



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 4-22-08

Zoning Board of Appeals Meeting Minutes March 25, 2008

Members Present: Richard Rand, Richard Kane, Mark Rutan, Gerry Benson, Sandra Landau and Dan Ginsberg

Others Present: Kathy Joubert, Town Planner; Bill Farnsworth, Zoning Enforcement Officer/Inspector of Buildings; Fred Litchfield, Town Engineer; Tim Paris, Connorstone Engineering, Allyn Phelps, Jr., Lew Colton, Kevin Lamy, Aldo Cipriano, Esq., Nicholas Kieler, Elizabeth Clarke, Michael Edmonds, Tom Reardon, Rodney & Marsha Erlandson, Paul Guitard

7:00 pm - To consider the petition of Allyn Phelps for a Variance/Special Permit/Special Permit Site Plan Review to construct a 4-unit multifamily home behind the existing 2-family home on the property located at 24-26 Hudson Street

Allyn Phelps, Applicant, and Timothy Paris, Engineer, Connorstone Engineering, were present. Mr. Paris explained the proposed project. He stated the applicant is proposing to add a 4-unit multi-family building on the site, which will meet all dimensional regulations. There is an existing duplex on the front of the site with a detached garage. The property is located in the Industrial District B but is surrounded by residential uses on three sides and across the street, including properties owned by the Northborough Housing Authority. It also abuts a small portion of 77 Main Street, currently leased by EL Harvey & Sons, which is the only industrial use in the area.

The existing driveway loops around the house and provides parking areas for approximately five vehicles. A new driveway is planned for access to the four new units and for one of the existing units. The new driveway will be in the same location as the existing driveways. The existing driveway at 24 Hudson Street will be widened from 12 feet to 20 feet. The existing driveway at 26 Hudson Street will remain in the same location with the same configuration. The existing garage will be removed to provide access to the units at the rear of the site. The appropriate number of parking spaces is planned for the site and will be reviewed by Bill Farnsworth, Zoning Enforcement Officer/Inspector of Buildings.

There is a buffer of trees on the property which extends into the abutting property at 77 Main Street. Mr. Paris stated some trees will have to be removed, but they will keep as many as possible to maintain the depth of the buffer.

Townhouses will be served by municipal water and sewer.

There are no wetlands or streams on the property to which runoff could be directed, therefore all runoff will flow to subsurface infiltration systems proposed for the site. Runoff from the new roof, paved areas and the existing building will be directed through deep sump catch basins to the infiltration systems to ensure there will not be an increase in runoff from the site. A hydrological analysis submitted shows the volume of runoff leaving the site will be decreased substantially due to the proposed infiltration systems.

Mr. Paris explained there will be no hazardous materials stored on the site in quantities greater than those associated with normal household use.

Fire lane designations, as well as snow removal and snow storage areas, were added to the plan per the Fire Chief's letter of February 12, 2008 to the Zoning Board of Appeals. Mr. Paris stated he had not met with the Fire Chief to discuss his letter, but stated that all other comments from the Fire Chief's letter will be incorporated into the plan.

Chairman Rand read two letters into the record, one from the Design Review Committee dated March 24, 2008, and one from the Groundwater Advisory Committee dated March 25, 2008. Both committees are in favor of the project, and Mr. Paris stated comments in the letters from these committees have been, or will be, incorporated into the plan.

Mr. Farnsworth stated the date of the plan to be referenced in the decision will be March 25, 2008. Kathy Joubert, Town Planner stated everyone on the original distribution list should get a copy of the revised plans.

Mr. Paris explained the project matches the neighborhood uses and fits well in the area. In addition, the small size of the lot does not lend itself well to industrial uses.

Ms. Joubert stated the area around the subject property includes townhouses, duplexes and four single-family homes on one lot which was allowed by a variance issued by the Zoning Board of Appeals. Further down on Hudson Street there are several duplexes, the apartment complex known as "Residence at the Falls", and twenty-seven (27) town-houses to be built, approved as a comprehensive permit. This part of town has been primarily developing into a residential area, with duplexes and multi-family homes. The new zoning bylaw is proposing to change this industrial district to a neighborhood transitional zone, which would allow up to 8 multi-family units by right. This project would fit well into the area and would meet the purpose and intent of the proposed new zoning for the district.

