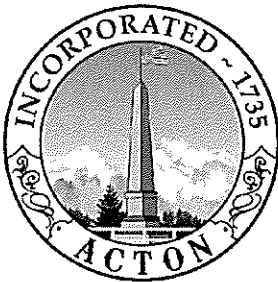


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TOWN CLERK, ACTON

Definitive Subdivision (Residential Compound) – 12-03  
Pine Ridge Farm Lane, 366 Pope Road  
June 19, 2012

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**Planning Board**

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**DECISION**  
12-03

**Pine Ridge Farm Lane**

Definitive Subdivision (*Residential Compound*)  
June 19, 2012

**APPROVED**

Decision of the Acton Planning Board (hereinafter the Board) on the application of Mike Paratore (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Mike Paratore of 366 Pope Road Acton, MA 01720. The property is located at 366 Pope Road and shown on the Acton Town Atlas map E-6 as parcel 4 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Definitive Subdivision Plan entitled "Pine Ridge Farm Lane" received by the Acton Planning Department on April 13, 2012,

pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules).

The Applicant presented the subdivision proposal to the Board at a public hearing on June 5, 2012. Richard J. Harrington, P.E. #41298 of Stamski and McNary, Inc. assisted the Applicant with the presentation. The hearing was continued to June 19, 2012 and then closed. Board members Mr. Ryan Bettez (Chairman), Jeff Clymer (Vice Chair), Ms. Margaret Woolley Busse, Ms. Kimberly Montella, Mr. Ray Yacouby, and Rob Bukowski (Associate Member) were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

## **1 EXHIBITS**

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

- 1.1 A plan entitled "Pine Ridge Farm Lane" dated March 15, 2012 drawn by Stamski and McNary, Inc. of 1000 Main Street Acton, MA 01720 consisting of 6 sheets.
- 1.2 Supplemental items and documentation required by the Rules consisting of:
  - A properly executed Application for Approval of a Definitive Plan, form DP, dated April 10, 2012;
  - Filing fee;
  - A completed Development Impact Report, form DIR;
  - Designer's Certificate;
  - Certified abutters list;
  - Applicant's statement to retain the fee in the street;
  - Legal Notice of Public Hearing;
  - A list of requested waivers;
  - A letter authorizing Town entry into the Site to complete the street;
  - Copy of the deed;
  - A list of mortgage holders;
  - A private way covenant and maintenance agreement;
  - Stormwater Management Report.
- 1.3 Interdepartmental communication received from:
  - Acton Engineering Administrator, dated 5/18/12;
  - Acton Health Department, dated 5/18/12;
  - Acton Planning Department, dated 5/24/12;
  - Acton Sidewalk Committee, dated 5/15/12;
  - Acton Treasurer's Office, dated 4/26/12;
  - Acton Tree Warden & Municipal Properties Dir., dated 5/4/12;
  - Acton Water Supply District, dated 04/27/12.
- 1.4 Correspondence received from:
  - Susan and Fredrick Seward, dated 05/26/12;
  - Bill Roop, dated 05/29/12.

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 proposed subdivision is located within the Residence 8 (R-8) Zoning District and Groundwater Protection District (GPD) Zone 4.
- 2.2 The Site is mostly grassland and forested. It is currently a developed lot with an existing single family dwelling, detached garage, barn, stables and gravel driveway.
- 2.3 The existing house and a shed are to be demolished. They are not on the cultural resource list.
- 2.4 The Plan shows the proposed division of approximately 5.22 acres into two single-family residential lots, a +/- 220 foot long subdivision street, proposed Pine Ridge Farm Lane, which intersects with Pope Road.
- 2.5 The north easterly site boundary along proposed Lot A-1 and Lot A-2 generates various wetlands buffers and setbacks under State and local laws. Wetlands are also located at the south westerly corner boundary of Lot A-2 and Pope Road.
- 2.6 The Plan shows typical house and driveway locations on lots. They are shown for illustrative purposes only. Actual driveway locations may vary, except for specific requirements of this Decision and where compliance with section 8.1.18 of the Rules is required. House locations may shift within the parameters of setbacks required under the Bylaw.
- 2.7 The proposed uses, two single-family dwellings, are allowed on the Site in accordance with the Acton Zoning Bylaw (hereinafter the Bylaw), including all overlay district requirements. The proposed lots comply with the area and frontage requirements of the Bylaw, including all overlay district requirements.
- 2.8 In lieu of constructing sidewalks as required by the Rules, the applicant has offered a donation to the Town's sidewalk fund.
- 2.9 The runoff for the driveways in subcatchment 1B is modeled to head to Basin 1B. The plan seems to indicate that the driveways have no curb. However, if there are curbs as shown in the plan's cross section, the runoff from the driveway would actually be in subcatchment 1A running to the catch basin at the end of the road, and drainage calculations and possibly drainage facilities may need adjustment.
- 2.10 The design of the proposed subdivision street is intended for approval under Section 10 of the Rules - Optional Residential Compound, which implies waivers from Section 8 and 9 of the Rules. The subdivision is eligible for consideration as a Residential Compound. The Applicant has demonstrated with a "proof plan" that he could build a subdivision street under the otherwise applicable requirements of the Rules. A Residential Compound is less intrusive to the neighborhood, preserves more of the natural environment of the Site, and helps preserve the present character of the neighborhood. The Plan, as modified herein, accomplishes these purposes of the Rules' Residential Compounds option.
- 2.11 Ways in Residential Compound subdivisions can be built to lesser design and construction standards than other streets in Acton. They are intended to remain private ways. This requires a legal framework for the maintenance and ownership of the private

