



Planning Department

TOWN OF ACTON
 472 Main Street
 Acton, Massachusetts 01720
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MEMORANDUM

To: Board of Selectmen

Date: April 23, 2014

From: Kristen Guichard *KSG*

Subject: Amendment Request for Use Special Permit #04/02/08 – 413 (Anytime Fitness)

Mr. John Cherubini submitted a building permit application to remodel the existing 3,200sf space at 501 Nagog Park where he operates his commercial recreation use, Anytime Fitness. The renovation includes moving an office, increasing the size of the women's bathroom and adding showers. The building permit application also includes an expansion into 1,641sf of existing adjacent vacant space within the same building. The expansion is proposed for group fitness area and a larger men's bathroom with showers.

In reviewing the building permit application, the Planning Department found that Anytime Fitness has an existing Use Special Permit which allows the use to operate in a space up to 3,200sf. When the Special Permit was issued the North Acton Treatment Corp. limited the flow capacity for the use; therefore the Use Special Permit includes a condition that no showers be installed. Due to these factors the Planning Department signed the building permit to allow the renovations within the existing 3,200sf, excluding the showers, and with a condition that the expansion and installation of showers are subject to an amendment of the Use Special Permit by the Board of Selectmen.

The Planning Department recommends the Board approve the requested amendment. The expansion is within the existing building in currently vacant space. In addition, the North Acton Treatment Plan has agreed to allocate additional sewage capacity to allow showers at the facility. Subsequently, the Health Department has signed off on the building permit including the showers. We see no issues with the additional space in relation to parking requirements.

As noticed in the original special permit, the Board may amend the permit without a new public hearing provided it finds the amendment is not significant to the public interests and is consistent with the purpose and intent of the bylaw. Planning staff recommends approval under this amendment provision.



Town of Acton

Massachusetts State Building Code (780 CMR) Seventh Edition

Building Permit Application for any Building other than a One- or Two-Family Dwelling

(This Section For Official Use Only)

Building Permit Number: _____ Date Applied: 3/3/14 Building Inspector: _____

SECTION 1: LOCATION (Please indicate Block # and Lot # for locations for which a street address is not available)

501 NAGOG Park Acton 01720 Nagog Plaza
No. and Street City/Town Zip Code Name of Building (if applicable)

SECTION 2: PROPOSED WORK

If New Construction check here or check all that apply in the two rows below

Existing Building Repair Alteration Addition Demolition (Please fill out and submit Appendix 1)

Change of Use Change of Occupancy Other Specify: _____

Are building plans and/or construction documents being supplied as part of this permit application? Yes No

Is an Independent Structural Engineering Peer Review required? Yes No

Brief Description of Proposed Work: Build New 10 x 8 office, update paint and flooring. Remove Existing office area. add New showers

SECTION 3: COMPLETE THIS SECTION IF EXISTING BUILDING UNDERGOING RENOVATION, ADDITION, OR CHANGE IN USE OR OCCUPANCY

Check here if an Existing Building Evaluation is enclosed (See 780 CMR 3402.0)

Existing Use Group(s): A3 Proposed Use Group(s): A3

Existing Hazard Index 780 CMR 34: _____ Proposed Hazard Index 780 CMR 34: _____

SECTION 4: BUILDING HEIGHT AND AREA

	Existing		Proposed	
No. of Floors/Stories (include basement levels) & Area Per Floor (sq. ft.)	1	3200	1	4841
Total Area (sq. ft.) and Total Height (ft.)				

SECTION 5: USE GROUP (Check as applicable)

A: Assembly A-1 A-2r A-2nc A-3 A-4 A-5 B: Business E: Educational

F: Factory F-1 F-2 H: High Hazard H-1 H-2 H-3 H-4 H-5

I: Institutional I-1 I-2 I-3 I-4 M: Mercantile R: Residential R-1 R-2 R-3 R-4

S: Storage S-1 S-2 U: Utility Special Use and please describe below:

Special Use: _____

SECTION 6: CONSTRUCTION TYPE (Check as applicable)

IA IB IIA IIB IIIA IIIB IV VA VB

SECTION 7: SITE INFORMATION (refer to 780 CMR 111.0 for details on each item)

Water Supply: Public <input checked="" type="checkbox"/> Private <input type="checkbox"/>	Flood Zone Information: Check if outside Flood Zone <input checked="" type="checkbox"/> or identify Zone: _____	Sewage Disposal: Indicate municipal <input type="checkbox"/> or on site system <input checked="" type="checkbox"/>	Trench Permit: A trench will not be required <input checked="" type="checkbox"/> or trench permit is enclosed <input type="checkbox"/>	Debris Removal: Licensed Disposal Site <input type="checkbox"/> or specify: _____
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Railroad right-of-way: Not Applicable <input checked="" type="checkbox"/> or Consent to Build enclosed <input type="checkbox"/>	Hazards to Air Navigation: Is Structure within airport approach area? Yes <input type="checkbox"/> or No <input checked="" type="checkbox"/>	MA Historic Commission Review Process: Is their review completed? Yes <input type="checkbox"/> No <input type="checkbox"/>
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SECTION 8: CONTENT OF CERTIFICATE OF OCCUPANCY

Edition of Code: _____ Use Group(s): _____ Type of Construction: _____ Occupant Load per Floor: _____

Does the building contain an Sprinkler System?: _____ Special Stipulations: _____

Lisa Tomyl

From: John Cherubini [jcherubini@comcast.net]
Sent: Wednesday, April 23, 2014 1:52 PM
To: Board of Selectmen; manger@acton-ma.gov
Cc: Planning Department; john.cherubini@anytimefitness.com; Chris Warner
Subject: New England Gyms (dba Anytime Fitness) NAGOG Mall
Attachments: Acton Board of TreatmentPlantHealth Letter - 11-12-13- Anytime Fitness[1].pdf; Use Special Permit 2008 - Anytime Fitness[1].pdf

To Whom it may Concern,

I am writing to request an amendment for the original special permit granted back in 2008 for New England Gyms, Inc. (dba Anytime Fitness) located at 501 NAGOG Mall. I am planning on adding 1641 sq ft to offer small group traing to the residents of Acton.

If at all possible, I would very much appreciate it if I could be scheduled on the agend for this coming Mondays meeting, April 28th.

Please find the special permit and the letter from Kirk Ware attached.

Please take this request into consideration.

Thank You

John Cherubini

Owner

Anytime Fitness

File Copy

NORTH ACTON TREATMENT CORP.

530 Great Road, Acton, MA 01720 · (978) 263-1125 Fax (978)-263-7913

11/12/13

Mr. Doug Halley

Re: Anytime Fitness

November 12, 2013

Mr. Doug Halley
Acton Board of Health
472 Main Street
Acton, MA 01720

Re: Nagog Mall – Anytime Fitness – Additional Sewer Capacity

Dear Doug,

Based on the enclosed memo from Dave Formato, P.E., the engineer for the North Acton Treatment Plant, we have agreed to allocate a total of 300 gpd of sewage capacity for Anytime Fitness at Nagog Mall. As we understand it, they will occupy a total of 4,800 sq. ft. of space, which was formerly allocated 240 gpd for dry goods retail use (50 gpd/1,000 sq. ft.). The new allocation is based on actual flow figures from three other Anytime Fitness locations and assumes there are no more than 400 members.

If you have questions feel free to contact me.

Very truly yours,
North Acton Treatment Corp.



Kirk Ware
Treasurer

KW/hr

Enclosure

Memo

To: Mr. T. Kirk Ware, Treasurer, NATC
From: David C. Formato, P.E.
Cc:
Date: May 22, 2013 – Updated October 24, 2013
Re: Water Use Data Assessment – Anytime Fitness

Mr. Ware;

At your request, we reviewed water use data from several Anytime Fitness clubs to ascertain the amount of daily water use typically encounter at facilities such as this that include showers in their locker rooms. As part of our analysis, we reviewed data from similar Anytime Fitness locations in Putnam Connecticut, and Boylston and Maynard Massachusetts. Water use data was provided to us for several years at each location, with the Maynard location going back to 2005. We reviewed the data relative to long term annual averages as well as looking for peak quarters of any given year. We feel an analysis of both is important, as fitness center use tends to be somewhat seasonal, with more people going in the winter and less in the summer months.

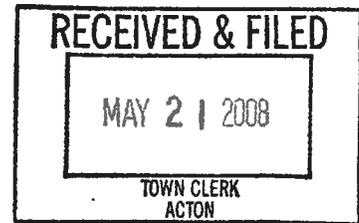
Upon compilation of the data, we were able to correlate the daily water usage to the number of members of the club and develop a strong average daily water use per member factor to be used in estimating the anticipated water use for the Anytime Fitness in Acton, were showers added. Over the several years reviewed, at all three fitness clubs, the water used per member averaged 0.28 gallons per member per day (GPMD). The Anytime Fitness club in Acton has capacity for a maximum of 400 memberships. At that rate, the average water use for the Facility with showers added, would be approximately 112 gallons per day (gpd). In analyzing the data further, we also looked for peak quarters of higher flow data to determine if the water use increases at specific times in the year. In looking at the data in this level of detail, it appears that the 400 member club may experience an increase to approximately 150 gpd of water use during those peak times when more members are routinely using the club. Therefore, in an effort to be conservative, we recommend that a water use projection for the Acton Anytime Fitness be included at 150 gpd.

Based upon standard MassDEP procedures when using water use data to estimate sewage flows, a 100% factor of safety shall be added to the actual water use observed. In this case, we recommend that this factor of safety be added to the 150 gpd, thereby creating a design flow for the use of 300 gpd for the 400 membership gym space.

However, as the club has an allocated flow as dry retail, they contribute and estimated flow of 160 gpd to the WWTF already. This data is based on 3,200 square feet (sf) of space at a rate of 50 gpd/1,000 sf. In addition, it is important to note that, as part of the expansion of the fitness center, they intend to add 1,600 sf from the adjacent retail space to their own. This space currently accounts for 80 gpd of flow allocation to the WWTF. When this expansion occurs, a total 4,800 sf of dry retail space will then become part of the Anytime Fitness space and therefore, as the use classification would change as noted above, the new flow allocation would be 300 gpd for the total 4,800 sf of space rather than being based upon the dry retail square footage.

At the time of the conversion, the 240 gpd of capacity from the 4,800 sf of dry retail space should be removed from the flow allowance as it relates to the increase in flow. Overall, the net increase in flow from the Anytime Fitness space is anticipated to be 60 gpd above the existing 240 gpd flow allocation. Based upon recent flow capacity analyses we have completed for the entire WWTF service area, the excess 60 gpd of flow is available for use in this manner.

We trust that this analysis meets your current needs. If you have any questions, or require additional information, please do not hesitate to contact me.



Use Special Permit – 04/02/08 - 413
Anytime Fitness
May 19, 2008



Board of Selectmen

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

DECISION
04/02/08 - 413

New England Gyms, Inc. / d.b.a. Anytime Fitness
Use Special Permit
May 19, 2008

GRANTED

Decision of the Acton Board of Selectmen (hereinafter the Board) on the application of New England Gyms, Inc. / d.b.a. Anytime Fitness (hereinafter the Applicant) for property located at 5 Nagog Park in Acton, Massachusetts, owned by KVA Nagog LLC & Alevizos Nagog, LLC, c/o Peter Alevizos, 396 Washington Street, Suite 325, Wellesley, MA 02481. The property is shown on the 2007 Acton Town Atlas map B-4 as parcel 7-2 (hereinafter the Site).

This Decision is in response to an application for a use special permit submitted to the Board on April 2, 2008, pursuant to Sections 3.5.15 and 10.3.5 of the Acton Zoning Bylaw (hereinafter the Bylaw) to establish a Commercial Recreation Use with a net floor area of 2000 square feet or greater (hereinafter the Use).

The Board held a duly noticed public hearing on May 12, 2008. Board members Lauren Rosenzweig (Chair), Paulina Knibbe (Vice Chair), Peter Berry, and Terra Friedrichs 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 the Acton Town Hall.

1 EXHIBITS

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

- 1.1 Application items and documentation:
 - A properly executed application for a special permit to the Board of Selectmen, dated April 2, 2008.
 - Filing Fee.
 - Cover letter with brief use description from applicant by Jim Buck and John Cherubini.
 - Location map and aerial photo.
 - Certified abutters list.
 - Photos of the building unit at the Site where the proposed would be located.
- 1.2 Interdepartmental communication received from:
 - Acton Health Department, dated 4/11/08;
 - Acton Engineering Department, dated 4/25/08;
 - Acton Planning Department, dated 5/5/08.

Exhibit 1.1 is referred to herein as the Plan.

2 FINDINGS AND CONCLUSIONS

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

- 2.1 The Site is located within the Limited Business (LB) zoning district and the Groundwater Protection District Zone 4.
- 2.2 The Use, Commercial Recreation with 2000 or more square feet, is allowed on the Site by special permit in accordance with the Bylaw, including all overlay district requirements.
- 2.3 The Use would be located in a 3,200 square foot business unit at the Nagog Square Shopping Plaza that is located on the southern end of the northerly plaza building.
- 2.4 The Applicant is seeking authorization under the special permit to operate the Use 24 hours a day and 7 days a week. The proposed location is suitable for the proposed business hours.
- 2.5 The Site is serviced by the North Acton treatment plant, which is subject to flow limits under orders of the Mass. Department of Environmental Protection.
- 2.6 The Board has received comments from various Town departments, which are listed in Exhibit 1.1 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.
- 2.7 The Use and the Plan as conditioned and amended herein are consistent with the Master Plan, in harmony with the purpose and intent of the Bylaw, will not be detrimental or injurious to the neighborhood in which the Use is to take place, are appropriate for the Site; and comply in all respects to the applicable requirements of the Bylaw.

3 BOARD ACTION

Therefore, the Board voted to GRANT the requested special permit subject to and with the benefit of the Plan modifications, conditions, and limitations.

3.1 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, 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.

- 3.3.1 Prior to the issuance of a building permit or occupancy permit for the Use, whichever is first, the Applicant or the owner of the Site shall submit to the Engineering Department the current layout plan of the business units in the buildings at the Nagog Square Shopping Plaza.
- 3.3.2 No showers shall be installed in the business unit where the Use will be located nor shall there be any other showers on the Site associated with the Use.
- 3.3.3 The Applicant and operator of the Use shall establish and from time to time update rules and regulations for business patrons regarding proper and courteous conduct and safety, especially at night hours. Such rules and regulations shall also require that patrons avoid excessive noise, and that patrons who use the facility at night shall park their vehicles with headlights facing away from nearby residential areas, i.e. west towards Great Road or north towards Littleton.
- 3.3.4 The Use shall be established and operated at all times in compliance with all applicable requirements promulgated by the Acton Board of Health.
- 3.3.5 The Use shall be established and conducted at all times in accordance with the terms of this special permit and shall conform with and be limited to the improvements shown on the Plan as modified herein.
- 3.3.6 All taxes now due, and penalties and back charges, if any, resulting from the non-payment of taxes, shall be paid in full prior to issuance of a building permit or occupancy permit for the Use, whichever is first.
- 3.3.7 This Decision shall be recorded at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit or occupancy permit for the Use, whichever is first.

3.4 LIMITATIONS

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

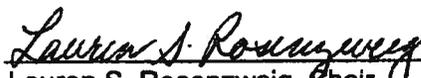
- 3.4.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.4.2 This special permit applies only to the Site identified in this decision and to the Use and activity indicated in 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 This 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. 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.
- 3.4.5 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.

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


 Lauren S. Rosenzweig, Chair

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

Copies furnished:

Applicant -
 certified mail #
 Town Clerk
 Fire Chief
 Owner

Building Commissioner
 Engineering Administrator
 Conservation Administrator
 Police Chief
 Assistant Assessor

Health Director
 Municipal Properties Director
 Town Manager
 Acton Water District