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Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Steven Ledoux, Town Manager **Date:** October 6, 2014
Date of 2nd Review: January 16, 2015

From: Roland Bartl, Planning Director *R. B.*

Subject: Site Plan Special Permit #07/10/09-422
Application to Amend

Note: 2nd review comments on revised plan/documents are inserted in this format.

Location: 107-115 Great Road
Applicant: Wetherbee Plaza, LLC., 6 Proctor Street, Acton, MA 01720 (Bertolami)
Owner: same
Engineer: Acton Survey & Engineering, Inc., 97 Great Road – Unit 6, Acton, MA 01720
New Engineer: **Stamski and McNary, Inc., 1000 Main Street, Acton, MA 01720**
Previous Site Plans: #11/07/03-393 issued March 22, 2004
#01/23/09-417 denied
#07/10/09-422 issued October 5, 2009
Zoning: East Acton Village District (EAV)
Groundwater Protection District Zone 4
Existing/Past Uses: Retail, Service, Building Trade Shops & Residential
Proposed Addl. Use: Residential (new single-family residence)
Map/Parcel: G-4/28
Hearing Date: October 20, 2014
Several continuation agreements to January 26, 2015
Decision Due: January 18, 2015, **extended to April, 26 2015**

The applicant seeks approval for an amendment of site plan special permit #07/10/09-422, issued on October 5, 2009, and of the plan approved there under.

The application with plans and supplements, departmental comments and other related items are located electronically in the docushare file for this hearing.

The Proposal

- Build a single-family residence to the existing “faux windmill” on the site.
 - Install a vehicle access ramp to a proposed overhead or other type of wide door into the rear of the Building #107 as indicated on the plan (attached to the 9/23/14 letter from the applicant’s engineer).
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Comments

The revised plan and supplemental information clarifies and answers most questions.

1. Outstanding items from site plan special permit #07/10/09-422:
 - a. The site was not built in accordance with the approved plan as conditioned by the special permit. We never received a certified as-built plan as required in the 2009 permit (condition 3.2.1) that would show reasonably close compliance with the special permit. A 3rd party engineer confirmed that the site was not constructed properly. Nevertheless, certificates of occupancy were issued in 2010 for every building on the site.
 - b. Most notably, and compliance with the 2009 permit aside, it remains unclear and unknown if the site in fact complies with the State and local requirements for how storm water must be treated and managed. Any claims of insignificant changes cannot be evaluated against this background. See the Engineering Department comments, dated 10/7/14, for a detailed description of the problem.

There is still no as-built plan for the site as currently constructed. However, a letter was found in the file from the 3rd party reviewing engineer (LandTech, dated 10/7/2010) that certifies that the drainage system as installed complied with the Zoning Bylaw. Stamski and McNary's cover letter promises an as-built plan prior to a Certificate of Occupancy. I clarified with the Engineer verbally, that this means an as-built plan for the entire site; but without re-certification of LandTech's earlier inspection report, which is reasonable. I defer to the Engineering Department for any additional review comments regarding the stormwater management system on the site.

2. The proposed single-family residence:
 - a. In general, a proposed single-family residence on a mixed use property in the EAV zoning district should not be a problem. All the existing and proposed uses on the site are either allowed in EAV or, to the extent applicable, grandfathered in as pre-existing nonconforming from a time more than 10 years ago when the site was zoned Limited Business (LB).
 - b. The plan submitted with the application is a "notice of intent" plan filed with the Conservation Commission and amended to reflect the Commission's Order of Conditions. It is not a plan suitable for zoning review. I refer to the Rules and Regulations for Site Plan Special Permit on how and with what information plans should be presented. Given the scope of the amendment application, strict adherence to the Rules may not be necessary. Yet, at a minimum, the plan must document zoning compliance.

The revised plan includes a land use data table that demonstrates zoning compliance.

- c. There appear to be mismatches and/or missing pieces with the proposed dwelling as shown on the "notice of intent" plan versus as it is represented in the architectural drawings:
 - i. The driveway would stop short of the house; there is no garage. Okay so far.
 - ii. There is no walkway from the driveway to the rear door. Is this realistic or practical?
 - iii. The front door to the dwelling is on the opposite side of the driveway; there is no walkway leading to the front door. It is possible that the front door only serves visual and representational purposes. But, is that realistic or practical given that the floor plan indicates a foyer, staircase to the 2nd floor, and a coat room behind the front door. Also, it appears that the front door and foyer function as a divider between the private residence and the possibly more public "home" office shown to be located in the "faux wind mill".

- d. The plan does not show parking spaces for the proposed dwelling; two spaces are required. Aside from the question of practicality, in the absence of a zoning table it remains unclear what the parking requirement is per zoning and whether the site meets it.
- e. Additional walkways and parking spaces might change the calculation on open space and impervious coverage.

Some walkways have been added around the proposed cottage. Otherwise the configuration for access and parking as proposed appears to be intentional. The plan as revised shows that zoning requirements will be met. I have no further concerns.

3. The proposed vehicle access ramp at Building #107:

- a. The proposed ramp would rise 10-12 inches and be 10 feet wide plus flares for transitioning the grades. The length does not appear to be specified, i.e. how far out it would extend from the building.
- b. It would partially cover an existing stone trench along that side of the building. The trench serves drainage purposes. I refer to the Engineering Department's 10/7/14 comments regarding the challenge to properly evaluate the impact.
- c. There are two parking spaces in the general area where the ramp is proposed. It is unclear if the parking spaces would remain useable after the ramp installation. If not useable they cannot count towards the number of parking spaces needed to meet zoning requirements. In the absence of a zoning table it remains unclear what the parking requirement is per zoning. If the parking spaces must remain to meet zoning compliance, a detailed plan and profile for the area might help clarify the practicality of the ramp proposal.

The configuration of the ramp and the functioning of the drainage system have been explained. One parking space will be removed and pavement will be added to accommodate maneuvers for the ramp. The plan as shown demonstrates zoning compliance.

4. The Plan:

- a. The two proposals, for the single-family residence and the installation of the vehicle access ramp, should be depicted on a single site plan sheet that documents zoning compliance, with added construction details as needed.
- b. The plan should display a zoning table that itemizes all critical dimensions (setbacks, open space, FAR, vehicle parking, etc.) with required dimensions (minimum or maximum as applicable), existing dimensions, and proposed dimensions. As presented, I cannot ascertain whether or not the proposal would comply with the Acton Zoning Bylaw.

The plan has been revised as requested. Zoning Compliance has been demonstrated.

Other comments:

- I. **The applicant has an approved building permit to convert the upstairs of building #107 to two apartments. This building permit includes an exterior spiral staircase on the side of the building (or, rather, in the rear when viewed from the parking lot) between it and the car wash next door. This should be shown on the plan including any walkways to the stairs that may be contemplated. These changes would modify the zoning data a little bit, but zoning compliance remains certain if built as approved under the building permit.**

- II. There is a new freestanding sign in front of building #107 not shown on the plan. It's location as installed appears to be out of compliance with zoning setback requirements from the front lot line. The sign should be shown on the plan with dimensions for the setback. If in violation it will have to be moved.
- III. The plan shows a bike rack hanging out in the grass on State Highway right-of-way near the driveway entrance to the site. The plan as originally approved shows a bike rack within the site close to building#107 near the southerly end of the parking row. The rack should be returned to its original location.
- IV. In the driveway, next to building #113 in the rear, leading to the proposed new cottage, a line appears to indicate that the driveway entrance is striped for parking. This striping should be removed and no vehicles should park there blocking access to the cottage.
- V. The proposed vehicle access ramp into the rear of building #107 remains enigmatic. The applicant seeks to establish an automotive use in the building; such use is not allowed in the EAV zoning district. The ramp by itself creates no zoning complications, but its apparently intended use would. The matter is currently in litigation.

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