way. Furthermore, the Board needs assurances that the Town will not be asked to plow, maintain, or accept the private way in the future.

- 2.12 The Board solicited comments from various Town departments and has received such comments, which are listed in Exhibit 1.3 above. The Board considered these comments in its deliberations and made them available to the Applicant. They are restated herein as required plan modifications or conditions as deemed appropriate by the Board.
- 2.13 The Acton Treasurer has advised the Board that property taxes for fiscal year 2012 have been paid. Under Massachusetts Law property taxes on the land must be paid prior to recording of a definitive plan.
- 2.14 The Applicant has requested certain waivers from the Rules. These are discussed in section '3.1 Waivers' below.

### **3 BOARD ACTION**

Therefore, subject to and with the benefit of the following waivers, conditions, plan modifications, and limitations, the Board voted on June 19, 2012 to APPROVE the definitive subdivision. The vote was unanimous.

#### **3.1 WAIVERS**

- 3.1.1 The Applicant has requested waivers from Section 8 (Design Standards) and Section 9 (Improvements) of the Rules to allow the construction of the street as shown on the Plan. The waiver is GRANTED pursuant to Section 10 of the Rules (Residential Compounds) and subject to any required Plan modifications and conditions stated herein.
- 3.1.2 Specifically the Applicant has also requested a waiver from the sidewalk requirements of the Rules. The waiver is GRANTED subject to further conditions as stated below.

#### **3.2 PLAN MODIFICATIONS**

The Plan shall be revised prior to its endorsement to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Board or its designee. Where approvals are required from persons or agencies other than the Board, the Applicant shall be responsible for providing evidence of such approvals to the Board or its designee.

- 3.2.1 On the record plan sheet (3):
  - add a note stating the lots shall not be further subdivided to create additional building lots.
- 3.2.2 On all plan sheets (as applicable):
  - the turning radii at the Pope Road intersection shall be widened to accommodate a SU-30 vehicle.
  - add street addresses for each lot.
  - add proposed street signs for the road; signs shall be MUTCD (Manual of Uniform Traffic Control Devices) compliant, doesn't obstruct sight distance, and states that the road is a private way.
  - add any proposed gas lines.
  - label sight distances at the intersection with Pope Road.
  - add a note that the well hand pump shall be decommissioned, or, if intended to be used a well radius shall be added.

- 3.2.3 Add plan notes stating that:
- the developer shall make necessary modifications as determined by the Town of Acton Engineering Department if the drywell on Lot A-1 does not work as designed.
  - two benchmarks shall be established that will not be disturbed during construction.
  - any survey monuments shall be protected during construction and if they are disturbed, they shall be reset by a Professional Land Surveyor.
  - commercial outdoor lighting shall not be installed on the lots; any existing commercial grade outdoor lighting shall be removed.
  - houses and driveways are shown for illustrative purposes only.
  - driveway locations, except as necessary to comply with section 8.1.18.1.c) of the Rules, and house locations may vary from what is shown on the Plan.
  - limits of clearing shown on the Plan are not required under the subdivision approval, and that any tree plantings or landscaping shown on the plan are not required under the subdivision approval except to the extent that such planting and landscaping is required under the Rules. If such limits of clearing and landscaping are required by another entity having jurisdiction the note shall clarify that fact.
- 3.2.4 There shall be no curbing on the two individual driveways. If curbing is intended, new stormwater calculations shall be produced to accommodate the driveway's pavement as part of subcatchment 1A.
- 3.2.5 Stormwater Management Report shall be modified to include detailed calculations showing there is sufficient capacity in the system based on the 10-year storm.
- 3.2.6 The applicant has provided a private way covenant and maintenance agreement for the proposed street. This shall be incorporated into legal documents and shall also include the Stormwater Operation & Maintenance Plan as presented in the Stormwater Report of the application and as may be modified as a result of this decision together with a sample page for an inspection/repair/maintenance log.
- 3.2.7 The aforesaid private way covenant and maintenance agreement shall also include language that prohibits any large plantings or obstructions within the shoulder and turn around area of the road where the two individual driveways intersect to ensure fire and emergency vehicle accessibility to dwellings on proposed Lot A-1 and Lot B-1.
- 3.2.8 All fire alarm call boxes shall be installed in accordance with the specifications of the Acton Fire Department (AFD) and AFD approval of the Plan shall be submitted in writing prior to Plan endorsement.
- 3.2.9 Unless directed otherwise by this decision, the definitive plan shall be modified to comply with all requirements of the Rules, and shall address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

### **3.3 CONDITIONS**

The following conditions shall be binding upon the Applicant and its successors and assigns. Failure to adhere to the following conditions shall be reason to rescind this subdivision approval pursuant to MGL Ch.41, S.81-W. The Town of Acton may elect to enforce compliance with this decision using any and all powers available to it under the law.

