



DRAFT

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Planning Board

DECISION

05-04

Dunn – 68 Willow Street

Preliminary Subdivision (Residential Compound)

August 23, 2005

APPROVED with CONDITIONS

Decision of the Acton Planning Board (hereinafter the Board) on the application of William J. and Ann B. Dunn of 68 Willow Street, Acton MA (hereinafter the Applicant) for their property at the same address. The property is shown on the 2004 Acton Town Atlas map F-2B, as parcel 112 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Preliminary Subdivision Plan entitled "Preliminary Plan for a Residential Compound at 68 Willow Street, Acton, Massachusetts", received by the Acton Planning Department on June 27, 2005, 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 August 9, 2005. Mr. George Dimakarakos of Stamski and McNary, Inc. represented the Applicant. Board members Gregory E. Niemyski (Chairman), Christopher R. Schaffner (Vice Chairman), William F. King, Gary R. Sullivan, Ruth M. Martin, Edmund R. Starzec, and associate member Michael C. Densen were present at the meeting. The minutes of the meeting 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 plan entitled "Preliminary Plan for a Residential Compound at 68 Willow Street, Acton, Massachusetts", dated 6/23/05, drawn by Stamski and McNary, Inc., consisting of one sheet.
- 1.2 A plan entitled "Conventional Subdivision Proof Plan in Acton, Massachusetts for William Dunn", dated 6/24/05, drawn by Stamski and McNary, Inc., consisting of one sheet.
- 1.3 Supplemental items and documentation required by the Rules consisting of:
 - An Application for Approval of a Preliminary Plan, form PP, dated 6/23/05.
 - Filing fee.
 - A completed Development Impact Report, form DIR.
- 1.4 Additional information submitted by the Applicant:
 - A certified list of abutters.

- 1.5 Interdepartmental communication received from:
- Acton Building Commissioner, dated 6/30/05;
 - Acton Director of Natural Resources, dated 6/29/05;
 - Acton Engineering Department, dated 7/18/05;
 - Acton Health Department, dated 6/30/05;
 - Acton Planning Department, dated 7/22/05;
 - Acton Police Chief, dated 7/5/05;
 - Acton Tree Warden & Municipal Properties Dir., dated 7/6/05.

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 2-lot subdivision as a Residential Compound under Section 10 of the Rules. Section 10 of the Rules provides for broad waivers to “permit small-scale residential subdivisions in a manner that minimizes Town maintenance responsibility and cost, while simultaneously preserving the rural character of the Town”. It refers to the common driveway standards of the Acton Zoning Bylaw (hereinafter the Bylaw) as a guideline for laying out and constructing residential compound subdivisions.
- 2.2 The proposed subdivision is located within the Residence 2 zoning district and the Groundwater Protection District Zone 3.
- 2.3 The Plan shows the division of approximately 1.82 acres into two single-family residential lots. One lot has an existing house on it.
- 2.4 The existing and the proposed new single-family residence are allowed on the Site in accordance with the Bylaw, including all overlay district requirements.
- 2.5 The proposed lots as shown on the Plan comply with the area and frontage requirements of the Bylaw, including all overlay district requirements.
- 2.6 The Plan shows a +/- 252-foot long (to the end of the turnaround) unnamed subdivision street (private way) that intersects with Willow Street. The proposed pavement width is 12 feet within a 20-foot wide layout.
- 2.7 The proposed private way abuts the northeast property line destroying most of the existing trees and vegetation between the Site and Loring property. The proposed private way then curves and extends across the Site to the southwest property line destroying existing trees and vegetation between the Site and the Banks property.
- 2.8 The Applicant has submitted a “proof plan” that shows a 2-lot subdivision with the existing house on lot 1 moved approximately 50 feet to allow for a standard subdivision street as required by the Rules. The standard street dimensions, lot areas, and frontages meet the minimum requirements of the Rules and Bylaw.
- 2.9 The application did not include a draft common driveway maintenance agreement and covenant as required under section 10 of the Rules.
- 2.10 By reference to the common drive standards of the Bylaw, the Rules require that “adequate drainage shall be provided.” Due to the low-intensity use and vehicle traffic, Low Impact Development (LID) options could be considered for purposes of handling storm water runoff. Generally, LID design seeks to avoid or minimize storm water discharge from the site, to disperse groundwater recharge locations throughout the site rather than concentrate recharge in one or few areas, and to handle storm water primarily

with above-ground facilities and structures such as swales, recharge beds, or porous pavers.

- 2.11 The Applicant has not requested any specific waivers from the Rules. However, the proposal as a Residential Compound contemplates waivers from sections 8 and 9 of the Rules. The Board, in its discretion, may grant waivers to any or all, or to none of the portions of these sections. As a general policy, the Board does not usually waive sidewalk requirements of the Rules (section 9.6), but it does allow, and in the case of Residential Compounds, it encourages sidewalks in alternative locations more useful to the applicant and the general public.
- 2.12 Under Massachusetts Law, property taxes on the land must be paid prior to recording of a definitive plan.
- 2.13 The Board has received comments from various Town departments, which are listed as Exhibit 1.5 above. The Board has considered these comments in its deliberations and made them available to the Applicant.

3 BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, conditions, and plan modifications, the Board voted on August 23, 2005 to APPROVE the preliminary subdivision.

3.1 WAIVERS

Waivers from the Rules sections 8 and 9 in accordance with section 10, Optional Residential Compound Plan, seem appropriate to allow the street layout and design generally as depicted on the Plan.

3.2 CONDITIONS and PLAN MODIFICATIONS

Unless stated or implied otherwise, the conditions shall be fulfilled and the modifications to the Plan shall be made before filing the application for approval of a definitive plan.

- 3.2.1 Provide a certified cost estimate from a general contractor specialized in moving houses for moving the existing house on lot 1 as shown on the proof plan.
- 3.2.2 Minimize the removal of existing trees and vegetation, especially along lot lines. Move the private way southwest away from the abutting Loring property to preserve as much existing vegetation as possible between the Site and the Loring property. Shift the lot 2 driveway and house northeast to avoid destroying some of the existing vegetation between the Site and the abutting Banks property.
- 3.2.3 Show adequate monumentation of the lots and private way as recommended in the Engineering Department comment memo.
- 3.2.4 Assign and label lot 2 as 66 Willow Street, and show a sign adjacent to the private way at Willow Street indicating the street address of the property.
- 3.2.5 Eliminate the northern Willow Street driveway curb cut for lot 1.
- 3.2.6 Lot 1 shall be allowed full rights to use the private way for access. However, no driveway shall be constructed for lot 1 from the private way unless all lot 1 Willow Street curb cuts are closed. No new driveway parallel to Willow Street shall be constructed on lot 1 between the house and Willow Street, or within the minimum building set back from Willow Street.
- 3.2.7 Place a note on the Plan stating that the private way shall only serve the lots shown on the Plan.

- 3.2.8 Consult with the Fire Chief regarding adequacy of the turnaround and general fire protection issues, and make Plan changes as necessary.
- 3.2.9 Consult with the Acton Water Supply District concerning water service for the lots, and make Plan changes as necessary.
- 3.2.10 Submit a draft common driveway maintenance agreement and covenant for the street and all its appurtenances as required under section 10 of the Rules, including an operation and maintenance plan for the proposed drainage system.
- 3.2.11 Show drainage easements on the lots for any street related drainage facilities.
- 3.2.12 Eliminate the rear retention basin and propose a LID drainage design that includes some redundancy and extra capacity, is simple to design, and functions in the winter months.
- 3.2.13 Assess and document the ground's recharge capacity in the locations where storm water recharge is proposed.
- 3.2.14 Place a note on the Plan that states the contractor will be responsible to pave the new underground utilities trench (that serves the development) on Willow Street with a special infrared patch.
- 3.2.15 The Applicant shall construct a sidewalk on Willow Street. Submit a construction plan for a sidewalk along the west side of Willow Street **[from Kingman Road extending north or from Summer Street extending south – Planning Board to decide]** for approximately 290 feet at \$30.00 per foot of sidewalk. This cost equals the approximate cost of constructing a sidewalk along the Site's proposed unnamed 252-foot street (at the Board's construction cost equivalent value estimate for new sidewalks of \$15.00 per foot of sidewalk) and the Site's 160-foot frontage along Willow Street (at the Board's construction cost equivalent value estimate for off-site, existing road sidewalks of \$30.00 per foot of sidewalk). Where the sidewalk terminates, connect it to the street pavement.
- 3.2.16 Unless directed otherwise by this decision, the definitive plan shall 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.
- 3.2.17 All property taxes and other municipal charges must be paid prior to the application for approval of the definitive plan.

Roland Bartl, AICP, Town Planner
for the Acton Planning Board

Date

Copies to:

Applicant	Building Commissioner	Board of Health
Engineering Department	Municipal Properties Director	Town Clerk
Conservation Administrator	Town Manager	Fire Chief
Town Assessor	Historical Commission	Police Chief