



TOWN OF BOLTON

PLANNING BOARD

Town Hall, 663 Main Street, Bolton, MA 01740
Phone: 978-779-3308 Fax: 978-779-5461

COMMON DRIVEWAY SPECIAL PERMIT FINDINGS AND DECISION

Petitioner: Walter Eriksen
Applewood Construction
92 Middlesex Road, Unit 3
Tyngsboro, MA 01879

Premises: Long Hill Road, Bolton, MA 01740
Bolton Assessor's Map 4.D Parcel 52
Bolton Assessor's Map 3.D Parcel 33.1

Owner: Duane G. & Jean L. Henry
147 Long Hill Road
Bolton, MA 01740

Deed Reference: Worcester District Registry of Deeds, Book 5184 Page 9
Worcester District Registry of Deeds, Book 9112 Page 170
Worcester District Registry of Deeds, Book 12857 Page 69

Date Petition filed with Town Clerk of Bolton, MA: December 31, 2014

Type of Application: Common Driveway Special Permit

Applicable Zoning Bylaw of the Code of the Town of Bolton, MA: Section 250-17.B

Hearing Date: February 11, 2015, March 11, 2015 and April 8, 2015

Members Present: Chairman, Jonathan Keep, Members, John Karlon, Erik Neyland,
Jon Ricci

Decision: On April 8, 2015 at 7:30 p.m., the Planning Board voted unanimously to **grant** the petition seeking a Common Driveway Special Permit. This document is the decision of the Planning Board.

PROCEDURAL HISTORY

1. On December 31, 2014 Applewood Construction (hereinafter, the Applicant), applied to the Planning Board (hereinafter, the Board) for a Common Driveway Special Permit pursuant to Section 250-17.B of the Code of the Town of Bolton to allow construction and use of a common driveway to serve five (5) lots divided from properties located on

Long Hill Road, Bolton, MA 01740 identified on Bolton Assessor's Maps as Parcels 4.D-52 (also known as 147 Long Hill Road) and 3.D-33.1 in the Residential Zoning District.

2. A duly posted public hearing was held on February 11, 2015 at 8:00 p.m. in the Board of Selectmen Room of the Town Hall, 663 Main Street, Bolton, MA. Chairman Jonathan Keep read the Notice of Public Hearing for the Common Driveway Special Permit request. The Board continued the hearing to March 11, 2015 and April 8, 2015. The Board closed the hearing and voted on April 8, 2015.
3. On March 11, 2015, pursuant to M.G.L. c.39, Section 23.D, Jon Ricci, a member of the Board, certified in writing that he examined all of the evidence received by the Board including a video recording of the hearing held on February 11, 2015 which he failed to attend.

RECORD DOCUMENTS

The documents, plans, and other written materials set forth in Appendix A were received by the Board as part of the common driveway application submission.

CRITERIA FOR COMMON DRIVEWAY SPECIAL PERMIT

The following criteria for the Common Driveway Special Permit shall be reviewed by the Board in accordance with Section 250-17.B of the Code of the Town of Bolton:

§ 250-17.B. Common driveways serving three lots to five lots. In residential districts, common driveways to serve three lots, four lots, or five lots may be created by special permit issued by the Planning Board. Each such common driveway must meet the following criteria:

- (1) Lots served.
 - (a) A common driveway, approved under this Subsection B may serve:
 - (1) Three or four lots if at least one is a backland lot.
 - (2) Three, four or five lots if two or more are backland lots.
 - (b) "Backland lots" are as defined in and permitted by special permit issued under § 250-17.E, Backland Zoning.
 - (c) A lot served is any lot crossed by, whether or not any building or any dwelling on the lot, is actually accessed and/or served by this Common Driveway, or lot on which any building or any dwelling is accessed and/or served by this Common Driveway. All such lots must be included in the list and number of lots served.
- (2) Each lot served by the common driveway must have permanent access to the Common Driveway pursuant to an easement agreement acceptable to the Planning Board and the deed to each lot served on a common driveway must reference this easement agreement. The easement agreement is to be recorded along with the special permit with the Worcester Registry of Deeds or with the Worcester County Land Court.
- (3) Any deeds of ownership of lots served by a common driveway shall require that the

owners of said lots must be members of a maintenance association, whose purpose is to provide for maintenance of the common driveway, which shall include, but not be limited to, snow plowing and maintaining design specifications. This maintenance association must be created by a maintenance association agreement acceptable to the Planning Board and the deed to each lot served on a common driveway must reference this maintenance association agreement. This maintenance association agreement is to be recorded along with the special permit with the Worcester Registry of Deeds or with the Worcester County Land Court.

