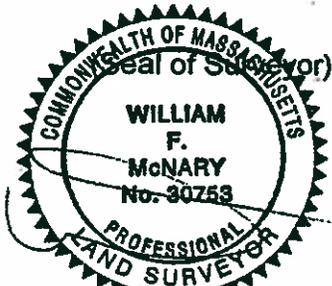
I hereby certify that the accompanying plan entitled DEFINITIVE SUBDIVISION PLAN  
MICMAC LANE - RESIDENTIAL COMPOUND dated 12/31/07

is correct, stating that the perimeter traverse of the subdivision before adjustment was closed to  
an accuracy of a ratio "error of closure" not to exceed 1/15000\*; that it is a subdivision of 14.6±  
a. JAMES J. KOTANCHIK AND JUDITH R. KOTANCHIK  
acres conveyed by b. RICHARD PORTER to  
a. JUDITH R. KOTANCHIK  
b. RUTH E. PORTER by a deed, dated  
a. 11/30/05  
b. 03/05/99 and recorded in Middlesex County Registry of Deeds, South District,  
a.46566 a.262  
Book b. 29880, Page b.478.

Other sources of information used in the preparation of the plan are:

1. Other deeds and plans, as follows PLAN No. 2215 OF 1953, PLAN No. 300 OF 1973,  
PLAN No. 713 OF 1973, PLAN No. 225 OF 1981, PLAN No. 307 OF 2000
2. Oral information furnished by \_\_\_\_\_
3. Other 1967 COUNTY LAYOUT - CENTRAL STREET

Furthermore, I certify that this survey was made on the ground in accordance with the "Procedural and  
Technical Standards for the Practice of Land Surveying", Section 250 CMR\*\* 5.0 between MAY 18,  
2006 and DEC. 12, 2007  
(date) (date)



Signed [Signature] WJAN09  
 Registered Land Surveyor Date  
 Address STAMSKI AND McNARY, INC.  
80 HARRIS ST.; Acton, MA 01720  
 Registration No. 30753

\*As described in the "1989 Manual of Instructions for the Survey of Lands and Preparation of Plans" published by the Land Court of the Commonwealth of Massachusetts, as most recently amended.

\*\* Code of Massachusetts Regulations

**5.2.6**

**CERTIFIED LIST OF ABUTTERS**



Town of Acton  
472 Main Street  
Acton, MA 01720  
Telephone (978) 264-9622  
Fax (978) 264-9630

Brian McMullen  
Assistant Assessor

Locus: 50 Nashoba Rd, 48 Nashoba Rd & 6 Wampanoag Dr  
Parcel: D2-15, D2-15-1 & D2-11-1

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
9 WAMPANOAG DR	D2-4	SONG JIANPING	CHEN YANG	9 WAMPANOAG DR	ACTON	MA	01720
11 WAMPANOAG DR	D2-4-1	CARDOSI DAVID	CHEN YANG	11 WAMPANOAG DR	ACTON	MA	01720
12 WAMPANOAG DR	D2-4-2	GILLIGAN PATRICK F	GILLIGAN LEEANN M	12 WAMPANOAG DR	ACTON	MA	01720
7 WAMPANOAG DR	D2-4-3	ODRYNA VICTOR	REGINA A	7 WAMPANOAG DR	ACTON	MA	01720
5 WAMPANOAG DR	D2-4-4	LUNGER DAVID H	NANCY J	5 WAMPANOAG DR	ACTON	MA	01720
10 WAMPANOAG DR	D2-8	PLINER EDOUARD	PLINER JANE	10 WAMPANOAG DR	ACTON	MA	01720
8A WAMPANOAG DR	D2-11	CRUZ ROBERT J	CRUZ MELISSA H	8 WAMPANOAG DR	ACTON	MA	01720
6A WAMPANOAG DR	D2-11-2	ZORNADA GEORGE J	ZORNADA DORETHA VANSLYKE	6A WAMPANOAG DR	ACTON	MA	01720
8 WAMPANOAG DR	D2-12	CRUZ ROBERT J	CRUZ MELISSA H	8 WAMPANOAG DR	ACTON	MA	01720
455 CENTRAL ST	D2-13	SWEET WENDY J		455 CENTRAL STREET	ACTON	MA	01720
440 CENTRAL ST	D2-14	TR BOXBOROUGH CORP	C/O JONES LANG LASALLE	ONE RESEARCH DR	WESTBORO	MA	01581
62 NASHOBA RD	D2-18-1	MARSH DAVID E		440 CENTRAL ST	ACTON	MA	01720
62 NASHOBA RD	D2-18	TREBENDIS ANN MARIE ET AL	TREBENDIS FAMILY IRREV TR	62 NASHOBA ROAD	ACTON	MA	01720
60 NASHOBA RD	D2-21	SKRIPPS THOMAS K	SKRIPPS LISA M	60 NASHOBA RD	ACTON	MA	01720
431 CENTRAL ST	D2-25	ST MATTHEWS METHODIST CHURCH	OF ACTON	431 CENTRAL ST	ACTON	MA	01720
429 CENTRAL ST	D2-25-1	ST MATTHEWS METHODIST CHURCH	OF ACTON	431 CENTRAL ST	ACTON	MA	01720
4 WAMPANOAG DR	D2-26	PRENDEVILLE GRETCHEN A	PRENDEVILLE JOHN D	4 WAMPANOAG DR	ACTON	MA	01720
12 WACHUSETT DR	D2-29	JIANG JI-LEI + CHEN LI-HOW	C/O SUN YING	12 WACHUSETT DRIVE	ACTON	MA	01720
2 WAMPANOAG DR	D2-32	HADDEN STEPHEN ET AL TR	HADDEN FAMILY 1996 RLTY TR	2 WAMPANOAG DR	ACTON	MA	01720
2 HURON RD	D2-33	FIELDS RICHARD A		2 HURON RD	ACTON	MA	01720
9 WACHUSETT DR	D2-36	STOUT MARKUS B	STOUT PAULETTE D	9 WACHUSETT DR	ACTON	MA	01720
4 HURON RD	D2-37	BERMAN RONNA L		4 HURON RD	ACTON	MA	01720
10 WACHUSETT DR	D2-39	FERRARA ROBERT V		10 WACHUSETT DR	ACTON	MA	01720
8 WACHUSETT DR	D2-41	THOMAS DANIEL R &		1 HURON RD	ACTON	MA	01720
44 NASHOBA RD	D2-46	EIRANOVA ANTONIO	EIRANOVA JEAN M	8 WACHUSETT DR	ACTON	MA	01720
16 NASHOBA RD	D2-47	STURTZ WILLIAM + STURTZ RAINA L	C/O JENSEN-FELLOWS SIMON A +	44 NASHOBA RD	ACTON	MA	01720
51 ALGONQUIN RD	D2-48	METCALF SUSAN L	WALLACE JR RICHARD L	51 NASHOBA RD	ACTON	MA	01720
6 WACHUSETT DR	D2-54	CIPAR JOHN J	MARTYAK MARY THERESA	18 ALGONQUIN RD	ACTON	MA	01720
7 WACHUSETT DR	D2-55	LINDEN JONATHAN M	CURRO SALLY A	6 WACHUSETT DRIVE	ACTON	MA	01720
42 NASHOBA RD	D2-56	NORTON PETER A	LINDEN WENDY U	7 WACHUSETT DR	ACTON	MA	01720
45 NASHOBA RD	D2-59	SHUMILOV VLADIMIR V	NORTON ELIZABETH H	42 NASHOBA RD	ACTON	MA	01720
			UKHANOVA OLGA V	45 NASHOBA RD	ACTON	MA	01720

