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Definitive Subdivision Decision - #PB24-02
Fieldstone Way
January 21, 2025



Planning Board

TOWN OF ACTON
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DECISION
PB 24-02

Fieldstone Way
Definitive Subdivision (Residential Compound)
January 21, 2025

APPROVED (with Conditions)

Decision of the Acton Planning Board (hereinafter the Board) on the application of 738 Main Street, LLC (hereinafter the Applicant) for property in Acton, Massachusetts, owned by John Joseph Bonica III of 9 Wyndcliff Drive. The property is located at 738 Main Street (9 Wyndcliff Drive) and shown on the Acton Town Map as parcel D5-4 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Definitive Subdivision Plan entitled "Definitive Subdivision Plan for Fieldstone Way, Acton, Massachusetts", filed with the Acton Planning Department on April 22, 2024, 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 hearing virtually and in person, pursuant to Governor Baker's March 12, 2020 Executive Order Suspending Certain Provisions of the Open Meeting Law, on June 26, 2024 and was subsequently continued to July 16, 2024, September 16, 2024, October 16, 2024, November 19, 2024, and then closed on December 17, 2024. Robert Melvin of Stamski and McNary on behalf of Applicant presented the application.

Board members Mr. Jon Cappetta (Chairman), Ms. Michaela Moran, Mr. James Fuccione, and Ms. Patricia Clifford 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 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 A plan entitled "Definitive Subdivision Plan for Fieldstone Way, Acton, Massachusetts", dated April 16, 2024 and consisting of seven sheets – Title Sheet, Record Plan, Existing Conditions Plan, Site Development and Grading Plan, Plan and Profile, Construction Details, Erosion and Sedimentation Control Plan, revised August 6, 2024 and November 8, 2024.
- 1.2 Supplemental items and documentation required by the Rules consisting of):
 - Cover Sheet;
 - A properly executed Application for Approval of a Definitive Plan, form DP, dated April 16, 2024, and revised on August 6, 2024 and November 8, 2024;
 - Development Impact Report, form DIR;
 - Filing fee;
 - Designer's Certificate, Form DC;
 - Certified List of Abutters;
 - Waiver Request Letter;
 - Letter Authorizing Town To Complete Driveway;
 - Copies of Recorded Deed;
 - List of Mortgage Holders;
 - Earth Removal Calculations;
 - Stormwater Management Report, dated April 16, 2024, revised July 25, 2024 and November 8, 2024;
- 1.3 Additional information submitted by the Applicant:
 - Letters in response to the peer review letters, dated August 6, 2024 and November 8, 2024;
- 1.4 Interdepartmental communication received from:
 - Acton Engineering Department, dated June 14, 2024 and June 25, 2024;
 - Acton Fire Chief, dated April 30, 2024 and June 28, 2024;
 - Acton Historical Commission, dated June 24, 2024;

- Acton Planning Department, dated June 24, 2024;
 - Acton Water District, dated May 13, 2024;
 - GCG Associates, dated June 21, 2024, October 8, 2024, December 10, 2024, and December 13, 2024;
 - Acton Design Review Board, dated May 2, 2024;
- 1.5 Extension Agreements:
- Agreement on time extension to continue the hearing to July 16, 2024;
 - Agreement on time extension to continue the hearing to September 16, 2024;
 - Agreement on time extension to continue the hearing to October 16, 2024;
 - Agreement on time extension to continue the hearing to November 19, 2024;
 - Agreement on time extension to continue the hearing to December 17, 2024;
- 1.6 Public Comments
- Terra Friedrichs, dated June 26, 2024;
 - Nijan Datar, dated July 12, 2024;

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 § 10 of the Rules, the purpose of which is to permit small-scale Residential Compounds in a manner that minimizes Town maintenance responsibility and cost, while simultaneously preserving the rural character of the Town.
- 2.2 The Board finds the proposed Residential Compounds satisfies the purpose of the Subdivision Control Law, G.L. c. 81K-81GG, to protect the safety, convenience, and welfare of town inhabitants.
- 2.3 The Board finds that the proposed Residential Compound satisfies the purpose of § 10 of the Rules. A Residential Compound is less intrusive to the neighborhood, preserves more of the natural environment of the Site, and helps preserve the present character of the neighborhood. The Plan, as modified herein, accomplishes these purposes of the Rules' Residential Compounds option.
- 2.4 The proposed subdivision is located within the Residence 2 (R-2) zoning district and Groundwater Protection District Zone 3 and 4.
- 2.5 The Plan shows the proposed division of approximately +/-2.69 acres (117,088 square feet) into four lots for single family residential use. The site currently has one single family house, which will remain.
- 2.6 The Plan proposes a 436-foot long subdivision street, named Fieldstone Way, which intersects with Main Street.

