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TOWN OF ACTON

Building Department

INTERDEPARTMENTAL COMMUNICATION

To: **Board of Selectmen** ***Date:*** February 19, 2004

From: Garry A. Rhodes, Building Commissioner

Subject: Site Plan Special Permit #11/07/03-393
Wetherbee Plaza Extension (Johnson)

I have attached a draft decision for your consideration. I was not sure how the Board wanted to condition where the interior sidewalk is to be constructed or by whom. Please note finding 1.3 and condition 3.1 which deal with the location and timing of their construction. I can revise the decision as you like. I should point out a portion of the easement is located in a wetland. It would cost approximately $150 - $200/ foot to construct an elevated boardwalk over the wetland.

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DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Wetherbee Plaza LLC (hereinafter the Petitioner) for the property located at 107-115 Great Road, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map G-4 Parcels 50, 28, and 28-1.

This Decision is in response to an application submitted to the Board on November 07, 2003 by the Petitioner for a Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to construct a new retail building approximately 6,500 square foot of two levels. A two story carriage house with a building trade shop on the lower level and an apartment on the upper level. Relocate the Raynor house and convert the house to an office.

After causing notice of the time and place of the 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 on January 5, 2004 at 7:45 P.M. in the Selectmen's Hearing Room at the Acton Town Hall. The hearing was continued to January 26, 2004 at 7:30 P.M. and again to February 9, 2004 at which time the hearing was closed. Board members Walter Foster, F. Dore' Hunter, Peter Ashton, William Shupert III and Robert Johnson were present throughout the proceedings.

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.

Exhibit I

A properly executed application for Site Plan approval received November 7, 2003; a booklet containing a certified abutters list, USE description, drainage calculations, water balance calculations, other permits, letters from Acton Survey and Engineering dated December 30, 2003, and January 7, & 16, 2004 previous Site Plan Special Permit # 03/19/97-358 amended, a seven sheet set of Site Plan Drawings dated November revised February 6, 2004; building plans dated December 20, 2002.

Exhibit II

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated December 31, 2003, January 20 & February 6, 2004
2. Town Planner dated December 10, 2003
3. Fire Chief dated December 16, 2003
4. Municipal Properties Director dated December 11, 2003
5. Engineering Administrator dated December 10, 2003
6. Health Agent dated September 5, 2003
7. Transportation Advisory Committee dated December 11, 2003
8. Recreation Director dated November 10, 2003
9. Water District dated November 20, 2003

Exhibit I is hereinafter referred to as the Plan.

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1.0 **Findings and Conclusions**

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

1.1 The site is located in the East Acton Village Zoning District and Zone 4 of the Groundwater Protection District and the proposed USE is allowed in both Districts at this time. The Building Trade USE (3.5.14) has limited protection by Bylaw § 8.5. The Town of Acton has proposed zoning changes for consideration for Annual Town Meeting which will prohibit Building Trade Shops in the East Acton Village. If the Building Trade shop is not commenced and completed in a timely manner as prescribed by Bylaw § 8.5 it will not be allowed.

1.2 The site is subject to Site Plan Special Permit # 03/19/97-358 amended. Site Plan Special Permit # 03/19/97-358 amended remains in full force and effect except as herein amended.

1.3 The Bylaw requires the site include a sidewalk along the entire frontage. The Board may also require other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists. A sidewalk was constructed by Mass Highway along the entire frontage of Great Road. A sidewalk does not currently exist along Brabrook Road frontage. The Plan revised as of February 6, 2004 shows a sidewalk constructed between Brabrook Road and Great Road along the interior driveways. The Plan also shows a 20' sidewalk easement along the western boundary. In order to promote the village atmosphere the Board finds a sidewalk must be provided from Brabrook Road to Great Road. The sidewalk must be constructed by the Applicant in either location but not necessarily in both.

1.4 The Plan provides for trees to be planted in the layout of Great Road. Mass Highway has granted permission for the trees by letter dated February 4, 2004. If in the future the trees are removed by either Mass Highway or the Applicant an equal number and size of trees shall be located on the site.

1.5 The Plan shows a sign located in the layout of Great Road. The plan shall be revised to remove the sign from the layout. All signage shall comply with the Bylaw.

1.6 The Plan as herein modified:

Will protect the neighborhood and the town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
Will provide 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.
Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
Is consistent with the Master Plan.
Is in harmony with the purpose and intent of this Bylaw.
Will not be detrimental or injurious to the neighborhood in which it is to take place.
Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted 5 to 0 to **GRANT** the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations.

2.0 **Plan Modifications**

Prior to the issuance of a Building Permit or the start of any construction 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 permit any construction activity to begin 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 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. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

2.1 The Plan shall be revised so that all sheets are consistent.

2.2 Both cross hatched areas next to building #2 shall be marked as fire lanes along with signage.

2.3 The zoning analysis shall include all three parcels.

2.4 Remove the sign from the State Layout.

2.5 Where sidewalks cross streets the Plan shall show curb cuts.

3.0 Conditions

3.1 The interior sidewalks shall be constructed before occupancy of Building #2. If the sidewalk is constructed in the easement, the sidewalk shall be constructed prior to occupancy of Building # I or 2.

3.2 Exterior storage of construction equipment shall be prohibited unless there is active construction.

3.3 Prior to occupancy or use of the new building, an as-built plan shall be supplied by the engineer of record certifying that the project was built according to the approved documents. The as-built plan shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades and elevations. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor.

4.0 **Limitations**

The Authority granted to the Petitioner by this permit is limited as follows:

4.1 This permit applies only to the site which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.

4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.

4.3 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.

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4.4 No approval of any indicated signs or advertising devices is implied by this Decision.

4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.

4.6 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.

4.7 This Site Plan Special Permit shall lapse on February 23, 2006 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the applicant with or without a new hearing.

5.0 **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 day of ,2004

_____
Walter Foster, Chairman

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

_____
Christine Joyce, Recording Secretary

_____ _____
Date filed with Town Clerk Edward Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Wetherbee Plaza , LLC has passed and there have been no appeals made to this office.

_____ _____
Date Edward Ellis, Town Clerk

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