

1/26 (16)

TOWN OF ACTON

Building Department

INTERDEPARTMENTAL COMMUNICATION

To: Board of Selectmen **Date:** January 15, 2004
From: Garry A. Rhodes, Building Commissioner 
Subject: Site Plan Special Permit #01/06/99-368 amended
61 Powder Mill Road (Hunter)

Attached please find two draft Decisions for your consideration. The only difference between the two is in "Draft I" there is a requirement for sidewalks along Sudbury Road. "Draft I" requires either a gift in the sum of \$3,000 or the construction of a sidewalk along Sudbury Road. "Draft II" does not have a requirement for either a sidewalk or gift.

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Draft I

Amended DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Old Mill Development Trust (hereinafter the Petitioner) for the property located at 61 Powdermill Road, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map J-3 Parcels 58 and 59.

This Amended Decision is in response to an application submitted to the Board on September 18, 2003 by the Petitioner for an amendment of the Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to construct a new 6,120 square foot building consisting of three levels. The basement level will be storage, the second level will be a three bay garage and the upper level will be an apartment.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on November 17, 2003 at 7:10 P.M. in the Selectmen's Hearing Room at the Acton Town Hall. The hearing was continued to December 15, 2003 at 7:15 P.M. at which time the hearing was closed. Board members Walter Foster, F. Dore' Hunter, Peter Ashton, William Shupert III and Robert Johnson were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibit I

A properly executed application for Site Plan approval received September 18, 2003; a booklet containing a certified abutters list, USE description, drainage calculations, water balance calculations, other permits, letters from Acton Survey and Engineering dated November 5, 14, 17, 19, December 2, 4, 5, 2003, previous site plan decision #01/06/99-368, Board of Appeals Decision #98-22; a report from GeoTesting Express dated 12/08/03; a eight sheet set of Site Plan Drawings dated September 18 revised November 13, 2003; building plans dated March 30, 2003; Subsurface Sewage Disposal Plans revised 11/13/03; Retaining Wall Plans dated 12/11/03, and two sets of record plans.

Exhibit II

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated November 13, December 9, 2003
2. Town Planner dated October 23, December 9, 2003
3. Fire Chief dated October 31, 2003
4. Municipal Properties Director dated October 29, 2003
5. Engineering Administrator dated October 23, 2003
6. Health Agent dated September 29, 2003
7. Transportation Advisory Committee dated October 23, 2003
8. Recreation Director dated September 23, 2003
9. Water District dated September 29, 2003

Exhibit I is hereinafter referred to as the Plan.

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1.0 Findings and Conclusions

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is located in the Powder Mill Zoning District and Zone 3 of the Groundwater Protection District and the USE is allowed in both Districts.
- 1.2 This is an amendment of Site Plan Special Permit #01/06/99-368. Site Plan Special Permit #01/06/99-368 remains in full force and effect except as herein amended.
- 1.3 The Zoning Bylaw requires the site include a sidewalk along the entire frontage. As part of the original decision the Applicant constructed a sidewalk along the frontage of the lot located in front of the dealership. The Applicant also funded the sidewalk constructed by the Town along the site frontage adjacent to the canoe landing on Powder Mill Road. There is an additional section of site frontage along Sudbury Road. The length of frontage is 100 feet. The Board finds that additional sidewalks in the Powder Mill District along Sudbury Road will help provide for the safe movement of pedestrians and bicyclists.
- 1.4 Bylaw section 4.3.6.2 provides a design standard for the treatment and renovation of runoff. The Bylaw also provides for the Special Permit Granting Authority to approve alternate methods of runoff treatment and renovation if it determines the intent is met. The Applicant proposes to use an alternate method of "Stormceptors". The Board finds the use of stormceptors is acceptable if not used as an inlet structure but used as an in-line structure. The Board also finds that monitoring of performance should be done on a minimum of yearly for three years.
- 1.5 The proposed building is located on a steep incline. The building located on the incline will need to be supported by retaining walls. The retaining walls have now been designed. The Plan shall be modified to show all revisions.
- 1.6 The Plan as herein modified:
 - Will protect the neighborhood and the town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
 - Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.
 - Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
 - Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
 - Is consistent with the Master Plan.
 - Is in harmony with the purpose and intent of this Bylaw.
 - Will not be detrimental or injurious to the neighborhood in which it is to take place.
 - Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted 5 to 0 to **GRANT** the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations.

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2.0 Plan Modifications

Prior to the issuance of a Building Permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not permit any construction activity to begin on the site until and unless he finds 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 Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any Building Permit or permit any construction on the site. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

- 2.1 The Plan shall be revised so that all sheets are consistent.
- 2.2 The drainage plan shall be revised to show the stormceptors as an inline structure.

3.0 Conditions

- 3.1 The Applicant shall either provide a sidewalk along the frontage on Sudbury Road or provide a gift towards sidewalks equal to \$30. /ft of frontage, 100' x \$30 = \$3,000.
- 3.2 The Applicant shall contract with a service company to clean the stormceptors on a minimum of once a year. The Applicant shall notify the Board of Health and Building Department of the scheduled cleaning so they are given an opportunity to witness the cleaning.
- 3.3 Prior to occupancy or use of the new building, an as-built plan shall be supplied by the engineer of record certifying that the project was built according to the approved documents. The as-built plan shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades and elevations. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor.
- 3.4 All vehicles shall be parked on paved areas and as designated on the approved plan.

4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.

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- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.
- 4.7 This Site Plan Special Permit shall lapse on January 5, 2006 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the applicant with or without a new hearing.

5.0 **Appeals**

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

Witness our hand this day of ,2004

Walter Foster, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

Christine Joyce, Recording Secretary

Date filed with Town Clerk

Edward Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Old Mill Development Trust has passed and there have been no appeals made to this office.

Date

Edward Ellis, Town Clerk

- cc: Petitioner
 Building Commissioner
 Planning Board
 Engineering
 Conservation
 Director of Municipal Properties
 Board of Health
 Town Clerk
 Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury

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