

**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 929-6611  
Fax (978) 929-6350

**Janet K. Adachi**  
**Chairperson, Board of Selectmen**

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Acton Beacon Legal Ad Division

Below please find a copy of a legal advertisement to appear in the Acton Beacon on  
April 17 and April 24, 2014.

Please send the bill to:

Jacob Abraham  
39 Pope Road  
Acton, MA 01720  
978-263-9961

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

Selectman Clough

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**LEGAL NOTICE**  
**TOWN OF ACTON**  
**NOTICE OF HEARING**

The Acton Board of Selectmen will hold a public hearing from a continuation on May 5, 2014 at 7:35 PM in the Francis Faulkner Hearing Room in Town Hall, 472 Main Street, Acton on the application of Jacob Abraham, for a Use Special Permit #10/11/13-445, required under Sections 3.6.3 of the Acton Zoning Bylaw, for a Special Permit to manufacture firewood at 848 Main Street, Acton, MA 01720. The application and accompanying plans can be inspected at Town Hall during normal business hours.

Misc. L Drive

Town of Acton

Application for a Special Permit

To The

Board of Selectmen

RECEIVED  
OCT 11 2013

TOWN CLERK, ACTON

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	Outdoor Manufacturing
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

Jacob Abraham  
34 Pope rd Acton MA 01720

Telephone

978 263 9961

OWNER

Name & Address

Acton Realty L.L.C.  
852 Main St  
Acton M.A.

Telephone

978-263-6800

SITE

Location and Street Address of the Property

848 MAIN ST

Tax Map & Parcel Number 65-39

Area of Lot 8.3 ac.

Zoning District SM

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

Six (6) + CD 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.

**Board of Selectmen  
Acton, MA**

**Jacob Abraham  
39 Pope Rd.  
Acton, MA**

**Permit Application for  
Outdoor Manufacture of  
Firewood at  
848 Main St.**

**Dear members of the Board of Selectmen,**

**I am seeking a special permit to manufacture firewood under zoning bylaw 3.6.3 on a parcel of land located in an industrial zone in north Acton at 848 Main St. I had previously been manufacturing firewood there until it was brought to my attention, through an enforcement letter to my landlord, that it was against the zoning bylaws to perform such an activity at that location. When I looked closer into the issue, and with the help of the planning department, I found there was no provision to manufacture anything outdoors in the Town of Acton at all. I felt this was an oversight and started the process to have the bylaws changed at Town Meeting. The bylaws have been changed and I am now applying for a special permit to manufacture firewood.**

**After many meetings with planning board that many members of the Robbins Mill development attended, I feel that I understand the core issues that bothered the nearby residences. The main issues to my understanding are noise, views, and public safety.**

**I have performed extensive noise testing at the site, as well as off site to be able to better understand what would need to be done to make sure we are compliant with the DEP's noise regulations. Attached is a document listings decibel readings at the site itself as well as the equipment I would be using to manufacture the firewood tested off site. While the manufacturing equipment was within the DEP limit, it was clearly a concern of the abutting property. We are proposing a change in location, moving the processor 55 feet further away for a total distance of over 150 feet from the lot line, and re-arranging to make stored wood reflect sound away from the Robbins Mill complex, as well as a section of wooden fencing directly across the motor of the processor to reflect even more sound. Any special permit would not override the DEP's noise limits. If there was a complaint of excessive noise it would still go through the proper process of notifying the Board of Health and then the DEP.**

**We are planning a change in location and storage that would alleviate any views to make sure we meet the current bylaw standards (screening to be reasonable and feasible). The main change will be that we will not be stockpiling wood for seasoning near the property line. Attached are overhead pictures showing before the operation started, how we were operating, and how we plan on operating under a special permit. There is 60 feet of natural woods from the property line to any storage and we will install a natural wood fence along part of the inside tree line to help further block views.**

**A major concern brought up by the residence of Robbins Mill was the threat of a potential fire. We had the Fire Chief and Deputy Chief come out for a site visit during the planning stages for a bylaw change, and they found that as long as we performed our usual "house keeping" and kept our piles below 20 feet in height there was no fire code violation or threat of fire. There is no ignition source near the wood.**

**Another concern was the type of equipment being used. Our processor runs using a small diesel motor that turns a hydraulic pump. All functions of the processor, log in-feed, cutting, splitting, and loading of the firewood are performed through the hydraulic pressure generated from the pump. This is the same type of technology used in most construction equipment, including the highway, water, and conservation department's dump trucks, sanders, excavators, backhoes, bobcats, and front end loaders.**

**Additionally there was a concern of the potential of sawdust from the cut off saw causing particulate air pollution. The saw on the machine is a hydraulically run chain saw (.404 pitch) that produces small wood chips, not the type of dust like a planner or sander. These chips do not readily travel as was pointed out in a planning board meeting by both Mr. Charter and Mr. Bartl.**

**A constant concern within the Town, and State, is that of invasive species of insects. The main current concern is that of the Asian Long Horn Beetle. I am ALB certified to work within quarantined zones and I understand what to look for and how to avoid the spread. All of the wood being used is transported to the property by us. It is picked up on site so we know where it came from. No other person or business ever brings wood into the property, ever.**

**Attached you will find our noise meter readings with a copy of the DEP's noise regulations, a chart with some decibel levels and real world examples, pictures showing the property and a site plan showing where we propose to manufacture the wood, my ALB compliance certificate, and the original complaint letter that describes the concerns of the closest resident.**

**Noise Levels  
Pertaining to Permit for  
Outdoor manufacturing  
Of Firewood**

**All reading taken on A rating using Extech model # 407732 with NIST certificate # 93925**

**Meter Reading at lot line**

- 1. Neighboring businesses active 7:00 am until past 5:00 pm**
  - a. 57 Db**
- 2. Log truck actively loading logs**
  - a. 63 Db**

**Firewood Processor measured off site in an open field actively processing and loading wood.**

- 1. @ 200 Ft 63 Db**
- 2. @100 Ft 67 Db**
- 3. @ 50 Ft 70 Db**

### **Noise Pollution Policy Interpretation**

Noise is a public health concern that falls within the scope of Massachusetts Department of Environmental Protection (MassDEP) authority as a form of regulated air pollution (M.G.L. Chapter 111, Sections 142A-M provide statutory authority for MassDEP's Air Pollution Control Regulations, 310 CMR 7.00).

### **Definitions (310 CMR 7.00)**

- *Noise* is defined as "sound of sufficient intensity and/or duration as to cause a condition of air pollution."
- *Air pollution* means "the presence in the ambient air space of one or more air contaminants or combinations thereof in such concentrations and of such duration as to: (a) cause a nuisance; (b) be injurious, or be on the basis of current information, potentially injurious to human health or animal life, to vegetation, or to property; or (c) unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business."

### **When Does MassDEP Evaluate Noise Impacts?**

MassDEP evaluates how noise may affect people when 1) the agency reviews applications for approval under its air pollution regulations (310 CMR 7.02) for construction of facilities that will generate more than threshold amounts of pollutants such as nitrogen dioxide, sulfur dioxide, carbon monoxide, volatile organic compounds, particulate matter, and substances that are toxic

in air; and 2) the agency responds to complaints from the public about noise generated by an existing source:

- When reviewing applications for pre-construction approval of new sources of air pollution, MassDEP examines the potential increase in sound levels over ambient conditions and the impacts of noise at both the source's property line and at the nearest residence or other sensitive receptor (e.g., schools, hospitals) located in the area surrounding the facility and occupied at the time of the permit review. *Please note: MassDEP requires that an air approval be obtained when a proposed facility is expected to emit more than threshold amounts of specific pollutants. If noise is the only air pollutant expected to be emitted by a facility, a pre-construction air approval is not required.*
- When MassDEP responds to a complaint about an existing source of noise, it focuses on protecting affected people at their residences and in other buildings that are occupied by sensitive receptors from nuisances and the public health effects of the noise. *Please note: An existing source of sound may or may not have needed a MassDEP air approval before it was built.*

#### **Where Are MassDEP's Noise Criteria Applied?**

The MassDEP noise pollution policy describes criteria that MassDEP uses to evaluate noise impacts at both the property line and the nearest occupied residence or other sensitive receptor. When noise is found to be a nuisance or a threat to health, MassDEP requires the source to mitigate its noise.

Noise levels that exceed the criteria at the source's property line by themselves do not necessarily result in a violation or a condition of air pollution under MassDEP regulations (see 310 CMR 7.10 U). The agency also considers the effect of noise on the nearest occupied residence and/or building housing sensitive receptors:

- In responding to complaints, MassDEP measures noise levels at the complainant's location and at other nearby locations that may be affected (e.g., residences and/or buildings with other sensitive receptors). If the noise level at a sensitive receptor's location is more than 10 dB(A) above ambient, MassDEP requires the noise source to mitigate its impact.
- A new noise source will be required to mitigate its sound emissions if they are projected to cause the broadband sound level at a residence or building housing sensitive receptors to exceed ambient background by more than 10 dB(A).
- A new noise source that would be located in an area that is not likely to be developed for residential use in the future (e.g., due to abutting wetlands or similarly undevelopable areas), or in a commercial or industrial area with no sensitive receptors may not be required to mitigate its noise impact on those areas, even if projected to cause noise levels at the facility's property line to exceed ambient background by more than 10 dB(A). However, a new noise source that would be located in an area in which housing or buildings containing other sensitive receptors could be developed in the future may be required to mitigate its noise impact in these areas.

This policy has been designed to protect affected residents and other sensitive occupants of nearby property, but not necessarily uninhabited areas in and around the source's property. Sources of noise may need to implement mitigation if residences or buildings occupied by sensitive receptors are developed where they may be affected by the source's noise.

This is pulled directly from the DEP website. Once again it shows that a new use, such as firewood, would have to meet the noise standards since the residences are in place.

<http://www.mass.gov/dep/air/laws/noisepol.htm>

Data from <http://www.gcaudio.com/resources/howtos/loudness.html>

## **Decibel (Loudness) Comparison Chart**

Here are some interesting numbers, collected from a variety of sources, that help one to understand the volume levels of various sources and how they can affect our hearing.

<b>Environmental Noise</b>	
Weakest sound heard	0dB
Whisper Quiet Library at 6'	30dB
Normal conversation at 3'	60-65dB
Telephone dial tone	80dB
City Traffic (inside car)	85dB
Train whistle at 500', Truck Traffic	90dB
Jackhammer at 50'	95dB
Subway train at 200'	95dB
<i>Level at which sustained exposure may result in hearing loss</i>	<i>90 - 95dB</i>
Hand Drill	98dB
Power mower at 3'	107dB

Snowmobile, Motorcycle	100dB
Power saw at 3'	110dB
Sandblasting, Loud Rock Concert	115dB
<i>Pain begins</i>	<i>125dB</i>
Pneumatic riveter at 4'	125dB
<i>Even short term exposure can cause permanent damage - Loudest recommended exposure <u>WITH</u> hearing protection</i>	<i>140dB</i>
Jet engine at 100'	140dB
12 Gauge Shotgun Blast	165dB
Death of hearing tissue	180dB
Loudest sound possible	194dB

#### OSHA Daily Permissible Noise Level Exposure

Hours per day	Sound level
8	90dB
6	92dB
4	95dB
3	97dB
2	100dB
1.5	102dB
1	105dB
.5	110dB
.25 or less	115dB

#### NIOSH Daily Permissible Noise Level Exposure

Hours per day	Sound level
8	85dBA
6	86dBA
4	88dBA
3	89dBA
2	90dBA

1.5	92dBA
1	94dBA
.5	97dBA
.25 or less	100dBA
0	112dBA

### Perceptions of Increases in Decibel Level

Imperceptible Change	1dB
Barely Perceptible Change	3dB
Clearly Noticeable Change	5dB
About Twice as Loud	10dB
About Four Times as Loud	20dB

### Sound Levels of Music

Normal piano practice	60 -70dB
Fortissimo Singer, 3'	70dB
Chamber music, small auditorium	75 - 85dB
Piano Fortissimo	84 - 103dB
Violin	82 - 92dB
Cello	85 -111dB
Oboe	95-112dB
Flute	92 -103dB
Piccolo	90 -106dB
Clarinet	85 - 114dB
French horn	90 - 106dB
Trombone	85 - 114dB
Tympani & bass drum	106dB
Walkman on 5/10	94dB
Symphonic music peak	120 - 137dB
Amplifier, rock, 4-6'	120dB
Rock music peak	150dB

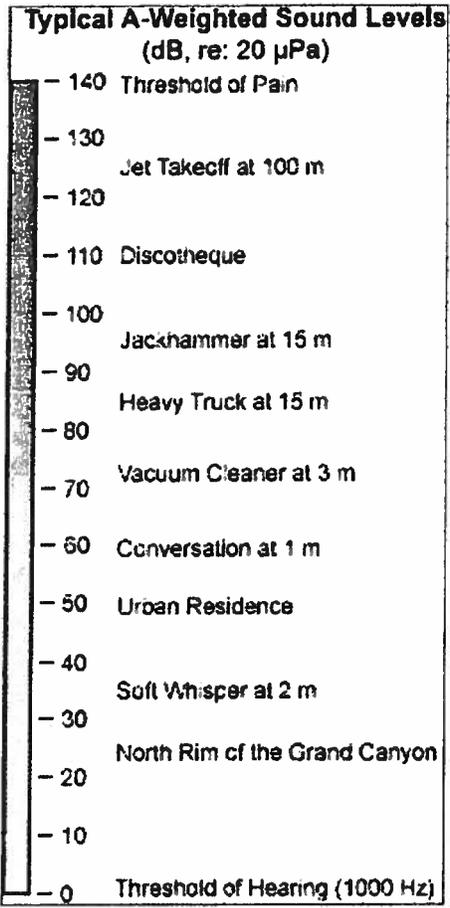
## NOTES:

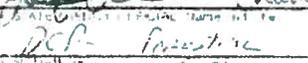
- One-third of the total power of a 75-piece orchestra comes from the bass drum.
- High frequency sounds of 2-4,000 Hz are the most damaging. The uppermost octave of the piccolo is 2,048-4,096 Hz.
- Aging causes gradual hearing loss, mostly in the high frequencies.
- Speech reception is not seriously impaired until there is about 30 dB loss; by that time severe damage may have occurred.
- Hypertension and various psychological difficulties can be related to noise exposure.
- The incidence of hearing loss in classical musicians has been estimated at 4-43%, in rock musicians 13-30%.
- Recent NIOSH studies of sound levels from weapons fires have shown that they may range from a low of 144 dB SPL for small caliber weapons such as a 0.22 caliber rifle to as high as a 172 dB SPL for a 0.357 caliber revolver. *Double* ear protection is recommended for shooters, combining soft, insertable ear plugs and external ear muffs.