Mr. Farnsworth stated the applicant met with town staff and staff supports this application. It is a small piece of property that is not good for industrial use and the proposed use is a benefit for the town that will fit well in the neighborhood.

Ms. Joubert stated the response from the Design Review Committee was very favorable. They were pleased the duplex on the site is remaining and that the applicant has agreed to use a lot of the same architectural elements from the existing duplex in the design of the new structure.

No abutters were present and the Board did not receive any letters in opposition to the project.

Mr. Rutan moved to close the hearing. Mr. Kane seconded the motion and the vote was unanimous.

7:15 pm - To consider the petition of Kevin Lamy for a Variance/Special Permit to allow use of an automotive repair business in Groundwater Protection Overlay District Areas 1 and 3 on the property located at 200 Bartlett Street

The Applicant, Kevin Lamy, and his representative, Attorney Aldo Cipriano, were present. Mr. Cipriano stated the applicant is seeking a Special Permit to allow use of an automotive repair business in Groundwater Protection Overlay District Areas 1 and 3, under Section 7-28-040 of the zoning bylaw. The Applicant will be leasing the existing building at 200 Bartlett Street. A variance was granted last year for the use, under ZBA Case No. 07-10. The business will continue offering traditional automotive repair services to customers. New drainage facilities

proposed will be constructed as per the plan submitted and dated February 15, 2008. Impervious cover on the site will not change. Runoff will be draining to the back of the site and a hydrocarbon filter will pull out any contaminants from the water. A waste oil furnace will be used for heat. Mr. Lamy explained the waste tank is incorporated into the heating furnace. Hazardous material stored at the site will include waste oil, waste antifreeze, bulk motor oil and case goods including antifreeze, motor oil, brake fluid and power steering fluid. The applicant met with the Town Engineer regarding groundwater issues for the site. In a letter to the Zoning Board of Appeals from Fred Litchfield, Town Engineer, dated March 25, 2008, the Groundwater Advisory Committee stated they found the plans and application in conformance with Section 7-28-040 of the Zoning Bylaw and recommended approval. Mr. Cipriano stated all comments from the Groundwater Advisory Committee in their March 25, 2008 letter would be addressed.

Mr. Cipriano stated the business is one in a cluster of similar uses in the area and will not be detrimental to anyone in the neighborhood or to other uses in the area. It is appropriate for auto repair uses and, subject to conditions, would be in line with the purpose and intent of the zoning bylaw.

Mr. Rand confirmed this is the same plan the board approved last year. Ms. Joubert stated it was, that they first applied for the variance, which was granted by the board, and now are before the board for a special permit for the use in Groundwater Protection Overlay Districts 1 and 3.

Mr. Farnsworth noted on page 2 of the application the referenced section of the bylaw is wrong and should be 7-28-040. Mr. Litchfield stated he will correct that reference in his letter from the Groundwater Advisory Committee (GAC).

Mr. Rand read Mr. Litchfield's letter, on behalf of the GAC into the record, stating the GAC wants their comments to be used as conditions of the decision.

Mr. Rand asked Mr. Lamy about the storage of chemicals. Mr. Lamy stated it will be double-wall containment. He has provided the Town Engineer with a sketch, but it isn't to scale. He will notify the Fire Department, but this will be done on the as-built plan.

Mr. Farnsworth stated a list of chemicals and quantities on the site should be referenced in the decision, per Section 7-28-040 of the zoning bylaw.

Mr. Cipriano stated they have no problems with those conditions.

No abutters were present and the Board did not receive any letters in opposition to the project.

Mr. Kane moved to close the hearing. Mr. Rutan seconded the motion and the vote was unanimous to close.

