

10/5/09  
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STAMSKI AND MCNARY, INC.

80 Harris Street  
Acton, Massachusetts 01720  
(978) 263-8585  
FAX (978) 263-9883

WILLIAM F. MCNARY, P.L.S.  
JOSEPH MARCH, P.E., P.L.S.

August 19, 2009

Acton Board of Selectmen  
c/o Scott Mutch  
472 Main Street  
Acton, MA 01720

Re: 87 Great Road  
Site Plan Amendment

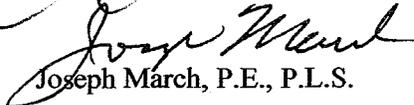
Members of the Board,

On behalf of our client, Stephen Steinberg, we hereby request a Minor Amendment to the Site Plan Special Permit for the referenced site. Enclosed are 12 copies of materials including architectural elevations and floor plans, site plan, and a copy of the original Site Plan approval. A memo from the Design Review Board (DRB), dated December 4, 2008, is attached. The applicant has either incorporated all of the recommendations or had come to agreement with the DRB on all issues at their December 17, 2008, meeting. A fee of \$250 is also enclosed.

The applicant would like to construct an 864 sf addition to the Colonial Spirits liquor store. Under section 10.4.1.1 3), of the Zoning Bylaw (ZBL) the USE will be expanded by more than 500 sf on the site. This requires an amendment to the Site Plan Special Permit. The addition will be over an area that is already paved and it will not impact landscaped areas or storm drainage. The site is subject to a Site Plan Approval dated September 8, 1972.

In reference to the size of the business under ZBL section 5.5A.1, the existing Net Floor Area of the business is greater than the 7,500 sf limit for retail. The addition will have a ceiling height that is less than 6 feet and is excluded from Gross Floor Area in the definition in ZBL section 1.3.7 and can not be counted as Net Floor Area. Therefore, the addition does not increase this non-conformity with respect to the Net Floor Area limitation. Furthermore, the site presently contains about 240 parking spaces far more than the zoning requirement (approximately 139 required). Several parking spaces will be eliminated in the proposed addition location, but ample spaces will remain.

Respectfully yours,  
Stamski and McNary, Inc.

  
George Dimakarakos, P.E.  
  
Joseph March, P.E., P.L.S.

cc: Stephen Steinberg



TOWN MANAGER  
ROBERT W. DOTSON

TOWN OF ACTON

TOWN HALL

P. O. BOX 236  
ACTON, MASSACHUSETTS 01720  
TELEPHONE (617) 263-2781

SEP 14 1972

BOARD OF SELECTMEN  
PAUL R. NYQUIST, CHAIRMAN  
ALFRED F. STEINHAUER, VICE-CHAIRMAN  
STEPHEN G. LEWIS, CLERK  
PAUL H. LEDURE  
WILLIAM C. SAWYER

September 8, 1972

Mr. Edward L. Morrill  
East Acton Land Mgrs. Inc.,  
75 Great Road  
Acton, Massachusetts 01720

Dear Mr. Morrill:

Under provisions of Section V, Subsection D of the Protective Zoning Bylaw of the Town of Acton, the Board of Selectmen, on September 5, 1972, voted to approve a site development plan, submitted by Edward L. Morrill of East Acton Land Mgrs. Inc., on July 6, 1972 of land located at 75 Great Road as shown on the following plans which may from time to time be hereinafter referred to as follows:

<u>Plan</u>	<u>Submitted</u>
1. Plan of land in Acton, Massachusetts by David W. Perley, Civil Engineer, Concord, Massachusetts, dated July 3, 1972.	July 6, 1972
2. Parking requirements, drawing #2, dated April 20, 1972.	July 6, 1972
3. Drainage-Septic System, drawing #3, dated April 20, 1972.	July 6, 1972
4. Plot Plan, Phase 1, drawing #4, dated April 14, 1972.	July 6, 1972
5. Planting, drawing #5, dated April 20, 1972.	July 6, 1972
6. Auditorium Floor Plan, by Mallia Associates, New York, New York, dated January 1, 1972.	July 6, 1972
7. Projection Booth plan by Mallia Associates, New York, New York, dated January 1, 1972.	July 6, 1972
8. Longitudinal and cross sections, by Mallia Associates, New York, New York, dated January 1, 1972.	July 6, 1972
9. Exterior elevations by Mallia Associates, New York, New York, dated January 1, 1972.	July 6, 1972
10. Revised Parking Requirements, drawing #2, dated August 10, 1972.	August 22, 1972
11. Revised Drainage-Septic System, drawing #3, dated August 10, 1972.	August 22, 1972

Mr. Edward L. Morrill

-2-

September 8, 1972

Plan

Submitted

12. Revised Planting, drawing #5, dated August 10, 1972.	August 22, 1972
13. Revised elevations, drawing #1, dated August 20, 1972.	August 22, 1972
14. Revised Parking requirements, drawing #2, dated August 17, 1972.	August 29, 1972
15. Revised planting, drawing #5, dated August 17, 1972.	August 29, 1972

and all designated as Site Development Plan #7/6/72-43, subject to the following conditions:

1. The applicant is required to install a twelve inch (12") water main to be brought into the site from Pope Road and to install two fire hydrants, one at the rear of the mini-mall and one at the north side of the tennis courts. The installation of both the main and hydrants must be approved by the fire chief.
2. Should the traffic pattern indicate that modification of the entrances or exits to the parking area from Great Road is required, the applicant shall be required to revise and/or reconstruct said entrances or exits as shall be determined by the Board of Selectmen.
3. No approval of any indicated sign or advertising device is implied.
4. The conditions of this site plan approval shall be carried into effect and completed by the applicant by September 5, 1973.
5. All buildings or structures must be built in compliance with the applicable provisions of the Protective Zoning Bylaw of the Town of Acton. This decision does not indicate, nor does it imply, that the development or construction as shown on the related site development plan comply with such provisions of the Protective Zoning Bylaw.

Very truly yours,

BOARD OF SELECTMEN

by: *Paul R. Nyquist*  
Paul R. Nyquist  
Chairman

RWD/rpb

cc: Town Clerk  
Building Inspector ✓  
Planning Board  
Board of Health  
Engineering Department  
Board of Assessors.  
Fire Chief

**Stephen Steinberg**

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**From:** Ann Sussman [annsmail@pipeline.com]  
**Sent:** Thursday, December 04, 2008 8:32 AM  
**To:** actonmgt@verizon.net  
**Cc:** 'Design Review Board'  
**Subject:** RE: 87 Great Road, Addition 12-03-08

Hi Steve,

We wanted to thank you for attending our DRB meeting last night and reviewing this project at Colonial Spirits, 87 Great Road, Acton.

As we discussed our recommendations are:

- Push the new addition back 18" from the tallest mass of existing building (assuming space allows);
- Exterior Material: use cedar clapboard or Hardi Plank, painted to match existing;
- For proposed new fence, suggest cedar boards, vertical;
- Submit drawings that reflect actual as-built conditions, including existing porch columns, all exterior doors
- In terms of drawings, please provide:
  - Site plan
  - First floor plan @ 1/4" = 1'-0"
  - Second floor plan @ 1/4" = 1'-0"
  - All building elevations @ 1/4" = 1'-0" (except the North elevation)
- Submit revised architectural drawings for this project to the DRB for review at 7:45 PM on 12/17/08.

Thanks so much Steve. This will be an important project facilitating recycling in Acton. Let us know if anything comes up which makes our next appointment inconvenient for you. In terms of the drawings we marked up last night – we don't need them back! (I thought we did for our records, but this was in error.)

Hope to talk soon –

Best,  
Ann

DRB-Chair  
978 790 7776

**ACTON MANAGEMENT, INC.**

**P.O. Box 2350  
69 Great Road  
Acton, MA 01720**

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**(978) 263-2989  
FAX (978) 263-0403  
actonmgt@verizon.net**

December 17, 2008

Design Review Board  
Town of Acton  
Acton, MA 01720

Dear Board Members:

Thank you for meeting with me on December 3, 2008 and sending me the memo on the next day summarizing your recommendations.

Submitted herewith in accordance with your request are new plans all dated December 10, 2008 as follows:

1. A-1. Ground Floor Plan, Mezzanine Floor Plan, 1/8 scale.
2. A-2. Ground Floor Plan, Mezzanine Floor Plan, 1/4 scale .
3. A-3. Front and Right Side Elevations, 1/4 scale.

In accordance with your recommendations of December 3, 2008, the above plans specify vertical cedar boards for fencing and cedar clapboard to match existing in color.

Also submitted herewith is a site plan prepared by Stamski & McNary, which shows the location of the addition.

I respectfully suggest that the addition not be moved 18 inches to the rear because such a relocation would impede deliveries- especially of the 18 wheeler that picks up recycled containers. Also, the relocation would expose the cinder block of the existing building. Otherwise, I believe I have complied with all of your recommendations. The addition will be screened from view by the cedar fence.

Thank you for your time and consideration.

Sincerely,

Stephen P. Steinberg  
President

Site Plan Special Permit – 07/06/72 – 43, 1<sup>st</sup> Amendment (Berry)  
Colonial Spirits Liquor Store  
87 Great Road  
October 5, 2009

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**Board of Selectmen**

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**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (978) 264-9612  
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bos@acton-ma.gov  
www.acton-ma.gov

**First Amendment  
of  
Site Plan Special Permit  
DECISION  
#07/06/72 - 43**

(Colonial Spirits, c/o Stephen Steinberg)

October 5, 2009

**GRANTED**

Decision of the Acton Board of Selectmen (hereinafter the Board) on the request for a site plan special permit amendment made by George Dimakarakos and Joseph March of Stamski and McNary, Inc. on behalf of Colonial Spirits c/o Stephen Steinberg (hereinafter the Applicant) in a letter to the Board dated August 19, 2009 for property located at 87 Great Road in Acton, Massachusetts, owned by Morrill Edward L ETA, c/o 87 Great Rd Properties, LLC., 1560 Monument Street, Concord, MA 01742. The property is shown on the 2007 Acton Town Atlas map G-5 as parcels 8 (hereinafter the Site).

The Board had issued site plan special permit decision #07/06/72 - 43 on September 8, 1972 – hereinafter referred to as the Original Decision. The matter of this amendment came before the

*Decision 07/06/72-43, Site Plan Special Permit Amendment #1, 10/05/09*

*Page 1*

Board at its meeting on October 5, 2009. The minutes of the meeting and documents on which this decision is based upon may be referred to in the Town Clerk's office or the office of the Board at the Acton Town Hall.

## **1 EXHIBITS**

Submitted for the Board's deliberation were the following exhibits:

- 1.1 Application for a site plan special permit amendment received August 20, 2009 consisting of the following:
  - Application letter by Stamski and McNary, Inc, dated August 19, 2009 with a brief description and explanation of the proposed amendment.
  - Copy of original Site Development Plan #07/06/72-43.
  - Copy of a 12/4/08 email from DRB to applicant.
  - Copy of a 12/17/08 letter from applicant to DRB.
  - Site plan drawing for "69-93 Great Road, Acton, Mass." drawn by Stamski and McNary, Inc., dated August 19, 2009.
  - Architectural floor and elevation plans for "Colonial Spirits Mezzanine Addition" prepared by E.J. Rempelakis Associates, Architects, and consisting of the following three sheets:
    - A-1: Ground Floor Plan & Mezzanine Floor Plan, dated January 21, 2009,
    - A-2: Ground Floor Plan & Mezzanine Floor Plan, dated January 21, 2009 and revised July 14, 2009.
    - A-3: Front & Right Side Elevations, dated January 21, 2009.
  - Filing fee.
- 1.2 Interdepartmental communication received from:
  - Acton Engineering Department, 09/15/09.
  - Acton Health Department, undated.
  - Acton Tree Warden & Municipal Properties Director, 09/14/09.
  - Acton Design Review Board, 09/16/09.

Exhibit 1.1 is hereinafter referred to as the Amended Plan.

## **2 FINDINGS AND CONCLUSIONS**

- 2.1 The Site is located within the East Acton Village (EAV) zoning district and Groundwater Protection District Zone 3.
- 2.2 The Site was originally developed in the early 1970's and has since undergone several use changes.
- 2.3 This amendment is seeking to enlarge an existing mezzanine space. The additional space will be constructed as an aerial protrusion on the eastern side of the building.
- 2.4 The new mezzanine space will be located above an already existing paved area.
- 2.5 The new mezzanine space will be approximately 864 square feet in footprint size.
- 2.6 The new mezzanine floor space is not required to be counted in the gross floor area calculations as the proposed floor-to-ceiling height is less than six feet.
- 2.7 Although the applicant acknowledges the loss of existing parking spaces, based upon the requirements of Section 6.9.1.4, the existing parking lot would appear to remain in compliance with the minimum Bylaw parking requirements.

- 2.8 Since the Original Decision, the requirements for site design, parking lots, and landscaping have changed. The Site could be nonconforming with regards to these requirements.
- 2.9 The proposed site modifications do not increase the overall amount of impervious area on the Site. With the approval of this amendment, any existing non-conformities would remain.
- 2.10 The proposed is a minor amendment of the Original Decision and does not warrant a public hearing.
- 2.11 The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. These comments were considered by the Board in its deliberations, were made available to the Applicant, and are incorporated into this decision as deemed appropriate by the Board.
- 2.12 The Amended Plan as further modified and conditioned herein is consistent with the Master Plan, will not be detrimental or injurious to the neighborhood in which the use is to take place, provides for convenient and safe vehicular and pedestrian movement within and through the site, provides an adequate number of parking spaces, provides adequate methods of refuse and waste removal from the site, and is in harmony with the purpose and intent of the Bylaw.

### **3 BOARD ACTION**

Therefore, the Board voted on October 5, 2009 to GRANT the requested First Amendment to site plan special permit #07/06/72 – 43 subject to and with the benefit of the following plan modifications and conditions.

#### **3.1 PLAN MODIFICATIONS**

The Building Commissioner shall not issue a building permit, nor shall any construction activity begin on the Site, until and unless the Zoning Enforcement Officer (ZEO) confirms 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 ZEO. Where approvals are required from persons or agencies other than the ZEO, the Applicant shall be responsible for providing evidence of such approvals to the ZEO.

- 3.1.1 Modify the proposed cedar fence located under the mezzanine addition to begin 8" above finished grade.
- 3.1.2 Relocate the existing handicap parking space which will be lost due to the mezzanine expansion. Identify the handicap parking space's new location on a parking lot layout plan.
- 3.1.3 Modify plan note on Page A-1 which currently states "Cut 6'-0" W x 6'-6" H Opening in Concrete Block Wall" to have the height of the opening more directly reflect the lower ceiling height of the new mezzanine space. The applicant could also provide sufficient justification to allow for a larger opening into a space with a lower ceiling height.
- 3.1.4 Indicate the location of any dumpsters for the subject use and enclose them within adequate screening with lockable gate, or provide written clarification that no outdoor dumpster will be required.

### **3.2 CONDITIONS**

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this entire special permit null and void, without force and effect, and shall constitute grounds for its revocation, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.2.1 The Applicant shall not cause or permit the runoff of water or erosion that result in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Building Commissioner or the ZEO may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.
- 3.2.2 All requirements of the Board of Health must be met.
- 3.2.3 The applicant shall ensure that noise and dust emissions from the construction site are kept to a minimum.
- 3.2.4 The applicant shall ensure that absolutely no construction debris from the site enters adjoining properties, streets, public right-of-ways or drainage facility.
- 3.2.5 No work on the Site shall begin prior to the issuance of a building permit.
- 3.2.6 All work on the Site shall be conducted in accordance with the terms of the Site Plan Special Permit as issued in the Original Decision and amended herewith and shall conform with and be limited to the improvements shown on the Plan as modified herein.
- 3.2.7 All new or replacement water service lines shall be installed in accordance with the specifications of the Acton Water Supply District.
- 3.2.8 All construction activity on the property relating to this Site Plan Special Permit Amendment shall be limited to the hours of: Monday – Friday: 7:00am – 5:00pm; Saturday: 8:00am – 5:00pm; Sundays & Holidays: No work permitted.
- 3.2.9 Any further changes or modifications to the Site that are not in conformance with the Original Decision as amended herewith, shall require approval from the Board.
- 3.2.10 This First Amendment shall be recorded at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit for any of the proposed improvements and modifications on the Site.

### **3.3 LIMITATIONS**

The authority granted to the Applicant under this special permit is limited as follows:

- 3.3.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.3.2 This special permit applies only to the Site identified in this decision and to the proposed use and activity as shown on the Plan.
- 3.3.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.

- 3.3.4 Prior to any building permit being issued for the subject project, the applicant shall demonstrate compliance with any and all other comments/concerns provided by other municipal disciplines.
- 3.3.5 This Site Plan Special Permit First Amendment shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. For construction to continue towards completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than 1 year. A request to extend said time limits must be made in writing to the Board at least thirty (30) days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 3.3.6 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

DRAFT

**4.0 APPEALS**

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

The Town of Acton Board of Selectmen

\_\_\_\_\_  
Paulina S. Knibbe, Chair

\_\_\_\_\_  
Date Filed with Town Clerk

\_\_\_\_\_  
Eva Taylor, Town Clerk

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Eva Taylor, Town Clerk

\_\_\_\_\_  
Date

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**Copies furnished:**

Applicant  
Health Department  
Town Clerk  
Fire Chief  
Owner

Planning Department  
Engineering Dept.  
Natural Resources Director  
Police Chief  
Assistant Assessor

Building Commissioner  
Municipal Properties Director  
Town Manager  
Acton Water District