- 3.3.1 Pine Ridge Farm Lane shall remain a private way. It shall not be accepted as a public way, nor shall the Applicant or the owners of lots A-1 and/or A-2 file a petition with the Town to accept it as a public way.
- 3.3.2 Any existing or proposed landscaping shall not limit or obstruct sight distance.
- 3.3.3 In lieu of granting the waivers above from the Rules, which include a waiver from the requirement that a sidewalk must be built in the proposed subdivision street and along the frontage of the subdivision Site, the Applicant shall, prior to Plan endorsement, submit a contribution to the Town's sidewalk fund in the amount of \$10,000.00.
- 3.3.4 Prior to issuance of the first building permit, the applicant shall obtain street address approval for both lots.
- 3.3.5 Chapter J of the Bylaws of the Town of Acton identifies Pope Road as a Scenic Road. Any work approved or required hereunder that involves the removal of public shade trees or stone walls within the Pope Road layout shall not be done without the approval by the Tree Warden and the consent of the Board after a duly posted public hearing.
- 3.3.6 Pine Ridge Farm Lane in its entirety shall be maintained by the owners of lots A-1 and A-2 in accordance with the private way maintenance agreement. This shall include the removal of snow and ice. The Applicant and the owners of lots A-1 and A-2 Pine Ridge Farm Lane shall not petition the Town to provide snow and ice removal services in Pine Ridge Farm Lane or to provide any other maintenance and upkeep of Pine Ridge Farm Lane.
- 3.3.7 Pine Ridge Farm Lane shall not serve more than two single-family residential lots.
- 3.3.8 The Applicant shall be diligent in complying with the erosion and sediment control plan. The Applicant shall not cause or permit the runoff of water or erosion that result in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Board may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.
- 3.3.9 As required under Massachusetts General Laws, Ch. 60, S. 23, the Plan approved hereunder shall not be recorded with the Middlesex South District Registry of Deeds or the Land Court unless it is accompanied by a municipal lien certificate, indicating that all taxes, assessments, and charges then assessed against the land shown on the Plan have been paid in full. If not paid at the time of endorsement of the Plan, the Board will add a Plan note to remind the Registry of Deeds or the Land Court of this legal requirement.
- 3.3.10 Prior to endorsement of the Plan, the Applicant shall provide the Board with a performance guarantee in accordance with Section 6 of the Rules.
- 3.3.11 No work on the Site shall begin prior to the endorsement and recording of the Plan.
- 3.3.12 All work on the Site shall be conducted in accordance with the Rules, except as waived, and the terms of this approval, and shall conform with and be limited to the improvements shown on the endorsed Plan.
- 3.3.13 Upon completion of all work as shown on the Plan, and before the final release of any performance guarantee, the Applicant shall submit an as-built plan showing the road pavement, drainage, utilities, and other improvements within or related to the street, and survey monuments for the entire Subdivision; a surveyor's bound certification; and a

certification from a registered engineer that the work has been completed according to the approved Plan.

- 3.3.14 This Decision, the endorsed Record Plan, and the Restrictive Covenant and Maintenance Agreement, shall be recorded 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 approval 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 Rules and other applicable laws and regulations.
- 3.4.2 This subdivision approval applies only to the Site identified in this decision and to the activity as shown on the Plan.
- 3.4.3 Other approvals or permits required by law and other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4.4 This subdivision approval shall expire if not endorsed on the Plan within one-year from the date that this decision has been filed with the Town Clerk. It shall also expire, if street construction and installation of services is not completed within 8 years from the date that this decision has been filed with the Town Clerk. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to this decision 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.

### **4 APPEALS**

Appeals, if any, shall be made pursuant to MGL, Ch. 41, S. 81-BB and shall be filed within 20 days after the date of filing this Decision with the Town Clerk.

### **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.

Signed on behalf of the Acton Planning Board



Roland Bartl, AICP, Planning Director  
for the Town of Acton Planning Board

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.

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Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -	Building Commissioner	Health Director
certified mail #	Engineering Administrator	Municipal Properties Director
Town Clerk	Conservation Administrator	Town Manager
Fire Chief	Police Chief	Acton Water District
Owner	Historical Commission	Assistant Assessor
MAGIC (DRI only)	Historic District Commission	

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