Brian McMullen  
Assistant Assessor

Locus: 50 Nashoba Rd, 48 Nashoba Rd & 6 Wampanoag Dr  
Parcel: D2-15, D2-15-1 & D2-11-1

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
14 ALGONQUIN RD	D2-80	NARBONE ANDRE	VANASSE CHRISTINE L	14 ALGONQUIN RD	ACTON	MA	01720
5 WACHUSETT DR	D2-84	HACHEY KENNETH	HACHEY KERRY LEE	5 WACHUSETT DR.	ACTON	MA	01720
40 NASHOBA RD	D2-65	RUTYNA DAVID P		40 NASHOBA RD	ACTON	MA	01720
41 NASHOBA RD	D2-68	O'HARA MARK J	O'HARA JULIE A	41 NASHOBA ROAD	ACTON	MA	01720
12 ALGONQUIN RD	D2-72	REBOVICH GEORGE JR	NADINE M	12 ALGONQUIN RD.	ACTON	MA	01720
4 WACHUSETT DR	D2-74	BAKER JOHN W	SUSAN	4 WACHUSETT DR.	ACTON	MA	01720
3 WACHUSETT DR	D2-75	WELLINGTON LAURENCE C	NICOLETTE E	3 WACHUSETT DR	ACTON	MA	01720
39 NASHOBA RD	D2-76	GARDINER EDWARD T	GARDINER MARGARET B	39 NASHOBA RD	ACTON	MA	01720
10 ALGONQUIN RD	D2-83	CLIFFORD PETER A	CLIFFORD KATHLEEN M	10 ALGONQUIN RD	ACTON	MA	01720

Abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list.

**HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:**

Boxborough, MA 01729  
Carlisle, MA 01741  
Concord, MA 01754  
Sudbury, MA 01775  
Littleton, MA 01460  
Sudbury, MA 01776

UPDATED 7/15/08  
UPDATED 1/4/08  
UPDATED 2/15/07  
UPDATED 1/12/07

*Kimberly Hoyt*  
3-Jan-07

Kimberly Hoyt  
Assessing Clerk  
Acton Assessors Office

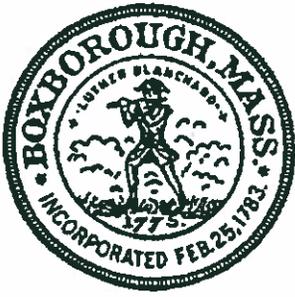
**TOWN OF BOXBOROUGH  
CERTIFIED OWNER LISTING**  
(selected parcels)

PARCEL_ID	NO.	STREET	OWNER_1	OWNER_2	BILLING ADDRESS	CITY	ST	ZIP
12-6-252-0.0	80	CENTRAL ST	TR BOXBOROUGH CORP.	C/O JONES LANG LaSALLE	ONE RESEARCH DRIVE	WESTBOROUGH	MA	01581
12-6-255-1.0		CENTRAL ST	GILLIGAN PATRICK F &	GILLIGAN LEEANN M	12 WAMPANOAG DR	ACTON	MA	01720
12-6-255-2.0		CENTRAL ST	PLINER, EDOUARD &	ZELDOVA, EVGUENIA	10 WAMPANOAG DR	ACTON	MA	01720
12-6-255-3.0		CENTRAL ST	CRUZ ROBERT J &	CRUZ MELISSA H	8 WAMPANOAG DR	ACTON	MA	01720
12-6-256-0.0		CENTRAL ST	SWEET, WENDY J		455 CENTRAL ST	ACTON	MA	01720
12-6-257-2.0		LITTLEFIELD RD	MARSH DAVID E	MARSH FAMILY IRREVOCABLE TR	PO BOX 562	ACTON	MA	01720
* THIS IS A LISTING OF OWNERS OF RESPECTIVE PARCELS. THIS IS NOT A CERTIFIED ABUTTERS LIST, BUT MERELY A LISTING OF CERTIFIED								
PARCEL OWNERS PER REQUEST.								

