

RECEIVED

DEC 18 2014

**TOWN CLERK
ACTON**

Preliminary Subdivision #14-05
456 Massachusetts Avenue
December 16, 2014



Planning Board

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 929-6631
Fax (978) 929-6340
pb@acton-ma.gov
www.acton-ma.gov

**DECISION
#14-05**

456 Massachusetts Avenue
Preliminary Subdivision
December 16, 2014

DISAPPROVED

(Received 3 votes in favor, 1 vote opposed; 4 votes in favor are required for approval)

Decision of the Acton Planning Board (hereinafter the Board) on the application of Keenan & Sons, LLP., 54 Gristmill Road, Littleton, MA 01460 (hereinafter the Applicant) for property currently owned by Joseph & Kathleen Finnegan, 456 Massachusetts Avenue, Acton, MA and located at 456 Massachusetts Avenue, Acton, Massachusetts 01720. The property is shown on the 2007 Acton Town Atlas map F2-117 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Preliminary Subdivision Plan entitled "Preliminary Subdivision Plan of Land 456 Massachusetts Avenue, Acton, MA", received by the Acton Planning Department on November 6, 2014, pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules).

The Applicant presented the subdivision proposal to the Board at an advertised public meeting of the Board on December 2, 2014. Ian Rubin, P.E., of Markey & Rubin, Inc., presented the application on behalf of the Applicant. Board members Jeff Clymer (Chairman), Michael Dube (Clerk),

Derrick Chin, Roland Bourdon and Ray Yacouby were present throughout the meeting. The minutes of the public meeting and submissions upon which this Decision is based upon may be found and 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 An application package consisting of the following items and documentation as required by the Rules and Regulations or additionally provided:
 - A properly executed Application for Approval of Preliminary Plan, Form PP, received November 6, 2014;
 - Development Impact Report, Form DIR;
 - Filing Fee; and
 - Certified Abutters List.
- 1.2 A set of engineering plans entitled "Preliminary Subdivision Plan of Land 456 Massachusetts Avenue, Acton, MA", prepared by Markey & Rubin, Inc., 360 Massachusetts Avenue, Suite 202, Acton, MA 01720 and consisting of the following six (6) sheets:
 - Cover Sheet (CO), dated November 3, 2014,
 - Existing Conditions Plan (EI), dated November 3, 2014;
 - Subdivision Layout Plan, (LI), dated November 3, 2014;
 - Conceptual Subdivision Site Plan (SI), dated November 3, 2014;
 - Sediment & Erosion Control Plan (ESI), dated November 3, 2014;
 - Sediment & Erosion Control Plan (DI), dated November 3, 2014.
- 1.3 Additional information submitted by the Applicant:
 - Letter of requested waivers, received December 2, 2014.
- 1.4 Interdepartmental communication received from:
 - Acton Deputy Fire Chief, dated November 7, 2014;
 - Acton Sidewalk Committee, dated November 7, 2014;
 - Acton Tree Warden & Municipal Properties Director, dated November 10, 2014; and
 - Acton Engineering Department, dated November 21, 2014.
- 1.5 Comments received from abutters:
 - Landscape screening concept plan submitted by Jim Fraser, dated 12/02/14;
 - Conceptual Screening Planting Plan submitted by Jim Fraser, dated 12/02/14.

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 R-2 (Residence 2) Zoning District and Affordable Housing Overlay Sub District B.
- 2.2 The Site is located within Groundwater Protection District Zone 4.

- 2.3 The Plan appears to propose the creation of a Residential Compound as per the Rules, Section 10 – Optional Residential Compound Plan.
- 2.4 The Plan shows the division of approximately 1.76 acres (76,665 square feet) into three (3) lots for single family residential uses.
- 2.5 As proposed, the three (3) new lots would be approximately 20,005 square feet each in lot area. Proposed Lots 1 & 3 would have in excess of the 150'-0" minimum lot frontage. Lot 2 would have 100'-0" of lot frontage and would comply with Zoning Bylaw Section 5.3.3.3.
- 2.6 The proposed siting of the homes on each lot comply with the minimum setback dimensions of the Zoning Bylaw.
- 2.7 Section 10.1.2 of the Rules requires a Proof Plan for Residential Compound Subdivisions that demonstrates the ability to comply with the standard design and improvement requirements in Sections 8 and 9 of the Rules, including their subsections, and the dimensional requirements applicable to the zoning district in which the land is located. This requirement ensures that waivers granted for Residential Compound Subdivisions under section 10 of the Rules do not result in the creation of more lots than would be possible when observing the standard requirements of the Rules under Sections 8 and 9.
- 2.8 The current "Conceptual Subdivision Site Plan (Sheet S1)" depicts a cul-de-sac turnaround layout with a diameter of approximately 124'-0". A minimum diameter of 140'-0" is required as per Section 8.1.18 & Typical Roadway Section (R-1) of the Rules. The standard minimum loop turnaround diameter is calculated as follows: 100'-0" centerline diameter, plus 20'-0" of pavement width and 20'-0" of shoulder width.
- 2.9 Based upon the overall total parcel size on which the subdivision is proposed and the minimum requirements of Section 8.1.18 & the Typical Roadway Section, it would not appear as though a Proof Plan could demonstrate compliance while still achieving the three (3) new lots being sought.
- 2.10 At the public hearing, the Applicant agreed to provide similar screening to that shown on the plan titled, Conceptual Screening Planting Plan, submitted by Jim Fraser (an abutter), and to provide screening on the east side of the property which abuts 448 Massachusetts Avenue.
- 2.11 The Site will be served by public sewers.
- 2.12 The Board has received comments from various Town departments, which are listed as Exhibit 1.3 above. The Board has considered these comments in its deliberations and made them available to the Applicant.

3 BOARD ACTION

The Board voted its decision at its meeting on December 16, 2014. Four Board members in attendance were present at the previous meeting on December 2, 2014 when the Preliminary Subdivision was presented, and thus they were eligible to vote. These Board members voted with three in favor of approving the preliminary subdivision with the requested Waivers and Other Guidance set forth below, and one opposed. The Board has seven members. A majority of the members of the Board (four out of seven) is required for approval. Therefore, the vote result means that the Preliminary Subdivision was **DISAPPROVED**.

3.1 WAIVERS

- 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.

- 3.1.2 The Applicant also requests, or contemplates waiver requests for the definitive plan application, from Section 10.1.2 of the Rules (Proof Plan) and Section 8.1.18 & Typical Roadway Section (R-1) of the Rules to allow a cul-de-sac turnaround layout with a diameter of approximately 124'-0" where a minimum diameter of 140'-0" is otherwise required.

4 OTHER 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 before filing an application for approval of a Definitive Plan:

- 4.1.1 The Applicant shall submit a complete list of any and all requested waivers.
- 4.1.2 The Applicant shall submit a Plan that demonstrates compliance with the common driveway standards as set forth in Section 3.8.1.5 of the Zoning Bylaw.
- 4.1.3 The Applicant shall submit a Covenant and Maintenance Agreement as per Section 10.
- 4.1.4 The Applicant shall select and identify a street name and street addresses for the new lots. The street addresses, if available, could be numbered off of Massachusetts Avenue.
- 4.1.5 On the Definitive Plan the applicant shall show similar screening to that shown on the plan titled, Conceptual Screening Planting Plan, submitted by Jim Fraser and to provide screening on the east side of the property which abuts 448 Massachusetts Avenue as agreed to at the public hearing.
- 4.1.6 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 details and calculations, profiles, cross sections, documentation on sight distances, sidewalks, open space reservation, and planting plans.
- 4.1.7 In preparing the definitive plan, the Applicant shall be responsive to review comments received from the Acton Engineering Department and other departments and committees of the Town and shall address them in a manner that resolves any concerns raised therein to the satisfaction of the Board. These comments are listed in Exhibit 1.3 above. Any conflicts between the departmental recommendations and the Rules shall be highlighted.
- 4.1.8 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.



Roland Bartl, AICP, Planning Director
for the Town of Acton Planning Board

Copies furnished to:

Applicant -
certified mail #
Town Clerk
Fire Chief
Owner

Building Department
Engineering Department
Natural Resources Director
Police Chief
Assessor

Health Department
Municipal Properties Director
Town Manager
Water Supply District of Acton
Planning Department