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Definitive Subdivision Decision #17-04
Spring Hill Lane
August 15, 2017



Planning Board

TOWN OF ACTON
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DECISION
#17-04

Spring Hill Lane
Definitive Subdivision (Residential Compound)
August 15, 2017

Disapproved

Decision of the Acton Planning Board (hereinafter the Board) on the application of Jeff Walker, Walker Development of Westborough (hereinafter the Applicant) for property in Acton, Massachusetts owned by the James G. & Maria O. Crowley. The property is located at 19 Spring Hill Road and shown on the Acton Town Atlas as parcel E6-6 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Definitive Subdivision Plan entitled "Spring Hill Lane, a Residential Compound", received by the Acton Planning Department on May 9, 2017, pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules).

The hearing was opened on June 20, 2017 and without deliberation continued to July 18, 2017. Richard Harrington of Stamski and McNary, Inc. presented the subdivision proposal to the Board at the continued public hearing on July 18, 2017. Board members Mr. Ray Yacouby (Chairman), Mr. Derrick Chin, (Vice Chairman), Mr. Jeff Clymer, Ms. Emilie Ying, Mr. Bharat Shah, Mr. Anping Liu, and Mr. Jon Capetta (Associate) 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 definitive subdivision plan entitled "Spring Hill Lane at 19 Spring Hill Road, Acton, Massachusetts" dated March 27, 2017, drawn by Stamski and McNary of 1000 Main Street, Acton MA consisting of 10 sheets.
- 1.2 Application package entitled "Spring Hill Lane (A Residential Compound), Application for Approval of a Definitive Plan" (and "Written Request for Scenic Road Public Hearing"), dated May 8, 2017 with supplemental items and documentation required by the Rules consisting of:
 - A Properly Executed Application For Approval Of A Definitive Plan, Form DP, Dated May 8, 2017;
 - A Completed Development Impact Report, Form DIR;
 - Filing Fee;
 - Designer's Certificate;
 - Certified Abutters List;
 - Waiver Request Letter;
 - Letter Authorizing Town To Complete The Driveway;
 - Authorizing Vote;
 - Copies Of The Recorded Deed;
 - A List Of Mortgage Holders;
 - Draft Restrictive Covenant;
 - Appendix A. Preliminary Subdivision Decision;
 - Appendix B. Earth Removal Calculations;
 - Appendix C. Draft Common Driveway Maintenance Agreement;
 - Appendix D. Letter From Attorney;
 - Appendix E. Letter Not To Accept Street;
 - Appendix F. Written Sidewalk Contribution Offer;
 - Appendix G. Scenic Road Bylaw – Written Request;
 - Appendix H. Estimated Cost to Relocate Dwelling;
 - Stormwater Management Report;
 - Stormwater Operation and Maintenance Manual.
- 1.3 Supplementary Document
 - Additional Letter from John P. Burke, Esq., the Applicant's Attorney, dated 7/13/17.
 - Spring Hill Lane - Fact Sheet (with photos), updated July 18, 2017.
- 1.4 Interdepartmental communication received from;
 - Acton Water District email, dated 5/9/2017;
 - Health Department comment, dated 5/10/17;
 - Engineering Department memo, dated 6/9/17;
 - Planning Department memo, dated 6/14/17;
 - Open Space Committee memo, dated 6/20/17.
- 1.5 Public Comments;
 - Jim Snyder-Grant, dated 6/20/17;
 - Franny Osman, dated 7/17/17;
 - Pamela Resor, dated 7/18/17.
- 1.6 Agreement on Time Extension dated 6/20/17.

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 Section 10 of the Rules. That section provides for broad waivers from the Rules intended for small-scale residential subdivisions.
- 2.2 The proposed subdivision is located within the Residence 8 (R-8) zoning district, and the Groundwater Protection District (GPD) Zone 4.
- 2.3 The Plan shows the division of approximately 6.92 acres into three residential lots.
- 2.4 The proposed lots appear to comply with the area and frontage requirements of the Bylaw, including all overlay district requirements. The proposed siting of the homes on each lot would comply with the minimum setback dimensions of the Bylaw.
- 2.5 The Site is located at the end of Spring Hill Road running easterly. It abuts Town-owned conservation land to the north and west. There are moderate wetland constraints on the site.
- 2.6 The application includes a proof plan as required in Section 10 of the Rules showing the layout for a +/-160' long road off the end of Spring Hill Road indicating, upon evaluation only within the Site confines, the feasibility for on-site construction of a 3-lot subdivision without the benefit of Section 10 of the Rules and in compliance with the Bylaw, subject to relocating or razing the existing house.
- 2.7 The Plan for the Residential Compound shows a subdivision street that is 115 feet long, Spring Hill Lane.
- 2.8 The existing layout of Spring Hill Road is more than +/- 1700 feet long from the intersection of the proposed new subdivision street (Spring Hill Lane) to Pope Road. Spring Hill Road is a single access street. The roadway length is pre-existing non-conforming under the Rules. Section 8.1.17 of the Rules limits the lengths of single access streets as follows:

8.1.17 Residential SINGLE ACCESS STREETS other than DEAD-END STREETS¹, whether temporary or permanent, shall not be longer than 500 feet. No waiver will be granted unless the following conditions are met, in which case SINGLE ACCESS STREETS can be as long as 1500 feet:

8.1.17.1 *Condition 1: The SUBDIVISION is an Open Space Development, a Planned Conservation Residential Community, or a Planned Unit Development as defined in the Acton Zoning Bylaw. In such case, the 500 foot SINGLE ACCESS STREET limit shall not apply to a conceptual plan drawn for the purpose of determining the maximum number of building LOTS as required in the Acton Zoning Bylaw.*

8.1.17.2 *Condition 2: An open space buffer is provided along that portion of any existing public STREET upon which the proposed SUBDIVISION had frontage as of February 6, 1990. The open space buffer shall have a minimum depth of 300 feet. There shall be no buildings or structures within the open space buffer.*

¹ The Rules define dead-end streets as streets "open at one end only without turnaround". The Rules do not permit dead-end streets.

- 2.9 Neither the Proof Plan nor the proposed Residential Compound Plan for Spring Hill Lane cure the already excessive length of Spring Hill Road. Rather, both would increase the non-compliance by adding linear feet of roadway to a single access street.
- 2.10 The Board has authority to grant waivers from the requirements of the Rules: "Strict compliance with the requirements of these RULES may be waived when, in the judgment of the BOARD, such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law" (Rules, s. 11.1).
- 2.11 However, Section 8.1.17 of the Rules specifically states that "No waiver will be granted (from the 500-foot length limitation) unless the following conditions (8.1.17.1 and 8.1.17.2) are met ..." The proposed subdivision is not part of an Open Space Development, Planned Conservation Residential Community or Planned Unit Development, nor does it propose to preserve the requisite open space buffer along the subdivision's frontage.
- 2.12 Spring Hill Road by itself already exceeds the extended single access street length limit for the exceptions provided in sections 8.1.17.1 and 8.1.17.2 of the Rules.
- 2.13 The applicant argued that the proposed subdivision street should not be considered an extension of length of a single access street because the subdivision does not extend the length of Spring Hill Road itself; and because the ends of proposed Spring Hill Lane (as shown in the longer proof plan layout) and existing Spring Hill Road are equidistant from the point where the two intersect.
- 2.14 The Rules in Section 2.1 define a Single Access Street as "A CUL-DE-SAC STREET; a DEAD-END STREET; or other STREET having only one terminus onto a THROUGH STREET and providing access to other CUL-DE-SAC STREETS, DEAD-END STREETS, or STREETS forming a closed loop or circle."
By this definition the Board understands Single Access Streets to include individual streets and branched networks of street having only one single access point to a through street. The construct in sections 8.1.19 and 8.1.20 of the Rules makes this clear. These sections contemplate situations where a proposed subdivision street adds to an already existing Single Access Street and suggest a variety of possible cures to mitigate the limitation of the Single Access.
- 2.15 The Board considers the limits on Single Access Streets and their overall lengths to be an important aspect of the Town's responsibility under the Subdivision Control Law in "protecting the safety, convenience and welfare of the Town's inhabitants" and in "securing safety in the case of fire, flood, panic or other emergencies" (M.G.L. c. 41, § 81-M).
- 2.16 There are no fire hydrants on Spring Hill Road. The nearest Acton water main with hydrants ends approximately a mile south on Pope Road near Stoneymeade Way. The applicant's engineer noted that Concord water may have a hydrant on Pope Road north a distant away across the town line. Residents at the public hearing noted the existence of old cisterns or ponds that sometimes have water and other times do not.
- 2.17 In the event of a natural or other disaster, Spring Hill Road may become inaccessible to vehicles. In that event, its 1,700 foot length can become an insurmountable barrier for emergency aid to reach residents and for residents to evacuate.
- 2.18 The waiver request letter offers the following mitigation for consideration: three parking spaces added at the existing Spring Hill Road turnaround; a trail easement on Lot 1 for the existing trail encroachment to the Spring Hill Conservation Area; and an increased

minimum setback to adjacent Town conservation land varying between 60 and 160 feet where the Bylaw only requires 20 feet.

- 2.19 The Board determined that the proposed mitigating offers do not address the core public safety, convenience, and welfare considerations that the Board must take into account when weighing whether or not the grant of a waiver from the Rules is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law.
- 2.20 The Board received comments from various Town departments, which are listed as Exhibit 1.4 above. The Board has considered these comments in its deliberations and made them available to the Applicant.

3 BOARD ACTION

Therefore, the Board voted at their July 18, 2017 meeting unanimously (6-0) not to grant the requested waiver and to DISAPPROVE the Definitive Subdivision. Associate member Mr. Capetta did not participate in the voting.

4 APPEALS

Appeals, if any, shall be made pursuant to M.G.L., c. 41, § 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 M.G.L., c. 41, § 81-U.



Roland Bartl, 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.

Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief

Building Department
Engineering Department
Natural Resources Dept.
Acton Water District

Health Department
Owner
Town Manager
Historical Commission