



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 2-24-09

## Zoning Board of Appeals Meeting Minutes January 27, 2009

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

**Others present:** Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; Elaine Rowe, Board Secretary; Catherine Colinvaux

**Chairman Rand called the meeting to order at 7:00PM.**

Chairman Rand noted that the applicant was not yet present, so a suggestion was made that the members address other board business.

**Consideration of Minutes** - Richard Kane made a motion to approve the minutes of the October 28, 2008 and December 4, 2008 meetings as written. Mark Rutan seconded, vote unanimous.

**Shops 9@20** – Ms. Joubert provided the members with a brief update about this project. Revised Site Plans were filed by the applicant in early December. She noted that town staff had met once to date to review the plans, and a copy of those plans has been provided to the town's consultants for their review. Ms. Joubert noted that town staff plans to meet with the applicant and their engineer and she expects to have staff review comments for the board at their February or March meeting.

Ms. Joubert displayed copies of the plans originally submitted with the application. She reminded the board that the decision was written with a condition requiring the final site plan to come back to this board for final approval. Ms. Joubert explained that the original plan showed a u-shaped development, with a fountain, open green space, and park benches in the middle. She noted that the plans filed in December now show a very standard strip mall development with no pedestrian crossings allowing safe access across the parking lots from store to store, no breaks between the buildings, and no green space. She stated that she had done some online research about "lifestyle centers", and it was very clear that these designs incorporate pedestrian-friendly layouts and green space.

Mr. Kane asked if the applicant has the right to make these changes without approval. Ms. Joubert noted that the language in the decision allows the applicant to come to this

board for final arbitration if an agreement about the Site Plan cannot be reached between the applicant and town staff. Mr. Kane commented that the developer had given an update on this project to the Board of Selectmen last evening, at which time Fran Bakstran had voiced her desire that the fountain and green space be included in the final plans.

Ms. Joubert stated that the applicant has indicated that some of these changes are being driven by Wegmans, a major tenant for the project. She also voiced her understanding that Wegmans is known for incorporating lovely landscaping and creative, decorative handling of stormwater through the use of fountains into designs for their stores, so she questions why the plans no longer include any of these things. Ms. Joubert noted that the new plans show additional parking, but not enough to indicate why all of the green space was omitted. The members agreed that the applicant should be required to come back to this board if they cannot reach an agreement with town staff.

Mr. Benson asked if the developer has begun to lay down any of the building footprints. Mr. Farnsworth stated that the pads have been graded out but nothing definitive has been done as yet.

Mr. Rutan asked if the new plan is being driven by the additional 60,000 square feet of space that was subsequently approved, or if it is simply a cost issue. Ms. Joubert reiterated that the developer had stated that the placement of the Wegmans store and their parking requirements were the reason for the change. Mr. Farnsworth commented that the town and its staff are committed to getting this project built.

Mr. Rutan voiced his desire to see some type of green space incorporated. Mr. Kane commented that the change in the economy has likely affected the developer's ability to do as much as was originally planned. Ms. Joubert noted that there is still some negotiation to be done, and the board will be kept informed about any progress.

**Church Street Village** – Ms. Joubert informed the board that she had received an update letter from CHAPA for the Church Street Village and Sunnyside Estates developments. She explained that, for the Church Street project, three of the original ten applicants chosen in the lottery declined, so new advertising was done just prior to Christmas and they are now reviewing those applications.

**Dunia Gardens** – Ms. Joubert explained that there are some changes proposed for this project, and she is awaiting comment from Town Counsel. She voiced her opinion that the changes are insubstantial, but that it will be up to the board to decide how they wish to proceed. She stated that the board can either choose to approve the changes as insubstantial, conditionally approve them pending approval by Town Counsel, or wait for comment from Town Counsel and rule on the matter at the February meeting. Ms. Landau stated that she would prefer not to make a decision until the board has heard back from Town Counsel. Richard Kane agreed. Chairman Rand voiced his understanding that the board must respond within 14 days of the formal request. Ms. Joubert noted that items #9 & 10 in the request have been reviewed by Town Counsel, who indicated that she had no issues. Ms. Joubert voiced her opinion that items 2, 6,

and 7 are fairly similar. She also noted that it appears that these changes are being proposed in order to make this agreement consistent with how Mass Housing is now operating.

Chairman Rand suggested that the board make a decision on items #9 & 10 since we have Town Counsel's approval, and wait to rule on items # 2, 6, 7. Ms. Joubert voiced her assumption that the majority of the board will be at the joint meeting with the Planning Board tomorrow evening, and suggested that they could consider it at that time. Mr. Kane voiced his desire to wait and make one ruling on the entire matter. Mr. Ginsberg agreed, but Mr. Rutan did not.

Mark Rutan made a motion that the board rule that proposed changes #9 & 10 are insubstantial. Richard Kane seconded, vote unanimous.

**Public hearing to consider the petition of Phillip Zamore & Catherine Colinvaux for a Variance/Special Permit to convert the second floor of a pre-existing, non-conforming detached accessory structure from a storage use to office space and recreational space on the premises located at 500 Green Street, 7:34pm**

Catherine Colinvaux discussed her plans to renovate the carriage house on her property. She noted that it is a historic structure, likely built in the late 19<sup>th</sup> century, and is an existing non-conforming two-story structure. She explained that it is structurally not sound and she has prohibited her children from venturing upstairs for years. She explained that she would now like to renovate the building to make it a proper structure, with hopes of using part of it for a home office. Ms. Landau questioned whether there are any thoughts of converting the structure to a separate single family home. Ms. Colinvaux indicated she has no intention of doing so. Mr. Rutan questioned whether the structure has plumbing. Ms. Colinvaux confirmed that it does, and noted that her plans include the addition of a bathroom.

Mr. Farnsworth referred to the plans, which show an office, rec room, bathroom and storage on the second floor. Ms. Landau reiterated her concern that it not be allowed to be used as a two-story, single family home. Ms. Joubert noted that a special permit would be required for that use.

Mr. Farnsworth explained that, because this is a nonconforming structure, a special permit is required for an alteration or change to convert non-habitable space into habitable space. He stated that, whereas this is an accessory use, it falls under section 7-04-040 of the bylaw, and requires a finding that it is not derogation to the intent of the bylaw and is not detrimental to the neighborhood.

Mr. Ginsberg asked if the town had received any comments or input from abutters. Ms. Joubert and Mr. Farnsworth both indicated that no concerns had been communicated. Mr. Farnsworth also stated that, over the years, he has heard positive feedback about the applicant's restoration efforts on this property.

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

## **DECISION**

Richard Kane stated that he saw no issues with the proposal. Mark Rutan made a motion to approve the special permit to allow the alteration to the accessory structure as shown in the plans titled *Plans: Zamore Residence Garage & Workshop* dated 9/25/08. Richard Kane seconded, vote unanimous.

**Adjourned at 7:45 PM.**

Respectfully submitted,

Elaine Rowe  
Board Secretary