

**ACTON CONSERVATION COMMISSION  
MINUTES  
November 18, 2015  
7:15 PM  
TOWN HALL - 472 MAIN STREET  
ROOM 204**

**COMMISSIONERS PRESENT:** Terry Maitland, William Froberg, Tom Arnold, Andrew Magee, Jim Colman, Paula Goodwin

**NATURAL RESOURCES DIRECTOR & RECORDING SECRETARY:** Tom Tidman

**VISITORS:** Sean Towe, Sean Keenan, Renee' McDonough

**7:20 Notice of Intent:** 456 Massachusetts Avenue, Lot 2

Sean Keenan, of 54 Gristmill Road, Littleton, is the applicant for the construction of a single family dwelling with driveway and associated grading, at 456 Mass Ave, Lot 2 (atlas plate F2, lot 117, subdivision lot 2). Work is within 100 feet of an Isolated Vegetated Wetland and is a by-law only application.

Renee McDonough from Goddard Consulting presented for the applicant. She noted that the closest point of work, which is the deck, is 84 feet from wetlands. Some grading will be done at the rear of the house and driveway, entailing approximately 4 feet of fill. Each lot will have its own driveway extending off the existing common driveway from Massachusetts Avenue. The house will be connected to town sewers.

**Decision:** Mr. Magee moved to issue a standard Order of Conditions with the addition of the following special condition:

*A row of 3 to 4 foot diameter boulders, buried to half their depth with a spacing of 5 feet will be placed along the 50 foot natural border.*

Mr. Colman seconded and the vote was unanimous.

**7:45 Notice of Intent:** 456 Massachusetts Avenue, Lot 3

Sean Keenan of 54 Gristmill Road, Littleton, is the owner/applicant for the construction of a single family home with driveway and associated grading, at 456 Mass Ave, Lot 3 (atlas plate F2, lot 117, subdivision lot 3). Work is within 100 feet of an Isolated Vegetated Wetland and is a by-law only application.

Renee McDonough of Goddard Consulting presented as per Lot 2. She pointed out that storm runoff from the common drive and front yard will be directed to a retention pond located outside the 100 foot buffer zone. The retention pond has an overflow structure at elevation 229. The pond will be approximately 3 feet deep when full. This project is exempt from Mass DEP Stormwater Management Standards because it is considered a "small residential subdivision of less than 4 single family dwellings."

The Commission discussed the role of the detention basin for this site.

**Decision:** Mr. Magee moved to issue a standard Order of Conditions with the addition of the following "Special Conditions:"

1. *A row of 3 to 4 foot diameter boulders buried to half their depth with a spacing of 5 feet will be placed along the 50 foot natural buffer, terminating at the rear (south) property boundary.*
2. *The retention pond shall remain free of yard waste, leaves, et cetera in order to continue to function as designed.*

Mr. Colman seconded and the motion passed unanimously.

#### **7:50 Notice of Intent: 353 Main Street**

Robert Pace is the applicant for a project at 353 Main Street, Acton, MA (atlas plate F3, parcel 70). The project is the construction of a single family dwelling, sewage disposal system, driveway and associated appurtenances within the 100 foot Buffer Zone of a Bordering Vegetated Wetland.

Richard Harrington from Stamski & McNary Inc. presented for the applicant. In 2000, an Order of Conditions was issued to Kennedy Nursery at this site for a curb-cut, driveway and nursery yard. The same curb-cut location will be used, along with the existing driveway location for access to the proposed dwelling.

The proposed septic disposal area will be located outside the 75 foot buffer zone, as well as the house and septic tanks. It isn't possible to locate the driveway outside the 75 foot buffer because of the lot configuration. The new driveway follows the footprint of the existing driveway.

Consultation with the Deputy Fire Chief resulted in a required modification to be made to the original Notice of Intent Plan. The driveway is required by the fire department to have a durable surface 20 feet wide. The driveway will be composed of 12 feet of paved and 4 feet of compacted gravel on both sides. The revised plan is dated 11/18/2015 and was submitted prior to the start of the hearing. The driveway will also have a turnaround area, a requirement of the Fire Department. The leaching field will be located under the driveway, and culverts under the driveway will be installed at both ends of the leaching field.

