



Planning Department

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MEMORANDUM

To: Planning Board **Date:** November 29, 2011

From: Roland Bartl, AICP, Planning Director

Subject: **540 Mass. Ave. – Application for Street Determination (Flannery)**
Town Atlas Map F2B, Parcel 15

Regulatory/Legal Background:

The State Subdivision Control Law (MGL ch. 41, §§ 81K - 81GG) recognizes two types of land divisions: One is a Subdivision and the other is a division of land by means of an Approval Not Required (ANR) Plan. In the relevant definition in § 81L the law defines what kind division of land does not constitute a subdivision and therefore would be a division of land by the simpler “Approval Not Required” (ANR) method. Anything that that does not fit into a category eligible for ANR approval is then a subdivision and must go through the subdivision approval process.

The Acton Zoning Bylaw borrows and slightly modifies the s. 81-L definition in its definition of what a street is (section 1.3.16):

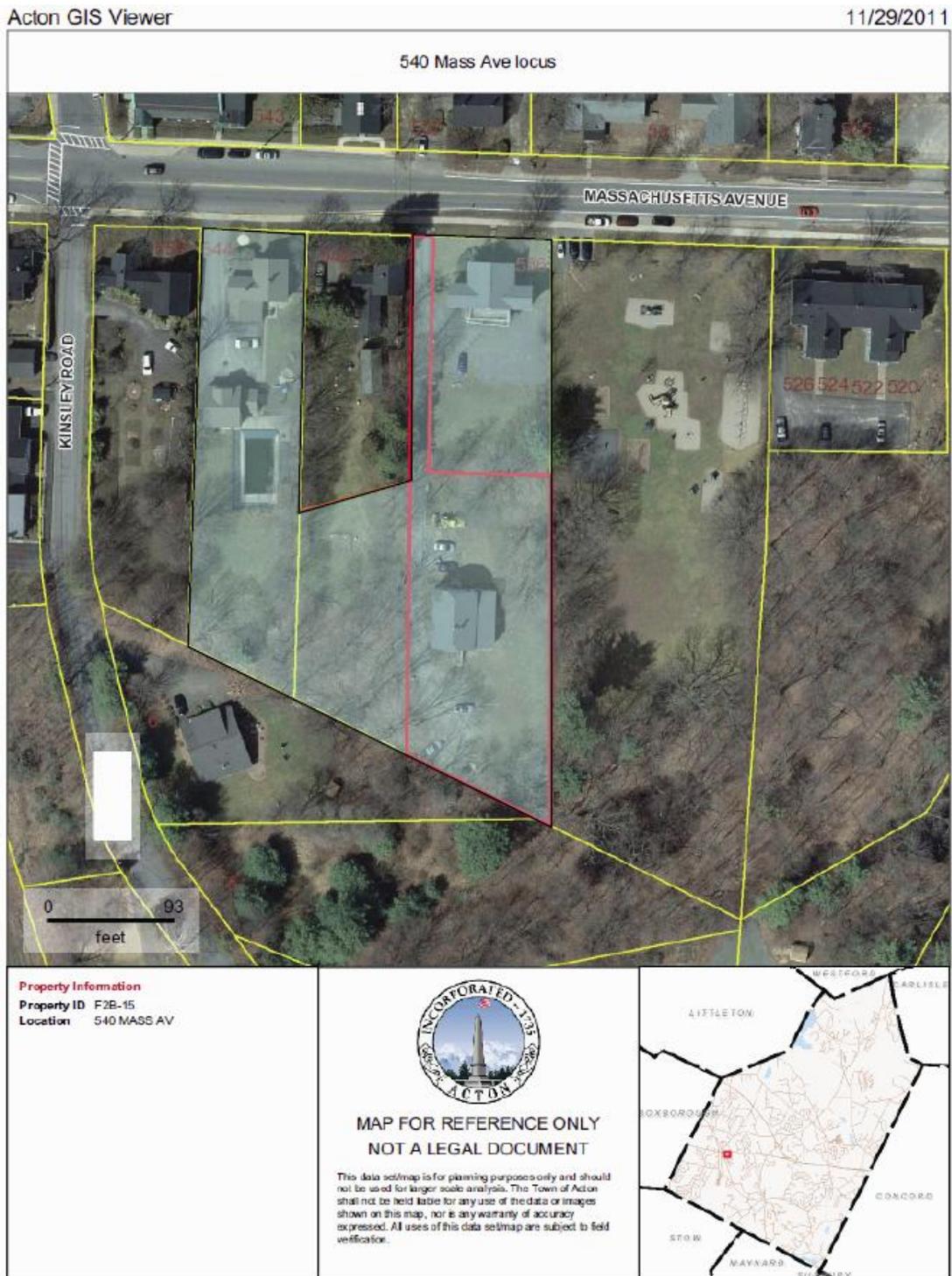
“A STREET shall be 1) an improved public way laid out by the Town of Acton, or the Middlesex County Commissioners, or the Commonwealth of Massachusetts; or 2) a way which the Acton Town Clerk certifies is maintained by public authority and used as a public way; or 3) a public or private way, improved in accordance with a plan approved and endorsed by the Planning Board under the Acton subdivision rules and regulations and the subdivision control law; or 4) a way in existence as of March 9, 1953 having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicular traffic anticipated by reason of the proposed USE of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the BUILDINGS erected or to be erected thereon. A public or private way shall not be deemed to be a STREET as to any LOT of land that does not have rights of ACCESS to and passage over said way.”