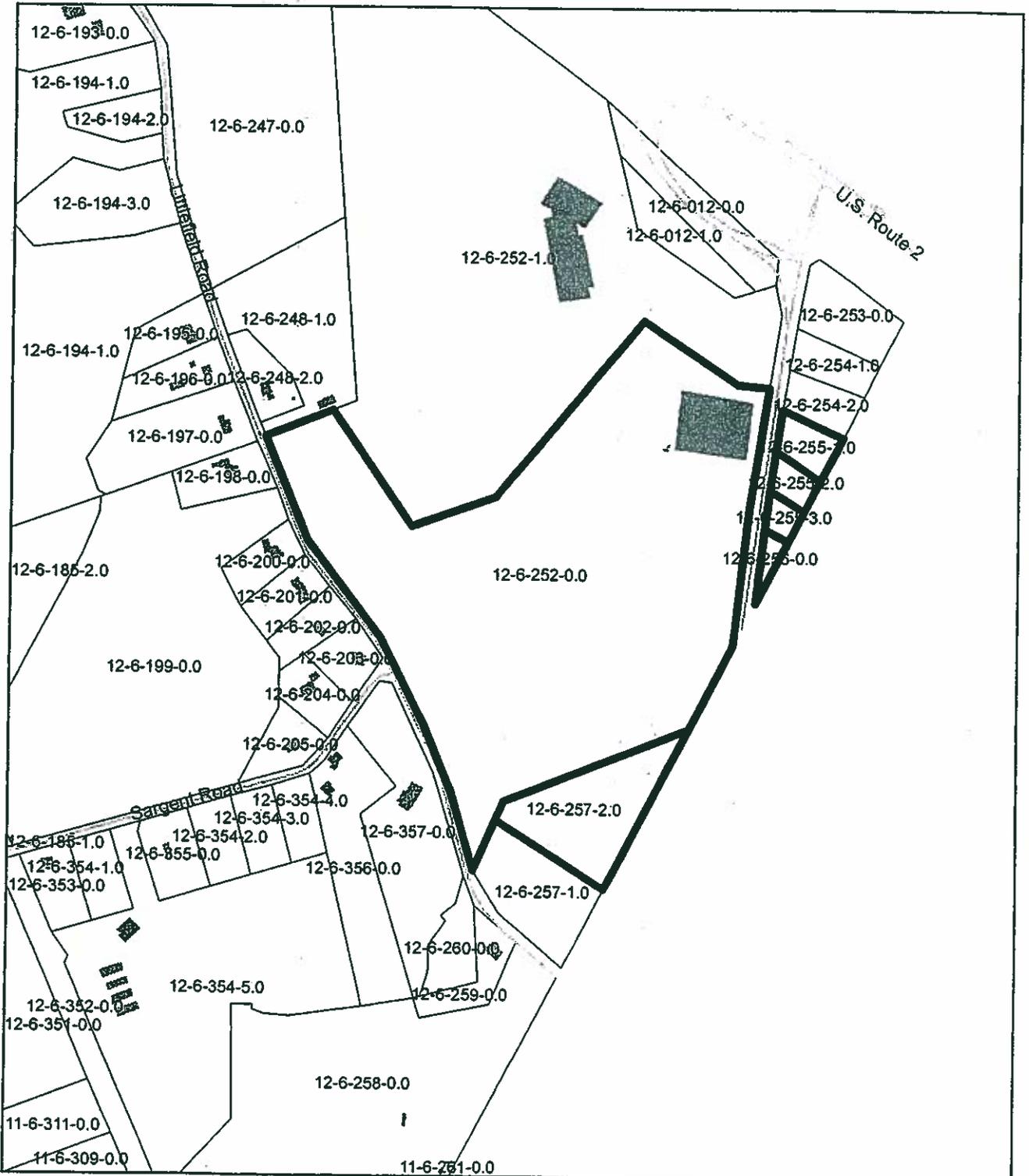
This certified list is as of the most recent tax listing and is given to the best of my knowledge.



William G. Naser - TOWN ASSESSOR  
Boxborough MA



BOXBOROUGH ASSESSOR  
29 Middle Road, Boxborough, Massachusetts 01719  
Phone: (978) 263-1116 · Fax: (978) 264-3127  
www.town.boxborough.ma.us



**5.2.7**

**STATEMENT FROM DEVELOPER**

**JUDITH R. KOTANCHIK**  
48 NASHOBA ROAD  
ACTON, MA 01720

January \_\_\_\_, 2008

Planning Board  
Town of Acton  
472 Main Street  
Acton, MA 01720

RE: Micmac Lane ("Development")  
Decision # 07-06 ("Decision")

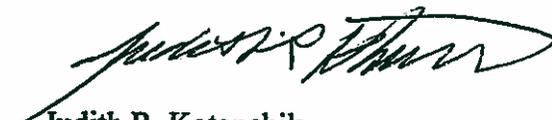
Members of the Board:

Reference is made to that certain plan entitled "Definitive Subdivision Plan Micmac Lane, a Residential Compound, Acton, MA", Record Plan, For: Kotanchik, Scale: 1" = 40', December 31, 2007, Stamski and McNary, Inc., 80 Harris Street, Acton, Mass. (hereinafter referred to as the "Plan"). Pursuant to and in satisfaction of Acton Subdivision Rules and Regulations Section 5.2.10 ("Rules"), Judith R. Kotanchik (the "Developer") hereby grants to the Town of Acton the right to enter upon the land shown on the aforesaid plan to complete the ways and services if the Developer does not complete the same in accordance with its obligations.

Pursuant to and in satisfaction of Section 5.2.13 of the Rules, please be advised that Merrill Lynch Credit Corp. is the current mortgage holder for the Development, as evidenced by a mortgage recorded with the Middlesex South District Registry of Deeds in Book 46523, Page 571.

Pursuant to and in satisfaction of Section 5.2.7 of the Rules, the Developer shall retain the fee in Micmac Lane, as shown on the Plan.

Very truly yours,



Judith R. Kotanchik

E:\Re\Kotanchik\Planning Board letter.doc

**5.2.9**

**WAIVER REQUEST LETTER**

**STAMSKI AND McNARY, INC.**

80 Harris Street  
Acton, Massachusetts 01720  
(978) 263-8585  
FAX (978) 263-9883

WILLIAM F. McNARY, P.L.S.  
JOSEPH MARCH, P.E., P.L.S.

