



Planning Department

**TOWN OF ACTON**  
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**MEMORANDUM**

**To:** Planning Board **Date:** December 8, 2006

**From:** Roland Bartl, AICP, Town Planner *R. B.*

**Subject:** Possible Zoning Changes for 2007 Annual Town Meeting

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As requested, this provides a list of potential zoning changes that could be prepared for the next Town Meeting. So far I have not heard back from the Building Commissioner (B.C.) on any recent new items for clean-up, correction, or minor modifications that he or the Board of Appeals might have identified over the past year. Item 1 below stems from a conversation with B.C. that occurred nearly a year ago, but it is still relevant.

**1. Tear-downs and reconstruction on undersized lots:**

Presently, where there is a house or other building on a nonconforming lot (too little frontage or area), it cannot be razed and replaced unless the Board of Appeals grants a variance. The variance, if granted, is granted for hardship. But, design issues or neighborhood fit do not tend to come into play. The suggestion is to set up a special permit with certain criteria that are cognizant of the nonconforming lot status and provide a reference to the neighborhood context in terms of size, bulk, and setbacks.

**2. Flexible parking design:**

Attached please find proposal for flexible parking lot design requirements from the Town Engineer. The study object is the parking lot behind Town Hall and the library where a preliminary expansion study is being worked on to see how growing demand can be met. I will bring sketch plans to the meeting. I generally agree with this proposal. The resulting flexible design seems to have less impervious cover and more continuous open space or landscaping area. Therefore, it requires less drainage provisions and it is overall less tolling on resources. The minimum "fall-back provisions" would be a 10-foot setback and the parking lot landscaping requirements in the West and South Acton village districts (section 6.9.4.7). Most if not all parking lots are built or expanded under a special permit or site plan special permit where the Town Boards' discretionary powers to approve or deny a flexible design alternative already exist. We will have to look if there are any possible scenarios where that is not the case.

**3. Cell Towers:**

The following items a. through k. is a list of thoughts and recommendations that Chairman Greg Niemyski sent me a week or so ago. I have added comments in italic under each paragraph, as applicable.

- a. All applications should include all existing cell tower/sites locations on a map in relation to the applicants'; *(This can be a change in the special permit rules and regulations)*
- b. Reinforce the balloon test requirement, perhaps to the point stating that the application will not be considered complete without it? *(This can be a change in the special permit rules and regulations)*
- c. Perhaps we need to add a tree level inventory in proximity to the proposed tower in relation to the lowest potential antenna position to avoid that "last spot" question. Maybe a side shot topo map or illustration showing elevation relationships to the proposed tower; *(This can be a change in the special permit rules and regulations)*
- d. All applications should indicate the height above sea level for the proposed antennae; *(This can be a change in the special permit rules and regulations.)*
- e. Can we require the applicant to secure the necessary utility easements that will allow upgrades to infrastructure? *(Yes. This could perhaps be addressed best as a new subparagraph in 3.10.6.5 of the Zoning Bylaw. This needs a zoning bylaw change by Town Meeting.)*
- f. Should we require that all applications stipulate that all existing sites have been evaluated prior to submitting the application for a new site? *((This can be a change in the special permit rules and regulations and include a requirement for an inventory of who is occupying the spaces on the other towers.)*
- g. Can Dave Maxson provide us with a "needs threshold" test that the applicant must stipulate? In other words, the Newtown Rd case is the lack of service area, the Capizzi site seems to be an upgrade of service rather than lack of telephone service. In fact they are at 80% capacity? *(I have asked Dave)*
- h. He did mention that "service" needs to be legally defined. Since Mr. Anderson cannot opine on this, can we get the other cell tower lawyer's opinion? *(The answer to this can be found on pages 4-8 of the TCA Legal Points paper that I sent out via e-mail recently)*
- i. If we don't already, we should more clearly state that we require the "stealth" mono-pole with no external arrays but will consider alternative masts on a case by case basis. *(This should be done in the zoning bylaw as a replacement or revision of section 3.10.4.1. This needs a zoning bylaw change by Town Meeting.)*
- j. Some of the language is (purposely?) vague and argumentative. Beauty is in the eye of the beholder. These will never meet anyone's aesthetics criteria. We cannot judge if a cell tower will have adverse affects on adjoining property (we do not have the Wisdom of Solomon). Can we try to delete this obtuse language? I'm sure we put it in to make people "feel" better. I would prefer that we keep it more scientific; after all, we are dealing with essentially an engineering project. It's a site that will have machines running automatically. Do they meet the federal, state, and local requirements from an engineering perspective? Do they meet the "needs threshold" (defined by the federal law and case law)? I would like to see us delete any of the current verbiage that is not enforceable or cannot be demonstrated as clear and unequivocal. *(Yes, we can propose to eliminate the vague finding requirements under section 3.10.6.9 of the zoning bylaw. This needs a zoning bylaw change by Town Meeting where it may run into stiff debate. As much as it may be a headache most of the time, the usefulness of the vague language for the Planning Board comes in when it can use it in utterly severe situations – should they ever come up – to bolster a denial. So far I have not seen a proposal that egregiously violates aesthetics or the economic viability of abutting properties, but as stated, that is of course one beholder's eye, only.)*

