



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 1-27-09

Zoning Board of Appeals Meeting Minutes December 4, 2008

Members present: Richard Rand, Chairman; Mark Rutan, Clerk; Richard Kane; Dan Ginsberg, Alternate

Excused: Sandra Landau, Alternate; Gerry Benson, Alternate

Others present: Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; John Coderre, Town Administrator; Fred Litchfield, Town Engineer; Elaine Rowe, Board Secretary; Attorney Marshall Gould; Jim Almonte, Waterman Design; Paul & Jayne Mong; Clement Saintus; Mark Bouffard

Chairman Rand called the meeting to order at 6:20PM.

Continued Public Hearing to consider the request of AVB Northborough, Inc., to find that the addition of 32 town home units to its 350-unit apartment community to be constructed on property located at Southwest Cutoff and Rear Southwest Cutoff, constitutes an insubstantial modification to the Comprehensive Permit issued by the Board under MGL c. 40B, in case No. 05-31. In the event the Board determines the addition of 32 town home units constitutes a substantial modification to the Comprehensive Permit, the Board will consider the request of AVB Northborough, Inc., to amend said Comprehensive Permit to allow the construction of an additional 32 town home units within the development and to modify the land area of the site on which the development is to be constructed.

Attorney Marshall Gould explained there were two outstanding issues from the meeting of November 25th, which were an agreement on a mitigation package and the board's request for a landscape plan. Attorney Gould stated that an agreement on the mitigation package was reached and signed just moments ago. In addition, ten copies of a landscape plan were filed earlier this week.

Ms. Joubert explained that issues with water and sewer for the project will be pursued separately with the Water & Sewer Commission. She also noted that the town and applicant had agreed to additional mitigation of \$10,000 per unit for the additional 32 units, and that the \$320,000 will be paid in full to the town upon application for the building permits for the 32 town homes. Mr. Kane asked about the estimated tax revenues from the additional units. Attorney Gould did not have an exact figure, but indicated that it would be more than the cost of the estimated student load.

Mr. Almonte from Waterman Design discussed details of the landscape plan. He explained that, at the last meeting, the board had requested more information about the landscape berm and plantings along the western property line. He noted that he was able to provide a berm about halfway through the site and retain much of the existing vegetation. He also noted that the plantings will be a staggered row of evergreens, 10 feet in height at time of planting, and planted 10-foot on center. He further explained that the berm is about 15 feet from the property line at its closest.

Mr. Litchfield noted the decision should reference the plans dated October 21, 2008 and revised December 2, 2008.

Chairman Rand asked Attorney Gould if the applicant is agreeable to the conditions as discussed. Attorney Gould confirmed that they are.

Mr. Bouffard, 55 Hillando Drive, Shrewsbury, questioned the berm distance of 15 feet from the property line. Mr. Almonte explained the berm is 15 feet off the Avalon property line, in addition to an existing 30-foot open space buffer in Shrewsbury.

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

Mark Rutan made a motion to approve the construction of an additional 32 units with the following conditions:

1. Construction shall adhere to the plans dated October 21, 2008 entitled "Land Swap Exhibit AvalonBay" and to the plans dated October 21, 2008 and revised December 2, 2008 entitled "Layout, Materials, Planting & Lighting Plan AvalonBay, both prepared by Waterman Design Associates Inc;
2. The Applicant shall obtain a permit from the Earth Removal Board for the proposed expansion prior to any earthwork;
3. The Applicant shall obtain an Order of Conditions from the Conservation Commission prior to any earthwork;
4. Drainage calculations verifying all modifications of the currently approved drainage system and all drainage as required for the expansion shall be reviewed by the Town's consultant and approved by the Town Engineer prior to any earthwork;
5. The proposed detention basin located south of building 19 shall be equipped with a ten (10) foot wide level area providing access for maintenance vehicles from the parking area in front of building 19;
6. The Buffer Planting shown on sheet 3 of the plans entitle "Layout, Material, Planting & Lighting Plan AvalonBay" shall have evergreen trees planted at a spacing not to exceed ten (10) feet on center for a distance of not less than six hundred forty (640) feet; and

7. The Grading, Drainage and Utility Plan (sheet 4 of “Layout, Materials, Planting & Lighting Plan AvalonBay”) shall be revised to correct the grading discrepancy at the end of the earth berm.

