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ACTON**

Acton Ford
Groundwater Protection District Use Special Permit Decision #17-05
76 Powder Mill Road
July 11, 2017



Planning Board

TOWN OF ACTON

472 Main Street
Acton, Massachusetts 01720
Telephone (978) 929-6631
Fax (978) 929-6340
PB@acton-ma.gov
www.acton-ma.gov

DECISION

#17-05

Acton Ford

Groundwater Protection District Special Permit
76 Powder Mill Road
July 11, 2017

GRANTED WITH CONDITIONS

Decision of the Acton Planning Board (hereinafter the Board) on the request of Autoplex I LLC, of 6 Proctor Street Acton, MA 01720 (hereinafter the Applicant), dated received May 24, 2017. The Applicant is requesting a Groundwater Protection District Special Permit pursuant to Section 4.3.8.1 of the Zoning Bylaw (hereinafter the Bylaw) and the Special Permit Rules and Regulations (hereinafter the Rules) for property located at 76 Powder Mill Road in Acton, MA owned by Autoplex I LLC of 6 Proctor Street Acton, MA 01720. The property is shown on the Acton Town Atlas as map J3 parcel 34-4 (hereinafter the site).

The Board considered the request at a duly noticed public hearing on July 11, 2017. Board members Ray Yacouby, Chair, Derrick Chin, Anping Liu, Emilie Ying, and Jon Cappetta were present. Mr. Yacouby elevated Mr. Cappetta to a full voting member for the duration of the meeting.

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

1. EXHIBITS

- 1.1 A plan entitled "SITE PLAN FOR ACTON FORD 76 POWDER MILL ROAD" dated March 31, 2017 , [and revised on May 24, 2017] drawn by STAMSKI AND MCNARY, INC. of 1000 Main Street Acton, MA 01720 consisting of 3 sheets: Cover Sheet, Composite Site Plan, and Construction Details.
- 1.2 Supplemental items and documentation required by the Rules consisting of:
 - A properly executed Application for a Groundwater Protection District Special Permit, dated May 24, 2017
 - Filing fee of \$2,000 (reduced from \$5,000 under section 4.2 of the Board's *Rules and Regulations for Special Permits in the Groundwater Protection District*)
 - Certified abutters list.
 - Use description
 - Other permits, approvals and variances
 - Recorded plans and deeds
 - Drainage calculations
 - Site plan
 - Hazardous materials or waste management plan
 - Provisions for safeguard
 - Emergency response plan
 - Groundwater quality monitoring
- 1.3 Additional information submitted by the Applicant:
 - Sewage flow calculations
- 1.4 Interdepartmental communication received from:
 - Acton Water District, dated May 26, 2017 and July 6, 2017;
 - Acton Public Health Department, dated July 3, 2017;
 - Acton Engineering Department, dated May 25, 2017;
 - Planning Department, dated 7/10/17.

Exhibits 1.1 through 1.2 are 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 in the Powder Mill (PM) Zoning District, the Groundwater Protection Districts Zone 1 and 2, and the Flood Plain Overlay District along the Site's southern perimeter.
- 2.2 The proposed addition is an expansion of allowed uses in the PM District: Vehicle Repair, Bylaw s. 3.5.20; and Vehicle Sales, Bylaw s. 3.5.22.
- 2.3 Vehicle Repair is a prohibited use in the Groundwater Protection District Zones 1 and 2; the Vehicle Repair use on the Site is pre-existing nonconforming. The proposed addition is located in the Groundwater Protection District Zone 2. The proposed expansion of the Vehicle Repair use requires a special permit under Section 4.3.8 of the Bylaw.
- 2.5 There are 7 functional monitoring wells on site (B1-7). Wells B-1, B-2, and B-3 were installed in 1988 in the vicinity of the three underground storage tanks (UST). Well B-5 is currently located underneath the proposed addition along the south side of the existing building. The proposed addition will feature a floor drain to be connected internally to an existing underground storage tank, to be emptied quarterly or more frequently as necessary.
- 2.6 The Applicant does not plan to introduce new hazardous materials on site, but additional volumes of existing materials will be in use after the addition.
- 2.7 A Site Plan Special Permit was required, and granted by the Board of Selectmen on May 22, 2017.
- 2.8 The Board has received comments from various Town Departments, which are listed in Exhibit 1.4 above. These comments were considered by the Board in its deliberations, were made available to the Applicant, and are incorporated into this decision as deemed appropriate by the Board.
- 2.9 The proposed use 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 in question; and complies with all applicable requirements of this Bylaw.
- 2.10 The expansion of the nonconforming Vehicle Repair use as conditioned herein will not result in further degradation of the groundwater quality and will not impeded groundwater quality improvement over time. It will not adversely affect Acton's ground waters, surface waters, and the overall water supply of the Town; and it is in harmony with the purpose and intent of section 4.3 of the Bylaw to protect those resources.

3. BOARD ACTION

Therefore, the Board voted unanimously on July 11, 2017 in favor of Granting the – Groundwater Protection Special Permit # 17-05 for ACTON FORD, subject to the following Conditions and Limitations.

#17-05 *Groundwater Protection Special Permit*
Acton Ford
July 11, 2017

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 granted with this Decision null and void, without force and effect, and shall constitute grounds for revocation of this Special Permit. The Town of Acton may elect to enforce compliance with this Special Permit using any and all powers available to it under the law.

- 4.1 Prior to issuance of the occupancy permit the Applicant shall install a monitoring well in a location agreed to by the Acton Water District to replace the monitoring well that will be covered by the addition (Well B-5).
- 4.2 Prior to the issuance of the occupancy permit, the applicant shall provide certification from a qualified environmental engineer that all monitoring wells on the Site are in good operating condition.
- 4.3 Going forward, the Applicant shall continue to keep all monitoring wells in good operating condition for testing as may be required by the Acton Water District, Acton Board of Health, MADEP or agencies having jurisdiction.
- 4.4 The Applicant shall at all times cooperate with the reasonable requests by these agencies for testing of the monitoring wells.
- 4.5 Prior to issuance of the occupancy permit the Applicant shall update all Hazardous Materials Storage Permits with the Health Department to accommodate for additional volumes of existing materials.
- 4.6 The Applicant shall meet all requirements of the Town Bylaws.
- 4.7 All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full.
- 4.8 Prior to issuance of a building permit the Applicant shall record this Decision at the Middlesex South District Registry of Deeds.

5. LIMITATIONS

The authority granted to the Applicant under this Groundwater Protection District Special Permit is limited as follows:

- 5.1 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.
- 5.2 This Groundwater Protection District Special Permit applies only to the Site identified in this Decision.
- 5.3 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.

- 5.4 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.
- 5.5 The Board hereby reserves its right and power to modify or amend terms and conditions of this Groundwater Protection District Special Permit with or without a public hearing upon the request of the Applicant, its designees or assigns, or upon its own motion.

6. **APPEALS**

Any person(s) aggrieved by the issuance of this Groundwater Protection District Special Permit has the right to appeal pursuant to M.G.L., Ch. 40A, §. 17 and shall file such appeal within 20 days after the filing date of this Decision with the Town Clerk.


Roland Bartl, AICP, Planning Director
for the Acton Planning Board

Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -
Town Clerk
Town Manager
Police Chief

certified mail #
Land Use Departments
Sidewalk Committee
Fire Chief

Owner
Engineering Department
Design Review Board
Acton Water District

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