- (4) The common driveway is defined as extending from the approved or accepted right-of-way to which it is attached, to the point it serves only one lot, the so-called "terminus". A Common Driveway may have more than one terminus. The common driveway shall be connected to an approved or accepted right-of-way at one, and only one, point. The entire common driveway must lie within the lots served, and in the Town of Bolton.
- (5) The common driveway must meet the design criteria of this bylaw, and any additional design criteria established by the Planning Board in regulations duly voted by said Board according to law.
 - (a) The design criteria of this bylaw are:
 - (1) Twelve (12) feet minimum width of wear surface.
 - (2) A minimum of eight (8) inches of gravel wear surface.
 - (3) The first forty (40) feet of the common driveway from an approved or accepted right-of-way must have a slope of four (4%) percent or less.
 - (4) Suitable drainage appurtenances to prevent excessive erosion. These drainage appurtenances must further ensure to the satisfaction of the Planning Board that all proposed activity and all development, including the construction of dwellings, lawns and other impervious areas for all lots to be served by this common driveway, in no manner contribute to additional drainage onto any abutting property or onto any accepted or approved right-of-way.
 - (5) A maximum slope of twelve (12%) percent.
 - (6) The centerline intersection with an approved or accepted right-of-way must be sixty (60) degrees or more.
 - (7) A turnaround located near each terminus, which location must be acceptable to the Planning Board, of at least forty (40) feet width and thirty (30) feet depth.
 - (8) An intercept width with the approved or accepted right-of-way of at least fifty (50) feet.
 - (9) A staging area of at least forty (40) feet in length and a minimum of twenty (20) feet in width at the street line, tapering to a minimum of twelve (12) feet in width at forty (40) feet from the street line.
 - (10) Passing turnouts must be constructed which provide a total width of at least eighteen (18) feet along a distance of at least twenty five (25) feet, spaced no more than three hundred (300) feet between turnouts or at a lesser interval where in the Planning Board's opinion a lesser distance is warranted for safety considerations.
 - (11) The length must be such that the distance along the common driveway centerline to each building or dwelling served by the common driveway will not

exceed 1800 feet from the street sideline, and that the length along any of its individual driveways measured from the centerline of the common driveway to any building or dwelling served by the common driveway shall not exceed 800 feet.

- (12) Signs to direct emergency access must be installed at the street line and at each driveway intersection with the common driveway.
- (13) The centerline of the common driveway cannot be located closer than thirty five (35) feet to the centerline of any approved or constructed single dwelling driveway or shared driveway.

WAIVERS

As part of the decision, the Board grants the following waivers from the Town of Bolton's Common Driveway Rules and Regulations. The Board finds the following waivers in the best interest of the public and are not inconsistent with the intent and purpose of the Code of the Town of Bolton:

- 1. Section 3.C.(2) - The crown of the common driveway shall be at least ½ inch per foot. At the request of the Applicant, the Board agreed to waive this requirement to allow a portion of the common driveway to be designed with a cross slope to allow stormwater runoff to drain across the driveway to a grass channel. The portion of the common driveway without a crown extends approximately 775 feet.
- 2. Section 5. Design Criteria, Subsection B - At no point shall the centerline of a proposed common driveway be less than twenty five (25) feet from any lot line not served by the proposed common driveway. At the request of the Applicant, the Board agreed to waive this requirement along a portion of the common driveway in order to provide additional offset between the existing dwelling at 147 Long Hill Road and the common driveway. The waiver reduces the required 25 feet to 16 feet.

FINDINGS

Based upon the information submitted at the public hearing, including the record documents and comment received from the public, the Board makes the following findings with regard to the proposed common driveway:

A. General

- 1. The properties are located on Long Hill Road, Bolton, MA 01740, identified on Bolton Assessor's Maps as Parcels 4.D-52 and 3.D-33.1, and are owned by Duane G. & Jean L. Henry, 147 Long Hill Road, Bolton, MA 01740 (deed reference Book 5184, Page 9; Book 9112, Page 170; and Book 12857, Page 69). The Premises is located in the Residential Zoning District.
- 2. The Applicant submitted a complete application in accordance with the Code of the Town of Bolton.

3. An ANR and Backland Lot Special Permit application were submitted simultaneously with the application for Common Driveway Special Permit. Parcel 4.D-52 is approximately 2.42 acres and Parcel 3.D-33.1 is approximately 48.99 acres. The Parcels are divided to create the following:

Lot Number	Type of Lot	Approx. Area	Approx. Frontage
Lot 1	Backland Lot	4.71 acres	143.26 ft.
Lot 2	Backland Lot	4.59 acres	50 ft.
Lot 3	Frontage Lot	7.53 acres	200.05 ft.
Lot 4	Backland Lot	4.5 acres	50.18 ft.
Lot 5	Backland Lot	11.74 acres	50.17 ft.
Parcel A	Not a Building Lot	18.41 acres	26.60 ft.

B. Specific Findings

1. The proposed activity may be carried out without substantial detriment to the public good.
2. The proposed activity may be carried out without nullifying or substantially derogating from the intent or purpose of the Code of the Town of Bolton.
3. The project meets the criteria set forth in Section 250-17.B of the Code of the Town of Bolton.
4. The Plan protects the safety, convenience and welfare of the inhabitants of the Town of Bolton and complies with the Bylaws of the Town of Bolton and with the Town of Bolton's Common Driveway Rules and Regulations.
5. The proposed Common Driveway exercises due respect for:
 - (a) Town of Bolton's Bylaws;
 - (b) The safety and functionality of the common driveway and the stormwater management system as designed for normal use;
 - (c) The safety of the intersection with Long Hill Road;
 - (d) The adequacy of the legal agreements for the maintenance of and access to the common driveway and stormwater management system;
 - (e) The adequacy of the common driveway to provide access to vehicles carrying materials which are potentially hazardous if spilled, such as heating oil;
 - (f) The environmental impact on wetlands and water resource areas.

DECISION

In view of the foregoing, the Board hereby decides that the application meets all requisite criteria under Section 250-17.B of the Code of the Town of Bolton. Therefore, the Board voted unanimously to grant a Common Driveway Special Permit for Lots 1, 2, 3, 4, and 5 on Long Hill Road, Bolton, MA 01740 identified on the Bolton Assessor's Maps as Parcels 4.D-52 and 3.D-33.1 in the Residential Zoning District. The decision is subject to the following conditions:

1. The Site Plans entitled "Proposed Common Driveway, 147 Long Hill Road, Lots 1-5, Bolton, Massachusetts" prepared by Ducharme & Dillis Civil Design Group, Inc. dated April 7, 2015 (Sheets 1-8) shall be revised to reflect the changes indicated in Condition No.2 and submitted to the Board prior to the start of construction of the project. The revised plans shall be considered the "Approved Plans".
2. The Applicant shall revise/submit the following items in accordance with the comment letter prepared by Hamwey Engineering, Inc. dated April 8, 2015:
 - a. The stone size for the Construction Entrance Detail shown on Sheet No.6 of the Site Plans dated April 7, 2015 shall be 6 to 8 inches angular stone.
 - b. A catalog cut of the drain manhole cover shall be submitted.
 - c. The Drain Manhole Detail shown on Sheet No.5 of the Site Plans dated April 7, 2015 shall be revised to show a flat top structure.These items shall be reviewed and approved by Hamwey Engineering, Inc. prior to the start of construction of the project.
3. The design of the retaining walls shown on Sheet No.2 of the Site Plans dated April 7, 2015 shall be submitted prior to the start of construction of the project. These designs shall be reviewed and approved by Hamwey Engineering, Inc.
4. The existing 48-inch diameter tree in the right-of-way located in the general vicinity where the common driveway is proposed to be placed shall not be cut down without prior approval by the Tree Warden and the Board at a Scenic Road/Shade Tree Hearing.
5. Approval is conditioned upon recording of a Common Driveway Easement and Maintenance Agreement with the Worcester Registry of Deeds satisfactory to and reviewed by the Board. The Approved Plans and the Common Driveway Easement and Maintenance Agreement are to be recorded with the Worcester Registry of Deeds prior to the commencement of any of the improvements and/or work shown on the Approved Plans. A copy of the recorded Common Driveway Easement and Maintenance Agreement is to be delivered to Board before work will commence. Such maintenance agreement shall contain a plan reference that demarcates the easement boundaries, and requires that any deeds of ownership of lots served by a common driveway will document that owners of said lots must be members of a maintenance association whose purpose is to provide for maintenance of the common driveway.
6. The stormwater management system shall be maintained in accordance with the Stormwater Operation and Maintenance Manual dated April 2015. A copy of said Manual shall be provided as an attachment to the Common Driveway Easement and Maintenance Agreement.
7. If the common driveway and/or its drainage appurtenances are not built in substantial conformance with the Approved Plans; or in accordance with subsequent changes approved by the Board after a public hearing, the Special Permit will be rendered invalid.

8. The Applicant shall not transfer or be issued a building permit for the final building lot until an As-Built Plan of the common driveway has been approved by the Board or until surety posted which in the reasonable judgment of the Board shall be sufficient to complete the work shown in the Plan.
9. The common driveway is to be constructed and completed and an As-Built Plan satisfactory to the Board must be filed with the Board upon completion of the driveway. The As-Built Plan shall be filed within twenty-four (24) months of the initial date of approval.
10. Three (3) copies and an electronic copy (PDF) of the As-Built Plan shall be submitted to the Board. These As-Built Plans should reflect all of the improvements as constructed and as required by the original approved Plan. The Board shall have sixty (60) days to review the As-Built Plan. If the Common Driveway has been constructed according to the Plan or with such changes as the Board has previously approved then the Board shall vote to endorse the As-Built Plan. If significant changes to the approved design have been made without prior notice to the Board, the Board shall not endorse the As-Built Plan until such time as the Applicant has corrected those items which fail to conform to the Plan, which correction(s) shall be made within sixty (60) days of Applicant's receipt of written notice from the Board that such corrections are required. If necessary and appropriate, the Board may order the Applicant to make corrections on an "emergency" and/or temporary basis. If the Applicant fails to correct any such item within the times provided above, the Board will not endorse the As-Built Plan and the Special Permit will be rendered invalid.
11. Approval is conditioned on the applicant's full compliance with Chapter 118 of the Code of the Town of Bolton. The applicant shall obtain street numbers from the building inspector and immediately post street numbers pursuant to Section 118-3 of the Code of the Town of Bolton.
12. The driveway cannot be used to provide access to lots not shown on the Approved Plans.
13. Written notice shall be sent to the Board advising the Board that construction will commence not sooner than seven (7) days from the date of the notice given.
14. The Board may request, at the expense of the Applicant, Hamwey Engineering, Inc. to conduct construction inspections of the common driveway to ensure compliance with the Approved Plans.
15. Construction activities shall occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m., Saturdays at the approval of the Board and shall exclude Sundays and federal holidays. For this condition, construction activities shall include, but not be limited to: start-up of equipment or machinery, delivery of building materials and supplies, removal of trees, grubbing, clearing, grading, filling, excavating, import or export of earth materials, installation of utilities both on and off the site, demolition of existing structures, removal of stumps and debris and erection of new structures.

16. The paving shall consist of a binder course (a minimum one and one-half (1.5) inches compacted thickness) followed by a wearing course (a minimum one and one-half (1.5) inches compacted thickness) per MDPW specifications section 460 class I bituminous concrete pavement, type I-1. The bituminous binder shall not be applied between November 15 and April 1 without prior written approval from the Board. Equipment having crawler tracks or other treads that mar or damage pavement shall not move or operate on newly constructed pavement unless precautions are taken to prevent damage to pavements.
17. A gravel sub-base shall be spread as follows: a) Before the gravel is spread, the common driveway bed shall be shaped to a true surface conforming to the proposed cross-section of the road and b) an eight (8) inch layer shall be spread and rolled with gravel containing no stones over two (2) inches in diameter. The specified sub-base shall not be prepared after a large rainstorm (when the ground is unstable due to excessive moisture) or during freezing weather, or when the ground is frozen.
18. During construction, copies of the inspection reports associated with the Stormwater Pollution Prevention Plan shall be submitted regularly to the Board in an electronic format to townplanner@townofbolton.com.
19. All erosion and sedimentation control measures shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediment be deposited in a wetland or waterbody. During construction, the Applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediment as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Town.

RECORD OF VOTE

This Special Permit shall lapse twenty four (24) months following the grant thereof (excepting such time required to pursue or await the determination of an appeal referred to in M.G.L. c.40A, Section 17).

