



## 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: Tony & Donnelle Koselka  
23541 Via Halcon  
Trabuco Canyon, CA 92678

Premises: Long Hill Road, Bolton, MA 01740  
Bolton Assessor's Map 3.E Parcel 83

Owner: Tony & Donnelle Koselka  
23541 Via Halcon  
Trabuco Canyon, CA 92678

Deed Reference: Worcester District Registry of Deeds, Book 41415 Page 173

Date Petition filed with Town Clerk of Bolton, MA: June 22, 2017

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: September 13, 2017

Members Present: Chairman David Yesue, Erik Neyland, Mark Sprague, Michael Gorr, and Peter Driscoll

Decision: On September 13, 2017, 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 August 3, 2017, Tony & Donnelle Koselka (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 three (3) lots located on Long Hill Road, Bolton, MA 01740 including 345 Long Hill Road, 369 Long Hill Road, and subject parcel identified on Bolton Assessor's Map as Parcel 3.E-83 in the Residential Zoning District.
2. A duly posted public hearing was held on September 13, 2017 at 8:15 p.m. in the Board

of Selectmen Room of the Town Hall, 663 Main Street, Bolton, MA. Chairman David Yesue read the Notice of Public Hearing for the Common Driveway Special Permit request. The Board closed the hearing and voted the same evening.

### **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 the common driveway to be designed with a cross slope of ¼ inch per foot to allow stormwater runoff to drain across the driveway.

## 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 property is located on Long Hill Road, Bolton, MA 01740, identified on Bolton Assessor's Map as Parcel 3.E-83, owned by Tony & Donnelle Koselka, 23541 Via Halcon, Trabuco Canyon, CA 92678 (deed reference Book 41415, Page 173). 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.

### 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.
3. 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.
4. 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 345 Long Hill Road, 369 Long Hill Road, and parcel identified on Bolton Assessor's Map as Parcel 3.E-83 in the Residential Zoning District. The decision is subject to the following conditions:

1. The Site Plans entitled "Grading & Drainage Plan, Long Hill Road, Bolton, Massachusetts" prepared for Tony & Donnelle Koselka by Ducharme & Dillis Civil Design Group, Inc. dated August 25, 2017 with latest revision date September 13, 2017, (Sheets 1-2) shall be considered the "Approved Plans".
2. In accordance with Massachusetts General Laws (MGL), Chapter 87, Public Shade Tree Law, Section 3 (Cutting of Public Shade Trees; Hearing; Damages) and M.G.L. Chapter 40, Section 15c (Scenic Road) and Section 250-24 of the Bolton Zoning Bylaws (Scenic Roads), all existing trees with 1½ inch diameter or greater anticipated to be removed from the public right-of-way for the construction of the common driveway shall require prior approval by the Tree Warden and the Board at a Scenic Road/Shade Tree Hearing.
3. 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, this Special Permit will be rendered invalid.
4. The Applicant shall not be issued a building permit 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.
5. 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.
6. 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.

7. 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.
8. The driveway cannot be used to provide access to lots not shown on the Approved Plans.
9. 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.
10. As a courtesy, property owners residing at 345 and 369 Long Hill Road shall be notified by the contractor prior to commencement of construction and throughout the project when access to their dwellings may be impacted.
11. 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. Appropriate funds shall be deposited to the Town of Bolton prior to the issuance of the building permit.
12. 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.
13. 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.



14. 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.
15. 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.

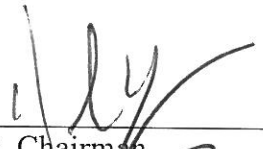
## RECORD OF VOTE

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 Country 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 David Yesue, Erik Neyland, Michael Gorr, Mark Sprague, and Peter Driscoll.

  
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David Yesue, Chairman

  
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Michael Gorr

  
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Peter Driscoll

  
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Erik Neyland

  
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Mark Sprague



**FILED WITH THE TOWN CLERK**

**2017 SEP 21 PM 1:11**

Filed with the Town Clerk on \_\_\_\_\_, 2017.

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: October 12, 2017.

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 prepared by Ducharme & Dillis Civil Design Group, Inc. for Tony & Donnelle Koselka dated August 2, 2017. Application packet includes:
  - a. Application Fee
  - b. Common Driveway Application
  - c. Project Narrative
  - d. Certified Abutters List
  - e. Plans & Details
2. Site Plan entitled "Plan of Land in Bolton, Mass." prepared for Thomas R. and Carolyn O. Pokorney by David E. Ross Associates, Inc. dated October 2005. Recorded at the Worcester District Registry of Deeds on March 6, 2006; Plan Book 839, Plan 31.
3. Site Plans entitled "Common Driveway Plan in Bolton, Mass." prepared for Tom Pokorney by David E. Ross Associates, Inc. dated January 2006, Sheets 1-2.
4. Common Driveway Drainage Calculations, 333 Long Hill Road, Bolton, MA, prepared for Tom Pokorney by David E. Ross Associates, Inc. dated January 20, 2006.
5. Comment Letter; RE: Common Driveway/Pokorney, 3445/369 Long Hill Road, Bolton, MA, previously known as 333 Long Hill Road (HEI File no. 05063.01); prepared by Hamwey Engineering, Inc. dated August 8, 2017.

### September 13, 2017 Hearing Documents

1. Response to Comment Letter; RE: Common Driveway/Pokorney, 345/369 Long Hill Road, Bolton, MA, previously known as 333 Long Hill Road (HEI File no. 05063.01); prepared by Ducharme & Dillis Civil Design Group, Inc. dated September 5, 2017.
2. The Site Plans entitled "Grading & Drainage Plan, Long Hill Road, Bolton, Massachusetts" prepared for Tony & Donnelle Koselka by Ducharme & Dillis Civil Design Group, Inc. dated August 25, 2017 (Sheets 1-2).
3. The Site Plans entitled "Grading & Drainage Plan, Long Hill Road, Bolton, Massachusetts" prepared for Tony & Donnelle Koselka by Ducharme & Dillis Civil Design Group, Inc. dated August 25, 2017 with revision date September 11, 2017, (Sheets 1-2).
4. The Site Plans entitled "Grading & Drainage Plan, Long Hill Road, Bolton, Massachusetts" prepared for Tony & Donnelle Koselka by Ducharme & Dillis Civil Design Group, Inc. dated August 25, 2017 with latest revision date September 13, 2017, (Sheets 1-2).
5. Common Driveway Easement and Maintenance Agreement recorded at the Worcester County Registry of Deeds under Book 38761 page 198 (7 pages).