



Town of Northborough

Zoning Board of Appeals

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Approved 2/27/07

Zoning Board of Appeals Meeting Minutes January 23, 2007

Members present: Richard Rand, Chairman; Mark Rutan, Clerk; Richard Kane; Sandra Landau, Alternate; Gerry Benson, Alternate; Dan Ginsberg, Alternate

Others present: Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; Elaine Rowe, Board Secretary; Fred Litchfield, Town Engineer; David Durgin, Fire Chief; Marie Neiber; Kara Buzanoski, DPW Director; Attorney Mark Donahue; Michael O'Hara; Kevin Quinn; Pat Dunford, VHB; Douglass Prentiss, Judith Nitsch Engineering

Chairman Rand called the meeting to order at 7:02PM.

Continued Public Hearing to consider the petition of Heritage Realty Trust for Variances/Special Permits to renovate an existing building into a multi-family dwelling in a General Residential District and within Groundwater Protection Overlay District Area 3, with less than the required lot size and which exceeds fifteen percent (15%) impervious coverage on the property located at 10 School Street (Case No. 06-27), 7:03PM

Chris Lund explained that the project has been presented to the Groundwater Advisory Committee (GAC). It is his belief that the 15% coverage issue is no longer an issue based on the GAC's recommendation letter. In his letter of January 16th, Town Engineer Fred Litchfield stated that the proposed impervious cover does not result in increased stormwater discharge since the applicant is proposing to capture and recharge drainage from the rooftop. Mr. Lund explained that Connorstone Engineering's calculation of the impervious area encompassed a portion of the roof that would have drained onto the parking lot. In doing the hydraulic calculations, the rooftop recharge was taken into consideration, which therefore nullifies the impervious coverage issue.

Mr. Lund also discussed the GAC's request for him to connect to natural gas instead of utilizing heating oil. Unfortunately, the nearest connection is across from the Town Hall east of Gray's Carpet, which will be cost-prohibitive. Mr. Lund stated that he had approached Gray's Carpet, but they are not interested in tying in. He has not yet approached any of the other neighbors to determine if there is any interest, and noted that it would be important to find others to tie in to help subsidize the costs involved.

Mr. Kane asked Mr. Lund if he has considered using propane, and noted that he presumes that the major concern about oil is with the potential for contamination. Mr. Lund explained that the project will require multiple tanks in the basement, and noted concerns about containment in the event of a spill. He also indicated that he does not have sufficient information about propane to determine if it is a viable option.

Mr. Lund explained that snow storage will be beyond the paved area. He noted that the GAC wants to ensure that the snow will not be heaped in the parking lot, which would result in runoff into the water quality system. The plan is for snow to be pushed onto the grass in order to gain some filtration before getting into the groundwater. Mr. Kane asked if there is any concern about the salt killing the grass. Mr. Lund agreed to make every effort to maintain the grass.

Mr. Lund also explained that the Operation & Maintenance Plan for the drainage system stipulates that a log will be maintained and submitted periodically. Mr. Lund noted that these logs will include comments as to the condition of the grass.

Chairman Rand asked about the distance between the end of pavement and the lot line. Mr. Lund indicated it is well over 20 feet. He also stated that the grade drops about 10 feet, so they have the ability to accumulate a good amount of snow. In the event of a major snow event, snow is to be hauled offsite.

Mr. Lund explained that there was a question as to how the use variance criteria can be satisfied, and noted that he believes it can be allowed due to the unique characteristics of the property because of the shape of the lot. There is also an accompanying hardship relating to the use of the land without a variance. Mr. Lund noted that there is a problem with off-street parking, which would be a major issue should the building remain as a meeting hall. He stated that the municipal code stipulates one parking space for every 4 seats. With approximately 1320 seats upstairs, and an additional 1000 seats downstairs, attempting to design a parking lot capable of handling such demands is simply ludicrous.

Mr. Lund showed a plan for the parking availability based on the lot as it exists today. With allowances for the landings and walkways, there are a maximum of 14 spots. This closely relates to 1 spot for every 300 square feet. Another issue with covering an area of 14 spaces is that the result is 58% impervious coverage, which does not include any potential easement coverage. This would also result in less green space at the rear of the lot for aesthetics and snow removal.

