



Town of Simsbury

933 HOPMEADOW STREET

P.O. BOX 495

SIMSBURY, CONNECTICUT 06070

Thomas F. Cooke - Director of Administrative Services

BOARD OF SELECTMEN MEETING AGENDA SUBMISSION FORM

1. **Date of submission: April 14, 2014**
2. **Date of Board Meeting: April 16, 2014**
3. **Individual or Entity making the submission: Hiram Peck, Director of Planning**
4. **Action requested of the Board of Selectmen (Acceptance of gift, creation of reserve, approval of contract, information only, etc. Be as specific as possible with respect to the desired action of the Board.):**

The Board of Selectmen is requested to:

1. Accept the attached Conservation Restriction as applicable to the approved Tower Run, 3 lot subdivision in favor of the Town of Simsbury.

5. **Individual(s) responsible for submission (Please include complete contact information. The identified individual(s) should be prepared to present information to the Board of Selectmen at the Board Meeting.):**

Hiram Peck, Director of Planning and Community Development
Robert DeCrescenzo, Town Attorney

6. **Summary of Submission (Include in your summary (i) relevant dates and timelines; (ii) parties involved; (iii) a description of financial terms and conditions specifically identifying the financial exposure/commitment of the Town of Simsbury; (iv) whether or not contracts, licenses and other legal documents have been reviewed by the Town's counsel; and (v) other information that will inform the Board of Selectmen's consideration of your submission. Include any additional information in an attached memorandum.):**

The subject 3 lot subdivision, known as Tower Run at 70 King Philip Road was approved by the Planning Commission on February 11, 2014

The attached Conservation Restriction was shown on the record subdivision map and as such made part of that approval and as such is subject to approval of the Board of

Selectmen before it can be recorded on the Simsbury Land Records.
The Conservation Restriction approval should be subject to final review and approval by the Town Attorney.

7. **Description of documents included with submission (All documents must be in final form and signed by the appropriate party.):**

The following documents are included with this submission and attached hereto:

Attachments include:

- Copy of the Tower Run subdivision approval letter.
- Copy of the subject Conservation Restriction.
- Copy of the approved 3 lot subdivision map.

Thank you for your consideration of this matter.



Town of Simsbury

933 HOPMEADOW STREET

P.O. BOX 495

SIMSBURY, CONNECTICUT 06070

Planning and Land Use Department

February 12, 2014

CERTIFIED MAIL

Mr. Jarrett Kravitz
Advantage Contracting, LLC
12 Westbrook Road
West Hartford, CT 06107



Re: Application #13-08 of Brian Denno, Denno Land Surveying, applicant; Advantage Contracting, LLC, owner; requesting re-subdivision of property located at 70 King Philip Road (Map H-15, Block 109, Lot 005B) known as Tower Run, to create 3 lots in the R-80 Zone.

Dear Mr. Kravitz:

The Simsbury Planning Commission in accordance with all applicable regulations considered the above referenced application at a regular meeting held on February 11, 2014 and took the following action:

Whereas the Commission notes the application files includes the following:

- A set of plans consisting of 7 sheets, dated 11/21/13 and revised to 2/9/14.
- A request for 2 waivers from the road regulations dated January 28, 2014.
- A series of letters from the Farmington Valley Health District (FVHD), the latest dated February 10, 2014.
- An unexecuted "driveway" easement and maintenance agreement.
- A memo from the Fire Marshal dated December 10, 2103.
- A memo from Capitol Region Council of Governments dated December 9, 2013 regarding "no inter-municipal conflict" posed by this application.
- Memo from the Conservation Officer dated December 9, 2013.
- Memos from the Town Engineer(s) pertaining to technical reviews of this application including the required drainage report.

As part of the application the applicant requested 2 waivers as specifically permitted by the Subdivision Regulations. The following actions were taken regarding the requested waivers:

Upon a motion made by Commissioner Rice and seconded by Commissioner Drake the Commission unanimously approved the requested waiver to allow construction of a road grade from the normally required 8% to 10% based on technical information submitted with the application and with the concurrence of the Fire Marshal, the Town Engineer and the Conservation Officer.