For a parcel of land to be or become a buildable lot, a certain minimum area and length of frontage along a street is required. In the zoning district where the subject property is located, Village Residential (VR), the minimum frontage on a street is 50 feet and the minimum lot area is 15,000 square feet.

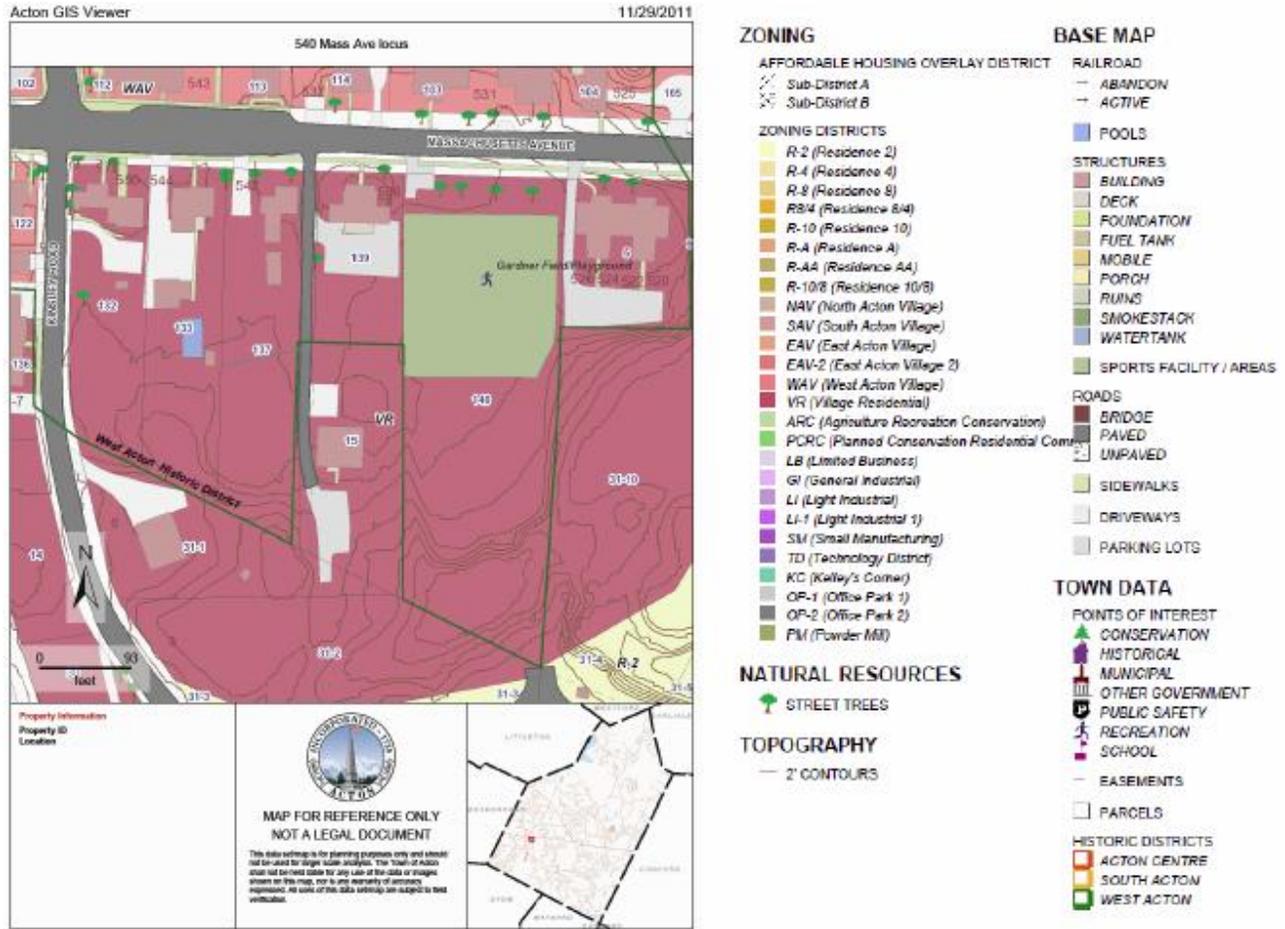
The applicant seeks a determination under sub-section 4) above (underlined) for the private way at the locus. The sentence following the underlined sentence is also relevant in determining the extent of the existing and proposed uses.

