



Planning Department

10/20/08 (5)

TOWN OF ACTON
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Acton, Massachusetts 01720
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INTERDEPARTMENTAL COMMUNICATION

To: Steven Ledoux, Town Manager **Date:** October 3, 2008
From: Roland Bartl, AICP, Planning Director *R.B.*
Subject: Alexan Concord 40B – Proposed Signs in Public Way

The developer has proposed two identical signs at different locations in the public way and requested zoning waivers from the Board of Appeals (see attached).

Peter Berry has asked me to provide information on this for discussion with the Board of Selectmen.

1. The zoning bylaw in Acton does not apply to streets. It refers to the Board of Selectmen for all control over signs in public ways. Under Massachusetts General Law the Board of Selectmen (or the Highway Commissioners where they are a separate board) have jurisdiction over public ways. Counsel and I have advised the ZBA that in the circumstances there are no local bylaws or regulation for the ZBA to waive. The ZBA agrees and the Applicant's attorney at the last ZBA meeting has conceded on this point.
2. The Selectmen have issued in the past two policies for signs in public ways (attached). In my reading the Alexan proposed signs do not fit under the policy by type of sign, for purpose, or by entity/event that is advertised.
3. Attached is a sketch plan of the proposed sign(s): 6+ feet high, +/-5 feet wide (with posts/pillars), display area 9 sq.ft., a removable sign portion ("now leasing") with an addl. 3 sq.ft., and a down light at the top. The attached Sudbury Road plan sheets show the proposed sign locations. The zoning bylaw does not apply to public ways or street. The following references to allowable dimensions for various types of freestanding signs under Powder Mill District zoning may be helpful, though, if the Board of Selectmen were to allow the proposed sign.

Standard/by-right freestanding sign for a business on private property –

max. display area:	12 sq.ft.
max. height:	7 feet
max. width:	not specified
landscaped area (varies by sign display area)	
for a sign such as Alexan proposes	144 sq.ft.
setback from street r.o.w. line (min. 5 feet) for a sign	
such as Alexan proposes	6 feet

Multifamily dwelling sign –

10/20/08 7:45

a sign identifying the name of a multifamily residential dwelling, not exceeding 6 square feet in display area. If freestanding its height shall not exceed 4 feet above ground level and if mounted to the exterior wall of a building no portion thereof shall be higher than 6 feet from the ground.

Residential development sign –

A sign identifying the name of a residential development, not exceeding 6 square feet in display area. If freestanding, its height shall not exceed 4 feet above ground level, and if mounted to the exterior wall of a building, no portion thereof shall be higher than 6 feet from the ground.

Off-premises directional sign for businesses –

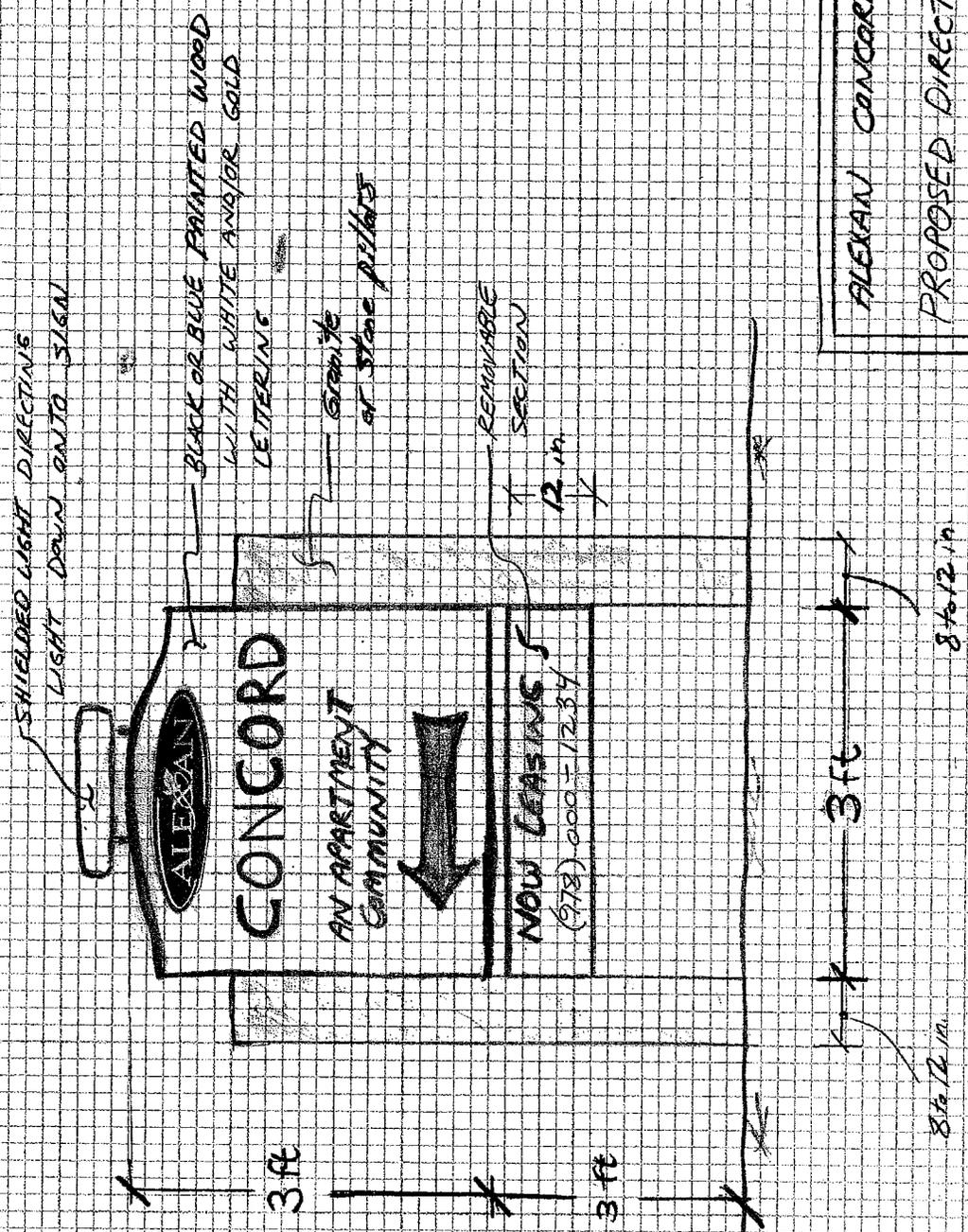
To assist motorists in finding businesses not located on the same lot as the sign, provided that such sign identifies only the name(s) of such businesses which are located on a lot that does not have frontage on any of the major numbered through streets: routes 2, 2A, 27, 111, and 62. Such sign shall not display any advertisement nor be illuminated. The maximum display area shall not exceed 1 square foot per business identified on the sign, up to 4 square feet of combined display area for multiple identifications on such sign. The height of such sign shall not exceed 5 feet above the ground. There shall be no more than two locations at which any particular business may be identified with an off-premises sign. No sign permitted under that section shall be erected within a street or within any right of way customarily used by the general public.

Landmark sign –

Any sign determined by the Board of Selectmen to be of particular artistic or historic merit that is unique or extraordinarily significant to the Town and its residents. Such a SIGN may be new or old, it may or may not comply with this Bylaw, it may be a picture, mural, statue, sculpture or other form of artistic expression, it may warrant preservation in its original form or may be in need of restoration, or it may be a marker to identify or commemorate a particular significant location, a historic event or person, or a natural feature.

Things to consider:

- Equal treatment: Are the Selectmen prepared to allow signs in public ways for anybody and any business? If so what are the rules and standards? If it is allowed for Alexan, on what grounds would the Board deny such a request say from the nearby Suzuki or Ford dealers (Bertolami), Subaru, or Stop & Shop.
- Maybe the more remote business location could be a criterion (see off-premises sign criteria above)? Then, what about other businesses located on Sudbury Road such as Digital Marine or the trucking/hauling company just over line in Maynard? Acton has many businesses in locations that are less traveled and less visible. What about the “1-800-GOT-JUNK?” signs that I have received complaints about and that I have pulled up and trashed on occasion?
- Perhaps Swanson Pontiac and Digital Marine would allow Alexan to place the proposed signs on their private property, if asked, which would bring zoning back into play.
- One may think of the signs in Nagog Park Drive advertising the Avalon rental project as precedent. However, while Nagog Park Drive is street under the zoning definition and therefore exempt, it is also a private way where the Board of Selectmen has no jurisdiction.

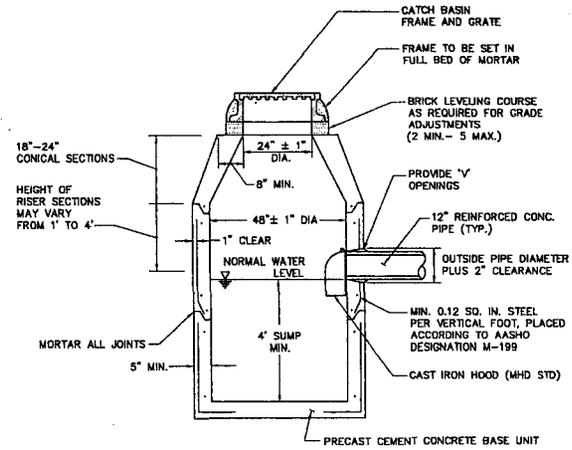


ALEXAN CONCORD
 PROPOSED DIRECTIONAL
 SIGN
 9/18/08 (RM)
 N.T.S.

NOTES:
 1. SIGN AT RTE 62 / SUDBURY ROAD WILL BE
 FIVE LETTERING ON TWO SIDES.

NOT FOR CONSTRUCTION

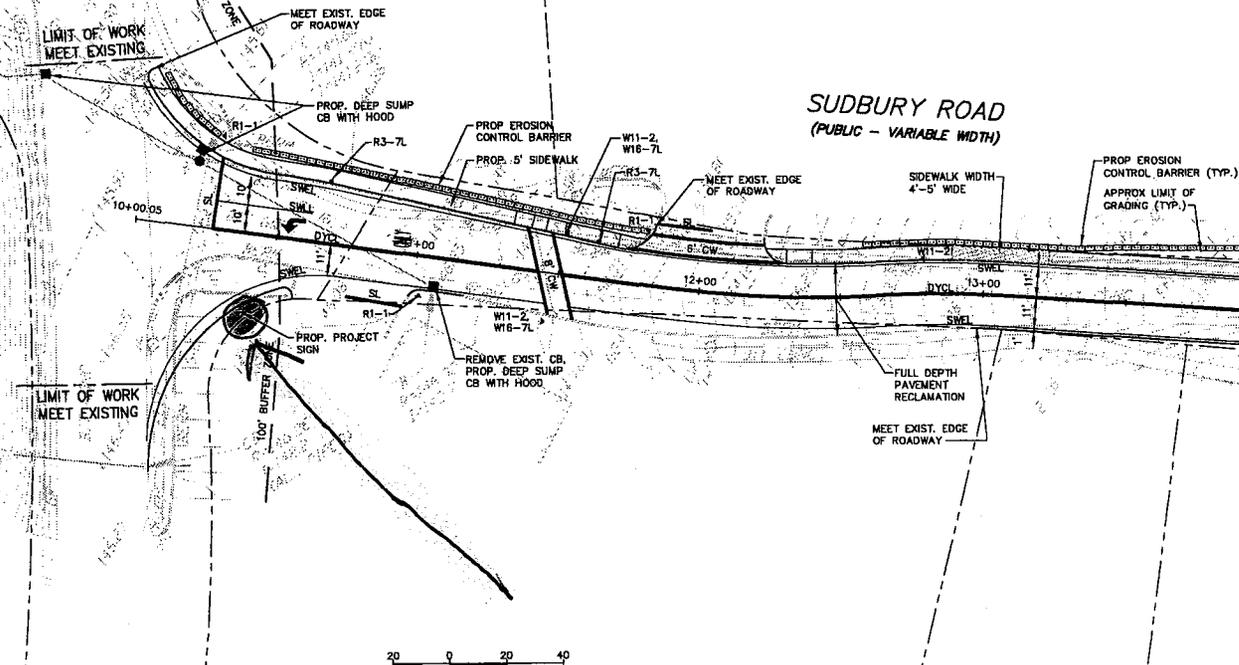
SIGN LEGEND	
R1-1	STOP
R3-7L	LEFT LANE MUST TURN LEFT
R3-7R	RIGHT LANE MUST TURN RIGHT
W11-2	WALKING
W16-7L	LEFT TURN



PRECAST CONCRETE CATCH BASIN

NOT TO SCALE

OLD POWDER MILL ROAD (ROUTE 62)
(PUBLIC - VARIABLE WIDTH)
(1983 COUNTY LAYOUT)



CONT. ON SHEET GN2

PROJECT TITLE
**Alexan Concord
Sudbury Road
Concord,
Massachusetts**

PREPARED FOR
**West Concord
Development LLC
Needham,
Massachusetts**



ANDOVER, MASSACHUSETTS
10 N.E. BUSINESS CENTER DRIVE
ANDOVER, MA 01810-1088
TEL: (978) 474-8800
FAX: (978) 886-6508

FORT MYERS, FLORIDA
12730 NEW BRITANNY BLVD., SUITE 600
FORT MYERS, FL 33907
TEL: (239) 437-4801
FAX: (239) 437-4826

DESIGNED BY	BPD
DRAWN BY	BAM
CHECKED BY	FLD
DATE	JULY 2008
SCALE	1" = 20'
STAMP	

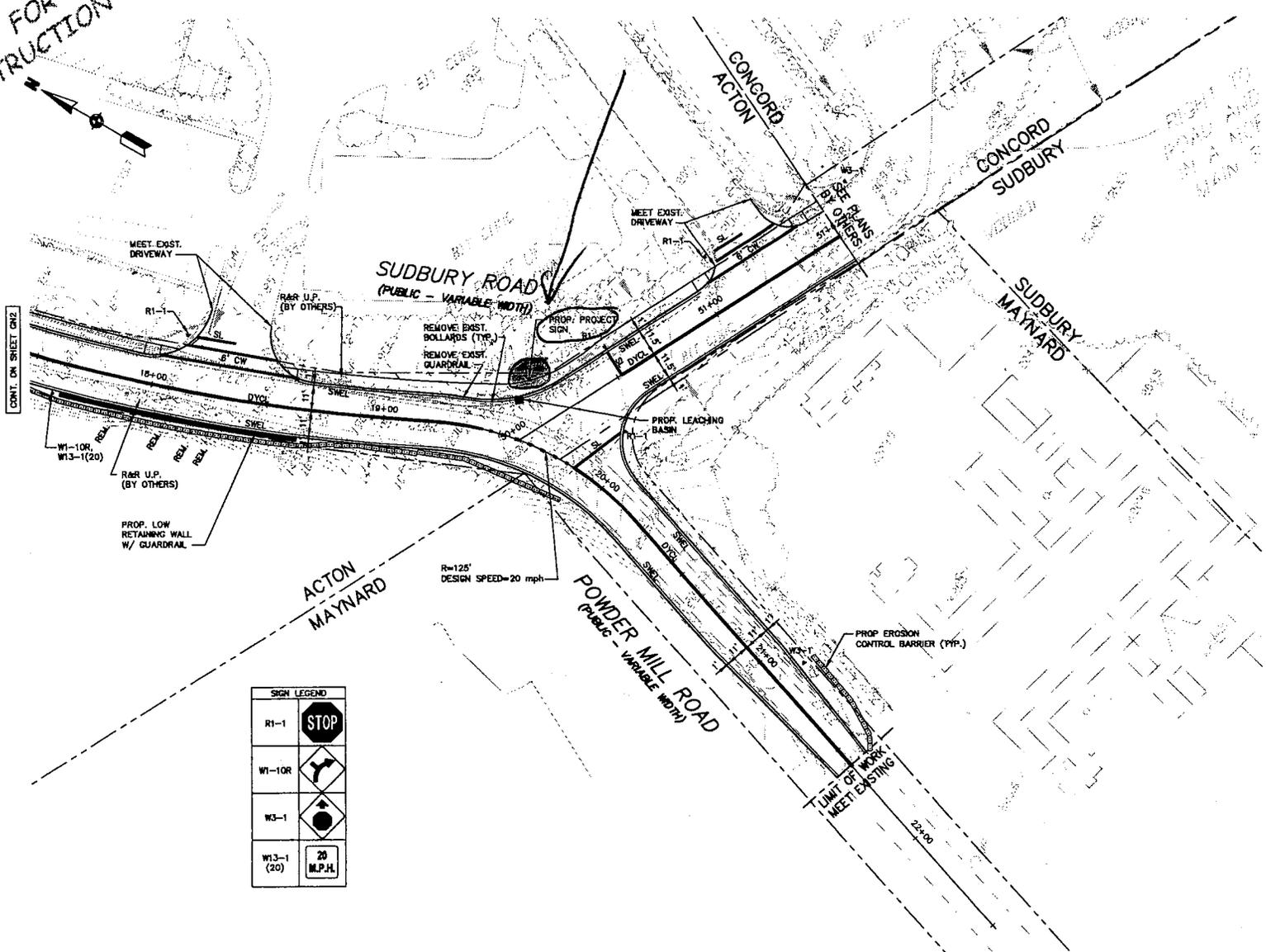
NO.	DESCRIPTION	DATE
1	BSC Comments	7/7/08

DRAWING TITLE
**General Plan
BSC Alt. 3 Modified**

SHEET 1 OF 3	DRAWING NUMBER
JOB NO. 4984	GN1
CAD 4984GN1	

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NOT FOR CONSTRUCTION



SIGN LEGEND	
R1-1	STOP
W1-10R	Right Turn
W3-1	Stop Ahead
W13-1 (20)	20 M.P.H.

20 0 20 40
SCALE IN FEET

PROJECT TITLE
**Alexan Concord
Sudbury Road
Concord,
Massachusetts**

PREPARED FOR
**West Concord
Development LLC
Needham,
Massachusetts**

WI
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DESIGNED BY BPD
DRAWN BY BAM
CHECKED BY FLD
DATE JULY 2008
SCALE 1" = 20'
STAMP

REVISIONS		
NO.	DESCRIPTION	DATE
1	BSC Comments	7/7/08

DRAWING TITLE
**General Plan
BSC Alt. 3 Modified**

SHEET 3 OF 8 DRAWING NUMBER
JOB NO. 4884 **GN3**
CAD 4884GN3

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MEMORANDUM

TO: Acton Zoning Board of Appeals (the "ZBA")
Michael J. O'Neill, Esq.

FROM: Debbie Horwitz, Esq.
Valerie Gwinn, Esq.

DATE: September 23, 2008

SUBJECT: Waivers of Bylaws Regarding Signage; Alexan Concord (the "Project")

As discussed at the ZBA hearing on September 18, 2008, the proposed signage (the "Proposed Signs") for the Project is shown on the drawings labeled GN1 and GN3 (the "Plan") previously submitted to the ZBA with the applicant's comprehensive permit application and as revised based on the ZBA's peer review and submitted to the ZBA. The Proposed Signs include directional, stop and speed limit signs, as well as two signs identifying the Project (the "Project Signs"). The Plan shows the locations and general dimensions of the Proposed Signs, and we have attached a more detailed sketch of the Project Signs to this memo (the "Project Sign Sketch"). The Project Signs will be constructed with black or blue painted wood with white and/or gold lettering, and will be illuminated via a light directed downwards, toward the signs. The signs will have no internal illumination, neon, or flashing lights. The Project Sign located at the intersection of Route 62 and Sudbury Road will have lettering on both sides.

Also, as we discussed at the September 18, 2008 hearing, the applicant does not need waivers to every signage-related provision of the Bylaw, and instead could limit the waivers to the following:

1. Section 7.3.1. This section contains prohibitions against any sign erected in violation of the Bylaw. The applicant seeks a waiver of Section 7.3.1 only to the extent required to construct the signs depicted on the Plan and in the Project Sign Sketch.
2. Section 7.3.3. This section contains a prohibition on any sign erected above a street or affixed to public property. The applicant seeks a waiver to this Section only to the extent the signs depicted on the Plan and in the Project Sign Sketch are on public property.
3. Section 7.5.11. This section allows the construction of certain Freestanding Signs identifying a residential development without obtaining a Sign Permit, as long as the sign meets certain design requirements, including a requirement that a Freestanding Sign be no more than four (4) feet above ground level with a Display Area of no more than six (6) feet. The Project Signs extend to approximately six (6) feet above ground level, and have a Display Area of approximately nine (9) feet. Accordingly, the applicant seeks a waiver of Section 7.5.11 to the extent required to construct the Project Signs.
4. Section 7.5.14. This section contains regulations regarding the design of "for lease" signs, and it prohibits the illumination of such signs. As shown on the Project Sign Sketch, the applicant intends to install a small, detachable "for lease" sign beneath the Project Signs. The color, lettering and overall design of the "for lease" sign will be consistent with the design of the Project Signs and, like the Project Signs, it will be illuminated only by the overhead floodlight. The applicant seeks a waiver of this requirement only to the extent required to allow illumination of the "for lease" sign by the

overhead floodlight, and to allow for such a "for lease" sign to be displayed on each of the two proposed Project Signs.

5. Section 7.6. This section mandates that any sign permitted under Sections 7.7 through 7.13 shall require a Sign Permit from the Building Commissioner. The Applicant seeks a general exemption from this requirement, and instead requests that the ZBA include a condition in the Comprehensive Permit indicating that the applicant may erect the Proposed Signs, as depicted on the Plan and in the Project Sign Sketch, subject to final review and approval of construction plans by the Building Inspector.
6. Section 7.8. Section 7.8 regulates Freestanding Signs, but does not seem to address off-site Freestanding Signs used to identify a residential development. The applicant seeks a waiver to this Section, only to the extent necessary to allow for the Proposed Signs. In particular, the applicant notes that Section 7.8.2 provides that no Freestanding Sign shall be erected within five (5) feet of the sideline of a street or right of way. The applicant seeks a waiver to this requirement to allow for construction of the Proposed Signs within the Sudbury Road right of way. Additionally, Section 7.8.3 regulates landscaping surrounding Freestanding Signs. The applicant seeks to install small accent landscaping within 3 ft of the front, back, and sides of the signs. The height of the landscaping will not exceed 3 ft.
7. Section 7.9. This section allows for one off-premises directional sign to assist the public in finding a business or location. It indicates, among other things, that such a directional sign shall have no frontage on any numbered main street, shall not be illuminated, shall contain no advertisement, shall have a Display Area of no more than one square foot per business and shall extend no more than five feet above the ground. The applicant seeks a waiver to this requirement to allow for the two Project Signs described above.
8. Section 7.13. This section describes the circumstances under which a Special Permit from the Planning Board is required. In particular Sections 7.13.1.1, 7.13.1.2, 7.13.1.3, 7.13.1.8 and 7.13.1.9 require a Special Permit from the Planning Board when a proposed sign deviates from the requirements of the Bylaw from which we have requested waivers above. Accordingly, the applicant seeks a waiver from these requirements of Section 7.13, allowing the ZBA to make a decision about the Proposed Signs without requiring later approval of the Planning Board.

TOWN OF ACTON
BOARD OF SELECTMEN

POLICY NO. _____

Date of Adoption _____

Subject: Signs within the Right of Way

1. Need for this policy: Certain routine requests for signs within the right of way currently must come before the Selectmen for approval. By providing a set of guidelines the Board can reduce their deliberations.

2. Objective of this policy: To provide a standard, published set of guidelines for approving sign requests.

3. Projected impact of this policy: It is anticipated that adoption of this policy will have little impact of the workload of the Town Manager or staff, will decrease the number of items that must come before the Selectmen and will provide citizens with a procedure for their sign requests.

4. Statement of Policy:

(a) Banners across public ways controlled by the Selectmen may be authorized by the Town Manager, or his designee under the following conditions:

1. Sponsors must be a non-profit, charitable, organization.
2. Only one banner may be allowed per event.
3. It may be displayed for a maximum of 14 days immediately before and during the event.
4. Banners may be installed at one of the preset permanent locations. Any other locations for banners are subject to Town approval.
5. No banners are allowed over State highways or, on or over State bridges.
6. Banners are prohibited in Acton Center Historic District unless specifically approved by the Board of Selectmen.
7. Town to install all banners.
8. No fee will be charged.
9. Insurance is not required as a condition of approval, but is strongly recommended.
10. Banners must be made of a mesh material, with grommets along the top and at the four corners. They can not exceed 3' x 20' in dimension.

(b) Religious signs for directional purposes on ways controlled by the selectmen may be authorized by the Town Manager or his designee under the following conditions:

1. Only two such signs may be allowed per congregation.
2. The congregation is to select the locations within the right of way, but not in a State layout. They must be approved by the Town.
3. The maximum display area for each sign is six square feet.
4. No fee will be charged.

(c) Signs on public shade trees are not allowed

(d) Temporary a-frame signs for the purpose of advertising charitable, non-profit events or functions may be authorized by the Town Manager or his designee.

1. Sponsors must be a non-profit, charitable, organization.
2. Only four such signs may be allowed per event.
3. They may be displayed for a maximum of 14 days.
4. Locations subject to Town approval, but not in a State layout.
5. The maximum display area is 10 square feet.
6. No fee will be charged.
7. Insurance is not required as a condition of approval, but is strongly recommended.

(e) Signs not conforming to this written policy are subject to the approval of the Board of Selectmen.

5. Means by which this policy shall be implemented: This policy shall be implemented by the Town Manager or his designee. An information packet will be developed detailing the procedure to be followed for filing a request.

6. Effective date of the policy and implementation target date: This policy will be effective immediately upon adoption by the Board of Selectmen under the procedure set forth in Policy 1000.0.

7. Date on which the policy shall expire: Indefinite.

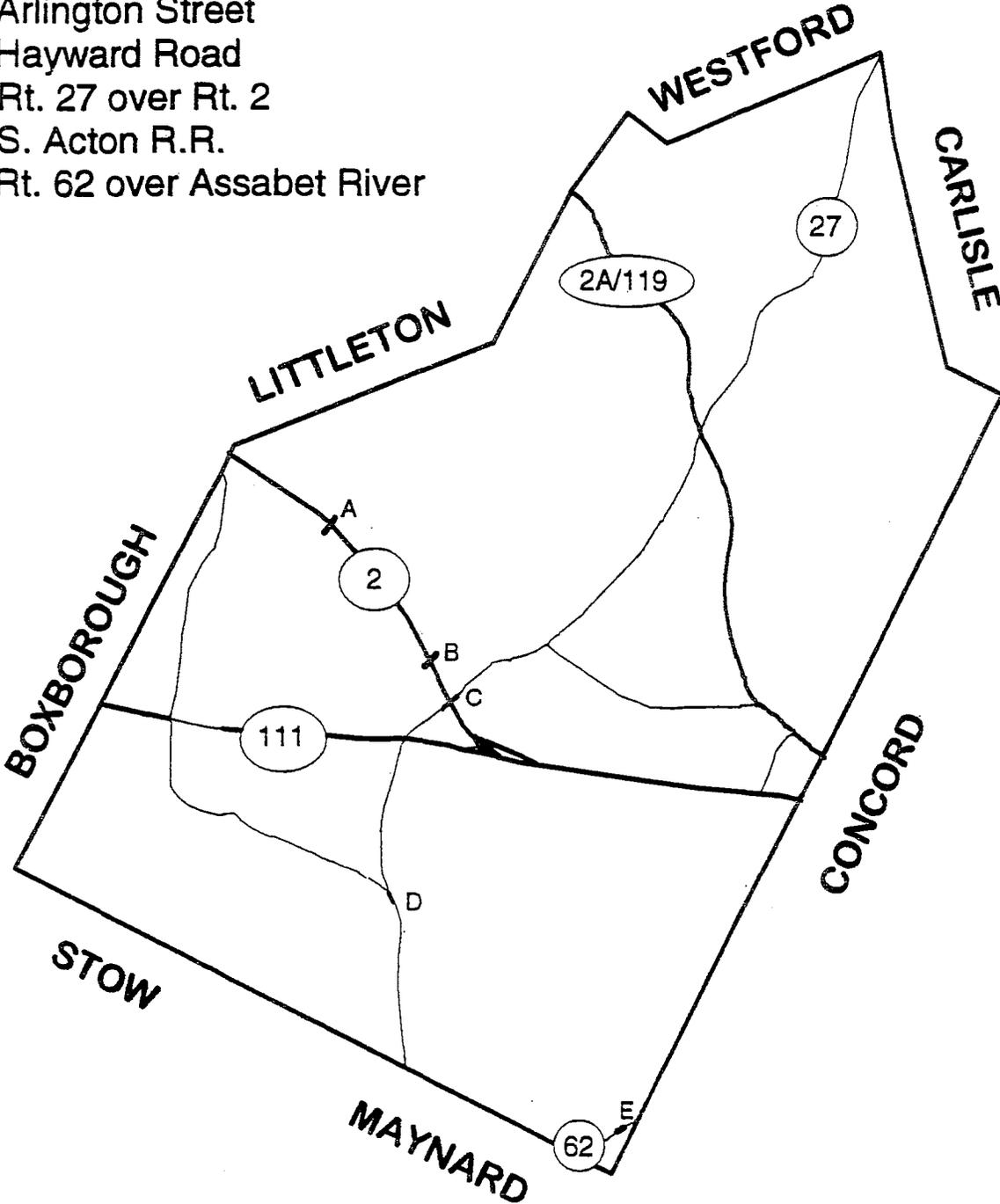
Board of Selectmen

Clerk

State Controlled Layouts and Bridges within Acton

Bridges

- A. Arlington Street
- B. Hayward Road
- C. Rt. 27 over Rt. 2
- D. S. Acton R.R.
- E. Rt. 62 over Assabet River





TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9632
Fax (978) 264-9630

Building Department

Construction and Design Guidelines for Banner (These guidelines supercede any specifications in the policy itself.)

1. The maximum dimensions for banners are three feet high by twenty feet wide.
2. The banner must have wind vents (or slits) in it.
3. The banner should also have sufficient rope, top and bottom, to allow for positioning across a 75-foot span. You should allow enough rope, considering the width of the banner, to secure both sides to the utility poles. A No. 7 (7/32") braided nylon rope is recommended.
4. The banner should have grommets spaced about two-feet on center, both top and bottom.

Revised February 14, 2000

Buildings

TOWN OF ACTON
BOARD OF SELECTMEN

POLICY NO. 2008 2

Date of Adoption 3/3/08

Subject: Banners on Town Hall

1. Need for this policy

Certain routine requests for banners to be posted on the front of Town Hall celebrating the return of military personnel come before the Selectmen for approval. By providing a set of guidelines, the Board can reduce its deliberations.

2. Objective of this policy

To provide a standard, published set of guidelines for approving this type of banner request.

3. Projected impact of this policy

It is anticipated that adoption of this policy will:

- Have a minor impact on the workload of the Town Manager and staff
- Decrease the number of items that must come before the Selectmen
- Provide citizens with a procedure for this type of request.

4. Statement of Policy

Banners controlled by the Selectmen may be authorized by the Town Manager or his designee under the following conditions: The military personnel meets one or more of the following qualifications

- The military personnel meets one or more of the following qualifications:
 - Completion of a tour of duty in a combat theater as defined by the Department of Defense, Joint Publication 1-02:
 - Return from a substantial completion of a tour of duty in a combat theater as defined by the department of Defense, Joint Publication 1-02:
 - **Combat theater.** *Defined by the National Command Authorities or the geographic combatant commander, the area of air, land, and water that is, or may become, directly involved in the conduct of military operations*
 - Honorable Discharge from Military Service
 - Three months of Active Duty for a member of the National Guard or the Reserves

- Sponsors must be a citizen of the Town of Acton or an Acton based non-profit, charitable, organization.
- Only one banner may be allowed per event.
- It may be displayed for a maximum of five (5) calendar days
- Banners are to be provided by the Sponsor and the banner must comply with the following specifications and conditions:
 - a) Banners must be made of a mesh material or solid material with air vents, with grommets at the four corners and at the width mid-point of the top. Banners **must measure 6 feet wide and 30 inches high in dimension.**
 - b) Content and color choice are subject to the approval of the Town Manager or his designee
 - c) Banners may be installed across the front of Town Hall. If multiple banner requests occur for the same time period, a joint banner will be placed on Town Hall or multiple banners will be placed on the Town Common.
 - d) Banners must be delivered to the Municipal Properties Department five (5) working days before the event.
 - e) Town staff will install all banners.
 - f) Banners will be disposed of by the Town unless they are retrieved from the Municipal Properties department no later than five (5) working days after the event.
 - g) No fee will be charged, unless overtime is required to hang the banner.
 - h) Liability Insurance is not required as a condition of approval, but is strongly recommended.

5. Means by which this policy shall be implemented

This policy shall be implemented by the Town Manager or his designee. An information packet will be developed detailing the procedure to be followed for filing a request.

6. Effective date of the policy and implementation target date

This policy will be effective immediately upon adoption by the Board of Selectmen.

7. Date on which the policy shall expire

Indefinite.

Board of Selectmen


Clerk