7:30 pm - To consider the petition of Loren Street, LLC for a Variance/Special Permit to allow the use of a commercial recreational facility in Industrial District A and in Groundwater Protection Overlay, Area 2 on the property located at 80 Lawrence Street

Lew Colton, Architect, representing the Applicant, Loren Street, LLC, presented the project. Mr. Colton stated he met with town staff to discuss the request for continuation of the special permit under Section 7-28, Groundwater Protection Overlay District and a variance issued under Case No. 99-29. In the meeting, it was determined the changes proposed would not be more detrimental to the groundwater, and therefore the applicant is willing to withdraw the special permit request. Mr. Colton submitted a letter to the Zoning Board of Appeals, dated

March 255, 2008, requesting to withdraw the special permit request without prejudice and Mr. Rand read it into the record.

Mr. Colton explained the previous use on the site was a truck depot for Federal Express. The owner didn't exercise that variance. Federal Express led them to believe they needed to provide a much larger asphalt area for the site, but it ended up that it was not necessary to do that parking lot expansion. The proposal now is to allow recreational use on the site. They have a tenant who wants to use the facility for indoor sports training for schools, including soccer and other field-type games, and also to expand the unpaved parking lot and use it as outdoor playing fields for soccer, hockey, football and baseball for children. There will also be a synthetic playing field outside for soccer and football training, but not for competition. Regarding parking, the applicant doesn't expect more than 25 people at a time. Thirty-seven spaces are shown on the plan. This is a new, up-and-coming activity in which children have some training in addition to what's being offered at school. There will be no evening outside activities and no lighted fields are proposed. There is sufficient access all the way around the facility for emergency vehicles, and the existing building is wheelchair-accessible.

Mr. Colton explained they did an overall drainage analysis of the site and four detention basins have been proposed to handle the whole site. The proposed facility is on one small part of the site. The site is owned by Loren Street, LLC and the tenant will be leasing the building.

Mr. Colton said that, since Federal Express left several years ago, they have kept the building vacant waiting for the right tenant and the right use. They didn't want to bring heavy trucks and traffic back to the site. They have kept the site vacant and that's been their goal for the benefit of the town. They have not been willing to lease it for heavy equipment uses.

Ms. Landau stated the deed is from Loren Street, LLC to Loren Street, LLC.

Mr. Farnsworth stated the property was split into two lots. The town has an ANR on record for the appropriate lots. At the time the applicant was applying for an abutters list the deed that was pulled up by the Assessor's office was the overall deed. Mr. Farnsworth stated the deed and the plan attached do match. The metes and bounds match.

Ms. Landau stated there is no reference to it on the plan, but as long as there is no problem with the deed, she's ok with it.

Mr. Ginsberg stated the deed does talk about lot 2, which is defined by markers on the corners of the plan. There had to be some document showing that they deeded it to themselves. If it went through the registry it has to be well-defined.

Ms. Joubert stated staff didn't meet with the company who is going to be leasing the facility. She asked Mr. Colton how this works, who uses it, will there be a snack bar, how long will the children be there, will parents stay, how many staff people will there be in the building and how does this all work parking-wise. If we don't know how many people will actually be on the site, there's no way to know if the parking spaces are adequate.

Mr. Farnsworth stated the petition is a variance for use, not a site plan, since they are not increasing parking by 10 or more spaces. The pavement and parking has been reduced. - petition is variance for use - not site plan - if not increasing parking by 10 or more spaces - this pavement and parking has been reduced. If the parking increases by more than 10 spaces, they will be back for site plan approval.

Ms. Joubert stated they may never come before any entity of the town for site plan review. Her point in asking is to obtain additional information for the board because as of this evening, we don't have enough information to make a decision on the requested variance. She stated she doesn't want to put the applicant in a position where the variance is granted, the building is leased out and then he finds he needs to come back to the ZBA when he applies for his certificate of occupancy.

Mr. Litchfield, Town Engineer, stated he submitted a review letter this evening. He agrees with Mr. Farnsworth that there is no requirement for a site plan review. He explained there was a special permit granted in 1999 with a condition that the parking area be repaved and this was not done. Drainage should be looked at by a professional engineer. The proposed plan with the application indicates less paving than permitted for Federal Express, but it is showing more pavement than what is physically out there today. It also shows 7-8 more parking spaces than are actually out there. The catch basins shown on the plan almost serve no purpose because they are not in the paved area and retaining walls are in the way. He would recommend requiring a site plan.

Mr. Litchfield said the parking lot needs to be resurfaced. It was required 8 years ago and was never done.

Mr. Colton stated they recognize this and could revise the plan to show the pavement accurately.

Mr. Colton said they need to know if they can do it. They haven't even gotten into discussions about the inside of the building, about what has to go into the building, including lighting, mechanical systems and other special criteria. They will have to bring that information in when they apply for the building permit. They've been told by the applicant it won't be more than 25 people at a time and can only except that until they see detailed information.

Mr. Farnsworth stated this is for a variance only and not in the purview of the board to attach conditions of a site plan approval. The conditions in the 1999 decision were not fulfilled, but that should not be a condition in this decision. That would be a procedural problem. Once they find out if they can allow the use and go forward, the drainage and previous site plan will be reviewed. All those points can be covered at the same time. These are two separate issues.

Ms. Joubert and the board members agreed they are not opposed to the use, but need more information on the applicant and details on what will be going on at the site. Comments/questions from the board and staff are as follows:

- What kind of sports training will be going on?
- Of the 25 people the applicant expects to be participating inside the building, how many will be children and how many will be staff?
- In addition to the 25 people inside, will there be people participating outside at the same time?
- What is the total number of people who could be on the site at any one time, including participants, staff and participants' family members?
- How long will the training sessions/classes be?
- Will the parents and other family members wait inside while their children are participating?
- Will the parents and other family members wait in their cars on the site while their children are participating?

- Without knowing how many people will be at the facility, inside and outside, at any one time, it is impossible to determine if the parking is adequate.
- Will there be a snack bar or food eaten or served on the site?
- Are bathroom facilities available? If not, are bathroom facilities proposed?
- Will there be a locker room, changing rooms or showers?
- Will there be any special equipment used?
- What about safety issues?
- Will there be air conditioning?
- Will there be night-time lighting and/or lighting on the inside of the building?
- Is there a proposed lease?
- Also - an accurate site plan is needed

Rodney and Marsha Erlandson, 66 Lawrence Street, stated they were concerned with noise and night-time/weekend activities. Mr. Erlandson stated he thought the proposed use would create additional traffic on Lawrence Street, which is very narrow.

Steve Swarthout, 27 and 52 Lawrence Street, stated the project brings up a lot of concerns about the use of the building. He worked in a Federal Express building and they are very small facilities with only two bathrooms. He asked if this plan was approved, would there be another meeting for it.

Mr. Rand stated the hearing will be continued to their April 22, 2008 meeting as the Board has requested additional information from the applicant.

Paul Guitard, 101 Lawrence Street, stated he owns the lot across and adjacent to the site. He has two small children and there's a lot of traffic on the street. The speed limit needs to be reduced and parking is an issue on the street. He has participated in a lot of sports and thinks they would need to have showers available. The site is currently an eyesore. He is not opposed to the use; he just wants details and is worried about traffic.

Mr. Colton stated there will be no trucks on the job site whatsoever.

Mr. Rutan stated the plan shows a 6-foot perimeter wall.

Mr. Colton stated it will not be constructed.

Mr. Rand told Mr. Colton he will need to submit an accurate site plan and to provide specific information on what the use will be.

Mr. Colton stated he will pass on the board's concerns to the applicant.

Mr. Kane moved to continue the hearing to April 22, 2008 at 7:00 pm. Mr. Rutan seconded the motion and the vote was unanimous to continue.

Reappointment of Janet Sandstrom to the Earth Removal Board

Ms. Joubert explained Ms. Sandstrom has been on the Earth Removal Board for a long time, is a life-long resident of Northborough, has been very dedicated to the Earth Removal Board and, at present, she is the Chairman of the Earth Removal Board.

Mr. Kane moved to reappoint Janet Sandstrom to the Earth Removal Board for a 3-year term to expire on April 30, 2011. Mr. Rutan seconded the motion and the vote was unanimous to approve the reappointment.

ZBA Case No. 05-34, 239 Hudson Street - Dunia Gardens Request for Change to Comprehensive Permit

The board members reviewed information from Town Counsel stating the requested change to the comprehensive permit for Dunia Gardens, 239 Hudson Street, was not substantial. Ms. Joubert stated the applicant will fill in the information on the blank agreement and she will bring it to the April 22nd meeting for the board to sign.

