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Definitive Subdivision Decision #18-02
Garden Lane
August 10, 2018



Planning Board

TOWN OF ACTON

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DECISION

#18-02

Garden Lane

Definitive Subdivision (Residential Compound)

August 10, 2018

DISAPPROVED

Decision of the Acton Planning Board (hereinafter the Board) on the application of Jianhua "Rick" Jian (hereinafter the Applicant) for property in Acton, Massachusetts owned by Jianhua "Rick" Jian and Yaping Ren. The property is located at 64 and 68 Robbins Street and is shown on the Acton Town Atlas as parcel H2-19 and H2-23 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Definitive Subdivision Plan entitled "Garden Lane, Acton MA, June 2018", received by the Acton Planning Division on June 22, 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 hearing was held on August 7, 2018. Bruce Ringwall of Goldsmith, Prest & Ringwall, Inc. presented the subdivision proposal to the Board. Board members Mr. Ray Yacoub (Chairman), Mr. Derrick Chin, (Vice Chairman), Ms. Emilie Ying, Mr. Anping Liu, and Mr. Jon Capetta were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Division 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 A definitive subdivision plan entitled "Residential Compound Plan, Garden Lane, Acton, MA" last revised June 4, 2018, drawn by Goldsmith, Prest & Ringwall, Inc. of 39 Main Street, Suite 301, Ayer, MA 01432, consisting of 8 sheets.
- 1.2 Package with table of contents entitled "Application for Approval of a Definitive Plan, Garden Lane, Acton, MA, June 2018" with supplemental items and documentation required by the Rules consisting of:
 - A Properly Executed Application For Approval of a Definitive Plan, Form DP, dated June 7, 2018;
 - A Completed Development Impact Report, Form DIR;
 - Filing Fee;
 - Designer's Certificate;
 - Certified Abutters List;
 - Waiver Request Letter;
 - Authorization for Goldsmith, Prest & Ringwall, Inc. to represent the Applicant;
 - Copies Of The Recorded Deed;
 - Proof Plan (for Residential Compound), two sheets, entitled "Preliminary Plan, Garden Lane, Acton, MA", dated January 2017;
 - A plan entitled "Traffic Calming Measures Prescott Road", three sheets, dated July 2018;
- 1.3 Supplementary Document
 - Scenic Road Disturbance Letter, dated June 2018.
 - Traffic Calming Measures, three sheets, dated July 2018;
 - Improvements in the Public Interest letter (three options) by Mark Lavallee of Goldsmith, Prest & Ringwall, Inc., dated July, 2018;
 - Robbins Street Traffic Study, submitted August 7, 2018.
 - Stormwater Management Report, Revision 2: June 2018;
- 1.4 Interdepartmental communication received from;
 - Planning Division, comments dated July 3, 2018;
 - Building Division, comments dated July 6, 2018;
 - Acton Water District, comments dated July 20, 2018;
 - Engineering Department, comments dated July 20, 2018 and email dated August 7, 2018;
 - Fire Department, comments dated August 2, 2018 and email dated August 7, 2018
 - Health Division, comments dated August 2, 2018.
- 1.5 Public Comments;
 - Ten Public Letters, dated July 8 through 31, 2018; generally in support;
 - Letter from John and Michelle Kilpatrick, dated August 2, 2018, opposed;
- 1.6 Preliminary Subdivision Decision, Disapproved (March 7, 2017).
- 1.7 Definitive Subdivision Decision, Disapproved (September 5, 2017).

Exhibits 1.1 through 1.3 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. This section provides for broad waivers from the Rules intended for small-scale residential subdivisions.
- 2.2 The Site is located within the Residence 2 (R-2) zoning district, the Groundwater Protection District (GPD) Zones 3 & 4, and partially in the Flood Plain Overlay District.
- 2.3 The Site is located off Robbins Street.
- 2.4 It abuts Town-owned conservation land to the south. There are wetland constraints on the Site.
- 2.5 The proposed uses, single family dwellings, are allowed on the Site in accordance with the zoning bylaw (hereinafter the Bylaw), including all overlay district requirements.
- 2.6 The Site consists of two lots, each with a house on it, having together approximately 3.4 acres. The Plan shows the division into four residential lots. Two of the lots would be for the existing houses on the Site. Two lots would be for new homes.
- 2.7 The application includes the preliminary subdivision plan as proof plan required pursuant to Section 10 of the Rules. It shows the layout for a +/-190' long road, plus a q-shaped turn-around indicating, upon evaluation only within the Site confines, the feasibility for on-site construction of two additional homes in a four-lot subdivision without the benefit of Section 10 of the Rules and in compliance with the Bylaw, subject to razing or relocating an existing garage on Lot 1.
- 2.8 The Plan for the Residential Compound shows a proposed subdivision street that is 292 feet long, Garden Lane. The proposed lots on the Residential Compound Plan appear to comply with the area and frontage requirements of the Zoning Bylaw (hereinafter the Bylaw), including all overlay district requirements. The siting of the existing homes and siting of the proposed new homes on each lot would comply with the minimum setback dimensions of the Bylaw, except for a slight adjustment that would be required for the deck on Lot 4.
- 2.9 The Plan and the application are essentially the same as previously submitted in 2017, which the Board had disapproved In September 2017 (Decision #17-04).
- 2.10 Robbins Street is the entryway to a Single Access Street system. The only connecting point to the larger street network is the intersection of Robbins Street with Stow Street. This intersection is subject to flooding; it lies within the 2014 FEMA 100 year flood zone.
- 2.11 The Robbins Street neighborhood sits on an island of higher ground surrounded by wetlands and flood plain.
- 2.12 Robbins Street is +/-2250 feet long and has several side streets. Measured from Stow Street: Heron View Road at +/-570 feet; Beacon Court at +/-1170 feet; Prescott Road at +/-1460 feet (with Overlook Drive off Prescott Road); and Billings Street at +/-1880 feet. The proposed new subdivision street (Garden Lane) would be about 1330 feet from Stow Street.
- 2.13 It appears that Robbins Streets predates Subdivision Control. It has no layout and some houses on it date to the 1800's.

- 2.14 The length of Robbins Street is pre-existing non-conforming to Section 8.1.17 of the Rules, which limits the lengths of single access streets to 500 feet as follows:
- 8.1.17 Residential SINGLE ACCESS STREETS other than DEAD-END STREETS¹, whether temporary or permanent, shall not be longer than 500 feet. No waiver will be granted unless the following conditions are met, in which case SINGLE ACCESS STREETS can be as long as 1500 feet:
- 8.1.17.1 Condition 1: The SUBDIVISION is an Open Space Development, a Planned Conservation Residential Community, or a Planned Unit Development as defined in the Acton Zoning Bylaw. In such case, the 500 foot SINGLE ACCESS STREET limit shall not apply to a conceptual plan drawn for the purpose of determining the maximum number of building LOTS as required in the Acton Zoning Bylaw.
- 8.1.17.2 Condition 2: An open space buffer is provided along that portion of any existing public STREET upon which the proposed SUBDIVISION had frontage as of February 6, 1990. The open space buffer shall have a minimum depth of 300 feet. *There shall be no buildings or structures within the open space buffer.*
- 2.15 Prior Planning Boards approved subdivisions that created side streets off Robbins Street, most recently Beacon Court in 2011.
- 2.16 Neither the Proof Plan nor the proposed Residential Compound Plan for Garden Lane cures the already excessive length of Robbins. Rather, both would increase the non-compliance by adding linear feet of roadway to the Single Access Street system.
- 2.17 The Board has authority but no obligation to grant waivers from the requirements of the Rules: "Strict compliance with the requirements of these RULES may be waived when, in the judgment of the BOARD, such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law" (Rules, s. 11.1).
- 2.18 Section 8.1.17 of the Rules specifically states that "No waiver will be granted (from the 500-foot length limitation) unless the following conditions (8.1.17.1 and 8.1.17.2) are met ..." The proposed subdivision is not part of an Open Space Development, Planned Conservation Residential Community or Planned Unit Development, nor does it propose to preserve the requisite open space buffer along the subdivision's frontage.
- 2.19 The Robbins Street Single Access Street system serves 70-75 homes. Approximately 20 are between Stow Street and the Site; the others are further back from Stow Street. This pre-existing condition does not conform to the standards of the Rules. Section 8.1.19 of the Rules limits Single Access Streets to 40 dwelling units as follows:
- 8.1.19 There shall be no more than 40 residential dwelling units on a SINGLE ACCESS STREET or series of STREETS having only one terminus onto a THROUGH STREET. To construct more than 40 dwelling units a secondary STREET access shall be provided.
- 8.1.19.1 Where a proposed residential SUBDIVISION would increase any number of existing dwelling units on an existing SINGLE ACCESS STREET to more than 40 a secondary STREET access shall be provided. If in such cases secondary STREET access is impossible or impractical, the BOARD may require alternate means of access to a THROUGH STREET, improvements on the