Statistics for the Decibel (Loudness) Comparison Chart were taken from a study by Marshall Chasin, M.Sc., Aud(C), FAAA, Centre for Human Performance & Health, Ontario, Canada. There were some conflicting readings and, in many cases, authors did not specify at what distance the readings were taken or what the musician was actually playing. In general, when there were several readings, the higher one was chosen.

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Data from <https://www.osha.gov/SLTC/noisehearingconservation/>



UNITED STATES DEPARTMENT OF AGRICULTURE OFFICE OF PESTICIDE REGULATION, ENFORCEMENT AND COMPLIANCE <b>COMPLIANCE AGREEMENT</b>		This agreement will be made available to the public upon request. The information contained herein is for the use of the regulated party only and is not to be disseminated to the public. If you have any questions regarding this agreement, please contact the Compliance Office at (301) 703-0300.
NAME AND MAILING ADDRESS: Charles L. Abraham New England Free Stores P.O. Box 2732 Acton, MA 01710		LOCATION: Ace Hardware, Inc. Store 19 Page Road Acton, MA 01710
STATE AND FEDERAL REGULATION: All State Enacted Orders, Executive Orders, and Regulations.		
FEDERAL LAWS AND REGULATIONS: Federal Law, Chapter 266, Section 11B, M.G.L.C. 127, 222, 11A, 12, and M.G.L.C. 127B, 222, 11A, 12, and the Plant Protection Act of June 24, 2000, as amended, Section 112 (a), (1) (3) & (7) (2) (a).		
We agree to the following: 1. I acknowledge the duly issued and effective State Enacted Orders, Executive Orders, and Regulations and the Federal Laws, Chapter 266, Section 11B, M.G.L.C. 127, 222, 11A, 12, and M.G.L.C. 127B, 222, 11A, 12, and the Plant Protection Act of June 24, 2000, as amended, Section 112 (a), (1) (3) & (7) (2) (a). 2. I agree to the following: a. I will ensure that each employee engaged in any activity involving Regulated Article within the Regulated Area in possession of or in the vicinity of the regulated material and/or affected by this agreement shall be advised in writing that they or an employee has attended a training workshop provided by a state federal inspector with respect to the management of Regulated Articles within the Regulated Area. b. Any Regulated Article as defined in the attached Amended Order, which is larger than _____ inches in length shall be stored in the Regulated Area and shall be clearly labeled as such. c. If the Avian Longhorned Beetle signs of infestation are found during operations, work in the Regulated Area and the MIB Program Office must be notified at 508-852-8100. Work shall not continue until the MIB Program Office has authorized such. d. Employers will inform their employees about the boundaries of the regulated area and the existing regulations and Amended Order. e. Employers will inform their employees of any changes to the regulated area. f. A copy of this compliance agreement will be kept at the work site. g. The term "Regulated Area" shall have the same meaning as the term "Affected Area" as defined in the Amended Order. h. The undersigned hereby acknowledges and agrees that a breach of this agreement shall constitute a violation of the Amended Order and the Plant Protection Act.		
SIGNATURE OF REGULATED PARTY: 		DATE: 2/7/13
The affixing of the signatures below will validate this agreement which shall remain in effect until cancelled, but may be revised if necessary or revoked for noncompliance.		SIGNATURE OF COMPLIANCE OFFICER: 
NAME AND MAILING ADDRESS: Charles L. Abraham New England Free Stores P.O. Box 2732 Acton, MA 01710		NAME AND MAILING ADDRESS: MIB Compliance Program 151 W. Main Street Worcester, MA 01099 508-852-8100
SIGNATURE OF COMPLIANCE OFFICER: 		NAME AND MAILING ADDRESS: MIB Compliance Program 151 W. Main Street Worcester, MA 01099 508-852-8100

**Kristin Alexander**

**From:** Patricia Jones [pattykj@gmail.com]  
**Sent:** Tuesday, November 15, 2011 5:27 PM  
**To:** Planning Department  
**Subject:** What's going on next door to me...

Hi Kristin This is the letter I sent to Mike Thanks/Pat

Hello Mike

I live in the Robbins Brook community on North Main St. My husband and I purchased a new condo almost 6 years ago here and we were the first to move in at the south end of the development built by Stephen Vazza. At the time, Deck Homes was our neighbor to the south of us and our properties were divided by an 8 ft rock (concrete) wall and an 8 ft plastic fence. Although I was unhappy with the noise level that came from the Deck Homes after we moved in I had no idea that the situation could get much worse than that.

Since 2006 the Deck Homes has evolved into Acorn Homes and when that operation began we were happy to experience quiet, and an assurance from the owner that the property would be used only for office/administration. However, that didn't last long and soon we began to watch trees falling in their back yard. Although our rock wall and fence separate us in the front of our condo, our back yard flows into the back yard of the Acorn Homes on ground level. We watched as many many trees were cut down and when my husband inquired about it the owner told him that he was just clearing some land in order to deposit snow.

At this time there are empty holes into the Acorn Homes back yard and through these holes I can see mountains of timber. Most of this has been brought in to the yard by the truckload. Also taking up residence in the back yard are wood splitting machinery and loading machinery -conveyor belts, bob cats, dumpsters, etc.

My original concern was the noise that all this "wood splitting" operation entailed. I had a sound level reading taken and my suspicions were confirmed about the noise from this activity being well over the EPA limits (10% over ambient). I called the owner and spoke to him about this, asking questions about how long he planned to continue this operation and what exactly was he doing there that related to the Acorn business etc.

His reaction was, "I'm processing wood and I pay a lot of money in taxes here and I can do anything I want" and then later, "If I want to I can pave over the whole back yard and park my trucks there." I supposed he said this to me to intimidate me. I was intimidated. And the months have gone by and the operation has continued

This youtube video <http://www.youtube.com/watch?v=OxQVTBY7FXO> shows you some of what goes on at random times during the week and on weekends. This video was shot on a Saturday. I have called

the town. spoken to the town planning department who urged me to call them when things are in "full swing" so that they can witness it themselves but most of the time this goes on during weekend hours and I've been unable to coordinate with them. They did confirm that he does not have a permit to be doing this kind of business in the town however, they also cautioned me that some people might not care about paying a fine and are unconcerned with getting permits -especially when what they are doing is not acceptable.

My neighbor, Bill Flood has been contacting you regarding a fire station in North Acton. After talking with Bill and showing him the video I sent to you he suggested I speak with you. With so much dried wood, piled 15 or so feet high right next to my "plastic fence" we now have a dangerous fire hazard not 10 feet from my front door.

Given the state of the economy I understand the hesitation to pursue a fire station, but I'm so concerned about the fact that this pile of wood can easily catch fire and devastate this entire neighborhood of over 55's -not to mention the Assisted Living home and other elderly living here.

**My question to you is this. Can you help me eliminate this wood splitting operation that I'm certain is unapproved by the town and/or state so that my home value is not severely impacted by this activity just next door, so that my safety and the safety of the hundreds of residents of Robbins Brook is not compromised and so that the annoying noise level is brought down to EPA standards?**

I left a phone message on your number. My apologies, I wasn't aware that it was your home phone until I left the message. My phone number is 978 274 2297. I live at 47 Hartland Way, Acton. My cell phone is 978 273 6367.

Please respond, either by replying to this email, or by calling either of those phone numbers even if you cannot help me. As I mentioned, I have been so intimidated by his remarks that I have been hesitant to do anything about this but now, in light of the fire hazard, I am very concerned.

Thank you and I look forward to hearing from you soon.

*Patricia Jones*

Nov 10, 2013

Acton Town Hall  
472 Main Street  
Acton, MA 01720

RE: Special Permit Application #10/11/13-445 Clough

Dear Town Officials,

We are residents of Robbins Brook community and abutters to 848 Main street. We have moved to this great town from New Jersey to be close to our grandchildren and enjoy the superior quality of life conditions in this reasonably quiet neighborhood.

Mr. Abraham says he was manufacturing firewood in North Acton at 848 Main street until it was brought to his attention that performing such an activity in the area was against the zoning bylaws. Am I seeing a pattern of him telling one thing but doing something else?

Noise, air and dust pollution are detrimental health concerns that are not welcomed specially by the residents of Robbins Brook community. The cumulative adverse effects that will be caused by his outdoor firewood manufacturing operations next to a senior residential living community are unacceptable and should not be permitted:

1. Excessive noise levels from large trucks loading / unloading lumber
2. Noise from continuously operating heavy-duty industrial equipment
3. Aggravating health issues from resulting air and dust pollution
4. Contamination of our grounds and water resources
5. Negative impact on surrounding residential property values

Nobody in our senior community can accept to be subjected to constant noise levels ranging from 60dB to 70dB, if that noise level keeps going on repetitively and continually throughout the whole day, and sometimes at night for five days or more a week. As a mechanical engineer I have performed extensive noise level measurements on industrial machines and have implemented engineering solutions to reduce the level of noise and vibration frequency caused by these machines to the operators. I know for a fact that whatever Mr. Abraham is proposing to do in his special permit application - like moving the processor further away from the lot line or rearranging stored wood to reflect sound away from our complex - it is not going to help one bit in eliminating the fundamental core issues that are at stake in this particular situation.

Mr. Abraham's outdoor manufacturing operations of firewood at 848 Main street next to a senior residential community does not fit with our clean, safe, healthy and quiet quality of life conditions that we rightly deserve in this stage of our lives.

Thank you for your attention and consideration.

Respectfully,

Art and Amy Vartoukian  
39 Hartland Way,  
Acton, MA 01720

## Christine Joyce

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**From:** Janet K Adachi [jkajeg@msn.com]  
**Sent:** Sunday, November 24, 2013 4:10 PM  
**To:** Christine Joyce  
**Subject:** FW: Special Permit #10/11/13-445 Clough  
**Attachments:** Special permit.docx; ATT00001.txt

Didn't see this among scanned letters from abutters.

Janet K. Adachi  
[jkajeg@msn.com](mailto:jkajeg@msn.com)

From: [avartoukian@gmail.com](mailto:avartoukian@gmail.com)  
Subject: Special Permit #10/11/13-445 Clough  
Date: Mon, 11 Nov 2013 10:57:27 -0500  
CC: [pamela.hartingbarrat@gmail.com](mailto:pamela.hartingbarrat@gmail.com); [pattykj@gmail.com](mailto:pattykj@gmail.com); [bkbarta@aol.com](mailto:bkbarta@aol.com); [ddvader@aol.com](mailto:ddvader@aol.com);  
[KORNFELD12@verizon.net](mailto:KORNFELD12@verizon.net); [joenaijar@verizon.net](mailto:joenaijar@verizon.net); [hntaylor@verizon.net](mailto:hntaylor@verizon.net); [tonyvuolo@gmail.com](mailto:tonyvuolo@gmail.com);  
[rwinsby@gmail.com](mailto:rwinsby@gmail.com); [dhill@danhilllaw.com](mailto:dhill@danhilllaw.com)  
To: [bos@acton-ma.gov](mailto:bos@acton-ma.gov); [pb@acton-ma.gov](mailto:pb@acton-ma.gov)

Dear Sirs,

Attached please find my letter to express my concern and displeasure regarding the special permit application #10/11/13-445 Clough required under Sections 3.6.3 of the Acton Zoning Bylaw to manufacture Firewood at 848 Mail street, Acton, MA 01720 and that The Acton Board of Selectmen will hold its public hearing about it on Nov 18, 2013.



Planning Department

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

**MEMORANDUM**

**To:** Board of Selectmen **Date:** November 13, 2013

**From:** Kristen Domurad-Guichard, Assistant Town Planner *KDG*

**Subject:** Use Special Permit Application #10/11/13-445

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**Location:** 848 Main Street  
**Owner:** Acton Realty LLC. 852 Main Street, Acton, MA 01720  
**Applicant:** Jacob Abraham, 39 Pope Road, Acton, MA 01720  
**Proposed Use:** Outdoor Manufacturing of Firewood  
**Previous Site Plans:** 06/18/73-0068, 07/25/74-0087, 06/20/77-0132, 03/07/78 -0149,  
10/15/85 -0267, 03/20/86-0274, 08/21/87-0286, 10/15/85-0267

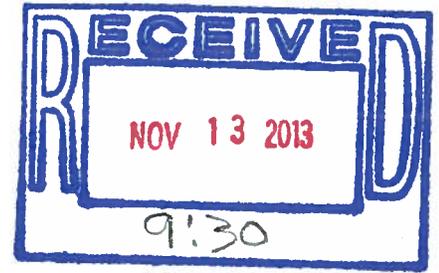
**Lot Area:** 8.3 Acres  
**Map/Parcel:** C5-39  
**Zoning:** Small Manufacturing (SM) ; Groundwater Protection Zone 3  
**Filing Date:** October 11, 2013  
**Hearing:** November 18, 2013  
**Decision vote:** February 17, 2014

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At this time the Planning Department strongly advises the public hearing be continued until the existing zoning compliance issues on the property are resolved.

In addition, the images provided by the Applicant appear to show that the location of the proposed use expands the ground area on the previously developed site in order to conduct the wood splitting operation. If the proposed use expands the ground area by 1,200 square feet or more a Site Plan Special Permit should also be submitted in accordance with Zoning Bylaw Section 10.4.1.2. The Applicant should also clarify both the amount of expanded area and the existing and proposed open space on the entire site to comply with the open space requirements in the Small Manufacturing Zoning District.

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November 12, 2013

**BY FEDERAL EXPRESS**

Acton Board of Selectmen  
Acton Town Hall  
472 Main St.  
Acton, MA 01720

Re: 848 Main Street, Acton – Special Permit Application

Dear Members of the Board:

This firm represents neighbors and abutters to the proposed wood processing operation located at 848 Main Street in Acton, on land identified as Assessor's Map C5, Parcel 39 (the "Project Site").<sup>1</sup> As you know, an application has been filed with the Board for a special permit to allow outdoor wood processing on the Project Site, pursuant to Section 3.6.3 of the Acton Zoning Bylaws. The application has been filed by Jacob Abraham of 39 Pope Road, Acton (the "Applicant"). As discussed in this comment letter, the special permit application should be denied, because the application is materially deficient under the site plan special permit provisions of the Zoning Bylaw, and further because it does not satisfy the performance standards or criteria under the Zoning Bylaw for the proposed use.

