

Donna Rich

From: David Bond
Sent: Tuesday, November 07, 2017 9:18 AM
To: Martha Morrison; Donna Rich; David Bond
Subject: RE: Kinsman Lane

I have reviewed the SWEC application for 3 Kinsman Lane, including the letter from the abutter. It appears that the Applicant has met the requirements for the Board to issue a Permit. The supporting documentation shows that post development runoff will be less than it is now with the installation of roof runoff and driveway infiltration systems.

Dave Bond

PLEASE NOTE EMAIL ADDRESS CHANGE dbond@topsfield-ma.gov

David M. Bond
Highway Superintendent
Tree Warden
Stormwater Coordinator
Planning Board Agent
Town of Topsfield Public Works
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-----Original Message-----
From: Martha Morrison [<mailto:morrismh@bc.edu>]
Sent: Tuesday, November 07, 2017 7:53 AM
To: Donna Rich; David Bond
Subject: Kinsman Lane

Hi,
Do we have Dave's recommendations about the Kinsman Lane Stormwater Permit?

Thanks,
Martha

Martha Morrison
Chairman, Topsfield Planning Board,

October 27, 2017

I am writing in response to the notice for the Stormwater & Erosion Control Permit that the new owners of 3 Kinsman Lane have requested as part of their plan to build a 2,800 square foot home. As an abutter, I have lived at 107 Washington Street for 30 years. In Springtime, the rain water run-off from 3 Kinsman Lane creates a pond in my side yard. This water percolates down and ends up in my basement. The Topsfield Fire Department has been kind enough on several occasions to use their powerful pump to drain the water from my yard straight into a storm drain on Kinsman Lane. In April 2015, I installed an interior French Drain with a sump pump around the entire perimeter of my basement to combat the moisture problem. So far, so good.

As the Planning Board considers this application, please require adequate engineering to address the significant drainage situation that **already** exists. I am worried that a new house with a septic system will create an enormous amount of run off that will overwhelm my French Drain and make an already bad situation worse. I have enclosed two pictures from 1998 which show the magnitude of water that flows from 3 Kinsman Lane into my yard.

I am currently out of town, but would be happy to answer any questions the Planning Board may have. Thank you for your careful consideration for this permit.



Lauren Herter
107 Washington St.
Topsfield, Ma
Cell: 978-500-0601





April 1998- 107 Washington St.
Topsfield



3 Kinsman Planning Hearing

In response to the request for a Stormwater Permit for a 2800-sqft Single Family Home, I would like to offer the following information to the Planning Board for consideration:

1. No plans for the development of Lot 1 Subdivided for Ernest and Kathy Tremblay (**BK 174: Plan 44; formerly 101 Washington**) submitted to the planning board, or reviewed by the various departments have noted the existence of the recorded **Perpetual Exclusive Use-Easement (South Essex #252, BK: 34176 Pg: 429)** burdened on Lot 1 (and now known as 3 Kinsman). This lot was formerly part of the property which is now owned by my wife and I at 99 Washington (known as Lot 2 of said plan). The Exclusive Use Easement was drawn, accepted as a condition of purchase and filed at the time of our purchase of 99 Washington in 2015. We respectfully request the board to enforce that all design documents, applications and plans notate the Exclusive-Use Easement for use in educating construction workers and prospective buyers of the property to the existence of and limitation created on the burdened property.
2. The easement was created by our attorney at the time of purchase to reflect that the land under Easement is essential to the use of our property, and further to the intrinsic value of our property. The previous owner could not re-draw the boundaries to accommodate our desire to own the burdened area due to the town's by-laws and IRA Zoning conditions for 40,000 sq foot sub-divided lot. For this reason, the parties agreed to create this Exclusive-Use Easement for our exclusive use as if the property under Easement were owned in Fee -- and created for just a situation as this lot being developed by the previous or any future owner.
3. Despite opinion offered by the Zoning department, it is the opinion of several real-estate attorneys that the restrictions imposed by the covenants of the Exclusive-Use area **should be considered** when calculating the allowed building area of the unburdened area. Exclusive-Use agreements are not as common as other access easements and it was the opinion of the consulting attorneys, that planning boards don't consider them in cases such as this. In that spirit we would respectfully request that the Exclusive-Use Easement Area (18,398 sq ft - .4 AC) be

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factored in to the building area and open space calculations and to reflect that the useable area of the lot is actually .4 acres smaller than the minimum buildable size of 1 AC. this would make the total lot size considered for the computations for building area and open space calculations to be .51 Acre and not 40,004 Ft (.9 Acre) as indicated on the plot plan for Lot 1.

