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Definitive Subdivision Decision – 17-08
Laurentide Circle
January 16, 2018



Planning Board

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DECISION

17-08

Laurentide Circle

Definitive Subdivision (Residential Compound)

January 16, 2018

APPROVED with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of AHO Development Corp. for property located in Acton, MA at 1 Brucewood Road, owned by the Marie J. Franzosa. The property is shown on the Acton Town Atlas as parcel G3-119 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Definitive Subdivision entitled “Laurentide Circle, a Residential Compound at 1 Brucewood Road, Acton, Massachusetts”, filed with the Acton Planning Department on November 14, 2017, pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules).

Molly Obendorf of Stamski and McNary presented the application on behalf of the applicant at a duly noticed public hearing held on December 19, 2017 (no deliberation) and was continued to January 16, 2018. Board members Mr. Ray Yacouby (Chair), Mr. Derrick Chin, Mr. Jon Cappetta, Mr. Anping Liu, Mr. Bharat Shah and Ms. Emilie Ying 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 A definitive subdivision plan entitled, "Definitive Subdivision Plan for Laurentide Circle at 1 Brucewood Road, Acton, Massachusetts", dated November 14, 2017 and revised November 16, 2017 and consisting of seven sheets.

- An properly executed Application For Approval of a Definitive Plans, Form DP, dated 11/14/17 and revised 11/16/17;
- Cover letter, 11/16/17;
- Development Impact Form, Form DIR;
- Filing Fee;
- Certified Abutters List;
- Deed and List of Mortgage Holders;
- Letter Authorizing Town to Complete Roadway;
- Waiver request letter;
- Stormwater Management Report, dated 11/14/17.

1.2 A proof plan, dated 9/23/16.

1.3 Interdepartmental communication received from:

- Planning Department, dated 12/12/17;
- Health Department, dated 12/11/17;
- Water Supply District of Acton, dated 10/21/16 (Revised 12/1/17);
- Engineering Department, dated 12/1/17;
- Fire Department, dated 12/8/17.

1.4 Agreement on Time Extension dated 12/19/2017

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 a Residential Compound Subdivision 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 Zoning Bylaw (the Bylaw) as a guide for designing and constructing Residential Compounds. The subdivision is eligible for consideration as a Residential Compound. 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.
- 2.2 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.

- 2.3 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 three lots.
- 2.4 The Site is located within the Residence 2 (R-2) zoning district and the Groundwater Protection District Zone 4.
- 2.5 The proposed +/-241 foot long subdivision street would intersect with Brucewood Road approximately 200 feet east of Piper Road and approximately 350 feet southwest of Pinewood Road. These distances are acceptable and in compliance with the Rules.
- 2.6 Sight distances and intersection angle appears adequate in all directions.
- 2.7 The proposed street would replace the existing double driveway.
- 2.8 Bylaw Section 3.8.1.5 subsection (c) limits a maximum grade of 5% within 50 feet of the intersection with Brucewood Road. The plans show a maximum grade of 5.06%. Elevations and grades on the site appear suitable to accommodate compliance with the 5% maximum grade.
- 2.9 Bylaw Section 3.8.1.5 subsection (m) requires a 4 foot shoulder prepared with 3-4 inches of topsoil over the same gravel base as the wear surface and seeded. The plans show a 3 foot shoulder on both sides with no gravel base. The proposed paved width is 20 feet, where the minimum required paved width is only 12 feet. There is adequate space to accommodate a 4 foot shoulder by narrowing the paved width.
- 2.10 The intersections and turn-around areas as shown appear to accommodate the dimensions of an SU-30 vehicle.
- 2.11 The Definitive Residential Compound Plan shows the division of +/-2.22 acres (+/- 96,703 square feet) into three lots for single family residential use. The Site currently has one house on it, which would be demolished.
- 2.12 Bylaw Section 3.8.1.5 subsection (n) requires a “private way” sign posted at the common drive intersection with Brucewood. The plans do not show a private way sign.
- 2.13 The proposed single-family residential uses are allowed on the Site in accordance with the Bylaw.
- 2.14 The proposed lots as shown would comply with the dimensional requirements of the Bylaw, Section 5.
- 2.15 The proposed siting of the homes on each lot complies with the minimum setback dimensions of the Bylaw, although the siting of the homes remains flexible within the building setback envelopes shown on the Plan.
- 2.16 Section 9.6 of the Rules requires 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. 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 existing street frontages. In this case the contribution would be approximately $(241 \times \$20) + (250 \times \$50) = \$ 17,320$.

- 2.17 In lieu of constructing a sidewalk within the new subdivision and along the existing street frontages, the Applicant at the public hearing stated his preference to make a contribution to the sidewalk fund based on the Board's standard contribution rate of $(241 \times \$20) + (250 \times \$50) = \$17,320$.
- 2.18 The Board solicited comments from various Town departments. They are listed in Exhibit 1.3 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

Therefore on December 19, 2017, subject to and with the benefit of the following waivers, conditions, plan modifications, and limitations, the Board voted unanimously to APPROVE the definitive subdivision.

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 generally as shown on the Plan. This waiver is granted pursuant to Section 10 of the Rules, except for the requirement for sidewalks.

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 On the Plan and Profile, Sheet 5 of 7:

- Reduce the grade to comply with the 5% maximum grade within 50 feet of the intersection with Brucewood Road;
- Show all drainage components for the common drive located outside the right-of-way within an easement;
- Relocate the turn-around location from Lot 3 to the Lot 1 driveway.

3.2.2 On the Construction Detail Plan, Sheet 6 of 7:

- Revise the Common Driveway Cross-Section to comply with the required 4 foot shoulder prepared with 3-4 inches of topsoil over the same gravel base as the wear surface and seeded and correspondingly reduce the pavement width.
- Add a note to the plan stating that no paving shall take place after November 15th and the final course of pavement to be placed after the binder has been exposed to one winter season.

3.2.3 Label the intersection angle between the common driveway centerline and the street centerline.

3.2.4 Show a "Private Way" sign at the entrance of Laurentide Circle.

- 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 All comments of Engineering Department's December 1, 2017 memo shall be addressed and approved by the Engineering Department prior to plan endorsement.
- 3.2.7 Submit a private way maintenance agreement that will assign the responsibility for snow and ice removal and for general maintenance to the owners of the subdivision lots 1, 2 and 3. The maintenance agreement shall include the approved Stormwater Operation and Maintenance Manual.
- 3.2.8 Submit for Planning Department approval a private way covenant, enforceable by the Town of Acton, declaring that Laurentide Circle shall remain a private way and serve not more than three single family homes, that the owners of lots 1, 2 and 3 in Laurentide Circle shall be jointly responsible for the removal of snow and ice in Laurentide Circle; that the owners of lots 1, 2 and 3 in Laurentide Circle shall be jointly responsible for any general maintenance and upkeep of Laurentide Circle and any associated drainage structures and other utilities; that the owners of lots 1, 2 and 3 Laurentide Circle shall not petition the Town to accept Laurentide Circle as a public way; and that the owners of lots 1, 2, and 3 in Laurentide Circle shall not petition the Town to provide snow and ice removal services or any other maintenance of Laurentide Circle.
- 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 these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.3.1 Laurentide Circle shall remain a private way. It shall not be accepted as a public way, nor shall the Applicant or the owners of lots 1, 2 and 3 file a petition with the Town to accept it as a public way.
- 3.3.2 Laurentide Circle in its entirety shall be maintained by the owners of lots 1, 2 and 3 in accordance with the private way maintenance agreement. This shall include the removal of snow and ice. The Applicant and the owners of lots 1, 2 and 3 of Laurentide Circle shall not petition the Town to provide snow and ice removal services in Laurentide Circle or to provide any other maintenance and upkeep of Laurentide Circle.
- 3.3.3 Laurentide Circle shall not serve more than 3 residential lots.
- 3.3.4 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 result 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.

- 3.3.5 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.
- 3.3.6 Prior to endorsement of the Plan, the Applicant shall provide the Board with a performance guarantee in accordance with Section 6 of the Rules.
- 3.3.7 No work on the Site shall begin prior to the endorsement and recording of the Plan.
- 3.3.8 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.
- 3.3.9 The installation of water service lines shall be made in compliance with requirements of the Acton Water Supply District.
- 3.3.10 In lieu of constructing sidewalks as otherwise required by the Rules, the applicant shall prior to the plan endorsement donate \$17,320 to the Town of Acton sidewalk fund.
- 3.3.11 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.
- 3.3.12 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.
- 3.3.13 This Decision, the endorsed Record Plan, the Restrictive Covenant if any, and the Private Way Covenant/Maintenance Agreement 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 1 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 8 years from the date that this decision has been filed with the Town Clerk. 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, to issue any appropriate changes to this decision and to require any appropriate modifications of the Plan.

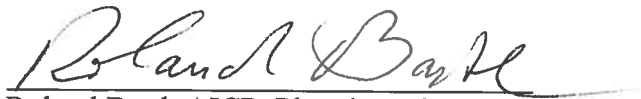
- 3.4.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this decision with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

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.



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

Assistant Assessor

Health Director

Municipal Properties Director

Town Manager

Acton Water District