

TOWN OF SOUTH HADLEY

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TOWN OF SOUTH HADLEY

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OFFICE OF THE PLANNING BOARD

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NOTICE OF SOUTH HADLEY PLANNING BOARD DECISION ON AN APPLICATION FOR A SPECIAL PERMIT FOR CREATION AND USE OF A FLAG LOT

APPLICANT:

Richard E. Wojtczak
81 Searle Road
South Hadley, MA 01075

DEVELOPMENT NAME:

Wojtczak Flag Lot

**SUBJECT PROPERTY/
LOCATION:**

East side of Searle Road
South side of Bara Lane
(81 Searle Road)
South Hadley, MA 01075
Assessor's Map #24, Parcels #37 & #38

SURVEYORS & ENGINEERS:

Harold L. Eaton and Associates, Inc.
235 Russell Street
Hadley, MA

PUBLIC HEARING:

A public hearing was opened on February 25, 2013, continued on March 18, 2013 and concluded on April 8, 2013 in accordance with the South Hadley Zoning By-Law and the Massachusetts General Laws.

Project Description: Applicant requested a Special Permit under sections 5(D) and 9 of the South Hadley Zoning By-Law to develop create a flag lot (totaling 3.8411 acres) and construct a single-family residence thereon from a 4.4-acre tract. The subject property is located on the east side of Searle Road (81 Searle Road) and southerly side of Bara Lane. The property proposed for development is generally described as a 4.4 acre property identified on Assessor's Map #24 as Parcels #37 & #38.

Presently, all of the subject property is zoned Residence A-1. A single-family residence (81 Searle Road) is situated on the property and is proposed to remain on a separate lot.

Departmental Comments: Plans were transmitted to the various departments for review in accordance with the standard procedure for plan reviews. The following comments/responses were received:

- Jeff Cyr, Water Superintendent – Fire District #1: After review of the plans for the special permit, the Water Department – Fire District No.1 has no objections to the project.
- Wayne Doerpholz, SHELD Manager. SHELD had no issues at this time. SHELD will discuss the electric service with the builder when it receives the application for electric service.
- David Labrie, Police Chief. I do not find any public safety concerns.
- Brenda Church, Building Commissioner. I do not really have any comments.
- Sharon Hart, Board of Health. No problem with 81 Searle Road.
- Robert Authier, Fire District 1 Fire Chief. Okay with the plans.
- Dan Murphy, Town Engineer
 1. Limits of clearing do not include the 15' to 30' wide clearing that will be required for swale constriction.
 2. At least 2 acres of area will sheet flow to the proposed swale along the southern property line. Applicant should provide information to demonstrate that channeled stormwater flows can be controlled on site and not cause erosion both during and construction and over the long term. Are any controls at the end of the new swale proposed?

Based on comments at the public hearing and the initial departmental reviews, follow up comments were requested and received from the following:

- Jeff Cyr, Water Superintendent – Fire District #1: The water line would be provided via Bara Lane and only a 1" service line would be necessary. Mr. Cyr also provided a portion of the easement for the water line in Bara Lane.
- Dan Murphy, Town Engineer: The additional clearing limits will be added to the plan. After reviewing the site with the project consultant, he determined that the rerouted stormwater flowpath and outlet should not negatively impact adjacent properties. The applicant should provide erosion blanket or equivalent within the swale to protect against erosion until vegetation in the swale is established. Applicant should also consider outlet grading that reduces peak velocities to protect against scour by spreading flow at the endpoint of the new swale.

Public Hearing Comments: The public hearing encompassed approximately 2 hours over three sessions. Extensive public comment was received regarding a variety of issues and concerns (including, but not limited to, buffers, drainage, construction impacts on existing trees, conditions of existing trees, and the legal rights under the easement on Bara Lane) which are detailed in the minutes of the public hearings which are incorporated into this decision.

Findings: The Planning Board has evaluated the proposed project in relation to the Standards for Special Permits provided in Section 9(C) and Section 12 of the Zoning By-Law. The Board's findings are presented in ATTACHMENT A – STATEMENT OF FINDINGS.