4. To that end, we believe that the house being proposed is too big for the lot, factoring in the size of the actual usable space (i.e disallowing the Exclusive Use-Easement square footage) with the requirement of 25% Building Area and 50% Open Space in the IRA. Further to the specifics of this stormwater application, it is our belief that planned catchments to contain the added impervious area created by the size of the structure size will lead to impacts to historic trees on our property (well in excess of 100 years old) - not to mention concerns noted by other abutted owner's property opposite 3 Kinsman (Herter's - 107 Washington) - See Letter Dated October 27th submitted by Lauren Herter.
5. We would like to point out that the large tree located at the southeast corner is well over 100 years old. This very large tree overhangs our home and to a lesser degree the property in question. We are concerned that the construction of stormwater mitigation devices and the septic field may encounter the roots of this tree. We respectfully ask that the town require through conservation department, that any encounter of the tree's root system require the developer to enlist a professional arborist to properly mitigate any impact to the tree's health.
6. Finally, the property setbacks on the septic plan approved by the BoH, are incorrect. the plans submitted for this stormwater application show the correct setbacks for development in the Topsfield IRA. (40,000). This should be corrected for the septic plan and submitted.

Respectfully,

Chris and Lori Boyd
99 Washington Street

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3

GRANT OF EASEMENT

SO. ESSEX #252 Bk:34176 Pg:429
06/30/2015 10:40 EMNT Pg 1/3

I, **KATHLEEN A. TREMBLAY**, an unmarried woman, of Topsfield, Essex County, Massachusetts, (hereinafter "**Grantor**") grant to **WILLIAM CHRISTOPHER BOYD** and **LORI BASSETT BOYD** (hereinafter collectively "**Grantee**") a perpetual easement for the exclusive use of a portion of a certain parcel of land in Topsfield, Essex County Massachusetts shown as Lot 1 on a plan of land entitled "Plan of Land in Topsfield, Massachusetts, Subdivided for Ernest and Kathleen A. Tremblay" dated August 11, 1982 and recorded with the Essex South Registry of Deeds in Plan Book 174, Plan 44. The area of the easement ("Easement Area") is bounded and described as set forth in the Exhibit Plan attached as "Exhibit A."

For the avoidance of doubt, Grantor grants this Easement to permit exclusive use of the Easement Area by Grantee to the maximum state permitted by law for all uses permitted under the Zoning By-Law of the Town of Topsfield and conveying all rights and obligations pertaining thereto as if such Easement Area were owned in fee by Grantee and Grantor agrees not to interfere with the exercise of the Easement Rights by Grantee or its guests, agents, invitees or licensees.

The parties hereto acknowledge that the septic system for Lot 1 may encroach upon the northeasterly corner of the Easement Area. The Grantee hereby consents to this encroachment provided that (i) the septic system is not a raised or tight tank system, (ii) the septic system does not interfere with the Grantee's exclusive use and enjoyment of the Easement Area, and (iii) the Grantor restores the northeasterly corner of the Easement Area, at Grantor's sole cost and expense, to its previous condition after performing any work therein.

Grantee agrees that it maintain the Easement Area in good repair and condition, and shall indemnify and hold the Grantor harmless from any and all costs, liabilities, damages, losses, claims, actions or proceedings whatsoever, including without limitation for injury to persons which may be claimed to have arisen out of (i) any damage, accident, injury or other similar occurrences in the Easement Area due to Grantee's negligence or misconduct, or (ii) the use, maintenance or repair of the Easement area by Grantee, its guests, invitees, agents or contractors, the intent of this grant being that grantee is to have the exclusive use of the Easement Area, together with the rights and responsibilities pertaining thereto as if such Easement Area were owned in fee by the Grantee.

Grantor shall indemnify and hold the Grantee harmless from any and all costs, liabilities, damages, losses, claims, actions or proceedings whatsoever, including without limitation for injury to persons which may be claimed to have arisen out of the Grantor's access to the northeasterly corner of the Easement Area.

As used herein, the terms "Grantor" and "Grantee" shall include their respective heirs, legal representatives, successors, assigns, and successors in title, and the rights, agreements, and obligations contained herein shall be covenants running with the land, and shall be binding upon and inure to the benefit of the parties hereto.

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Box 211

Said Easement Area being a portion of the premises conveyed to Grantor by deed dated March 15, 2013 and recorded with the Essex South Registry of Deeds at Book 32381, Page 32.

Witness my hand and seal this 30th day of June, 2015

Kathleen A. Tremblay
KATHLEEN A. TREMBLAY
William Christopher Boyd
WILLIAM CHRISTOPHER BOYD
Lori Bassett Boyd
LORI BASSETT BOYD

COMMONWEALTH OF MASSACHUSETTS

Essex, SS.

June 30, 2015

On this 30th day of June, 2015 before me, the undersigned notary public, personally appeared Kathleen A. Tremblay, and provided to me through satisfactory evidence of identification, which was a state issued driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

(Seal)

[Signature]
Notary Public
My Commission expires:





