



**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (978) 929-6631  
Fax (978) 929-6340  
planning@acton-ma.gov

Planning Department

---

**MEMORANDUM**

**To:** Steve Ledoux, Town Manager **Date:** April 24, 2014  
**From:** Roland Bartl, AICP, Planning Director *R. B.*  
**Subject:** **Acorn Deck House Company (Trudeau)**  
**– Application for Site Plan Special Permit #02/20/14-448**

---

The Planning Department offers the following information and comments on this application:

**General Information:**

**Public Hearing as advertised:** April 28, 2014; 7:20 PM  
**Location:** 848 Main Street  
**Town Atlas Map/Parcel:** C5-39 (Lot A-2 and Parcel A as shown on the plan in the application)  
**Related Parcel:** C5-39-1 (Lot 2C as shown on the plan in the application), 852 Main St.  
**Applicant / Owners:** Tom Trudeau, Acton Realty LLC  
**Engineer/Surveyor:** Stamski and McNary, Inc.  
**Zoning:** Small Manufacturing (SM), Groundwater Protection Dist.- Zone 3  
**Project Type:** Site improvements; no proposed building additions  
**Site Area:** +/-8.34 acres  
**Decision Due:** No later than July 27, 2014 (unless extended by mutual agreement)

**Background:**

1. During the latter part of 2012 unauthorized paving activity was noted at the 848 Main Street site on the north and east sides of the large manufacturing building. This was done without a site plan special permit, in non-compliance with a previous site plan special permit, and in violation of several zoning set-back and area requirements. Closer scrutiny of the site also revealed further zoning violations relative to:
  - a. Building floor area, FAR and Frontage that resulted, not from illegal construction of buildings, but from the deed a few years earlier into a separate ownership entity of an adjacent parcel at 852 Main Street, shown on the plan as Lot 2C.
  - b. A common driveway connection between the 848 and 852 Main Street parcels that was nowhere shown on any previously approved plan.
  - c. The apparent expansion over time of gravel surfaces beyond previously approved boundaries.

This site plan special permit application now before the Board is intended to correct the zoning violations. It succeeds only in part as outlined in the following.

## Site Improvements

2. The site was the subject of seven (7) previous site plan special permits dating from 1973 through 1987. It is our recollection that these permits addressed improvements at the property which at the time comprised 848 and 852 Main Street in single ownership as one parcel for zoning purposes. All these permits predate the last major zoning revisions of 1990 that affected the site and that are for the most part still in effect today. As a result of these older permitted improvements, some aspects of the site would properly be considered pre-existing non-conforming. These include, subject to recommendations and limitations stated herein, the extent of the existing building floor area, gravel surfaces, the configuration of parking and paved surfaces, and insufficient landscaping.
3. The plan package includes an Existing Conditions Plan (sheet 2 of 5) that shows existing building footprints and delineates existing areas of pavement and gravel surfaces as found at 848 and 852 Main Street after the paving activities cited in par. 1 above. We believe it is a fair reflection of existing conditions on the ground as they currently exist.
4. The other plan sheets show proposed changes and improvements at 848 Main Street intended to return the site into compliance with zoning. I defer to others with respect to proposed grading, drainage controls, septic installation, and construction details. This review focuses on zoning-related matters. No proposed changes are shown for 852 Main Street (except for lot line boundary changes discussed later in this memo).
5. The Layout Plan (sheet 4 of 5) shows in a general manner the proposed allocations on the site for buildings (existing), paved/graveled surfaces, and areas counting as Open Space and Perimeter Landscaping, the latter two items as defined in the zoning bylaw. These delineations appear largely acceptable.
6. The land use table on sheet 3 brings the proposed amount of Open Space in at 35%, the minimum required under current zoning. It includes:
  - a. A substantial area in the northwest part of the site that is rather disturbed - dirt surface that shows marks of prior use from driving on, parking on, and/or materials storage (most recently fire wood storage and processing). This is generally the vicinity of a former railroad spur into the property.
  - b. A 9,189 S.F. area along the north-side of the large industrial building that we recall as appearing substantially disturbed when viewing the unauthorized paving action in 2012.
  - c. A 7,426 S.F area on the west side of the building that we recall as current storage area.