**A. History of the Project Site**

The Project Site has had a lengthy and, at times, controversial, zoning history. The current owner is Thomas Trudeau, Trustee of the 848 Main Street Nominee Trust. The Trust purchased the Project Site in 2009 from a court-appointed receiver for the former Deck House corporation. Deck House had manufactured high-end building products inside a warehouse on the Site, which was officially sanctioned by the Board of Selectmen through a special permit issued on February 25, 1986 (File No. 10/15/85-267). That permit authorized the construction of

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<sup>1/</sup> For purposes of this letter, my clients are: Patricia and Robert Jones of 47 Hartland Way; Gerald Marilyn and David Portyrata, 1 Tinsdale Dr; Art and Amy Vartoukian, 39 Hartland Way; Doug and Jan Deyoe, 41 Hartland Way; Roger and Suzanne Winsby, 12 Preston Way; Linda Larson, 22 Devon Drive; Cedrid F and Arlette E Harring, 18 Preston Way; Leo E Lemer, Jr, 4 Tinsdale Dr; Sandra C. King, 21 Devon Drive; John and Arlene Parillo, 16 Preston Way; Anthony and Janice Vuolo, 8 Preston Way; Robert and Kay Barta, 43 Hartland Way; Patricia Higgins, 45 Hartland Way; Tom and Jody Shea, 3 Tinsdale; Joe and Mary Najjar, 35 Hartland Way; Helen and Ray Taylor, 1 Preston Way; Peggy Rothrauff, 16 Hartland Way; Marcia Anderson, 17 Hartland Way; Rita and Alan Kaprelian, 17 John Francis Way; Gail Enman, 27 Hartland Way # 106; George and Hulen Kornfeld, 37 Hartland Way; Richard and Ann Marchand, 5 Preston Way; Elizabeth M. Kurczynski, MD, 20 Preston Way; Louise and Alan Pooler, 22 Preston Way; and Thomas Vantre, 11 John Francis Way.

the warehouse, and approved, retroactively, the subdivision that removed "Lot B" from the Site. See, 1988 ANR Plan attached hereto as Exhibit A (the "1988 Plan"). Significantly, when the permit was issued in 1986, the Board found that the use of the Site would be limited to brushing stain onto wood products by a small team of employees, and that the construction of the building would not add any new employees or traffic. The Board further found that the approved site plan "provides for the protection of adjoining land against seriously detrimental or offensive uses on the site," and that the plan "will provide an adequate buffer between the site and adjacent properties." See, 1986 Permit, attached as Exhibit B.

Trudeau's predecessor-in-title conveyed the portion of the Site shown as "Lot B" on the 1988 Plan to the Robbins Brook development in 2001, and Lot B now comprises the senior housing that would be most affected by the proposed firewood operations. When the Project Site's owners received approvals in 1986, there was no discussion of Lot B being used for senior housing, or the land directly adjacent to Lot B being used for firewood processing. Even when the permit was amended in 2001, the owners made no mention of a future use of the Site for wood cutting operations.

Wood processing began on the Site sometime in 2010. My clients initiated communications with town zoning enforcement officials in 2011, and on January 10, 2012 the Zoning Enforcement Officer Scott Mutch sent an enforcement letter to Trudeau, explaining that the wood operations were in violation of the Zoning Bylaw.

In September, 2012, Trudeau signed a lease with the Concord-Carlisle Regional School District to park school buses on the Project Site. See, Exhibit C attached. Parking facilities are prohibited in the underlying SM zoning district, and to our knowledge the Town has not reviewed any site plans showing the location of the parked buses, or the operational details such as internal traffic circulation, compatibility of bus parking with existing uses of the Site, and environmental impacts from these vehicles. Under Section 3.5.23, Site Plan Special Permit review is required for any proposed parking facility, for good reason. Presumably, Trudeau is relying on the educational use exemption under G.L. c. 40A, §3. However, that statute protects only the *use* of the property from restrictive zoning regulation; it does not preclude a municipality from applying "reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements." G.L. c. 40A, §3. Without site plan review, the current use of parking buses on the Site is in violation of the Zoning Bylaw.

**B. The Application Deficiencies**

As noted, the current proposal before the Board of Selectmen is to allow by special permit a firewood processing operation. The one-page application form lists the applicant as Jacob Abraham, and the owner as "Acton Realty, LLC." As noted above, the record title owner is the 848 Main Street Nominee Trust, not Acton Realty, LLC. Acton Realty, LLC is entity that is contracting with the Concord-Carlisle Regional School District, and from what we can tell, has no property interest in the Project Site.

In addition to the one-page application form, there is a two-page letter that offers a narrative of the proposed operations. Attached to that letter is a summary of “noise levels,” at the Project site (“57 Dd”) and “log truck actively loading logs” (“63 Dd”).<sup>2</sup> The summary also provides noise data for “firewood processor measured off site in an open field actively processing and loading wood.” The Applicant also submitted a one-page document with two aerial photographs of the Project Site (undated), with an area marked as the approximate location of the firewood processor. The photographs depict a heavily-wooded area behind the warehouse building that does not accurately represent current conditions – many of the trees were taken down to accommodate the illegal firewood manufacturing operation in 2011. Additional photographs of the Project Site from the MassGIS website are attached as Exhibit D. The Applicant has provided no other information to the Board as of today, which I have confirmed with the Town’s planning department.

As a preliminary matter, we believe the application should be one for “Site Plan Special Permit” under Section 10.4, and not simply a “use” special permit under Section 10.3. Specifically, 10.4.1.2 provides that a site plan special permit is required “where a USE designated as requiring a Site Plan Special Permit on the Table of PRINCIPAL USES is expanded in ground area by 1,200 square feet or more of either impervious material, open storage or any area of the site devoted to the conduct of the PRINCIPAL or ACCESSORY USE.” “Manufacturing” requires a Site Plan Special Permit under the Table of Principal Uses. While the Applicant has not shown the size of the proposed wood processing operation, it would be nearly impossible to contain it within 1,200 square feet. Indeed, the photographs of the illegal operation in 2011 depict an area much larger than 1,200 square feet.

Under Section 10.4.3, an applicant must demonstrate to the Board’s satisfaction that the proposal complies with specific “site design standard,” including those pertaining to stormwater runoff, parking and outdoor lighting. The Board must also make the following findings as a predicate to issuing a Site Plan Special Permit:

- 10.4.5.1 The plan is consistent with the Master Plan.
- 10.4.5.2 The plan protects the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
- 10.4.5.3 The plan provides 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.
- 10.4.5.4 The plan provides an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
- 10.4.5.5 The plan provides adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.

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<sup>2/</sup> The abbreviation “Dd” is not a recognized noise measurement. The abbreviation for decibel is “dB.”

- 10.4.5.6 The plan will not derogate from the intent of this Bylaw to limit the adverse effects of the USE and development of land on the surface and groundwater resources of the Town of Acton. If a proposed USE has obtained a special permit from the Planning Board under Section 4.3 of this Bylaw, the requirement of this Section shall be deemed to have been met.
- 10.4.5.7 The plan complies with all applicable requirements of this Bylaw.

The Applicant has failed to present any scaled site plans, much less an explanation on how the proposal complies with any of the Section 10.4.3 site design standards, or the Section 10.4.5 criteria. Further, the minimal data that has been provided lacks foundation and credibility; for example, the noise data lacks any information on how, when or by whom the data was collected. In evaluating this information it would be important to know on what specific days and at what times during the day the ambient noise levels were measured, and how often they were measured. Was sound measured at the Site's shared lot line with the abutters on Hartland Way, or was it measured at the Site's frontage on Main Street? Further, the conditions at the "open field" where sound from the wood processing equipment was supposedly measured are also unknown. Without significantly more information on the parameters of this data collection, its usefulness to the Board is marginal.

The application is missing other important information, such as the proposed house of operation, whether any exterior lighting will be installed, what type of equipment will be used, including all light and heavy machinery and vehicles, how many employees are expected to work on the Site and where they will park, what interior facilities will be used to support the proposed operation, such as offices, kitchen, locker room, bathrooms, etc., what types of safety and fire protection measures will be implemented, and what type of signage, if any, will be installed. As noted above, the photos provided by the Applicant are outdated, and suggest a natural buffer that simply doesn't exist. There is a pond on the Site, which is in close proximity to where the wood operation is proposed. There is also a wetland area behind the Project Site, on the other side of the railroad right-of-way. The proposed operation's impacts on these potential wetland resource areas should be measured and reported to the Board. If the pond is a jurisdictional wetland, the Applicant will need to demonstrate to the satisfaction of the Conservation Commission that untreated runoff, that could potentially include sawdust and other wood waste, will not flow into the pond.

Most importantly, the Applicant should be required to submit for the Board's review a scaled site plan signed and stamped by a registered professional engineer showing the precise locations on the Site where the proposed activities will take place. Specifically, the plan should show the locations of the machinery that will be used, the area where unprocessed and processed wood will be stacked or stored, driveways and parking areas for the equipment that will load wood off of and onto trucks, and employee parking. The site plan should show how this operation would be compatible with the existing businesses on the Project Site, including the school bus parking, with specific attention to internal traffic circulation. Without this and other additional supporting information, it would be impossible for the Board to make the findings necessary to issue the requested Site Plan Special Permit.

**Recommendation #1:** Require the Applicant to submit all information and materials typically required by the Board for a Site Plan Special Permit application under Section 10.4, including signed and stamped engineered site plans showing all of the elements of the proposed operation. Given the nature of the proposed manufacturing use, the site plans should include separate plan sheets showing details on, among other things, how stormwater runoff will be managed, how on-site traffic circulation will be managed, how wood waste will be disposed of, and any proposed landscaping and buffering for the residential abutters. The Applicant should also submit a more robust application that addresses all of the site design standards and the decision criteria under Section 10.4, to enable the Board to make an educated decision.

**C. The Board's Review of the Application**

Assuming that the Applicant supplements his special permit application with site plans and greater detail on its proposed operations, we anticipate that the Board will measure the proposal against the site design standards and the review criteria discussed above. The Board should be mindful that uses similar to the wood processing facility being proposed are prohibited in any zoning district in Acton. Section 3.7 prohibits the commercial processing of solid waste. Also prohibited are paper mills and lumber yards. Section 3.7 prohibits "[a]ll USES that pose a present or potential hazard to human health, safety, welfare, or the environment through the emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare." Wood processing is not specifically addressed in the Zoning Bylaw.

Noise and air quality impacts, which are relevant to required finding under Section 10.4:5.2 (the plan "protects the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment"), are of utmost concern to the Neighbors. Having experienced the illegal wood cutting operation in 2011, my clients are keenly aware of the impacts, and therefore are dubious of the Applicant's representations that its operations will not exceed applicable DEP noise standard, precluding any use that increases noise levels by 10 decibels. Even so, the DEP noise standard is not, and should not, be equated with what would be deemed "offensive" or "detrimental" to the neighborhood; an increase in sound pressure level of 10 dB is generally perceived as *twice* as loud as ambient. In our opinion, the Board should evaluate the *qualitative* aspects of the noise that could be produced in addition to the *quantitative* decibels, such as the duration (is it constant or intermittent), and the type of noise being emitted (i.e., back-up alarms, chainsaws, clanging or heavy machinery, vehicular engines, etc.).

The Neighbors are also dubious of the representation made in the application that no particulate air pollution will be generated. The Board should inquire specifically into the make and models of the machinery that would be used, and determine independently what type of byproducts result from its intended use. The machinery used in this operation will also likely produce air pollution, in the form of exhaust and fumes from its diesel engines. The equipment

used to move wood around the site will also emit exhaust, as will the trucks that deliver wood to the Site, and carry processed wood away. In sum, this activity will unquestionably change the air quality on the Site and potentially on the Neighbors' properties, and therefore should be independently analyzed.

**Recommendation #2:** The Board should retain an independent sound engineer and air quality expert to evaluate the proposal's noise and air quality impacts on abutting land uses, including the Robbins Brook condominium. The cost of such peer review should be borne by the Applicant, consistent with the Planning Board's review of subdivision applications and the Zoning Board's review of Chapter 40B applications. A peer review account should be set up pursuant to G.L. c. 40, §53G to accommodate this function.

The Zoning Bylaw's Table of Standard Dimensional Regulations governs structures, but contains little regulation over outdoor activities. For example, the minimum required yards regulate setbacks between buildings and lot lines, but not outdoor uses and lot lines. Clearly, a buffer between *outdoor manufacturing* and adjacent properties is no less justified than a buffer between *buildings* and adjacent properties. In the SM district, the required yard when abutting a residential zoning district is 50 feet. It would be appropriate to apply this minimum requirement equally to outdoor manufacturing, but the Board may be justified in requiring an even greater setback depending on the intensity of the manufacturing use, and it is doubtful that a 50-foot buffer would adequately protect the residential abutters at the Robbins Brook complex.

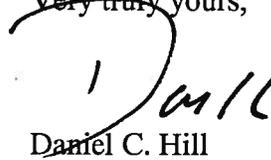
It is also questionable whether the Project Site will comply with the 35% minimum open space requirement under the Table of Standard Dimensional Regulations once the back area required for the firewood operation is subtracted from the numerator. It would be difficult to rationalize that this area should continue to be counted as "Open Space" once it is occupied by wood stockpiles, machinery and vehicles. The Applicant should be required to calculate its Open Space assuming the Site Plan Special Permit is issued for the Board's peer review. If the Open Space falls below 35%, the Special Permit cannot be issued because the Site would not comply with the Bylaw. §10.4.5.7 (the plan "complies with all applicable requirements of this Bylaw"). The Applicant should also be required to demonstrate compliance with every other dimensional standard in the Bylaw. The Project Site is located within the Zone 3 "aquifer protection district" under the Zoning Bylaw. The Board should evaluate whether any aspect of the wood processing operation will negatively affect the groundwater resources beneath the Project Site. In particular, it should solicit the advice of the Board of Health, which administers a comprehensive groundwater protection regulation.

**Recommendation #3:** The Board should require the Applicant to demonstrate that the proposed wood operations will comply in every respect to the Zoning Bylaw, in particular the dimensional standards, and evaluate the proposal's conformity with the Town's groundwater protection standards.

Acton Board of Selectmen  
November 12, 2013  
Page 7

The Neighbors thank you for your attention to this important matter and look forward to providing additional comments as the hearing continues.

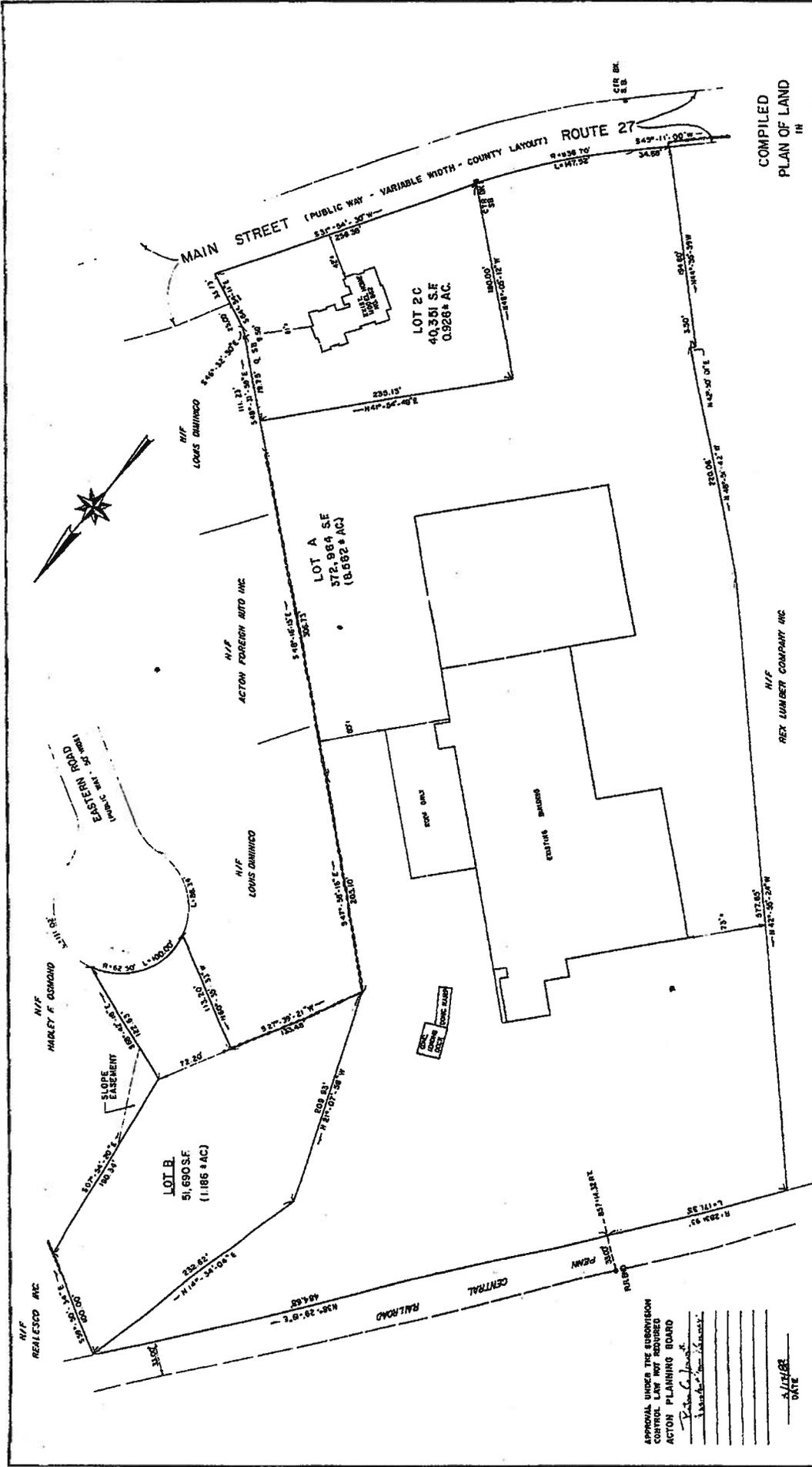
Very truly yours,

A handwritten signature in black ink, appearing to read "D Hill", is written over the typed name "Daniel C. Hill". The signature is stylized with a large, sweeping initial "D" and the letters "Hill" written in a cursive-like font.

Daniel C. Hill

Enc.

cc: Clients



COMPILED  
PLAN OF LAND  
IN

**ACTON  
MASSACHUSETTS**  
(MIDDLESEX COUNTY)

OWNED BY: DECK HOUSE  
**STAMSKI AND KOMAR**  
230 CENTRAL STREET  
ACTON, MASS. 01701  
SCALE: 1" = 40'  
MAR. 1988

**REFERENCE:**  
MIDDLESEX COUNTY DEEDS  
SOUTH DISTRICT  
DEED BOOK 13890 PAGE 87  
13890 - ORS  
PLAN NO 450 OF 959  
PLAN OF LAND IN ACTON, MASS.  
CHANGED FROM RESIDENTIAL ZONING  
BY: DR. NELSON CIVIL ENGINEERS  
144 SUDBURY RD., CONCORD, MASS.  
SCALE: 1" = 40' March 14, 1988

**RECORD OWNER:**  
DECK HOUSE, INC.  
SOUTH DISTRICT  
ACTON, MASS.

**ZONING DISTRICT:**  
COMMERCIAL INDUSTRIAL



I CERTIFY THAT THIS PLAN HAS BEEN  
PREPARED IN CONFORMANCE WITH THE RULES  
AND REGULATIONS OF THE REGISTRARS OF DEEDS  
OF THE COMMONWEALTH OF MASSACHUSETTS.  
DATE 11 MAR 88  
REX PROFESSIONAL LAND SURVEYOR

APPROVAL UNDER THE SUBDIVISION  
CONTROL LAW NOT REQUIRED  
ACTON PLANNING BOARD  
Date: \_\_\_\_\_  
Signature: \_\_\_\_\_

Middlesex Registry of Deeds  
South District  
Acton, Mass. 01701  
Plan No. 450 of 959  
Filed for Record on March 11, 1988  
at 10:15 AM in the Office of the  
Registrar of Deeds, Middlesex County, Massachusetts  
Acton, Massachusetts  
Rex Lumber Company, Inc.  
Professional Land Surveyor

BK 168896498

13:00  
 12:00 RE DECISION-Site Plan Special Permit  
 DECK HOUSE, INC.  
 #10/15/85-267 (RESOR)

Page 1 of 7.  
 February 25, 1986

11:19 RE DECISION of the Board of Selectmen (hereinafter the Board) on the petition of  
 11:19 DECK HOUSE Incorporated (hereinafter the Petitioner), for property located at  
 11:19 848 Main Street, Acton, Massachusetts owned by Deck House Incorporated. Said  
 11:19 property is shown on Acton Town Atlas map # C-5, parcel 39.

11:19 TR This decision is in response to an application submitted to the Board on  
 11:19 October 15, 1985 by the Petitioner for a Site Plan Special Permit under  
 11:19 Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to construct a  
 11:19 17,325 square feet warehouse addition and 8,640 square foot roofed storage  
 11:19 area with associated parking and drainage facilities and to use such for the  
 11:19 storage and assembly of building materials and related products under Sections  
 11:19 3.6.1 and 3.6.7 of the Bylaw.

After causing notice of the time and place of its 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 at 8:00 P.M., December 3, 1985 at the Acton Town Hall, Acton,  
 Massachusetts. Board members Gena Manalan, F Dore' Hunter, Pamela Resor,  
 John Ormsbee and Donald Gilberti were present throughout the proceedings.  
 The Petitioner was represented by Bruce Stamski of Stamski & McNary. 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 of  
 Selectmen.

Submitted for the Board's deliberation, prior to the close of the hearing,  
 were the following exhibits:

- EXHIBIT 1 A plan entitled "Site Plan of Land in Acton, MA owned by Deck  
 House,, dated February 6, 1985, revised September 18, 1985 drawn  
 by Stamski & McNary, Inc., 229 Central Street, Acton, MA"  
 Landscape Plan dated February 6, 1985 by Stamski & McNary, ANR  
 Plan signed by Armand J. Dufresne, Town Planner on December 4,  
 1984 and Sketch Drawings dated March 14, 1985.
- EXHIBIT 2 Application for Site Plan Approval dated October 2, 1985 and  
 signed by Donald R. Cameron, Vice President, Design, Deck House,  
 Inc. Letter from Building Commissioner to Deck House, Inc.,  
 dated 10/11/85; Letter from Deck House, Inc. to the Acton Board  
 of Selectmen dated October 7, 1985; Memo from Deck House, Inc.  
 to Acton Board of Selectmen dated October 2, 1985; Abutters List  
 dated September 20, 1985 signed by David W. Bolton, Assistant  
 Assessor; Revised Drainage Summary dated September 18, 1985 by  
 Stamski & McNary
- EXHIBIT 3 Certified Mail Receipts presented to the Board of Selectmen  
 December 3, 1985.
- EXHIBIT 4 Memo from Building Commissioner to Town Manager dated November  
 25, 1985; Board of Appeals Decision dated July 26, 1984 signed  
 by the Acton Board of Appeals; Memo from DPW/Engineering to Town

MAILED 10/11/85  
 BOOK 12734 PAGE 647

DECISION-Site Plan Special Permit  
DECK HOUSE, INC.  
#10/15/85-267 (RESOR)

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February 25, 1986

Manager dated November 18, 1985; Memo from Board of Health to Town Manager dated November 21, 1985; Memo from Town Planner to Building Commissioner dated November 5, 1985; Memo from Director of Municipal Properties to Building Commissioner dated October 24, 1985; Memo from Fire Department to Town Manager dated November 21, 1985 and Memo from Conservation Commission to Board of Selectmen dated November 22, 1985.

Exhibits 1 and 2 are referred to hereinafter as the Plan.

FINDINGS Based upon its review of the Exhibits and the record of the proceeding, the Board found that:

1. The conditional approval of the Board of Selectmen on previous Site Development Plan #3/7/78-149 prohibited further subdivision or development of the subject property without further site plan approval.
2. In 1984 the petitioner submitted a "Subdivision Approval not Required" plan to the Planning Board for endorsement. This plan had the effect of separating two lots (B and C) away from the original parcel of land which was the subject of Site Development Plan #149. This plan was endorsed by the Planning Board on December 4, 1984.
3. The petitioner is seeking retroactive approval from the Board of Selectmen to allow the Subdivision Approval not Required plan noted above to remain in effect.
4. The proposed development is in an area defined as a Aquifer Fringe Area under Section 4.3 of the bylaw.
5. The petitioner anticipates that no new employees will be located at this property in connection with the proposed addition. It is expected that there will be no change in the existing septic and traffic conditions at the site.
6. The petitioner currently conducts a limited material finishing process at the locus which consists of brushing stain onto wood products from one to five gallon cans. This process is not expected to change.

Based upon these findings, the record of the proceedings, and exhibits, the Board of Selectmen concludes that:

1. This Site Development Plan represents a reasonable and acceptable amendment to the earlier plan which was approved for Deck House Incorporated (Site Development Plan #3/7/78-149) at the locus. To the extent that this approval alters or amends the earlier approval, and only to that extent, this Decision may be construed as relief from the former condition #5 which prohibited further subdivision or development of the site without further site plan approval.
2. The Plan, along with the additional conditions contained in this Decision, provides for the protection of adjoining land against seriously detrimental or offensive uses on the site.

DECISION-Site Plan Special Permit  
DECK HOUSE, INC.  
#10/15/85-267 (RESOR)

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February 25, 1986

3. The Plan, combined with the additional conditions as contained in this Decision, will provide an adequate buffer between the site and adjacent properties.
4. The Plan provides for the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and land.
5. The Plan, along with the additional conditions contained in this Decision, provides adequate methods for disposal for sewage, refuse and other wastes from the uses permitted on the site..
6. The Plan, as herein amended, will provide adequate protection for the groundwater resources in this Aquifer Fringe Area. The granting of this permit will not derogate from the intent of the Bylaw to limit the adverse effects of the use and development of this land on the surface and groundwater resources in the area.
7. The Plan, as herein amended, provides adequate consideration of the natural resources, topography and hydrologic and geologic conditions of the site and surrounding area.
8. The storm drainage system, as herein amended, will provide adequate drainage for surface water from the parking lot and driveway areas.
9. The Plan, as herein amended, provides adequate parking for the proposed development.
10. The proposed expansion of the existing facilities at the subject property is acceptable under the Town of Acton Protective Zoning Bylaw. The grant of this Special Permit will be in harmony with the general purposes and intent of the bylaw.
11. Subject to the conditions of approval contained in this Decision, all requirements and conditions for the granting of a Site Plan Special Permit, as contained in the Zoning Bylaw, have been satisfied.

THEREFORE, the Board voted to GRANT the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations:

1. PLAN MODIFICATIONS: Prior to the issuance of a building permit or the start of any construction activity 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 issue any building permit nor shall he permit any construction activity to be begun 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

DECISION-Site Plan Special Permit  
DECK HOUSE, INC.  
#10/15/85-267 (RESOR)

Page 4 of 7.  
February 25, 1986

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.

- 1.1 DRAINAGE - The Plan shall be revised to limit the rate of stormwater runoff for the ten year storm to zero increase over present runoff conditions.
  - 1.2 PLAN DISCREPANCIES - Several discrepancies are noted between proposed conditions on the Site Plan and those on the landscaping plan. Such discrepancies include whether the trailer storage area will extend to the lot line at Lot C or be held ten feet off of that line, whether the trailer storage access drive is paved or gravel base, etc. Such discrepancies shall be resolved in the two plans.
  - 1.3 LANDSCAPING - The landscaping plan shall be amended to provide additional landscape screening along the southeasterly lot line between Lot A and Lot C.
2. **CONDITIONS:** The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions shall render the permit granted herein to be null and void and without force or effect.
- 2.1 AQUIFER PROTECTION - In part, the Board of Selectmen has determined that this proposed expansion will not be detrimental to the Aquifer Fringe Area in which it is located because the petitioner has indicated that there will be no increase in employees and consequently no increase in load on the septic system. Accordingly, it is a condition of this approval that the number of employees at this locus shall not exceed 15 (the quantity for which parking is provided under the parking computations in the Site Plan Application).
  - 2.2 HAZARDOUS MATERIALS - Petitioner shall comply with all requirements of the Town of Acton Hazardous Materials Control Bylaw. Further, in order to minimize possible negative impacts on the Aquifer Fringe Area, there shall be no storage, production, use or disposal of hazardous materials at the subject property. No salts or other chemicals shall be used for the purpose of snow removal on this site.
  - 2.3 TRAFFIC STUDY AGREEMENT - Prior to the issuance of a Building Permit or the start of any work Petitioner shall submit, for the written approval of the Board of Selectmen, a letter of agreement stating that at such time as traffic conditions on Main Street, in the opinion of the Board of Selectmen, reach proportions that constitute a hazard to the citizens of the Town of Acton, the Petitioner will contribute (on a pro rata basis) a fair share toward a traffic study to be conducted at the direction of and to the satisfaction of the Board of Selectmen, focused on alleviating the problems. The Petitioner's share is to be based on metering of traffic to and from the subject property. The Petitioner herein agrees to assume all costs necessary

and associated with the metering of traffic associated with the subject property. No salts or other chemicals shall be used for the purpose of snow removal on this site.

- 2.4 COMPLIANCE OF OUTDOOR LIGHTING FACILITIES - Upon the completion of construction but prior to occupancy of any buildings on the site, any outdoor lighting facilities shown on the Plan and intended to be installed shall be inspected by the Building Commissioner to determine the compliance of said facilities with the requirements of the Bylaw. Should any or all of the outdoor lighting facilities fail to comply with the requirements of the Bylaw, the Petitioner shall cause such facilities to comply with the Bylaw requirements at his sole expense.
- 2.5 CERTIFICATE OF USE AND OCCUPANCY - No building or structure authorized by this permit shall be occupied or used, and no activity, except the construction activity authorized by this permit, shall be conducted on the site until a Certificate of Use and Occupancy has been issued by the Building Commissioner.
- 2.6 Due to the location of this site within an area designated as an Aquifer Protection Area under Section 4.03 of the by-law, prior to the issuance of a Building Permit or the start of any work on the site, the petitioner shall submit, for the written approval of the Board of Selectmen, a letter of agreement stating that the Petitioner will provide up to three monitoring wells as required for the purpose of monitoring the general quality of Acton's water supply and providing an early warning to the Water District of potential problems. The Petitioner will herein agree to assume all costs necessary and associated with the provision of up to three monitoring wells estimated at approximately \$1,000 each, and easement and access to the Town of Acton and the Acton Water District for the purpose of taking water samples.
- 2.7 CHANGE IN USE: No change in the use of this site shall be undertaken without written approval of the Board of Selectmen.
3. LIMITATIONS: The authority granted to the Petitioner by this permit is limited as follows:
  - 3.1 Applicability of Permit - This permit applies only to the site which is the subject of this petition. All construction to be conducted on the site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
  - 3.2 Limitation on Further Development - There shall be no further development of this site without written consent of the Board of Selectmen.
  - 3.3 Other Permits or Approvals - 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.

DECISION-Site Plan Special Permit  
DECK HOUSE, INC.  
#10/15/85-267 (RESOR)

Page 6 of 7.  
February 25, 1986

- 3.4 Signs - No approval of any indicated signs or advertising devices is implied by this decision.
- 3.5 Bylaw Compliance - 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.
- 3.5 Amendment of Permit The Board hereby reserves its powers to modify or amend the terms and conditions of this special permit upon its own motion or on the application of the owner, leasee, or mortgagee of the premises. The Board further reserves its powers to amend this permit without a new public hearing provided the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw or with the terms of this permit.
- 3.6 Lapse of Permit - This Site Plan Special Permit shall lapse on February 25, 1988 if a substantial use thereof has not sooner commenced except for good cause or if construction has not begun by said date except for good cause. Any request for an extension of the time limitation set forth herein must be made in writing to the Board at least 30 days prior to February 25, 1988 and the Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant any extension as herein provided unless it finds that the use of the property in question or construction on the site has not begun except for good cause.

BK 1688926504

DECISION-Site Plan Special Permit  
DECK HOUSE, INC.  
#10/15/85-267 (RESOR)

Page 7 of 7.  
February 25, 1986

3.7 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 hands this 25<sup>th</sup> day of February, 1986

ACTION BOARD OF SELECTMEN

Gena G. Manalan  
BOARD OF SELECTMEN/  
Gena G. Manalan, Chairman

I, Ann Simeone, hereby do certify that this is a true copy of the decision of the Board of Selectmen.

2/25/86

Ann Simeone  
Selectmen's Secretary

2/26/86  
Date Filed with Town Clerk

Lydia Allred  
Lydia Allred, Town Clerk

To Whom It May Concern: This is to certify that the 20 day appeal period on the decision of Deck House, Inc. has passed and there have been no appeals made to this office.

April 3, 1986  
Date

Ann Simeone  
Town Clerk

Copy Sent to: Petitioner - Certified Mail #  
Board of Health  
Planning Board  
Conservation Commission  
Board of Appeals  
Town Engineer  
Building Commissioner  
Board of Assessors  
Town Clerk  
Water District  
Building & Grounds  
Planning Boards - Littleton, Westford, Maynard  
Carlisle, Concord, Boxborough  
Stow, Sudbury

acs  
0595N

1-2

AMENDED DECISION

Site Plan Special Permit #10/15/85-267  
848 Main Street

Page 1 of 2

#####

Property Address: 848-852 Main Street, Acton, MA  
MSD 02-25/94 19:11:28 289 10.00

Amended decision of the Board of Selectmen on the Petition of Donald R. Cameron on behalf of Deck House for the property located at 848-852 Main Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas map C5 parcels 39 and 39-1.

This Decision is in response to an application submitted to the Board on November 16, 1993 to amend the existing Site Plan Special Permit.

The Board exercises its powers to amend this permit without a new public hearing in that the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw and the terms of the permit.

Submitted for the Board's deliberation prior to the close of the meeting were the following exhibits:

Exhibit I

Letter to the Board dated November 16, 1993 from Donald R. Cameron VP. of Design for Deck House Inc.; one sheet for Lot A-1, Site Plan revised 10/10/93.

Exhibit II

Interdepartmental Communication from the Building Commissioner to the Board dated 11/24/93.

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

1. The Site Plan Special Permit #10/15/85-267 remains in full force and effect with this Amendment affecting only those issues that are hereinafter listed.
2. The Petitioner may construct an 8616 square foot roof addition over an existing paved area as shown on the plan listed as Exhibit I.
3. The Petitioner shall construct a sidewalk along its entire frontage. Prior to the issuance of a building permit, the Petitioner shall provide a plan showing the location and construction details of said sidewalk. This sidewalk shall be 5' wide and constructed to subdivision standards and meet the approval of the Building Commissioner. The Petitioner shall provide a cash security, a sum to be equal to \$30. per lineal foot of sidewalk at the time the building permit is issued. This sidewalk shall be constructed within one year of issuance of the building permit or the security shall be forfeited and used by the Town to construct the sidewalk. Any time within the year that the sidewalk has been satisfactorily completed the security shall be returned to the petitioner under the direction of the Town Manager.

AMENDED DECISION

Site Plan Special Permit #10/15/85-267  
848 Main Street

Page 2 of 2

#####

The Board of Selectmen voted to GRANT the requested Site Plan Special Permit Amendment.

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 4 day of January, 1994.

[Signature]  
F. Dore Hunter, Chairman

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

[Signature]  
Christine Joyce, Recording Secretary

January 5, 1994  
Date filed with Town Clerk

[Signature]  
Catherine Belbin, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Amended Decision of Deck House Inc. has passed and there have been no appeals made to this office.

February 24, 1994  
Date

[Signature]  
Catherine Belbin, Town Clerk

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



Bk: 37568 Pg: 220  
Recorded: D1/D6/2003  
Document: 00000418 Page: 1 of 5

RECEIVED & FILED  
DATE Nov 20, 2001

5M  
Philly

TOWN OF ACTON  
BOARD OF SELECTMEN

Eric H. Bowen  
TOWN CLERK, ACTON

SITE PLAN SPECIAL PERMIT  
PERMIT # 10/15/85-267

848 MAIN STREET, ACTON, MASSACHUSETTS

AMENDMENT OF DECISION II

The Applicant has requested certain modifications to Site Plan Special Permit 10/15/85-267 (the "Permit"). The requested change would involve a land swap as shown on plan dated June 19, 2001.

Pursuant to Section 3.5 of the Permit, the Board of Selectmen reserved the right to amend the Permit at the request of the Applicant. The changes set forth herein do not change the result of the original decision.

owner: Deck HOUSE

Except as specifically amended by this Amendment of Decision, the Permit is in full force and effect.

WITNESS our hand this 20<sup>th</sup> day of November, 2001.

Board of Selectmen,

By, Peter Ashton Chairman

6889 498

Property: 848 Main St, Acton, MA

RECEIVED & FILED

DATE February 29, 1994

Barbara Brown  
TOWN CLERK, ACTON

AMENDED DECISION

Site Plan Special Permit #10/15/85-267  
848 Main Street

Page 1 of 2

#####

Amended decision of the Board of Selectmen on the Petition of Donald R. Cameron on behalf of Deck House for the property located at 848-852 Main Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas map C5 parcels 39 and 39-1.

This Decision is in response to an application submitted to the Board on November 16, 1993 to amend the existing Site Plan Special Permit.

The Board exercises its powers to amend this permit without a new public hearing in that the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw and the terms of the permit.

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Exhibit II

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

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2. The Petitioner may construct an 8616 square foot roof addition over an existing paved area as shown on the plan listed as Exhibit I.
3. The Petitioner shall construct a sidewalk along its entire frontage. Prior to the issuance of a building permit, the Petitioner shall provide a plan showing the location and construction details of said sidewalk. This sidewalk shall be 5' wide and constructed to subdivision standards and meet the approval of the Building Commissioner. The Petitioner shall provide a cash security, a sum to be equal to \$30. per lineal foot of sidewalk at the time the building permit is issued. This sidewalk shall be constructed within one year of issuance of the building permit or the security shall be forfeited and used by the Town to construct the sidewalk. Any time within the year that the sidewalk has been satisfactorily completed the security shall be returned to the petitioner under the direction of the Town Manager.

AMENDED DECISION

Site Plan Special Permit #10/15/85-267  
848 Main Street

Page 2 of 2

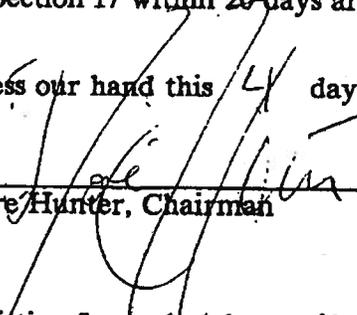
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The Board of Selectmen voted to GRANT the requested Site Plan Special Permit Amendment.

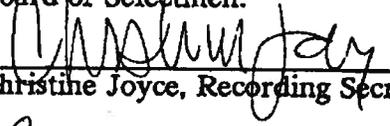
Appeals

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 4 day of January, 1994.

  
\_\_\_\_\_  
F. Dore Hunter, Chairman

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

  
\_\_\_\_\_  
Christine Joyce, Recording Secretary

January 5, 1994  
\_\_\_\_\_  
Date filed with Town Clerk

  
\_\_\_\_\_  
Catherine Belbin, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Amended Decision of Deck House Inc. has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Catherine Belbin, Town Clerk

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

AMENDED DECISION

Site Plan Special Permit #10/15/85-267  
848 Main Street

Page 2 of 2

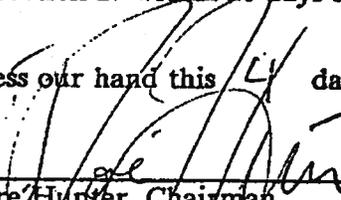
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The Board of Selectmen voted to GRANT the requested Site Plan Special Permit Amendment. ✓

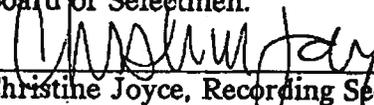
Appeals

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.

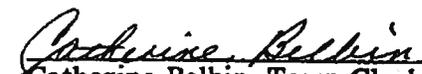
Witness our hand this 14 day of January, 1994.

  
\_\_\_\_\_  
F. Dore Hunter, Chairman

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

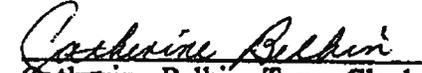
  
\_\_\_\_\_  
Christine Joyce, Recording Secretary

January 5, 1994  
\_\_\_\_\_  
Date filed with Town Clerk

  
\_\_\_\_\_  
Catherine Belbin, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Amended Decision of Deck House Inc. has passed and there have been no appeals made to this office.

February 24, 1994  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Catherine Belbin, Town Clerk

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



**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 264-9615  
Fax (978) 264-9630  
[clerk@town.acton.ma.us](mailto:clerk@town.acton.ma.us)

Town Clerk

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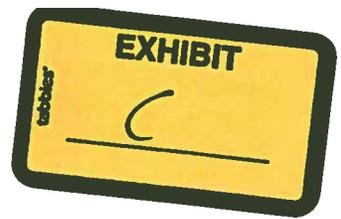
April 30, 2002

**TO WHOM IT MAY CONCERN:**

This is to certify that the attached Board of Selectmen Amendment of Decision II, for Site Plan Special Permit (#10/15/85-267) on the Petition by Donald R. Cameron, on behalf of Deck House, at 848 Main Street, Acton, MA, was filed with the Town Clerk's Office on November 20, 2001.

The 20-day appeal period has expired and there have been no appeals made to this office.

  
Eva K. Bowen  
Asst. Town Clerk



**CONCORD PUBLIC SCHOOLS  
CONCORD-CARLISLE REGIONAL SCHOOL DISTRICT**

120 MERIAM ROAD, CONCORD, MA 01742    PHONE: 978.341.2490    FAX: 978.318.1539    <http://www.concordpublicschools.net/>

**TO:**        Concord & Concord-Carlisle Regional School District  
**FROM:**    John Flaherty, Deputy Superintendent for Finance and Operations  
**DATE:**    September 12, 2012  
**RE:**        **School Bus and Vehicle Parking RFP – Bid Award**

There was one (1) proposal received for the school bus and vehicle parking RFP. The bid opening took place on August 31, 2012 at 10:00 AM. The proposal is priced at \$48,000 for the first year in monthly payments of \$4,000.

Thomas Trudeau of Acton Reality LLC submitted the proposal for the property located at 848 Main Street in Acton, MA.

A review of the proposal documents indicates all requirements are met. The evaluation committee consisting of John Flaherty, Matt Wells, and Wayne Busa toured the location and arrived at a composite score of Advantageous for the property. Accordingly, I would recommend that Thomas Trudeau of Acton Reality LLC be awarded the contract for the parking of school buses and vehicles at the property located at 848 Main Street in Acton, MA.

