



Planning Department

TOWN OF ACTON
 472 Main Street
 Acton, Massachusetts 01720
 Telephone (978) 929-6631
 Fax (978) 929-6340
planning@acton-ma.gov

MEMORANDUM

To: Board of Selectmen

Date: October 27, 2015

From: Robert Hummel, Roland Bartl

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

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

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 limit¹.
 - 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.

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