

Concord Public Schools
Site Plan Special Permit #07/03/14 – 450 (Berry)
37 Knox Trail
December 15, 2014 – Draft Decision



Board of Selectmen

TOWN OF ACTON
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DRAFT DECISION
#07/03/14 - 450

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Site Plan Special Permit
37 Knox Trail
December 15, 2014

GRANTED with Conditions

Decision of the Acton Board of Selectmen (hereinafter the Board) on the application of Concord Public Schools, 120 Meriam Road, Concord, MA 01742 (hereinafter the Applicant), dated and received July 3, 2014. The application is requesting a Site Plan Special Permit pursuant to Section 10.4 of the Zoning Bylaw (hereinafter the Bylaw) and the Site Plan Special Permit Rules and Regulations (hereinafter the Rules) for property currently owned by KT Realty Trust, c/o Brian Li, Trustee, 321 Church Street, Northborough, MA 01532 and located at 37 Knox Trail in Acton, Massachusetts. The property is shown on the 2007 Acton Town Atlas map J4-6 and is approximately 40,741 ft² (0.935 acres) in area (hereinafter the Site).

The Board opened and held a duly noticed public hearing on September 8, 2014 and continued said hearing to dates of September 22, 2014, October 6, 2014 and November 3, 2014, at which time the public hearing was closed. Board members Mike Gowing (Chair), Katherine Green (Vice Chair), Peter Berry (Clerk), Janet Adachi and Frances Osman were present throughout the hearing. Attorney Mark Bobrowski, Esq. of Blatman, Bobrowski & Mead, LLC, Sandra Brock, PE and Steven Ventresca, PE of Nitsch Engineering, Christopher Whelan, Town of Concord Town Manager and John Flaherty, Deputy

Superintendent for Finance and Operations for Concord Public Schools all spoke on behalf of and represented the Applicant. During the hearing, the Board heard testimony from the Applicant and their representatives, citizens, abutters to the Site, as well as municipal staff, all prior to proceeding to close the public hearing. The minutes of the public hearing and submissions upon which this Decision is based upon may be found and referred to in the Town Clerk's office or the office of the Board at the Acton Town Hall.

1 EXHIBITS

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

- 1.1 An application package consisting of the following items and documentation as required by the Rules and Regulations or additionally provided:
 - A properly executed application form for a Site Plan Special Permit, dated July 3, 2014 and received on July 3, 2014;
 - Cover Letter (consisting of 1 page) by Sarah Kmiecik of Blatman, Bobrowski & Mead, LLC.;
 - Memorandum letter (consisting of 2 pages) by Steven Ventresca, PE, Nitsch Engineering, dated July 3, 2014;
 - Excel spreadsheet (consisting of 1 page) documenting previous permit activity on the Site;
 - Acton GIS produced locus map identifying the subject property;
 - Hydro CAD Output with summary of calculations prepared by Nitsch Engineering;
 - USGS Well Data for Acton, MA;
 - Earth Removal Sketch prepared by Nitsch Engineering;
 - Executed and Recorded Quitclaim Deed reflecting current owners 2012 purchase of property;
 - "Quantitative Traffic Assessment", dated June, 2014 and prepared for Concord Public Schools, 120 Meriam Road, Ripley Building, Concord, MA 01742 by Nitsch Engineering, 2 Center Plaza, Suite 430, Boston, MA 02108; and
 - Certified Abutter's List.
- 1.2 A set of engineering plans prepared by Nitsch Engineering, 2 Center Plaza, Suite 430, Boston, MA 02108, consisting of 5 sheets as follows:
 - Cover Sheet (C0.0), dated July 3, 2014, revised October 6, 2014, and October 24, 2014;
 - Site Plan (C1.0), dated July 3, 2014, revised October 6, 2014, and October 24, 2014;
 - Bus Parking and Turning Movements (C2.0), dated July 3, 2014;
 - Renamed Turning Movements (C2.0), dated July 3, 2014, revised October 6, 2014 and October 24, 2014;
 - Details (C3.0), dated July 3, 2014, revised October 6, 2014, and October 24, 2014;
 - Snow Storage (C4.0), dated July 3, 2014, revised October 6, 2014, and October 24, 2014; and
 - Topographic Plan of Land, prepared by Stamski and McNary, Inc., 1000 Main Street, Acton, MA 01720, dated June 13, 2014.
- 1.3 Other correspondence submitted:
 - Letter from Mark Bobrowski, dated September 18, 2014;
 - Response Letter from Nitsch Engineering (consisting of 34 pages), dated October 6, 2014
 - Response Letter from Nitsch Engineering (consisting of 42 pages), dated October 24, 2014;
 - Product Detail and Specification Sheet from Cycle Safe for bicycle rack to be installed.
- 1.4 Interdepartmental communication received from:
 - Municipal Properties Director, dated July 17, 2014;

- Acton Sidewalk Committee, email dated July 31, 2014;
- Design Review Board , August 6, 2014;
- Acton Engineering Department, Interdepartmental Communication (consisting of 4 pages) dated August 1, 2014, revised October 28, 2014, and email dated October 6, 2014;
- Water Supply District of Acton, dated August 1, 2014;
- Acton Fire Chief, email dated October 7, 2014;
- Natural Resources Director, email and sketch dated October 15, 2014; and
- Acton Zoning Enforcement Officer, dated September 2, 2014, revised October 6, 2014 and October 29, 2014.

1.5 Additional Information:

- Agreement on Time Extension executed September 8, 2014;
- Agreement on Time Extension executed September 22, 2014; and
- Agreement on Time Extension executed October 6, 2014.

Exhibits 1.1 through 1.5 are hereinafter referred to as the Plan or Project.

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 Technology District (TD) zoning district.
- 2.2 The Site is located within Groundwater Protection District Zone 3.
- 2.3 The Site as currently exists, contains a two (2) story office building and a forty-one (41) space parking lot. The Site was originally developed in 1983 under a Site Plan Special Permit. There are no modifications and/or alterations proposed to the existing structure.
- 2.4 The application originally proposed the parking and storage of five (5) Concord-Carlisle Public School District school buses on the subject property. The subject property's use as a bus storage location has since been removed from the application.
- 2.5 The existing office building will be utilized by the Concord Public Schools system as well as other Town of Concord municipal offices.
- 2.6 The subject property is intended to provide future direct access into the immediately abutting property located within the Town of Concord. The Town of Concord envisions developing the immediately abutting land into a Public Works/Municipal Works facility.
- 2.7 The Applicant is proposing general overall site work at this time to prepare the site to be the future access point to abutting lands. Site work at this time includes the addition of approximately 771 square feet of new impervious asphalt pavement material in order to widen the existing access drive into the property as well as extending the paved driveway up to the rear property line (also the Town Line between Acton & Concord).
- 2.8 Minor restriping of the parking lot at the front main entrance into the office building is required to accommodate the addition of three (3) new bicycle parking spaces.
- 2.9 The addition of the new impervious pavement will reduce the open space on the property to 54% (35% minimum is required).
- 2.10 The Board has received comments from various Town Departments, which are listed in Exhibit 1.4 above. These comments were considered by the Board in its deliberations, were made available to the Applicant, and are incorporated into this decision as deemed appropriate by the Board.

- 2.11 The Site Plan as conditioned in this Decision will as reasonably as possible be consistent with the Master Plan, will not be detrimental or injurious to the neighborhood in which the use is to take place, provides for convenient and safe vehicular and pedestrian movement within and through the site, provides an adequate number of parking spaces, provides adequate methods of refuse and waste removal from the site, and is in harmony with the purpose and intent of the Bylaw.

3 BOARD ACTION

Therefore, the Board voted unanimously on December 15, 2014 to GRANT the requested Site Plan Special Permit #07/03/14 – 450 subject to and with the benefit of the following Plan modifications, conditions, and limitations.

3.1 PLAN MODIFICATIONS

The Building Commissioner shall not issue a building permit for this Project or any portion thereof, nor shall any construction activity approved hereunder begin on the Site, until and unless the Zoning Enforcement Officer (ZEO) confirms 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 Zoning Enforcement Officer. Where approvals are required from persons, boards, commissions, or agencies other than the Zoning Enforcement Officer, the Applicant shall be responsible for providing evidence of such approvals to the Zoning Enforcement Officer.

- 3.1.1 The Plan shall be modified so that the access driveway which is being expanded complies with the 10'-0" minimum dimensional setback requirement from the rear property line (also the Town Line between Acton & Concord).
- 3.1.2 The Plan shall be modified to show the location of the three (3) new bicycle racks required. The Applicant has previously submitted a cut/spec/product detail sheet of the "Plastisol" bicycle rack from Cyclesafe which can be surface mounted or in-ground mounted.
- 3.1.3 The Applicant shall modify the Plan as needed, to comply in all respects with the Bylaw. Unless directed otherwise by this Decision, the Applicant also shall modify the Plan to comply with all requirements of the Rules, and to address all departmental comments in a manner that resolves any concerns raised therein to the satisfaction of the Board.

3.2 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render the Site Plan Special Permit that is granted with this Decision null and void, without force and effect, and shall constitute grounds for revocation of this Site Plan Special Permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this Site Plan Special Permit using any and all powers available to it under the law.

- 3.2.1 The Applicant shall be diligent during the first (1st) three growing seasons in controlling invasive plant species within the bioretention basin "rain garden", specifically purple loosestrife and phragmites. No geotextile fabric shall be required to be installed within the bioretention basin.
- 3.2.2 The Town of Concord shall install two (2) groundwater monitoring wells on the property in order to establish a refined groundwater flow direction and baseline water quality conditions. These wells shall be installed and operational prior to any of the site work and/or additional pavement work commencing.
- 3.2.3 The Applicant, along with the Water Supply District of Acton, shall prepare and execute an agreement memorializing the fact that once the two (2) new groundwater monitoring wells are

- installed on the property, it will be the responsibility of the Water Supply District of Acton to monitor said wells.
- 3.2.4 The Applicant shall at all times comply with the Snow Storage Plan (Sheet 4.0) and be diligent to ensure the proper placement of snow piles during the winter months. No snow storage shall be permitted within the bioretention basin “rain garden”.
 - 3.2.5 The Applicant shall submit a monetary contribution to the Town of Acton’s Sidewalk Fund in the amount of \$8,250.00 (\$19.50 per linear foot for 425 feet of property frontage) in lieu of constructing a sidewalk across the property’s frontage.
 - 3.2.6 The access driveway described in Finding & Conclusion 2.7 and Plan Modification 3.1.1, shall be permitted to be extended up to the rear property line without further Board review and/or approval, should the Applicant purchase the abutting property located within the Town of Concord (commonly referred to as the “Grace Property”). Prior to said driveway expansion/extension, the Applicant shall provide proof of the property’s acquisition to the Zoning Enforcement Officer.
 - 3.2.7 The Applicant shall meet all requirements of the Town Bylaws.
 - 3.2.8 The Applicant shall not cause or permit the runoff of water or erosion that results in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Building Commissioner or the Zoning Enforcement Officer may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.
 - 3.2.9 No work on the Site authorized hereunder shall begin prior to the issuance of a demolition or building permit for the Site.
 - 3.2.10 All work on the Site shall be conducted in accordance with the terms of this Site Plan Special Permit and shall conform with and be limited to the improvements shown on the Plan as conditioned, modified, and approved herein.
 - 3.2.11 If applicable, the Applicant shall pay in full all taxes, and penalties and back charges resulting from the non-payment of taxes prior to the issuance of any Building Permit.
 - 3.2.12 All work on the Site shall be performed in compliance with the applicable law and regulations protecting wetlands and wildlife habitat in the Town of Acton.
 - 3.2.13 Any and all construction activity on the property relating to this Site Plan Special Permit shall be limited to the following hours: Monday – Friday: 7:00am – 6:00pm; Saturday 8:00am – 5:00pm; Sundays & Holidays as recognized by the Commonwealth of Massachusetts: No work permitted.
 - 3.2.14 The Applicant shall make every attempt to minimize adverse or nuisance construction conditions (such as, but not limited to dust, noise and vibrations, etc.) from existing in and around the Site and affecting neighboring and abutting properties during the construction operations. The Applicant shall at all times use all reasonable means to minimize inconvenience to individuals within the general area.
 - 3.2.15 Any changes in the work that this Site Plan Special Permit authorizes and that the Plan approved hereunder depicts shall require the approval of the Board.
 - 3.2.16 If applicable, any and all activities on the Site shall comply with the Town of Acton Hazardous Material Control Bylaw.

- 3.2.17 This Project shall be established and conducted at all times in accordance with the terms of this Site Plan Special Permit and shall conform with and be limited to the improvements indicated on the Plan as modified herein.
- 3.2.18 The Applicant shall be diligent to ensure that no construction debris or material from the Site enter any of the abutting properties, the Knox Trail public right-of-way or the Assabet River. The Applicant shall be responsible for sweeping, removal of snow, and sanding of the internal roadways permitting access to clientele and emergency vehicles during construction and thereafter.
- 3.2.19 The Applicant shall ensure safe and convenient vehicular access into and around the Site during the entire duration of construction as approved hereunder. Any traffic problems that occur as a result of onsite operations and construction shall be mitigated immediately, at the expense of the Applicant, including without limitation by the use of police details as required by the Zoning Enforcement Officer, in consultation with the Chief of Police.
- 3.2.20 All construction vehicles shall be parked on the Site and shall not be parked on Knox Trail.
- 3.2.21 Prior to any work commencing on the Site, the Applicant shall demonstrate compliance with any and all other comments/concerns provided by other municipal disciplines.
- 3.2.22 The Applicant shall ensure that this Decision is promptly recorded at the Middlesex South District Registry of Deeds or the Land Court. Proof of recording shall be forwarded to the Zoning Enforcement Officer prior to the issuance of any building permit for work approved hereunder on the Site.
- 3.2.23 Any modification, alteration, change or deviation from the Plan approved hereunder and subject to all Plan Modifications, Conditions and Limitations, which in the opinion of the Zoning Enforcement Officer is substantial in nature, shall require further Board review and approval.
- 3.2.24 Upon the completion of all work on the Site being conducted in accordance with the terms of this Site Plan Special Permit, the Applicant shall submit to the Zoning Enforcement Officer, a final certified as-built site plan stamped by a land surveyor and/or engineer as required for the information shown, showing the buildings, pavement, pavement markings, walkways, drainage facilities, utilities, outdoor lighting installations, appropriate grades and elevations, all in their true relationship to lot lines. The final certified as-built site plan shall be accompanied by a Professional Engineer's certification stating that the site work has been completed in accordance with the approved Site Plan Special Permit and that all features required on the Site by the approved Plans, and the Site Plan Special Permit Decision have been field inspected by the Professional Engineer and conform with the approved design.

4 LIMITATIONS

The authority granted to the Applicant under this Site Plan Special Permit is limited as follows:

- 4.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 4.2 This Site Plan Special Permit applies only to the Site identified in this Decision and to the proposed uses and activities shown and noted in the Plan.
- 4.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.

- 4.4 This Site Plan 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 Site Plan Special Permit is not continued through to completion as continuously and expeditiously as is reasonable. For construction to continue towards completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than 2 years. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to this Site Plan Special Permit and to require any appropriate modifications of the Plan.
- 4.5 To the extent permitted by law, the Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this Site Plan Special Permit with or without a public hearing upon the request of the Applicant, the Site Owners and their affiliates, successors and assigns, or upon its own motion.

5 APPEALS

Any person(s) aggrieved by the issuance of this Site Plan Special Permit has the right to appeal pursuant to M.G.L., Ch. 40A, §. 17 and shall file such appeal within 20 days after the filing date of this Amended Decision with the Town Clerk.

The Town of Acton Board of Selectmen

Mike Gowing, Chair

Date Filed with Town Clerk

Eva K. Szkaradek, Town Clerk

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 K. Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief
Owner

Building Commissioner
Town Engineer
Natural Resources Director
Police Chief
Assessor's Department

Health Director
Municipal Properties Director
Town Manager
Water Supply District of Acton
Planning Department

DRAFT