- k. To that point, have we asked Dave Maxon's opinion of our bylaw? He's probably seen many of them in his travels and he may have a few suggestions (while we have him on the clock). ? *(I have asked Dave.)*
- l. As an add-on to the possible cell tower regulation changes, the word "vegetation" in section 3.10.6.7 of the zoning bylaw should probably be changed to "foliage".

This is all for now, but I have left the door open for Garry Rhodes (B.C.) until Tuesday.

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**TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION**

Date: December 6, 2006

**To:** Roland, Garry, Dean

**From:** Engineering Department  
Bruce M. Stamski, P.E., Town Engineer/Director of Public Works

**Subject:** Flexible Parking Lot Design Requirements Revised  
to include minimum standards

**6.7.9 FLEXIBLE PARKING LOT DESIGN REQUIREMENTS**

The Town of Acton approving authority having jurisdiction may waive any and all requirements of Sections 6.7.1 thru 6.7.8.8, 10.4.3.5 and 10.4.3.6 under the following conditions:

**6.7.9.1 PARKING PROVING PLAN**

The project applicant shall present a plan to the approving authority showing full compliance with the above referenced sections. The **PARKING PROVING PLAN** shall be prepared by a Registered Professional Engineer and shall include sufficient detail to demonstrate compliance with and all local, state and federal laws as they may apply.

**6.7.9.2 FLEXIBLE PARKING PLAN**

The project applicant shall prepare a plan with the same number of parking spaces as shown of the **PARKING PROVING PLAN** along with a list of waivers from the above referenced sections. Submitted with the list of waivers shall be support materials detailing why the granting of the waivers would be in the best interest of the Town of Acton. The **FLEXIBLE PARKING PLAN** shall be prepared by a Registered Professional Engineer and shall include sufficient detail to demonstrate compliance (with the exception of the waivers requested) with all other local, state and federal laws as they may apply.

**6.7.9.2. A MINIMUM STANDARDS**

The **FLEXIBLE PARKING PLAN** shall comply with the following minimum standards.

- a) Set-backs- Other than access driveways all parking spaces and paved surfaces shall be setback a minimum of ten (10) feet from any lot line.
- b) Landscaping of Parking lots- Landscaping shall as a minimum comply with section 6.9.4.7 including subsections a) through e).

**6.7.9.3 APPROVAL OF THE FLEXIBLE PARKING PLAN**

The approving authority may at its sole discretion approve the **FLEXIBLE PARKING PLAN** if they determine the Flexible Parking Plan is superior to the Parking Proving Plan. The approving authority may consider, but not be limited to, such things as impacts on the neighborhood, overall benefits to the Town and benefits to the environment in making their decision.

Sections 10.4.3.5 and 10.4.3.6 should have the following added at the end:  
See section 6.7.9