Richard Kane seconded, vote unanimous.

333 Southwest Cutoff – Ms. Joubert stated that the decision for this project has been filed. She explained that the applicant, through his attorney, has indicated that he is still seeking approval for the sign as originally requested. Ms. Joubert has explained that the applicant can either appeal the board’s decision or submit a new filing, but that a new filing must be substantially different from what the board has already ruled on. She also stated the applicant is insisting they need the 24-foot sign. Mr. Rutan recalled that there was no real justification as to why a sign of this magnitude is needed, and the board was concerned that it would result in other businesses all along Route 20 requesting the same. Members of the board agreed that the applicant and/or his attorney can appear informally before the board to discuss this if they wish.

Public Hearing to consider the petition of Clement Saintus for a modification of a Special Permit, issued under ZBA Case No. 93-11, to allow the use of an existing relative-occupied two-family home as a conventional two-family home on the premises located at 361 Main Street, 6:45PM

Mr. Saintus explained that the property is currently unoccupied and is owned by the bank. He noted that it is currently established as a relative-occupied two-family, and he is interested in converting it to a conventional two-family to be used as rental units. Mr. Kane asked if there are separate entrances for each unit. Mr. Saintus confirmed that there are. He also noted that the home has a single car garage, but that the driveway is ample enough to accommodate additional cars. Mr. Ginsberg asked if there is any work needed to make the house a legal two-family. Mr. Saintus indicated that there is no structural work necessary, and that it is simply a matter of paperwork.

Mr. Farnsworth explained that the previous owners were granted permission to convert the house into a two-family under a special permit as was allowed in the bylaw, but that the board had opted to impose a restriction allowing occupancy by a relative only. He noted that the permit was issued in 1993, and that the house had met all of the requirements of the zoning bylaw and the state building code for a two-family dwelling. He voiced his opinion that the applicant is acting within his right.

Jayne Mong of 357 Main Street recalled that, at the time the original special permit was granted, there was concern from the neighborhood that the property would become rental units. If tonight’s petition is approved, she questioned whether it will be owner-occupied. Mr. Farnsworth explained that the zoning bylaw does not get into ownership for multi-family dwellings, and noted that Residential A, B & C zones all allow two-family dwelling under a special permit. He also noted that the bylaw does not contain a restriction that it must be relative-occupied. Mr. Saintus indicated that he has no plans at present to live in the dwelling.

Mrs. Mong stated that the last owners had used the property as a single family home. Mr. Farnsworth explained that the property is still on record with the town as a legal two-family house. He does, however, intend to inspect the property to ensure that it is truly set up as a two-family dwelling. Mrs. Mong commented that this is a single family neighborhood, but Mr. Farnsworth stated that there are duplexes across the street.

Paul Mong noted that there is a pool in the back yard that is collapsed and in need of attention. He also voiced concern that renters do not maintain a property as well as an owner will. Mr. Farnsworth encouraged Mr. Mong to file a complaint with his office should conditions ever warrant. Mr. Saintus noted that he does not yet own the property, but that he plans to address the issue of the pool once he does. He also voiced his opinion that what he proposes for the property will be an improvement over existing conditions. Mr. Rutan agreed, and noted that Mr. Saintus will need to keep the property presentable if he hopes to find and retain renters.

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

Richard Kane made a motion to approve the request to modify the Special Permit, issued under ZBA Case No. 93-11, to allow the use of an existing relative-occupied two-family home as a conventional two-family home. Mark Rutan seconded, vote unanimous.

The meeting of the ZBA adjourned at 7:00PM to enter into a joint session with the Planning Board to discuss proposed revisions to the zoning bylaw.

Respectfully submitted,

Elaine Rowe
Board Secretary