**Should you agree, an appropriate motion for the Concord School Committee would be:**

**Vote to award the contract for parking of school buses and vehicles to Thomas Trudeau of Acton Reality LLC of Acton, MA for the property located at 848 Main Street, Acton, MA in the amount of \$48,000 payable in monthly payments of \$4,000.**

**Should you agree, an appropriate motion for the Concord-Carlisle Regional School Committee would be:**

**Vote to award the contract for parking of school buses and vehicles to Thomas Trudeau of Acton Reality LLC of Acton, MA for the property located at 848 Main Street, Acton, MA in the amount of \$48,000 payable in monthly payments of \$4,000.**

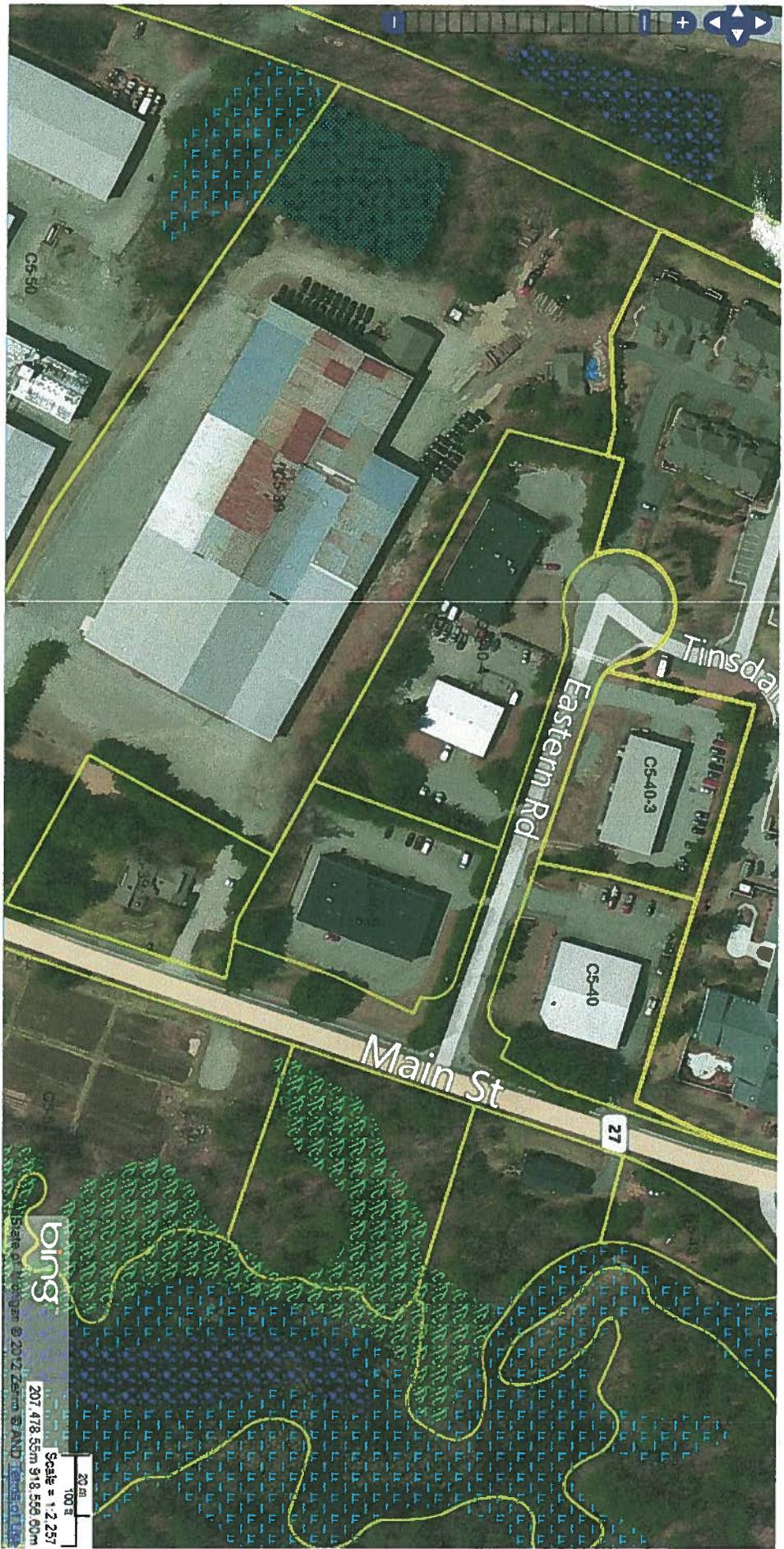
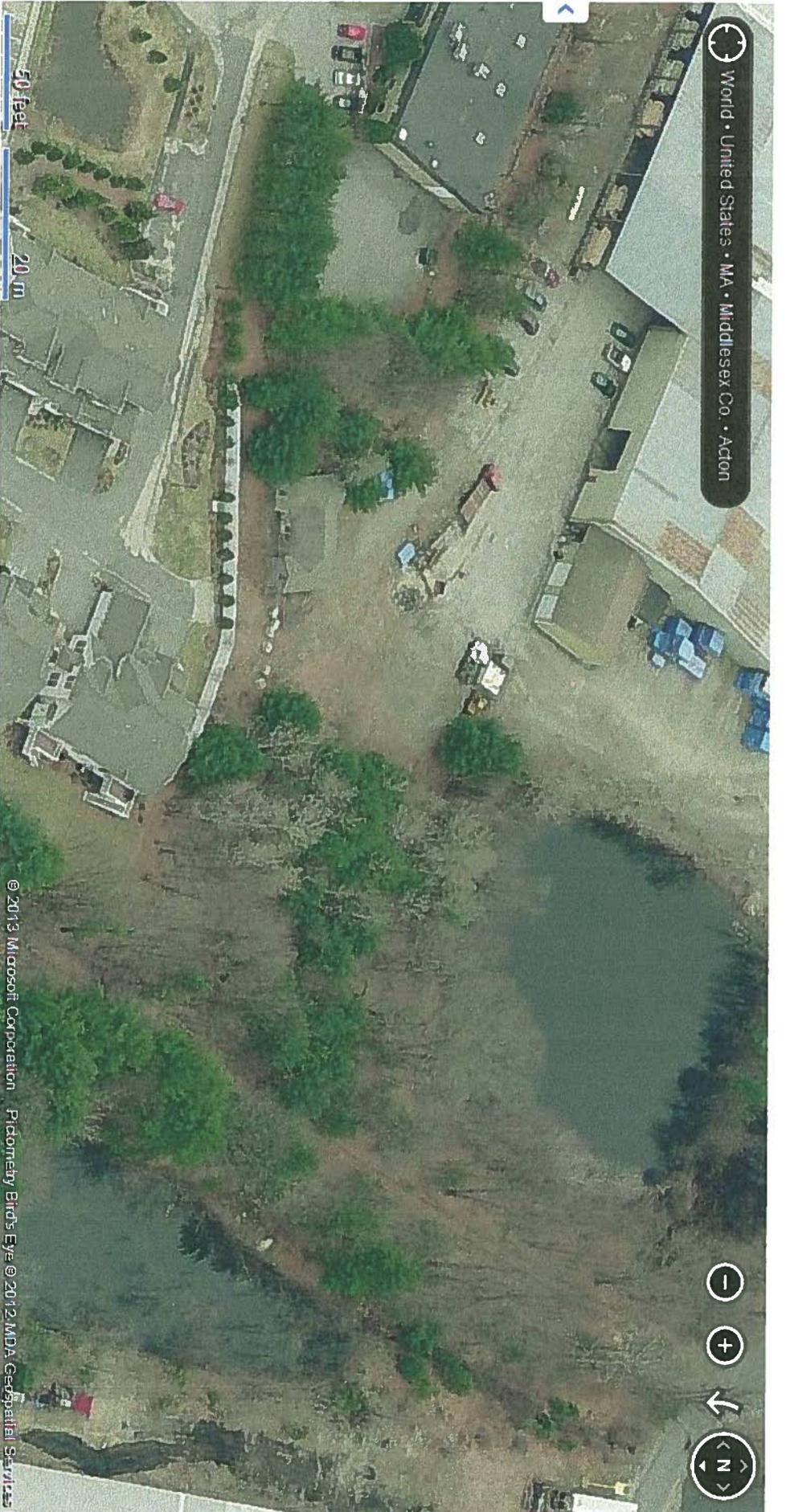


EXHIBIT  
D





World • United States • MA • Middlesex Co. • Acton

50 feet

20 m



EXHIBIT  
E



12/14/2011 16:53



November 14, 2013

**BY ELECTRONIC MAIL: [bos@acton-ma.gov](mailto:bos@acton-ma.gov)**

Acton Board of Selectmen  
Acton Town Hall  
472 Main St.  
Acton, MA 01720

Re: 848 Main Street, Acton – Special Permit Application

Dear Members of the Board:

As you know, this firm represents neighbors and abutters to the proposed wood processing operation located at 848 Main Street in Acton, on land identified as Assessor's Map C5, Parcel 39 (the "Project Site").<sup>1</sup> It has come to our attention that the Board of Selectmen is planning to continue Monday's public hearing on this special permit application to January 6, 2014. My clients have been told that the purported reason for this continuance is that the Applicant Jacob Abraham was unable to obtain a survey of the Project Site, to respond to a question posed by the Town's planning staff concerning the percentage of open space on the Project Site under existing and proposed conditions.

Several of the neighbors in the abutting Robbins Brook retirement community will be out-of-town on January 6<sup>th</sup>, some of whom spend winters in warmer climates. As such, they will be deprived of the opportunity to voice their concerns with the proposed use of the Project Site, which stands to significantly disrupt their quality of life in retirement. This continuance seems to benefit only the Applicant, who's special permit application failed to include the barest of details of the proposed outdoor manufacturing use, such as a site plan showing the locations of the various elements of this operation. This continuance is prejudicial to Neighbors, who are prepared for this hearing, and who met the Board's Noon on Wednesday deadline for submitting evidence. We question why the Board is accommodating the Applicant in this regard, instead of

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<sup>1/</sup> For purposes of this letter, my clients are: Patricia and Robert Jones of 47 Hartland Way; Gerald Marilyn and David Portyrata, 1 Tinsdale Dr; Art and Amy Vartoukian, 39 Hartland Way; Doug and Jan Deyoe, 41 Hartland Way; Roger and Suzanne Winsby, 12 Preston Way; Linda Larson, 22 Devon Drive; Cedrid F and Arlette E Harriing, 18 Preston Way; Leo E Lemer, Jr, 4 Tinsdale Dr; Sandra C. King, 21 Devon Drive; John and Arlene Parillo, 16 Preston Way; Anthony and Janice Vuolo, 8 Preston Way; Robert and Kay Barta, 43 Hartland Way; Patricia Higgins, 45 Hartland Way; Tom and Jody Shea, 3 Tinsdale; Joe and Mary Najjar, 35 Hartland Way; Helen and Ray Taylor, 1 Preston Way; Peggy Rothrauff, 16 Hartland Way; Marcia Anderson, 17 Hartland Way; Rita and Alan Kaprelian, 17 John Francis Way; Gail Enman, 27 Hartland Way # 106; George and Hulen Kornfeld, 37 Hartland Way; Richard and Ann Marchand, 5 Preston Way; Elizabeth M. Kurczynski, MD, 20 Preston Way; Louise and Alan Pooler, 22 Preston Way; and Thomas Vantre, 11 John Francis Way.

Acton Board of Selectmen

November 14, 2013

Page 2

asking the Applicant to withdraw its application and come back when he is more prepared. The Board would also be justified in denying the application for incompleteness. We would respectfully request that the hearing proceed as publicly noticed on Monday evening.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel C. Hill". The signature is stylized and written over the printed name.

Daniel C. Hill

cc: Clients

**H. W. FLOOD, P.E., Ch.E.**  
**6 Preston Way**  
**Acton, MA 01720-5877**  
e-mail: [harold\\_f\\_01720@yahoo.com](mailto:harold_f_01720@yahoo.com)  
Telephone: 978-263-2551 Cell: 978-621-4891

November 29, 2013

Mr. Mike Gowing, Clerk  
Board of Selectmen  
Town of Acton  
472 Main Street  
Acton, MA 01720

Dear Mike:

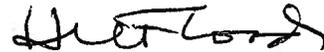
I'm not sure that I know or understand the current status of the AXE brother's request for special permit to resume their previously illegal firewood operation. I suspect that the selectmen are very well informed as to the legal requirements for granting this request and I will not attempt to lecture you in this regard.

I did want to point out that this operation, if granted, will add to the need of that portion of Acton, north of Harris Street, for better fire and emergency services. The selectmen, and/or the Town Manager, have recognized this need and are in the process of forming a task force to suggest improvements. The proposed operation, regardless of the petitioner's best efforts will require the Town's attention to the possibility of an out-of-control fire while the operations themselves are inherently physically dangerous. In addition, the operation requires the transport of raw material and completed product via large heavy trucks, this will undoubtedly add to the traffic load in this section of Route #27. (Has the petitioner provided a detailed study of the effect of this additional traffic?) In short, the proposed operation poses an additional load on an already vulnerable and rapidly growing section of the town. I hope that you-all will consider these factors as you debate the request for a special permit.

The impact of this operation upon the established condominium community next door has been previously detailed and I will not repeat these concerns.

If I can help get this matter resolved, I hope that you will not hesitate to contact me.

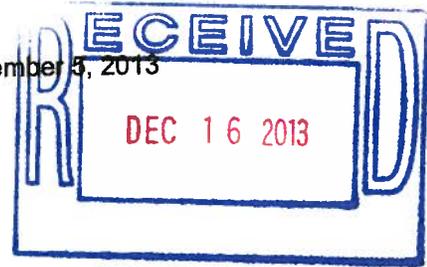
Regards:

A handwritten signature in black ink, appearing to read "H.W. Flood".

H.W.Flood, PE #8472

CC: Mr. & Mrs Rob Jones  
47 Hartland Way  
Acton, MA 01720

December 5, 2013



Acton Town Hall  
Board of Selectmen  
472 Main Street  
Acton, MA 01720

RE: Special Permit Application #10/11/13-445 Clough

Dear Board of Selectmen:

The Robbins Brook Condominium Trust would like to express its opposition to the granting of a special permit for the manufacture of firewood at 848 Main Street in Acton.

The Robbins Brook Community is organized under the laws of the state of Massachusetts for the purposes of providing suitable living accommodations for senior citizens. Our residents have purchased property in this association with the assurance that the by-laws of the Town of Acton were well established and enforced. They have relied upon the Town of Acton to enforce these regulations. We strongly believe that this association has brought great benefits to the Town of Acton by providing additional tax revenues, employment and business opportunities throughout the local community.

The requested permit would change the conditions under which the residents purchased their homes and endanger the bucolic environment found in the Town of Acton. The approval of the subject permit will jeopardize the property values of our residents and cause them to reconsider the basis for which they initially purchased these desirable homes. The present environment has thus far encouraged residents to enjoy their increasing property values, which continue to grow as more units are added to the association's dwelling space. What was originally a burden upon the Town of Acton, because of the need for town services, has become a self-supporting association that provides for its own maintenance and upkeep. In addition, the association consists of retirees who have no children to be educated, placing even less of a burden upon strained town facilities. While at the same time, the increase in taxes to the Town of Acton is significant.

The proposed Special Permit approval would jeopardize the health and well being of our residents due to added noise and air pollution. Our residents would no longer be able to enjoy their outdoor spaces in peace and tranquility. Many Robbins Brook residents moved to Acton to be near their children and grandchildren and support many school, cultural and sporting activities. Their presence is an important stabilizing force in the Acton community.

The association respectfully requests that the Town of Acton reject the Special Permit #10/11/13-445 Clough, and thereby maintain the current positive living environment for its present and new citizens.

Sincerely,

Helen Taylor  
Secretary  
The Robbins Brook Condominium Trust

## No Axe Bros Special Permit

About this petition

Please sign this petition to Oppose the Axe Brothers Special Permit Application to manufacture FIREWOOD next to Robbins Brook.

If allowed, this is what we will have next to us:

Large Trucks entering and leaving Trudeau International carrying timber.

Large Equipment to load and unload timber.

Saws and Splitters creating noise, dust, air pollution.

Storage and Transportation of Split wood.

We object to the Wood Cutting, Splitting and Storing

We do not want:

Excessive Noise Excessive Pollution A Fire Hazard Visual Impact with no required screening Added and Excessive Large Truck Traffic Addition of Outside Large Equipment

To: Planning / Zoning  
Board of Selectmen

Enclosed is hard copy of a  
petition signed by 48  
Acton Residents in opposition  
to the Axe Bros. Special  
Permit application - Thanks - Pat

**Pat Jones**

RECEIVED

JAN 22 2014

Town of Acton  
Planning Department

Signatures

1. Name: Pat Jones on 2013-12-09 16:37:41  
Comments: 47 Hartland Way

---

2. Name: Robert Jones on 2013-12-09 17:26:35  
Comments: We have to stop this! 47 Hartland Way

---

3. Name: Anne Fries on 2013-12-09 18:24:20  
Comments: 24 Devon Dr

---

4. Name: Margaret M. Rothrauff on 2013-12-09 18:29:56  
Comments: pgr36@verizon.net 16 Hartland Way

---

5. Name: Thomas R. Vantre on 2013-12-09 18:38:13  
Comments: 11 John Francis Way

---

6. Name: Janice Vuolo on 2013-12-09 18:49:45  
Comments: 8 Preston Way

---

7. Name: Gail Enman on 2013-12-09 19:07:03  
Comments: No, no, no to the pollution and other hazards related to the firewood operation! 27 Hartland Way # 106

---

8. Name: Anthony R. Vuolo, Sr. on 2013-12-09 19:15:27  
Comments: 8 Preston Way

---

9. Name: Patricia W. Higgins on 2013-12-09 19:17:35  
Comments: 45 Hartland Way

---

10. Name: Allan Pooler on 2013-12-09 19:37:53  
Comments: this will destroy the peace we now enjoy 22 Preston Way

---

11. Name: Ricky Ann Bauer on 2013-12-09 19:45:20  
Comments: 1 Devon Dr

---

12. Name: Cynthia Jackson on 2013-12-09 19:51:56  
Comments: This operation is currently in violation of zoning laws. And for the benefit of not only the Senior Robbins Brook Community that it imposes on, but for the future sake of the residents of this town, it should not be allowed to operate in this location. 7 Preston Way

---

13. Name: Louise Pooler on 2013-12-09 20:03:37  
Comments: 22 Preston Way

- 
14. Name: Matilda A. Sweet on 2013-12-09 20:23:11 *3 Preston Way*  
Comments:
- 
15. Name: Richard Marchand on 2013-12-09 20:36:02 *5 Preston*  
Comments: I am opposed to the manufacture of firewood on Trudeau property. This would create a unhealthy environmet for us through an increase in noise and air pollution.
- 
16. Name: Anne Marchand on 2013-12-09 20:40:14 *5 Preston*  
Comments:
- 
17. Name: Helen D. Taylor on 2013-12-09 21:17:41  
Comments: I oppose the special permit to manufacture firewood at 848 Main Street in Acton. *1 Preston way*
- 
18. Name: Mary Small on 2013-12-09 21:35:17 *2 Preston way*  
Comments:
- 
19. Name: Linda Larson on 2013-12-09 22:48:37 *22 Devon Dr*  
Comments: I thought that this was a non issue after the last meeting and a non compliance was issued.
- 
20. Name: Katherine and Robert Barta on 2013-12-09 23:31:12 *43 Hartland*  
Comments: We oppose this permit application. We are elderly and cannot believe that Acton will allow a retirement community to be so abused by an owner who doesn't care about the tranquility of this community
- 
21. Name: Rita Kaprelia on 2013-12-10 01:01:02 *14 John Francis*  
Comments:
- 
22. Name: Neil Bauer on 2013-12-10 01:35:04 *1 Devon Dr*  
Comments:
- 
23. Name: Hulen S. Kornfeld on 2013-12-10 01:57:52 *37 Hartland*  
Comments: To approve of this petition is an affront to this peace and security seeking community.
- 
24. Name: Jan Deyoe on 2013-12-10 02:04:33 *41 Hartland*  
Comments:
- 
25. Name: Douglas Deyoe on 2013-12-10 02:48:23  
Comments: The attack on out property values and the elderly and over 55 persons *41 Hartland*

is an affront to those of us who put almost our life savings into the purchase of housing in Acton

- 
26. Name: Melisse Schecter on 2013-12-10 13:46:59 *27 Hartland 101*  
Comments: If not against, what more can they demand!
- 
27. Name: Elizabeth Kurczynski on 2013-12-10 16:05:34 *Preston Way*  
Comments: This kind of noise and dust producing activity should not be allowed in city limits!
- 
28. Name: Sandra C. King on 2013-12-10 21:57:54 *21 Devon Dr*  
Comments:
- 
29. Name: Bob & Betty Jack on 2013-12-10 22:33:11 *22 Hartland*  
Comments:
- 
30. Name: Richard & Sharyn Walczewski on 2013-12-10 23:50:56 *10 Preston*  
Comments:
- 
31. Name: Jacqueline Friedman on 2013-12-11 04:15:58 *33 Hartland*  
Comments: I totally oppose Acton issuing Axe Brothers a special permit to manufacture firewood, or anything else outdoors on the property abutting Robbins Brook. Axe Brothers has proven time and time again a lack of concern for the residents and its neighbors and has shown no regard as to pollution or noise. Living as I do 300 yards from the site, I am severely impacted by the disturbance both by the buses going in and out, and by the noise of the log cutting.
- 
32. Name: Margaret A Flynn on 2013-12-11 15:43:27 *7 Devon Dr*  
Comments:
- 
33. Name: Art Vartoukian on 2013-12-11 21:15:17 *39 Hartland*  
Comments: I oppose to Acton Board of Selectmen issuing Axe Brothers a special permit to manufacture firewood next to a senior residential community because it does not fit with clean, safe and healthy "quality of life" conditions that we rightly deserve as residents of this community.
- 
34. Name: L. E. (Joe) Lemere on 2013-12-12 01:17:55 *4 Tinsdale*  
Comments:
- 
35. Name: Joan Davies on 2013-12-12 15:29:16 *34 Hartland*  
Comments:
- 
36. Name: Bill Davies on 2013-12-12 15:33:44 *34 Hartland*  
Comments:

- 
37. Name: Jon and Patricia Sauer on 2013-12-12 15:53:09  
 Comments: For many reasons we oppose giving the Axe Brothers the permit - such as it will impact where we live, because of the pollution it will cause, the noise level, it will change the character of this area. Once you allow heavy outdoor industry, this opens the door to others requesting the same permit. Have you considered how this will affect other businesses in this area that have offices and where the noise will probably make the tenants move. Property at Robbins Brook will go down and your tax base will be eroded.
- 4 Preston*
- 
38. Name: sharyn walczewski on 2013-12-12 15:54:17  
 Comments:
- 10 Preston*
- 
39. Name: carolyn kilpatrick on 2013-12-16 00:55:39  
 Comments:
- 9 Devon Dr*
- 
40. Name: Kathleen Warner on 2014-01-01 22:32:41  
 Comments: I oppose the Axe Brothers Special Permit Application to manufacture FIREWOOD next to Robbins Brook.
- 25 Hartland*
- 
41. Name: Robert W Barta on 2014-01-01 22:52:34  
 Comments:
- 43 Hartland*
- 
42. Name: Arlene Parillo on 2014-01-01 23:24:36  
 Comments:
- 16 Preston*
- 
43. Name: Marie Nitzke on 2014-01-02 01:52:04  
 Comments:
- 550 Acorn Park Dr*
- 
44. Name: Louise POOLER on 2014-01-02 04:14:46  
 Comments: I oppose Axe Bros. Special permit application to manufacture firewood next to Robbins Brook.
- 22 Preston*
- 
45. Name: Glen Lyford on 2014-01-02 12:46:18  
 Comments:
- 
46. Name: John Parillo on 2014-01-02 12:47:43  
 Comments:
- 16 Preston*
- 
47. Name: Mary L. Najjar on 2014-01-05 13:23:34  
 Comments: The manufacture of firewood next to this community would create pollution which would be detrimental to the many people here with already compromised breathing.
- 35 Hartland*

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48. Name: James C Rand on 2014-01-07 21:54:14  
Comments: They will never be able to curb the noise.

*23 Hartland*

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49. Name: Hulen Kornfeld on 2014-01-16 01:42:26  
Comments: There are over 200 residents in this "senior" community, most chose this location because of aged related limitations. They should not have the hazards related to this outdoor manufacturing to deal with as well.

*37 Hartland*

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To: Board Of Selectmen, Acton, Mass  
CC Conservation Commission Acton, Mass  
Acton Water District  
Planning Board Acton, Mass,



RE: Special Permit Application 10/11/13/445 Clough

In a review of the application and records for the property at 848 Main St. several concerns are present regarding the possible permitting of a Firewood production / Heavy Industrial type project in this space. These questions surround the impact of the project on the wetlands and fire pond area and the effect of the project on the aquifer. There are also observations the project will increase the properties current non-compliance with open space laws. There are long standing orders and conditions associated with this area.

1. In past engineering and special permits it has been recognized that Title 40, Wetlands, Aquifer, and open space regulations apply to this property. It also appears that since the Fire Pond area has been in existence for a period of time, which qualifies it as a wetlands habitat. There is some suggestion that the "fire pond" has been identified as a pool or vernal pool as well. ( Acton GIS)
2. It appears the property has possibly been used in manners not consistent with these previous findings and orders and that several zoning enforcement issues continue to be unresolved.
3. The property at 848 Main Street has been long identified as being both in the Aquifer and Wetlands.
  - A. Town File D 96 Determination 3, which found approved work, was within a buffer zone.
  - B. Determination of Applicability of Mass 310 CMR 10.999-7 95 " The work described is within the buffer zone.
  - C. Special Permit 8526 Town of Acton: Findings the prescribed development is in an area defined as Aquifer Fringe Area. It also appears that the Acton Conservation Commission, at this time, found sufficient wetlands characteristics and that it was in place for the length of time, to determine the Fire Pond was wetlands, even though it was originally man made.

Several conditions and observations were made during the approval process. It appears there are questions regarding how and if some of these conditions were met, or applied.

These discussions were also part of a letter from the Building Commissioner to the Town Manager in Nov of 1985. Some but not all of the conditions and findings are included below.

1. There was an expectation, that because of the septic and other considerations (including run off, non permeable surfaces) that no more than 15 parking spaces (for employees) would be on the property. (This brings the issue of having multiple dozens of buses and employees currently using the property into question). It also suggests that non permeable coverings were to be strictly limited.
2. There shall be no storage, production, use or disposal of any hazardous material on the property. While it is unknown who monitors this condition, it also suggests a question of what happens to the waste produced by a heavy industrial project such as firewood production in this setting. This will include sawdust, oil, grease, airborne particulates and runoffs. There were numerous conditions regarding "run offs" and drainage in this permit.
3. There was to be a traffic study: Results have not been located and with the increase of bus traffic, logging trucks and other transport the concern expressed at that time regarding health and safety can not be studied and compared.
4. There was to be the completion of up to three wells to monitor water quality and the aquifer. The monitoring to be accomplished on the completed wells by the Acton Water District.

The Water District has found no records of any wells being completed or monitoring accomplished. Engineering maps reviewed do not appear to locate any of these wells. It appears there is no past or present opportunity to compare the effects of the past and proposed development on the wetlands and aquifer. There are indications that the selectman at that time had numerous concerns, which needed to be addressed and may have been neglected or not enforced.

5. Observations of the existing property suggest that the property is currently not in compliance with:” Open space “ regulations which require 35% open space in this area. The Wetlands protection zoning regulations also states that outdoor storage, and manufacturing ( such as logs and buses ) will not be used to meet this open space requirement. (Groundwater Protection Bylaws)

While it appears the bus project has been permitted (and this is questioned) the addition of a logging project (which appears to cover at least 2 acre) or other industrial use over will greatly increase the non-compliance with the open space regulations. In addition the Selectmen have already voiced critical concerns about location of industrial like parking areas in an aquifer protection zone.

#### Conclusions:

Given current and past concerns regarding water and wetlands, open space and related issues, including disposal of waste, drainage, septic, previous conditions and findings, the introduction of a heavy industrial project such as fire wood production, in this location, does not appear to meet the critical standards for environmental protection and zoning, required for the selectmen’s approval of a special permit.

Rob and Pat Jones  
47 Hartland Way  
Acton, Ma. 01720

Doug and Jan Deyoe  
41 Hartland Way  
Acton, MA,

Jan 15, 2014

## Christine Joyce

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**From:** Christine Joyce  
**Sent:** Thursday, January 23, 2014 8:50 AM  
**To:** Board of Selectmen  
**Cc:** Scott Mutch; Manager Department  
**Subject:** FW: Continuance for special permit 10/11-13-445, 848 Main Street

**Importance:** High

March 24 at 7:45, I will have him sign the continuation form on Monday and file with the Town Clerk once the Chair signs off

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**From:** Christine Joyce  
**Sent:** Thursday, January 23, 2014 8:48 AM  
**To:** Patricia Jones; Planning Department  
**Cc:** Manager Department; 'axebros@verizon.net'  
**Subject:** FW: Continuance for special permit 10/11-13-445, 848 Main Street  
**Importance:** High

Mr. Abraham:

I am in receipt of your request for continuation to March in order to submit the required documents and work with staff to resolve any issues prior to the hearing. I have scheduled you in for 7:45 on March 24.

If you have any questions please feel free to ask.

Christine J.

Mrs. Jones, please pass the word through your community of this new meeting date and time.

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**From:** axebros [<mailto:axebros@verizon.net>]  
**Sent:** Thursday, January 23, 2014 7:15 AM  
**To:** Board of Selectmen; Planning Department; Manager Department  
**Subject:** Continuance for special permit 10/11-13-445, 848 Main Street

Dear Members of the Board and to all it may concern,

I respectfully request a continuance for the hearing regarding a special use permit, # 10/11-13-445, to manufacture firewood at 848 Main St. I have been informed that the planning department has not yet received the information it needs, but they should by the end of the week. Since this does not allow enough time for review and any appropriate recommendations I would like a continuance for middle or late March, whichever fits the schedule better. This should provide ample time for any comments and adjustments.

-Jacob Abraham  
Axe Brothers Tree Service  
978-263-9961



March 18, 2014

**BY ELECTRONIC MAIL: [cjoyce@acton-ma.gov](mailto:cjoyce@acton-ma.gov)  
AND FIRST CLASS MAIL**

Acton Board of Selectmen  
Acton Town Hall  
472 Main St.  
Acton, MA 01720

Re: 848 Main Street, Acton – Special Permit Application

Dear Members of the Board:

As you may recall, this firm represents neighbors and abutters to the proposed wood processing operation located at 848 Main Street in Acton, on land identified as Assessor's Map C5, Parcel 39 (the "Project Site"). An original application for special permit was filed with the Board of Selectmen (the "Board") on October 12, 2013. A hearing on the application was scheduled for November 18, 2013 (after public and abutter notices were made), but was then continued at the request of the applicant, Jacob Abraham (the "Applicant"). We understand that a second submittal was filed on or about February 18, 2014 by Acorn Deck House Company, also covering the Project Site.<sup>1</sup>

Based on my conversation with Zoning Enforcement Officer Scott Mutch, it appears that the Board is treating these two submittals as two separate applications – the hearing on the first application is scheduled for March 24, 2014, and the second hearing is scheduled for April 28, 2014. To the extent that the second submittal is being treated as a separate application for a site plan special permit, it remains woefully inadequate, for many of the same reasons the original application was incomplete. However, we question why these submittals are being bifurcated and heard separately.

**A. The Zoning Bylaw Provisions**

The original application was styled as an "application for special permit" and cited Section 3.6.3 of the Zoning Bylaw. Under that section, "outdoor manufacturing" requires a special permit from the Board of Selectmen. That requirement modifies the Table of Principal Uses (Zoning Bylaw, p. 9), under which "manufacturing" is an allowed use (without the need for

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<sup>1/</sup> Both submittals misidentify the record owner of the Project Site as Acton Realty, Inc. – the actual owner is 848 Main Street Nominee Trust.

a special permit) in the SM zoning district. In the preamble to the Table of Principal Uses (§3.1), if a use is designated "SPS," meaning that the use requires a special permit from the Board, one must look under the column titled ("Site Plan") to determine whether the special permit required is a "site plan special permit" under Section 10.4, or merely a "special permit" under Section 10.3. If under the "Site Plan" column, the use is designated "R," that means that a §10.4 site plan special permit is required. Since Section 3.6.3 states that outdoor manufacturing requires a special permit from the Board, and since special permits under Section 3.6.3 require site plan review under Section 10.4, the special permit for outdoor manufacturing must be a §10.4 site plan special permit.

There is not a separate, independent special permit process for outdoor manufacturing. Special permits in Acton are administered either under Section 10.3 or 10.4. It should be undisputed that Section 10.4 governs the Project Site. Therefore, we don't understand why there would be separate hearings for the first special permit application and the second submittal dated February 18<sup>th</sup>. In any event, the original application should be heard either together with, or after the second submittal, since that submittal at least contains a scaled site plan.

**B. The Site Plan Special Permit Application is Still Incomplete.**

As we noted in our letter of November 12, 2013, an applicant for a site plan special permit must put forth evidence to enable the Board to make a number of findings relative to the use of the property. For example, the site plan must "protect[] the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment." §10.4.5.2. The original application was devoid, and the February 18<sup>th</sup> submittal is still devoid, of any explanation of the nature and extent of the firewood operation, including how wood will be delivered to and from the Site, where raw and finished wood would be stockpiled, how wood waste would be removed, and how environmental impacts such as noise and dust will be controlled.

We recognize that the February 18<sup>th</sup> submittal does not appear to be limited to the firewood operation component, and contains open space calculation for the entire Project Site. According to Mr. Mutch, the property owner was asked to submit a site plan special permit application to address other work done on the Project Site that was not pre-approved under Section 10.4. Unfortunately, the submittal doesn't even address those concerns. There is no discussion anywhere in the submittal concerning any of the uses of the Project Site. This obstructs the Board from making any of the findings relative to *uses* under Section 10.4.

**C. The Commercial Parking of School Buses on the Project Site is Not Exempt from Regulation under the Zoning Bylaw.**

Notably, the February 18<sup>th</sup> submittal still contains no information of the commercial school bus parking operation on the Project Site. It would be incorrect to assume that the Town cannot regulate the parking of school buses due to provisions of G.L. c. 40A, §3. First, there is a substantial question as to whether the provisions of Section 3 of the Zoning Act, which protects

educational uses from overly-restrictive zoning requirements, even applies here – the property owner has a lease with the Concord Carlisle School District to allow school bus parking on the Project Site, which is clearly not on the same property as any school in Concord or Carlisle.

This question was addressed in a slightly different context by the Land Court in 2010. In *Skydell v. Tobin*, 18 LCR 174 (Land Ct. No. 04 MISC 303324) (Apr. 6, 2010), the Court ruled that the storage of commercial landscaping materials and the parking of equipment and vehicles for a business providing off-site landscaping services is not protected by Section 3, which provides the same level of protection for horticulture, silviculture and floriculture activities as it does for educational activities. The Court (Long, J.) reasoned that Section 3's protections are "based on the primary activity at issue taking place *on that land* ... and *not* the use of the land as a location for a business whose services are provided *elsewhere*, even if that business uses nursery products grown on site." The Court noted that the situation would be different for an on-site nursery operation, and in doing so imputed an implied requirement that uses accessory to a protected use must be on the same land as a principal protected use.

It would reasonably follow that the parking of school buses, which serve off-site schools, would not be protected under Section 3. This is consistent with the established law under conventional zoning, requiring accessory uses to be on the same land as the principal use in order to be treated the same under a zoning bylaw. Town of Harvard v. Maxant, 360 Mass. 432, 436 (1971).

Importantly, while Section 3, commonly referred to as "the Dover Amendment," prohibits zoning bylaws that prohibit or unreasonably restrict the use of land for educational and other protected uses, it also authorizes municipalities to apply "reasonable regulations" concerning bulk, dimensions, open space, and parking to educational uses, and in doing so, "seeks to strike a balance between preventing local discrimination against [an educational] use ... and honoring legitimate municipal concerns that typically find expression in local zoning laws." Trustees of Tufts College v. Medford, 415 Mass. 753, 757 (1993).

The Appeals Court and the Land Court have recognized the right of municipalities to regulate Section 3 protected uses through a site plan review process. See, e.g., Jewish Cemetery Assoc. of Mass., Inc. v. Bd. of Appeals of Wayland, 2014 Mass. App. Unpub. LEXIS 287 (March 7, 2014) (application of site plan review bylaw to religious use "is consistent with a reasonable reading of the Dover Amendment."); Wildstar Farm, LLC v. Westwood Planning Bd., 18 LCR 433 (Land Ct. No. 09 PS 40754) (Aug. 13, 2010) (overturned on other grounds) (site plan review bylaw limited in scope consistent with Section 3 may be applied to protected agricultural use). Thus, even if the commercial parking of school buses is protected by Section 3 (which we deny), the Town of Acton can, and should, review these parking arrangements under Section 10.4, and apply its bulk, density, open space and parking requirements to the extent they are reasonable and do not prohibit the use. The parking of school buses generates noise and air pollution, and could realistically interfere with the other manufacturing uses on the Site.

Acton Board of Selectmen

March 18, 2014

Page 4

In summary, we respectfully suggest that most of the concerns raised in our November 12, 2013 letter remain, and therefore we request that the Board require the Applicant to provide a complete application, review all of the uses (existing and proposed) on the Site under one application and one public hearing, and engage sound and air quality experts to evaluate the site plan special permit application given the nature of the uses and the proximity of residential abutters.

Very truly yours,



Daniel C. Hill

cc: Scott Mutch, Zoning Enforcement Officer  
Clients

RECEIVED

AGREEMENT ON TIME EXTENSION

MAR 25 2014

TOWN CLERK  
ACTON

The Board of Selectmen and the Petitioner for a Special Permit

Site Plan  
(identify type of permit)

File No. 10/11/13-445

Petitioner Name: Axe Bros.

Project Name: Wood Manufacture

Location/Address: 848 main st

hereby agree to continue the Public Hearing to

(date) May 19, 2014 @ \_\_\_\_\_

(time) 7:35

and to extend the legally required time limit in which the Board of Selectmen must render a decision to 90 days following the date of the hearing continuance stated above.

Signed this (date) 3/24/14

[Signature]  
Board of Selectmen  
Janet K. Aducci, Chairman

[Signature]  
Petitioner

**This agreement must be filed with the Office of the Acton Town Clerk.**

Also cc: Planning

## Lisa Tomyl

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**From:** axebros [axebros@verizon.net]  
**Sent:** Thursday, May 15, 2014 7:25 AM  
**To:** Board of Selectmen; Planning Department; Manager Department  
**Subject:** special use permit 10/11/13-445  
**Attachments:** property values.pdf

The only questions I have received regarding the Use special permit have been those of open space and a proposed section of fencing for additional screening.

As can be seen in site plan permit #2/20/14-448 the open space ratio is maintained at the zoning requirements. As for the fencing, I feel it is more appropriate to place the fencing where the abutters would prefer it. I am open to installing 4 sections of standard 6' high by 8' wide wooden stockade fencing in a straight line, inside the security fencing in a location that does not interfere with access or use of the site.

It has been made clear to me, through the letter submitted by Mr. Bartl regarding site plan permit #2/20/14-448, that the Town will be treating the use permit and the site plan permit separately. From what I can tell the concerns regarding site plan permit #2/20/14-448 brought by Mr. Bartl and the engineering department, when rectified, would not change the open space ratio. Even if it did change the open space ratio I am willing to conform to the conditions of the plan.

As such, and as I have received no additional questions or comments from the Town or any representative of the Town, I am assuming the hearing is going forward as scheduled on the 19<sup>th</sup>.

Please find attached a basic chart showing the change in home values of three properties within Robbins Mill, and two properties within Ellsworth Village. The increase in value of the Ellsworth Village properties occurs when the unit itself is built, and the starting point is just the property. This information was obtained through the Towns assessor's office.

As is clearly shown by the assessed values of the properties, the Robbins Mill development has not been impacted by any activity from neighboring businesses and has maintained values consistent with Ellsworth Village, an over 55 development in East Acton that has had no change in surroundings at all.

For the issue regarding dust, as I have stated in my original application, the type of processing equipment that will be used will not pose any type of hazard. Furthermore, the OSHA regulations regarding sawdust are meant as a guideline for operations taking place indoors, with a significant concentration of dust. See below.

To:  
Subject: Answer From ASK OSHA  
Date: Thu, 14 Nov 2013 09:32:18 -0700  
From: [osha\\_ecorrespondence@dol.gov](mailto:osha_ecorrespondence@dol.gov)

\*\*\* PLEASE DO NOT SELECT "REPLY" \*\*\*

THIS EMAIL HAS BEEN ROUTED TO YOU THROUGH AN AUTOMATED FEDERAL OSHA SYSTEM.  
PLEASE REFER TO THE INFORMATION BELOW.

### Disclaimer

**Responses to the Electronic Mail Forms are for informational purposes only, and do not constitute an official communication of the U.S. Department of Labor or OSHA. For an official response, please submit your inquiry in writing.**

**Topic: General Industry**

I work in the tree removal industry and I noticed that there are limits on dust from things like sanders, routers, and lathers. Do these type of standards apply to the type of material produced by a chainsaw? Is there a general rule for the size of the saw dust for it to be a potential health hazard? Thank you for your time.

**Submit Date: 14-NOV-13 04:38:18 AM**

**OSHA Response(s)**

Below is a link to the Loggine page on the OSHA pages, it is not a live link, you will need to copy the URL and paste it into your web browser: <http://www.osha.gov/SLTC/logging/index.html>

The dust limits which are found in Table Z-3 of 1910.100 are below:

Inert or Nuisance Dust:

Respirable fraction . . . . .	15	5 mg/m3
Total dust . . . . .	50	15 mg/m3

These limits are set for work being conducted inside of a manufacturing location where work is being done on woods that have dried out. When you are cutting down a tree, it would seem that there is a lot of moisture still within the tree and therefore there would not be as much dust being blown off. Plus the work is being done outside, not within the confines of a building. The size of the material being produced when a chainsaw is used is larger than the sizes respiratory protection are rated for. The respiratory tract in the body, if not compromised, should be well adapted to removing the larger particles inhaled in saw dust.

Property

Property	Year	Value	
47 Hartland Way	2007	456,400	
	2008	457,900	
	2009	447,900	
	2010	376,000	
	2011	359,500	
	2012	329,700	
	2013	345,500	
	2014	353,900	
	21 Hartland	2007	75,000
		2008	75,000
		2009	420,100
		2010	352,800
		2011	337,300
		2012	309,300
2013	324,200		
2014	332,000		
16 Preston Way	2007	75,000	
	2008	384,700	
	2009	455,500	
	2010	382,500	
	2011	365,800	
	2012	335,400	
	2013	351,500	
	2014	360,000	

9 Ellsworth Village

Year	Value	
2007	278,000	
2008	441,900	
2009	418,400	
2010	418,400	
2011	331,700	
2012	337,000	
2013	331,700	
2014	339,700	
2 Ellsworth Village	2007	145,000
	2008	420,100
	2009	418,700
	2010	418,700
	2011	331,900
	2012	337,200
2013	331,700	
2014	339,900	