

7/23

2

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630

Steven L. Ledoux
Town Manager

June 7, 2012

Acton Beacon Legal Ad Division

Below please find a copy of a legal advertisement to appear in the Acton Beacon on July 5 and July 12, 2012

Please send the bill to:

Kent Leung
207 Chestnut Street
Lynn, MA 01902
617-257-3544

Please send proof copy and tear sheet to:

Town Manager's Office
472 Main Street
Acton, MA 01720

Very truly yours,

Christine Joyce
Town Manager's Office

Chairman, Ms. Harting-Barrat

LEGAL NOTICE
TOWN OF ACTON
NOTICE OF HEARING

The Acton Board of Selectmen will hold a public hearing on July 23, 2012 at 7:10 PM. in the Francis Faulkner Hearing Room in Town Hall, 472 Main Street, Acton, on the Use Special Permit application for a Dog Daycare and Boarding Kennel facility required under Section 3.5.11 of the Zoning Bylaw proposed by Mr. Leung, at 77 Powder Mill Road, Unit #5, Acton, MA 01720. The application and accompanying plans can be inspected at Town Hall during normal business hours.

Draft Decision
Use Special Permit - #06/05/12-437 (Harting-Barrat)
77 Powder Mill Road, Unit #5
July 23, 2012



Board of Selectmen

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 929-6611
Fax (978) 929-6340
bos@acton-ma.gov
www.acton-ma.gov

DRAFT DECISION

#06/05/12-437

77 Powder Mill Road, Unit #5

Use Special Permit

July 23, 2012

GRANTED with Conditions

Decision of the Acton Board of Selectmen (hereinafter the Board) on the application of Kent Leung, 207 Chestnut Street, Lynn, MA 01902 (hereinafter the Applicant) for the property located at 77 Powder Mill Road in Acton, Massachusetts, owned by Don Lee, 416 Harrington Avenue, Concord, MA 01742. The property is shown on the 2007 Acton Town Atlas; map J-3 as parcel 50 (hereinafter the Site).

This Decision is in response to an application for a use special permit, submitted to the Board of Selectmen on June 5, 2012, pursuant to Section 3.5.11 of the Acton Zoning Bylaw (hereinafter the Bylaw), to operate a dog daycare and dog boarding business at the subject address. The Board opened a duly noticed public hearing on July 23, 2012 and heard testimony from the applicant, concerned citizens and abutters of the subject property

as well as municipal staff. The Board then proceeded to close the public hearing.

Board members Pamela Harting-Barrat (Chair), Janet Adachi (Vice Chair), Mike Gowing (Clerk), David Clough and John Sonner were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Town Clerk's office or the office of the Board at Acton Town Hall.

1 EXHIBITS

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

- 1.1 A properly executed application for a Use Special Permit was received and filed with the Town Clerk on June 5, 2012. The drawings and documents submitted as part of the application comprise the following:
 - Business Introduction Letter from Mr. Kent Leung, Managing Director, Boston Dog Company;
 - Site Plan of subject property prepared by Meridian Associates, Inc., 69 Milk Street, Suite 302, Westborough, MA 01581 and dated March 25, 2008;
 - Certified Abutters List.
- 1.2 Interdepartmental communication:
 - No comments were received.

Exhibit 1.1 is hereinafter referred to as the Plan.

2 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits, and the record of the proceedings, the Board finds and concluded that:

- 2.1 The site is located within the Powder Mill (PM) Zoning District and Groundwater Protection District Zone 2.
- 2.2 The entire property is approximately 2.40 acres (104,544 ft²) in area.
- 2.3 The applicant is proposing to operate a dog daycare and dog boarding business. No animal breeding or sale of animals is proposed as part of this permit.
- 2.4 The building was constructed in 1946 and is approximately 17,500 square feet in size.
- 2.5 There are no modifications or alterations proposed to the existing parking lot. Based upon the requirements of Section 6.3, the existing parking lot would seem to comply with the minimum Bylaw parking requirements.
- 2.6 There are no proposed modifications or alterations to the structure which affect the overall FAR of the property.
- 2.7 The proposed use and the Use Special Permit applied for herein are 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, on July 23, 2012, the Board unanimously voted to GRANT the requested Use Special Permit subject to and with the benefit of the following conditions, and limitations.