### **Recommendation:**

**These three itemized designated Open Space areas should be restored or re-naturalized to some real resemblance of Open Space. Removal or remaining stored materials, some tilling of the surface, a bit of top soil and compost mixed in, and a hardy grass/wildflower mix can go a long way here. A Landscape Plan sheet should be added to specify how these Open Space area will be re-naturalized.**

7. The 40,719 S.F. pavement area identified in the east portion of the site (it wraps around to the north portion also) includes an area of approximately 60' X 80' closest to Main Street that was paved on a former meadow in 2012 in violation of governing zoning permits (the "rectangle" adjacent to lot 2C and the designated Open Space Area beside Main Street). The portion of the 6,090 S.F. Perimeter Landscaping separator shown between this new pavement area and the striped parking spaces at the entrance driveway is therefore insufficient for today's applicable zoning requirements.

### **Recommendation:**

**The Perimeter Landscaping separator between the striped parking spaces and the new**

pavement added on the former meadow (the “rectangle”) must be widened to 30 feet in order to meet applicable parking lot design requirements (separation of parking lot cells). Another way to describe the location: The Perimeter Landscaping separator adjacent to the first 6-1/2 to 7 striped parking spaces seen when entering 848 Main Street must be widened to 30 feet. The added Landscape Plan sheet should specify landscaping of this area in compliance with the zoning bylaw’s Perimeter Landscaping requirements.

8. The Perimeter Landscaping and Open Space strip along the north and east side of the 848 Main Street site would remain after new pavement was added there in 2012. Just leaving it ‘as is’ would not meet applicable zoning standards for new parking lot/pavement areas.

**Recommendation:**

**The added Landscape Plan sheet should specify landscaping details for the Perimeter Landscaping and Open Space strip along the north and east side of the 848 Main Street site in compliance with the zoning bylaw’s Perimeter Landscaping requirements.**

9. The driveway on the north of the large manufacturing building on the 848 Main Street site is new, added in 2012 as part of the unauthorized paving activity. It has insufficient width for two-way travel. The proposed driveway on the west side of the building also does not measure up to two-way traffic.

**Recommendation:**

**These interior driveways must be specified on the plan, and posted on site for use as one-way driveways only.**

**Frontage**

10. 848 Main Street in separate ownership as presently configured does not meet the frontage requirement in the SM zoning district. 200 feet is the minimum requirement; the parcel has +/- 182 feet. This violation is the result of dividing the ownership of 848 and 852 Main Street into separate ownership entities a few years in the past. 852 Main Street has sufficient surplus frontage to give to 848 so as to cure the violation. This can be done with minor dimensional recalculations. The plan as presented makes provision for the transfer of an unspecified frontage triangle from 852 to 848 Main Street. However, it does not help cure the equally fundamental zoning violation of FAR.

**Floor Area, Floor Area Ratio, and Divided Ownership**

11. The maximum Floor Area Ratio (FAR) in the SM zoning district is 0.20. The FAR is the result of the mathematical division of the Net Floor Area in a Building or Buildings by the Developable Site Area of the property. A Building is defined as “a structure enclosed with exterior walls, built or erected with any combination of materials, ..., having a roof, ... for the shelter of persons, animals, or property”.
12. The special permit application represents for the 848 Main Street site a Net Floor Area of 66,629 S.F. and a Floor Area Ratio (FAR) of 0.184. We disagree.
13. As a matter of long-standing practice, we include as part of a Building any portion that is roofed and enclosed on at least three sides. There are three building additions on the south side of the main building, which unlike the drive-through “roofed storage-area” along the north side of the main building, are fully enclosed, partially enclosed, and/or fully enclosable with ease during inclement weather. These three building sections must be added into the Net Floor Area on the site. The three building areas in question are called out separately on the plan and add in total 25,971 S.F. of Net Floor Area for a total of 92,663 S.F. on the site, and a FAR of 0.255.
14. One solution to correct this zoning violation is to remove parts of the building on the 848 Main Street site, sufficient in quantity to reduce the FAR to 0.20. The other more practical solution is

a return to the pre-existing non-conforming status that the 848 and 852 Main Street parcels had before when their ownership was held in common.

