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Decision – 19-02
484-486 Great Road PCRC
August 19, 2019



Planning Board

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
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DECISION

19-02

484-486 Great Road PCRC

Planned Conservation Residential Community (PCRC)
Special Permit

August 19, 2019

GRANTED WITH CONDITIONS

Decision of the Acton Planning Board (hereinafter the Board) on the application of Goldsmith, Prest & Ringwall (Bruce Ringwall), 39 Main Street, Suite 301, Ayer, MA (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Sherrill Gould. The property is located at 484-486 Great Road and is shown on the Acton Town Atlas as parcel C-4, Lot 15, 16, 17 (hereinafter the Site).

This Decision is in response to an application for a PCRC special permit approval received by the Acton Planning Division on May 22, 2019, pursuant to Section 9 of the Acton Zoning Bylaw (hereinafter the Bylaw), the Planned Conservation Residential Community Rules and Regulations (hereinafter the PCRC Rules). Kyle Burchard presented the application on behalf of the applicant at a public hearing held on July 30, 2019. The Board closed the public hearing on July 30, 2019. Board members Mr. Ray Yacouby (Chair),

Mr. Derrick Chin, Mr. Sukhjinder (Sam) Bajwa, Mr. Anping Liu, Mr. Jon Cappetta and Ms. Emilie Ying 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 or Town Clerk's offices at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 A plan entitled "PCRC Special Permit, Betty Estates Condominium - 484-486 Great Rd Acton, MA" dated 5/22/19, drawn by Goldsmith, Prest & Ringwall, Inc. of 39 Main Street, Suite 301 Ayer, MA 01432 consisting of twelve sheets.
- 1.2 Supplemental items and documentation required by the PCRC consisting of:
 - Properly executed application for a PCRC Special Permit, dated 5/22/19
 - Project Narrative;
 - Filing fee;
 - Certified abutters list;
 - Development Impact Report;
 - Use Description;
 - Copy of the deed;
 - Letter Authorizing Completion of Improvements;
 - Mortgage Holders
 - Earth Removal Calculations;
 - Waiver Request Letter
- 1.3 Additional information submitted by the Applicant:
 - Conservation Restriction Documents;
 - Betty Estates Condominium Master Deed
 - Planned Conservation Residential Community Special Permit Plans, dated April 2019, revised May 2019;
 - Notice of Intent, dated April 2019
 - Stormwater Management Report, dated April 2019
 - Long Term Pollution Prevention & Stormwater System Operation and Maintenance Plan, dated April 2019, revised May 2019;
 - Architectural Floor Plans & Elevations, dated March 12, 2019.
- 1.4 Interdepartmental communication received from:
 - Health Division, dated 06/12/19 and 07/18/19;
 - Acton Water District, dated 06/28/19;
 - Acton Engineering Department, dated 06/28/19;
 - Acton Planning Division, dated 07/25/19;
 - Acton Fire Department, 07/24/19 and 07/30/19.

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 Site is located within the Residence 8 (R-8) zoning district and Zone 4 of the Groundwater Protection District.
- 2.2 The proposed four single-family detached dwellings may be allowed on the Site in accordance with the Bylaw, and subject to this special permit under Section 9 of the Bylaw.