Appeals, if any, to this decision must be made pursuant to M.G.L. c.40A, Section 17 and must be filed within twenty (20) days after the date of filing of this decision in the office of the Bolton Town Clerk.

This decision shall not take effect until a copy of this decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after this decision has been filed in the office of the Town Clerk, and that no appeal has been filed within said twenty (20) days; or that, if such appeal has been filed, that it has been dismissed or denied. Further, this decision shall not take effect until it is recorded in the Worcester County Registry of Deeds and indexed in the grantor index under the name of the owner record, or is recorded and noted on the owner's certification of title.

The following members of the Board unanimously voted to grant the subject to the above-stated terms: Chairman, Jonathan Keep, Members, John Karlon, Erik Neyland, and Jon Ricci.

 4.21.13

Jonathan Keep, Chairman
(On behalf of the Planning Board)

FILED WITH THE TOWN CLERK

Filed with the Town Clerk on Apr. 1 21, 2015.

Pamela H. Powell
Pamela Powell, Town Clerk

CERTIFICATE OF NO APPEAL

The undersigned, being the Town Clerk of the Town of Bolton, certifies that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Date: May 13, 2015.

Pamela H. Powell
Pamela Powell, Town Clerk

Copy of Special Permit Findings and Decision mailed to:

Abutters

Surrounding Towns

Bolton Boards and Committees

Applicant

APPENDIX A RECORD DOCUMENTS

Original Application Documents

1. Common Driveway Application for Special Permit Form dated December 30, 2014.
2. Certified Abutters List.
3. Application Fee.
4. Four (4) Copies and Electronic Copy (PDF) of Site Plans entitled "Proposed Common Driveway, 147 Long Hill Road, Lots 1-5, Bolton, Massachusetts" prepared by Ducharme & Dillis Civil Design Group, Inc. dated December 24, 2014, Sheets 1-6.
5. Stormwater Report prepared by Ducharme & Dillis Civil Design Group, Inc. for Applewood Construction, 92 Middlesex Road, Unit 3, Tyngsboro, MA 01879, dated December 24, 2014.

February 11, 2015 Hearing Documents

1. Comment Letter from Carol Gumbart entitled "Common Driveway Special Permit Application, Applewood Construction at 147 Long Hill Road" dated February 4, 2015.
2. Comment Letter from Hamwey Engineering, Inc. entitled "147 Long Hill Road, Bolton, MA (HEI File No. 15001.00)" dated February 3, 2015.
3. Email to Greg Roy (Ducharme & Dillis Civil Design Group, Inc.) from Erica Uriarte (Town Planner), subject "Common Driveway, 147 Long Hill Road – Town Planner Comments" sent February 11, 2015.

March 11, 2015 Hearing Documents

1. Site Plan entitled Alternative Driveway Entrance, 147 Long Hill Road, Bolton, MA" prepared by Ducharme & Dillis Civil Design Group, Inc. dated March 6, 2015, Sheet 1 of 1.
2. Electronic Copy (PDF) of Site Plans entitled "Proposed Common Driveway, 147 Long Hill Road, Lots 1-5, Bolton, Massachusetts" prepared by Ducharme & Dillis Civil Design Group, Inc. dated March 10, 2015, Sheets 1-8.
3. Email from John Mentzer (Fire Chief) to Erica Uriarte (Town Planner), subject "Planning Board Application for Common Driveway at 147 Long Hill Road – Request for Comments" sent January 29, 2015.
4. Email from Martha Remington (Historical Commission) to Erica Uriarte (Town Planner), subject "Applewood LLC Common Driveway Long Hill Road" sent February 12, 2015.

April 8, 2015 Hearing Documents

1. One (1) Copy of Site Plans entitled "Proposed Common Driveway, 147 Long Hill Road, Lots 1-5, Bolton, Massachusetts" prepared by Ducharme & Dillis Civil Design Group, Inc. dated April 7, 2015, Sheets 1-8.
2. Stormwater Report prepared by Ducharme & Dillis Civil Design Group, Inc. for Applewood Construction, 92 Middlesex Road, Unit 3, Tyngsboro, MA 01879, dated April 2015.
3. Draft Declaration of Covenants, Restrictions and Shared Maintenance Agreement.
4. Comment Letter from Hamwey Engineering, Inc. entitled "147 Long Hill Road, Bolton, MA (HEI File No. 15001.00)" dated April 8, 2015.