

RECEIVED

Preliminary Subdivision Decision – 18-01  
Bluebird Lane  
May 15, 2018

MAY 16 2018  
TOWN CLERK  
ACTON



Planning Board

**TOWN OF ACTON**

472 Main Street  
Acton, Massachusetts 01720  
Telephone (978) 929-6631  
Fax (978) 929-6340  
pb@acton-ma.gov  
www.acton-ma.gov

**DECISION**

18-01

**Bluebird Lane**

Preliminary Subdivision (Residential Compound)

May 15, 2018

APPROVED (with Guidance)

Decision of the Acton Planning Board (hereinafter the Board) on the application of Seth Donohoe from Ducharme and Dillis (hereinafter the Applicant) for property in Acton, Massachusetts owned by the James & Roberta King. The property is located in Acton, MA at 110 Nagog Hill Road. The property is shown on the Acton Town Atlas as parcel E4-28 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Preliminary Subdivision entitled “Bluebird Lane, a Residential Compound at 110 Nagog Hill Road, Acton, Massachusetts”, filed with the Acton Planning Department on April 13, 2018, pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules).

The Board held an advertised public meeting about the proposed subdivision on May 15 2018. Seth Donohoe from Ducharme & Dillis presented the application on behalf of the applicant. Board members Mr. Ray Yacoub (Chairman), Mr. Derrick Chin (Vice Chair), Mr. Anping Liu, Ms. Emilie Ying, and Mr. Jon Cappetta were present throughout the meeting. The minutes of the meeting and submissions on which this Decision is based upon may be viewed 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 An application package consisting of the following items and documentation as required by the Rules and Regulations or additionally provided:
  - A properly executed Application for Approval of Preliminary Plan, received April 13, 2018;
  - Project Narrative;

- Acton Certified Abutters List;
- Use Description;
- Requested Waivers;

1.2 A plan entitled, “Preliminary Subdivision & Residential Compound Plan of Land in Acton”, dated April 11, 2018 and consisting of five sheets – Cover Sheet, Existing Conditions, Proof Plan, Layout Plan, and Development Plan.

1.3 Interdepartmental communication received from:

- Acton Fire Department, dated 4/20/18;
- Acton Engineering Department, dated 5/3/18;
- Acton Water District, dated 5/4/18;
- Planning Division, dated 5/10/18;

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 Applicant proposes the subdivision as a Residential Compound under section 10 of the Rules. It provides for broad waivers from design standards set forth in section 8 and 9 of the Rules. It refers to the common driveway standards of the Zoning Bylaw (hereinafter the Bylaw) as a guideline for designing and constructing residential compound subdivisions. The application contains the requisite waiver request.
- 2.2 Section 10.1.2 of the Rules requires a Proof Plan for Residential Compound Subdivisions that demonstrates the ability to comply with the standard design and improvement requirements in Sections 8 and 9 of the Rules, including their subsections, and the dimensional requirements applicable to the zoning district in which the land is located. This requirement ensures that waivers granted for Residential Compound Subdivisions under section 10 of the Rules do not result in the creation of more lots than would be possible when observing the standard requirements of the Rules under Sections 8 and 9.
- 2.3 The Proof Plan demonstrates the feasibility of a standard subdivision road that meets the requirements under section 8.1.18 and the Typical Roadway Section, and zoning compliance for a total of two lots.
- 2.4 The Site is located within the Residence R-2 (R-2) zoning district and the Groundwater Protection District Zone 4.
- 2.5 The proposed +/-126.2 foot long subdivision street would intersect with Nagog Hill approximately 345 feet North West of Putnam Road. These distances are in compliance with the Rules.
- 2.6 Elevations and grades on the Site appear suitable for a street to be constructed in compliance with grading requirements of the Rules.
- 2.7 The intersections and turn-around areas as shown appear to accommodate the dimensions of an SU-30 vehicle.

