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Preliminary Subdivision Decision – 16-02
Mohegan Lane
March 2, 2016



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DECISION
16-02
Mohegan Lane
Preliminary Subdivision (Residential Compound)
March 2, 2016
APPROVED (with Conditions)

Decision of the Acton Planning Board (hereinafter the Board) on the application of Aaron Jeanson and Kaarin Jeanson for property located in Acton, MA at 37 Mohegan Road, owned by the Applicant. The property is shown on the Acton Town Atlas as parcel D2-133 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Preliminary Subdivision entitled “Application for Approval of a Preliminary Plan for Map D-2, Parcel 133, 37 Mohegan Road, Acton, MA 01720”, filed with the Acton Planning Department on December 21, 2015, 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 Planning Board on February 2, 2016. Richard Harrington of Stamski and McNary presented the application on behalf of the applicant. Board members Mr. Jeff Clymer (Chair), Mr. Derrick Chin, Mr. Michael Dube, Mr. Mike Mai and Mr. Bharat Shah were present throughout the meeting. The minutes of the meeting and submissions on which this Decision is based upon may be viewed 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 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 December 21, 2015;
 - Development Impact Form, Form DIR;
 - Certified Abutters List;
 - Deed.
- 1.2 A set of engineering plans entitled, "Preliminary Subdivision Plan for Mohegan Lane a Residential Compound at 37 Mohegan Road Acton Massachusetts" and consisting of three sheets:
 - Title Sheet, dated December 16, 2015;
 - Proof Plan, dated December 16, 2015;
 - Preliminary Plan for Mohegan Lane, dated December 16, 2015.
- 1.3 Interdepartmental communication received from:
 - Acton Sidewalk Committee, dated 1/17/16;
 - Acton Engineering Department, dated 1/18/16;
 - Water Supply District of Acton, dated 1/15/16;
 - Planning Department, dated 2/1/16.

Exhibits 1.1 through 1.2 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 section 10 of the Rules. It provides for broad waivers from design standards set forth in section 8 and 9 of the Rules. It refers to the common driveway standards of the Bylaw as a guideline for designing and constructing residential compound subdivisions.
- 2.2 The subdivision is located within the Residence 2 (R-2) zoning district, Flood Plain Overlay District and the Groundwater Protection District Zone 3.
- 2.3 The Site is located at the end of Mohegan Road to the south and abuts Town owned (General Municipal) land to the north. Wetlands cover a good majority of the westerly half of the property. The existing dwelling unit and proposed dwelling unit are outside the 75-foot wetlands buffer zone.
- 2.4 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.

- 2.5 The Proof Plan demonstrates a standard subdivision road that meets the requirements under section 8.1.18 and the Typical Roadway Section and zoning compliance for a total of two lots.
- 2.6 The Plan shows the division of approximately +/- 3.88 acres (+/- 169,012 square feet) into two lots for single family residential use. The land is currently developed with one existing single family dwelling and a +/- 400-foot long paved driveway extending from Mohegan Road to the northeasterly portion of the lot to serve the existing dwelling.
- 2.7 The proposed single-family residential uses are allowed on the Site in accordance with the Acton Zoning Bylaw (hereinafter the Bylaw).
- 2.8 As proposed, Lot 1 would have approximately 20,226 square feet in total area and 150.96 feet of frontage; Lot 2 would have approximately 144,652 square feet in total area and 151.57 feet of frontage and would comply with Bylaw Section 5.
- 2.9 The proposed siting of the homes on each lot complies with the minimum setback dimensions of the Bylaw.
- 2.10 The existing layout of Mohegan Road is +/- 560 feet from the property line of 37 Mohegan Road to the intersection of Freedom Farme Road; this portion of the road is a single access street. The roadway length is pre-existing non-conforming. Section 8.1.17 of the Rules and Regulations limits single access streets to be no longer than 500 feet.
- 2.11 The proposed Residential Compound, Mohegan Lane, would extend Mohegan Road an additional 98 feet in length.
- 2.12 The existing Lot is non-conforming due to insufficient frontage of 40 feet where 150 feet is required. The proposed plan would bring the property into compliance with the R-2 Zoning District requirements by providing adequate frontage along Mohegan Lane.
- 2.13 The proposed layout of Mohegan Lane provides a better emergency access turn-around than currently exists at the terminus of Mohegan Road.
- 2.14 The proposed layout of Mohegan Lane does not increase the overall distance of +/- 400 from Mohegan Drive to access the existing dwelling for emergency personnel.
- 2.15 A 40-foot wide access easement is shown on the Plan extending from Mohegan Road across the Lot to the Town owned property. The validity of the Town's rights to the access easement is unclear. The Board asked the Applicant to consider granting an access easement to the Town to clarify the rights of the easement shown on the Plan.
- 2.16 The intersections and turn-around areas accommodate the dimensions of an SU-30 vehicle.
- 2.17 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 Site has frontage.
- 2.18 At the public meeting, the Applicant offered to provide a contribution to the sidewalk fund in lieu of constructing a sidewalk within the subdivision and stated they would discuss granting the Town an access easement to formalize the 40-foot easement shown on Plan No. 997 of 1962.

2.19 The Board solicited comments from various Town departments. They are listed in Exhibit 1.4 above. The Board considered all 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.

3 BOARD ACTION

The Board voted its decision at its meeting on March 2, 2016 with four in favor of approving the preliminary subdivision with the Waivers and Other Guidance set forth below.

3.1 WAIVERS

3.1.1 The Applicant requested waivers from Section 8 (Design Standards) and Section 9 (Improvements) from the Rules to allow the construction of the street as shown on the Plan. This waiver is granted pursuant to Section 10 of the Rules.

3.1.2 The Applicant also requested a specific waiver from Section 10.1.2 of the Rules (Proof Plan) and Section 8.1.17 of the Rules (Length of Single-Access Street) to allow for the extension of a +/- 560 foot single access street for an additional +/-175 feet to accommodate one additional lot. Based on the Board's findings and the proceedings at the public meeting this waiver is preliminarily granted.

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 Covenant and Maintenance Agreement as per Section 10.

4.1.3 The Applicant shall identify on the Definitive Plan new lots as: Lot 1, 37 Mohegan Road, Map/Parcel D2/133 and Lot 2, 39 Mohegan Road, Map/Parcel D2/133-1.

4.1.4 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, and planting plans.

4.1.5 In preparing the definitive plan, the Applicant shall be responsive to review comments received from the Acton Engineering Department, Acton Water District 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.

4.1.6 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.

4.1.7 As offered at the public meeting, the Applicant shall propose a contribution to the Town's sidewalk fund in lieu of constructing a sidewalk within the subdivision.

4.1.8 As discussed at the public meeting and in consideration of the requested waiver from Section 8.1.17 of the Rules, the Board anticipates that the Applicant will propose granting

the Town an access easement to the abutting Town land to formalize the existing 40-foot easement shown on Plan No. 997 of 1962.

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

Copies

furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief
Owners

Building Commissioner
Town Engineer
Natural Resource Director
Police Chief
Historical Commission

Health Director
Municipal Properties Director
Town Manager
Acton Water District
Assistant Assessor