Locus:

Following is an aerial view of the locus from the Town's GIS system. The highlighted area comprises the parcels of land with rights to use the way for access and egress.



The following is a map view of the locus with zoning, Historic District, and various improvements and landmarks shown.



Other Departmental Comments:

Other departmental comments are enclosed in the package; please review them. The following may alter, clarify, or expand upon some of these comments.

Planning Department Comments:

The private way appears to be eligible for consideration under section 1.3.16 of the zoning bylaw. In other words, the applicant has provided sufficient documentation that shows the way’s existence dating to before March 9, 1953. The first plan of record apparently dates to 1915 (Bk 4084 Pg End). It shows the 16-foot wide right-of-way easements that later deeds refer to and rely upon. That leaves two areas for deliberation: (a) Whether the way has “sufficient width, suitable grades and adequate construction to accommodate the vehicular traffic anticipated by reason of the proposed USE of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the BUILDINGS erected or to be erected thereon”, and (b) who has the rights to access or use the way.

1. The existing way is largely within a 16-foot wide easement, is +/-12 feet wide paved and looks like it is in fairly good shape; there is a 4-foot shoulder to one side. For comparison, Acton’s common driveway standards call for a 12-foot wide paved surface with 3-foot shoulders on each

side within a 20-foot wide easement. The grading and alignment are pretty much in form with the common driveway standards.

2. The applicant proposes two appropriate improvements:
 - a. Install a new paved apron at the Mass. Avenue entrance (a standard Town “curb-cut” permit will be required); and
 - b. Install a new turn-around (within a new easement) on Lot B for fire apparatus and other large vehicles. We apply the SU-30 vehicle standard for such turn-arounds. Checking with the SU-30 turning template shows that the proposed dimensions fall a bit shy of what will be needed to accommodate such vehicles. The location of the proposed turn-around overlaps with an existing paved parking area. This parking area could be removed if not needed (i.e. if there is room for 8 spaces in the rear of the 540 Mass. Ave. building); otherwise it should be replaced.
3. The users of the existing way are the residents in two 4-unit apartment buildings: The first with an address of 536 Mass. Ave. has 9 bedrooms in it (based on assessors record) and has a driveway and parking lot coming off the existing r.o.w. about 80 feet in from Mass. Ave.; the second at 540 Mass. Ave. is in the rear of #536, has 5 bedrooms in it (based on assessors record), and has its parking lot beginning at about 350 feet back from Mass. Avenue. In total, 8 dwelling units with 14 bedrooms are currently using the existing way.
4. An additional possible user of the existing way is 544 Mass. Avenue (Lot A in the plan) including parcel A on the plan. Lot A has on it a single-family home with a separate driveway off Mass. Avenue.
5. A determination that the existing way is a street for zoning and lot frontage purposes would potentially allow the creation of two more lots with frontage on the way, with up to four dwelling units on each lot; so another 8 dwelling units with an undetermined number of bedrooms (likely 2 bedrooms per unit on average) in an apartment or row house arrangement, for a total of 16 dwelling units and +/-30 bedrooms. For comparison, the Acton common driveway standards limit the number of dwelling units on a common driveway to 12, whereby such dwelling units would typically be single-family homes with 3 to 4 bedrooms; i.e. a maximum of 36 - 48 bedrooms.
6. Nationwide, the average weekday daily trip generation from 16 apartments is +/- 106. For comparison, the average weekday daily trip generation from 12 single family homes is 114.
7. The applicant remains very vague about her future development plans, should the Planning Board’s determination be in favor of a street. There is only one very brief mention of four to six bedrooms, which is far less than the maximum zoning potential would appear.
8. If, with a positive street determination, the applicant is willing or interested to consider affordable housing as part of the future development mix (- the location would be quite favorable for it -), she might wish to discuss it further with Nancy Tavernier at the Acton Community Housing Corporation.
9. If the Board should determination that this way is a street for zoning and frontage purposes, then this would be the time to establish and record a formal driveway use and maintenance agreement/covenant for the existing and anticipated additional users. We have a fairly standard established model for such a document.
10. It seems that there may not be enough Mass. Avenue addresses available for additional lots or residences. Is the applicant considering perhaps giving the way a name (distinct from other street names in Acton) and pulling new street addresses from it?

11. As is required and customary for subdivisions and common driveways, the Board may wish to consider a sidewalk requirement in this case. See also comment from the Sidewalk Committee. Rather than requiring a sidewalk along the proposed improved way (or offering an alternative along Mass. Ave., where a continuous sidewalk already exists on both street sides) the Board may want to consider a contribution to the Town's general sidewalk fund (if agreeable to the applicant). The standard contribution rate would \$50/foot of proposed street, totaling in this case \$13,500 for the +/-270-foot long proposed street layout shown on the plan.

12. Finally, I note that part of the locus is within the West Acton Local Historic District.

cc: Bruce D. Ringwall (for the applicant)
Engineering Department
Planning Department

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