Mr. Rutan moved to grant the request for the change to comprehensive permit for Dunia Gardens, 239 Hudson Street, ZBA Case No. 05-34. Mr. Kane seconded the motion and the vote was unanimous to approve the change.

Approval of Minutes

Mr. Rutan moved to approve the minutes as written for the following meetings:

- January 22, 2008
- February 7, 2008 - Executive Session
- February 7, 2008
- February 26, 2008

Mr. Kane seconded the motion and the vote was unanimous to approval all 4 sets of minutes as written.

Update on Comprehensive Zoning Reorganization

Ms. Joubert stated the next joint meeting of the Planning Board and Zoning Board of Appeals is April 1, 2008, from 7:00 pm to 9:00 pm. Judi Barrett will be attending. The meeting will begin with a continuation of the multi-family discussion and then will proceed to a discussion on industrial zoning.

Mr. Rand noted that Planning Board member, Bob Rosenberg, filed a petition with the Town Clerk to change the Zoning Board of Appeals from a 3-member board to a 5-member board. He asked Ms. Joubert if the board needs to vote or comment on it.

Ms. Joubert stated she assumes the Town Moderator will ask the ZBA's opinion on this at Town Meeting. Board discussed that Ms. Joubert had proposed this change at a previous meeting and they were in favor of it. Due to the Planning Board postponing bringing the proposed changes to the zoning bylaw to 2009 Town Meeting, she suggested the Board wait until then so the amendments could be presented to town meeting as a package.

Ms. Joubert and Mr. Farnsworth explained that if the board was 5 members, in order to have a meeting, they would need a majority of the board. In the case of voting on variances and special permits, they would need a minimum of 4 favorable votes to pass. Anything else, like voting on minutes, would just need a majority vote. Five members for voting purposes is a better balance and assists applicants with special permit and variance votes. With a 3-member board the vote needs to be unanimous. It hasn't been an issue, but there could issues in the future that complicates the process for an applicant. A 5 voting-member board and 2 non-voting alternates is a good solution.

Mr. Rand stated the board will vote on this at their April 22, 2008 meeting.

Decisions

08-03, 24-26 Hudson Street

Mr. Rutan stated the proposed plan is in keeping with the neighborhood. The size and shape of the lot precludes industrial use. The proposed 4-unit multi-family home blends in with the existing structures. Ms. Landau stated it is the right thing to do. There are no detriments or drawbacks to the use.

Mr. Rutan moved to grant the Variance for the use of a 4-unit multi-family home at 24-26 Hudson Street, based on the shape of the lot, which is small and precludes industrial development, and because it is the right and appropriate usage for the lot and the neighborhood, based on the plans presented and dated March 25, 2008. Mr. Kane seconded the motion and the vote was unanimous.

Mr. Rutan moved to grant the Special Permit for the 4-unit multi-family use at 24-26 Hudson Street, under Section 7-28-040, Groundwater Protection Overlay District, with the stipulation that all conditions have been met and have been agreed upon, including comments #3 and #4 of the Town Engineer's letter to the Zoning Board of Appeals on behalf of the Groundwater Advisory Committee, dated March 25, 2008. Mr. Kane seconded the motion and the vote was unanimous.

Mr. Rutan moved to approve the Site Plan for the proposed 4-unit multi-family home at 24-26 Hudson Street, with the plans as presented and dated March 25, 2008, and including as conditions, comments #2, #6 and #7 of the Fire Chief's letter to the Zoning Board of Appeals dated February 12, 2008. Mr. Kane seconded the motion and the vote was unanimous.

08-04, 200 Bartlett Street

Mr. Rutan stated this is the same plan they approved last year and the members agreed everything looks fine in relation to protection of the groundwater.

Mr. Rutan moved to grant a Special Permit under Section 7-28-040, Groundwater Protection Overlay District for 200 Bartlett Street. Mr. Kane seconded the motion and the vote was unanimous.

Mr. Kane moved to adjourn the meeting at 9:00 pm. Mr. Rutan seconded the motion and the vote is unanimous.

Respectfully submitted,

Debbie Grampietro
Board Secretary