



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

**Board of Selectmen**

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**LEGAL NOTICE  
TOWN OF ACTON**

The Acton Board of Selectmen will hold a public hearing on November 2, 2015 at 7:10 PM in the Francis Faulkner Hearing Room 204 at the Town Hall, 472 Main Street, Acton on the application of Rapsallion, 5 Strawberry Hill Road, Acton MA for a Use Special Permit #09/08/2015 - 456, increased seating to 90, required under Section 10.3 of the Acton Zoning Bylaw.

**Use Special Permit Application**

RECEIVED

SEP - 9 2015

5203  
5205  
5206  
5207  
5208  
5209  
5210

Appendix B

Town of Acton  
Planning Department

TOWN OF ACTON  
APPLICATION FOR SPECIAL PERMIT  
(ZONING BYLAW)

"Special Permit for additional  
Seats

Indicate the type of Special Permit Requested: Restaurants with over 10 Seats

Under Zoning Bylaw Section: Section 6.3.1.10

Refer to the "Rules and Regulations for Special Permits" available from the Planning Department for details on the information and fees required for this application. Contact the Planning Department at 978-929-6631 with any questions concerning the Rules. Incomplete applications may be denied.

up  
to  
90  
Seats

Please type or print your application.

- Location and Street Address of proposed SPECIAL PERMIT S Strawberry Hill Road
- Applicant's Name Peter Daniel  
Address 1 Strawberry Hill Road Acton MA 01720  
Telephone 617-269-5701 Email peter@danielapscallo.com
- Record Owner's Name Claudio Miguel  
Address 16 Wampus Avenue Acton MA 01720  
Telephone 978-727-2094 Email \_\_\_\_\_
- Town Atlas Map(s)/Parcel Number(s) \_\_\_\_\_
- Zoning District (s) of Parcel(s) \_\_\_\_\_
- Detailed description of the proposed SPECIAL PERMIT:  
currently @ 75 seat capacity would like  
to increase to 95 with reference  
to Section 6.3.1.10
- If applying for a USE SPECIAL PERMIT, declare all hazardous materials or wastes that are expected to be generated, stored, used, or disposed of by the proposed USE. The USE must comply with the TOWN'S Hazardous Materials Control Bylaw:  
N/A
- If there was a change in USE, please describe the previous USE on the site:  
N/A





Town of Acton  
 472 Main Street  
 Acton, MA 01720  
 Telephone (978) 929-8621  
 Fax (978) 929-8340

Brian McKeullen  
 Principal Assessor

Locus: 5 Strawberry Hill Rd  
 Parcel: E4-81

Parcel ID	LOCATION	Owner	Co-Owner	Mailing Address	City	ST
E4-35	242 GREAT RD	ACTON COACH ESTATES LLC	C/O UNIVERSAL MANAGEMENT	181 WELLS AVE	NEWTON, MA 02459	
E4-80	210 GREAT RD	CONANT BREWSTER JR		838 RED PINE DRIVE	WATERLOO, ON N2W1S1	
E4-82	7 STRAWBERRY HILL RD	7-13 STRAWBERRY HILL RD LLC		2 LADYSLIPPER LANE	ACTON, MA 01720	
E4-82-1	217 GREAT RD	217 GREAT RD LLC		2 LADYSLIPPER LANE	ACTON, MA 01720	
E4-88	2 HARVARD CT	MURPHY JOHN E	JEANNE K	2 LADYSLIPPER LANE	ACTON, MA 01720	
E5-20	18 STRAWBERRY HILL RD	KERAMARIS GEORGE	KERAMARIS NIKOLOAS	18 STRAWBERRY HILL RD	ACTON, MA 01720	
E5-20-1	4 STRAWBERRY HILL RD	THE ABERN FAMILY LIMITED PARTNERSHIP		304 CONCORD RD	WAYLAND, MA 01778	
E5-20-2	6 STRAWBERRY HILL RD	ALLEN JO ANN F TRUSTEE		6 STRAWBERRY HILL RD	ACTON, MA 01720	
E5-20-4	14 STRAWBERRY HILL RD	KERAMARIS GEORGE	KERAMARIS NIKOLOAS	18 STRAWBERRY HILL RD	ACTON, MA 01720	
E5-20-5	18 STRAWBERRY HILL RD	KERAMARIS GEORGE	KERAMARIS NIKOLOAS	18 STRAWBERRY HILL RD	ACTON, MA 01720	
E5-28	13 STRAWBERRY HILL RD	7-13 STRAWBERRY HILL RD LLC		2 LADYSLIPPER LANE	ACTON, MA 01720	
E5-32	9 HARVARD CT	5 HARVARD COURT LLC		2 LADYSLIPPER LANE	ACTON, MA 01720	
E5-33	6 HARVARD CT	6 HARVARD CT LLC		2 LADYSLIPPER LANE	ACTON, MA 01720	
E5-35-1	29 STRAWBERRY HILL RD	SEMAPATI NIHAR RAJUAN		28 STRAWBERRY HILL RD	ACTON, MA 01720	

Abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list

**HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:**

Boxborough, MA 01729      Maynard, MA 01754      Concord, MA 01742      Littleton, MA 01480  
 Carlisle, MA 01741      Stow, MA 01775      Westford, MA 01886      Sudbury, MA 01776

Mary Abbott  
 Acton Assessors Office

8/1/2015

# Site Development Plan 1976



WILLIAM BRADSHAW  
CHRISTOPHER J. FARRELL

# TOWN OF ACTON

TOWN HALL

P. O. BOX 288

ACTON, MASSACHUSETTS 01720

TELEPHONE (617) 263-3781

BOARD OF SELECTMEN  
ALAN D. FRANKLIN, Chairman  
ALFONSO A. BROWN, Member  
FRANCIS J. HAYES, Member  
JOHN J. GIBSON, Member

## FILE COPY

September 8, 1976

RECEIVED & FILED

DATE SEP 15 1976

*Charles J. Mackey*  
TOWN CLERK, ACTON

Mr. Claude Miquel  
193 Main Street  
Acton, MA 01720

Re: Site Development Plan #7/30/76-116

Dear Mr. Miquel:

Under the provisions of Section V, Subsection D of the Protective Zoning Bylaw of the Town of Acton, the Board of Selectmen at its meeting held on September 7, 1976, voted to approve site development plan #7/30/76-116, submitted by John E. Murphy, Jr., Agent for Claude Miquel, on July 30, 1976, and shown as:

- 1) Site Plan of Land in Acton, Mass Prepared for Chez Claude, by Acton Survey and Engineering, Inc. 27 Central Street, Acton, MA, dated July 30, 1976.
- 2) Zoning Map, Town of Acton, compiled by Shelving, Hilton and Associates, shown locus of building.
- 3) Floor Plan of proposed site plan and existing floor plan.
- 4) Plan named Schedule of Work "Schedule from" Floor Plan section.
- 5) Site Plan of Land in Acton, MA owned by Richard H. Murphy, by Acton Survey and Engineering, 27 Central Street, Acton, MA, dated May 14, 1971 named Parking Breakdown.
- 6) Site Plan of Land in Acton, MA Prepared for Chez Claude, by Acton Survey and Engineering, Inc., 27 Central Street, Acton, MA, dated July 30, 1976, Lot coverage, and all as known as site development plan #7/30-76-116, subject to the following conditions:

September 8, 1976

1. The existing unpaved driveway located on the western side shall have installed at the entrance from Strawberry Hill Road, a sun tape barrier.
2. Design of the proposed leaching basin shall be submitted to the Town Engineer for his written approval prior to the start of construction. Said basin shall be inspected and approved by the Town Engineer prior to backfilling. Petitioner shall cause the basin to be cleaned annually in order to prevent malfunction.
3. Approval of this site plan in no way indicates approval of signs either existing or new.
4. There shall be no further subdivision or development of the site.
5. All development of the site must be in accordance with the Bylaws of the Town of Acton.
6. No approval of any indicated signs or advertising devices is implied.
7. The conditions of this site development plan approval shall be carried into effect and completed by the applicant by September 8, 1977 and prior to the issuance of any occupancy permit.
8. The buildings or structures must be built in compliance with the applicable provisions of the Protective Zoning Bylaw of the Town of Acton and this decision does not indicate nor does it imply, that the development or construction as shown on the related Site Development Plan complies with

Mr. Claude Miguel

-3-

September 8, 1976

such provisions of the Protective Zoning Bylaw.

Very truly yours,

BOARD OF SELECTMEN

By:

*Joan W. Gardner*  
Joan W. Gardner  
Chairman

JSD/cnj

cc: Town Clerk  
Board of Health  
Building Commissioner  
Engineering Department  
Planning Board  
Fire Department  
Board of Assessors  
Acton Survey and Engineering, Inc.  
Julian D'Agostine



TOWN OF ACTON  
INCORPORATED 1734

**TOWN OF ACTON**

TOWN HALL

P. O. BOX 229

ACTON, MASSACHUSETTS 01720

TELEPHONE (617) 263-2701

RECEIVED  
DATE  
TOWN CLERK

October 21, 1976  
RECEIVED & FILED

DATE  
TOWN CLERK

Mr. Claude Niquel  
297 Main Street  
Acton, Massachusetts 01720

Dear Mr. Niquel: Re: Site Development Plan 07/30/76-116

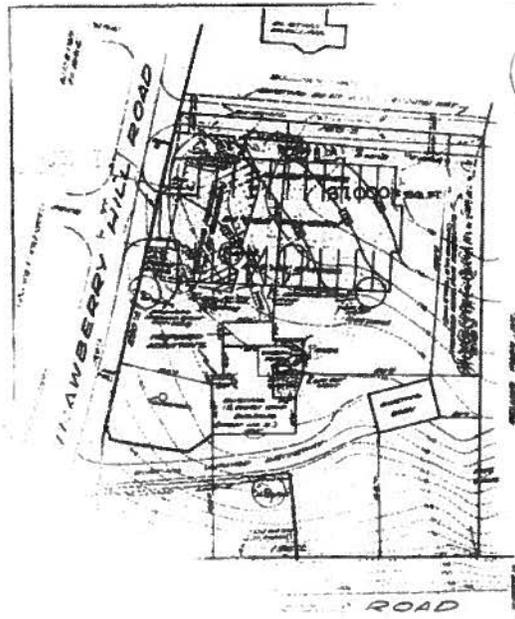
At its regular meeting held on October 19, 1976, the Board of Selectmen voted to approve the modifications to the original approval of Site Development Plan 07/30/76-116 requested in your letter of October 13, 1976, as follows:

1. That the proposed addition be moved over approximately five (5) feet towards the parking lot as indicated on plan submitted on October 13, 1976.
2. That the corners of the addition be replated by 45 degree angles as shown on the plan submitted on October 13, 1976.

Very truly yours,  
BOARD OF SELECTMEN  
by: *John H. Gardner*  
John H. Gardner,  
Chairman

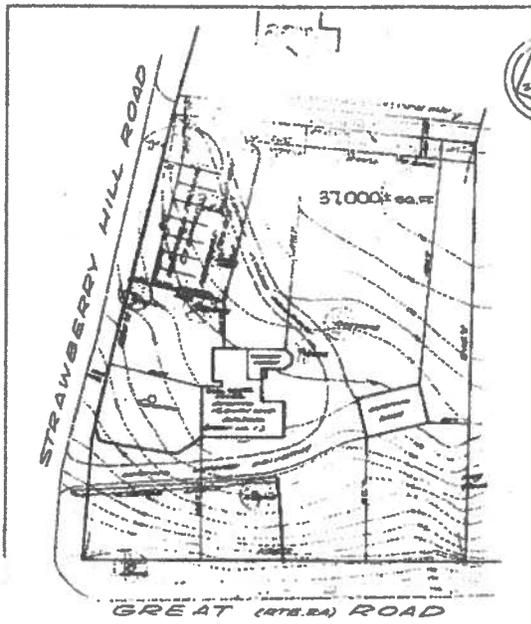
JBG/xpb  
cc: Town Clerk  
Building Commissioner  
Board of Health  
Planning Board  
Town Engineer  
Board of Assessors  
Fire Chief





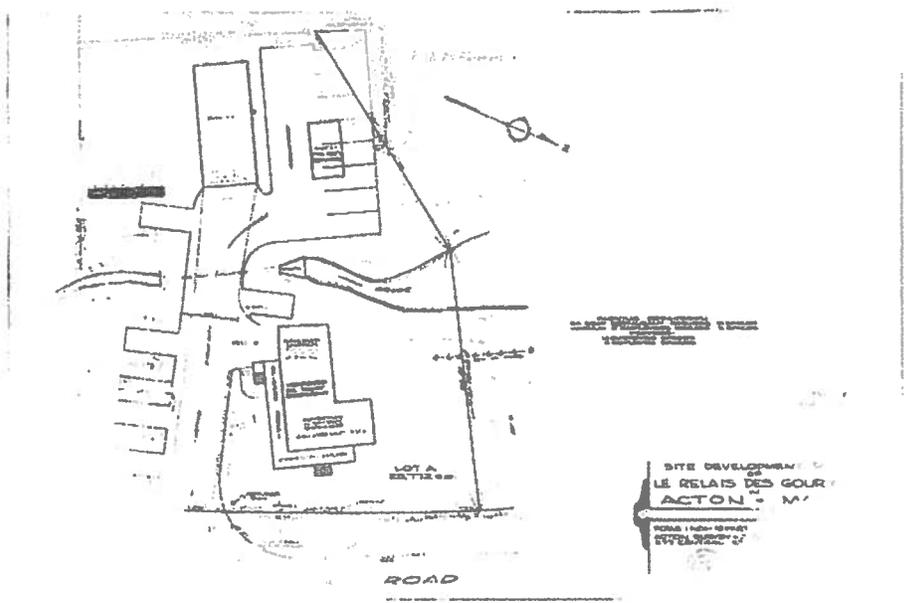
SITE PLAN  
 OF LAND IN  
**ACTON - MAS**  
 PREPARED FOR: CHEZ CLAUDE

SCALE: 1 INCH = 10 FEET  
 ACTON SURVEY & ENGINEERING  
 271 CENTRAL ST. ACTON



SITE  
OF  
**ACTON**  
OWNED BY BOARD  
SCALE 1/4" = 1'-0"  
ACTON SUB  
ETI CENTER

GREAT (1718.24) ROAD



## Department and Abutter Comments

Kim Gorman

---

**From:** Chris Allen [Chris@actonwater.com]  
**Sent:** Wednesday, September 16, 2015 10:06 AM  
**To:** Kim Gorman  
**Subject:** RE: 5 Strawberry Hill Road - Use Special Permit Application - Comments

Hi, Kim.

We do not have service in that area, and, hence, there is no connection to our system. They are probably served by Concord Water, if they have public water.

As such, we don't have any comments on this application.

Thank you  
Chris

Chris Allen  
District Manager  
**Water Supply District of Acton**  
**PO Box 953**  
**693 Massachusetts Ave**  
**Acton, MA 01720**  
Ph# 978-263-9107  
Fax# 978-264-0148  
Email: [chris@actonwater.com](mailto:chris@actonwater.com)

*"When the well's dry, we know the worth of water"*—Benjamin Franklin 1776

---

**From:** Kim Gorman [<mailto:kgorman@acton-ma.gov>]  
**Sent:** Tuesday, September 15, 2015 4:23 PM  
**To:** Building Department; Planning Department; Engineering Department; Patrick Futterer; Robert Hart; Health Department; Natural Resources Department; Sidewalk Committee; Chris Allen; Design Review Board; Economic Development Committee; Transportation Advisory Committee  
**Cc:** Lisa Tomyl  
**Subject:** 5 Strawberry Hill Road - Use Special Permit Application - Comments

Good afternoon,

I am in receipt of an application for a Use Special Permit #SPSP 09/08/15-456 for 5 Strawberry Hill Road.

The location of the documents are within docushare, here is the link - <http://doc.acton-ma.gov/dsweb/View/Collection-7001>

The applicant is proposing for additional seats up to 90 seats.

Please email your questions or comments if any to the Planning Department – [planning@acton-ma.gov](mailto:planning@acton-ma.gov) no later than Friday, October 16, 2015.

Thank you!

Sincerely,

Kim Gorman  
Secretary

Acton Planning Department  
472 Main Street  
Acton, MA 01720  
[kgorman@acton-ma.gov](mailto:kgorman@acton-ma.gov)  
978-929-6631

This communication is intended only for the use of the individual or entity named as the addressee. It may contain information which is privileged and/or confidential under applicable law. If you are not the intended recipient or such recipient's employee or agent, you are hereby notified that any dissemination, copy or disclosure of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at (978) 263-9107 or via return internet email to sender and expunge this communication without making any copies. Thank you for your cooperation

**Kim Gorman**

---

**From:** Norman Franks  
**Sent:** Tuesday, September 15, 2015 5:02 PM  
**To:** Lisa Tomy; Health Department; Building Department; Fire Department; Planning Department; Police Department  
**Subject:** RE: Entertainment License Application, Rapscaillon

Based on the age of the building and the spacing of the floor joists it is the recommendation of the Building department that a Structural Engineer evaluate the structural integrity of the building at 5 Strawberry Hill rd. It is also **not** recommended that the occupancy is increased or an entertainment license be issued until the recommendations of the engineer are implemented, approved and verified.

Thank you  
Norman Franks  
Local Inspector

---

**From:** Lisa Tomy  
**Sent:** Monday, August 10, 2015 9:26 AM  
**To:** Health Department; Building Department; Fire Department; Planning Department; Police Department  
**Subject:** Entertainment License Application, Rapscaillon

Please provide you comments/recommendations by September 21.

Regards,

Lisa Tomy  
Executive Assistant  
Office of the Town Manager  
472 Main Street  
Acton, MA 01720  
(p) 978.929.6611  
(f) 978.929.6350  
[ltomy@acton-ma.gov](mailto:ltomy@acton-ma.gov)

## Robert Hummel

---

**From:** Frank Ramsbottom  
**Sent:** Monday, October 19, 2015 4:05 PM  
**To:** Robert Hummel; Health Department; Economic Development Committee; Building Department; Fire Department  
**Cc:** Planning Department  
**Subject:** RE: 5 Strawberry Hill Road - Use Special Permit Application - Comments

Robert

The building at 5 Strawberry Hill Road , Rapsallions, has the capacity for 90 seats in terms capacity per ch 10 of the MA State Building code.

This past spring Brian McDonald conducted the annual inspection and had some concerns of bug damage to the structure , however this needs to be addressed regardless of the seating.

You had also asked about the definition of total capacity vs. seating.

Seating refers only to the number of seats, total capacity will also include all guests which may include standing room either at a bar or waiting area, as well as staff.

So it is most likely that the total capacity will exceed total seating.

The building department does not in general have concerns with the allowed seating being increased. However the owners should be aware that adequate space be maintained around furniture to allow for accessibility for disabled persons and for safe egress in case of an emergency.

The owners should provide us with seating arrangements prior to installing the additional tables and chairs.

Regards

Frank Ramsbottom  
Building Commissioner  
Town of Acton, MA  
472 Main Street, 01720  
Phone # 978-929-6633  
Cell # 978-490-4199

**From:** Robert Hummel  
**Sent:** Monday, October 19, 2015 8:12 AM  
**To:** Health Department; Economic Development Committee; Building Department; Fire Department  
**Cc:** Planning Department  
**Subject:** RE: 5 Strawberry Hill Road - Use Special Permit Application - Comments

I am following up with your department or board because we have not received any comments regarding the Use Special Permit application for 5 Strawberry Hill Road. We would like any comments to be submitted to [planning@acton-ma.gov](mailto:planning@acton-ma.gov) as soon as possible. If you have no additional comments, please indicate it. Planning received comments from

Fire and Building regarding RapsCALLION's entertainment license, if you have any additional comments regarding the Use Special Permit please indicate it.

<http://doc.acton-ma.gov/dsweb/View/Collection-7001>

Thanks,  
Robert Hummel  
Assistant Town Planner  
Town of Acton  
978-929-6631



Please consider the environment before printing this email.

---

**From:** Kim Gorman  
**Sent:** Tuesday, September 15, 2015 4:23 PM  
**To:** Building Department; Planning Department; Engineering Department; Patrick Futterer; Robert Hart; Health Department; Natural Resources Department; Sidewalk Committee; Chris Allen; Design Review Board; Economic Development Committee; Transportation Advisory Committee  
**Cc:** Lisa Tomyl  
**Subject:** 5 Strawberry Hill Road - Use Special Permit Application - Comments

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The applicant is proposing for additional seats up to 90 seats.

Please email your questions or comments if any to the Planning Department – [planning@acton-ma.gov](mailto:planning@acton-ma.gov) no later than Friday, October 16, 2015.

Thank you!

Sincerely,

Kim Gorman  
Secretary  
Acton Planning Department  
472 Main Street  
Acton, MA 01720  
[kgorman@acton-ma.gov](mailto:kgorman@acton-ma.gov)  
978-929-6631

Kim Gorman

---

**From:** Holly BenJoseph [hollydbj@gmail.com]  
**Sent:** Wednesday, September 16, 2015 3:43 PM  
**To:** Kim Gorman  
**Subject:** Re: 5 Strawberry Hill Road - Use Special Permit Application - Comments

Since there are no plans or exterior renovations in the package, the DRB has nothing to review.  
Best,  
Holly

On Tue, Sep 15, 2015 at 4:23 PM, Kim Gorman <[kgorman@acton-ma.gov](mailto:kgorman@acton-ma.gov)> wrote:

Good afternoon,

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Thank you!

Sincerely,

Kim Gorman

Secretary

Acton Planning Department

472 Main Street  
Acton, MA 01720

[kgorman@acton-ma.gov](mailto:kgorman@acton-ma.gov)

978-929-6631

--

Holly D. Ben-Joseph  
Landscape Architect  
Tel: (508) 451-3388  
email: [hollydbj@gmail.com](mailto:hollydbj@gmail.com)  
web: [www.hdbjlandscapes.com](http://www.hdbjlandscapes.com)

Kim Gorman

---

**From:** Paul Campbell  
**Sent:** Monday, September 21, 2015 3:56 PM  
**To:** Kim Gorman  
**Cc:** Engineering Department  
**Subject:** RE: 5 Strawberry Hill Road - Use Special Permit Application - Comments

Engineering has no comments

Thank you,  
Paul Campbell  
Engineering Department  
978-929-6630

---

**From:** Kim Gorman  
**Sent:** Tuesday, September 15, 2015 4:23 PM  
**To:** Building Department; Planning Department; Engineering Department; Patrick Futterer; Robert Hart; Health Department; Natural Resources Department; Sidewalk Committee; Chris Allen; Design Review Board; Economic Development Committee; Transportation Advisory Committee  
**Cc:** Lisa Tomy  
**Subject:** 5 Strawberry Hill Road - Use Special Permit Application - Comments

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Thank you!

Sincerely,

Kim Gorman  
Secretary  
Acton Planning Department  
472 Main Street  
Acton, MA 01720  
[kgorman@acton-ma.gov](mailto:kgorman@acton-ma.gov)  
978-929-6631

Kim Gorman

---

**From:** Robert Hart  
**Sent:** Tuesday, September 15, 2015 6:44 PM  
**To:** Norman Franks  
**Cc:** Lisa Tomyl; Health Department; Building Department; Fire Department; Planning Department; Police Department  
**Subject:** Re: Entertainment License Application, Rapscaillon

I agree with Norman. I would like to add a sprinkler review by a fire protection engineer. I have asked for this review during the recent up fit and have not received any documentation to date.

Respectfully,  
Robert Hart  
Deputy Fire Chief  
Acton Fire Department

On Sep 15, 2015, at 5:02 PM, Norman Franks <[nfranks@acton-ma.gov](mailto:nfranks@acton-ma.gov)> wrote:

Based on the age of the building and the spacing of the floor joists it is the recommendation of the Building department that a Structural Engineer evaluate the structural integrity of the building at 5 Strawberry Hill rd. It is also **not** recommended that the occupancy is increased or an entertainment license be issued until the recommendations of the engineer are implemented, approved and verified.

Thank you  
Norman Franks  
Local Inspector

---

**From:** Lisa Tomyl  
**Sent:** Monday, August 10, 2015 9:26 AM  
**To:** Health Department; Building Department; Fire Department; Planning Department; Police Department  
**Subject:** Entertainment License Application, Rapscaillon

Please provide you comments/recommendations by September 21.

Regards,

Lisa Tomyl  
Executive Assistant  
Office of the Town Manager  
472 Main Street  
Acton, MA 01720  
(p) 978.929.6611  
(f) 978.929.6350  
[ltomyl@acton-ma.gov](mailto:ltomyl@acton-ma.gov)



**TOWN OF ACTON**  
**Health Department**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 929-6632  
Fax (978) 929-6630

---

**REVISED**

September 8, 2015

**TO:** Lisa Tomyl, Town Manager's Office

**FROM:** Sheryl Ball, Health Inspector

**RE:** Live Entertainment License – RapsCALLion – Table to Tap– 5 Strawberry Hill Road, Acton, MA

---

The Health Department has reviewed the application for a Live Entertainment License for RapsCALLion – Table to Tap– 5 Strawberry Hill Road, Acton, MA and has the following comment:

1. This facility is currently approved for 75 seats and the total seats may not increase unless the septic system is upgraded.



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)

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**MEMORANDUM**

**To:** Board of Selectmen

**Date:** October 27, 2015

**From:** Robert Hummel, Roland Bartl

**Subject:** Restaurant Use Special Permit #09/08/15 - 456 —RapsCALLION

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**Applicant:** Peter Daniel  
**Property Owner:** Strawberry Hill LLP (Claude Miquel)  
**Location:** 5 Strawberry Hill Road  
**Map/Parcel:** E4-61  
**Zoning:** Limited Business (LB)  
**Proposed Use:** Restaurant – 90 seats  
**Previous Permits:** #7/30/76-116  
**Hearing Date:** November 2, 2015  
**Decision Due Date:** January 31, 2015

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**Background**

Peter Daniel of RapsCALLION Table and Tap submitted a Use Special Permit Application for a 90 seat restaurant at 5 Strawberry Hill Road. The hours of operation are Wednesday through Sunday 11:30 am - 11 pm. The site has been operated as a restaurant for many years before as Chez Claude, and later as Sprigs. Restaurants with 10 or more seats require a use special permit. There is a site plan special permit on record from the Board of Selectmen in 1976. We found no use special permit on record.

**Comments**

1. The maximum number of parking spaces in the Limited Business zoning district is set in the proportion to the size of the property. According to 5.4.6.2 in the zoning bylaw, the maximum number of parking spaces is one space for every 3,000 square feet of developable site area. From that calculation, the maximum number of parking space would be 12.
  - There are 30 parking spaces on the site. We determined that the 30 spaces are legal pre-existing nonconforming (grandfathered) based in part on previously approved plans and in part on the duration that the 30 space parking lot has been there. This is the maximum parking for the site.
2. According to 6.3.1.10 in the zoning bylaw, restaurants must have at least one parking space for each three restaurant seats. Consequently, the highest possible number for seating in the restaurant is 90.

The Board of Health has historically approved 75 seats based on the existing condition of the septic system. In the absence of a special permit on the record, and considering the many

years that a restaurant has been operated at the site, we have for zoning purposes determined to follow the Board of Health's lead and set the grandfathered restaurant seating without special permit at 75 seats.

- On a site visit with the applicant, we counted a total of 109 seats – 88 indoors and 21 outdoors. We informed the applicant of the 75 seat limit and suggested that, short of removing the excess seating, he might want to look into filing for a restaurant use special permit to increase the number of seats above 75; he would also have to work with the Health Department regarding their current seating limit of 75.
3. The Health Department has commented that a new septic system would need to be installed if the seat limit was increased.
  4. According to the Building Department the restaurant has the capacity for 90 seats per Chapter 10 of the MA State Building code. They note, however, that adequate space should be maintained around furniture to allow for accessibility for disabled persons and for safe egress in case of an emergency, and that the owners should provide the Building Department with seating arrangements prior to installing the additional tables and chairs.
  5. We received complaints from a neighboring business about overflow parking onto the parking lot it uses. The applicant told us that he has permission from some nearby business property owners (4 and 6 Strawberry Hill Road and Gould's Plaza) to allow his customers to park there after business hours and on the weekends in instances when his parking lot is full. Zoning has no issue with such arrangements; however, the area is not the safest for pedestrians, especially so when it is dark outside.
  6. On-street parking does not appear to be a workable solution in the site's vicinity.
  7. Related comments were collected in connection with the concurrent entertainment license application.
    - There is concern about the adequacy of the existing floor joists. The Building Department recommends that a structural engineer evaluate the integrity of the building before increasing the current total occupancy limit<sup>1</sup>.
    - The Fire Department advises a sprinkler system review by a fire protection engineer before increasing the current total occupancy limit. They have asked for this review during the recent renovation and did not receive any documentation to date.

The Planning Department's recommendations are attached in the form of a draft decision.

---

<sup>1</sup> Total occupancy is greater than seating limit. It includes waiting room, standing room and allowance for restaurant personnel.

**Counseling Offices at Four Strawberry Hill Road  
4 Strawberry Hill Road  
Acton, MA 01720**

Lisa Tomyl  
Executive Assistant  
Town of Acton  
472 Main Street  
Acton, MA 01720

October 28, 2015

Dear Ms. Tomyl:

We are writing to express our concerns regarding the request made by Peter Daniel to increase the seating to 90 at RapsCALLION Table and Tap, 1 Strawberry Hill Road. We rent office space for our counseling practices at 4 Strawberry Hill Road which is located directly across the street from RapsCALLION Table and Tap, as we have done for 10 years without incident around parking with the previous restaurants.

As you know, there are 25 parking spaces in the RapsCALLION parking lot which meets the requirement of 1 space per every 3 people as mandated in Acton town codes. Unfortunately, the parking for the current customer base is already inadequate. Mr. Daniel directs his customers via a sign to use the lot shared by the Law Offices of Kathleen Foley and ourselves. It is our understanding that Mr. Daniel has an agreement with Ms. Foley to use her spaces, which often does not provide enough parking for his customers. Therefore, his customers also use our spaces, despite signage indicating some limitations around parking. Restaurant customers can park in our lot after 7 p.m. on weekdays and anytime on weekends. As the limitations are not respected, our patients have had difficulty finding parking in our lot. We see patients throughout the day and into the evening, often until 8 or 9 p.m. and therefore need the parking spaces during peak dining hours. We are quite concerned that an increase in the number of seats available at RapsCALLION will create additional challenges for us and our patients due to the inadequacy of the parking at RapsCALLION.

We respectfully request that the negative impact of increasing the seating at RapsCALLION on our businesses be considered during the discussion and decision as to whether to grant Mr. Daniel's request.

Sincerely,

  
Kate Imhoff, LMHC

  
Gina King, LICSW

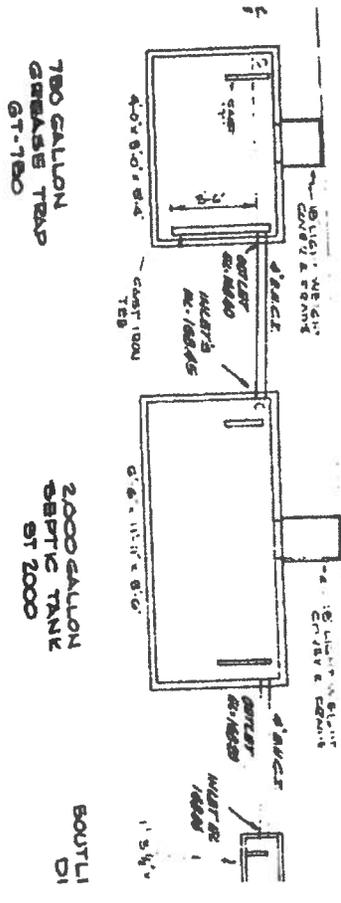
  
Ellen Maiman, LICSW

  
Jessica Pecchenino, Psy.D.

# Septic System Plan

# SEPTIC SYSTEM PROFILE

PRECAST PRODUCTS BY ROTONDO & SONS, INC.  
 BETHLEHEM, MASS



## ESTIMATED SEWAGE FLOW:

BASIS - STARS SANITARY CODE - RESTAURANT, IN-TOWN -- TRULST AND  
 KITCHEN WASTES PER PATRON ... TALL/PERSON/DAY  
 78 SEAT RESTAURANT WITH 25 SITTING PER DAY  
 78 x 2 x 7 GALLONS = 1080 GALLONS/DAY  
 (NOTE: ACTUAL WASTE READINGS FOR SEAT EXISTING CHEF  
 CLAUDE INDICATE 4 GALLON/SEAT AVERAGE DAILY FLOW)

**SEPTIC TANK SIZE:**  
 DAILY ESTIMATED FLOW x 150% OR 1575 GALLONS -  
 PROVIDE A 2000 GALLON SEPTIC TANK

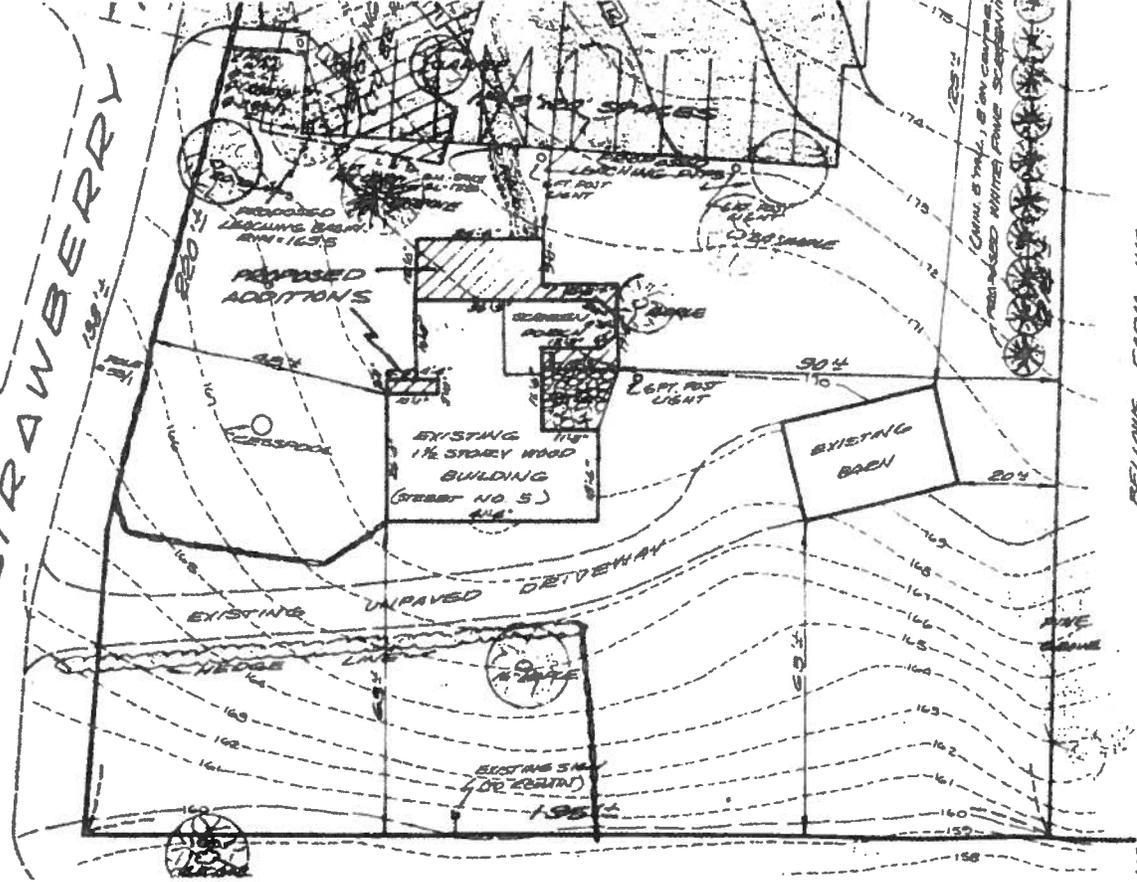
## LEACHING AREA:

BASED ON APPLICATION RATE OF 1766 GAL./S.F. - 588 SQ. FT. AREA  
 PROVIDE 2 LEACHING PITS AS SHOWN -- EFFECTIVE DIA. 14'0"  
 EFFECTIVE DEPTH 8'0" EFFECTIVE LEACHING AREA 67

VIRGINIA R. RIVER

S.A.D. ESTATE TRUST

STRAWBERRY



10mm 8" x 10" 1/8" in center  
PROPOSED WHITE PINE SCISSOR

BELLONS FARM, INC.

BY REC

# Draft Decision

Rapscallion Table & Tap  
Restaurant Use Special Permit Decision # 09/08/15 - 456  
5 Strawberry Hill Road  
November 2, 2015

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**Board of Selectmen**

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**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (978) 929-6611  
Fax (978) 929-6350  
bos@acton-ma.gov  
www.acton-ma.gov

**DECISION**

# 09/08/15 - 456

**Rapscallion Table & Tap**

Restaurant Use Special Permit  
5 Strawberry Hill Road  
November 2, 2015

**GRANTED with CONDITIONS**

Decision of the Acton Board of Selectmen (hereinafter the Board) on the request of Mr. Peter Daniels, of 1 Strawberry Hill Road, MA (hereinafter the Applicant/ Owner), received September 8, 2015. The Applicant is requesting a Restaurant Use Special Permit pursuant to Section 3.5.5 of the Zoning Bylaw (hereinafter the Bylaw) and the Special Permit Rules and Regulations (hereinafter the Rules) for property located at 5 Strawberry Hill Road Acton, MA owned by Strawberry Hill LLP at 1 Strawberry Hill Road, Acton, MA. The property is shown on the Acton Town Atlas as map E4-61 (hereinafter the site).

The Board considered the request at a duly noticed public hearing on November 2, 2015. Board members Katie Green (Chair), Peter J. Berry, Janet K. Adachi, and Frances J. Osman, Chingsung Chang were present.

The minutes of the hearing and submissions upon which this Decision is based on may be found in the Town Clerk's office or the Board's office at the Acton Town Hall.

## **1. EXHIBITS**

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

- 1.1 An application form for a Use Special Permit received, September 8, 2015;
- 1.2 Certified Abutters List;
- 1.3 Supplemental Information:
  - Site Development Plan #7/30/76-116 provided by the Planning Department
  - Rapscallion Septic System Profile provided by the Health Department
- 1.4 Interdepartmental and other communication:
  - Planning Department Memo dated October 27, 2015;
  - Building Department Memo dated September 15, 2015;
  - Fire Department Memo dated September 15, 2015;
  - Building Department Memo dated October 20, 2015;
  - Health Department Memo dated September 8, 2015.

**Exhibits 1.1 through 1.2 are 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 in the Limited Business (LB) Zoning District.
- 2.2 The Site has been a restaurant location since at least the 1970's.
- 2.3 The existing 30-space parking lot is pre-existing nonconforming. It exceeds the number of parking spaces that would be allowed under the Bylaw (section 5.4.6.2) today.
- 2.4 The Bylaw in section 6.3.1.10 requires at least one parking space for each three seats in a restaurant.
- 2.5 The Applicant is proposing to add an additional 15 seats for a total of 90 seats. 90 seats is the maximum number of potential seats in accordance with the Bylaw based on the minimum parking spaces to seating ratio.
- 2.6 The restaurant use is pre-existing nonconforming because there is no restaurant use special permit on record for this location. Under the Bylaw, restaurants need a use special permit from the Board of Selectmen for seating over 10. The restaurant currently has 75 permitted seats per Board of Health approvals based on the septic system's capacity.
- 2.7 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.

- 2.8 The proposed use 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 in question; and complies with all applicable requirements of this Bylaw.

### **3. BOARD ACTION**

Therefore, the Board voted unanimously on November 2, 2015 in favor of GRANTING the Restaurant Use Special Permit # 09/08/15 - 456 for a total of 90 seats, subject to the following Conditions and Limitations.

### **4. CONDITIONS**

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

- 4.1 This Restaurant Use Special Permit is limited to 90 seats or such lesser number of seats as the Board of Health and Building Commissioner may determine from time to time.
- 4.2 The Applicant shall meet and continue to adhere to all requirements of the Town Bylaws.
- 4.3 Pre-existing nonconformities on the Site shall not increase without the requisite permits or special permits.
- 4.4 Prior to increasing the seat number above 75, the Applicant shall:
- 4.4.1 Provide for the Building Department's review a seating arrangements plan that ensures adequate space for accessibility for disabled persons and for safe egress in case of an emergency, and shall have receive approval of such plan. The Applicant shall comply with the approved seating arrangements plan.
  - 4.4.2 Obtain a sprinkler system review by a fire protection engineer and submit same to the Fire Department.
  - 4.4.3 Have received a permit from the Board of Health for an increase in the number of seats.
  - 4.4.4 Pay in full all taxes, penalties and back charges resulting from the non-payment of taxes, if any.
- 4.3.1 Record this Decision at the Middlesex South District Registry of Deeds.

### **5. LIMITATIONS**

The authority granted to the Applicant under this Restaurant Use Special Permit is limited as follows:

- 5.1 The foregoing required 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.
- 5.2 This Restaurant Use Special Permit applies only to the Site identified in this Decision.
- 5.3 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.
- 5.4 The Board hereby reserves its right and power to modify or amend terms and conditions of this Restaurant Use Special Permit with or without a public hearing upon the request of the Applicant, its designees or assigns, or upon its own motion.

**6. APPEALS**

Any person(s) aggrieved by the issuance of this Restaurant Use 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 Decision with the Town Clerk.

The Town of Acton Board of Selectmen

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Katie Green, Chair

Copies furnished:  
 Applicant -  
 certified mail #  
 Town Clerk  
 Fire Chief  
 Owner  
 Assistant Assessors

Building Commissioner  
 Town Engineer  
 Natural Resources Director  
 Police Chief  
 Historical Commission

Health Director  
 Municipal Properties Director  
 Town Manager  
 Acton Water District