**Recommendation:**

**Re-combine 848 Main Street (Lot A-2 & Parcel A) with 852 Main Street (Lot 2C) to create one parcel under single ownership with +/- 9.26 acres, and combined Net Floor Area of +/- 96,242 S.F. and a FAR of 0.239.**

**It is understood that the resulting FAR on the re-combine property is still not in compliance with current zoning limits. However, the combining of the parcels restores the pre-existing non-conforming status of the combined properties as it existed before their ownership was separated. Pre-existing non-conforming is a legal status that can continue forward. The current situation is illegal under zoning. It is further note that the proposed cure for frontage violation will then become unnecessary.**

**Common Driveway connection to lot 2C**

15. The common driveway shown between parcels A-2 and 2C can become a non-issue with the granting of this requested site plan special permit. Zoning Bylaw, section 10.4.3.3 provides in part: "If a common driveway is authorized under a Site Plan Special Permit to lead onto an adjacent LOT which is not subject to such Site Plan Special Permit, no separate Site Plan Special Permit shall be required for the adjacent LOT in order to permit the construction of the common driveway." Of course, this matter would also be resolved under a granted permit where the two properties must be recombined to restore zoning compliance for FAR.

**School Bus Parking**

16. During the hearing the current school bus parking may be raised as a concern. About two years ago, or so, the owner, Mr. Trudeau, and representatives from the Concord – Carlisle Regional Schools met with us to inquire about this. At the time we determined that the proposed temporary parking/storage on the property as it then existed of active school buses owned and operated by a public school system in the Commonwealth is an Educational Use under section 3.4.2 of the zoning bylaw. Section 3.4.2 aims to be consistent with section 3 of the State zoning statute's Dover Amendment (exemptions from zoning for educational and religious uses). This determination was made before the unauthorized paving activity took place.

**Firewood Storage and Processing**

17. The Site Plan on sheets 3 and 4 shows a proposed 30' X 100' Wood Processing Area in the rear, i.e. west of the large manufacturing building. Axe Brothers, who we believe is the prospective operator of the wood processing activity has a separate special permit application pending before the Board for this specific proposed outdoor use. All matters, related to the Axe Bros. application should be deferred to that hearing and permit consideration. Likewise, it should be clear to all that simply showing the area on a proposed site plan, if approved, would not in any way indicate approval of the use, which requires a separate use special permit. That use special permit has been applied for; it is on a separate track and schedule. If the Board were to grant that other permit, it can impose separate conditions related to it, including specific site improvements and mitigation measures related to that use.

**Existing Model Home**

18. We remain puzzled why the owner continues to hang on to the decrepit old model home in the northwest corner of the property. Last we saw it, it was crammed full with stuff and appeared to sort of crumble away slowly. A small effort would remove this eyesore.

## **Enforcement**

Typically, site plan special permit compliance is a pre-condition to the granting of building and occupancy permits. Neither applies here. We look forward to working with the applicant towards zoning compliance and compliance with any conditions of the site plan special permit that the Board may grant, provided that the applicant makes a diligent effort towards compliance going forward and further that the a reasonable completion/compliance date is on the horizon – say within 6 months for the parcel re-merger in to combined ownership, and 12 months for all site improvement/modification work (or such other time period that the Board may determine). The Board could also require that the owner post a bond as surety. But, I cannot see how that would add anything to enhance achievement of compliance, unless the Town is prepared to take the highly unusual step of following through on the purpose of a bond, i.e. taking matters in its own hands should the applicant/owner fail to comply. In the end, with or without a bond, we are left appealing to the applicant to do the right thing; or, if that fails, applying standard zoning enforcement procedures using fines and court system.

Cc: George Dimakarakos, Stamski and McNary, Inc. (for the applicant)  
Planning Department  
Manager Department

p:\roland open files\site plan\448, acorn deck house, 852 main.docx