**August 07, 2008**

**Acton Planning Board  
472 Main Street  
Acton, MA 01742**

**Re: Definitive Subdivision Plan at 50 Nashoba Road, Micmac Lane  
Waiver Request Letter**

**Members of the Board:**

**On behalf of our client, Judith Kotanchik, we hereby request waivers from Section 8, Design Standards, and Section 9, Improvements, of the Acton Subdivision Regulations. The private driveway has been designed to Common Driveway Standards which is the general rule established under Section 10.1.2 of the Acton Subdivision Regulations.**

**The reason for granting the requested waivers is to allow the applicant to build a small scale residential subdivision in a manner which minimizes Town maintenance, responsibility and cost, while simultaneously preserving the rural character of the Town.**

**Respectfully,  
For: Stamski and McNary, Inc.**



**David Haslett, E.I.T.**



**Richard J. Harrington, P.E.**

**5.2.10**

**LETTER AUTHORIZING TOWN TO COMPLETE  
DRIVEWAY**

**SEE LETTER IN SECTION 5.2.7**

**5.2.12**

**COPIES OF DEEDS**



3-N

3 Pages, Total

**QUITCLAIM DEED**

We, **JAMES J. KOTANCHIK and JUDITH R. KOTANCHIK**, husband and wife, of Acton, Middlesex County, Massachusetts,

for consideration paid, and in consideration of less than One Hundred (\$100.00) Dollars, this being a transfer by and between husband and wife,

grant to

**JUDITH R. KOTANCHIK**, individually, of 48 Nashoba Road, Acton, MA 01720

with **Quitclaim Covenants**

A certain parcel of land, with the buildings thereon, situated in Acton, Middlesex County, Massachusetts, being shown as Lot B on a plan entitled "COMPILED PLAN OF LAND IN ACTON, MASS.", owned by Celia Borenstein, by Acton Survey & Engineering, Inc. , dated May 31, 1973, revised June 6, 1973, recorded with Middlesex South Deeds Book 12455 Page 379, bounded and described as follows:

SOUTHEASTERLY by Nashoba Road, as shown on said plan, 74.45 feet;

SOUTHWESTERLY by land now or formerly of Rice, as shown on said plan, 250.00 feet;

SOUTHERLY by land nor or formerly of Perkins, as shown on said plan, 654.39 feet;

EASTERLY also by land nor or formerly of Perkins, as shown on said plan, 314.60 feet;

Property Address: 48 Nashoba Road, Acton, MA 01720

RETURN TO:

Ms. Judith R. Kotanchik  
48 Nashoba Road  
Acton, MA 01720

SOUTHEASTERLY again by land now or formerly of Perkins, as shown on said plan, by two courses, measuring 46.73 feet and 50.49 feet, respectively;

SOUTHERLY by land now or formerly of Perkins, as shown on said plan, 341.59 feet;

WESTERLY by land now or formerly of Perkins, as shown on said plan, 241.19 feet;

SOUTHERLY by land now or formerly of Perkins, as shown on said plan, 277.00 feet;

WESTERLY by Central Street, as shown on said plan, 301.00 feet;

NORTHERLY by Lot A, as shown on said plan, 1190.00 feet, more or less;

NORTHEASTERLY by Lot A, as shown on said plan, by three courses, measuring 225.00 feet, 91.74 feet, and 66.00 feet, respectively;

SOUTHEASTERLY by Lot A and land now or formerly of Meigs, as shown on said plan, 95.00 feet;

SOUTHERLY by land now or formerly of Meigs, as shown on said plan;

SOUTHEASTERLY by land now or formerly of Meigs, as shown on said plan, 164.88 feet; and

NORTHEASTERLY by land now or formerly of Meigs, as shown on said plan, 113.08 feet, and 38.08 feet.

CONTAINING, according to said plan, 12.4 acres, more or less.

Said premises are conveyed subject to a driveway easement reserved in a deed recorded with said Deeds in Book 12455 Page 379, and subject to a lease to the Boston Edison Company dated May 5, 1947, recorded with said Deeds in Book 7148 Page 103.

BEING the same premises conveyed to **James J. Kotanchik and Judith R. Kotanchik** by deed of **Sally L. Cady** dated March 23, 1977 and recorded with the Middlesex South District Registry of Deeds in **Book 13159 Page 246**.

No title examination of any kind has been performed by the attorney who prepared this deed.

WITNESS our hands and seals this 27 day of October, 2005.

\_\_\_\_\_

*James J. Kotanchik*

James J. Kotanchik

\_\_\_\_\_

*Judith R. Kotanchik*

Judith R. Kotanchik

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss.

Date: 10/27/2005, 2005

Then personally appeared before me, the undersigned notary public, **JAMES J. KOTANCHIK and JUDITH R. KOTANCHIK**, proved to me through satisfactory evidence of identification, which was MADC, to be the persons whose names are hereinabove signed, and acknowledged to me that they signed this document freely and voluntarily and for its stated purpose.

*Len Abramson*

Notary Public

My commission expires:

**LEN R ABRAMSON**  
Notary Public, Middlesex County, Massachusetts  
My Commission Expires June 29, 2012

*Robert C. Brennan*  
Attest. Middlesex S. Register



QUITCLAIM DEED

RICHARD PORTER, individually of 50 Nashoba Road, Acton, Massachusetts, for consideration paid and in full consideration of One (\$1.00) Dollar, hereby grants to RUTH E. PORTER, individually, of 50 Nashoba Road, Acton, Massachusetts,

with QUITCLAIM COVENANTS,

A certain parcel of land, with the buildings thereon, situated in Acton, Middlesex County, Massachusetts, being shown as Lot A on plan entitled, "COMPILED PLAN OF LAND IN ACTON, MASS," owned by Celia Borenstein, by Acton Survey & Engineering, Inc., dated May 31, 1973, revised June 6, 1973, recorded with Middlesex South District Registry of Deeds, Book 12455, Page 379, bounded and described as follows:

- SOUTHEASTERLY by Nashoba Road, as shown on said plan, by two courses measuring twenty-five and 97/100 (25.97) feet and seventy-four and 52/100 (74.52) feet respectively;
- SOUTHWESTERLY by land of Moigs, as shown on said plan, one hundred twenty-one and 42/100 (121.42) feet;
- NORTHWESTERLY by Lot B, as shown on said plan, seventy (70) feet;
- SOUTHWESTERLY by Lot B, as shown on said plan, by three courses measuring sixty-six (66.00) feet, ninety-one and 74/100 (91.74) feet and two hundred twenty-five (225) feet respectively;
- SOUTHERLY by Lot B, as shown on said plan, one thousand one hundred ninety (1190) feet, more or less;
- WESTERLY by Central Street, as shown on said plan, two hundred seven (207) feet, more or less;
- NORTHERLY by land now or formerly of Erikson, as shown on said plan, two hundred four and 55/100 (204.55) feet;
- WESTERLY by land now or formerly of said Erikson, as shown on said plan, two hundred eight and 81/100 (208.81) feet;
- NORTHERLY by land now or formerly of said Erikson as shown on said plan;

25.00  
231  
08/13/14  
08/13/14

50 Nashoba Rd. Acton

- NORTHWESTERLY by land now or formerly of said Erikson, as shown on said plan, one hundred seventy-three and 32/100 (173.32) feet;
- NORTHEASTERLY by land of Boxborough Enterprises, Inc., as shown on said plan, by four courses measuring twenty-one and 30/100 (21.30) feet, thirty-four and 17/100 (34.17) feet, one hundred forty-five and 09/100 (145.09) feet and six hundred seventy-three and 90/100 (673.90) feet, respectively;
- NORTHWESTERLY by land of said Boxborough Enterprises, Inc., as shown on said plan, one hundred seventy-two and 13/100 (172.13) feet;
- NORTHEASTERLY by land of said Boxborough Enterprises, Inc., as shown on said plan, one hundred eighty-five (185.00) feet;
- SOUTHEASTERLY by land of said Boxborough Enterprises, Inc., as shown on said plan, one hundred twenty-nine and 08/100 (129.08) feet; and
- NORTHEASTERLY by land of said Boxborough Enterprises, Inc., as shown on said plan, by two courses measuring three hundred twenty-three and 54/100 (323.54) feet and one hundred fifty-seven and 33/100 (157.33) feet, respectively.

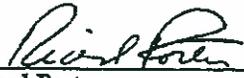
Containing, according to said plan, 9.8 acres, more or less.

There is also conveyed herewith a perpetual easement for all purposes for which driveways are commonly used in the Town of Acton over and across a certain parcel of land shown as Lot B on the aforesaid plan and being shown on said plan as "Driveway Easement."

The above described premises are conveyed subject to a lease to the Boston Edison Company dated May 5, 1947, recorded with Middlesex South District Registry of Deeds in Book 7148, Page 103, insofar as the same may be in force and applicable.

For title reference, see deed from Richard Porter and Ruth E. Porter to Richard Porter dated February 27, 1994, recorded with Middlesex South District Registry of Deeds in Book 24323, Page 316.

Witness my hand and seal this 16th day of February, 1999.

  
Richard Porter

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

February 16, 1999

Then personally appeared the above named Richard Porter, and acknowledged the foregoing instrument to be his free act and deed, before me,

  
Tamara E. Kolz, Notary Public

My commission expires: November 3, 2000

**5.2.13**

**LIST OF MORTGAGE HOLDERS**

**Ruth E & Richard Porter  
On 50 Nashoba Road  
Citimortgage  
P.O. Box 9438  
Gaitherslung, MD 20898-9436**

**James J & Judith R Kotanchik  
On 48 Nashoba Road  
Merrill Lynch  
PHH Mortgage Service Center  
P.O. Box 5459  
Mt. Laurel, NJ 08054-5459**

**5.2.14**

**FORM RC  
DRAFT RESTRICTIVE COVENANT**

## MICMAC LANE - DECLARATION OF PROTECTIVE COVENANTS

WHEREAS, Judith R. Kotanchik, an individual with an address of 48 Nashoba Road, Acton, Middlesex County, Massachusetts (hereinafter called "Declarant" which term shall include any builder or developer succeeding to Declarant's interest in the Property, as hereinafter defined) is the owner of a certain tract of land in the Town of Acton, Middlesex County, Commonwealth of Massachusetts, being known as Lots 1, Lot 2, Lot 3, Lot 4 and Lot 5 and the fee in the roadway shown as MicMac Lane as shown on a plan of land entitled, "Definitive Subdivision Plan Micmac Lane, a Residential Compound, Acton, MA", Record Plan, For: Kotanchik, Scale: 1" = 40', December 31, 2007, Stamski and McNary, Inc., 80 Harris Street, Acton, Mass., recorded herewith as Plan No. \_\_\_ of 2008 ("Plan") and;

WHEREAS, Lots 1 through 5 inclusive, as shown on the Plan shall be subject to the provisions of this Declaration of Protective Covenants and said Lots 1 through 5, inclusive shall hereinafter collectively, be known as the "Property" and individually as a "Lot".

WEHREAS, Declarant desires to subject the Property to certain covenants and restrictions set forth below for the benefit of Declarant and each lot owner (as hereinafter defined).

NOW, THEREFORE, the Declarant does hereby declare, covenant and subject the Property to the covenants and restrictions set forth below which shall run with the land and shall be binding on all grantees of each Lot claiming by, through or under Declarant, (each such grantee is hereinafter called a "Lot Owner"):

1. **MICMAC HOMEOWNERS TRUST:** The Lot Owners shall each be beneficiaries of that certain trust entitled, "MICMAC HOMEOWNERS TRUST", dated of even date and to be recorded herewith. ("Homeowners Trust").

2. **NUISANCES:** No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No trash, garbage, metal, scrap or other waste may be placed, constructed or stored on the Property, except in approved sanitary containers which may be placed outside only on scheduled collection days.

3. **TRAILERS, CLOTHELINES, ETC.:** No trailer, boat, camper or clothesline or any apparatus designed for the purpose of drying clothing may be placed, constructed or stored on the Property or any lot at any time, either temporarily or permanently.

4. **LIVESTOCK AND POULTRY:** No livestock or other barnyard animals, including but not limited to horses, cows, sheep, goats pigs, poultry, bees or reptiles of any kind shall be kept or bred on any Lot, except for Lot 5, but ordinary and usual domestic dogs, cats and birds may be kept in reasonable number by any Lot Owner.

