



TOWN OF ACTON
DESIGN REVIEW BOARD
Review Memorandum: 90-92 Willow Street
In Person Meeting
July 8, 2021

DRB Members in attendance: Peter Darlow (Chair), David Honn, Richard Keleher, Tom Doolittle, Holly Ben-Joseph; Jon Cappetta (Planning Board Liaison); Dean Charter (Select Board Liaison)

Proponents in attendance: Jim D'Agostone (Developer), Ian Rubin (Civil Engineer), Sukhjinder Bajwa (Owner)

Documents Reviewed:

- NI Neighborhood Images
- CO Cover Sheet
- EC Existing Conditions
- G1 Grading Plan
- U1 Utility Plan
- PP Common Drives Plans and Profiles
- B1X Plan of Land
- ES Erosion and Sediment
- D1 Detail Sheet

Findings:

The proposed project site, 90-92 Willow Street is located outside West Acton Village on a 40,668 SF plot of land that was subdivided from a larger parcel, date uncertain, identified as 88 Willow Street. A Design Review Board (DRB) member could not locate any evidence of the subdivision of the original parcel in the Town building records. The site is occupied by an 1890 Queen Anne style house now used as a two-family dwelling, a former barn, now used as a two-family dwelling and multi-car garage constructed in 1966. The house is on Acton's Cultural Resource List (CRL). The current owner applied for a demolition approval from the Acton Historic Commission (HC) in 2018. A 12-month demolition delay was granted by the HC in July 2018 for the house. According to the Building Inspector a demolition permit for these structures has not been granted as of the date of this memorandum. Due to severe alterations, the barn was deemed not historically worthy of retention by the HC. According to the HC Chair, the current owner did not have any contact with the HC during the 12-month demolition delay nor propose a solution for retaining the historical house as is the intent of the demolition delay bylaw.

The project proposal consists of the complete demolition of the CRL Queen Anne dwelling, the barn and the garage encompassing approximately 9,992 SF to be replaced by two-two-family dwellings

encompassing approximately 10,668 SF. Eight parking places are provided in four two-vehicle garages. Separate driveways are provided from Willow Street each serving four vehicles. A new septic system and field is proposed at the Willow Street frontage.

The following are the DRBs comments on the development as presented:

1. The DRB is pleased to have an opportunity to provide input while the development of the project is in a preliminary stage and appreciates that the proponent chose to meet with the DRB prior to meeting with the Planning Board.
2. Although zoning issues are not the DRB's primary review responsibility, the DRB, as a committee composed of licensed professionals, would be remiss if it were to ignore what would appear to be a key issue concerning this project as described below.
3. The DRB questions the legality of the Planning Board being able to extend and grant under Acton Zoning Bylaw 8.7 a **Special Permit to Reconstruct Two-Family or Multifamily Dwelling** in an R-4 Zone which currently allows only one single family dwelling with an accessory apartment on a 40,000 SF parcel-unless the Owner can provide proof that the existing dwellings' uses as two-family dwellings is **legally non-conforming**. The DRB's observation is that the dwellings appear to be **illegally non-conforming** based on the following:
 - According to Building Department records, there were no building or zoning permits granted to convert the existing historical house into a two-family dwelling nor any building or zoning permits issued to convert the former barn into a two-family dwelling;
 - There are no records indicating that the dwellings were converted to two-family use prior to the Acton Zoning Code's creation in 1951 +/-;
 - The DRB is unaware that any Acton Zoning Code from 1951-2021 allowed two family uses (in this case TWO, two family) uses on an R-4 parcel;
 - The proponent did not produce any documentation to show that the two-family usage has existed continuously for 20 years or more other than to note that the dwellings have been assessed for tax purposes as two-family units for some undetermined number of years and the septic system has been permitted for a certain number of bedrooms for some undetermined number of years.
4. Because of the lack of any documentation found for the property, the DRB suggests that the legality of this development proposal be definitively determined before allowing any design changes to occur and/or invoking Acton Zoning Bylaw 8.7.
5. Given the above situation, the DRB suggests two scenarios for this property depending on a finding by the Planning Board whether the two two-family dwellings are a legally or illegally nonconforming usage:

Illegally Nonconforming Usage:

The DRB believes strongly that the existing CRL house should be preserved and renovated. (Postscript meeting notation: The existing historical dwelling could be converted back to single family usage. Since the former barn has been radically altered rendering its historical value moot, the building could be used as an out building accessory apartment, which as the DRB recalls, could be up to 2,000 SF as the out-building barn building was constructed prior to 1971. The outcome of this scenario is a conforming property).

Legally Nonconforming Usage:

The DRB believes strongly that the existing CRL house should remain in its present location on the site and be preserved and renovated as a single dwelling unit. An additional dwelling unit could be added to and connect with the adjacent historical house; thus forming a two-family dwelling. The DRB recommends that the Willow Street façade of the newly created new unit be recessed and deferential to the historical house. The existing two-family barn dwelling would be demolished and replaced by a two-family dwelling as shown in the proponent's proposal on Sheet NI which the DRB found to be a reasonably acceptable design solution.

Lastly, in regard to 90-92 Willow Street being a property on Acton's Cultural Resource List the DRB appeals to the Planning Board to render a decision on this property consistent with Massachusetts Zoning Chapter 40A, Section 6, which notes that:

"Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be **substantially more detrimental** (*emphasis added*) than the existing nonconforming use to the neighborhood";

and to render a decision in accordance with Acton's Zoning Code 8.7.1 which states:

"To the extent possible, the new building shall comply with the dimensional requirements applicable in the zoning district in which the building is located. However, the Planning Board may authorize or require smaller or larger dimensions as it finds appropriate to address public interest considerations, such as but limited to **the preservation of or improvement of neighborhood character** (*emphasis added*), historic architectural features or the spatial relationship between buildings, and to address public safety and health concerns."

and to render a decision in accordance with the following Acton 2020 Master Plan Goals:

- Goal 1: Preserve and Enhance Town Character, specifically:
Objective 1.4: Preserve Historic Buildings and Landscapes
- Goal 2: Ensure Environmental Sustainability

The proposed demolition of the historical dwelling at 90-92 Willow Street is antithetical to these zoning laws and the 2020 Master Plan, is detrimental to the neighborhood as it destroys an authentic piece of Acton's history and exemplifies an unsustainable environmental building project practice, which is the unnecessary, complete demolition of two buildings and the total rebuilding of structures similar to what already exists.

In summary, the DRB is **unsupportive** of this project **unless** the existing CRL dwelling is retained and repurposed in an historically accurate and appropriate manner. If the project progresses, the DRB appeals to the Planning Board to remand the project back to the DRB to review the site plan, building designs, landscaping and septic field location in greater detail at a future date.

The DRB thanked the proponents for the opportunity to review the project proposal. The proponents thanked the DRB for the comments and will consider them as they move forward before the Planning Board. Respectfully submitted,

The DRB