- 2.8 The Preliminary Residential Compound Plan shows the division of +/- 1.71 acres (+/- 74,888 square feet) into two lots for single family residential use. The Site currently has one house on it, which would remain.
- 2.9 The proposed single-family residential uses are allowed on the Site in accordance with the Bylaw.
- 2.10 The proposed lots as shown would comply with the dimensional requirements of the Bylaw, Section 5.
- 2.11 The proposed siting of the homes on each lot complies with the minimum setback dimensions of the Bylaw, although the siting of the homes remains flexible within the building setback envelopes shown on the Plan.
- 2.12 MGL. Ch. 41. Section 81L defines that a "Subdivision" shall mean the division of a tract of land into two or more lots or not otherwise having frontage on an existing street. Lot 1 does not need Bluebird Lane to exist as a legal lot because it has the required frontage on Nagog Hill Road to conform to zoning. It is the Planning Division's thinking if the driveway for Lot 1 is approved to be located on Nagog Hill Road, this would leave a subdivision for one lot, which would not be in compliance with the State subdivision control law. For the Definitive Plan submission, we would ask for legal documentation to show that it meets statutory definition of subdivision.
- 2.13 Section 9.6 of the Rules requires the applicant to provide sidewalks on one side of the traveled street within the proposed subdivision and along the portion of any existing public street upon which the subdivision Site has frontage. The Board does not waive this requirement, except for allowing on a case by case basis (a) equivalent sidewalk construction in suitable alternative locations, or (b) an equivalent contribution to the Town's sidewalk fund, based on the Board's standard contribution rate of \$20/foot of sidewalk in proposed new subdivision streets and \$50/foot of sidewalk along existing street frontages. In this case the contribution would be approximately  $(135 \times \$20) + (232.75 \times \$50) = \$14,337.5$
- 2.14 The Board solicited comments from various Town departments. They are listed in Exhibit 1.3 above. The Board considered all 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.

### **3 BOARD ACTION**

The Board voted at its meeting on May 15, 2018, five in favor, none opposed to approve the preliminary subdivision with the Waivers and Other Guidance set forth below.

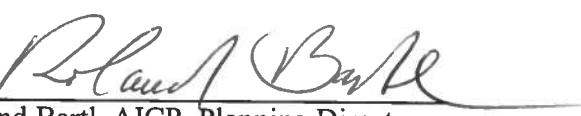
#### **3.1 WAIVERS**

- 3.1.1 The Applicant requested waivers from Section 8 (Design Standards) and Section 9 (Improvements) from the Rules to allow the construction of the street generally as shown on the Plan. This waiver is granted pursuant to Section 10 of the Rules, except for the requirement for sidewalks.

#### **4 GUIDANCE FOR SUBMISSION OF A DEFINITIVE PLAN**

Unless stated or implied otherwise, the following shall be fulfilled and any necessary modifications to the Plan shall be made when filing an application for approval of a Definitive Plan:

- 4.1 Provide legal documentation to show that the proposed subdivision meets the statutory definition of subdivision under MGL. Ch. 41. Section 81L.
- 4.2 Submit a Development Impact Form (D.I.R.).
- 4.3 Include a proposal for how to address the Rules' requirement for sidewalks; either building the required sidewalk on site, building an equivalent sidewalk in a different location (consult with Engineering Department) or making a donation to the Town's sidewalk funds for amount listed under Section 2.13 above.
- 4.4 Assign street numbers for the lots as directed by the Engineering Department and Fire Departments.
- 4.5 The definitive plan should reflect with the engineering recommendation described in paragraph 7 of the Engineering Department memo dated 5/3/2018.
- 4.6 Submit a proposed Street Covenant and Maintenance Agreement per Section 10 of the Rules, including an operations and maintenance manual for the storm water drainage system.
- 4.7 Contact the Acton Water District to ensure that plans for water infrastructure installations meet the District's requirements.
- 4.8 Unless directed otherwise by this Decision, the Definitive Plan and application shall comply with all the detailed requirements of the Rules whether specifically listed in this Decision or not, including but not limited to drainage details and calculations, profiles, cross sections, documentation on sight distances, sidewalks, and planting plans.
- 4.9 In preparing the Definitive Plan, the Applicant shall be responsive to review comments received from the various Town departments and committees and shall address them in a manner that resolves any concerns raised therein to the satisfaction of the Board. These comments are listed in Exhibit 1.3 above. Any conflicts between the departmental recommendations and the Rules shall be highlighted.
- 4.10 If applicable, the Applicant shall pay in full all property taxes and other municipal charges due, and penalties and back charges resulting from the non-payment of taxes prior to the application for approval of a Definitive Plan.



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

Copies  
furnished:

Applicant / Owners-  
certified mail #  
Town Clerk

Acton Water District  
Police Chief  
Manager's Department

Engineer Department  
Fire Department  
Land Use Departments