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 Use Special Permit null and void, without force and effect, and shall constitute grounds for the revocation of this Use Special Permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this Use Special Permit using any and all powers available to it under the law.

- 3.2.1 There shall be absolutely no animal breeding or sale of animals permitted on the subject premises. The premises shall be solely utilized as a dog daycare and boarding facility only.
- 3.2.2 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 confirms that any proposed building permit plans or activity is in compliance with information submitted, reviewed and approved as part of this Use Special Permit. Except where otherwise provided, all such information shall be subject to the approval of the Zoning Enforcement Officer. Where approvals are required from persons or agencies other than the Zoning Enforcement Officer, the Applicant shall be responsible for providing evidence of such approvals to the Zoning Enforcement Officer.
- 3.2.3 The Use, in its entirety shall be established and operated at all times in compliance with all applicable requirements and restrictions promulgated by the Acton Board of Health.
- 3.2.4 The Use shall be established and conducted at all times in accordance with the terms of this Use Special Permit and shall conform with and be limited to the improvements indicated in the Plan as modified herein.
- 3.2.5 All work on the Site shall be conducted in accordance with the terms of this Use Special Permit and shall conform with and be limited to the improvements shown on the Plan as modified herein.
- 3.2.6 Any expansion, change or modification to the site that is not in conformance with this Use Special Permit shall require further approval of the Board.
- 3.2.7 This Decision shall be recorded at the Middlesex South District Registry of Deeds or the Land Court within 30 days from the expiration of the appeal period after this decision has been filed with the Town Clerk.

3.4 LIMITATIONS

The authority granted to the Applicant under this Use Special Permit is limited as follows:

- 3.4.1 The foregoing required 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.
- 3.4.2 This Use Special Permit applies only to the Site identified in this decision and to the proposed use and activity as shown on the Plan.
- 3.4.3 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.

- 3.4.4 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.
- 3.4.5 Prior to any Certificate of Occupancy being approved or issued for the subject use, the applicant shall demonstrate compliance with all conditions and comments imposed by the Board of Selectmen through this Use Special Permit.
- 3.4.6 This Use Special Permit 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 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.
- 3.4.7 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this Use 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 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

The Town of Acton Board of Selectmen

Pamela Harting-Barrat (Chair)

Date Filed with Town Clerk

Eva K. Szkaradek, 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 K. Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief

Building Commissioner
Engineering Administrator
Planning Department
Police Chief

Health Director
Assistant Assessor
Town Manager
Owner

Town of Acton
Application for a Special Permit
 To The
 Board of Selectmen

Please type or print your application.

Indicate the special permit/s requested. The fee for a Special Permit is \$250 unless otherwise noted.

Recreation	Nursing Home	Restaurant
Hotel, Inn or Motel	Combined Business & Dwelling	Lodge or Club
Veterinary Care	Commercial Kennel	Commercial Recreation
Commercial & Trade School	Amusement Facility	Freestanding Sign
Warehouse	Mini-Warehouse	Heating Fuel Sales/Service
Light Manufacturing	Scientific Research/Development/Production	
Reduced Parking Fee = \$100	Drive-Up Bank Fee = \$1000	Service Station Fee = \$1000

If this application is made concurrently with a site plan application, then the fee will be \$100 in all cases.

