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JUN 17 2024

TOWN OF ACTON  
PLANNING DEPARTMENT

PCRC and Common Driveway Special Permit Amendment #3  
123 Quarry Road (Old Westford Road PCRC)  
May 21, 2024



Planning Board

**TOWN OF ACTON**  
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**DECISION**

93-9

**Amendment #3**

**123 Quarry Road (Old Westford Road)**

PCRC and Common Driveway Special Permit  
Amendment #3

May 21, 2024

APPROVED (with Conditions)

This is an amendment by the Planning Board (hereinafter the Board) of its decision on the application of Mascarli LLC (here and after the Applicant) issued to the Applicant, for property in Acton, Massachusetts, owned by Bettina Norton of 6 Rollins Place, Boston, MA 02114 on October 4, 1993 and amended on June 5, 2018 and January 16, 2024 for property 123 (formerly 115 & 119) Quarry Road shown on the Acton Town Atlas as map B-5, parcels 22,23,24,28,29, 14-1 (hereinafter the Site).

This Third Amendment Decision is in response to the request of Mascarli LLC, for an amendment to the Original Decision and of the plan approved herein. The Planning Board

received an Amendment Request on May 3, 2024 for a re-arrangement of the location of the leach field to an area closer to the development to reduce total site disturbance as required by Massachusetts Endangered Species Act review.

The Applicant presented the Amendment to the Board at a public meeting on May 21, 2024. Nathaniel Cataldo of Stamski and McNary assisted the Applicant with the presentation. Board members Mr. Jon Cappetta (Chairman), James Fuccione, Patricia Clifford and Michaela Moran and were present throughout the hearing. At the public meeting of May 21, 2024, the Board determined that the requested modification is minor in nature and as such does not require a public hearing. 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 in the Acton Planning Department.

## **1 EXHIBITS**

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

- 1.1 A plan set entitled "123 Quarry Road A Planned Conservation Residential Community in Acton Massachusetts", dated June 26, 2023 and revised on October 24, 2023, January 22, 2024, March 4, 2024, and April 24, 2024 drawn by Stamski and McNary of 1000 Main Street, Acton, MA 01720 consisting of 9 sheets.
- 1.2 Supplemental items and documentation consisting of:
  - Letter from Stamski and McNary entitled "Planned Conservation Residential Community and Common Driveway Special Permit, 123 Quarry Road, Map B5 Parcels 23, 24, 28, & 29" dated April 30, 2024.
  - Stormwater Management Report Addendum dated April 19, 2024.
  - Certified abutters list.
  - Owner's consent.
  - Filing Fee.

Exhibits 1.1 through 1.2 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 applicant has an approved Planned Conservation Residential Community and Common Driveway Special Permit, approved on October 4, 1993 and subsequently amended on June 5, 2018 and January 16, 2024.
- 2.2 There are no proposed changes to the house lots, Common Driveway, and drainage infrastructure.
- 2.3 The Amendment consists of relocating the leach field closer to the development to reduce the total site disturbance as required by Massachusetts Endangered Species Act review.
- 2.4 The common land is proposed to be divided into two parcels, Parcel Y and Parcel Z, and totals 342,763 square feet. Parcel Y is 25,243 square feet and contains the leach field and Parcel Z is 317,520 square feet.
- 2.5 The total size of the common land for the Site remains the same.

- 2.6 Parcel Y will be owned and maintained by the homeowners of the PCRC.
- 2.7 The Applicant has offered to donate Parcel Z to the Town of Acton Conservation Commission. The proposed use of the common land is in compliance with Section 9.6.3.3 of the Bylaw.
- 2.8 The Applicant has offered to donate an access easement over Parcel Y to the Town of Acton Conservation Commission.
- 2.9 The Board finds that location of the leaching field allows for better preservation of natural resources and overall better site planning and aesthetics for the neighborhood.
- 2.10 Under Massachusetts Law, property taxes must be paid prior to plan recording. Under the Town of Acton Bylaws, no permit or special permit shall be issued to any party "that has neglected or refused to pay any local taxes ..." (Chapter O).
- 2.11 The proposed PCRC as shown on the Plan and as amended herein complies with the applicable requirements of the Bylaw; is in harmony with and enhances the purpose and intent of the Bylaw, specifically Section 9; is in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhood; is consistent with the Master Plan; will not be detrimental or injurious to the neighborhood; and is appropriate for the Site.

### **3 BOARD ACTION**

Therefore, the Board voted on May 21, 2024, 4 in favor, to GRANT the requested special permit, subject to and with the benefit of the following waivers, conditions, plan modifications, and limitations.

#### **3.2 PLAN MODIFICATIONS**

The Zoning Enforcement Officer (ZEO) shall not sign off on a building permit, no building permit shall be issued on the Site, nor shall any construction activity begin on the Site, until and unless the ZEO finds that the Plan is revised to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the ZEO.

- 3.2.1 Unless directed otherwise by this decision, the definitive plan shall be modified to comply with all requirements of the Rules, and shall address all comments from GCG Associates Inc., and any other departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.
- 3.2.3 Submit for the Board's or its designee's approval:
  - a) An updated fee simple deed to reflect the approximate 317,520 square feet donation of common land to the Town of Acton Conservation Commission as shown on the plan as "Parcel Z," consistent with the requirements of the Bylaw for public ownership of common land in PCRCs and consistent with this decision.
  - b) An updated easement deed to reflect the approximate 25,243 square foot donation of common land to the Town of Acton Conservation Commission as shown on the plan as "Parcel Y".

- 3.2.5 The Plan shall be modified to comply in all respects with the Bylaw and, unless directed otherwise by this decision, with all applicable requirements of the PCRC Rules.

### **3.3 CONDITIONS**

The following conditions shall be binding upon the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.3.1 Except as modified herein, the Original Decision, and the plan approved thereunder, shall remain in effect.
- 3.3.16 This Decision, the endorsed Record Plan, and the approved common driveway maintenance agreement and covenant shall be recorded by the Applicant at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the Site.


### **3.4 LIMITATIONS**

The authority granted to the Applicant under this special permit is limited as follows:

- 3.4.1 The foregoing required modifications and 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, the PCRC Rules, and other applicable laws and regulations.
- 3.4.2 This special permit approval applies only to the Site identified in this decision and to the proposed use and activity as shown on the Plan.
- 3.4.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4.4 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. For substantial use to have commenced, clearing and grading on the Site as approved hereunder must be under way. For construction to continue towards completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than 1 year. 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, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 3.4.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this decision with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

**5      CERTIFICATE OF ACTION**

This document stating the Decision of the Board shall serve as the Certificate of the Board's Action to be filed with the Town Clerk pursuant to MGL, Ch. 41, s. 81-U.

  
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Kristen Guichard, AICP, Planning Director  
for the Town of Acton Planning Board

Copies furnished:

Applicant -  
certified mail #  
Town Clerk  
Fire Chief  
Owner  
[Historic District Commission]

Building Department  
Engineering Department  
Natural Resources Dept.  
Police Chief  
Historical Commission

Health Department  
Tree Warden  
Town Manager  
Acton Water District  
Assistant Assessor