Decision: At a meeting held on April 8, 2013, by a vote of **Five (5)** out of **Five (5)** members present (with Associate Member Ashley Blais voting since Member Melissa O'Brien missed a session of the public hearing), the Planning Board voted to approve the above-described application for a Special Permit subject to the following conditions:

1. Limits on Usage and Occupancy. This Special Permit is to allow for the creation of a flag lot and construction of only a single-family residence and permitted accessory structures and uses on said lot.
2. Buffer Required. A vegetated buffer comprised of evergreen trees (*arbor vitae*) shall be planted and maintained for a distance of at least 140 feet each along the north and south property lines of the subject property as depicted on the project plans
 - a. *Purpose.* This buffer is to substantially preserve the privacy of the adjoining properties.
 - b. *Limits.* The buffers shall extend at least 140 feet along each of the property lines as depicted on the project plans.
 - c. *Character.* The buffer shall consist of and be maintained to fulfill the stated purpose of the buffer. Accordingly, the buffer shall include evergreen shrubs, bushes, trees including flowering vegetation. At planting, the buffer shall be 4 feet in height with the tallest evergreens planted no less than 4 feet apart on center.
 - d. *Maintenance.* The planted vegetation shall be maintained such that the height does not exceed 20 feet and the lower 10 feet are sufficiently dense to serve the stated purpose of the buffer.
 - e. *Timing.* This buffer shall be in place prior to issuance of a Certificate of Occupancy for any residence on the subject flag lot.
3. Drainage and Erosion. The applicant shall not cause any increased storm water run-off or drainage onto adjacent property nor shall the applicant cause any increased erosion of adjacent property. As commented by the Town Engineer, the applicant shall
 - a. Add the additional clearing limits to the plan; and,
 - b. Provide erosion blanket or equivalent within the swale to protect against erosion until vegetation in the swale is established;
 - c. Provide outlet grading that reduces peak velocities to protect against scour by spreading flow at the endpoint of the new swale.
4. Water Service. The water line is to be provided and installed as approved by the Fire District Number 1 Water Department.
5. Access to Adjoining Properties. No portion of the subject property is to be used for access to any adjoining properties. Accordingly, except as follows, the only means of

- egress/ingress to/from the subject property shall be from the access drive along Searle Road:
- a. *81 Searle Road*. The driveway for the flag lot may be used as a means of accessing a single-family residence at 81 Searle Road.
6. Minutes. The following minutes are incorporated into and made part of this approval:
- a. February 25, 2013, March 18, 2013, and April 8, 2013 Public Hearings.
 - b. April 8, 2013 Planning Board meeting.
7. Application and Plans. The application including all attachments and plans submitted January 15, 2013 are incorporated into and made part of this approval. Materials incorporated into this decision include, but are not limited to, the following:
- a. “Flag Lot Special Permit” Plan of Land in South Hadley, Massachusetts prepared by Harold Eaton & Associates dated January 8, 2013 as revised March 2013 and as further revised to incorporate the conditions of this decision.
8. Comments Incorporated. Comments from the following Town Departments are incorporated into and made part of this approval:
- a. Town Engineer emails, particularly the March 21, 2013 email.
 - b. Fire District #1 Water Superintendent emails.
9. Future Subdivision/Use. No waivers of the Subdivision Regulations are to be provided if the current or a future owner of the subject property seeks to further divide the subject property once a single-family residence is constructed on the proposed flag. Further, the driveway for the flag lot is not considered a public way for purposes of either a subdivision or an ANR lot under Chapter 41, MGL.
10. Recording of Plans Required. The subject plan involves division of property into multiple parcels as shown on the plans. Prior to division of the property, the applicant shall submit plans for endorsement by the Planning Board in accordance with Section 5.05(4) of the Subdivision Regulations. Prior to endorsement of Mylar plans for recording purposes, the applicant shall make revisions to address the comments submitted by the various departments and the conditions incorporated into this decision. Specifically, the revisions shall:
- a. Provide for a vegetated buffer as shown on the revised plans.
 - b. Provide for maintenance of the access drive, utilities, and snow removal as required by Section 7, Subpart (O) of the Zoning By-Law.
 - c. Show final drainage plans as requested by the DPW.
11. Not Subject to Variance Relief. Further, no provision of this Decision including the building or site plans may be subject to a variance application or modification by the Zoning Board of Appeals without prior or concurrent approval by the Planning Board.

12. Decision Appeal Period. This Special Permit shall not take effect until:

- a copy of the decision bearing certification of the Town Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Hampshire County Registry of Deeds within twenty (20) days following this certification of the Town Clerk.

13. Proof of Filing. Proof of this filing (Condition #12) must be submitted (1) to the Building Commissioner prior to obtaining a Building Permit, and (2) to the Planning Board.

This decision shall constitute an approved Special Permit for the above-described project with conditions set forth above. Copies of this decision have been filed with the Town Clerk, Building Commissioner, and Selectboard. Appeals, if any, shall be made pursuant to Massachusetts General Law, Chapter 40-A, Section 17, and shall be filed within twenty (20) days after the date of filing of this NOTICE in the office of the Town Clerk.

The Special Permit shall expire if the work or change involved is not commenced within one (1) year of its taking effect, and if the work or change is not substantially completed within two (2) years. An extension of time for good cause may be granted by the Planning Board acting as the Special Permit Granting Authority.

Failure of the applicant to adhere to the provision of this Special Permit shall constitute a violation of the Zoning By-Law, and is punishable by a fine of up to \$200.00 for each violation. Each day that such violation continues shall constitute a separate offense.

ATTESTED AND AFFIRMED

SI Joan Rosner
Joan Rosner, Chairman
South Hadley Planning Board

April 8, 2013

Date

Cc: Town Clerk (Date Filed: _____)
Selectboard
Building Commissioner
DPW Superintendent
Water Dept., District #1
Richard E. Wojtczak

ATTACHMENT A

STATEMENT OF FINDINGS FLAG LOT SPECIAL PERMIT FOR

RICHARD E. WOJTCZAK – WOJTCZAK FLAG LOT ON SEARLE ROAD (NO MORE THAN ONE NEW UNIT) SINGLE-FAMILY DEVELOPMENT (ASSESSORS MAP #24, PARCELS #37 & #38)

Standard A. *Be compatible in type and scale with adjacent land uses and with the character of the neighborhood in which it located*

The proposal entails creating no more than one additional building lot from the subject property. Similarly, the proposal allows for constructing no more than one additional single-family dwelling on the subject property.

In terms of style of construction, the predominate characteristic of the residential structures within the abutting areas and larger neighborhood appears to be that of a single-story building. Some two-story or 1-1/2 story structures are present on the abutting properties. According to the applicant, the proposed development is to consist of a single-story building residence with, possibly, a finished living area over the proposed attached garage.

To mitigate any potential incompatibility of the effects of the proposed use given the grade differences between the adjoining houses and the general location of the proposed residence, the Board's decision includes an extensive buffer requirement.

Thus, the project is compatible in type and scale with adjacent land uses and with the character of the neighborhood in which it is located as evidenced by the fact that the applicant has proposed a single-family residence which is substantially one story (plus basement). Under the conditions of this approval, the applicant is to provide buffers to mitigate loss of privacy for properties located north and south of the proposed house. Further, a flag lot is a permitted use under the Zoning Bylaw subject to a Special Permit.

This determination is based on the above facts as to the subject proposal, the abutting properties, and properties within the larger neighborhood in regard to:

- the residential use of the property,
- the lot coverage for the building area,
- the style and height of the proposed buildings,
- required buffers and fencing, and
- elevation or screening of the proposed residence.

Standard B. *Be in harmony with the general purpose and intent of this By-Law;*

The general purpose and intent of this By-Law is “to promote the health, safety, convenience, amenity and general welfare of the inhabitants of the Town of South Hadley, through

encouraging the most appropriate use of land”. The most appropriate use of this property is for residential purposes which are permitted under Section 5(D) of the Zoning Bylaw. As noted previously, a flag lot is a permitted use in the Residential A-1 Zoning District by Special Permit. Therefore, development of the proposed flag lot, subject to the conditions of this approval, meets the provisions of the By-Law and is located in an area specified for such use.

Standard C. ***Constitute no significant hazard to abutters, pedestrians, or vehicles***

No technical or professional documentation has been submitted which demonstrates that the proposed project will constitute a significant hazard to abutters, pedestrians, or vehicles. Accordingly, the Board finds no reason to conclude that the proposed use will constitute any inherent hazard to abutters, pedestrians or vehicles.

Standard D. ***Constitute no nuisance by reason of excessive air, water or noise pollution, or by structures or accessories which are deemed visually objectionable in light of prevailing community standards***

The Board finds no reason to conclude that the use of the proposed development will constitute any nuisance by reason of excessive air, water or noise pollution or by structures or accessories which are deemed to be visually objectionable in light of prevailing standards (see discussion under Standard A above).

Section 7(O) Flag Lot Requirements. The Board finds that the Flag Lot plan conforms to the requirements for a Flag Lot as specified in Section 7(O) of the Zoning Bylaw.

Section 9(D) Finding. The Board finds that the Special Conditions detailed in its decision granting this Special Permit are necessary to further the purposes of the South Hadley Zoning Bylaw.