



Town of Northborough

Zoning Board of Appeals

63 Main Street
Northborough, Massachusetts 01532-1994
508-393-5019 ~ 508-393-6996
dgrampietro@town.northborough.ma.us

Approved 8/28/07

Meeting Minutes Zoning Board of Appeals July 24, 2007

Members in attendance: Richard Rand, Chairman; Mark Rutan, Clerk; Richard Kane; Sandra Landau, Alternate; Gerry Benson, Alternate

Excused: Dan Ginsberg, Alternate

Others in attendance: Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; Elaine Rowe, Board Secretary; Giuseppe Sena; Rosy Leo; Attorney Michael Edmonds; Cecilia Viscardi; Doug Moore; Jim Furlong

Chairman Rand opened the meeting at 7:00PM.

Public Hearing to consider the petition of Scott Boyers for a Special Permit/Variance to allow use of a restaurant on the property located at 290 West Main Street, 7:00PM – Attorney Michael Edmonds appeared on behalf of Scott Boyers to request permission to operate a restaurant on the property. Chairman Rand questioned the number of seats, which Mr. Edmonds indicated would be approximately 32 – 36 depending on how the final plans work out. Mr. Kane asked if this estimate included the outdoor dining. Mr. Edmonds confirmed it does. Mr. Kane noted that the seating map shows a total of 45 seats. Mr. Edmonds noted that the seating configuration will likely change.

Mr. Kane inquired about the retail display shown on the drawings. Mr. Edmonds noted that this will be for coffee by the pound, t-shirts, towels, coffee mugs, curios, etc.

Chairman Rand asked if the Shrewsbury store will remain open. Mr. Edmonds noted that the intention is to keep it operational for as long as possible, and that the applicant is looking to expand his business into other markets.

Mr. Kane asked if Board of Health approval is required. Mr. Farnsworth indicated that this has already been done. Mr. Rutan asked about the hours of operation, which Mr. Edmonds indicated will be 6AM to 11PM, but is subject to change depending on the level of business.

Ms. Joubert voiced her understanding that the applicant also plans to offer sandwiches at this location. Mr. Edmonds noted that the applicant would like to have the flexibility to do so in the future if the demand exists.

Mr. Farnsworth explained that he had met with the owner and his architect to discuss what would be necessary to expand the seating to accommodate food and coffee service. He noted that the owner does not expect food service to be a principle part of the business at this point, but may wish for it to become a larger part of his business in the future. He is, therefore, pursuing a special permit to enable him the option of expanding into food service at some point in the future.

Mr. Farnsworth also noted that the seating chart that was submitted will likely be reconfigured in order to get the appropriate aisle widths and egress as required by the code. He anticipates the seat count inside to be no more than 30, and suggested that the board refrain from approving based on a specific diagram or drawing.

Ms. Landau questioned any limitations to the business if an approval is granted. Mr. Farnsworth stated that the qualifications under the bylaw are the same regardless of whether the establishment simply prepares food or also serves it. Mr. Kane commented that the board has previously approved restaurant seating based on a plan. He questioned what the board is approving this evening if the plan submitted is not accurate. Mr. Farnsworth noted that the board can approve the plan "generally as shown" or can approve with a maximum number of seats.

Attorney Edmonds reiterated that the building code requires that there be sufficient room for egress, passage, and fire safety, so the sizes of the tables proposed may change.

Mr. Rutan asked if the business has a side entrance as well. Attorney Edmonds noted that there is a slider on the side of the building that will be used as an additional entrance.

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

Review Minutes of the Meeting of May 22, 2007 – Ms. Joubert noted that there was one change to the Minutes, which was the deletion of a repeat of the word "the". She stated that Ms. Landau and Mr. Benson have both reviewed the minutes and found no additional issues.

Richard Kane made a motion to accept the Minutes of the Meeting of May 22, 2007 as modified. Mark Rutan seconded, vote unanimous.

Tri-Party agreement for Church Street Village – Ms. Joubert explained that she had previously provided the members with a copy of the tri party agreement for Church Street Village for their review, and noted that the agreement had been reviewed by both Town Counsel and her. The final version has been approved by Town Counsel and now requires the board's signature.

Chairman Rand commented that the agreement appears to be in order. Ms. Joubert noted that this agreement will be used as a model for Dunia Gardens.

Mark Rutan made a motion to accept and sign the tri party agreement between the Northborough ZBA, Hudson Savings Bank and Church Street Village Development. Richard Kane seconded, vote unanimous.

Public Hearing to consider the petition of Giuseppe Sena and Rosy Leo for a Special Permit/Variance to allow construction of an addition on a non-conforming lot on the property located at 21 Longfellow Road, 7:20PM

Using a PowerPoint presentation featuring photographs and diagrams, Mr. Sena discussed his plans for an addition to his home for which he is seeking a variance. He noted that the property is a pie-shaped lot located on Longfellow Road, just off Route 135. He explained that he wishes to construct an L-shaped addition to wrap around the existing house that will include an additional garage and master bedroom as well as enabling him to expand the kitchen and bathrooms. He noted that the project is in compliance with the setbacks with the exception of the front property line. He is seeking a special permit to encroach within the 30 foot front setback and a variance to increase the size of the home by more than the 50% allowed in the bylaw. Mr. Farnsworth explained that the request for the special permit was recently added and is not included in the original application packet. Ms. Joubert indicated that the public hearing was appropriately advertised to allow the board to consider both the variance and the special permit.

Mr. Sena explained that the existing home is 1250 square feet, and the new home will be a total of 4736 square feet, including attic and basement space that he is not planning to finish. Mr. Farnsworth reiterated that the home sits on a 20,000 square foot pie-shaped lot, with 170' width at the front and only 16.27' at the rear. The home is also located in a groundwater protection area, which has a required lot size of 80,000 square feet.

Mr. Sena explained that the existing home is too small for his family and that the existing garage is used for storage. In the seven years he has lived there, he has never been able to have a car in the garage.

Mr. Sena stated that the proposed addition will not be detrimental to the neighborhood, and noted that there are many homes in the area with larger additions and two-car garages. Ms. Landau asked if the existing home conforms to all required setbacks. Mr. Sena stated that it does and noted that, due to the shape of the lot, a portion of the addition will encroach within the front setback.

Mr. Sena's presentation included photographs of other properties in the neighborhood. He noted that most of the homes on Longfellow Road and Emerson Road already have two-car garages. He explained that the addition will include an additional 12 to 14 foot wide one-car garage. Mr. Rand asked if there will be access to the house from inside the garages. Mr. Sena indicated his desire to do so.

Mr. Sena's presentation also included a rough sketch of the home with the proposed addition. Mr. Kane asked about access to the basement. Ms. Leo noted that there will probably be a door at the back of the house for access to the basement. Mr. Farnsworth clarified that there will likely be a door from the back and stairs to the first floor, similar to how it currently is. Mr. Rand asked if the rough sketch is sufficient to obtain a building permit. Mr. Farnsworth indicated that it is not. Mr. Rand asked if the home is on public sewer. Mr. Sena confirmed that it is.

Ms. Leo explained that she and Mr. Sena did not wish to pay for extensive design work until they determined if the proposed project would be approved. More detailed final plans will be submitted to the building department.

Mr. Sena stated that the view from the street will be similar to the other homes in the neighborhood. He also noted that the increase in impervious coverage is below what is allowable.

Mr. Farnsworth noted that the plot plan shown in Mr. Sena's application packet was from a mortgage inspection and is only a rough drawing. It indicates that the distance from the street is 30 feet +/-, but the town GIS shows both the edge of pavement and the

property line. Mr. Kane noted that, according to the GIS map, the existing house is 26.96 from the front property line, so is not in compliance with the required setback. He also noted that the proposed addition will be approximately 20 feet from the property line. Mr. Farnsworth stated that the increase in non-conformity requires a special permit, which can be granted with a determination that it is no more detrimental than the existing non-conformity.

Mr. Farnsworth reiterated that the house is located in a groundwater overlay district, with a required lot size of 80,000 square feet. Since the lot is only 20,026 s.f., an increase of more than 50% in the gross living area requires a variance from this board. Once it was determined that the house was less than 30 feet from the front property line, he informed Mr. Sena of the requirement for a special permit as well.

Mr. Farnsworth noted that the proposed addition results in a 190% increase in gross living area. Mr. Kane voiced his opinion that the calculations do not appear to be correct. Mr. Rand agreed. Mr. Kane stated that the 4,736 square feet previously discussed appears to be for the addition only, not the resulting total. Mr. Rand stated the importance of using the correct numbers so that the decision cannot be challenged. Ms. Joubert indicated that the board can approve based on a footprint of a specific size. Mr. Farnsworth suggested that it not be too tightly limited so that the applicant has some flexibility with the design.

Mr. Rand commented that the house will be 7200 square feet with the addition. Mr. Farnsworth noted that this includes space in the attic and basement, though there may be insufficient ceiling height in those areas.

Cecilia Viscardi of 9 Hawthorne Circle voiced her concern about what the resulting home will look like. She explained that the view from her home is the entire back of Mr. Sena's house and questioned if it will be an "eyesore". Ms. Joubert indicated that it should be a traditional looking house.

Doug Moore of 20 Longfellow Road addressed Mr. Farnsworth. He explained that when he originally moved into his home there were drainage pipes to the brook. However, when additional homes were built near him and the sewer line went in, those drainage pipes were removed and there has been an issue with water ever since. He noted that the pine grove is very moist at most times and asked if this is an issue that the town can address. Mr. Farnsworth suggested that Mr. Moore discuss the issue with the DPW Director and Town Engineer. Ms. Joubert agreed to bring it to the DPW Director's attention.

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

Request for an extension of the Special Permit for 11 Monroe Street, case 05-20 - Jim Furlong appeared before the board to request a 6-month extension of the special permit for this project. Chairman Rand questioned why an extension is needed. Mr. Furlong explained that he has brought the sewer line up to the property from Route 20, removed the house and did some leveling and re-grading. He stated that he is still working on finalizing some of the plans, but needs a bit more time.

Mark Rutan made a motion to grant a 6-month extension for 11 Monroe Street, case 05-20. Richard Kane seconded, vote unanimous.

Request for a special meeting on August 14th – Ms. Joubert explained that Kevin Giblin has asked the board to consider holding an extra meeting in August to review the final site plan for The Loop as required in the decision. She explained that the developer

is in the process of contracting with stores and restaurants for the project and those stores are looking for a solid commitment for their store openings, with Kohl's hoping for an October 2008 opening. She also noted that Mr. Giblin is under pressure to adhere to this timetable.

Ms. Joubert also noted that the developer is working with Mass Highway and is currently at the 25% design plan stage. As per the decision issued by this board, the final site plan must now be reviewed and approved. Ms. Joubert also stated that the developer has been receptive to any changes requested by the town thus far. She explained that, at the last meeting of the Board of Selectmen, there were revisions made to how the developer will be providing inspections and the permit fees. Ms. Joubert also confirmed that the appeal has been resolved, and noted that the Avalon project will be filing for some additional units in order to fund the settlement.

Mr. Rutan asked if the developer will also be acquiring the O'Mara property. Ms. Joubert voiced her understanding that he will. She noted that Avalon's expansion will include an additional 35 units, which will require a separate filing to amend the comprehensive permit.

Mr. Benson asked about other entities that need to review the final site plans. Ms. Joubert noted that copies were submitted to all other town boards but that the review and decision lies with this board. She also noted that the Earth Removal bond has already been posted.

Members of the board agreed to hold a special meeting on August 14th. Ms. Joubert agreed to verify whether the applicant wishes to include the Avalon Bay project during that meeting as well.

Meeting of August 28, 2007 – Ms. Joubert informed the board that she currently has one application for the August 28th meeting. She explained that the Planning Board has asked the ZBA to consider having another joint meeting to review the work being done by the zoning subcommittee. Since there is already a second meeting in August, she asked if the board would consider including the discussion with the Planning Board as part of the August 28th meeting. Members of the board agreed.

Ms. Joubert explained that the application filed for the August 28th is a request from Kevin Lamie, who wishes to relocate his car repair business from the Getty station on Main Street to 200 Bartlett Street. This requires a variance from this board as this use is not allowed in the Industrial A district.

Ms. Joubert agreed to provide board members with hard copies of the sections of the zoning bylaw to be reviewed on August 28th.

DECISIONS

290 West Main Street (Lalajava) – Ms. Landau stated that she saw no reason to deny the request for a special permit for the proposed restaurant use. Mr. Rutan noted that his only concern is with the potential number of people in the building as he envisions long lines and overcrowded conditions at peak times. Mr. Farnsworth reiterated that this is highly regulated by both the building code and the fire prevention code.

Mark Rutan made a motion to grant a special permit to allow the use as a restaurant. Richard Kane seconded, vote unanimous.

21 Longfellow Road – Ms. Landau voiced her opinion that the proposed renovations will be an asset to the neighborhood. Mr. Rutan questioned whether the applicant has a good understanding of the budget for a project of this size. Mr. Farnsworth commented that it will likely be smaller than what was discussed this evening. Mr. Rutan noted the issues caused by the unique shape of the lot, and stated that he is in favor of approval. Mr. Kane agreed that it will be an improvement.

Mr. Rand voiced concern and suggested that the board impose some sort of limitation to prevent the applicant from building right up to the property line.

Mark Rutan made a motion to grant a special permit to allow for an increase of the nonconformity at the front 30' setback to no closer than 15 feet from the front property line. Richard Kane seconded, vote unanimous.

Mark Rutan made a motion to grant a variance (Section 7-04-040 B.4.) to allow an increase in the gross living area in excess of 50% of the existing house not to exceed the numbers and sketch as presented per the application dated 6/25/07. He noted that the variance is being granted due to the shape of the lot and soil conditions (lot located in groundwater overlay district). Richard Kane seconded, vote unanimous.

Richard Kane made a motion to adjourn. Mark Rutan seconded, vote unanimous.

Adjourned at 8:30PM

Respectfully submitted,

Elaine Rowe
Board Secretary