



9/14/09

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TOWN OF ACTON

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Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Steven Ledoux, Town Manager

Date: September 8, 2009

From: Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

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

Location: 107-115 Great Road
Applicant/Owner: Wetherbee Plaza, LLC., 6 Proctor Street, Acton, MA 01720 (Bertolami)
Engineer: Acton Survey & Engineering, Inc., P.O. Box 666, 97 Great Road – Unit 6, Acton, MA 01720
Previous Site Plans: #11/07/03-393 issued March 22, 2004
#01/23/09-417 denied May 18, 2009
Zoning: East Acton Village District (EAV)
Applicable Zoning: East Acton Village District as of 11/7/03 (Pre-EAV Zoning Changes of 2004)
Groundwater Protection District Zone 4
Proposed FAR: 0.12 (maximum is 0.20)
Proposed Uses: Retail, Building Trade Shops & Residential
Map/Parcel: G-4/28 & 28-1
Hearing Date: September 14, 2009
Decision Due: December 13, 2009

Attached are the legal ad, application, plan sheets, and submitted departmental comments. As of this date, comments have been received from the Town of Acton's Municipal Properties Director & Tree Warden, Building Department, Fire Department, Health Department, and Engineering Department. Upon review of the submitted comments thus far, it appears that some of the identified issues and questions raised could be addressed through appropriate site plan conditions. Other concerns are more of a "judgement call" in nature, and require the Selectmen to make a decision and provide guidance on how to proceed.

Judgement Calls:

- Proposed width of access driveway into property from Great Road.
- 2-way interior driveway to rear carriage house versus previously provided driveway connection through 97 Great Road property which has now been removed.
- Pedestrian connection from Brabrook Road to Great Road along interior driveways versus raised concrete curb and sidewalk.
- Feasibility of the proposed 4'-0" wide walking easement and 7'-0" wide construction easement along western property line.

Background/History:

A chronological timeline of the events surrounding the subject property has been attached for your reference. Copies of both the previous Site Plan Special Permit Decisions (#11/07/03-393 & #01/23/09-417) are also attached for your reference. Site Plan Special Permit #11/07/03-393 is the active decision which the applicant is attempting to complete. Site Plan Special Permit #01/23/09-417 was a new application which was denied May 18, 2009.

The Site Plan:

The complete application consists of a new 2 story, approximately +/- 6,000 ft² retail/commercial building (#107 Great Road); a new 2 story, approximately +/- 4,500 ft² carriage house (#113) in the back with a proposed building trade shop on the lower level and an apartment unit or units on the second level, a new “windmill building” in the center of the site, as well as the relocated Raynor House (former Station Master’s house, +/- 1,800 ft²) substantially modified and renovated for retail/office space (#115); and related parking, driveways and other general site improvements. All buildings and the majority (but not all) of the site improvements are existing. All proposed relevant zoning information (as was required under the 2003 Zoning Bylaw and which the site is travelling under) for the subject site is summarized in the following table:

By-Law Requirements	Required	Existing	Proposed
Min. Lot Area (ft ²)	10,000 ft ²	106,672 ft ²	106,672 ft ²
Min. Lot Frontage (ft)	100'-0"	263.41'	263.41'
Min. Front Yard (ft) - South	10'-0"	46'-0"	46'-0"
Min. Side Yard (ft) – East	10'-0"	11'-0"	11'-0"
Min. Side Yard (ft) – West	10'-0"	+/- 47'-0"	+/- 47'-0"
Min. Rear Yard (ft) – North	10'-0"	+/- 54'-0"	+/- 54'-0"
Max. Building Height (ft)	36'-0"	Less than 36'-0"	Less than 36'-0"
Max. F.A.R. (Floor Area Ratio)	0.20	0.12	0.12
Open Space	35%	50%	50%
Parking Requirements	Required	Existing	Proposed
#107 Great Road Use: Retail (6,125 ft ²) 1 space/300ft ²	21		
#115 Great Road Use: Retail (1,850 ft ²) 1 space/300ft ²	7		
Use: Building Trade Shop (2,850 ft ²) 1 space/1,000 ft ²	3		
Use: Apartment/Dwelling 2 spaces/dwelling unit	2		
Total Number of Spaces Required as per Section 6.3.1:	33	31	31

* Where a LOT is facing Great Road or Main Street the minimum front yard shall be 30 feet.

** Where a nonresidential USE abuts a residential district the yard or yards abutting the residential district shall be 20 feet in WAV, 30 feet in NAV and 30 feet in EAV.

*** Subject to certain provisions in Section 5.4.

**** One Space for each 1,000 s.f. of NET FLOOR AREA or one space per employee on the largest shift, whichever is greater.

***** Please see note #4 below regarding clarification of windmill building height and windmill blades in particular.

Planning Department Comments:

- 1) A new Approval Not Required (ANR) Plan must be submitted, approved and recorded with the Middlesex South District Registry of Deeds to modify the eastern property line as necessary to provide the minimum required side yard setbacks.
- 2) A note provided under the "Zoning Analysis" on Page 2 of 5 indicates that the eastern side yard setback is being measured from the precast concrete stairs. The stairs are permitted encroachments under Section 5.3.1. The side yard setback should be measured from the a/c condensing units which exist alongside the concrete stairs.
- 3) A total of 33 parking spaces are required. The submitted site plan proposes 32 total parking spaces, however, only 31 spaces meet zoning dimensional requirements. The parking space shown next to the windmill is not a legal parking space. A previous site plan identified 2 parking spaces behind/next to the 107 Great Road retail/commercial building. The applicant should consider reintroducing these spaces in order to comply with minimum requirements.
- 4) The applicant should provide more detail and clarification regarding the proposed height of the windmill structure. Currently there is a note provided under the "Zoning Analysis" on Page 2 of 5 which indicates a height "not to exceed 45 feet". The clarification required is with regards to the installation and overall finished height of the windmill's blades. The total height projection of the blades are limited to 45'-0" maximum building height.
- 5) The applicant should submit detailed calculations and accompanying shaded Open Space drawings in order to accurately verify the identified "*in excess of 50%*" currently proposed.
- 6) The proposed two-way access drive into the property from Great Road is currently identified as being approximately 33'-0" wide at the front property line. Section 6.7.3 of the Zoning Bylaw states that access driveways "shall be 24 feet wide, unless, in the opinion of the Special Permit Granting Authority, a wider ACCESS driveway is necessary to provide adequate area for safe vehicular turning movements and circulation". The Board should discuss and provide guidance to staff and applicant. As provided in previous reviews, Planning Department Staff recommends that the access driveway be reduced to 24'-0" as measured at the front property line.
- 7) The proposed parking layout creates an interior driveway between the 107 and 115 Great Road buildings, which as currently shown, does not meet the minimum 20'-0" width required. This has been discussed with the applicant's engineer who has indicated that it would be possible to correct this relatively easily.
- 8) Currently proposed is a two-way, 20'-0" wide interior driveway providing both access to and from the rear carriage house to the front portion of the 107-115 Great Road property. Although the Board would be within their right to accept this option, Section 6.7.2 of the Bylaw requires driveways to have a 10'-0" minimum side yard setback which is not currently provided.

currently provided. Previously, access was obtained through a one-way drive from the adjacent 97 Great Road property, while exiting was via a one-way drive down through the 107 Great Road property to Great Road. Staff would recommend the reintroduction of the common drive access in front of the Wetherbee House as was previously shown.

- 9) A parking space next to the windmill and an interior drive providing access to it are currently proposed. The parking space does not comply with the Bylaw's minimum dimensional requirements. The interior driveway providing access, also does not currently comply with the minimum 20'-0" width requirement. Staff would recommend the deletion of both of these items. The asphalt pavement area should end at the front corner of the carriage house structure. The installation of a grass paver walkway providing access to the windmill structure would be more appropriate.
- 10) The original Site Plan Special Permit (#11/07/03-393) required the construction of a sidewalk beginning at Brabrook Road and running along the interior driveways on the site to the commercial buildings in the front of the property. The applicant now wishes to modify this by simply proposing an extension of the driveway and parking lot asphalt and delineating the sidewalk only by painted white identification lines. Staff recommends that the raised concrete curb and sidewalk should remain a requirement in any new site plan special permit.
- 11) The applicant is identifying a 4'-0" wide walking easement and 7'-0" wide construction easement along the western property line connecting Brabrook Road to Great Road. There are significant areas of wetlands located within this area and it is unclear just how feasible or realistic the construction of any type of walkway through this area would be.
- 12) The site plan indicates a ramp to be constructed in front of the 107 Great Road building for accessibility purposes. The area is shown as consisting of a 5'-0" wide concrete ramp and sloped brick pavers. Staff would recommend that the area between the concrete ramp and the asphalt drive/parking lot be modified to be a landscaped area defined with a concrete curb and planted with appropriate landscape material to further help soften the new development.
- 13) The Engineering Department still has a substantial list of comments and questions regarding the subject property and application.

The following is a brief timeline of events leading to the new Site Plan Special Permit application submitted for review and now before the Board¹.

October 2003	Entire site rezoned by petition to East Acton Village District (EAV).
November 7, 2003	Site Plan Special Permit application #11/07/03-393 filed.
January 22/29, 2004	Legal notice of proposed EAV zoning changes is published.
March 22, 2004	Site Plan Special Permit #11/07/03-393 approved & issued.
April 2004	Annual Town Meeting adopts the EAV zoning district amendments.
May 2004	Station Master's House moved and converted to retail/office use.
February 2005	Windmill building permit issued.
March 2005	Carriage House building permit issued.
March 11, 2005	Building permit issued for new 3-unit retail building.

At some point between the middle of 2005 and mid-2008, all of the structures identified on the Site Plan application were constructed and are currently in various stages of near-completion and occupancy.

Oct./Nov. 2008	Terrene: Sustainable Building Supply begins to move into one retail bay and begins build-out of space for their business purposes.
Mid-November 2008	Applicant requests Certificate of Occupancy (CO) for retail bay for Terrene. Staff requests as-built plan to verify compliance with the Site Plan Special Permit #11/07/03-393. Compliance failures become apparent. No CO is issued.
November 21, 2008	Meeting with Mr. Bertolami and Terrene owner regarding CO. Applicant and tenant request permission to hold grand opening. Staff refuses permission without CO issued.
November 22, 2008	Terrene moves forward with advertised grand opening without CO.
November 24, 2008	Staff site visit confirms that Terrene is open for business without CO.
November 24, 2008	First Cease & Desist Order issued.
December 24, 2008	Second Cease & Desist Order issued.
December 30, 2008	Letter from Town Manager on behalf of Board of Selectmen staying zoning enforcement action provided Mr. Bertolami files a new Site Plan Special Permit application by January 23, 2009, and receives a grant of such special permit.
January 12, 2009	Applicant appears before Board of Selectmen to discuss; timetable for filing of new application and potential fines for violations are discussed.
January 23, 2009	Applicant submits new Site Plan Special Permit application #01/23/09-417.
May 18, 2009	Site Plan Special Permit #01/23/09-417 is denied.
May 18, 2009	Selectmen approve extension of "Stay of Enforcement" regarding Terrene: Sustainable Building Supply through October 31, 2009.
July 10, 2009	Applicant submits new Site Plan Special Permit application #07/10/09-422.
July 13, 2009	Applicant withdraws Site Plan Special Permit #07/10/09-422.
July 21, 2009	Applicant resubmits new Site Plan Special Permit application #07/10/09-422.
September 14, 2009	Public hearing for Site Plan Special Permit application #07/10/09-422 is opened.

¹ Note the zoning changes: In October 2003 the site was rezoned from Limited Business (LB) to EAV. In April 2004 EAV zoning changed as a result of recommendations of the East Acton Village Plan. The site remained in EAV. The 4/2004 amendments changed various dimensional, use, and other standards. Site plan special permit #11/07/03-393 is protected under the zoning in effect when its application was filed, as are the building permits on the site for buildings shown on that site plan.

Site Plan Special Permit # 11/07/03-393
Wetherbee Plaza, LLC
107-115 Great Road (Johnson)

Page 1 of 4

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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. 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.
- 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

Site Plan Special Permit # 11/07/03-393
Wetherbee Plaza, LLC
107-115 Great Road (Johnson)

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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 and signage indicating pedestrian crossing.

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 # 1 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.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.

Site Plan Special Permit # 11/07/03-393
Wetherbee Plaza, LLC
107-115 Great Road (Johnson)

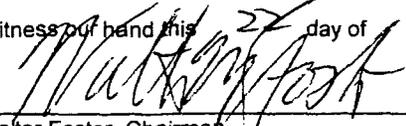
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- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to 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**

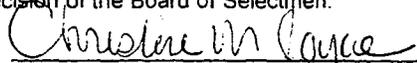
Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this 27 day of March, 2004



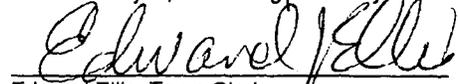
Walter Foster, Chairman

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



Christine Joyce, Recording Secretary

March 23, 2004
Date filed with Town Clerk



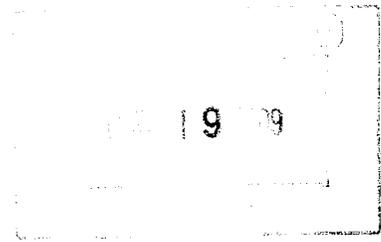
Edward Ellis, Town Clerk

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



Board of Selectmen

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DECISION

#01/23/09-417

107-115 Great Road
(Wetherbee Plaza Extension)

Site Plan Special Permit (Friedrichs)
May 18, 2009

DENIED

Decision of the Acton Board of Selectmen (hereinafter the Board) on the application of Leo Bertolami, Wetherbee Plaza LLC, 6 Proctor Street, Acton, MA (hereinafter the Applicant) for property located at 107-115 Great Road in Acton, Massachusetts. The applicant owns the property. It is shown on the 2007 Acton Town Atlas; map G-4 as parcel 28, 28-1 & 50 (hereinafter the Site).

This Decision is in response to an application for a site plan special permit, submitted to the Board on January 23, 2009, pursuant to Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Site Plan Special Permit Rules and Regulations (hereinafter the Rules). The Board opened the public hearing on March 9, 2009 and continued it to April 27, 2009. The Board heard testimony at both hearing sessions. Board members Paulina Knibbe (Chair), Terra Friedrichs, and Lauren Rosenzweig attended at both hearing sessions. Selectman Mike Gowing attended the April 27 hearing session and examined a video recording of the March 9 session.

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

1 EXHIBITS

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

- 1.1 A "Site Plan Special Permit Application" package compiled by Acton Survey & Engineering, Inc. with the following:
 - Application cover letter, dated 01/23/09;
 - Application form dated 01/22/09;
 - Abutters list;
 - Use description;
 - List of other permits and variances;
 - Drainage Calculations;
 - Site Plan entitled "Wetherbee Plaza Extension" last revised 04/09/09, prepared by Acton Survey & Engineering, Inc., consisting of 7 sheets.
 - Proposed ANR "Plan of Land, 97-115 Great Road, Acton, Massachusetts" dated 01/15/09.
 - Building floor & elevation plans for the site on record in the Acton Building Department.
- 1.2 Interdepartmental communication was received from:
 - Tree Warden & Municipal Properties Director, dated 01/28/09 and 04/14/09;
 - Engineering Department, dated 02/03/09, revised 03/03/09 and 04/17/09;
 - Engineering Department e-mails dated 03/10/09 and 04/17/09;
 - Health Department, dated 02/04/09 and 04/22/09;
 - Sidewalk Committee, dated 02/13/09;
 - Design Review Board, dated 02/18/09;
 - Natural Resources Director, dated 02/19/09;
 - Fire Chief, dated 02/20/09 and 03/06/09;
 - Transportation Advisory Committee, dated 02/23/09 and 04/26/09;
 - Water Supply District, dated 02/24/09;
 - Planning Department, dated 03/05/09 and 04/21/09;
 - Planning Department internal e-mail, dated 03/03/09; and
 - Building Department, dated 03/06/09.
- 1.3 Other correspondence and materials (some with attachments):
 - Copy of previous Site Plan Special Permit #11/07/03-393.
 - Memo from Planning Department to Design Review Board, dated 02/18/09.
 - Letter from Acton Survey & Engineering, Inc. dated 02/04/09.
 - Letter from Acton Survey & Engineering, Inc. dated 02/24/09.
 - Letter from Acton Survey & Engineering, Inc. dated 03/03/09.
 - Letter from Acton Survey & Engineering, Inc. dated 03/05/09.
 - Letter from Acton Survey & Engineering, Inc. dated 03/06/09.
 - Hearing continuation and time extension agreement, dated 03/09/09.
 - Letter from Planning Department to the Applicant, dated 03/12/09.
 - Letter from Acton Survey & Engineering, Inc. dated 04/09/09.
 - Letter from Acton Survey & Engineering, Inc. dated 04/13/09.
 - Letter from Acton Survey & Engineering, Inc. dated 04/27/09.
 - Miscellaneous e-mail correspondences with subject title containing '107 Great Road', dated between approximately 02/23/09 and 04/27/09.

Exhibit 1.1 is hereinafter referred to as the Plan.

2 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concluded that:

- 2.1 The Site was in the Limited Business (LB) zoning district until October 2003, at which time it changed to EAV following a successful zoning change petition filed by the Applicant and/or on behalf of the Applicant.
- 2.2 EAV zoning standards and requirements changed in April 2004 as a result of recommendations contained in the East Acton Village Plan.
- 2.3 Site Plan Special Permit #11/07/03-393 was filed on 11/07/03 after the zoning change from LB to EAV and before zoning standards in the EAV district changed.
- 2.4 For purposes of this decision EAV zoning standards before April 2004 are referred to as "Old EAV Zoning". EAV zoning standards after April 2004 are referred to as "New EAV Zoning".
- 2.5 In accordance with section 8.5 of the Bylaw, Site Plan Special Permit #11/07/03-393 was issued under Old EAV Zoning and protected the Site under Old EAV Zoning "provided that the applicant proceeds diligently to obtain such permit and provided further that the USE or construction is commenced within six (6) months after the issuance of the permit and the expiration of all applicable appeal periods. In cases involving construction, such construction shall be continued through to completion as continuously and expeditiously as is reasonable, provided however that if such construction has ceased for a period of two or more years it shall be considered abandoned pursuant to Section 8.2.4."
- 2.6 Although the Applicant has made slow progress completing the site improvements authorized in Site Plan Special Permit #11/07/03-393, the Site remains protected under Old EAV Zoning. Driveways, parking lots, walkways and sidewalks remain unfinished or are installed in deviation from the approved site plan.
- 2.7 Most notably, building #107 Great Road is in a different location than approved under Site Plan Special Permit #11/07/03-393, and it violates the applicable Old EAV Zoning minimum 10-foot side yard setback to the southern lot line. Steps and A/C units of building #107 Great Road actually extend over the lot line.
- 2.8 Mr. Bertolami / Wetherbee Plaza, LLC owns the Site and the immediately abutting property to the south.
- 2.9 According to testimony at the public hearing the Applicant had decided to move the building 10 feet to the east because New EAV Zoning requires no side yard setback. In doing so, the Applicant ignored that Old EAV Zoning still applies to the Site.
- 2.10 The Town has issued no Certificate of Occupancy for the #107 Great Road building due to the zoning violation¹. Nevertheless, the Applicant has invited and allowed one business tenant to occupy the rear unit. The Town, for now, has chosen to postpone zoning enforcement action, not to evict the illegal tenant at this time, and to be receptive instead to the Applicant's corrective actions.
- 2.11 The Applicant had two options to achieve zoning compliance:

¹ The building #113 Great Road (Carriage House) remains vacant. The building #115 Great Road (Ranor House) is legally occupied.

- (A) (A) Bring the entire Site into compliance with Old EAV Zoning and with the Site Plan Special Permit #11/07/03-393; or
- (B) (B) Waive protections from Old EAV Zoning and filing a new site plan special permit application with changes to bring the entire Site into compliance with New EAV Zoning.

2.12 The Applicant has not waived zoning protections. He filed Site Plan Special Permit Application #01/23/09-417, which is the subject of this Decision. With his application the Applicant initially followed option (B) above and sought to demonstrate that, with certain modifications to the Site, compliance with New EAV Zoning could be achieved.

2.13 As shown on the Plan, the Site would not comply with New EAV Zoning. The Board cannot approve the Plan as a way forward to solve the zoning violation on the Site. While the change to New EAV Zoning would remedy the side yard violation of the #107 Great Road building and allow it to remain on the lot line where it was built, the Plan does not comply with many standards of New EAV Zoning, including but not limited to the following:

- a. Under New EAV Zoning the front yard setback must be between 10 and 20 feet. The front yards for both buildings #107 and #115 Great Road are far greater than 20 feet.
- b. New EAV Zoning standards require that 60% of the lot's space within 20 feet of the front lot line is occupied by buildings or a pedestrian plaza. The Plan shows no buildings within the required front area of the lot and one miniature pedestrian plaza covering less than 10 percent of the required area.
- c. New EAV Zoning standards require that BUILDING fronts have setbacks only to accommodate sidewalks and/or pedestrian plazas or amenities. The buildings on the Site have drainage facilities in their front yards.
- d. The Board could waive the aforesaid 60% requirement to some lesser number if it finds that the alternative design features are consistent with the purpose and intent of the special dimensional regulations of the New EAV Zoning (Bylaw section 5.5B.1.2.g.i.). The Applicant alternately proffered a pergola, a bank ATM cubicle, and/or a small pedestrian plaza near the front lot line in attempts to nominally address the Site's problems with the front yard compliance under New EAV Zoning in hopes the Board might grant a waiver. However, none of these propositions are sufficient to meet the purpose and intent of the special dimensional regulations of the New EAV Zoning.
- e. Business entrances at the #107 Great Road building are on the side. New EAV Zoning requires them to be in the front.
- f. Under New EAV Zoning roofs must have a 9/12 pitch or greater, or if multi story the roof can be flat. The roof of the #107 Great Road building is not flat and has a pitch less than 9/12.

The Applicant has not shown any Plan that would overcome these compliance problems with New EAV Zoning appear insurmountable.

2.14 After two hearing sessions and repeated reviews by Town staff of plans, revised plans, and numerous engineering memoranda filed on behalf of the applicant, the Board finds that the Plan fails to demonstrate compliance with New EAV Zoning.

2.15 The Applicant is not without a remedy. He can pursue option (A) above. Because he owns the site and the adjacent property, he can remove the offending side lot line and merge the two lots into one; then he can file an application for a site plan special permit amendment to seek the Board's approval of the present location of the #107 Great Road

building; and he can complete the Site development in accordance with Site Plan Special Permit #11/07/03-393.

2.16 The applicant has raised other concerns with the Site Plan Special Permit #11/07/03-393 and Town staff has identified numerous site improvements that were not done in accordance with said Site Plan Special Permit. However, none of these matters are fundamental to the question of compliance with Old or New EAV Zoning. Rather, they amount to the Applicant's failure to exercise due diligence when developing the Site, or in the alternative they reflect the Applicant's preferences as opposed to the Site Plan Special Permit's requirement. The Applicant can easily comply with all of these items. These matters do not require resolution in this decision and do not rise to a level of importance that would justify the Board's further involvement.

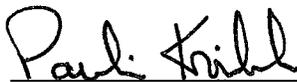
3 BOARD ACTION

Therefore, the Board voted to DENY the requested Site Plan Special Permit. The Applicant is advised to complete the Site expeditiously in accordance with the previous Site Plan Special Permit #11/07/03-393.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

The Town of Acton Board of Selectmen



Paulina Knibbe, Chair

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Taylor, Town Clerk

Date

Copies furnished:

Applicant -	Building Commissioner	Health Director
certified mail #	Engineering Administrator	Municipal Properties Director
Town Clerk	Conservation Administrator	Town Manager
Fire Chief	Police Chief	Acton Water District
Owner	Historical Commission	Assistant Assessor
Design Review Board	Concord Water Department	

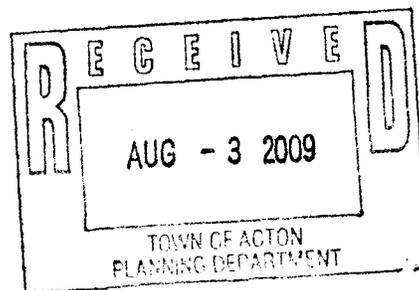
ACTON MUNICIPAL PROPERTIES DEPARTMENT

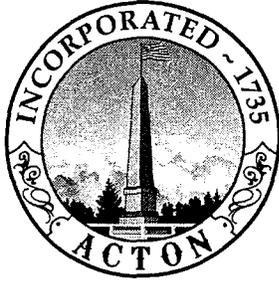
INTERDEPARTMENTAL COMMUNICATION

To: Scott Mutch, Zoning Enforcement Officer *Date:* July 31, 2009
From: Dean A. Charter, Municipal Properties Director & Tree Warden *(Dac)*
Subject: SPS 07/21/09-422, 107-115 Great Road

I have reviewed the plans and visited the site of the above noted Site Plan Special Permit, and submit the following comments:

1. The landscape plan appear to be adequate for the site. When the work is completed the designer of record should submit a letter certifying that the plantings installed are in compliance with the plan, were properly planted, and are in good condition. Upon receipt fo the letter I will perform my inspection.
2. Under the "Project Narrative" the comment was made: "Irrigation of landscape areas will increase groundwater recharge". Generally irrigation systems are calibrated to saturate the root zones of the target plants, not act a a groundwater recharge system. It seems pretty torturous (to say nothing of the cost and environmental impact) to pump and treat drinking quality water from an upstream aquifer with the design intent of overwatering landscape areas downstream to "Increase Groundwater recharge".





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

Building Department

Date: August 14, 2009
To: Scott Mutch
From: Frank Ramsbottom, Building Commissioner
Subject: Site Plan Special Permit #07/21/09-422 107 Great Road

Regarding the above mentioned site plan I have no Comment at this time.

Respectfully Submitted


Frank Ramsbottom
Building Commissioner

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9628
Fax (978) 264-9630

Engineering Department

INTERDEPARTMENTAL COMMUNICATION

To: Planning Department

Date: February 3, 2009
Revised: March 3, 2009
Revised: April 17, 2009
Revised: August 19, 2009

From: Engineering Department

Subject: Site Plan Special Permit #1/23/2009-417 - Wetherbee Plaza Extension -
107 – 115 Great Road

We have the following comments regarding the above mentioned site plan dated January 23, 2009. ***We resubmitted a memo with new comments on August 19, 2009. Our revised memo is based on the site plan that was submitted with a revision date of July 21, 2009. I have removed comments from this memo that are no longer an issue for the Engineering Department.***

1. Our assumption is that the Applicant is seeking to amend the items as stated above from their application letter. However, there will be other items that should be constructed as it was previously approved. We noted the following items that do not seem to comply with the former Site Plan Special Permit and need to be addressed:
 - The recharge trench behind the Station Master's building (115 Great Road) is not shown on the plan.
Applicant's Response – 2/25/2009:
“Gutters and downspouts were utilized at the Station Master's House. Crushed stone was placed along the westerly section at the rear of the building;”
Engineering Response – 3/2/2009:
The engineer has stated that crushed stone was placed at the rear of the building. The engineer will need to certify on the final as-built plan that it was constructed in accordance with the approved plans. The plans call for it to be 5 feet wide along the entire side of the building and 2 feet deep. The recharge trench and the associated typical details should be shown on this Site Plan.
Engineering Response – 4/17/2009:
The recharge trench behind the Station Master's building and the associated detail and/or notes have not been shown on the plans
Engineering Response – 8/19/2009:
Prior site plans indicate the trench to be 5 feet wide, These plans label the trench to be 4 feet wide. Attached is a copy of a prior site plan dated February 16, 2004 showing this recharge trench.

- The 8" overflow pipe connecting the two cleanout structures in the blast hole between Great Road & the retail building is not shown on the plan.

Applicant's Response – 2/25/2009:

"There is no pipe between the cleanouts in the "blast hole" in front of 107. This will allow runoff to flow into the hole and once its storage/recharge capacity is exceeded excess water will flow to the swale in front of the Station Master's House. Flow to the swale from this pipe has not been observed."

Engineering Response – 3/2/2009:

The engineer has proposed to remove the pipe between the 2 cleanout structures in the blast hole. The engineer will need to add a detail for these cleanouts to specify the proposed rim elevations and the type of inlet grates that will be installed on these cleanouts to allow the runoff to enter/exit these structures.

Engineering Response – 4/17/2009:

The engineer needs to label the rim and invert elevations on the plans for the outlet structure in the blast hole drainage basin.

Engineering Response – 8/19/2009:

The applicant will have to excavate the lawn in front of 107 Great Road to create a depression around the 2 blast hole risers as shown on the site plans. I was unable to locate the 2 perforated risers during my recent site inspection. The engineer also needs to label the proposed rim grades for the 2 risers and the existing invert elevations for the outlet on the plans.

- The engineer should label the pertinent as-built information for the existing drainage system on the site such as pipe diameters & type, inverts, etc...to demonstrate that it was constructed in accordance with the approved former site plan. According to the site plans in my office, the existing catch basins on the site should be Stormceptor units. The engineer should label the specific types that were installed for each of the catch basins. In the former drainage calculations for CB A, CB B, CB C and CB D were sized and shown to be STC 3600, STC 900, STC 1800 and STC 6000, respectively.

Applicant's Response – 2/25/2009:

"The three catch basins installed to serve the pavement areas around 107 and 115 are Stormceptors 450i as shown on the original Site Plan. Catch Basin D is located on the driveway between the carwash driveway and Carriage House and has not been installed as the driveway has not been constructed. A standard catch basin will be utilized at this location."

Engineering Response – 3/2/2009:

We want the elevations for the existing drainage system to be labeled on the plan.

The engineer stated that the applicant installed Stormceptors 450i for the 3 catch basins that have been installed on the site thus far. The engineer states that this size Stormceptor (450i) is per the original design. I need some clarification on this issue. Based on the prior drainage calculations dated August 7, 2003, the sizing for these Stormceptors required larger units as identified in our comment.

Engineering Response – 4/17/2009:

There are some existing pipe inverts not labeled on the plan such as the inverts in the stormceptors and the cleanout behind Building 107. It appears that the drainage system between the blast hole drainage basin

and the water quality swale might be pitched in the wrong direction. Prior site plans indicate that the blast hole would drain through the pipe under the access driveway and discharge into the water quality swale next to the Station Master's House. The latest plans show the outlet at the water quality swale (elev=143.95) higher than the invert that is labeled in the blast hole (elev=143.75).

The engineer has submitted documentation for the Stormceptors to show that these are sufficiently sized to treat the runoff from the pavement.

Engineering Response – 8/19/2009:

There are some existing pipe inverts, rim grades, etc... that are not labeled on the plan such as, but not limited to, the inverts in the Stormceptors, the cleanout behind Building 107 and the blast hole risers. It appears that the existing drainage system under the access driveway at Great Road might be pitched in the wrong direction.

- The existing detention basin behind the Station Master's building (115 Great Road) is shown to be filled-in. The engineer needs to explain how the new drainage system has been altered to account for the loss of this retention basin.

Applicant's Response – 2/25/2009:

"As shown by the stormwater management calculations submitted, the removal of the basin behind the Station Master's house will be compensated for by the enlargement of the wetland area and its attenuation capacity."

Engineering Response – 3/2/2009:

The engineer states that the enlargement of the wetland area uphill of this parking area attenuates for the loss of this detention basin. The drainage calculations show an overall increase in the peak rate of runoff for a 10-year storm event.

Engineering Response – 4/17/2009:

This issue still needs to be addressed. The engineer has submitted a post-development subcatchment map showing the drainage areas labeled, but the numbering scheme does not seem to coincide with the drainage calculations.

Engineering Response – 8/19/2009:

The engineer has stated in their memo dated July 21, 2009 that they plan to submit revised stormwater management calculations at a later date. Our office received a post-development drainage subcatchment map in the mail last week. This subcatchment map shows the interior driveways between the Carriage House and 107 Great Road as it was proposed on the previous site plan (14 foot wide driveway, 4 foot wide flush sidewalk & access to the abutting property). We still need the pre-existing drainage subcatchment map. When we receive the revised drainage calculations and the pre-existing subcatchment map we will confirm if the subcatchment maps coincide with the calculations.

- The engineer should submit copies of their drainage subcatchment maps so that we can analyze the drainage calculations that were submitted with this site plan. The applicant has increased the amount of impervious cover on the site and we want to be sure that the peak runoff from the developed areas will not inundate the existing wetland area next to Great Road.

Applicant's Response – 2/25/2009:

“The stormwater management calculations show the entire site, except for the driveway area at Great Road to be tributary to the dry brook, or the wetland area adjacent to Great Road.”

Engineering Response – 3/2/2009:

Pre and post drainage subcatchment maps allow the Town and interested parties the ability to understand the drainage calculations that were submitted with the site plan. According to the drainage summary, the overall peak rate of runoff for 10-year storm increases from 15.71 cfs to 24.5 cfs.

Engineering Response – 4/17/2009:

This issue still needs to be addressed. The engineer has submitted a post-development subcatchment map showing the drainage areas labeled, but the numbering scheme does not seem to coincide with the drainage calculations. We have not received a copy of the pre-development subcatchment map.

Engineering Response – 8/19/2009:

The engineer has stated in their memo dated July 21, 2009 that they plan to submit revised stormwater management calculations at a later date. Our office received a post-development drainage subcatchment map in the mail last week. This subcatchment map shows the interior driveways between the Carriage House and 107 Great Road as it was being proposed on the previous site plan (14 foot wide driveway, 4 foot wide flush sidewalk & access to the abutting property). If the new two-way interior driveway (20 foot wide driveway, 4 foot wide flush sidewalk & no access to the abutting property) is approved, the engineer will need to demonstrate in the drainage calculations that the peak rate of runoff to the wetlands does not increase due to the increase in the amount of proposed impervious cover on the site.

- The front parking area between the retail building (107 Great Road) & the Station Master's building (115 Great Road) was originally proposed to sheet across the pavement toward the 2 catch basins on the Station Master's side of the parking area. The existing/proposed contours on the new site plan indicate the parking area has a low area along the center of the pavement and discharges to Great Road. As a result, the catch basin will not intercept the runoff from this parking area and the majority of the runoff will discharge directly onto Great Road. The engineer will need to revise the design in order to intercept this runoff before it discharges onto Great Road.

Applicant's Response – 2/25/2009:

“The parking area is to be repaved to enhance flow to the catch basin grates.”

Engineering Response – 3/2/2009:

The engineer has stated that the parking area will be paved such that the runoff will be diverted to these catch basins.

Engineering Response – 3/2/2009:

The engineer stated in their prior memo that the parking will be repaved such that the runoff will be diverted to the existing catch basins. The existing/proposed contours on this site plan still indicate the parking area has a low area along the center of the pavement and discharges to Great Road.

Engineering Response – 8/19/2009:

We spoke with the engineer about this issue in our office and he assured us the parking will be repaved such that the runoff will be diverted to the

existing catch basins by the Station Master's House. However, the existing/proposed contours on this site plan still indicate the parking area has a low area along the center of the pavement and discharges to Great Road.

- This site plan indicates that the water quality swale between Great Road & the Station Master's building has not been constructed in accordance with former site plan.

Applicant's Response – 2/25/2009:

"No comment necessary."

Engineering Response – 3/2/2009:

The swale still needs to be constructed in accordance with the previously approved design. We recommend that the water quality swale and the associated construction details be added to this site plan.

Engineering Response – 4/17/2009:

The plans and details for the reconstruction of the water quality swale do not show the stone check dams ("stone groins") in the swale as it was previously shown.

Engineering Response – 8/19/2009:

The existing swale in front of the Station Master's House is closer to the front property line along Great Road than it was proposed on previous site plans. If the swale remains in its present location when it is reconstructed, this drainage facility will encroach into the state layout. The applicant will need approval from MHD for this work. There is also a Masshighway road bound that will be located in the reconstructed swale that will have to be reset flush with the newly graded surface and certified by a Land Surveyor. If the swale is reconstructed in accordance with the previous site plans, the landscaping in front of the Station Masters House will need to be removed/relocated. Attached is a copy of a prior site plan dated February 16, 2004 showing the proposed water quality swale. This plan also shows a retaining wall along the walkway to help with the 5-6 foot elevation difference between the walkway and the bottom of the swale. As previously shown, the water quality swale had 3:1 slopes with a depressed area to contain runoff for treatment and infiltration. The engineer needs to demonstrate that the newly reconstructed swale with 2:1 slopes and a stone trench has equal capacity above the estimated high groundwater to replicate the prior storage capacity.

- The engineer needs to install the stop line and the double yellow centerline on the access driveway at Great Road to delineate the entrance and exit lanes.

Applicant's Response – 2/25/2009:

No comment made from the applicant

Engineering Response – 3/2/2009:

We recommend that the pavement markings be shown on this Site Plan.

Engineering Response – 4/17/2009:

In either scenario for the driveway layout, we still recommend that the pavement markings be required to safely channel the vehicles in and out of the site. The centerline is labeled to be a white line. The label needs to be revised to indicate that the centerline will be yellow so that it will conform with the Manual on Uniform Control Devices (M.U.T.C.D.) and prevent any additional confusion for drivers..

Engineering Response – 8/19/2009:

The stop line on the access driveway at Great is labeled to be 6-inches wide. The M.U.T.C.D. requires stop lines to be a minimum of 12-inches wide.

- The access driveway to Great Road was apparently constructed wider than what was previously approved. The applicant is proposing to remove a section of pavement on the retail building side and install some concrete blocks and cobbles slightly raised from the existing driveway surface to serve as a rumble strip for vehicles. The engineer has also proposed a sitting area at this corner of the retail building. The former site plan showed a landscaped area separating the sitting area and the driveway. The revised plan shows the sitting area adjacent to the driveway/rubble strip area. It is our opinion that customers would feel more comfortable utilizing the sitting area if there was more of a separation from the vehicles entering the site as it was previously designed.

Applicant's Response – 2/25/2009:

No comment made from the applicant

Engineering Response – 3/2/2009:

Still needs to be addressed

Engineering Response – 4/17/2009:

Still needs to be addressed. If the access driveway is narrowed to 24 feet wide, we recommend that the relocated granite curb be installed along a radius instead of along 2 straight lines as it is shown in alternative #2. The painted centerline will also need to be labeled as a yellow line; not a white line.

Engineering Response – 8/19/2009:

The applicant has shown the existing access to remain as it currently exists (approx. 30 feet wide). They have shown the pavement for the first 3 parking spaces in front of 107 Great Road to be removed and replaced with brick pavers. The applicant does not plan to separate the brick patio area and the parking area with a curb. There will be an accessible ramp through the patio for the parking space and the remaining patio section will slope down to match the pavement grade. The applicant might want to consider a curb around the narrow brick patio area to create more of a separation from the parking area, the applicant could add to their open space

- The existing concrete bound (MassHighway bound) next to Great Road at the southwesterly corner of the site should be clearly marked in the field and preserved during construction. If this concrete bound is disturbed during construction, a registered land surveyor should be required to reset and certify the new bound location.

Applicant's Response – 2/25/2009:

"No comment necessary."

Engineering Response – 3/2/2009:

Needs to be shown on the plans

Engineering Response – 4/17/2009:

There is an existing MHD road bound next to the water quality swale that was shown on prior site plans. This road bound needs to be shown on this plan and clearly marked in the field so that it is preserved during construction. If this concrete bound is disturbed during construction, a registered land surveyor should be required to reset and certify the new bound location.

Engineering Response – 8/19/2009:

Attached is a copy of a prior site plan dated February 16, 2004 showing the existing location of the Masshighway road bound on Great Road.

- The applicant will be required to submit an Approval Not Required plan to create the new lot line designations for parcels 28-1 & 50 on Town Atlas map G-4.

Applicant's Response – 2/25/2009:

"A copy of the required ANR Plan is enclosed."

Engineering Response – 3/2/2009:

The engineer has stated that the applicant intends to submit a new ANR plan to combine the 2 properties into one parcel.

Engineering Response – 4/17/2009:

- ***A new ANR Plan was endorsed by the Town combining the two existing lots and a portion Wetherbee Plaza with Wetherbee Plaza Extension. It does not appear to be recorded at the Registry of Deeds as of yet.***

Engineering Response – 8/19/2009:

- ***The engineer has stated a new ANR Plan will be submitted to address any setback and encroachment issues with the abutting property.***

3. We also have the following comments regarding the new features being proposed on the site:

- The engineer needs to add a typical detail for the stormwater inlet being proposed on the one-way access for the Carriage House.

Applicant's Response – 2/25/2009:

"Standard hooded deep sump catch basin will be installed and a detail will be added to the plans."

Engineering Response – 3/2/2009:

The engineer stated that the applicant plans to install a standard deep-sump hooded catch basin and that they will add a detail to the plans.

Engineering Response – 4/17/2009:

The engineer needs to add a typical detail to the plans.

Engineering Response – 8/19/2009:

If the new configuration for the driveway to the Carriage House is approved, this comment will no longer apply.

- The engineer should submit new pipe sizing calculations to support the new drainage calculations for the increased impervious areas.

Applicant's Response – 2/25/2009:

"The 8 inch PVC pipe from the Carriage House drive to the recharge trench operates with a hydraulic grade line of $[152-148.51/80 = 0.04]$. Using Hazen Williams Formula and a coefficient of 130 yields a capacity of 4 cubic feet per second. Based on a rainfall intensity of 4.6 inches per hour the pipe would have the capacity to carry runoff from almost an acre of impervious surface. The tributary drainage area is about a fourth of an acre."

Engineering Response – 3/2/2009:

Per our previous comment, the engineer needs to submit the pre and post drainage subcatchment maps to allow the Town and interested parties the ability to understand the drainage calculations for the site.

Engineering Response – 4/17/2009:

The engineer has submitted a post-development subcatchment map showing the drainage areas labeled, but the numbering scheme does not

seem to coincide with the drainage calculations. We have not received a copy of the pre-development subcatchment map.

Engineering Response – 8/19/2009:

The engineer has stated in their memo dated July 21, 2009 that they plan to submit revised stormwater management calculations at a later date. Our office received a post-development drainage subcatchment map in the mail last week. This subcatchment map shows the interior driveways between the Carriage House and 107 Great Road as it was proposed on the previous site plan (14 foot wide driveway, 4 foot wide flush sidewalk & access to the abutting property). We still need the pre-existing drainage subcatchment map. When we receive the revised drainage calculations and the pre-existing subcatchment map we will confirm if the subcatchment maps coincide with the calculations.

- The applicant has requested that the sidewalk connection between Great Road & Brabrook Road be eliminated due to the construction of the retaining wall for Ellsworth Village Drive. The approved Ellsworth Senior Residence plans show this section of Ellsworth Village Drive to be constructed with a retaining wall and a boardwalk so that a walkway can be connected the sidewalk along the top of the wall. We do not recommend eliminating the requirement for the sidewalk connection.

Applicant's Response – 2/25/2009:

“Our client believes that the construction of a sidewalk through Wetherbee Plaza will allow persons to trespass, result in substantial liabilities and will be of little value to the public. The economic cost of constructing the sidewalk as shown on the plan is less of a concern than the liability and inconvenience resulting from its presence. If constructed the sidewalk will allow persons to enter private property during all periods of the day and the owner would have no right to evict them. It is not unusual for equipment and materials to be left out in the open, on trucks or on the ground, at trade shop operations and persons trespassing could easily use the sidewalk leading to Brabrook for removal of property. The on site sidewalk will necessarily have to be maintained to decrease liability even though it is doubtful that the Town will be able to properly maintain the cross country connector from Wetherbee to the constructed portion of Brabrook. That section of the sidewalk will be located in woods and be well shaded. The Engineer IDC references a boardwalk and we acquired a copy of the plan showing the proposed boardwalk. A section of that plan is shown on Figure A, enclosed. The Ellsworth Plan shows a pedestrian access through 133 Great Road from which Ellsworth Village was created. During the Board's review of the site in 2003/2004 this office suggested that an access through 133 would be more appropriate. We assume that this is the only plan showing the boardwalk and it is our opinion that the boardwalk will not be constructed to be handicap accessible or suitable for snow removal using the Town's sidewalk snow removal equipment and the sidewalk will be impassable during substantial periods of the year. Both this writer and Mr. Bertolami, as residents, question the appropriateness of the Town accepting responsibility for the maintenance of boardwalks.”

Engineering Response – 3/2/2009 & 4/17/2009:

We do not recommend eliminating the requirement for the sidewalk connection.

Engineering Response – 8/19/2009:

This issue still needs to be resolved. The applicant is showing a 4 foot wide sidewalk flush with the interior driveway to the Carriage House and a permanent 4-foot wide walking easement along the side property line that, in some locations, is within the existing wetlands. We will need more detailed information along this easement area to determine if a 3-foot walking trail could be constructed within the narrow 4-foot wide easement without the need to encroach onto the abutting lot to allow the necessary grading to facilitate a walk-able surface. The applicant is also showing another 7 foot wide temporary construction easement that would allow additional room for grading and small construction equipment to access and construct the walking trail.

- The engineer has shown the pedestrian connection on the site to be flush with the proposed one-way driveway and the parking area for the Carriage House. The only distinction between the parking area and the walkway is a painted line. We believe that this will increase the potential of drivers using the walkway area to drive and/or park their vehicles in a manner that will obstruct path of travel for pedestrians. The added width of the walkway for the one-way driveway would widen this access to 18 feet thus making this access more viable for 2-way traffic. We recommend that the sidewalk be separated from the access driveways and parking areas by a curb. If the walkway is to remain flush with the access driveway, we recommend sufficient signage along the walkway to alert drivers that parking and/or driving on the walkway is not allowed.

Applicant's Response – 2/25/2009:

“The Zoning Bylaw does not require a sidewalk to be separated by a curb or change in grade and the sidewalk was shown to be constructed level with the driveway under SPSP #11/7/2003-393. The construction of the sidewalk at the same level as the driveway will allow it to be plowed with the driveway. A six inch high Cape Cod Berm is not a sufficient barrier to vehicles to provide a significant increase in pedestrian safety. While an 18 foot wide access is, as a practical matter viable for two way traffic, the bylaw requires a driveway width of 20 feet. Our client will place signs along the driveway to preclude parking. ”

Engineering Response – 3/2/2009 & 4/17/2009 & 8/19/2009:

If required to construct the walkway connection on their site, the applicant has expressed that he would prefer the walkway surface be flush with the driveway, separated by a painted line and signage installed to alert drivers. The previous Site Plan dated February 6, 2004 shows a proposed curb separating the walkway from the driveways and parking areas. We recommend the curbing be required if the walkway is required.

- The engineer has shown the 24-foot wide maneuvering aisle for the front parking area encroaching into the painted maneuvering aisle for the handicap space at the Station Master's house. The engineer should revise the painted stripes on either side of the parking area so that it does not encroach into the 24-foot maneuvering aisle. The engineer will need to be sure that this will not violate AAB standards.

Applicant's Response – 2/25/2009:

“The maneuvering aisle in the vicinity of the handicap spaces exceed 24 feet in width.”

Engineering Response – 3/2/2009:

The 24 foot maneuvering aisle needs to be provided without diminishing the handicap space which includes the required painted walkway/personal

maneuvering area.

Engineering Response – 4/17/2009:

This issue stills needs to be addressed

Engineering Response – 8/19/2009:

It is my understanding that this area is deemed an interior driveway and can be narrowed to a 20 foot width. The engineer needs to revise the pavement markings so that the minimum 20-foot width for the driveway is maintained through this area.

- The engineer has shown stacked parking spaces in the front parking area that does not comply with the Zoning Bylaw. The total number of parking spaces shown on the site plan does not match the totals listed in the Building Parking Analysis table on the Site Plan sheet.

Applicant's Response – 2/25/2009:

"Stacked parking spaces are not precluded by the Zoning Bylaw and are an extension of those shown on SPSP #11/7/2003-393."

Engineering Response – 3/2/2009:

The table should be revised to reflect the total number of parking spaces shown on the plan.

Engineering Response – 4/17/2009:

The second row of the stacked parking was removed and the excess pavement is shown too remain.

Engineering Response – 8/19/2009:

The engineer could remove the excess pavement from the areas previously shown with stacked parking to help mitigate any issues with the increase of the impervious cover along the interior driveway to the Carriage House.

- We checked the paved turnaround for the proposed windmill driveway. Based on our turning template for a passenger car, the vehicle will need to pull their wheels up to the edge of the pavement in the turnaround so the vehicle is overhanging the area labeled "ES" in order to properly maneuver the vehicle within the layout. The engineer will need to ensure these areas are free of any obstructions to allow vehicles to utilize these areas.

Applicant's Response – 2/25/2009:

"The maneuvering area at the windmill is adequate for monthly basis service calls, which are expected to be made by personnel in a, so call, smart car."

Engineering Response – 3/2/2009 & 4/17/2009 & 8/19/2009:

As long as the area beyond the ends of the paved turnaround is free of obstructions, it appears that a passenger car can maneuver the proposed paved layout at the windmill.

- The engineer needs to add a typical pavement detail to the Detail Sheet.

Applicant's Response – 2/25/2009:

"A typical pavement detail will be added to the detail sheet."

Engineering Response – 3/2/2009:

The engineer has stated that they will add a detail to the plans.

Engineering Response – 4/17/2009:

The engineer needs to add a detail to the plans.

Engineering Response – 8/19/2009:

The Site Plan Special Permit Rules and Regulations requires 12-inches of gravel underneath pavement. The detail on the site plan only requires 9-

inches under driveway and 6-inches under sidewalks.

3. There is no Natural/Existing Conditions Site plan included with the plans sheets.

Applicant's Response – 2/25/2009:

"The existing conditions are shown on the Site Plan"

Engineering Response – 3/2/2009:

The Site Plan shows a compilation of existing/proposed features for the site. Although not required under the Site Plan Rules and Regulations, a separate Natural/Existing Condition plan would allow individuals to better understand the site as it exists today without the confusion of proposed features overlaid on the plan. This existing condition plan would also serve as the basis for the pre-development subcatchment drainage map.

Engineering Response – 4/17/2009:

This issue still needs to be addressed. The engineer has submitted a post-development subcatchment map showing the drainage areas labeled, but the numbering scheme does not seem to coincide with the drainage calculations. We have not received a copy of the pre-development subcatchment map.

Engineering Response – 8/19/2009:

The engineer has stated in their memo dated July 21, 2009 that they plan to submit revised stormwater management calculations at a later date. Our office received a post-development drainage subcatchment map in the mail last week. This subcatchment map shows the interior driveways between the Carriage House and 107 Great Road as it was being proposed on the previous site plan (14 foot wide driveway, 4 foot wide flush sidewalk & access to the abutting property). We still need the pre-existing drainage subcatchment map. When we receive the revised drainage calculations and the pre-existing subcatchment map we will confirm if the subcatchment maps coincide with the calculations.

4. **Engineering Comment – 8/19/2009:**

During our site inspection on August 19th, we noted some landscaping within the State Layout for Great Road that is adjacent to the access driveway in front of the Station Master's House that obstructs the sight distance for vehicles exiting the site. There are also 2 granite posts in front of 107 Great Road that appear to be within the state layout as well and might also restrict the sight distance in that direction if a sign is going to be attached in-between these posts. The engineer should label the sight distance for vehicles exiting the site on the plans to confirm that it is sufficient for the 85% percentile speed of vehicles on Great Road.

5. **Engineering Comment – 8/19/2009**

We checked the proposed turnaround at the Carriage House for the emergency SU-30 vehicles. The applicant has reconfigured the interior driveway to the Carriage House at the rear of the site. The plans show the access to the Car Wash driveway being omitted from the new design. The driveway will be widened to 24 feet (20ft wide driveway, 4ft wide flush sidewalk). The new turnaround for a fire truck has been created by the Carriage House utilizing the parking area, the windmill driveway, grass pavers and the proposed walkway at the rear of the site. Based on our turning templates a fire truck can maneuver within this area. If the new driveway design is allowed, there should be a requirement to prevent obstructions in this area at any time and the entire turnaround area needs to be plowed during the winter months.

Scott Mutch

From: Robert Craig
Sent: Thursday, August 20, 2009 4:05 PM
To: Scott Mutch
Subject: BOS Special Site Plan Special Permit (#07/21/09-422) Friedrichs Wetherbee Plaza Extension 107-115 Great Road

Please be advised that I have reviewed the above named project and have the following comments. The modifications of the drive to Bldg. 113 are acceptable provided that the proposed grass paver area is suitably constructed to serve as a turn-around for fire apparatus and is kept free of snow accumulation. In addition I do not object to the parking lot area for Bldg's 115 and 107 provided that the 20 ft. clear width is maintained.

Robert C. Craig, Fire Chief
Acton Fire Department
371 Main Street - Acton, MA 01720

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rcraig@acton-ma.gov

Scott Mutch

From: Corey York
Sent: Wednesday, August 19, 2009 1:38 PM
To: Robert Craig
Cc: Bruce Stamski; Scott Mutch
Subject: RE: Weterbee Plaza Extension

Bob

I don't know if you had a chance to review the new set of drawings for the Wetherbee Plaza Extension (107-115 Great Road) dated July 21, 2009. Leo B has reconfigured the driveway to the Carriage House at the rear of the site by

- omitting the access to the Car Wash driveway
- widening the interior driveway to 24 feet wide (20ft wide driveway, 4ft wide sidewalk)
- creating a turnaround for a fire truck utilizing the parking area, the windmill driveway, grass pavers and the proposed walkway at the rear of the site.

Scott Mutch

From: Justin Snair
Sent: Friday, August 14, 2009 11:38 AM
To: Scott Mutch
Subject: 107-115 Great Rd

As indicated in the letter from Acton S&E, Inc. no changes have been made to the previously approved onsite subsurface sewage disposal system and thus the Health Dept. has found no issues with the extension.



Justin T. Snair
Environmental Health Agent
Health Department
Town of Acton
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F: 978-264-9630



Public Health
Prevent. Promote. Protect.