



D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

Attorneys at Law

268 Main Street | P.O. Box 2223 | Acton, MA 01720
tel 978.263.7777
fax 978.264.4868

Louis N. Levine
F. Alex Parra
Cathy S. Netburn
Maryann Cash Cassidy

May 3, 2011

RECEIVED
MAY - 3 2011

VIA HAND DELIVERY

Eva K. Taylor, Town Clerk
Acton Town Hall
472 Main Street
Acton, MA 01720

RE: Gary Hamel, Sr. and Jill Primmer
100 Willow Street
Board of Appeals Petition for Review

RECEIVED
MAY - 3 2011
ACTON BOARD OF APPEALS

TOWN CLERK, ACTON

Dear Ms. Taylor:

Enclosed for filing please find original and seven (7) copies of the following

1. Board of Appeals (Form 1) Petition for Review, filed with the Board of Appeals this day on behalf of Gary Hamel, Sr. and Jill Primmer relative to the property situated at 100 Willow Street, Acton, Massachusetts, appealing the Decision of the Zoning Enforcement Officer dated April 21, 2011. A copy of said Decision is attached to the Petition, together with copy of location plan, plot plan and Abutters List;
2. Signed authorization for Beacon Community Newspaper to bill our firm directly; and
3. Check in the amount of \$100.00 to cover the cost of filing the Petition.

Very truly yours,
GARY HAMEL, SR. and JILL PRIMMER
By Their Attorneys,
D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

By: F. Alex Parra
F. Alex Parra
e-mail: faparra@dlpnlaw.com (jmd)

FAP/jmd
Enclosures (11)

cc: Board of Appeals – Via Hand Delivery
Zoning Enforcement Officer – Via Hand Delivery
Client

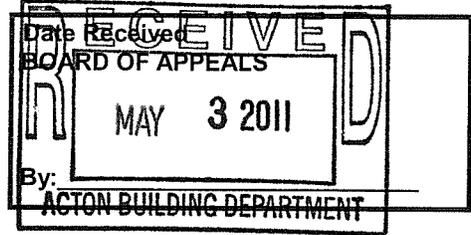
Civil\Hamel\Letter to Town Clerk



Date Received
TOWN CLERK

By: _____

Town of Acton
Massachusetts



**Board of Appeals
(Form 1)
Petition for Review**

_____ May 3 _____ 20 11
(See (1) Below)

I/We hereby petition the Board of Appeals for a public hearing under Section 11.1.1 of the Zoning By-law to review (a) the refusal of the Zoning Enforcement Officer to grant a permit under Section _____ of the Zoning By-law to allow: (b) the refusal of the Zoning Enforcement Officer to enforce the provisions of Section _____ of the Zoning By-law as follows: (Strike out inapplicable language)

Decision of the Zoning Enforcement Officer dated April 21, 2011, a copy of which is attached hereto.

Date of Zoning Enforcement Officer's Action April 21, 2011

(1) Petition must be filed within 30 days of refusal date with copy of decision or order attached.

OFFICE USE ONLY

Seven copies of petition? _____

Location Map? _____

Plot plans? _____

Additional briefs? _____

List of abutters and other interested parties? _____

Fee - \$100.00/1-25 abutters? _____
\$125.00/26 + abutters? _____

Next Hearing Date? _____ # _____

Respectfully submitted, *Jill Primmer*

Signed *Gary Hamel, Sr.*
(Petitioner) Gary Hamel, Sr.
Name Jill Primmer

Address 100 Willow Street, Acton, MA 01720

Phone # (978) 877-7390

Signed same
(Owner of Record)

Name _____

Address _____

Phone # _____

The Board of Appeals has the power and duty to hear and decide appeals (Section 11.1.1) from a decision of the Zoning Enforcement Officer

Jenilee Harrold

From: Scott Mutch <smutch@acton-ma.gov>
Sent: Thursday, April 21, 2011 2:30 PM
To: Louis Levine
Subject: RE: 100 Willow Street