Mr. Lund voiced his opinion that the proposed project is substantially better than what currently exists, and granting of a variance will not result in any substantial detriment to the property or to the neighborhood. He also stated that the proposed multi family residential use fits into the neighborhood far better than a commercial use. The proposal for 8 parking spaces is better than the previously discussed 14, and the traffic influx for a commercial building/meeting hall use would be extremely detrimental to the neighborhood. Mr. Lund also highlighted the benefit of preserving a historical building of this nature.

Mr. Farnsworth referred to the letter from the GAC, and noted that the as-built plan indicated should be stipulated as an as-built *site plan* that is to be submitted to the Town Engineer prior to the issuance of an Occupancy Permit.

Chairman Rand asked about the natural gas issue. Mr. Lund stated that he does not see any way that he can afford to tie into the existing gas line unless he can find someone else to share those costs. Mr. Kane asked if the board needs to know the direction the applicant is going on this issue in order to make a decision about the project. Ms. Joubert noted that the GAC's request is simply a recommendation and not a requirement. Mr. Litchfield explained that the GAC always prefers something less detrimental that does not have the potential to get into the groundwater, but reiterated that it is not a condition of approval.

Mr. Kane asked if Chief Durgin has any concerns about the use of propane. Chief Durgin stated that it would depend on the volume needed, and voiced his assumption that propane would utilize underground tanks. Mr. Lund noted that oil tanks are now double-walled, stainless steel structures that are much more refined and safer than what previously existed. He stated that he will make every effort to ensure that risks are kept to an absolute minimum.

Mr. Kane voiced his understanding that the use of propane would allow a single tank with multiple meters. Mr. Lund noted that the size of the tank would be limited due to the size of the lot. Chief Durgin suggested that, if oil is the only practical option, the board should require secondary containment. He also noted that an auto-shut off could be required, which would automatically stop the flow of oil in the event of a break. He agreed to work with the applicant to devise a plan that would satisfy all of the requirements of the town. He also commented that the applicant may need to come back to the board if the project exceeds the allowable amount of fuel storage.

Mr. Ginsberg questioned the board's ability to approve the project and asked if the matter should be referred to Town Counsel to ensure that there is a legal basis for approval. Mr. Farnsworth noted that the board simply needs to find, in the information presented, that the applicant has met one of the three criteria. He also suggested that the board note the uniqueness of the structure of the lot and weigh it against the purpose of the zoning bylaw and the best interest of the community.

Ms. Joubert voiced her opinion that the project meets the criteria and is relevant based on the existing structure and the shape of the lot. She reiterated that there is not much else that can be done to keep the existing structure intact. She also noted that there are other multi-family dwellings in the neighborhood. Mr. Ginsberg asked if the board has the ability, based on what has been presented, to determine that it is in accordance with its authority. Chairman Rand voiced his opinion that the shape of the lot presents the hardship under which a variance can be granted.

Ms. Landau voiced her opinion that the current criteria for granting a use variance is largely irrelevant and impossible to enforce. She would prefer if the town would work to find more relevant criteria. She suggested that the board assume the authority and not get bogged down by a literal interpretation. In her opinion, this is clearly a case where the project proposed is in the community's best interest.

Mr. Farnsworth voiced his opinion that the applicant has presented a strong argument for approval of a use variance based on the uniqueness of the property and the structure, as well as the resulting benefit to the community. If the board agrees that keeping the building and allowing the project is beneficial to the town, then it does have the authority to allow it.

Marie Neiber of the Northborough Historical Commission voiced whole-hearted endorsement of the proposed project. She noted that the building is listed on the Massachusetts Historical Commission's records and she supports anything that will allow it to survive without destroying its exterior facades. She also stated that the Historical Commission has offered to help with pursuing grants in order to restore belfry.

Mark Rutan made a motion to close the hearing. Richard Kane seconded, vote unanimous.

Continued Public Hearing on the petition of Northboro Center Plaza, LLC for a Variance/Special Permit Site Plan Review for the construction of a 12,900 square foot building with drive through services on the property located at 14 West Main Street (Case No. 06-06), 7:38PM

Ms. Joubert noted that a one page review letter from town staff and a letter from the applicant's attorney were distributed to members of the board earlier tonight. Attorney Mark Donahue introduced some of the representatives who would be presenting details of the project. Attorney Donahue noted that, when they were last before the board, the issue remaining to be resolved was the traffic circulation into and around the proposed store. He noted that the architect had furnished a detailed presentation that the board appeared to be satisfied with.

Attorney Donahue explained that the applicant and town staff have spent an extensive amount of time addressing the traffic issue. The end result is the joint recommendation that will be presented this evening. Attorney Donahue expressed appreciation for the

efforts of town's consultant and town staff, including members of the Police Department, Fire Department, Planning, Engineering, DPW.

Mr. Dunford explained that there were some changes that came about due to the consultant's input and review of the traffic impact and access study. One of the recommendations was to remove parking from the driveway apron, so they have eliminated one space and shifted others so that it is functionally better than what was originally proposed. He also noted that there were some recommendations related to the existing signal at Route 20 and Church Street, which will be discussed later in the presentation.

Mr. Dunford explained that the initial plans show the drive-through bays exiting onto Pierce Street. Currently, the back portion of the lot is fairly wide open but the proposal is for that area to be an exit only. In addition, some striping will be added to clearly delineate the drive-through and circulation aisles. This should better control the "cut-through" traffic that currently exists. There will also be "Do Not Enter" signs installed on both sides so that it is clear that it is an exit only.

Mr. Dunford noted that illegal movement currently occurs at the site, and the excessive curb opening makes that possible. By tightening up the width of the opening, it will be easier to limit access to one vehicle width.

Despite these changes, the town's consultant and staff were still not satisfied, so the plans were revised to angle the spaces at the front of the building. In addition, there will be "Do Not Enter" signs posted on the two islands within the lot to eliminate the extra movement. This should effectively promote a one-way traffic flow.

Mr. Dunford also explained that there was an additional issue with how access and egress from the site relates to the traffic signal at the intersection of Church Street and Route 20. At that signal, there is an existing emergency preemption currently in operation. However, the current system is not functioning correctly. To help alleviate the problem with back-ups and interference with emergency vehicles, the proposal is to pull the island back and install a rumble strip that is slightly more elevated than normal. This will prevent cars from turning in and out of Pierce Street, but still allow the emergency vehicles to do so. There will also be additional signage installed to prevent left turns and an additional detector will be installed for the emergency preemption system to improve its function and capabilities.

Above and beyond this, there will be a certain funding agreement put in place for additional mitigation, specifically covering signal coordination and roadway changes. Mr. Dunford noted that this is a solid plan that he believes will be acceptable to Mass. Highway.

Mr. Rutan asked about coordination of the preemption system with the light at South Street. Mr. Dunford confirmed that, eventually, everything along that section of the Route 20 corridor will need to be coordinated, but at this point they have addressed

what they could for immediate resolution. He expects that, in the future, the system will activate preemption at signals at Ames Street and all along Main Street.

Mr. Ginsberg asked if the emergency vehicles will have any difficulty traveling over the rumble strip. Mr. Dunford indicated that they should be able to do so with ease.

Mr. Kane commented that the engineer has done an admirable job of trying to solve the problems for the Fire Dept. However, they have totally neglected the problems for people trying to get from the west end of Route 20 and Church Street. Based on that, he had made some suggestions through the town's traffic consultant, and he would like to hear feedback about those suggestions. One of the issues he raised was with the driveway onto Route 20, which previously was shown as a single lane in and out. He noted that a single lane will result in a back up into the parking lot behind any vehicle attempting to turn left onto Route 20. Mr. Dunford commented that the details of the driveway at Route 20 would ultimately be Mass. Highway's decision.

Mr. Kane also noted that, at a previous meeting, there was discussion about eastbound traffic trying to turn left into the CVS parking lot. This, too, would create traffic back-ups. Mr. Kane voiced his opinion that there has not been an adequate assessment. Mr. Dunford stated that there is no way of getting around some of the issues of traffic back-ups.

Attorney Donahue noted that the left hand turn into CVS from Church Street that currently occurs is, in fact, illegal. This presents a safety hazard that they hope to eliminate with the reconstruction. Mr. Farnsworth commented that the town has been aware of these illegal turns for many years. He also noted that it will still be possible for traffic to come out of Church Street and make an illegal U-turn around the traffic island. Mr. Dunford explained that he had looked at illegal movements when doing the traffic counts and he did not see a major trend of that happening.

Ms. Joubert stated that the signal at the bank will likely change with the whole RFP process. She noted that town staff spent three meetings discussing the impact of eliminating the left turn prohibition, and it was determined that this would not be a good thing to do.

Mr. Kane asked about the number of accidents that have occurred with vehicles illegally turning left from Church Street into Pierce Street. Mr. Dunford noted that, though there may not be a significant number of accidents recorded, operationally it simply will not work for downtown.

Chairman Rand asked for clarification about the changes to the island on Church Street. Mr. Dunford explained that the island itself will need to be cut back, and there would be new striping and corrugated concrete installed. He noted that when the whole roadway project is done, something different may be done but he believes that there will always be some type of island there.

Mr. Kane commented that if it is possible to eliminate the island and complete the objective with striping only, it would be beneficial for both traffic flow and snow plowing. Ms. Buzanoski stated that the island is under the jurisdiction of Mass. Highway. Chief Durgin voiced his understanding that the removal of the island has been explored, but Mass. Highway wants it to remain.

Mr. Kane asked about the evaluation that was done to relocate Pierce Street. Attorney Donahue noted that there was a good deal of analysis done, including discussions about making Pierce Street a one-way street in part or in whole, widening it, or relocating it. He stated that there was no stone left unturned and what is now before the board is the result of that process. He also noted that public safety was, and is, first and foremost.

Mr. Kane asked the reasoning for two drive-through pharmacy lanes. He noted that other stores he has visited have a single lane, and wondered if two lanes are necessary. Attorney Donahue noted that the inner lane will be used for full service, while the outer lane will be specifically for dropping off prescriptions. The use of two lanes will actually minimize traffic build up at both lanes.

Chairman Rand asked Attorney Donahue for a brief summary of the mitigation measures outlined in the letter. Attorney Donahue noted that the letter addresses the steps to be taken to control circulation and traffic around the site, including the two pass-throughs from Sawyers. The mitigation package being suggested would provide for reconstruction of the island and updating the preemption system for the Pierce Street approach. It was decided that the most efficient way to provide for these things would be for a \$65,000 contribution to be made when the building permit is pulled. If all goes well, this should be adequate funding to design and construct that signal.

Mr. Kane asked the town's consultant to comment as to whether there were significant improvements. Mr. Kane explained that he had suggested the following:

- close the curb cut on Route 20
- move the building forward and all the way to the right
- make the westbound lane on Route 20 a right turn only lane
- incorporate a left turn arrow for eastbound traffic on Route 20 to turn left onto Pierce and Church Street
- If necessary, widen Pierce Street to improve emergency egress
- incorporate traffic signals to include Church Street to Pierce Street, and Route 20 to Church Street and Pierce Street
- incorporate a left turn arrow for eastbound traffic to get onto Church and Pierce Streets.

Mr. Kane voiced his opinion that these changes would allow for a full flow of traffic and make it safe for people getting in and out of CVS. He also suggested that the pharmacy lanes could be located underneath the building, if necessary.

Douglass Prentiss of Nitsch Engineering commented that there have been many complicated issues that have surfaced and been addressed in numerous meetings, including the northerly cut, pedestrian access across Route 20, circulation one-way all the way around, and traffic directions. He stated that there is not one absolute answer to solve everything, but he believes they have arrived at a good compromise. He also explained that the focus was to address the concerns and issues facing the Fire Chief today. The applicant has made a great deal of effort to respond to those concerns and minimize safety issues. Mr. Kane asked about the location of the handicapped parking spaces. Mr. Farnsworth noted that the regulations dictate where they are to be placed.

Ms. Joubert noted that the board has a letter from town staff outlining the most recent meetings and accomplishments. She also commented that some of the remaining concerns about leaving the site will ultimately be decided by Mass. Highway. It will be up to them as to whether the left hand turn onto Route 20 will be allowed, and how wide that driveway can be.

Barbara Durkin voiced support of Mr. Kane's suggestion to put the pharmacy drive-through lanes underground. Ultimately, she feels this is a great plan and she is anxious to see it.

Ms. Joubert commented that the applicant had evaluated moving the building forward, but it was not possible based on the site distance issue.

Mark Rutan made a motion to close the hearing. Richard Kane seconded, vote unanimous.

Public Hearing to consider the petition of Lynne E. Norcross for a Variance/Special Permit to demolish two existing structures and build a new single-family home with less than the required frontage and lot size (construction exceeding 50% of the existing gross floor area) on the property located at 224 Ball Street (Case No. 07-01), 8:36pm

Lynn Norcross explained that her property is located on Ball Street, adjacent to Tougas Farm. She is applying for a variance so that she can demolish the existing 2-bedroom cottage with detached in-law and construct a new, 3-bedroom house. She explained that the lot is nonconforming because its 78,063 square feet does not meet the 80,000 square foot minimum. The proposed house will also exceed the 50% increase in gross living area allowed in the bylaw, and the lot is 11 feet short of the required 200 feet of frontage.

Ms. Norcross stated that the current house is 919 square feet, with a detached 330 square foot in-law. Unfortunately, based on the way that the bylaw is written, the 330 square feet can not be included in the equation. The existing structure is partially constructed on cinder blocks with no attic space. The new house will be a total of 3770 square feet because the basement, attic, and garage must be included in the calculation.

Ms. Norcross noted that the water table is high on her property. Therefore, the structure will not withstand raising it to install a new foundation. Based on the location of the groundwater and the amount of ledge on the property, it was determined that building a new home is the most feasible option. Ms. Norcross stated that the proposed house is a simple 3-bedroom home, and is smaller than the house across the street. The new home she is seeking to build fits with the scale of the neighborhood, will comply with all required setbacks, and will not be detrimental to the area. Ms. Norcross cited soil conditions on the parcel as the basis for her variance request.

Mark Rutan stated that it appears that the existing house infringes on the side setback. Mr. Kane reiterated that the applicant intends to tear down the existing structures. Ms. Norcross stated that she wishes to keep the existing garage to be used as a workshop. Mr. Kane voiced support of the proposal and voiced his opinion that it will enhance the neighborhood.

Mr. Ginsberg asked if a building permit has already been issued for the foundation. Mr. Farnsworth explained that the applicant realized the need for a hearing with this board after she began construction. They do have permission to put in the foundation, which has been inspected and approved to this point.

Mark Rutan made a motion to close the hearing. Richard Kane seconded, vote unanimous.

Public Hearing to consider the petition of Brian Finneran for a Variance/Special Permit to construct a two-story detached garage on the property located at 25 Fay Lane (Case No. 07-02), 8:47PM

Brian Finneran discussed his plans to construct a detached 2-story garage on his property. He noted that he is very close to the wetlands and has been working with Fred Litchfield. He explained that, because of the proximity to the wetlands, he prefers to go up one story instead of into the ground. Ms. Landau asked if the applicant has been to the Conservation Commission. Mr. Finneran confirmed that Mr. Litchfield is fully aware of the project and has been helpful through the process.

Ms. Landau asked about the use for the second floor. Mr. Finneran noted that it will be used for storage and as a workshop, perhaps a drying room for wood in the rough. He also voiced his opinion that it will be an improvement to the property.

Mr. Farnsworth noted that the applicant is proposing a two-story accessory building. Since the bylaw allows only one story, a variance is required. Mr. Farnsworth also noted that the bylaw limits the number of vehicle spaces, and compliance with the bylaw is a requirement for issuance of a Certificate of Occupancy.

Paul Shattuck of 17 Fay Lane asked to see a plot plan. Mr. Ginsberg questioned the distance between the end of the new structure and Mr. Shattuck's property. Mr. Kane

noted that it appears to be about 74 feet. Mr. Shattuck voiced no issue with the project as proposed in the petition. Mr. Finneran confirmed that he will comply with the required setbacks.

Richard Kane made a motion to close the hearing. Mark Rutan seconded, vote unanimous.

DECISIONS

25 Fay Lane – Mr. Kane voiced support and understanding of the applicant's proposal to go up a level instead of into the ground, and noted that no abutters had voiced any objections. Mark Rutan made a motion to approve the variance based on soil conditions. Richard Kane seconded, vote unanimous. Ms. Landau informed the applicant of the 20-day appeal period before construction can begin.

224 Ball Street – Mark Rutan stated that he has no issues with the project as proposed, and noted that it clearly appears to be an issue of the soils. He also expressed his opinion that the project will be an improvement and is in keeping with the neighborhood. Mr. Rutan made a motion to approve a variance for the construction of a home with up to 4,000 square feet with a finding that it is the uniqueness of the soil conditions. Richard Kane seconded, vote unanimous.

14 West Main Street (CVS) – Ms. Joubert commented that there have been several letters submitted and numerous revisions made to the plans. Given that, she asked if the members of the board would prefer to review a draft decision before voting on it. Richard Kane suggested that this would be advisable for the protection of all involved. Mark Rutan agreed. Ms. Joubert agreed to draft a decision for review. Sandra Landau suggested asking the attorney for the petitioner to assist with the draft. Chairman Rand stated that he will not be present at the next meeting. Ms. Joubert agreed to provide a draft decision for review at least a week prior to the next meeting.

10 School Street – Mr. Farnsworth reiterated that this project involves three variances and one special permit. Richard Kane asked if a draft decision is advisable for this project as well. Ms. Joubert voiced her opinion that this is not necessary. Ms. Joubert reiterated that, while the GAC prefers to see natural gas used, it is not always practical. Mr. Kane voiced his opinion that the applicant should be able to come up with an economical solution. Ms. Joubert also noted that the variance for 15% increase in impervious coverage that was originally requested is no longer needed.

Mark Rutan made a motion to grant a variance to allow for a multi family use in a General Residential area. Richard Kane seconded, vote unanimous.

Mark Rutan made a motion to grant a variance to allow for the reduction of the required lot size of 20,000 square feet down to 13,000 square feet. Richard Kane seconded, vote unanimous.

Mark Rutan made a motion to grant a special permit for multi family use in a Groundwater Protection Area 3 with the following conditions:

- If the applicant chooses to use oil, he will be required to make every effort to provide protection that is acceptable to the Town Engineer, Building Inspector and/or Fire Chief.
- Snow storage is to be on grass area as discussed.
- An as-built site plan must be submitted to the Town engineer prior to the issuance of a Certificate of Occupancy
- Item # 6 in the Operations & Maintenance Plan will be revised as noted in the letter from the Groundwater Advisory Committee.

Richard Kane seconded the motion, vote unanimous.

2007 Meeting Schedule - Ms. Joubert noted that Town meeting will be held on the board's normal meeting night, and questioned whether the board would like to reschedule their April meeting or skip it altogether. Mr. Kane asked when the board needs to make a decision on this matter. Ms. Joubert noted that she will need to know at or before next month's meeting.

Housing Lotteries – Ms. Joubert noted that the lottery for the Church Street project should be forthcoming shortly. The lottery for the Hudson Street project has already been held, though the housing consultant has not yet released that information. Mr. Kane asked if there has been any progress on the 40B project on Hudson Street. Ms. Joubert noted that there has not.

Minutes of the Meeting of November 28, 2007 – Richard Kane made a motion to approve the Minutes of the Meeting of November 28, 2007 as modified. Mark Rutan seconded, vote unanimous.

Subcommittee – Mr. Ginsberg explained that the subcommittee has been meeting at least once a week for the past 8 to 10 weeks, but does not appear to be making much progress. The original objective was to have something to present at Town Meeting, but they are only about 20% into the task. It seems to be the general consensus that it would be better to take a more unified approach to get support from the different constituencies and not rush to be ready for this Town Meeting. It was suggested that they wait until next year's Town Meeting or hold a special Town Meeting in the fall. Ms. Landau commented that the "piece mail approach" creates confusion and discrepancies, and she agrees that it makes more sense to do the whole thing at one time. Mr. Kane agreed that there needs to be a good understanding of the issues before it gets to Town Meeting, and there does not seem to be sufficient time to do that.

Mr. Farnsworth noted that addressing the entire bylaw may be too much for the public to comprehend without a great deal of discussion. He commented that a special Town Meeting may be the best approach. Chairman Rand voiced his opinion that this is important work that should not be rushed through. Ms. Landau agreed with the

suggestion to hold a special Town Meeting. Ms. Joubert reiterated the importance of revising the bylaws to support what the citizens want the Town of Northborough to be.

Adjourned 9:35PM.

Respectfully submitted,

Elaine Rowe
Board Secretary