- 2.3 The Plan shows that the property consists of 16.68± acres and proposes 14.76± acres of common land to remain under conservation restriction.
- 2.4 The Plan shows approximately 1.08± acres of wetlands on the Site. Some of the proposed dwelling units are within the 100-foot wetland buffer zone.
- 2.5 The Conservation Commission set an Order of Conditions which required the construction of a split rail fence that will be maintained by the Condominium Association and a boardwalk providing access to the Common Land, whereby the boardwalk must be built prior to the issuance of the first occupancy permit.
- 2.6 The Applicant proposed a consolidated conservation restriction on the Common Land for simplification purposes.
- 2.7 A maintenance shed was mentioned in the Grant of Conservation Easement Restriction portion of the application. If this is proposed its location shall be specified.
- 2.8 The Plan shows a three space parking lot to provide public access to the Common Land.
- 2.9 The Plan shows a ±417 foot long common driveway, Betty Lane, that provides access for the four proposed single-family units. The proposed driveway is 16-feet wide with 2-foot shoulders. It will abide by the standards for Common Driveways in zoning bylaw, section 3.8.1.5. The alignment and turn-around will accommodate emergency vehicles (up to a ladder truck).
- 2.10 The Fire Department would like to see a single hydrant on Betty Lane approximately 150-feet in from Great Road, a fire alarm call box, and more space in the turnaround area of Betty Lane. The applicant agreed to extend the turnaround to better accommodate emergency vehicles to the extent possible that will not conflict with the Conservation Commission's Order of Conditions.
- 2.11 The Applicant stated that the Betty Estates Condominium Association will be granted ownership of the Common Land and Common Areas, but intends to give to the Town rights to maintain the trails for conservation and passive recreation purposes. The proposed use of the Common Land as further described in the proposed consolidated conservation restriction complies with the Bylaw.
- 2.12 The Applicant has agreed that a sidewalk will be constructed along the entire frontage of the Site connecting to the existing sidewalk on Great Road.
- 2.13 There is no need for a sidewalk along Betty Lane. The Board estimates the cost of a sidewalk along Betty Lane to be \$8,340.00 (\$20.00 per linear foot). In lieu of constructing a sidewalk on Betty Lane, the Planning Board discussed two alternative options. (1) That a contribution to the Town's sidewalk fund be made. (2) That the sidewalk along the Site frontage be extended from the proposed Betty Lane northerly along Great Road. The Board favors the second option; however, Great Road being a state highway adds a level of unpredictability with unforeseen costs that makes the length of the sidewalk to be built unpredictable. The feasibility, cost and length is difficult to determine at this time.
- 3.3.1 The drainage report states that the project requires a NPDES Construction General Permit. Prior to any land disturbance the NOI and EPA tracking numbers will be required.
- 2.14 The proposed PCRC as shown on the Plan and as amended herein complies with the applicable requirements of the Bylaw; is in harmony with and enhances the purpose and intent of the Bylaw, specifically Section 9; is in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhood; is consistent with the Master Plan; will not be detrimental or injurious to the neighborhood; and is appropriate for the Site.
- 2.15 Under Massachusetts Law, property taxes must be paid prior to plan recording. Under the Town of Acton Bylaws, no permit or special permit shall be issued to any party "that has neglected or refused to pay any local taxes ..." (Chapter O).

3 **BOARD ACTION**

Therefore, the Board voted unanimously on July 30th 2019 to GRANT the requested Special Permit subject to and with the benefit of the following waivers, conditions, plan modifications, and limitations.

3.2 **PLAN MODIFICATIONS**

Prior to endorsement and recording of the Plan or any construction on the Site that relates to implementing this special permit, the Plan shall be revised to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval by of the Zoning Enforcement Officer (ZEO).