- 2.7 The proposed single-family residential uses are allowed on the Site in accordance with the Acton Zoning Bylaw (hereinafter the Bylaw), including all overlay district requirements.
- 2.8 The proposed lots as shown on the Plan comply with the area and frontage requirements of the Bylaw, including all overlay district requirements.
- 2.9 The Plan shows typical house and driveway locations on lots and complies with the minimum setback dimensions of the Bylaw. They are shown for illustrative purposes only. Actual driveway locations may vary, except for specific requirements of this Decision and where compliance with section 8.1.18 of the Rules is required. House locations may shift within the parameters of setbacks required under the Bylaw.
- 2.10 The application contains the requisite waiver request and is eligible for consideration as Residential Compound. The Applicant has demonstrated with a “proof plan” that the subdivision street could be built with the same number of units under the otherwise applicable requirements of the Rules and other applicable laws.
- 2.11 Section 10.1.1.1 of the Rules authorizes the Board to broadly waive design and improvement requirements of §§ 8 and 9 of the Rules, if the required criteria are satisfied. The proof plan dated August 6, 2024 shows one existing dwelling unit and three proposed dwelling units and the paved way outside the 100-foot wetland buffer. A paved surface area in compliance with the Rules section 8.1.18.1 (loop turnaround) could fit within the proof plan layout and be outside the 100-foot wetland buffer.
- 2.12 The Plan shows that each building lot has the frontage required by the Bylaw, and that all present and future owners of the lots within the Residential Compound have adequate and legally enforceable rights of access to a public street.
- 2.13 Main Street is considered a Minor Arterial Road in the Town of Acton.
- 2.14 Places in Residential Compound subdivisions can be built to lesser design and construction standards than other streets in Acton. They are intended to remain private ways; the owners are prohibited from petitioning the Town to maintain the road way or to accept it as a public way. This requires a legal framework for the maintenance and ownership of the private way.
- 2.15 By reference to the common drive standards of the Bylaw, the Rules require that “adequate drainage” shall be provided. Due to the low-intensity use and vehicle traffic, Low Impact Development (LID) options could be considered for purposes of handling storm water runoff. Generally, LID design seeks to avoid or minimize storm water discharge from the site, to disperse groundwater recharge locations throughout the site rather than concentrate recharge in one or few areas, and to handle storm water primarily with above-ground facilities and structures such as swales, recharge beds, or porous pavers.
- 2.16 Traffic on the proposed streets will be light with the addition of three new single-family dwelling units respectively. The Residential Compound more or less as proposed is appropriate for the Site.

- 2.17 The proposed pavement width is 16 feet with two-foot shoulders.
- 2.18 Elevations and grades on the Site appear suitable for the proposed residential compound street to be constructed and follow grading requirements of Bylaw section 3.8.1.5.
- 2.19 The intersections and turn-around areas as shown appear to accommodate the dimensions of an SU-30 vehicle.
- 2.20 Section 9.6 of the Subdivision Rules require 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 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 an existing public street which the subdivision Site has frontage, the contribution would be approximately $(150 \times \$50 + 436 \times \$20) = \$16,220$.
- 2.21 The Applicant offered to make a donation to the sidewalk fund in lieu of constructing the sidewalks.
- 2.22 The Board solicited comments from various Town departments which are listed in Exhibit 1.4 above. The Board considered these 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.
- 2.23 The Applicant has requested certain waivers from the Rules. These are discussed in section '3.1 Waivers' below.

3 BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, conditions, plan modifications, and limitations, the Board voted on January 21, 2025 to APPROVE the definitive subdivision.

3.1 WAIVERS

The Applicant has requested the following waivers from the applicable Rules.

- 3.1.1 The Applicant has requested waivers from Section 8 (Design Standards) and Section 9 (Improvements) of the Rules to allow the construction of the street as shown on the Plan. The Waiver is GRANTED pursuant to Section 10 of the Rules, except for the requirement for Sidewalks and Trees and other Vegetation, as set forth in Section 9.6 and 9.8 of the Rules and Regulations.
- 3.1.2 The applicant has requested a waiver from Section 3.8.1.5 Paragraph H of the Zoning Bylaw regarding stopping sight distance along the common drive. The Applicant requests a reduction from 125 feet to 80 feet. The Waiver is GRANTED.

3.2 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.

- 3.2.1 All outstanding issues outlined in the GCG Associates, Inc. memo dated December 13, 2024 shall be resolved.
- 3.2.2 The Plan must include signage for a speed limit of 15 miles per hour.
- 3.2.3 On Sheet 2, the Record Plan and Sheet 4, the Site Development Plan, site and rename the "Sidewalk & Utility Easement" to "Sidewalk, Utility and Sight Line Easement."
- 3.2.4 The Private Way Maintenance Agreement shall be revised to require the owners of Lots 1, 2, 3 and 4 to trim the vegetation along the Main Street frontage shoulder area (within the sight line easement) to maintain the safety sight distance. The Private Way Maintenance Agreement shall be recorded prior to issuance of a building permit.
- 3.2.5 All Plan sheets submitted for endorsement shall have the requisite professional designer stamps (P.E., R.L.S. and R.L.A.).
- 3.2.6 The Plan shall be modified to show a 10-foot wide sidewalk easement along the frontage of 738 Main Street, as per the Acton Engineering Department's memo dated June 14, 2024. This is to facilitate the Town's sidewalk project on Main Street.
- 3.2.7 The location of the utility pole shall be approved by the Acton Engineering Department before it is finalized on the Plan, as per their comments dated June 25, 2024.
- 3.2.8 The Applicant shall submit a private way covenant and maintenance agreement, enforceable by the Town of Acton, declaring that Fieldstone Way shall remain a private way and serve not more than 4 single family homes, that the owners of lots 1, 2, 3, and 4 shall be jointly responsible for the removal of snow and ice in Fieldstone Way; that the owners of lots 1, 2, 3, and 4 shall be jointly responsible for any general maintenance and upkeep of Fieldstone Way and any associated drainage structures and other utilities, including the trimming of vegetation within the site line easement; that the owners of lots 1, 2, 3 and 4 shall not petition the Town to accept Fieldstone Way as a public way; and that the owners of lots 1, 2, 3, and 4 shall not petition the Town to provide snow and ice removal services or any other maintenance of Fieldstone Way.
- 3.2.9 Unless directed otherwise by this decision, the definitive plan shall be modified to comply with all requirements of the Rules, and shall address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

