

ACTON PLANNING BOARD MEETING
April 16, 2009

- A. **ROLL CALL** – 7:00
Members present were:
Chip Venell – Chairman
Thomas Cashin – Vice Chairman
Randy Goodwin
James Fiske
Yoli Gallagher
Keith Davis – 1st Alternate
Larissa Crockett – 2nd Alternate

Also present were Kenneth Paul, Code Enforcement Officer; Patrick Coyne and Patrick Hannon.

B. **MINUTES**

April 2, 2009 – A Motion was made and seconded to approve the Minutes of the February 19, 2009 Meeting as submitted. Davis/Crockett – Unanimous.

C. **UNFINISHED BUSINESS**

1. **Patrick Coyne – Site Plan Review for a Mobile Lunch Truck** – Mr. Venell explained that this is a pre-application review for the location of a mobile lunch truck on Route 109 and 12th Street. He said the reason it is a pre-application is because the applicant was required to submit information addressing the Site Plan Review portion of the Ordinance which governs this type of activity. He reminded the Board that if they accept the application this evening, the Ordinance deadlines will begin to run. He asked Mr. Coyne if had an opportunity to review the Site Plan Review section of the Acton Zoning Ordinance as well as identified the criteria for which he will be requesting a waiver.

Mr. Coyne explained that his vehicle will be parked so that the food window faces the street and the food will be prepared on-site. He stated that the menu will consist of hot dogs, fried chicken, french fries and hamburgers. He advised that he has his own electrical power for the grill and to fry the food. He proposes to be open Monday to Wednesday 5:00 PM to 8:30 or 9:00 PM and extend those hours from Thursday to Sunday to 9:30 or 10:00 PM. He said he wanted to close before the people leave Wild Willey's and Big Daddy's so as to avoid those customers. He mentioned that he will not be preparing lunch and submitted a sketch of the location where he will be parked. He gave a brief description of how he thinks the vehicles will enter and exit the site. He stated he would like to put a "Stop Sign" on 12th Street.

Mr. Paul advised that he had no problem with the entrance and exit that is being proposed by the applicant.

Mr. Venell reiterated his comment from the last Meeting that the Board will have to see an agreement between the applicant and the property owner and probably any entity that might have control over 12th Street if it is a private way.

To a question from Mr. Cashin concerning how he will be dealing with bathroom needs, Mr. Coyne explained there will be no toilet facilities and the only waste water will be from the four sinks which will be connected to a 45 gallon tank. He stated he read that if he is open less than four hours there is no toilet required. He mentioned that the holding tank will be emptied every day. He advised that he will be preparing the food for take-out only.

Mr. Paul explained that if there were to be employees other than Mr. Coyne, there would be a need for a place for them to wash their hands, but he wasn't sure whether there would be a need for toilet facilities. He stated that it is up to the Board if they wish to require a port-a-potty. At this time, the Board reviewed the Site Plan Review criteria as set forth on page 101 beginning with Article 6.6.4.6 – Submission Requirements - as follows:

- a) **Completed Signed Application** – Submitted.
- b) **Evidence of Payment of Application & Technical Review Fees** – Fees to be set by the Code Enforcement Officer and the Board of Selectmen. It was noted that more than likely, there will not be a need for technical review fees.
- c) **Submission of Eight Copies of Written Materials** – What has been submitted is adequate.
- d) **Site Walk** – A site walk was scheduled for Tuesday, April 28, 2009, at 5:00 PM.
- e) **Property Owner's Information** – To be submitted.
- f) **Location of Setbacks & Buffers** – Not applicable.
- g) **Sketch Showing General Location of Site** – Submitted.
- h) **Plot Plan** – Submitted.
- i) **Copy of Deed** – To be submitted.
- j) **Existing Conditions** – Zoned Commercial A.
- k) **Length of Property Lines** – Not applicable.
- l) **Location of Public Utilities, etc.** – Not applicable.
- m) **Location of Public & Private Ways** – Not applicable.
- n) **Dimensions of Existing Structures** – Not applicable.
- o) **Location of Roads & Driveways** - Applicant should submit a larger photograph of Route 109 to depict East Shore Drive.
- p) **Location of Site Conditions** – Submitted.
- q) **Direction of Surface Water** – Not applicable.
- r) **Location of Existing Easements** – Not applicable.
- s) **Location of Lighting & Signage** – Removable sign will be placed on the site.
- t) **Location of Fire Suppression Equipment** – Fire extinguishers will be located in the vehicle.
- u) **Demand for Water/Sewerage** – Not applicable.
- v) **Direction of Surface Water** – Not applicable.
- w) **Disposal of Solid Waste** – Solid waste i.e. trash will be disposed of off-site with the trash barrel being removed daily. Board requested a written contract from whoever will be receiving the grease and oil.
- x) **Location of Construction Materials** – Not applicable.
- y) **Proposed Landscaping/Buffering** – Not applicable.
- z) **Location of Proposed Structures** – Not applicable.
- aa) **Location and Dimensions, etc. of Signs** – See (s) above.
- bb) **Exterior Lighting** – Possibly installing a stick light on a pole that will be removed nightly. Board advised it must be shielded so as not to shine into the eyes of drivers in passing vehicles.
- cc) **Location of Utilities/Fire Protection Systems** – It was determined that this is something for the Code Enforcement Officer.
- dd) **Description of Proposed Use** – Submitted.
- ee) **Estimate of Traffic Generated by Activity** – The applicant submitted a marketing plan to address this item.
- ff) **Stormwater, etc.** – Not applicable.

- gg) **Access to Site** – Submitted.
- hh) **Parking Layout/Design** – To be submitted.
- ii) **Level of Surface** – Not applicable.
- jj) **Accessway Location/Spacing** – A site walk was schedule to view the site.
- kk) **Internal Vehicular Circulation** – To be discussed after site walk.
- jj) **Pedestrian Circulation** – Not applicable
- kk) **Storm Water/Erosion Control** – Applicant advised he more than likely will not be open during inclement weather. The Board will review the parking lot during the site walk as it pertains to erosion by vehicles.
- ll) **Water Suppression** – Submitted.
- mm) **Ground Water Protection** – Not applicable.
- nn) **Hazardous Conditions** – Not applicable.
- oo) **Shoreland Zone Impact** – Not applicable.

A Motion was made and seconded to accept the application of Patrick Coyne for the location of a mobile lunch truck on Route 109. Cashin/Goodwin – Unanimous.

2. **Patrick Hannon – Big Daddy’s Take-Out Window** – Mr. Hannon advised that the only change from what he has now is that customers will be able to pick up their order at a window instead of going inside the restaurant. He felt that doing so would eliminate the number of people who cut across the parking lot. He explained that he will be removing the gasoline pumps from the site. He mentioned that he had approximately 600 customers a day purchasing gas and using the convenience store, therefore, removing the pumps will decrease in the amount of traffic on the site. He felt in doing this, the safety on the site will be greatly increased since the traffic will be reduced by 70 or 80% from what is there at this time. He advised the food that will be sold at the drive- thru window will be prepared in the same kitchen facilities as the food that is sold in the restaurant. He stated the vehicles will enter off of Route 109 and go to the speaker which will be located where the diesel pump is now. The customers will then drive up to the building to pick up the food and pay and they will then be able to exit through the parking lot. He stated he has blocked off that area so that vehicles can’t go through to Milton Mills Road. He explained that the area where the existing gas pumps are will be closed off with 6 x 6 logs for customer parking while they are waiting for the food to be ready. At this time, he wasn’t sure if he would put out picnic tables for his customers to eat the food on the site. He mentioned that he is considering selling heating oil rather than gasoline which will be stored in the 30,000 gallon underground tanks. He said what he does next depends on the success of the drive-thru. He mentioned that if he decides to sell fuel oil, the existing tanks will have to be recertified. Mr. Cashin referenced page 98 of the Acton Zoning Ordinance and particularly the language dealing with the increase of intensity of site or off-site impacts. It was his opinion that this application should be not be reviewed as a Site Plan Review. Mr. Paul explained that he looks at this request as being basically what is there at this time and not a change of use. At this time, the Board held a brief discussion concerning the applicability of that section with Mr. Hannon stating that what is being proposed is not a new use as what he has on the site at this time was approved previously. Mr. Venell pointed out that the food will be prepared in the same kitchen that currently prepares the food for the restaurant and the only thing that will change is the delivery method of the food.

Mr. Paul advised that people can get take-out food at the restaurant so the only difference will be that the customers will not have to get out of their vehicles. He felt there would be a problem if the applicant didn't have sufficient parking.

To Mr. Cashin's question whether the Board could make a Finding of why they feel Site Plan Review is not required for this application, Mr. Venell felt this request didn't trigger any of that criteria. He stated if the applicant didn't have a restaurant there already, he would be required to apply for a Conditional Use Permit review. He mentioned that the applicant has said he will be removing the gasoline pumps and the convenience store.

D. **NEW BUSINESS**

There was no new business to come before the Board.

E. **OTHER BUSINESS**

There was no other business to come before the Board.

F. **ADJOURNMENT**

The Meeting was adjourned at 8:45 PM.

Respectfully submitted,

ANNA M. WILLIAMS,
Recording Secretary