

19 July 2022

To: The Andover Zoning Board of Appeals

From: Jed Larson, Planning and Zoning Commission Chair

Subject: Comment for the record in regards to the request for a variance of section 23.4D of the Andover zoning regulations for the property at 580 Lake Road

On 3 May 2022, the Planning and Zoning Commission approved the site plan for 580 Lake Road. As part of the approval, the following condition of approval specified:

*“The pavement at the southerly end of the parking lot west of Lake Road shall be extended to the property line with the adjacent Ben Franklin Plumbing site to facilitate a future interconnection with that parking lot. The proposed driveway onto Lake Road may be constructed and may remain in use only until such time as the Ben Franklin Plumbing property provides, or is required to provide, a shared access driveway serving both properties. At that time, the separate driveway from Lake Road serving only 580 Lake Road will be removed and the parties shall exchange cross easements for the new shared driveway and a vehicular and pedestrian connection between the two parking lots. Such cross easements will be subject to review and approval by the Commission’s attorney.*

*The preceding conditions are integral to this motion for approval in that without them, the application would have been in violation of the Zoning Regulations and the Commission would have had no choice but to deny it.”*

A common driveway makes sense in the situation and the Commission has the right as specified in the regulations to require one. The driveway to the proposed retail store is in a short section of road between the intersection with Route 6 and Merritt Valley Road that already has the rail trail crossing and the entrance to Franklin Plumbing. Additionally, a parking area supporting the rail trail is located opposite the entrance area for the store and Franklin Plumbing.

Section 23.4D of the Andover Zoning Regulations specifies:

*“All driveways, parking areas, paths, and sidewalks shall be interconnected and/or combined, where possible, with adjacent parking areas, driveways, paths and sidewalks for similar uses, to minimize curb cuts and to maximize pedestrian and vehicular movement between adjacent sites without excessive curb cuts, access movements, and congestion. Provision shall be made for such interconnection, and for the extension of any road or driveway, terminating at or upon the*

*subject site so as to serve adjacent undeveloped land in the same or a comparable zone. Such provision shall include rights-of-way to the Town and/or the adjacent property owner(s).*

*In the interests of public safety, the number of driveways onto public streets shall be minimized, and, in non-residential zones, access to adjacent sites shall be by common driveways wherever feasible. The Commission may require that any driveway be designed, and easements to adjacent properties be conveyed, in order to facilitate present or future sharing of such driveways.*

*No driveway onto a public street shall exceed 30 feet in width, excluding the radius fillets, and no proposed driveway shall be closer than one hundred (100) feet to any other existing or proposed driveway, unless the site is of such width that compliance with this requirement would preclude access, in which case the separating distance between driveways shall be the maximum feasible for the site."*

As the existing driveway was less than 100 feet from the proposed additional driveway entrance, and moving the driveway further away from the Franklin Plumbing entrance would be less desirable due to the proximity to the Route 6 intersection, requiring the common driveway seemed to be not only a better and safer idea, but also provided a solution that would comply with Andover zoning regulations allowing approval.

Additionally,

A variance to the regulations should have been obtained prior to the site plan approval.

The Commission asked the applicant more than once if they wanted to extend the window for the site plan approval to pursue a variance and they did not.

The lot had not been purchased at the time of the site plan approval. The property owner was aware of the condition of approval and could have worked with the potential purchaser of the lot to construct a common driveway to his satisfaction prior to sale of the property.

During deliberations on the site plan, it was noted that if the Commission did not require a common driveway because the applicants did not want one, this would be a poor precedent for future site plans where a common driveway was required.

Therefore, because of the above reasons, the Planning and Zoning Commission unanimously recommends not granting the variance with respect to the common driveway.

Sincerely,

Jed Larson