APPLICANT

Name & Address

Kent Leung
 207 Chestnut St
 Lynn, Ma 01902

Telephone

617-257-3544

OWNER

Name & Address

Don Lee
 416 Harrington Ave
 Concord, Ma 01742

Telephone

978-973-8372

SITE

Location and Street Address of the Property

Unit 5 (rear unit)
 77 Powdermill Rd.
 Acton, Ma 01720

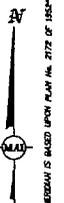
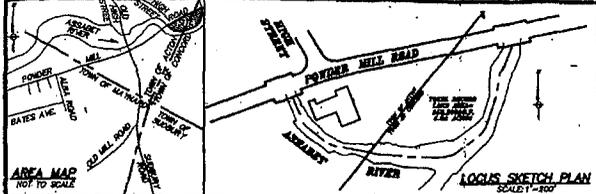
Tax Map & Parcel Number j3-50

Area of Lot 2.4 ac.

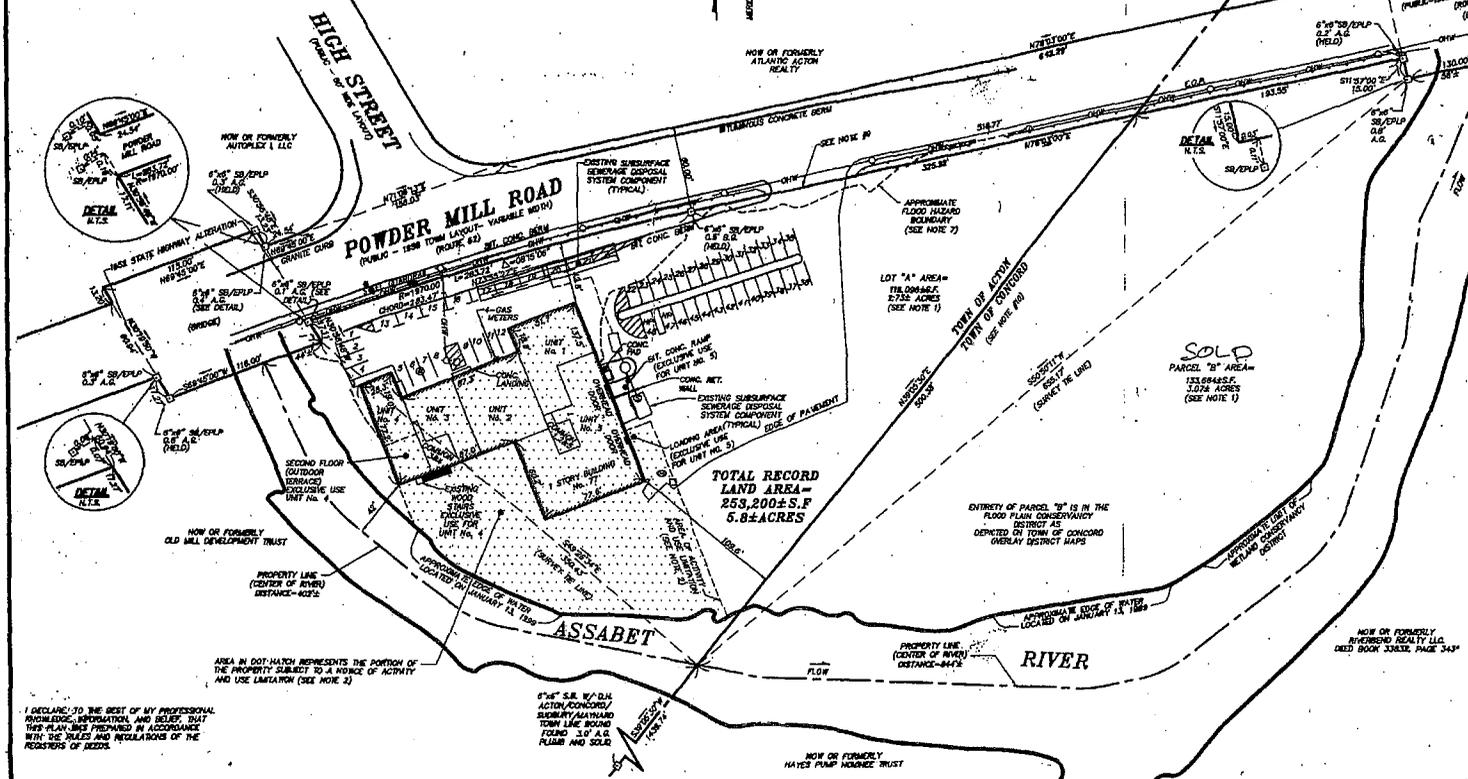
Zoning District pm [Powdermill]

If any other permits or site plans have been granted for the property, give the file numbers:

A CD + 6 completed copies of this application and supporting materials including plan sheets, if any, are required at the time of submission. A certified abutters list taken from the most recent town tax list and certified by the Town Assessor must be included with this application. At a minimum, a 1"=1200' location map must be provided with each copy of the application showing the subject site in relation to other lots, roads, and natural features. Sufficient supporting information must be provided to fully explain the purpose and plans of the applicant -- attach additional sheets and plans as necessary. The Board may require additional information as it deems necessary. Each copy of any plan sheets shall be folded so that it will fit neatly into a letter sized file folder.



- REFERENCES**
- LOCUS DEED BOOK 4882, PAGE 500*
 - DEED BOOK 2868, PAGE 401*
 - PLAN 212 OF 1989*
 - PLAN 318 OF 1989*
 - MIDDLESEX COUNTY LAYOUT MAIN STREET - MIDDLESEX CONCORD - 1958*
 - MIDDLESEX COUNTY LAYOUT POWDER MILL ROAD - ACTON - 1985 (3 SHEETS)*
 - MASSACHUSETTS STATE HIGHWAY LAYOUT No. 4748 - CONCORD - 1985*
 - MIDDLESEX COUNTY LAYOUT NEW WAY AND MAIN STREET - ACTON - 1985*
 - MIDDLESEX COUNTY LAYOUT POWDER MILL ROAD - ACTON - 1958 (2 SHEETS)*
 - MASSACHUSETTS STATE HIGHWAY LAYOUT POWDER MILL ROAD (ROUTE 63) - ACTON - DECEMBER 2, 1983*
 - PLAN 1005 OF 1979*
 - PLAN 249 OF 1920*
 - PLAN 2172 OF 1988*
 - DEED BOOK 2868, PAGE 611*
- * DENOTES DOCUMENTS ON FILE AT THE SOUTH MIDDLESEX DISTRICT REGISTRY OF DEEDS



- LEGEND**
- SB/SH STONE BOUND WITH DRILL HOLES
 - DLPL ESCUTCHION PIN IN LEAD PINS
 - A.G. ARCHED GROUND
 - R.G. RIGID GROUND
 - UL UTILITY POLE WITH LIGHT
 - UT UTILITY POLE
 - CH OVERHEAD WIRE
 - BT CONC. STRAINING CONCRETE GUARDRAIL
 - E.G. EDGE OF PAVEMENT
 - G.G. GAS GATE
 - W.G. WATER GATE
 - CG CATCH BASIN
 - SM SLOPE MARKER

- NOTES**
- REFERENCE IS MADE TO PLAN FILED "PLAN OF LAND LOCATED IN ACTON & CONCORD MASSACHUSETTS RESERVED FOR CONCORD LAND COMPANY LLC DATED DECEMBER 31, 2007" PREPARED BY MERIDIAN ASSOCIATES, INC. CURRENTLY UNDER THE APPROVAL PROCESS BY THE RESPECTIVE TOWNS SAID PLAN SET TO SUBMIT THE LAND DEPICTED AS LOT AREA 253,200± S.F. (5.8± ACRES) ON PLAN NUMBER 317 OF 1989 TO CREATE LOT "A" AREA OF 116,084± S.F. (2.7± ACRES) WHICH IS LOCATED ENTIRELY WITHIN THE TOWN OF ACTON AND PARCEL "B" AREA OF 137,116± SQUARE FEET (3.1± ACRES) WHICH IS LOCATED ENTIRELY WITHIN THE TOWN OF CONCORD. PARCEL "B" IS NOT TO BE CONSIDERED A BUILDABLE LOT.
 - A PORTION OF THE PROPERTY IS SUBJECT TO A NOTICE OF ACTIVITY AND DISPOSITION IN DEED BOOK 2868, PAGE 811* AND RECORDED IN DEED BOOK 2868, PAGE 811*.
 - THE BOUNDARY SURVEY AND SITE CONDITIONS WERE OBTAINED FROM A FIELD SURVEY CONDUCTED ON THE GROUND BETWEEN JANUARY 13, FEBRUARY 17 & 19 AND MARCH 4, 1989 BY MERIDIAN ENGINEERING, INC. (M.E.I.). SITE CONDITIONS WERE UPDATED ON OCTOBER 27 AND NOVEMBER 30, 2007 AND AGAIN ON MARCH 12, 2008 BY MERIDIAN ASSOCIATES, INC. (M.A.I.).
 - LOT A IS LOCATED IN ZONE PM (POWDER MILL-BUSINESS DISTRICT) IN ACTON AND PARCEL B IS LOCATED IN ZONE LP (LIMITED INDUSTRIAL PARK DISTRICT) IN CONCORD.
 - LOT A IS DEPICTED AS LOT 50 ON THE TOWN OF ACTON ASSESSORS MAP A-3 AND PARCEL B IS DEPICTED AS LOT 2922 OF THE TOWN OF CONCORD.
 - RECORD OWNER: CONCORD LAND COMPANY, LLC
108 OLD TOWN ROAD
CONCORD, MA 01734
DEED BOOK 4882, PAGE 500*
 - PARCEL "B" IS LOCATED WITHIN THE TOWN OF CONCORD FLOOD PLAN AND WETLAND CONSERVATION DISTRICTS. RESPECTIVELY, LOT "A" IS LOCATED WITHIN ZONE B AND ZONE 3 OF THE TOWN OF ACTON WETLAND WATER PROTECTION DISTRICT AND FLOOD PLAN DISTRICT, RESPECTIVELY. ADJACENT PROTECTION ZONE LINES DERIVED FROM "GROUNDWATER PROTECTION DISTRICT MAP OF THE TOWN OF ACTON", DATED JANUARY 1988. THE LOCUS PROPERTY DEPICTED IS LOCATED IN FLOOD ZONE A (BASE FLOOD ELEVATION DETERMINED AS SHOWN ON FEMA/FHA MAP No. 33079C 0000C DATED JANUARY 6, 1998).
 - THE SUBJECT PROPERTY IS SUBJECT TO RESTRICTION AND COVENANTS DESCRIBED IN DEED BOOK 2784, PAGE 272* AND NOTICE OF LEASE RECORDED IN DEED BOOK 1847, PAGE 278*.
 - THERE IS AN APPARENT DISCREPANCY BETWEEN THE 1988 STATE HIGHWAY ALLOCATION OF MAIN STREET AND THE 1985 STATE HIGHWAY LAYOUT OF POWDER MILL ROAD. MERIDIAN ENGINEERING, INC. CONDUCTED AN INSTRUMENTED FIELD SURVEY TO LOCATE THE EXISTING MONUMENTATION AND FIELD NOTES OF RECORD ON FILE AT THE MASSACHUSETTS STATE HIGHWAY DISTRICT 1 ENGINEERING OFFICE. THE METES AND BOUNDS DEPICTED ARE A RESULT OF THE ABOVE DESCRIBED INFORMATION.
 - M.A.I. USED GPS AND ON THE GROUND SURVEY METHODS ON OCTOBER 21, 2007 TO ESTABLISH THE ACTON AND CONCORD TOWN LINE BASED UPON DATA PROVIDED BY TOWNS OF CONCORD AND ACTON, MASSACHUSETTS HIGHWAY DEPARTMENT AND SURVEY NOTES, MONUMENTS AND PLAN BOOK 2868. PLAN IS PREPARED BY MERIDIAN ASSOCIATES, INC. AND FILED AT THE NORTH MIDDLESEX DISTRICT REGISTRY OF DEEDS.

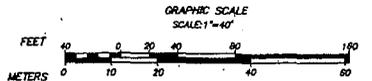
I DECLARE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT THIS PLAN FULLY AND ACCURATELY SHOWS THE LOCATION AND DIMENSIONS OF THE BUILDING AS BUILT AND FULLY LISTS THE UNITS CONTAINED THEREIN.

FOR MERIDIAN ASSOCIATES, INC. DATE

FOR REGISTRY OF DEEDS USE ONLY

I DECLARE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT THE PROPERTY LINES DEPICTED USE THE LINES OWNERS OWNERSHIP AND THE LINES OF STREETS AND WAYS DEPICTED ARE THOSE OF PUBLIC OR PRIVATE STREETS AND WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW STREETS AND WAYS ARE DEPICTED. (MASS. GEN. LAWS, CHAP. 41, SECT. 81-B)

[Signature] 3.31.08
DATE



REVISIONS

NO.	DATE	DESCRIPTION

77 POWDERMILL CONDOMINIUM
CONDOMINIUM SITE PLAN OF PLAN
 LOCATED IN
ACTON & CONCORD MASSACHUSETTS
 (MIDDLESEX COUNTY)

PREPARED FOR
CONCORD LAND COMPANY, LLC
 SCALE: 1"=40' DATE: MARCH 25, 2008

MERIDIAN ASSOCIATES, INC.
 108 COUNTRY CENTER
 WESTPORT, MASSACHUSETTS 01886
 TEL: 978-366-0400 FAX: 978-366-0401
 WWW.MERIDIANINC.COM

SHEET No. 1 OF 1 PROJECT No. 3081



Town of Acton
472 Main Street
Acton, MA 01720
Telephone (978) 264-9622
Fax (978) 264-9630

Brian McMullen
Assessor

Parcel Location 77 POWDERMILL RD
Parcel I.D.: J3-50

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
65 POWDERMILL RD	J3-59	OLD MILL DEVELOPMENT TRUST	C/O BERTOLAMI LEO	6 PROCTOR ST	ACTON	MA	01720
63 POWDERMILL RD	J3-59-2	MOSCARIELLO WILLIAM M	MOSCARIELLO MICHAEL J	63 POWDERMILL RD	ACTON	MA	01720
60 POWDERMILL RD	J3-49-1	AUTOPLEX II		6 PROCTOR ST	ACTON	MA	01720
76 POWDERMILL RD	J3-34-4	AUTOPLEX II		6 PROCTOR ST	ACTON	MA	01720
82 POWDERMILL RD	J3-34-8	ATLANTIC ACTON RLTY LTD	C/O ATLANTIC MGMT	205 NEWBURY ST	FRAMINGHAM	MA	01701

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

Marty Abbott
Assessor's Clerk

May 31, 2012



BOSTON DOG CO.

535 Cambridge Street
Cambridge, Ma 02141

Your Local Dog Daycare and Boutique.
617.858.DOGS (3647)

Dear Acton Board of Selectman:

Please accept this letter as a formal request to apply for a special permit for a dog kennel. This proposal for special permit refers to utilizing unit 5 (rear of the building) located at 77 Powdermill Rd Acton, Ma for dog daycare and dog boarding. After receiving numerous requests from Acton residents we have determined that Acton is an ideal location for a state-of-the-art dog daycare and dog boarding facility. Furthermore, Unit 5 located at 77 Powdermill Rd is the perfect location for a dog care facility, since there are no nearby residents, it is in a business district, property possesses ample private parking, and surrounded by a picturesque river which will help reduce noise in the surrounding areas.

The goal of our dog daycare and dog boarding service is to provide an exceptional level of dog care as epitomized by our current dog daycare (Boston Dog Company). Currently, the Boston Dog Company provides service to the Boston and Cambridge community. I am confident we can continue our holistic and exceptional level of dog-care philosophy in Acton.

Sincerely,

Kent Leung

Managing Director,
Boston Dog Company