

Sign Special Permit –14-07
Nagog Mall - 5 Nagog Park
December 16, 2014



Planning Board

TOWN OF ACTON
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DECISION

14-07

Nagog Mall

Sign Special Permit

December 16, 2014

GRANTED with CONDITIONS

Decision of the Acton Planning Board (hereinafter the Board) on the application of Batten Bros. Inc. of 893 Main Street, Wakefield, MA 01880 (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Alevizos Nagog LLC and KVA Nagog LLC, both c/o Nagog Mall LLC of 396 Washington Street #325, Wellesley, MA 02482; as listed by the Acton Assessor's (hereinafter the Owner). The Owner's property consists of four parcels collectively known as Nagog Mall: 599 Great Road (Acton Town Atlas as parcel B4), 1 Nagog Park (B4-7-1), 5 Nagog Park (B4-7-2) and 1 Nagog Park beside (B4-7-4) (hereinafter collectively the Site).

This Decision is in response to an application for a sign special permit, received by the Acton Planning Department on October 30, 2013, pursuant to Section 7.13 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Sign Special Permit Rules and Regulations (hereinafter the Rules).

The Applicant presented the special permit application to the Board at a duly noticed public hearing on December 16, 2014. Board members Mr. Jeff Clymer (Chairman), Mr. Rob Bukowski, Mr. Michael Dube, Mr. Roland A. Bourdon III, Mr. Ray S. Yacouby, and Mr. Derrick J. Chin were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

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

- 1.1 Items and documentation required by the Rules consisting of:
 - A properly executed Application for a Sign Special Permit, received in the Planning Department on October 30, 2014.
 - Certified abutters list.
 - A locus map.
 - Sign renderings.
 - A sign location plan.
 - A cover memo from the Applicant to the Board.
- 1.2 Interdepartmental communication received from:
 - Acton Building Commissioner, dated [];
 - Acton Engineering Department, dated [];
 - Acton Historical Commission dated [];
 - Acton Planning Department, dated 11/10/14;
 - Acton Treasurer's Office, dated [];
 - Acton Tree Warden & Municipal Properties Dir., dated [].

Exhibit 1.1 is referred to herein as the Plan.

2 FINDINGS and CONCLUSIONS

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

- 2.1 The Site is located within the Limited Business (LB) zoning district.
- 2.2 Nagog Mall is a Business Center as defined in section 7.2.3 of the Bylaw.
- 2.3 The Applicant requests a special permit for a freestanding Business Center sign (hereinafter the Sign) at the Site that would not otherwise be allowed under the Bylaw. The Bylaw allows by right one freestanding sign for a Business Center (s. 7.8.1). The proposed Sign would be a second freestanding sign.
- 2.4 Visibility for businesses located in Nagog Mall is a challenge. The mall has a significant setback from Great Road. Its access from Great Road is via Nagog Park Drive. Nagog Mall has one Business Center sign by the side of Great Road at the intersection with Nagog Park Drive.
- 2.5 From Nagog Park Drive, way finding to mall locations can be challenging due to the layout of the mall in several tenant buildings and the mall sharing its access with the surrounding Nagog Office Park.

- 2.6 The proposed Sign would be located at the first driveway fork facing traffic after entering Nagog Park Drive from Great Road.
- 2.7 The Sign, mounted on two posts, is 7.25 feet tall and has a display area of 17.05 square feet. These measurements fall within the Bylaw's by-right dimensions for business center signs (s. 7.8.5.2).
- 2.8 Specifically, the Sign is proposed to be located on the street layout line of Nagog Park Drive. The Bylaw requires a 7.25-foot setback from the street layout line for the 7.25-foot tall Sign (s. 7.8.2). There is sufficient space in the existing grassed parking lot perimeter to locate the Sign in compliance with this requirement.
- 2.9 The Bylaw requires that the 7.25-foot tall Sign must be centered within a 210 square foot landscaped area with suitable shrubs and flowering perennials surrounding its base (s. 7.8.3). The proposed Sign location generally meets the area requirements. The application does not propose any plantings.
- 2.10 The Plan suggests external illumination without specifying details.
- 2.11 Most of the mall's tenants have wall signs on the buildings.
- 2.12 There is presently a second freestanding sign on the Site that identifies one business (Rod's Golf).
- 2.13 Two of the tenants in the mall (Anytime Fitness & Huntington Learning Center) sport illegal window signage that exceeds the 25% window coverage under the Bylaw (s. 7.5.16).
- 2.14 The new tenant in 1 Nagog Park (Seal Harbor) recently has installed signs without permits.
- 2.15 The Sign may be allowed on the Site by special permit in accordance with section 7.13.1.1 of the Bylaw.
- 2.16 The Sign is consistent with the character and uses of the area and with the Zoning District in which they will be located.
- 2.17 The Sign is appropriate in scale, design, and proportion relative to the buildings in the area and to the general surroundings. It is attractively designed, appropriately located, and will be compatible with the buildings to which it principally relates, and it is in harmony with the general area and character of the LB zoning district.
- 2.18 The Sign can be viewed as a continuous part of an integrated architectural design of the entire Site.
- 2.19 The colors and materials of the Sign are restrained, and in harmony with the buildings.
- 2.20 The materials used for the Sign are appropriate and do not detract from the aesthetic qualities of the surroundings.
- 2.21 The number of graphic elements on the Sign is held to the minimum needed to convey their primary messages and are in good proportion to the area of the Sign[s]'[s] faces.
- 2.22 The Sign will not unduly compete for attention with any other signs in the area.
- 2.23 The Sign is necessary for adequate identification of the businesses at this Site.
- 2.24 The Sign as approved and conditioned herein is appropriate for the Site; is consistent with the Master Plan; is in harmony with the purpose and intent of the Bylaw, specifically

Section 7; will not be detrimental or injurious to the neighborhood where it is proposed; and complies in all respects to the applicable requirements of the Bylaw and the Rules.

- 2.25 The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as deemed appropriate.

3 BOARD ACTION

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

3.1 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns, and shall be enforceable by the Zoning Enforcement Officer (ZEO) in his administration of the sign permits under section 7.6 of the Bylaw. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any sign permit issued by the ZEO hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.1.1 Prior to erecting the Signs, the Applicant shall obtain a sign permit from the ZEO pursuant to section 7.6 of the Bylaw.
- 3.1.2 Issuance of the sign permit by the ZEO shall be subject to:
- a) Removal of the Rod's Golf freestanding sign.
 - b) Removal of the illegal window signs at Anytime Fitness and Huntington Learning Center.
 - c) Compliance with the Bylaw of all signs at 1 Nagog Park (Seal Harbor), including issuance of necessary sign permits by the ZEO.
 - d) Compliance with the Bylaw of all other signage on the Site.
- 3.1.3 The application for a sign permit from the ZEO shall include:
- a) A detail plan documenting compliance of the Sign with the minimum setback from the Nagog Park Drive street sideline (Bylaw, s. 7.8.2).
 - b) A landscaping plan for the base of the Sign (Bylaw, s. 7.8.3).
 - c) If external illumination as proposed in the Plan, a sign illumination plan detail showing compliance with the Bylaw, s. 7.4.3.3.
- 3.1.4 The Sign shall be erected in accordance with the Plan approved and amended herewith, and shall otherwise comply with all applicable requirements of the Bylaw.
- 3.1.5 All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full prior to issuance of a sign permit.

3.3 LIMITATIONS

This special permit shall be limited as follows:

- 3.3.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all-inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.3.2 This special permit applies only to the Site identified in this decision and to the proposed Sign as shown on the Plan.
- 3.3.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.3.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 3.3.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

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

Signed on behalf of the Acton Planning Board

Roland Bartl, AICP, Planning Director
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Owner

Building Dept.
Engineering Dept.
Town Manager
Assessor Dept.

Health Dept.
Municipal Properties Dept.
Police Chief

DRAFT