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**TOWN OF ACTON
PLANNING DEPARTMENT**

Special Permit – PB 21-04
90-92 Willow Street
10/19/2021



Planning Board

TOWN OF ACTON
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DECISION
PB 21-04

90-92 Willow Street

Special Permit
October 19, 2021

GRANTED with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of Sukhjinder Bajwa (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Sukhjinder Bajwa. The property is located at 90-92 Willow Street and shown on the Acton Town Atlas map G1 as parcel 44 (hereinafter the Site).

This Decision is in response to an application for a Special Permit for Reconstructing two Nonconforming Two-Family & Multi-Family Dwelling, received by the Acton Planning Division on June 1, 2021 pursuant to Section 8.7 and Section 10.3 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Special Permit Rules and Regulations (hereinafter the Rules).

The Board held an advertised virtual and in person public hearing, pursuant to Governor Baker's March 12, 2020 Executive Order Suspending Certain Provisions of the Open Meeting Law, on July 13, 2021. The hearing was continued to September 21, 2021 and closed on October 19, 2021. Board members Mr. Ray Yacouby (Chair), Mr. Derrick Chin, Mr. Nathan Cookson, Mr. Jon Cappetta, and Ms. Michaela Moran 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 Items and documentation required by the Rules consisting of:
 - A properly executed Application for a Special Permit, received in the Planning Department on June 1, 2021;
 - Filing Fee;
 - Certified abutters list;
 - Descriptions of Existing Dwellings & Proposed Dwellings;
 - Recorded Plans and Deeds;
 - Drainage, Earth Removal, & Water Balance Calculations;
 - Site Plan;
- 1.2 Additional Information Submitted by the Applicant:
 - Lease History;
 - Land Disturbance Permit Application;
 - Architectural Plans, last revised May 21, 2021;
 - Engineering Plans dated May 3, 2021;
 - Applicant presentations, dated September 21, 2021 & October 19, 2021;
- 1.3 Interdepartmental communication received from:
 - Design Review Board, dated July 8, 2021;
 - Engineering Department, dated July 1, 2021;
 - Fire Department, dated June 3, 2021;
 - Planning Division, dated July 12, 2021;
- 1.4 Public Comments
 - Alissa Nicol, dated September 22, 2021;
 - Terra Friedrichs, dated October 19, 2021;

Exhibit 1.1 is 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 requests a special permit for reconstructing two nonconforming two-family structures under Section 8.7 of the Acton Zoning Bylaw (hereafter the Bylaw).
- 2.2 The Site is located within the R-4 zoning district and consists of +/- 40,413 square feet.
- 2.3 The Site currently sits two legal nonconforming, two-family structures.
- 2.4 The Historical Commission issued a demolition delay on July 13, 2018 for one year, which expired on July 13, 2019.
- 2.5 The applicant applied for a demolition permit on July 8, 2021.
- 2.6 The reconstructed two-family dwellings comply with the dimensional regulations of the bylaw.
- 2.7 The reconstructed two-family dwellings will comprise of a total of four dwelling units. The number of dwelling units are not increased as a result of the reconstruction.
- 2.8 The Special Permit as approved herein is appropriate for the Site; is consistent with the Master Plan; is in harmony with the purpose and intent of the Bylaw, specifically Section 8.7 and 10.3; will not be detrimental or injurious to the neighborhood where it is proposed; and comply in all respects to the applicable requirements of the Bylaw and the Rules.
- a) The Applicant is proposing 'green design' aspects in regards to electricity, water and wastewater treatment, greenery, and energy, in keeping with the sustainability objective to reduce emissions of carbon dioxide and other greenhouse gases. (Acton 2020 Plan and the 2020 Housing Production Plan).
 - b) According to the Assessor's records, the homes to the south of the Site on Willow Street are of a more contemporary style, built between 1960s-1990s and the homes to the north of the Site on Willow Street are mostly historic homes built between the late 1800s and early 1900s.
 - c) The architectural design of the buildings is in keeping with the neighborhood: the architectural plans show the garage and portions of the front elevation recessed to reduce the overall massing, the setback of the building on the property is similar to other dwellings along Willow Street between Summer Street and Kingman Road. The architectural design will not be detrimental to the neighborhood and is appropriate for the Site.
- 2.9 The Board has received comments from various Town departments, which are listed in Exhibit 1.3 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as deemed appropriate.

3 BOARD ACTION

Therefore, the Board voted to GRANT the requested special permit 4-1, subject to and with the benefit of the following conditions and limitations.

3.1 PLAN MODIFICATIONS

The Plan shall be revised prior to its endorsement to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Board or its designee. Where approvals are required from persons or agencies other than the Board, the Applicant shall be responsible for providing evidence of such approvals to the Board or its designee.

- 3.1.1 On the Detail Sheet, show a swept path analysis for the approach on Willow Street for the common driveway shared with 88 Willow Street. An SU-30 vehicle should be able to turn without obstructing oncoming traffic for the common driveway shared with 88 Willow Street, as required in Bylaw section 3.8.1.5.
- 3.1.2 The site plan shall state area disturbed that is at a 10% slope or greater. If no such area exists or is proposed to be disturbed, the plans shall state so.
- 3.1.3 The plan shall have a note stating that all construction activity on the property relating to this subdivision approval shall be limited to the hours of: 7:00am – 5:00pm, Monday – Friday; 8:00am – 5:00pm on Saturday; Sundays & Holidays: No work permitted.
- 3.1.4 Unless directed otherwise by this decision, the plan shall be modified to comply with all requirements of the Rules, and shall address all departmental comments from the Engineering Department and any other comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

3.2 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns, and shall be enforceable by the Zoning Enforcement Officer (ZEO) in the administration of the special permits under section 11 of the Bylaw. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.2.1 No work on the Site shall begin prior to the endorsement and recording of the Plan.
- 3.2.2 The applicant will be responsible for providing an as-built plan and certification form per the Chapter X rules & regulations. A cost estimate for the engineering items (as-built plan, bounds, etc) should be provided with the Chapter X stormwater cost estimate to provide a bond amount for the plan.
- 3.2.3 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 results in the flooding or siltation of any street, Place or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Board may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.

- 3.2.4 All construction activity on the property relating to this plan, including demolition, shall be limited to the hours of: Monday – Friday: 7:00am – 6:00pm; Saturday 8:00am – 5:00pm; Sundays & Holidays: No work permitted.
- 3.2.5 All work on the Site shall be conducted in accordance with the Rules, except as waived, and the terms of this approval, and shall conform with and be limited to the improvements shown on the endorsed Plan.
- 3.2.6 This Decision and the endorsed Record Plan, shall be recorded at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the Site.
- 3.2.7 Upon completion of all work as shown on the Plan, and before the final release of any performance guarantee, the Applicant shall submit an as-built plan showing the road pavement, drainage, utilities, and other improvements within or related to the street, and survey monuments for the entire Subdivision; a surveyor's bound certification; and a certification from a registered engineer that the work has been completed in accordance with the Plan approved hereunder with any deviations clearly noted and explained.

3.3 LIMITATIONS


This special permit shall be limited as follows:

- 3.3.1 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 Rules and other applicable laws and regulations.
- 3.3.2 This special permit applies only to the Site identified in this decision and to the activity as shown on the Plan.
- 3.3.3 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.
- 3.3.4 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. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates. 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.
- 3.3.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit 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 Acton Planning Board


Kristen Guichard, 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 -	Land Use Department	Town Clerk
certified mail #	Managers Department	Engineering Department
Owner	Fire	