Mr. Magee voiced concerns about the length of driveway being more than 300 feet within the 75 foot buffer zone. Mr. Harrington explained that they had no alternative to get to the buildable portion of the property. Section F.8.3 of the Bylaw allows for roadways to be constructed where no alternative is present. Mr. Magee then suggested that the filing, whether approved or denied, should include a "Findings of Fact" for the driveway. The Commission discussed what relevant information should be included in the decision, and concluded that a "Findings of Fact" should be drafted for review. (See attached "Findings of Fact.")

**Decision:** Mr. Colman moved to issue a standard Order of Conditions with the Findings of Fact and one special condition:

The owner is required to maintain a meadow on the wetlands side of the driveway, beginning at Main Street and ending near the house at elevation 217. The meadow is to be mowed once each year. All existing construction/landscaping debris is the responsibility of the applicant to remove prior to the issuance of an Occupancy Permit.

Mr. Arnold seconded and the motion was passed unanimously.

**Minutes:**

**October 21, 2015**, Reviewed by: AG, TA, AM

Mr. Colman moved to accept, Mr. Magee seconded, vote was unanimous.

**November 4, 2015**, Reviewed by: AG, TA, AM

Mr. Colman moved to accept, Mr. Froberg seconded and the vote was unanimous.

**Meeting adjourned: 9:05 PM**



**Terry Maitland**  
**Chairperson**

## **Findings of Fact: 353 Main Street**

**Background:** On November 5, 2015, First Evergreen Properties, LLC (applicant) Robert Pace, represented by Stamski & McNary Inc., filed a Notice of Intent (NOI) with the Acton Conservation Commission for the construction of a single family dwelling, with a sewage disposal system, driveway and associated appurtenances within the 100 foot buffer zone of a Bordering Vegetated wetlands at 353 Main Street, Acton, MA.

### **Hearing History:**

On November 16, 2015, Richard Harrington from Stamski and McNary Inc., met representatives from the Acton Conservation Commission at 353 Main Street. for a site walk.

The Public Hearing for 353 Main St. was held on Nov. 18, 2015, at the Acton Town Hall. The hearing was closed on November 18, 2015. The Commission voted to issue an Order of Conditions approving the project. Below are the major reasons identified that led to this decision.

### **Findings of Fact**

1. On Dec 1, 2000, a Notice of Intent was filed with the Acton Conservation Commission by Kennedy & Company, a local landscaping and nursery company and owners of 353 Main St. The NOI requested permission to improve an existing farm lane into a gravel driveway, and create an area to store nursery stock. An Order of Conditions (DEP File #85-733) approving the project was issued on January 4, 2001.
2. The proposed 12 foot wide paved driveway follows the path of the existing gravel nursery roadway established under the above-referenced Order of Conditions (DEP File #85-733).
3. The Commission recognizes that portions of the proposed 12 foot wide driveway fall within the Acton no-build setbacks as described in Chapter F "Environmental Protection", Town of Acton Wetlands Bylaw. However, the proposed driveway follows the same footprint as the existing non-conforming driveway and does not go into greater non-compliance.
4. Section F8.3 of the Town of Acton Wetlands Bylaw allows up to a zero foot setback from Bordering Vegetated Wetlands (BVW) for structures necessary for uplands access where a reasonable alternative is unavailable.
5. The Commissioners present at the site walk on Nov. 16, 2015, observed that no large trees would need to be removed to allow this project to be completed, and in general the project will result in minimal further disturbance to the buffer zone.
6. It was further noted that the majority of work, including driveway construction, septic system installation and house construction, occur in areas previously disturbed by Kennedy Nursery operations, as approved under the above-referenced Order of Conditions (DEP File #85-733).
7. It is recognized that although the project involves significant work within the buffer zone, it requires no wetlands alteration. The Commissioners present at the site walk did not observe any wetlands indicator species in the area where work is proposed. The Bordering Vegetated Wetlands (BVW) are located at elevation 208 – 210. The proposed house construction is located at elevation 220, and all work is separated from the resource area by a steep embankment offering a minimum elevated difference of 10 vertical feet.

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**7:25 Notice of Intent: 456 Massachusetts Avenue, Lot 3**

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**7:30 Notice of Intent: 353 Main Street**

Notice of Intent filed by Robert Pace for a project at 353 Main Street, Acton, MA (atlas plate F3, parcel 70). The project is the construction of a single family dwelling, sewage disposal system, driveway and associated appurtenances within the 100 foot Buffer Zone of a Bordering Vegetated Wetland.

**Minutes:** October 21, 2015, Reviewed by: AG, TA, AM  
November 4, 2015, Reviewed by: AG, TA, AM

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