- 3.2.1 Submit all plans with appropriate professional stamps from a Registered Land Surveyor, Registered Landscape Architect and Professional Engineer as appropriate to the information shown on the plan sheet.
- 3.2.2 Extend the turnaround to better accommodate emergency vehicles to the extent possible that will not conflict with the Conservation Commission's Order of Conditions.
- 3.2.3 Show the locations of the single fire hydrant located on Betty Lane at STA 1+50 +/- and the fire alarm call box.
- 3.2.4 If a maintenance shed is proposed, it shall be stated whether the shed will be used to maintain the conservation restricted Common Land or the condominium Common Areas, and be shown on the Plan where it will be located.
- 3.2.5 On all applicable Plan sheets show a MUTCD compliant Street/Private Way sign for Betty Lane.
- 3.2.6 Add a Plan note stating that the binder course shall be exposed to one winter season.
- 3.2.7 Reconcile all plan modifications regarding Chapter X and soil types for drainage calculations with the Engineering Department per memo dated 6/28/19.
- 3.2.8 Submit earth removal calculations.
- 3.2.9 Show areas intended to be utilized for snow storage.
- 3.2.10 On all applicable Plan sheets show one wayfinding sign at Great Road and one at the foot trail entrance for trail access to the Common Land via Betty Lane. The signs shall be small in scale sufficient only to be legible by nearby pedestrians. For sign type and material coordinated with the Natural Resources Department.
- 3.2.11 Add a Plan note stating that the sight distance along Betty Lane shall not be less than 125 feet.
- 3.2.12 Specify that the attic in each of the dwelling units be less than 6 feet from floor to ceiling (collar ties).
- 3.2.13 In the construction notes on the Plan add notations that
 - the limits of clearing shall be clearly marked in the field before the start of construction so that no construction encroaches onto the Common Land; and
 - all stone walls shall remain undisturbed during construction except as noted otherwise in cases of small or short stonewall fragments.
- 3.2.14 Show street addresses as assigned by the Acton Engineering Department (memo dated June 28, 2019).
- 3.2.15 Reconcile all documents from this point further to be consistent with the three parking spaces shown for the common land access.

- 3.2.16 Show the proposed distances of any stormwater management infiltration structures to soil absorption systems, property lines and building foundations and similar other structures. Compare these to Mass DEP recommended setbacks.
- 3.2.17 Specify the locations of the boardwalk and split rail fence that are required in the Conservation Commission's Order of Conditions.
- 3.2.18 Submit for the Board's or its designee's approval the public access easement deed from Great Road to the common land, including description or easement plan as appropriate.
- 3.2.19 Submit for the Board's records the consolidated perpetual conservation restriction for all the Common Land Parcels in compliance with provisions of M.G.L. Chapter 184 and as approved by the Conservation Commission.
- 3.2.20 Submit for the Board's or its designee's approval the provisions for street maintenance of the private way (Betty Lane) and all its appurtenances to be incorporated into the condominium master deed. They shall:
- a) assign the responsibility for snow and ice removal and for general maintenance shall be given to the condominium association;
 - b) declare that the street shall remain a private way and serve not more than four single family homes;
 - c) declare that the Condominium Association be responsible for the removal of snow and ice and for any general maintenance and upkeep of the common driveway and any associated drainage structures and utilities;
 - d) declare that the owners shall not petition the Town to accept the street as a public way and/or to provide snow and ice removal services or any other maintenance;
 - e) include an operation and maintenance plan for the proposed drainage system to be approved by the Engineering Department;
 - f) acknowledge and accept that the forgoing declarations are enforceable by the Town in a court of law; and
 - g) reference the public access easement deed.

Examples of such documents are available in the Acton Planning Division.

- 3.2.21 The Plan shall be modified as needed to comply in all respects with the Bylaw and, unless directed otherwise by this decision, with all applicable requirements of the PCRC Rules.

3.3 CONDITIONS

The following conditions shall be binding upon the Applicant and its successors and assigns. Failure to adhere to these conditions may render this special permit null and void, without force and effect, and may constitute grounds for the revocation of this special permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.3.2 The boardwalk for access to the common land and the split rail fence required in the Order of Conditions shall be completed prior to the issuance of the first occupancy permit.
- 3.3.3 Each dwelling unit shall not exceed 3,000 square feet in gross floor area. This requirement shall be added to the condominium master deed. Also, it shall be added to each of the unit deeds along with the constructed square footage at the time of issuance of the initial Certificate of Occupancy.
- 3.3.4 The number of four dwelling units on the Site shall not be increased.

