

Memo

DATE: November 16, 2012
TO: Acton Planning Board
FROM: Mark L. Scheier, Esquire
RE: Zoning classification for Acton Food pantry

The Acton Food Pantry has been operating in Acton, and for the last two plus years in Boxborough, for over twenty-eight years. The food pantry is overseen and operated by Acton Community Supper and Food Pantry, Inc. a 501(c)(3) non-profit corporation. Presently, the food pantry is located at 235 Summer Road in Boxborough, but hopes to relocate in Acton as it is outgrowing its space. In the past the food pantry has operated out of the South Acton Congregational Church, a town owned building on Windsor Avenue, and St Matthews Church on Central Street. The operation is also known as Community Supper and had, for years, provided free suppers for local residents. This practice was discontinued a couple of years ago as fewer people attended the suppers and more people frequented the pantry to get groceries to bring home.

The food pantry assists residents of Acton and adjacent towns. Approximately sixty(60%) of people who come to the food pantry are from Acton and another ten(10%) per cent live in Boxborough. The food pantry serves over 500 families throughout the year, with over 200 families coming a regular, weekly basis. The food pantry is open either three or four Wednesdays per month, from 10am to 7pm. Over 100 people volunteer their time to deliver food, stack shelves, and assist in many other ways, helping to make the Food Pantry a well run, efficient, and much needed resource in the community.

The food pantry is looking to move back to its home base in Acton, but is caught in a zoning dilemma. The Table of Principal Uses, which is attached to this memo, does not contain a use category that applies to the food pantry's activities. Members of the organization have met with Roland Bartl to review what is presently possible under the current table of uses. The core activity of the food pantry, which is the distribution, free of charge, of food and clothing, does not easily fit under any use category. Mr. Bartl, after consultation with Town Counsel, concluded that the organization's activities could not be considered under 3.4.7 "Other public Use", which would have permitted its use in all zoning districts pursuant to a special permit. While its activities could easily be considered "warehouse" use, per 3.6.1, or

“distribution plant” under 3.6.2, the strict definition does not to permit the public to come to the facility to take any of the stored goods.

According to Mr. Bartl, “a warehouse or distribution center does not see end users as customers on a regular basis”. The determination of the town is that the activity of the Acton Food Pantry, with respect to the table of uses, is closest to a retail operation and would be considered as such by the town. This designation clearly restricts the Food pantry from operating in all zoning districts except Village and Business districts. This designation would essentially make it virtually impossible for the food pantry to find a location that would permit it to continue to provide food and clothing to needy individuals and families in a cost effective manner.

Mr. Bartl was very supportive, but felt that his hands were tied. He suggested that we speak with the Planning Board about this issue, and work with the Board to propose a zoning bylaw amendment at town meeting that would provide a reasonable and adequate zoning classification for the food pantry and like charitable organizations. This would involve establishing a special use classification and designating those districts where said use would be permitted. It is our hope that we can work together to close this apparent gap in the town’s zoning bylaws to allow the food pantry and similar organizations to have reasonable options.

Similar organizations exist throughout the Commonwealth and are situated in many different districts. Certainly, in our opinion, permitting the Food Pantry and similar not for profit organizations to operate in industrial and other commercial districts, would be a welcome and appropriate addition to the permitted principal uses in the town. We ask for the opportunity to work with the Town planner and the planning Board to prepare a bylaw amendment that will permit our organization and other organizations to effectively provide goods and services to the neediest residents of our community.



Mark L. Scheier, Esquire
SCHEIER KATIN & EPSTEIN, P.C.

TABLE OF PRINCIPAL USES
 PRINCIPAL USES listed in this Table are subject to provisions in corresponding Section 3.

PRINCIPAL USES	RESIDENTIAL DISTRICTS			VILLAGE DISTRICTS					OFFICE DISTRICTS		BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SP. DIST.	SITE PLAN
	R-2 R-4 R-8 R-8/4 R-10 R-10/8	R-A R-AA	VR	EAV	EAV-2	NAV	SAV	WAV	OP-1	OP-2	KC	LB	PM	GI	LI	LI-1	SM(1)	TD		
3.2 GENERAL USES																				
3.2.1 Agriculture	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.2.2 Conservation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.2.3 Recreation	SPP	SPP	SPP	SPP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	NR
3.3 RESIDENTIAL USES																				
3.3.1 Single FAMILY Dwelling	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.3.2 Apartment	Y(2)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.3.3 Two-FAMILY Dwelling	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N	NR
3.3.4 Dwelling Conversions	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	NR
3.3.5 Multifamily Dwelling	N	SPS	Y	Y(3)	Y(3)	N(4)	Y(3)	Y	N	N	N	N	N	N	N	N	N	N	N	R
3.4 GOVERNMENTAL INSTITUTIONAL & PUBLIC SERVICE USES																				
3.4.1 Municipal	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.4.2 Educational	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.4.3 Religious	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.4.4 Nursing Home	SPS	SPS	SPS	N	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	R
3.4.5 Public or Private Utility Facilities	N	N	N	SPS	SPS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	R
3.4.6 Child Care Facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.4.7 Other Public Use (5)	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	R
3.4.8 Full Service Retirement Community	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	R
3.4.9 Assisted Living Residence (6)	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	R
3.4.10 Wireless Communication Facility (7)	SPP	SPP	SPP	N	SPP	N	SPP	N	SPP	N	SPP	N	SPP	N	SPP	N	SPP	N	SPP	NR
3.4.11 Commercial Education or Instruction	N	N	N	Y	Y	SPS	SPS	SPS	Y	Y	SPS	SPS	SPS	Y	Y	Y	Y	Y	Y	R
3.5 BUSINESS USES																				
3.5.1 Retail Store	N	N	N	Y(8)	SPS(11)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	R
3.5.2 Office	N	N	N	Y(8)	SPS(11)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	R
3.5.3 Health Care Facility	N	N	N	N	Y	SPS(11)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	R
3.5.4 Hospital, Medical Center	N	N	N	N	N	N	N	N	SPS	SPS	N	SPS	SPS	N	SPS	SPS	SPS	SPS	SPS	R
3.5.5 Restaurant (9)	N	N	N	SPS(8)	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	R
3.5.6 Combined Business & Dwelling	N	N	N	Y(8)	Y	Y	Y	Y	N	N	N	Y	Y	N	N	N	N	N	N	R
3.5.7 Hotel, Motel, Inn, Conference Center	N	N	N	N	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	R

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	R-2 R-4 R-6 R-8/4 R-10 R-10/8	R-4A	R-4AA	VR	EAV	EAV-2	NAV	SAV	WAV	OP-1	OP-2	KC	LB	PM	GI	LI	LI-1	SM(1)			TD
3.5 BUSINESS USES (continued)																					
3.5.8	Bed & Breakfast	SPS	SPS	SPS	SPS	Y	SPS	SPS	Y	SPS	SPS	Y	Y	Y	Y	N	N	N	N	N	N
3.5.9	Lodge or Club	N	N	N	N	SPS	SPS	SPS	SPS	N	N	Y	Y	Y	Y	N	N	N	N	N	N
3.5.10	Veterinary Care	N	N	N	SPS(8)	SPS	SPS	N	SPS	N	N	Y	Y	Y	Y	N	N	N	N	N	N
3.5.11	Animal Boarding	N	N	N	N	N	N	N	N	N	N	N	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	N
3.5.12	Services	N	N	N	Y(8)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
3.5.13	Repair Shop, Technical Shop, Studio	N	N	N	Y(6)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.5.14	Building Trade Shop	N	N	N	N	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.5.15	Commercial Recreation (10)	N	N	N	N	SPS(11)	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS
3.5.16	Commercial Entertainment	N	N	N	N	Y	Y	N	SPS	SPS	N	SPS	SPS	SPS	SPS	N	N	N	N	N	N
3.5.17	Golf Course in Residential Districts	SPP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
3.5.18	Cross-Country Skiing in Residential Districts	SPP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
3.5.19	Vehicle Service Station	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
3.5.20	Vehicle Repair	N	N	N	N	N	N	N	N	N	N	SPS	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.5.21	Vehicle Body Shop	N	N	N	N	N	N	N	N	N	N	N	SPS	Y	Y	Y	Y	Y	Y	Y	Y
3.5.22	Vehicle Sale, Rental	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y
3.5.23	Parking Facility	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.5.24	Transportation Services	N	N	N	N	N	N	N	N	N	N	N	N	SPS	SPS	N	N	N	N	N	N
3.5.25	Adult Uses	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
3.6 INDUSTRIAL USES																					
3.6.1	Warehouse	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	Y	Y	Y	Y
3.6.2	Distribution Plant	N	N	N	N	N	N	N	N	N	N	N	N	SPS	N	N	SPS	N	N	N	SPS
3.6.3	Manufacturing	N	N	N	N	N	N	N	N	N	N	SPS	SPS	Y	Y	N	Y	Y	Y	Y	Y
3.6.4	Scientific	N	N	N	N	N	N	N	N	N	N	N	N	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS