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DECISION of the Board of Selectmen (hereinafter the Board) on the petition of 25 Powdermill LLC, (hereinafter the Petitioner) for the property located at 25 Powder Mill Road, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map J-3 Parcel 53.

This Decision is in response to an application submitted to the Board on March 20, 2003 by the Petitioner for a Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to reconstruct a two story building with a building trade shop on the first floor and an apartment on the second floor.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on May 19, 2003 at 7:30 PM in the Selectmen's Hearing Room at the Acton Town Hall. Board members Walter Foster, Peter Ashton, F. Dore' Hunter, William Shupert III and Robert Johnson were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibit I

A properly executed application for Site Plan approval received March 20, 2003, a booklet containing a certified abutters list, USE description, other permits, record plan, drainage calculations earth removal calculations, water balance calculations and traffic study. Three-sheet set of Engineered plans dated March 18, 2003. A landscape plan dated February 24, 2003 and a one sheet set of building plans not dated.

Exhibit II

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated May 13, 2003
2. Town Planner dated April 4, 2003
3. Fire Chief dated April 30, 2003
4. Municipal Properties Director dated April 3, 2003
5. Engineering Administrator dated April 22, 2003
6. Health Director dated March 27, 2003
7. Transportation Advisory Committee dated April 24, 2003
8. Recreation Director dated April 1, 2003

Exhibit I is hereinafter referred to as the Plan

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1.0 Findings and Conclusions

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is located in Powder Mill Zoning District and Zone 3 of the Groundwater Protection District and the USE is allowed in both the Powder Mill Zoning District and Zone 3.
- 1.2 The traffic circulation would be improved if several site improvements were made. The proposed entrance driveway is 26 feet wide where 24 feet is allowed under the Bylaw. The traffic pattern provides for one-way circulation and would benefit from proper One-Way signs and "Do Not Enter" signs. The layout shall be changed to provide for SU-30 design.
- 1.3 The Bylaw section 10.4.3.4 requires sidewalks along the frontage if the Board determines it is necessary for safe movement of pedestrians and bicyclists. The Board finds that a sidewalk along the frontage is required and if the sidewalk in front of "Wendy's" is damaged connecting to drain manhole it shall be replaced. The existing sidewalk in front of "Wendy's" shall also be aligned properly to Powder Mill Road and match existing type of curbing.
- 1.4 The Plan does not provide for a screened dumpster location. This is required by Section 3.9.8 of the Board's Rules and Regulations.
- 1.5 The Plan does not indicate what type of outdoor lighting will be used. All exterior lighting shall be installed to comply with the Bylaw. All exterior lighting shall be approved by the Building Commissioner prior to installation.
- 1.6 Powder Mill Road is a Town highway and will require a Town permit to Construct within a Public Way for any improvements.
- 1.7 The Plan provides for a clay lined retention basin adjacent to the sidewalk. The plan does not provide for a guardrail between the sidewalk and the basin. A guardrail shall be required to protect the general public.
- 1.8 The Plan provides for a 12-inch overflow pipe to cross Powder Mill Road and connect to an existing town drain. Crossing Powder Mill Road will needlessly interfere with traffic. There is an existing town drain on the site side of Powder Mill Road and it should be utilized.
- 1.9 The Town Engineering Department noted several areas where the Plan should be revised
 - 1) The length of pipe between catch basin #2 and manhole #1 should be changed from 16 feet to 7 feet.
 - 2) The permeability rate of the clay liner should be 0.1417 or less.
 - 3) The four property corners should be marked and protected during construction.
 - 4) The O & M plan shall state the catch basin sumps shall be cleaned following construction.
 - 5) The sidewalk detail shall provide for 3-inches of processed gravel on top of 6-inches of bank run gravel underneath 2.5-inches of two courses of pavement.
 - 6. The Plan shall have a note that the proposed curb along Powder Mill Road shall match the curb in front of 31 Powder Mill Road.The Board finds the comments by the Engineering Department are reasonable and would improve the plan and adopt them.

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1.10 The Plan as herein modified:

- Will protect the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
- Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.
- Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
- Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
- Is consistent with the Master Plan.
- Is in harmony with the purpose and intent of this Bylaw.
- Will not be detrimental or injurious to the neighborhood in which it is to take place.
- Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted to **GRANT** the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations.

2.0 **Plan Modifications**

Prior to the issuance of a Building Permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any Building Permit or permit any construction on the site. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

- 2.1
- 1) Reduce the access driveway to 24 feet.
 - 2) Add "Do Not Enter" and "One Way" signs.
 - 3) Change the driveway layout for SU-30.
 - 4) Add a screen dumpster location and provide a detail.
 - 5) Provide a detail of the outdoor lighting with a reference to Bylaw 10.4.3.2 and a note providing all outdoor lights must have the approval of the Building Commissioner.
 - 6) Add a guardrail between the clay lined retention basin and sidewalk with a detail.
 - 7) Show the 12-inch overflow pipe connecting to the catch basin in front of Wendy's.
 - 8) Provide a detail of the curb along Powder Mill Road matching what is in front of 31 Powder Mill Road.
 - 9) The length of pipe between catch basin #2 and manhole #1 should be changed from 16 feet to 7 feet.
 - 10) The permeability rate of the clay liner should be 0.1417 or less.
 - 11) The four property corners should be marked and protected during construction.
 - 12) The O & M plan shall state the catch basin sumps shall be cleaned following construction.
 - 13) The sidewalk detail shall provide for 3-inches of processed gravel on top of 6-inches of bank run gravel underneath 2.5-inches of two courses of pavement.

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3.0 Conditions

- 3.1 If the sidewalk in front of Wendy's is damaged it shall be repaired. To the degree the existing sidewalk in front of Wendy's does not align properly to Powder Mill Road it shall be corrected so that both sidewalks are continuous.
- 3.2 Powder Mill Road is a Town highway and will require a Town permit to Construct within a Public Way for any improvements.
- 3.2 Prior to occupancy or use of any new building constituting a part of the project, an as-built plan shall be supplied by the engineer of record certifying that the project was built according to the approved documents. The as-built plan shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades and elevations. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor.

4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Site Plan Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.
- 4.7 This Site Plan Special Permit shall lapse on June 23, 2005 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the Petitioner with or without a new hearing.

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5.0 **Appeals**

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this day of ,2003

Walter Foster, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

Christine Joyce, Recording Secretary

Date filed with Town Clerk

Edward J. Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of 25 Powdermill LLC. has passed and there have been no appeals made to this office.

Date

Edward J Ellis, Town Clerk

- cc: Petitioner
- Building Commissioner
- Planning Board
- Engineering
- Conservation
- Director of Municipal Properties
- Board of Health
- Town Clerk
- Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury