



Planning Department

TOWN OF ACTON
472 Main Street
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MEMORANDUM

To: Board of Selectmen **Date:** November 4, 2015
From: Kristen Guichard, AICP, Assistant Town Planner
Subject: *Acton Teamworks* - Amendment# 1 Use Special Permit #04/20/04 - 397

Applicant & Property Owner: Acton Sports Property Limited Partnership & Acton Teamworks
Location: 30 Great Road
Map/Parcel: G5-82-1
Zoning: East Acton Village 2 (EAV-2)
Proposed Use: Restaurant – 67 seats
Previous Permits: #04/20/04 - 397
Board of Selectmen Meeting date: November 16, 2015

Overview

The Applicant is requesting to amend Restaurant Use Special Permit #04/20/04 - 397 for Acton Teamworks located at 30 Great Road to increase the previously permitted 40 seats to a total of 67 seats. Please refer to the email from Roland Bartl, AICP, Planning Director dated 9/18/15 and attached herein. Since this last exchange, the Applicant has received approval from the Board of Health to increase seating to no more than 67 seats and has filed an appeal with the Board of Building Regulations and Standards (BBRS) for a variance from compliance with code 780 CMR Section 1004 to increase the maximum occupant load for the bar area. The BBRS has stated they will not consider the request until the Selectmen issue their decision on the increase in seating.

Recommendation

The Planning Department sees no zoning issues with allowing for the increase in seating, but acknowledges the Building Department and Fire Department's concerns stated in the emails submitted on 10/29/15. If the BBRS approves the variance, the Fire Department and Building Department's concerns would be satisfied. In all other aspects the restaurant complies with the by-right requirements of the Zoning Bylaw. As a result, I have attached a draft decision for your consideration with a condition, stating:

“This approval of a restaurant Special Permit is limited to 67 seat or such other number of seats as the Building Commissioner and Fire Department may determine.”

By wording the condition in this way, the BBRS would have direction from the Town to then consider the variance request and the Applicant would not have to come back to the Board for an amendment if and when they receive approval. As with all Special Permits, the Board should determine if the applicant's request meets the criteria of Bylaw Section 10.3.5.

From: [Roland Bartl](#)
To: [Lisa Tomyl](#)
Cc: [Building Department](#); [Health Department](#); [Fire Department](#); [Collector Department](#); [Planning Department](#); [Police Department](#); [Lou Levine](#); ["Bruce D. Ringwall"](#)
Subject: RE: Change in Director, Indoor Sports Management, Inc. D/B/A Overtime Bar
Date: Friday, September 18, 2015 7:32:23 PM
Attachments: [SPP #04.20.04-397.pdf](#)

Hi, Lisa:

Here are the Planning Department's comments:

1. In 2004, the Board of Selectmen issued a special permit for a 40-seat restaurant to Indoor Sports LLC for this location at 30 Great Road (attached). The facility is now generally known as Teamworks.
2. The building, including the subject restaurant, underwent significant renovations and remodeling in 2014/15. The remodeling plans as approved and building permit as issued specified 40 seats. As built, the restaurant has 62 seats. Accordingly, I have so far declined to sign the Certificate of Occupancy for Planning/Zoning Enforcement.
3. I understand that the management at Teamworks is aware of the situation and that they have their attorney and engineer working on the matter. Both have met with me. We discussed an amendment of the 2004 special permit to increase the number of seats. As it was represented to me, the bar/restaurant was to continue to serve primarily customers who already are at the Teamworks' facility for other activities, and that it would not be advertised as a restaurant to others as an separate independent destination. Under this premise, I would deem the bar/restaurant as an accessory/incidental part of the commercial recreation use without the need of a separate account for parking spaces. There were questions about septic system capacity (the BoH permit also limits the bar/restaurant to 40 seats) and building code compliance related to increased seating that needed to be researched, evaluated and addressed before a special permit amendment request would be made. I had hoped that the amendment request would be made in time to be considered simultaneously with the liquor license transfer. It appears now that this will not be the case and that the research work is still ongoing.
4. Under the present circumstances it is unclear what kind or size of restaurant the new director would be managing.
5. Recommended option:
 - a. The Board of Selectmen could approve the license transfer, and as a related business item at the same meeting vote to amend special permit #04/20/04-397, par. 2.4 to read:

“This approval of a restaurant Special Permit is limited to 40 seat or such other number of seats as the Board of Health and Building Commissioner may determine.”

This would introduce flexibility in the restaurant special permit and defer the final determination of the specific number seating to Health and Building, where perhaps

it should belong in the first instance. There would be no further need for the Board of Selectmen to revisit this matter at a later time. To take this action the Board of Selectmen, if otherwise comfortable with this approach, should consider if such a decision amendment is minor and does not warrant a public meeting. If the conclusion is 'yes', this finding should be included in the vote. We would then draft a formal decision amendment for the Chair's signature.

6. Other options:

- a. Take no action and defer the transfer of directorship for consideration until such time when a formal special permit amendment has been submitted.
- b. Condition the license transfer that there shall not be more than 40 seat until such time when the special permit #04/20/04-397 may be amended at a later date.
- c. Approve the transfer of ownership without regard to the seating number, and let the zoning, health and building code matters take their course independently.

Regards -

Roland Bartl, AICP
Planning Director
Town of Acton
472 Main Street
Acton, MA 01720
978-929-6631

From: Lisa Tomyl
Sent: Monday, August 10, 2015 9:43 AM
To: Building Department; Health Department; Fire Department; Collector Department; Planning Department; Police Department
Subject: Change in Director, Indoor Sports Management, Inc. D/B/A Overtime Bar

Regards,

Lisa Tomyl
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Acton Sports Property Limited Partnership & Acton Teamworks
Amendment# 1 Use Special Permit #04/20/04 - 397
30 Great Road
November 16, 2015



Board of Selectman

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FIRST AMENDEMENT OF DECISION

#04/20/04-397

Acton Sports Property Limited Partnership & Acton Teamworks

Use Special Permit Amendment

November 16, 2015

GRANTED

Decision of the Acton Board of Selectmen (hereinafter the Board) on the request of Louis N. Levine of D'Agostine, Levine, Parra & Netburn, P.C. on behalf of Acton Sports Property Limited Partnership and Acton Teamworks, LLC of 30 Great Road, Acton, MA 01720 (hereinafter the Applicant), received October 28, 2015 for an amendment of a Use Special Permit dated July 12, 2002 (the Original Decision). The subject property is located at 30 Great Road (hereinafter the Site). The Board considered the request at a duly noticed public meeting on November 16, 2015. Board members Katie Green (Chair), Janet K. Adachi, Frances J. Osman, Chingsung Chang, and Peter J. Berry were present. The minutes of the hearing and submissions on which this decision is based on may be found in the Planning Department or in the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

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

- 1.1 Cover letter by Louis N. Levine, dated October 27, 2015;

1.2 Supplemental information as follows:

- Appendix B: Application for Special Permit;
- Use Plan Special Permit #4/20/04 - 397 Decision;
- Sheet A-1: As Built 1st Floor Plan – Partial, dated 7/10/15;
- Sheet A-1: Proposed 1st Floor Plan – Partial, dated 6/19/13;
- Letter from Acton Board of Health, dated 10/20/15;

Exhibit 1.1 through 1.2 is referred to herein as the Plan.

2 FINDINGS and CONCLUSIONS

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

- 2.1 The Amendment request is for an increase to the number of seats in the restaurant from 40 to 67.
- 2.2 The restaurant is ancillary to the Teamworks' commercial recreation operation and primarily serves customers who are at the facility for other activities.
- 2.3 The existing total parking spaces are sufficient for the commercial recreation use and accessory restaurant use with 67 seats.
- 2.4 On October 5, 2015 the Acton Board of Health voted to grant an approval to allow an increase to no more than 67 seats.
- 2.5 The Applicant has filed an appeal with the Board of Buildings Regulations and Standards for a variance from Building Code 780 CMR Section 1004 to allow for additional seating over the maximum occupant load of 49 people.
- 2.6 The requested amendment of the special permit granted in the Original Decision is minor in nature, does not trigger a new Special Permit, and does not warrant a public hearing as it is not significant to the public interest and is consistent with the purpose and intent of the bylaw.

3 BOARD ACTION

Therefore, the Board voted **unanimously** on November 16, 2015 in favor of **GRANTING** the special permit amendment as the applicant had requested and as delineated in the Exhibits listed herein, subjected to the following conditions.

4 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render the special permit amendment granted with this decision null or void, and shall constitute grounds for the revocation of any or all building or occupancy permits issued hereunder. The Town of Acton may elect to enforce compliance with the special permit using any and all power available to it under the law.

- 4.1 The approval of the restaurant Special Permit is limited to 67 seats or such other number of seats as the Building Commissioner and Fire Department may determine.
- 4.2 The restaurant shall not be advertised as a separate independent destination.

- 4.3 The applicant shall record this decision at the Middlesex South District Registry of Deeds prior to Final Certificate of Occupancy.
- 4.4 The foregoing required conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 4.5 This Restaurant Use Special Permit applies only to the Site identified in this Decision.
- 4.6 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.7 The Board hereby reserves its right and power to modify or amend terms and conditions of this Restaurant Use Special Permit with or without a public hearing upon the request of the Applicant, its designees or assigns, or upon its own motion.

4 EFFECT OF THIS DECISION

This Amendment only responds and decides on the limited matter before the Board pertaining to the Use Special Permit (Restaurant), First Amendment. Except as herein specified, the Original Decision shall remain in full force and effect.

The Town of Acton Board of Selectmen

Katie Green, Chair

Copies furnished:

Applicant	Building Commissioner	Health Director	Acton Water District
Owner	Fire Chief	Police Chief	Historical Commission
Town Engineer	Municipal Properties Director	Assistant Assessor	Town Clerk
Town Manager	Natural Resource Director		