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Preliminary Subdivision Decision - #PB25-01
96 Pope Road
April 15, 2025



Planning Board

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DECISION
PB 25-01

96 Pope Road
Preliminary Subdivision (Residential Compound)
April 15, 2025

APPROVED (with Guidance)

Decision of the Acton Planning Board (hereinafter the Board) on the application of Tall Pines Trust (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Leo Bertolami of 6 Proctor Road. The property is located at 96 Pope Road and shown on the Acton Town Map as parcel F5-29 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Preliminary Subdivision Plan entitled "Preliminary Subdivision Plan For 96 Pope Road in Acton, Massachusetts", filed with the Acton Planning Department on February 13, 2025, 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 March 18, 2025 and was subsequently continued to and closed on April 15, 2025. Nathaniel Cataldo of Stamski and McNary presented the application on behalf of Applicant.

Board members Mr. Jon Cappetta (Chairman), Ms. Michaela Moran, Mr. James Fuccione, Mr. Sam Bajwa, 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 "Preliminary Subdivision Plan For 96 Pope Road in Acton, Massachusetts", dated January 27, 2025 and consisting of seven sheets – Title Sheet, Proof Plan, and Preliminary Residential Compound Plan, revised March 13, 2025.
- 1.2 Supplemental items and documentation required by the Rules consisting of:
 - Cover Sheet;
 - Letter to Town Clerk;
 - Letter to Planning Board;
 - A properly executed Application for Approval of a Definitive Plan, form DP, dated January 27, 2025;
 - Development Impact Report, form DIR;
 - Parties in Interest List;
 - Preliminary Plan (Attached)
 - Filing fee (Copy of Check);
 - Copy of Record Deed;
 - Waiver Request Letter;
 - Full Size Plans;
- 1.3 Additional information submitted by the Applicant:
 - Memo Regarding Revised Plan Set, dated March 13, 2025;
- 1.4 Interdepartmental communication received from:
 - Acton Engineering Division, dated March 18, 2025;
 - Acton Design Review Board, dated March 13, 2025;
 - Acton Fire Department, dated February 14, 2025;
 - Water Supply District of Acton, dated March 3, 2025;
 - Acton Health Division, dated February 13, 2025;
 - Acton Conservation Division, dated February 24, 2025
 - Acton Planning Division, dated March 14, 2025;
 - Town Counsel, dated April 13, 2025;
- 1.5 Extension Agreements:
 - Agreement on time extension to continue the hearing to March 26, 2025;
- 1.6 Public Comments

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 10/8 (R-10/8) zoning district and Groundwater Protection District Zone 4.
- 2.5 The Plan shows the proposed division of approximately +/- 12.76 (555,826 square feet) into four lots for single family residential use. The site currently has one single family house, which is proposed to be demolished.
- 2.6 The Plan proposes a 238-foot long subdivision street, which intersects with Pope Road.
- 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 January 27, 2025, and revised March 13, 2025, shows one existing dwelling unit (proposed to be demolished) and four proposed dwelling units and the paved way outside the 100-foot wetland buffer. A paved surface area in compliance with Section 8.1.18.1 of the Rules (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. The applicant proposes that all owners of the lots within the Residential Compound would have adequate and legally enforceable rights of access to a public street.
- 2.13 Pope Road is considered a Local Street 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 four new single-family dwelling units respectively. The Residential Compound more or less as proposed is appropriate for the Site.

2.17 There were no plan views of the proposed proof plan and residential compound streets submitted with the preliminary subdivision plans. This should be included in the definitive subdivision submission.

2.18 There was no fire turning analysis in the plans for a SU-30 vehicle. This should be included in the definitive subdivision submission.

2.19 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. The Board’s standard contribution rate is \$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.

2.20

2.21 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.

2.22 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 and guidance set forth below, the Board voted on April 15, 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.

4 GUIDANCE FOR SUBMISSION OF A DEFINITIVE PLAN

Unless stated or implied otherwise, the following shall be fulfilled and any necessary modifications to the Plan shall be made when filing an application for approval of a Definitive Plan:

- 4.1 The Applicant should provide a swept path analysis for an Acton ladder truck and incorporate a fire hydrant into their plan as required by the Fire Department. The Applicant shall increase the turning radius if needed after consulting with the Fire Department.
- 4.2 The Applicant should provide plan views of the proposed proof plan and residential compound.
- 4.3 The Applicant should submit a proposed Street Covenant and Maintenance Agreement per Section 10 of the Rules. The Applicant should also include an operations and maintenance manual for the storm water drainage system.
- 4.4 The Applicant should label any trees or stone walls that are proposed to be removed or relocated on the definitive plans. If needed, the Applicant shall seek public shade tree or scenic road public hearings prior to the submission of the definitive subdivision.
- 4.5 The Applicant should provide an access and utility easement no less than 24 feet wide along the entirety of the common drive.
- 4.6 The Applicant should provide a common drive profile showing the maximum grade as no greater than 10% and no less than 1%. Within 50 feet of the intersection with Pope Road, the common drive should be no greater than 5%.
- 4.7 The Applicant should provide a minimum sight distance of 275 feet on the plan.
- 4.8 The Applicant should provide the proposed names of the proposed street and number on each lot.
- 4.9 The Applicant should clearly note the frontage onto Pope Road and the length of the common drive.
- 4.10 The Applicant should consider a common drive easement to benefit Lot 3 when utilizing Lot 4 for access.
- 4.11 The Applicant should include with the definitive plan a proposal addressing the Rules' requirement for sidewalks; either building the required sidewalk on the site or making a donation to the Town's sidewalk funds using the formula listed under Section 2.20 above.
- 4.11 The definitive plan application shall address all of the outstanding staff/agency comments submitted for the public meeting and listed under Exhibits 1.4 above.

- 4.12 Unless directed otherwise by this Decision, the definitive plan and application shall comply with all the detailed requirements of the Rules whether specifically listed in this Decision or not, including but not limited to drainage calculations, profiles, cross sections, documentation on sight distances, sidewalks, and planting plans.
- 4.13 If applicable, the Applicant shall pay in full all property taxes and other municipal charges due, and penalties and back charges resulting from the non-payment of taxes prior to the application for approval of a definitive plan.



Kristen Guichard, AICP
Planning Director for the Town of
Acton Planning Board

Copies furnished:

Applicant
Tree Warden
Land Use Department
Town Clerk
Fire Chief
Town Manager
Police Chief
Acton Water District
Assistant Assessor