- 3.3.5 Prior to certificate of occupancy, a sidewalk shall be built along the frontage of the property on Great Road.
- 3.3.6 Prior to the issuance of a building permit, submit for the Board's or its designee's approval a recommendation regarding the most feasible option in lieu of building a sidewalk along Betty Lane. At that time, the Board or its designee shall decide on which option to implement and how and when to implement it. Regardless of the chosen option, the applicant's obligation hereunder shall be limited to \$8,340.00.
- 3.3.7 The conservation restriction, as approved by the Conservation Commission, shall be finalized with a signature from the Secretary of Energy and Environmental Affairs and recorded at the Registry of Deeds before issuance of the first building permit.
- 3.3.8 The foundations for all four dwelling units shall be certified by the Registered Land Surveyor before framing to ensure the buildings abide by the 15-foot setback from Betty Lane and the 20-foot minimum distance between units. Dwelling units #6 and #2 shall be certified to prove a 30-foot setback from the PCRC boundary line.
- 3.3.9 Prior to blasting, if any, the applicant or site contractor shall contact and consult with the Acton Fire Department and follow all requirements, regulations and instructions of the Fire Department before during and after the blasting occurs.
- 3.3.10 All work on the Site shall be conducted in accordance with the terms of this special permit and shall conform with and be limited to the improvements shown on the endorsed Plan.
- 3.3.11 All taxes, and penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full prior to issuance of any building permit on the Site.
- 3.3.12 The Applicant shall be diligent in complying with the erosion and sediment control plan. The Applicant shall not cause or permit the runoff of water or erosion that result in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Board or the Building Commissioner may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.
- 3.3.13 All work on the Site shall be performed in compliance with the applicable law and regulations protecting wetlands and wildlife habitat in the Town of Acton.
- 3.3.14 All requirements of the Board of Health Regulations must be met.
- 3.3.15 The installation of public water services to the Site shall be done in compliance with the specifications of the Water Supply District of Acton (see also memo from Chris Allen, District Manager dated June 28, 2019).
- 3.3.16 All Common Land areas shall remain in their natural state and remain undisturbed during and after construction except as shown on the Plan and allowed under this decision.
- 3.3.17 The Common Land shown on the Plan and approved hereunder, including any portion that exceeds minimum zoning requirements, shall not be reduced in area.
- 3.3.18 No portion of the Common Land shown on the Plan and approved hereunder, including any portion that exceeds minimum zoning requirements, shall be used to meet area, setback, or any other zoning requirements for any other development or improvement that is not shown on the Plan, specifically, it shall not be used to support additional dwelling units.
- 3.3.19 Prior to the issuance of the last Certificate of Occupancy the Applicant shall submit an as-built plan certified by a PLS and a statement by a PE stating that Betty Lane has been constructed as designed and if not, any differences shall be noted in the statement. The PE shall field inspect all

components of the stormwater system and shall certify that the system, as built, functions as designed and approved despite any potential differences.

- 3.3.20 This Decision, the endorsed Record Plan, the consolidated conservation restriction, the public access easement and the approved private way maintenance agreement and covenant (as part of the master deed) shall be recorded by the Applicant at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the Site. The demolitions of the existing structures are exempt from this requirement.

3.4 LIMITATIONS

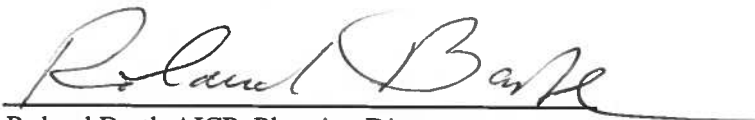
The authority granted to the Applicant under this special permit is limited as follows:

- 3.4.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw, the PCRC Rules, and other applicable laws and regulations.
- 3.4.2 This special permit approval applies only to the Site identified in this decision and to the proposed use and activity as shown on the Plan.
- 3.4.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. For substantial use to have commenced, clearing and grading on the Site as approved hereunder must be under way. For construction to continue towards completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than 1 year. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 3.4.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this decision with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

Signed on behalf of the Town of Acton Planning Board:

A handwritten signature in cursive script, appearing to read "Roland Bartl", written in black ink over a horizontal line.

Roland Bartl, AICP, Planning Director

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
Owner

Land Use Department
Engineering Department
Town Manager

Police Chief
Municipal Properties Director
Fire Chief