

Groundwater Protection District Special Permit PB 23-04
308 Old High Street
Phoenix Adhesives Company, Inc. dba RH Adhesives
September 19, 2023

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Planning Board

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DECISION
PB 23-04

Phoenix Adhesives Company, Inc. dba RH Adhesives

Groundwater Protection District Special Permit

308 Old High Street

September 19, 2023

GRANTED

Decision of the Acton Planning Board (hereinafter the Board) on the application of Phoenix Adhesives Company, Inc. (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Phoenix Adhesives Company, Inc. The property is located at 308 Old High Street and shown on the Acton Town Atlas map J3 as parcel 34-1 (hereinafter the Site).

This Decision is in response to an application for a Groundwater Protection District special permit, received by the Acton Planning Division on June 7, 2023 pursuant to Section 4.3.8 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Special Permit Rules and Regulations (hereinafter the Rules).

The Applicant presented the subject matter of the special permit to the Board at a duly noticed public hearing on September 19, 2023. Board members Mr. Jon Capetta, Ms. Michaela Moran, Mr. James Fuccione, Mr. Nathan Cookson, and Ms. Patricia Clifford were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Division or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

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

1.1 Items and documentation required by the Rules consisting of:

- A properly executed Application for a Special Permit in the Groundwater Protection District, received in the Planning Department on June 7, 2023;
- Certified abutters list;

- Use description;
- Other permits, approvals, and variances;
- Recorded plans and deeds;
- Drainage calculations;
- Water balance calculations;
- Hydrogeologic Assessment;
- Earth Removal/Fill Calculations;
- Locus Plan;
- Site Plan dated May 15, 2023;
- Wastewater disposal plan;
- Hazardous materials management plan;
- Provisions for safeguards;
- Emergency Response Plan;
- Phase 1 Environmental Site Assessment, dated November 25, 2020;

1.2 Interdepartmental communication received from:

- Fire Department, dated June 8, 2023;
- Acton Water District, dated July 12, 2023;
- Health Division, dated July 5, 2023;
- GCG Associates, dated July 18, 2023;
- Planning Division, dated July 13, 2023.

Exhibit 1.1 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 Site is located within the Powder Mill (PM) zoning district and Groundwater Protection District Zone 1.
- 2.2 The use, manufacture of adhesives, is a prohibited use in the Groundwater Protection District Zone 1 under section 4.3.7.2.
- 2.3 The Site has been consistently used for the manufacture of adhesives since approximately 1949 and is considered a lawful, pre-existing, nonconforming use.
- 2.4 In 2021, the applicant installed 16 small concrete footings to support shipping containers for use as additional storage for inert items such as shipping materials, boxes, and similar. No hazardous material is stored within the shipping container.
- 2.5 Town Staff was made aware of the zoning violation during a tour of the business.
- 2.6 The extension of a nonconforming use in the Groundwater Protection District is allowed via the issuance of a special permit.
- 2.7 The extension of the use as approved herein will not cause the groundwater quality at the down-gradient property boundary to exceed the maximum contaminant levels in the Massachusetts Drinking Water Regulations or fall below the standards established in the Regulations.
- 2.8 The extension of the use as approved herein will not have an adverse effect on the groundwater, surface water, and overall water supply of the Town of Acton.

- 2.9 The extension of the use as approved herein is consistent with the Master Plan; is in harmony with the purpose and intent of the Bylaw, specifically Section 4.3.8 (including all subsections a, b, c and d) and 10.3.5; will not be detrimental or injurious to the neighborhood where it is proposed; and comply in all respects to the applicable requirements of the Bylaw and the Rules.
- 2.10 The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as deemed appropriate.

3 BOARD ACTION

Therefore, the Board voted to GRANT the requested special permit 4-1, subject to and with the benefit of the following conditions and limitations.

3.1 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this special permit null and void, without force and effect. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.1.1 The Applicant shall meet all applicable requirements of the Town bylaws.
- 3.1.2 The Applicant shall not store hazardous materials within the approved expanded area. The approved shipping containers may only be used to store inert items such as shipping materials, boxes, and similar.
- 3.1.3 Hazardous materials shall not be stored or tested outside of the existing structure.
- 3.1.4 All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid..

3.2 LIMITATIONS

This special permit shall be limited as follows:

- 3.2.1 The foregoing 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.
- 3.2.2 This special permit applies only to the Site identified in this decision and to the proposed use as shown on the Plan.
- 3.2.3 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.
- 3.3.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.

3.3.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

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.

Signed on behalf of the Acton Planning Board


Kristen Guichard, Planning Director and
Zoning Enforcement Officer
for the Town of Acton Planning Board

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 Szkaradek, Town Clerk

Date

Copies furnished:

Applicant - certified mail #	Land Use Department Managers Department Fire	Town Clerk Engineering Department
Owner		