

IV 40.

Kristin Alexander

From: Roland Bartl
Sent: Thursday, April 03, 2008 11:58 AM
To: Board of Selectmen; Conservation Commission; Engineering Department; Fire Department; Board of Health; Historic District Commission; Planning Board; Police Department; Recreation Department; Transportation Advisory Committee; Wastewater Advisory Committee; 'kelley@actonhousing.net'; Acton Community Housing Corporation; Highway Department; Finance Committee
Cc: Jonathan Wagner; Board of Appeals; Manager Department
Subject: RE: Application No. 08-02 - 48 & 54 Powdermill Road, Concord, MA/Sudbury Road, Parcels 59-4 & 61 on Map J-3, Acton, MA:

Ladies and Gentlemen:

On behalf of the Board of Appeals, thank for the comments that any you have sent to date. For those of you who have not sent comments, or wishes to expand upon previous comments after further thought and study, please be advised the the Board of Appeals would greatly appreciate your time and care to comment. The hearing on the matter has been continued to May 8th. So, you have plenty of time. But I request that you submit comments on or around May 1st so that we can include them in a Board package prior to the hearing.

Thank you.

*Roland Bartl, AICP
 Planning Director, Town of Acton
 472 Main Street
 Acton, MA 01720
 978-264-9636*

-----Original Message-----

From: Jonathan Wagner
Sent: Tuesday, March 18, 2008 11:15 AM
To: Board of Selectmen; Conservation Commission; Engineering Department; Fire Department; Board of Health; Historic District Commission; Planning Board; Police Department; Recreation Department; Transportation Advisory Committee; Wastewater Advisory Committee; kelley@actonhousing.net; Acton Community Housing Corporation; Highway Department; Finance Committee
Subject: Application No. 08-02 - 48 & 54 Powdermill Road, Concord, MA/Sudbury Road, Parcels 59-4 & 61 on Map J-3, Acton, MA:

Application No. 08-02 – 48 & 54 Powdermill Road, Concord, MA/Sudbury Road, Parcels 59-4 & 61 on Map J-3, Acton, MA:

A petition for a Comprehensive Permit under Massachusetts General Laws, Sec. 40B, Secs. 20-23 has been filed by West Concord Development LLC to construct roadway access for ingress and egress in connection with a proposed 350 unit multi-family project in Concord, MA to be constructed pursuant to a 40B Comprehensive Permit filed in Concord. All units will be in Concord and there will be no units in Acton, but the primary access from the project will be through Sudbury Road in Acton and Route 62 in Acton. Despite the fact that no units will be constructed in Acton, the Petitioner feels that a Comprehensive Permit is appropriate and necessary because the roadway access to be constructed in Acton is located in a zoning district (Powder Mill District) which prohibits multi-family residential use and therefor zoning relief is necessary in order to construct roadway access for that purpose. The Board of Appeals has held preliminary hearings on the petition on Wednesday, February 27, 2008 and on Monday, March 17, 2008. The next hearing is scheduled for Wednesday, April 2, 2008 at 8:00 PM in the Library behind Acton Town Hall.

The function of the Board of Appeals in considering a Comprehensive Permit is to act as an “umbrella” approval authority in determining whether the project complies with applicable law; and, where the project does not so comply, to determine whether a waiver for such noncompliance is appropriate. This process and the Board of Appeal’s function in this process is very different than the ordinary permitting process, which requires review and approval of the project by municipal boards, commissions and departments on an individual basis. In determining whether a waiver for a particular noncompliance should be granted, it is important that the Board of Appeals receive input from other municipal boards, commissions and departments so that issues that are of a concern to them can be addressed at the public hearings.

Because the circumstances of this Petition are very unusual in that a Comprehensive Permit has been applied for when no residential units will be constructed in Acton, the first two hearings have focused on jurisdictional questions raised by the Petition and whether in fact the Town of Acton through its Board of Appeals is required to act on a Comprehensive Permit application when it receives none of the benefits of Affordable Housing contemplated under M.G.L., Sec. 40B (and arguably will be impacted only negatively in that it will bear the consequences of a major traffic increase in the affected areas). The Board expects to make a decision on the jurisdictional aspect of the application at the next hearing on April 2nd. In the event that the Board makes a preliminary determination that jurisdiction is appropriate and the application should be heard and decided on its merits, the Board will schedule future hearings as appropriate and render its decision in the normal manner for Comprehensive Permits.

The Board of Appeals would greatly appreciate any board, commission or department intending to provide written comments do so as early as possible in order to give the Board and the Petitioner ample opportunity to consider the comments and seek clarification or additional input as may be appropriate. If you have already submitted comments in writing and feel that no additional comments are necessary, please confirm same in writing to the Board referencing the prior submission. In addition, your attendance at the hearings is invited.

If you have any questions about the above, please feel free to contact by return e-mail or phone @ 978-263-5664.

Thank you.

Board of Appeals

Jonathan Wagner, Acting Chairman