Such animals must be contained and controlled in accordance with the applicable local bylaws, and leashed when off of the pet owner's Lot.

5. **SIGNS:** No signs of any kind shall be displayed to the public view on any Lot or inside the dwelling unit including, except for real estate "For Sale" or "For Rent" signs which do not exceed two square feet in area.

6. **SOLAR HEAT PANELS:** No solar heat panels of any type shall be installed to the exterior of any building without the prior written permission of the Declarant, its successors, or assigns.

7. **FERTILIZER:** Fertilizer utilized for landscaping and lawn care shall be low in nitrogen content and shall be used in moderation.

8. **FENCES:** Fences shall be constructed of either wood or indigenous fieldstone. Indigenous fieldstone walls shall be constructed with the minimum amount of mortar required for safety and structural integrity. Wood fences may be painted or stained with the color subject to Declarant's approval. Fence posts may be constructed of wood or concrete. Post and rail fences with an attached rubberized or plastic coated wire mesh shall be allowed. No fence or stone wall shall exceed four (4) feet in height if located in the front of any dwelling, and no fence or stone wall shall exceed six (6) feet in height if located on any portion of a Lot.

9. **EASEMENTS:** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plan. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may obstruct, redirect or retard the flow of water through drainage channels, swales, retention or detention areas or any other storm water drainage facilities in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

10. **POOLS, TENNIS COURTS, STORAGE BUILDINGS:** No Lot Owner shall erect or permit to be erected on any Lot any tennis court, storage shed, tent, barn or other exterior building, addition or improvement without the express written permission of the Declarant.

11. **TELEVISION AND RADIO TOWERS OR ANTENNA:** No radio, television, cell or other tower, pole, satellite dish, or antenna or similar structure shall be erected on any part of any Lot or dwelling, including but not limited to radio or television mast antennas, except for satellite dishes no greater than 18" in diameter mounted on the garage or other area in accordance with applicable laws.

12. **SUBDIVISION OF LOTS.** No Lot shall be further subdivided, nor shall any of the Lots be changed or altered in any way.

13. **PLAN APPROVAL:** No excavation, removal of trees, grading or other ground alteration shall occur, nor shall any building or structure, including but not limited to driveways, walkways, stairs, fences, walls, swimming pools and tennis courts be erected on any Lot and said Lot Owner will not commence construction on any Lot until and unless the Lot Owner has submitted a plan (which includes the locations of proposed structures, elevations thereof, tree removal, grading, driveway and landscaping) to the Declarant for approval and Declarant has given the Lot Owner written approval, it being Declarant's intention to maintain aesthetic consistency in the quality and appearance of the dwelling homes in the subdivision, and to ensure that the westward view from the existing dwelling on Lot 1 is preserved and not impaired. In connection with the foregoing, each Lot Owner understands:

- A. That proposed plans must be submitted to Declarant no later than sixty (60) days prior to anticipated commencement of construction;
- B. That all proposed dwelling homes shall contain no less than 2,500 square feet of living area;
- C. No cinder block, concrete block or plywood should be used for the exterior of any structure;
- D. Location, design and construction of all structures on any Lot shall comply with any and all applicable local, state or federal building codes and other applicable governmental regulations;
- E. That such plan approval shall also apply to reconstruction of a dwelling in the event of fire or other casualty;
- F. Any permitted and approved exterior construction or work on a structure on a Lot shall be completed within eight (8) months of the commencement of such construction or work (including driveway and landscaping), and shall be completed in conformity with the approved plan.

14. **GARAGES ATTACHED TO DWELLINGS:** Garages attached to dwellings may be occupied by private non-commercial passenger vehicles only and may also be used for storage of furniture, ordinary household items, toys, bicycles, boats and canoe trailers, but only if all of the foregoing items are at all times kept within the confines of the garage in which the same are used (except when actually being transported. Garages shall not be used for human habitation and shall not be converted into living or other accessory use. The term, "private non-commercial passenger vehicle" as used in this section shall include automobiles and (to the extent customarily used primarily for the transportation of passengers rather than cargo), minivans, sport utility vehicles and small pick up trucks. The fact that a vehicle described in the immediately preceding sentence bears "commercial" license plates shall not, in and of itself, render such vehicle a commercial vehicle. Notwithstanding the foregoing, a Lot Owner may

keep outside on his or her Lot in a neat and orderly fashion, no more than one (1) recreational vehicle or vessel with related trailer, provided that such vehicle or vessel is for personal or family use of the Lot Owner and further provided that such vehicle or vessel is kept to the rear of the dwelling and is not visible from the street.

15. ABOVE-GROUND SWIMMING POOLS: No above ground swimming pools shall be allowed on any Lot.

16. STATUES AND OTHER OBJECTS. No statues, sculptures, birdbaths, replicas of animals or other similar objects shall be permitted on any part of any Lot which is visible from an adjacent Lot.

17. MAINTENANCE OF LOT. Each Lot Owner shall be obligated to maintain and keep in good order and repair his respective property in accordance with these restrictions and covenants. Each Lot Owner shall keep his respective Lot in a good state of maintenance and cleanliness and shall keep lawns mowed and raked. Rock walls shall be maintained at all times.

18. SEVERABILITY. Invalidation of any one or more of the covenants contained herein, judgment or court order or otherwise, shall in no way affect any other provisions which shall remain in full force and effect.

19 ENFORCEMENT: This Declaration shall be for the benefit of the Lot Owners of the Lots shown on the Plan and may be enforced by each Lot Owner within the Property and/or the Homeowners Trust. In addition, Declarant shall have the right but not the obligation to enforce the provisions of this Declaration. Enforcement may be by proceedings at law or in equity against any person or persons violating or attempting to violate any provisions hereof, either to restrain violations or to recover damages. In the event the Declarant incurs any costs in enforcing this Declaration, the party committing the violation shall reimburse the Declarant for the costs of such enforcement. To the extent permitted by law, Declarant shall also have the right to enter upon any portion of the Property, upon reasonable advance notice to owner, to enforce any provision or remedy any violation of this Declaration.

20. WAIVER: No waiver by the Declarant of any violation hereof by any lot owner, shall be deemed a waiver of any subsequent violation by such lot owner or any other lot owner.

21. MODIFICATION AND AMENDMENT: These covenants, restrictions and agreements set forth herein shall run with the land and shall be binding upon each Lot Owner and such Lot Owner's successors and assigns, subject to the right of the Declarant to modify or terminate this Declaration in whole or in part. At such time as the Declarant no longer owns any Lots on the Plan, this Declaration may be modified or terminated by agreement in writing of at least seventy-five (75%) percent of the then current Lot Owners.

For title, see Deed to the Declarant dated October 27, 2005 and recorded with the Middlesex South District Registry of Deeds in Book 46566, Page 262.

Executed under seal this day of 8-22, 2008.

  
Judith R. Kotanchik

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this 22 day of August, ~~2007~~ <sup>2008</sup>, before me, the undersigned notary public, personally appeared Judith R. Kotanchik, proved to me through satisfactory evidence of identification, which was MA Lic. # 013349776 exp 1/15/09, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

  
Notary Public:  
My Commission expires:



PATRICIA A. MCCARRON  
NOTARY PUBLIC  
COMMONWEALTH OF MASSACHUSETTS  
MY COMMISSION EXPIRES  
AUGUST 1, 2014

**APPENDIX A:**

**PRIVATE WAY AND MAINTENANCE AGREEMENT**

**PRIVATE WAY COVENANT AND MAINTENANCE AGREEMENT**

**MICMAC LANE, ACTON**

WHEREAS, Judith R. Kotanchik, of 48 Nashoba Road, Acton, Middlesex County, Massachusetts 01720 (hereinafter referred to as the "Declarant") is the fee simple Owners of Lots 1, 2, 3, 4 and 5 on a plan entitled "Definitive Subdivision Plan Micmac Lane, a Residential Compound, Acton, MA", Record Plan, For: Kotanchik, Scale: 1" = 40', December 31, 2007, Stamski and McNary, Inc., 80 Harris Street, Acton, Mass., recorded herewith (hereinafter referred to as the "Plan"); and

WHEREAS, Lots 1, 2, 3, 4 and 5 (hereafter, together, the "Lots") shall be accessed exclusively by a private way, from Nashoba Road to said Lots, said way being shown as "Micmac Lane" on the Plan (hereafter "Micmac Lane"); and

WHEREAS, the development also contains drainage and utility facilities, for the support and benefit of Micmac Lane and said the Lots, which are located or to be located in those areas shown as "Drainage Easement 'A'" and "Drainage Easement 'B'" (together, "Drainage Easements"), and "Utility Easement 'A'" and Utility Easement 'B'" (together, "Utility Easements").

NOW, THEREFORE, the Declarant hereby subjects said Lots 1, 2, 3, 4 and 5 to the following Private Way and Maintenance Agreement, which Agreement runs with the land and shall be binding on Declarant, their successors and assigns.

(1) the Owners of the Lots shall have the perpetual, non-exclusive right to use Micmac Lane and the utilities located within Micmac Lane for travel on foot and by motor vehicles to and from said Lots to Nashoba Road;

(2) the use of Micmac Lane shall be restricted to travel thereon to and from the five single family homes (and any accessory uses permitted by this Covenant and Maintenance Agreement and/or the Decision) by the Owners of the Lots and their respective family members, guests and business invitees;

(3) the Owners of the Lots shall bear jointly and equally the responsibility of (a) maintenance, repairs, reconstruction, and snowplowing of Micmac Lane and (b) the

**maintenance and repairs of the utility lines located or to be located within the Utility Easements or drainage facilities located or to be located within the Drainage Easements, as follows:**

<b>Lot 1</b>	<b>20%</b>
<b>Lot 2</b>	<b>20%</b>
<b>Lot 3</b>	<b>20%</b>
<b>Lot 4</b>	<b>20%</b>
<b>Lot 5</b>	<b>20%</b>

**If any owner of any of the above described properties fails to pay an amount duly assessed for the cost of such repair and maintenance, such owner shall be liable for interest in the amount of the unpaid amount at the legal rate for judgements, and the costs of collection, including reasonable attorney's fees.**

**(4) the terms "maintenance and repair" shall include, but shall not be limited to, any necessary reconstruction, any expense of snowplowing and repairs in order to maintain Micmac Lane in a good and passable condition, and the Utility Easements and Drainage Easements in a good and workable condition and details of the maintenance plan are set forth in the Drainage System Operation and Maintenance Plan, attached hereto as Exhibit "A";**

**(5) any necessary maintenance, repair or reconstruction of Micmac Lane shall be carried out so that the products of erosion as a result thereof shall not be carried in the storm drainage system;**

**(6) maintenance and repair of Micmac Lane, the Utility Easements and/or the Drainage Easements shall be performed upon the reasonable request of the Owners of two (2) of the Lots. If any of the Owners of any of the Lots shall fail or refuse at any time to bear responsibility and make payment, or such maintenance or repair shall otherwise be in dispute, the Owners of each of the Lots shall select an arbitrator and if the arbitrators so selected cannot by majority agree on a resolution within ten (10) days from appointment, then they shall select one arbitrator by a majority vote within five (5) days thereafter, and the decision of the arbitrator so selected shall be binding on all of the Lot Owners;**

**(7) the Owners of the Lots shall restrict their use of the private way as above stated and shall not impede the passage of foot or vehicle traffic on Micmac Lane by parking upon it;**

**(8) it is hereby acknowledged and understood that Micmac Lane, and the utility and drainage facilities appurtenant thereto, will not at any time be accepted by the Town of Acton as**

a public way, and accordingly, all snowplowing and other maintenance and repair will be and remain the sole responsibility of the Owners from time to time of said Lots;

(9) The Owners of Lots, for themselves and their heirs, successors and assigns, hereby acknowledge that Micmac Lane is subject to the terms and conditions set forth in Decision \_\_\_\_\_ of the Acton Planning Board (herein referred to as the "Decision"), including, without limiting the generality of the foregoing, Micmac Lane shall remain a private way and the Owners of Lots shall:

- a. be jointly responsible for the removal of snow and ice on Micmac Lane;
- b. be jointly responsible for any general maintenance and upkeep of Micmac Lane and any associated drainage structures and other utilities;
- c. not petition the Town of Acton to accept Micmac Lane as a public way and shall not petition the Town of Acton to provide snow and ice removal services or any maintenance or repair of Micmac Lane;

(10) The Owners of the Lots and their respective heirs, successors and assigns, hereby agree that they shall, from time to time, execute any additional documents, required by the Town of Acton, or otherwise, reasonably required to enable said private way to be used to service said Lots;

**{Remainder of Page Blank – Signature Page to Follow}**

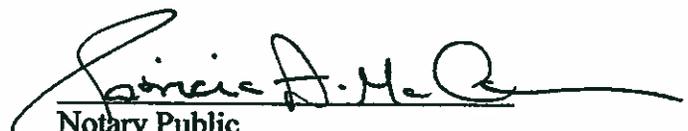
WITNESS the execution hereof under seal this 26 day of August, 2008.

DECLARANT:

  
Judith R. Kotanchik

Middlesex, ss. COMMONWEALTH OF MASSACHUSETTS 8/26, 2007

Then personally appeared before me, the undersigned notary public, Judith R. Kotanchik, proved to me through satisfactory evidence of identification, which was MA DRIVER'S LICENSE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

  
Notary Public  
My Commission Expires:



PATRICIA A. MCCARRON  
NOTARY PUBLIC  
COMMONWEALTH OF MASSACHUSETTS  
MY COMMISSION EXPIRES  
AUGUST 1, 2014

## Exhibit A

### DRAINAGE SYSTEM OPERATION AND MAINTENANCE PLAN

THE IMPLEMENTATION, INSPECTION, AND REPAIR OF THE EROSION CONTROLS IS THE RESPONSIBILITY OF THE SITE CONTRACTOR DURING CONSTRUCTION.

THE INSPECTION AND OPERATION OF THE STORM WATER MANAGEMENT SYSTEM UPON COMPLETION OF CONSTRUCTION IS THE RESPONSIBILITY OF:

DURING CONSTRUCTION: APPLICANT - JUDITH KOTANCHIK  
48 NASHOBA ROAD  
ACTON, MA 01720

PARTIES RESPONSIBLE FOR LONG TERM OPERATION/MAINTENANCE:

HOME OWNERS OF LOTS SERVED BY PRIVATE WAY "MICMAC LANE".

#### SCHEDULE FOR INSPECTION AND MAINTENANCE:

##### STREET SWEEPING:

THE PAVEMENT SHALL BE SWEEPED OF ALL SEDIMENT ONCE IN THE SPRING AND ONCE IN THE FALL.

##### DEEP SUMP AND HOODED CATCH BASINS

THE DEEP SUMP FOR THE CATCH BASINS SHALL BE INSPECTED AND CLEANED ANNUALLY. THE CATCH BASINS SHALL HAVE A FOUR FOOT DEEP SUMP AND THE WATER LEVEL IS MAINTAINED BY THE DISCHARGE PIPE AT FOUR FEET. THE DISCHARGE PIPE IS HIDDEN FROM VIEW BY A HOODED OUTLET.

- THE DEPTH OF THE SEDIMENT IN A BASIN SHALL NOT EXCEED A DEPTH OF 18 INCHES AS DETERMINED BY PROBING WITH A STICK. IF THE STICK HITS THE BOTTOM WITHIN 30 INCHES OF THE WATER LEVEL, MORE THAN 18 INCHES OF SEDIMENT HAS ACCUMULATED AND MUST BE REMOVED. LICENSED PERSONS SHOULD REMOVE AND DISPOSE OF THE CONTENTS OF THE SUMP IN ACCORDANCE WITH APPLICABLE REGULATIONS.

##### DRAINAGE BASIN

IN EACH OF THE FIRST THREE YEARS AFTER CONSTRUCTION, TWO INSPECTIONS ARE REQUIRED IN BOTH THE GROWING AND NON-GROWING SEASONS. AFTER SUCCESSFUL ESTABLISHMENT OF ALL REQUIRED VEGETATION AND SURFACES WITHSTAND EROSION, INSPECTION AND MAINTENANCE SHOULD CONTINUE ON A YEARLY BASIS. THE FOLLOWING OBSERVATIONS AND CORRECTIVE MEASURES SHOULD BE MADE DURING EACH INSPECTION:

- SIDE SLOPES OF THE CHANNEL SHALL BE INSPECTED FOR EROSION. ALL ERODED AREAS SHALL RECEIVE 6" OF LOAM AND BE RESEEDED PER ORIGINAL DESIGN PLAN. AREAS OF CONTINUED EROSION SHALL BE STABILIZED WITH 3" MINUS RIPRAP.
- REMOVE ALL SEDIMENT FROM THE CHANNEL ONCE THE SEDIMENT REACHES 10% OF CHANNEL VOLUME OR 3-INCH DEPTH.

##### EMERGENCY CONTACTS:

IN THE EVENT OF A HAZARDOUS MATERIALS SPILL ON THE SITE THE FOLLOWING PARTIES SHALL BE CONTACTED:

FIRE DEPARTMENT: PH: 978-264-9645

##### RECORDS:

THE OWNER SHALL MAINTAIN AN INSPECTION LOG OF ALL ELEMENTS OF THE STORM WATER MANAGEMENT PLAN. THE OWNER SHALL MAINTAIN A MAINTENANCE LOG DOCUMENTING THE INSPECTION AND MAINTENANCE OF THE DRAINAGE STRUCTURES UNDER HIS CONTROL. A COPY OF THE EROSION CONTROL AND STORM WATER MAINTENANCE PLAN AND INSPECTION LOGS SHALL BE KEPT ONSITE AT ALL TIMES.

**ATTACHMENT 1:**

**DEFINITIVE SUBDIVISION PLAN FOR "Micmac Lane"**

**ATTACHMENT 2:**

**PROOF PLAN FOR "Micmac Lane"**