¹ The Rules define dead-end streets as streets "open at one end only without turnaround". The Rules do not permit dead-end streets.

existing SINGLE ACCESS STREET, improvements within the adjacent STREET network, or combinations of these measures in order to ensure adequate safety and access to all dwellings in the proposed SUBDIVISION. In determining the number of dwelling units in a residential SUBDIVISION, the maximum potential build-out shall be assumed.

- 2.20 Proposed Garden Lane would add two more homes. Under subsection 8.1.19.1 of the Rules the Board may consider certain alternative improvements to the creation of a second street access.
- 2.21 Alternate means of access do not appear feasible given the geography in the surrounding area.
- 2.22 The Rules in Section 2.1 define a Single Access Street as "A CUL-DE-SAC STREET; a DEAD-END STREET; or other STREET having only one terminus onto a THROUGH STREET and providing access to other CUL-DE-SAC STREETS, DEAD-END STREETS, or STREETS forming a closed loop or circle." By this definition the Board understands Single Access Streets to include individual streets and branched systems of street having only one single access point to a through street as is the case here with the Robbins Street Single Access Streets system.
- 2.23 The Board considers the Rules' limits on Single Access Streets as stated in Sections 8.1.17 and 8.1.19 to be important aspects of the Town's responsibility under the Subdivision Control Law in "protecting the safety, convenience and welfare of the Town's inhabitants" and in "securing safety in the case of fire, flood, panic or other emergencies" (M.G.L. c. 41, § 81-M).
- 2.24 In the event of a natural or other disaster, Robbins Street may become inaccessible to vehicles. In that event, its length can become an insurmountable barrier for emergency aid to reach residents, and for residents to evacuate.
- 2.25 The Applicant proposed traffic calming measures on Prescott Road as it approaches Robbins Street, or alternatively within the intersection of Robbins Street and Prescott Street. Prescott Street is a side street off Robbins Street in the vicinity of the subdivision Site. During the public hearing neighbors raised concerns about dangerous traffic situations at this intersection. Regardless, it is not apparent how the proposed improvements would address the fundamental shortcoming of the Robbins Street Single Access Street system.
- 2.26 The Board concluded that the proposed traffic calming measures do not address or offset the core public safety, convenience, and welfare considerations that the Board must take into account when weighing whether or not the grant of a waiver from the Rules is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law.
- 2.27 The Board received comments from various Town departments, which are listed as Exhibit 1.4 above. The Board has considered these comments in its deliberations and made them available to the Applicant.

3 BOARD ACTION

Therefore, the Board voted at the August 7, 2018 meeting not to grant the requested waivers with respect to sections 8.1.17 and 8.1.19 of the Rules and to DISAPPROVE the Definitive Subdivision. The vote was four in favor of Disapproval and one opposed.

4 APPEALS

Appeals, if any, shall be made pursuant to M.G.L., c. 41, § 81-BB and shall be filed within 20 days after the date of filing this Decision with the Town Clerk.

5 CERTIFICATE OF ACTION

This document stating the Decision of the Board shall serve as the Certificate of the Board's Action to be filed with the Town Clerk pursuant to M.G.L., c. 41, § 81-U.



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

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk

Land Use Department
Engineering Department
Fire Chief

Acton Water District
Owner
Town Manager