3.3 CONDITIONS

The following conditions shall be binding upon the Applicant and its successors and assigns. Failure to adhere to the following conditions shall be reason to rescind this subdivision approval pursuant to MGL Ch.41, S.81-W. The Town of Acton may elect to enforce compliance with this decision using any and all powers available to it under the law.

- 3.3.1 Prior to the issuance of the Certificate of Occupancy for each lot, all drainage and utilities applicable to the lot being occupied shall be installed and the roadway completed to binder course to access the unit.
- 3.3.2 All construction access shall be limited to Main Street. Wyndcliff Drive shall not be used for construction access to the site.
- 3.3.3 The Applicant shall retain as many 6" DBH or wider trees as is practicable on the site.
- 3.3.4 In lieu of constructing a sidewalk within the subdivision as otherwise required by the Rules, the applicant shall donate \$16,220 to the Town of Acton sidewalk fund prior to the Plan Endorsement.
- 3.3.5 Fieldstone Way shall remain a private way. It shall not be accepted as a public way, nor shall the Applicant or the owners of lots 1-4 file a petition with the Town to accept it as a public way.
- 3.3.6 Fieldstone Way in its entirety shall be maintained by the owners of the 4 Lots in accordance with the private way maintenance agreement. This shall include the removal of snow and ice. The Applicant and the owners of lots shall not petition the Town to provide snow and ice removal services in Fieldstone Way or to provide any other maintenance and upkeep of Fieldstone Way.
- 3.3.7 Fieldstone Way shall not serve more than 4 residential lots.
- 3.3.8 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, way 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.
- 3.3.9 As required under Massachusetts General Laws, Ch. 60, S. 23, the Plan approved hereunder shall not be recorded with the Middlesex South District Registry of Deeds or the Land Court unless it is accompanied by a municipal lien certificate, indicating that all taxes, assessments, and charges then assessed against the land shown on the Plan have been paid in full. If not paid at the time of endorsement of the Plan, the Board will add a Plan note to remind the Registry of Deeds or the Land Court of this legal requirement.
- 3.3.10 Prior to endorsement of the Plan, the Applicant shall provide the Board with a performance guarantee in accordance with Section 6 of the Rules.
- 3.3.11 No work on the Site shall begin prior to the endorsement and recording of the Plan.

- 3.3.12 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.
- 3.3.13 The installation of water service lines shall be made in compliance with requirements of the Acton Water Supply District.
- 3.3.14 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.
- 3.3.15 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.
- 3.3.16 All construction activity on the property relating to this subdivision shall be limited to the hours of: Monday – Friday: 7:00am – 5:00pm; Saturday 8:00am – 5:00pm; Sundays & Holidays: No work permitted.
- 3.3.17 This Decision, the endorsed Record Plan, and the Restrictive Covenant if any, Private Way Maintenance Agreement and Covenant, and other documents as applicable 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.

3.4 LIMITATIONS

The authority granted to the Applicant under this approval 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 Rules and other applicable laws and regulations.
- 3.4.2 This subdivision approval applies only to the Site identified in this decision and to the activity as shown on the Plan.
- 3.4.3 Other approvals or permits required by law and other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4.4 This subdivision approval shall expire if not endorsed on the Plan within one year from the date that this decision has been filed with the Town Clerk. It shall also expire, if street construction and installation of services is not completed within eight years from the date that this decision has been filed with the Town Clerk.
- 3.4.5 A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension if good cause for such extension is not shown.
- 3.4.6 Amendments to the Approved Definitive Subdivision Plan must be made in accordance with § 5.4 of the Rules. The Board shall have the power to modify or amend the Plan and

the terms and conditions of this decision upon the request of the Applicant, his designees or assigns, or upon its own motion, pursuant to G.L. c. 81W.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 41, S. 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 MGL, Ch. 41, S. 81-U.



Kristen Guichard, 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.

Leo Mercado, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief
Owner

Building Department
Engineering Department
Natural Resources Dept.
Police Chief
Historical Commission

Health Department
Tree Warden
Town Manager
Acton Water District
Assistant Assessor