Telephone (860) 658-3245
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8:30 - 4:30 Tuesday through Friday

Upon a motion made by Commissioner Rice and seconded by Commissioner Drake the Commission unanimously approved the requested waiver to allow the construction of the paved width of the road serving the subject lots to be reduced from the normally required 24 feet to 15 feet with the condition that if the subsurface material is unacceptable to form the required 2 feet of stable shoulders capable of supporting emergency vehicle access, that the paved width of the road may then be required to be increased to 19 feet as may be directed by the Town Engineer as specified in the Town Engineer's memo dated February 11, 2014, and

Whereas, the Commission opened the required public hearing on this matter on January 28, 2014, and concluded the public hearing on February 11, 2014. The Commission also conducted a properly noticed site visit on February 8, 2014, and

Whereas, the Commission has taken all testimony as required by law regarding the subject application, and after discussion, finds the revised application to be in substantial compliance all applicable regulations.

Therefore Be It Resolved, that application #13-08 of Brian Denno, Denno Land Surveying, applicant; Advantage Contracting, LLC, owner; requesting re-subdivision of property located at 70 King Philip Road (Map H15, Block 109, Lot 005B) known as Tower Run, to create 3 lots in the R-80 Zone is hereby approved with modifications.

The modifications are as follow and must be addressed as indicated.

1. A complete plan set with all revisions shown to date shall be properly signed and sealed by a licensed professional engineer and registered land surveyor as applicable and submitted prior to issuance of any zoning Certificates of Compliance of issuance of any permits for the subject lots.
2. The Commission found the requested waivers acceptable as noted above and in light of the following:
 - a. The existing topography and grade of the existing accessway are steep. Requiring the applicant to construct the new private road to the required grade and required paved width would require cuts and grading in excess of what would be in the best interest of the environment in the area.
 - b. The requested reduction in paved road width is granted in accordance with the Fire Marshal's memo of December 10, 2013 and as it may be modified by the Town Engineer as stated in his February 11, 2014 memo.
 - c. While the maintenance of the proposed private roadway appears to be adequately covered in the proposed draft driveway easement and maintenance agreement. The Commission notes that the proper term in this case is "private roadway" not driveway. The term private roadway should be used throughout the revised private roadway easement and maintenance document.

3. The Commission notes the February 10, 2014 memo from the FVHD leaves modification of the existing dwelling in an unclear status. As a result the Commission requires the applicant to make the required modifications to the structure and to allow the Simsbury Building official to confirm this work has been completed to his satisfaction prior to the issuance of any further permits for any of the 3 lots.
4. Final signed and sealed set of plans are to be submitted to the Town Engineer for final technical review and approval prior to any further signoff with regard to any aspect of this property. The Town Engineer's final review regarding any technical changes to any aspect of the proposed development shall be agreed to and completed by the applicant.
5. Erosion and Sedimentation control bonding is important in this situation. The amount of such bond requirement shall be determined by the Town Engineer. This bond shall be in a form acceptable to the Town Attorney and shall be required as permitted by the most recent revision of the CGS applicable to this bonding.
6. Any proposed site development of the lots is required to be reviewed by the Environmental Officer to determine if any additional reviews are required prior to actual development on the lots.
7. Staff shall submit a copy of the revised proposed private roadway easement and maintenance agreement to the Town Attorney for review and approval. Upon approval the document shall be executed and filed on the Simsbury Land Records after any necessary approvals by the Board of Selectmen, if necessary according to the Town Attorney. This recording shall be done simultaneously with the recording of the record subdivision map.

The application is approved with the above modifications. If you have any questions, please call.

Yours truly,



Hiram Peck III, AICP
Director of Planning and Community Development

cc: Attorney Robert DeCrescenzo
✓ Attorney Paul Aparo
Brian Denno
Jerome F. Shea, Town Engineer
Henry Miga, Building Official
Howard Beach, Conservation Officer
David Gardner, Assessor
Kevin Kowalski, Fire Marshal
File



Robert M. DeCrescenzo
(t) 860.548.2625
(f) 860.548.2680
rdcrescenzo@uks.com

April 10, 2014

Thomas Cooke
Director of Administrative Services
Town of Simsbury
933 Hopmeadow Street
Simsbury, CT 06070

Re: Application #13-08 of Brian Denno, Denno Land
Surveying, applicant; Advantage Contracting, LLC,
owner; requesting re-subdivision of property located at
70 King Philip Road (known as Tower Run, to create 3
lots in the R0-80 Zone: (Conservation Restriction

Dear Tom:

On February 11, 2014, the Simsbury Planning Commission approved a three lot subdivision on property located at 70 King Philip Road known as "Tower Run." As part of the subdivision approval, the Planning Commission required a Conservation Restriction on a portion of the subdivided land as depicted on the subdivision plan.