Mr. Levine,

Good afternoon. I have had a chance to think about our telephone conversation. With regards to your position regarding the pole barn and its current use, from a zoning enforcement perspective there is unfortunately no other way to classify it other than a garage structure. I will acknowledge the fact that the structure may not currently allow for a vehicle/car/automobile to be stored within it due to it currently being utilized as a place of general storage, but the materials and items currently within the structure could easily be removed and the space could readily accommodate the storage of an automobile. It is common practice in today's society that many people and families utilize their garages as places of general storage while their vehicles and automobiles are parked outside in the driveway or on the side of the street. Therefore, I can not agree with, approve or support your proposal to construct a new and separate/independent 2 bay garage structure. As you are aware, Zoning Bylaw Section 3.8.1.1 permits certain accessory uses such as and states the following: "Private garage or carport for not more than four motor vehicles, solar system, greenhouse, tool shed or barn; swimming pool or tennis court provided that such recreational facilities are used only by the residents and their guests." The Zoning Bylaw indicates the term "garage" to be singular in nature and therefore, I have determined that I can not allow you to construct a second garage structure. The existing garage structure could be expanded in footprint to house additional vehicles, but a completely new and second garage structure can not be permitted. Garage structures can be designed to accommodate up to a maximum of 4 motor vehicles within one single structure, but multiple garage structures are not permitted within a single lot.

Additionally, and you may not be aware of this fact, but the subject property – 100 Willow Street – is an ACHC affordable housing unit. There is documentation on record with the Middlesex South District Registry of Deeds which states "(c) Notwithstanding anything to the contrary contained in this Deed Rider, the Maximum Resale Price shall not be less than the purchase price which the Grantee paid for the Property plus the costs of approved capital improvements and marketing expenses." The key phrase of this statement is "approved capital improvements" which the proposed new garage construction would be deemed. Prior to any kind of application appearing before the Zoning Board of Appeals regarding the introduction of a second garage structure, the DCHD would need to review the application and approve the garage structure.

If you have any questions, comments or concerns regarding this matter, please feel free to contact our office at (978) 929-6631, Monday through Friday (except for holidays) between the hours of 8:00 am and 5:00 pm. Sincerely,

Scott A. Mutch
Zoning Enforcement Officer & Assistant Town Planner
Town of Acton
Planning Department
472 Main Street
Acton, MA 01720
Tel: (978) 929-6631
Fax: (978) 929-6340
email: planning@acton-ma.gov

From: Louis N. Levine [mailto:llevine@dlpnlaw.com]
Sent: Tuesday, April 12, 2011 1:50 PM
To: Scott Mutch; Roland Bartl
Subject: 100 Willow Street

Scott/Roland:

Without prejudice to the appeal of the Enforcement letter dated March 10, 2011 ("Order"), which is the subject matter of the pending appeal before the Board of Appeals, Mr. Hamel is willing to construct a free standing building to garage the two trucks which are the subject matter of the Order.

Section 8.1.1 of the Zoning Bylaw allows a "private garage" as an accessory use in a residential district. Section 3.8.1.2 also permits as an accessory use in a residential district a "home occupation, other than retail sales, conducted entirely within the DWELLING or an accessory BUILDING by a resident employing no persons other than the residents . . ." Mr. Hamel's home occupation does not involve retail sales and has no employees.

Would you kindly confirm that if Mr. Hamel constructs a garage at his residence to house the trucks which are the subject matter of the Order his home occupation will be in compliance with the Zoning Bylaw. Further, it would be appreciated if you could confirm the foregoing before any further actions have to be taken with respect to the appeal pending before the Board of Appeals (i.e. publication and abutter notice).

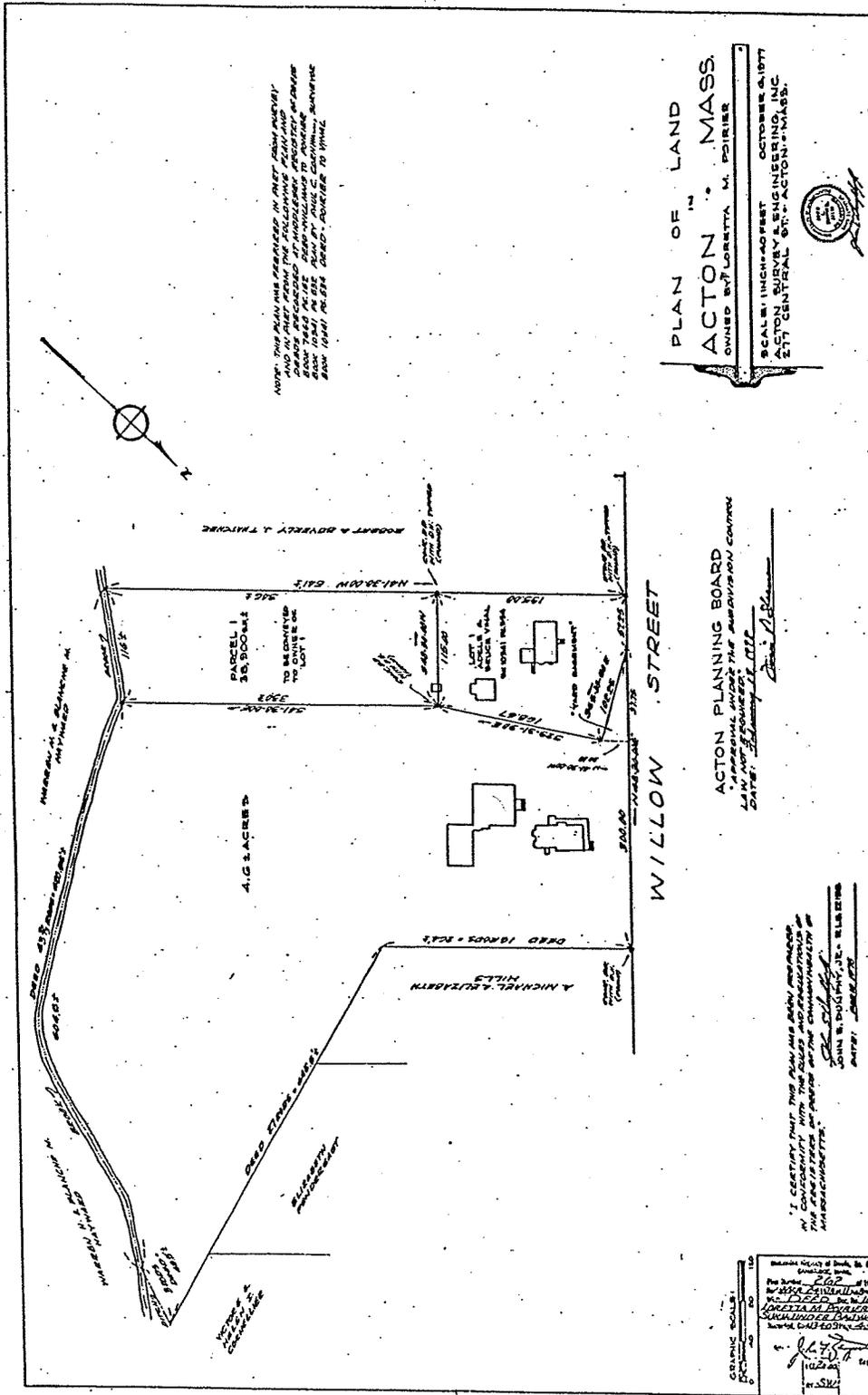
Thank you.

Louis N. Levine, Esquire
D'Agostine, Levine, Parra & Netburn, P.C.
268 Main Street
P.O. Box 2223
Acton, MA 01720
Ph: (978) 263-7777, ext. 224
Fax: (978) 264-4868
Email: llevine@dlpnlaw.com
www.dlpnlaw.com

CONFIDENTIALITY NOTICE:

This e-mail and any attachments are confidential and may be protected by attorney-client privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of this e-mail or any attachment is strictly prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. E-mail is covered by the Electronic Communication Privacy Act, 18 U.S.C. §§ 2510-2521. Thank you.

In accordance with Internal Revenue Service Circular 230, we hereby advise you that if this e-mail or any attachment hereto contains any tax advice, such tax advice was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer by the Internal Revenue Service.



NOTE: THIS PLAN WAS PREPARED IN PART FROM AERIAL PHOTOGRAPHS AND FIELD SURVEY. THE PLAN IS SUBJECT TO THE ACTUAL SURVEY AND TO THE RECORDS OF THE ACTON TOWN ENGINEER'S OFFICE. ANY DISCREPANCIES BETWEEN THIS PLAN AND THE ACTUAL SURVEY OR THE RECORDS OF THE ACTON TOWN ENGINEER'S OFFICE SHALL BE THE RESPONSIBILITY OF THE ENGINEER WHO PREPARED THIS PLAN. REFER TO W-11111.

PLAN OF LAND
 ACTON, MASS.
 OWNED BY LORETTA M. POIRIER
 SCALE: UNUSUAL
 OCTOBER 1977
 211 CENTRAL ST., ACTON, MASS.



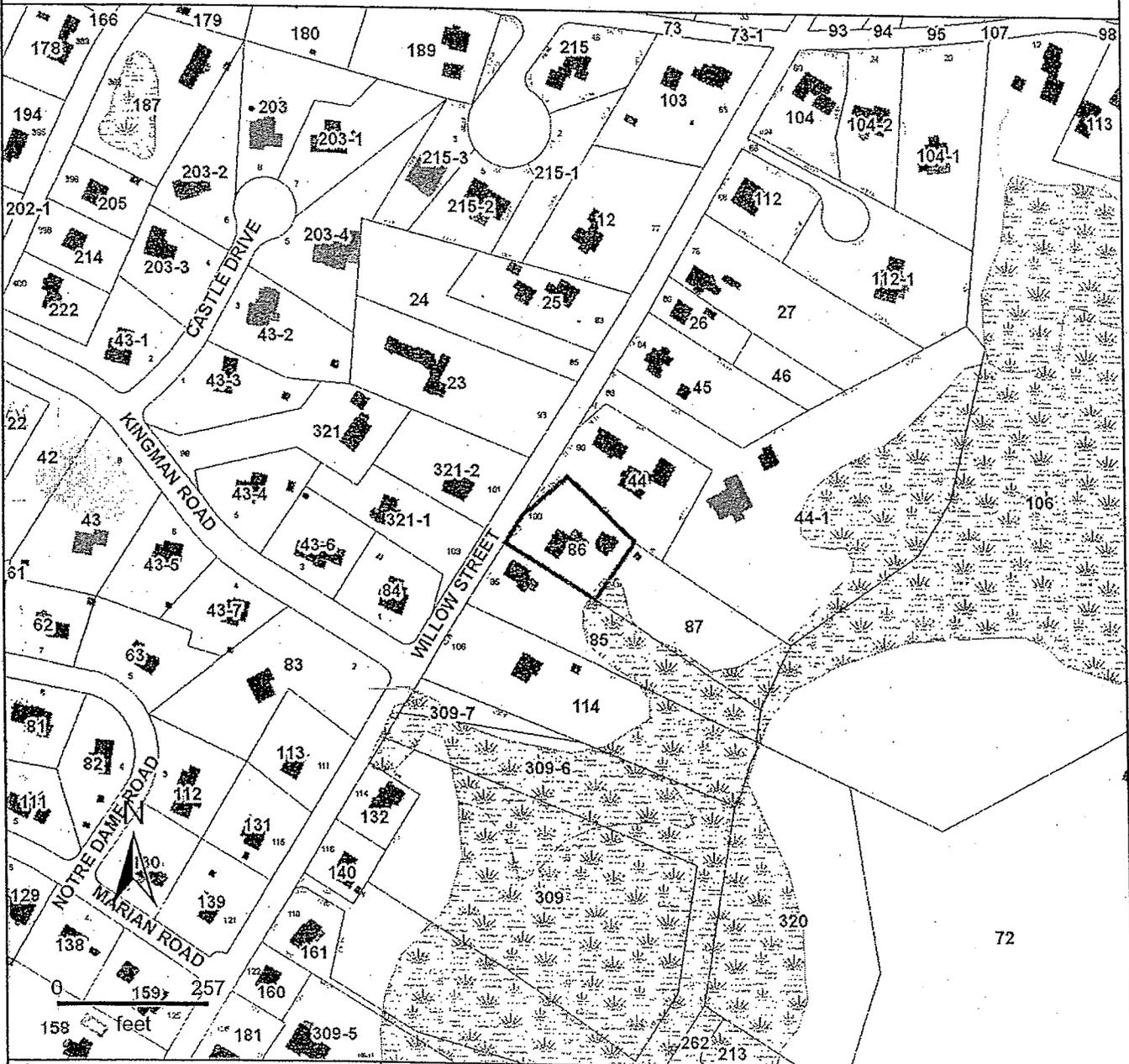
ACTON PLANNING BOARD
 LAW OFFICE FOR THE SUPERIOR COURT
 DATE: February 12, 1977

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS IN THE STATE OF MASSACHUSETTS.
 JOHN S. DUGAN, JR., REGISTERED PROFESSIONAL ENGINEER
 MASS., 06022

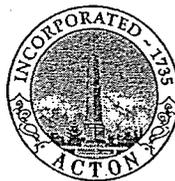
RECORDS SECTION OF THE ACTON TOWN ENGINEER'S OFFICE
 PLAN NO. 2552
 DATE: 10/10/77
 BY: [Signature]
 TITLE: [Signature]
 NO. 2552

Plan # 2552
 262 of 78

100 Willow

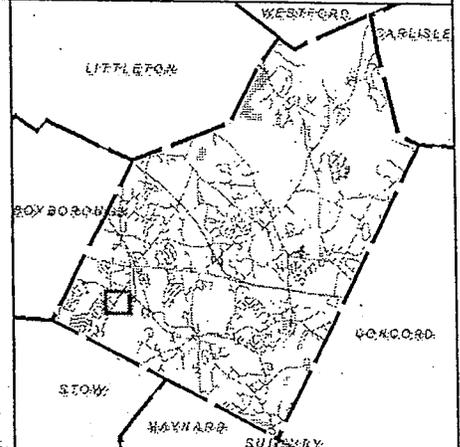


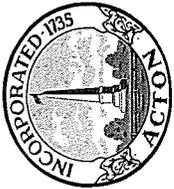
Property Information
 Property ID G1-86
 Location 100 WILLOW ST



MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT

This data set/map is for planning purposes only and should not be used for larger scale analysis. The Town of Acton shall not be held liable for any use of the data or images shown on this map, nor is any warranty of accuracy expressed. All uses of this data set/map are subject to field verification.





Town of Acton
 472 Main Street
 Acton, MA 01720
 Telephone (978) 929-6621
 Fax (978) 929-6340

Brian McMullen
 Assistant Assessor

Parcel Location
Parcel I.D.: 100 Willow Street and 100 Willow Street Behind
 G1-86 and G1-87

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
12 SUMMER ST	F2-B-106	MADDEN JR PAUL B	MADDEN JOY C	12 SUMMER STREET	ACTON	MA	01720
77 WILLOW ST	G1-12	FENTON JAMES TRUSTEE	FENTON REALTY TRUST	PO BOX 985	ACTON	MA	01720
93 WILLOW ST	G1-23	WILSON DALE W	WILSON MARY A	93 WILLOW STREET	ACTON	MA	01720
85 WILLOW ST	G1-24	SISSON CHARLES B JR	MARSHA	83 WILLOW ST	ACTON	MA	01720
83 WILLOW ST	G1-25	SISSON CHARLES B JR	MARSHA	83 WILLOW ST	ACTON	MA	01720
80 WILLOW ST	G1-26	COLETTI SARAH J		80 WILLOW ST.	ACTON	MA	01720
5 KINGMAN RD	G1-43-4	WILLIAMS F DOUGLAS	WILLIAMS CHARLOTTE E	5 KINGMAN RD	ACTON	MA	01720
3 KINGMAN RD	G1-43-6	LI NAXIN	SONG YU	3 KINGMAN RD	ACTON	MA	01720
84 WILLOW ST	G1-45	MORRIS JANE	NEPTUNE WILFORD H	84 WILLOW STREET	ACTON	MA	01720
80 WILLOW ST	G1-46	COLETTI SARAH J		80 WILLOW ST	ACTON	MA	01720
2 KINGMAN RD	G1-83	DIGUETTE SUSAN		2 KINGMAN RD	ACTON	MA	01720
1 KINGMAN RD	G1-84	VISOCCHI DAVID R	VISOCCHI PATRICIA A	1 KINGMAN RD	ACTON	MA	01720
102 WILLOW ST	G1-85	RED ACRE DEVELOPMENT		22 ELM ST	ACTON	MA	01720
106 WILLOW ST	G1-114	OSBORN JEREMY	OSBORN KRISTIN	106 WILLOW ST	ACTON	MA	01720
110 WILLOW ST	G1-309	LI MING	CHEN CHANGQING	110 WILLOW ST	ACTON	MA	01720
112 WILLOW ST	G1-309-6	SONG KENING	LI XIAO YAN	112 WILLOW ST	ACTON	MA	01720
108 WILLOW ST REAR	G1-320	TOWN OF ACTON		472 MAIN STREET	ACTON	MA	01720
99 WILLOW ST	G1-321	DUBOIS CAROL A	YU HUALING	99 WILLOW ST	ACTON	MA	01720
103 WILLOW ST	G1-321-1	WU SAMUEL		103 WILLOW ST	ACTON	MA	01720
101 WILLOW ST	G1-321-2	FRAIZER KALETA B		101 WILLOW ST	ACTON	MA	01720
90 WILLOW ST	G1-44	BAJWA SUKHJINDER		88 WILLOW ST	ACTON	MA	01720
88 WILLOW ST	G1-44-1	BAJWA SUKHJINDER		88 WILLOW ST	ACTON	MA	01720
162 CENTRAL ST	G2-72	TOWN OF ACTON		472 MAIN STREET	ACTON	MA	01720

Abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list.

HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:

Boxborough, MA 01729 Maynard, MA 01754 Concord, MA 01742 Littleton, MA 01460
 Carlisle, MA 01741 Stow, MA 01775 Westford, MA 01886 Sudbury, MA 01776

Daryl Powell
 Daryl Powell
 Property Lister
 4/7/2011

Acton Assessors Office