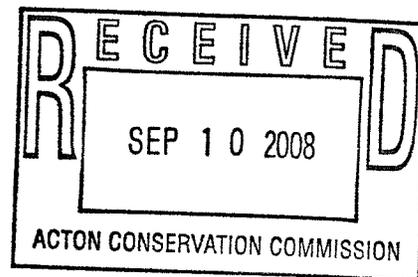


ANDERSON & KREIGER LLP

MARY LIZ BRENNINKMEYER
mbrenninkmeyer@andersonkreiger.com
Direct phone: 617-621-6518
Direct fax: 617-621-6618



September 8, 2008

Peter T. Clark, Esq.
Law Offices of Peter T. Clark
200 Chauncy Street
Mansfield, MA 02048

Re: Steven W. Kelley and Rachel K. Kelley, 70 Newtown Road, Acton, MA
Acton Conservation Commission Enforcement Order, 2/26/2008
DEP File No. 85-984

Dear Peter:

The Acton Conservation Commission (the "Commission") would like to meet with Steven W. Kelley and Rachel K. Kelley (the "Applicants") to review and discuss the remedial actions described below that the Applicants will need to take to resolve their unauthorized removal of trees in January 2008. That unauthorized removal of trees occurred within the 100-foot buffer zone of a bordering vegetated wetland on their 70 Newtown Road property (the "Property"). In the Commission's judgment, the Applicants' tree-removal activities violated the Massachusetts Wetlands Protection Act, the Town of Acton Wetland Protection Bylaw (the "Acton Bylaw"), and the Order of Conditions issued on December 12, 2007 to address another, earlier violation by the Applicants. On February 26, 2008, the Commission issued an Enforcement Order requiring the Applicants to cease all work on the Property and stating that it would determine a mitigation plan for the described violations.

1. New Notice of Intent: Remedial Landscaping Plan; Markers for Permanent No-Disturbance Area

The Commission will require the Applicants to file a new Notice of Intent (the "NOI") requesting the Commission's authorization to perform remedial work in the buffer zone. The NOI shall include a landscaping plan prepared by a landscape professional with substantial experience in wetlands buffer-zone landscaping. The plan shall provide for the installation of native and other suitable, non-invasive shrub species to be planted along the driveway and on the east side of (behind) the existing stone wall, and extending between the lowest grading of the septic system and the buffer-zone area

where the majority of the trees were removed. The planting plan will require the Commission's approval pursuant to an Order of Conditions (the "OOC"). The OOC will include a requirement that either the Commission or the Town Agent, Thomas Tidman, review and approve the plantings prior to installation.

The OOC also will require that the Applicants install permanent markers, such as granite monuments affixed with signs, to delineate and protect in perpetuity the no-disturbance area. The form and location of the markers will require the Commission's review and approval prior to installation. The Commission also will require the Applicants to record with the Middlesex Registry of Deeds, in a form acceptable to the Commission, a plan or other legally sufficient documentation of the no-disturbance area and permanent markers.

2. Payment of Fine Pursuant to Acton Bylaw

Section F14 of the Acton Bylaw authorizes the Commission to impose a fine of \$10 per inch of circumference for any tree cut illegally in the buffer zone. The Commission's expert has determined that the Applicants removed 24 trees having an aggregate circumference of 1,095.4 inches, which would support a fine of up to \$10,950.40 under Section F14. In lieu of that fine, however, the Commission will impose the significantly more modest fine of \$200 that Section F14 of the Acton Bylaw authorizes for illegal work in the buffer zone.

Please contact Thomas Tidman to schedule a time to meet with the Commission to discuss this matter. If the Kelleys are not willing to comply with the Commission's request in a timely manner, the Commission stands ready to file the Complaint it forwarded to the Kelleys in March.

Please call me if you have any questions.

Sincerely,


Mary Liz Brenninkmeyer

cc: Thomas Tidman, Natural Resources Director
Acton Conservation Commission