Enclosed please find the Conservation Restriction submitted by the Applicant to the Town of Simsbury. Prior to recording, the Conservation Restriction must be accepted by the Town of Simsbury by action of the Board of Selectmen. We have reviewed and approved the Conservation Restriction as to form.

Please place this matter on the next Board of Selectmen Agenda for consideration and possible acceptance.

Very truly yours,



Robert M. DeCrescenzo, Esq.
Town Attorney

RMDe/psm
Enclosures

Updike, Kelly & Spellacy, P.C.

100 Pearl Street ■ PO Box 231277 ■ Hartford, CT 06123 (t) 860.548.2600 (f) 860.548.2680 www.uks.com

703851

Return to:
Robert A. DeFrino, LLC
241 Asylum Street, 5th floor
Hartford, CT 06103

DECLARATION AND GRANT OF CONSERVATION RESTRICTION IN FAVOR OF THE TOWN OF SIMSBURY

ALL MEN BY THESE PRESENTS KNOW that Advantage Contracting, LLC, a Connecticut limited liability company with a principal office located in West Hartford, Connecticut, (“Grantor”) , owner of the premises hereinafter described, for good and valuable consideration (other than money) received to Grantor’s full satisfaction, does by these presents in accordance with Connecticut General Statutes Sec. 47-42a-c inclusive, declare, grant, bargain, sell and convey unto the Town of Simsbury, a Connecticut municipal corporation located in the County of Hartford, State of Connecticut (“Grantee”) and to Grantee’s heirs, successors, and assigns forever the following CONSERVATION RESTRICTIONS pursuant to said Connecticut General Statutes Secs. 47-42a-c inclusive, together with a right to enforce the same pursuant to Sec. 47-42b of the Connecticut General Statutes in, over, along and across the area shown as “50’ Conservation Easement” and “150’ Conservation Easement” (“Restriction Area”) on certain maps entitled:

“Subdivision Plan TOWER RUN Prepared For ADVANTAGE CONTRACTING, LLC 70 King Philip Road Simsbury, Connecticut Date 11/21/13 Scale 1”=40’ Revisions: 1/23/14-Town Staff Comments 1/25/14-Drainage & C.E. 1/28/14-25’ Strip Removed 2/9/14 Town Engineer 3/12/14-Per Approval Denno Land Surveying & Consulting, LLC 2 Tunxis Rd Ste. 210 Tariffville, CT 06081 Sheet 2 of 7”, which maps are to be filed in the Simsbury Town Clerk’s Office:

1. The Grantor for itself and its successors and assigns hereby agree that they shall retain the afore-described Restriction Area in its present natural, scenic and open condition and that it shall be used only for passive uses which will keep the area in a natural state. Without limiting the generality of the foregoing, the Grantor for themselves and their successors and assigns hereby agree that the following activities shall be prohibited in said Restriction Area:

- a. The construction and placing of building, camping accommodations, mobile homes, or sanitary waste disposal systems.
- b. The placing or erecting of signs, billboards, or similar advertising materials or structures of any kind or nature whatsoever.
- c. The making of any topographic changes in or to the Restriction Area; the general topography of the landscape of said Restriction Area shall be maintained in its present state or condition. Topographic changes shall include, without limiting the generality of the foregoing, the cutting of trees (excepting as may be required by good tree husbandry and maintenance) filling, excavating, dredging, mining or drilling; removal of topsoil, sand, gravel, rocks or minerals; alteration

of natural or existing water courses or drainage; the construction and installation of roads or driveways; and the construction and installation of utilities.

Notwithstanding anything contained in this Declaration to the contrary, there is a Drainage Easement and a Utility Easement that will be constructed through the Restriction Area on Lot 1 and Lot 2, as shown on the above Subdivision Map, each of which have been approved by the Simsbury Planning Commission.

d. The use within or applied to the Restriction Area of any pesticides, poisons, biocides or fertilizers, with the specific exception that new plantings as specified and approved by the Town of Simsbury shall be installed in accordance with customary and usual fertilizers.

e. The disturbance and/or change in the natural habitat of the Restriction Area.

f. The operation of vehicles, snowmobiles, dune-buggies, motorcycles, mini-bikes, go-carts, all-terrain vehicles, or any other types of motorized vehicles upon or within such Restriction Area.

h. The dumping or placing of trash, ashes, leaves, waste rubbish, garbage, junk or unsightly or offensive materials within or upon the Restriction Area. In the event that any such material shall be deposited within or upon the Restriction Area, the Grantor shall remove any such materials from the Restriction Area within 30 days of the date upon which the Grantor shall receive from the Grantee written notice that such materials be removed.

i. The removal or destruction of trees, shrubs, natural vegetation, the killing of wildlife, spraying pesticides, or any other activities or uses detrimental to drainage, flood control, water conservation, erosion control, soil conservation, wildlife or the maintenance of the land and water areas in their open natural condition.

The Grantee shall not be deemed to have waived or forfeited the right to initiate any future action as shall be necessary or required in order to cure any violation of the terms of this Conservation Restriction in the event that the Grantee shall fail to initiate any such action as to any prior violation.

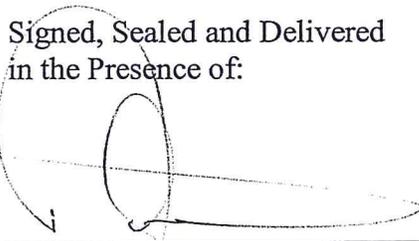
2. The restriction herein granted and declared shall run with the land and be construed as a burden to the Restriction Area and as a benefit running in favor of the Town of Simsbury and its successors and assigns. Without in any way affecting or diminishing the quantum of the restriction conveyed and declared herein, Grantor for themselves and for their heirs, administrators and assigns hereby agree that they shall remain wholly responsible for the care, maintenance and control of the premises in and upon which the restriction is granted, and shall indemnify and hold Grantee harmless from any claims, suits, actions, losses, damages, costs and expenses, including without limitation reasonable attorneys fees, arising from or with respect to the aforesaid premises.

3. The restrictions described herein shall be binding upon the Grantor, its successors, and assigns, and shall be perpetual and shall run with the land in perpetuity.
4. The Town of Simsbury may enforce these restrictions by any appropriate proceedings at law, in equity, or by administrative proceedings, against any person or persons violating or attempting to violate the same, which enforcement may include but shall not be limited to an attempt to restrain the violation or to recover damages.
5. The Grantee may enter the Restriction Area at all reasonable times in order to determine if the Grantor is complying with the purposes and conditions of this Restriction and the covenants herein set forth.
6. Invalidation of any one of the restrictions, conditions or covenants herein contained shall not affect any of the other restrictions, conditions or covenants which other restrictions, conditions or covenants shall remain in full force and effect.
7. Excepting and reserving to the Grantor, its successors and assigns, the following perpetual rights and privileges within said Restriction Area:
 - a. To plant or replant such trees, bushes or shrubbery as may be ecologically appropriate and to remove debris.
 - b. To continue to use said Restriction Area for purposes not inconsistent with this grant of easement.
8. The grant of this easement does in no way grant to the public the right to enter upon said Restriction Area for any purpose whatsoever.

TO HAVE AND TO HOLD said Conservation Restriction unto the said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the undersigned have hereunto set its hand and seal, this 20th day of March 2014.

Signed, Sealed and Delivered
in the Presence of:

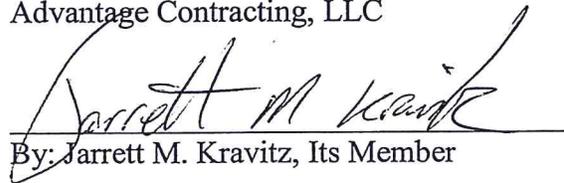


Robert A. DeFeina



Paul J. Paro

Advantage Contracting, LLC



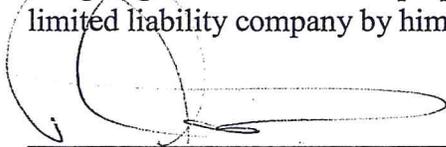
By: Jarrett M. Kravitz, Its Member

STATE OF CONNECTICUT)

) ss: Hartford

COUNTY OF HARTFORD)

On this the 20th day of March, 2014, before me, Robert A. DeFrino, the undersigned officer, personally appeared Jarrett M. Kravitz, who acknowledged himself to be a Member of Advantage Contracting, LLC, a Connecticut member managed limited liability company, and that he, as such Member, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as a Member.



Robert A. DeFrino

Commissioner of the Superior Court

