



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 8/25/09

Zoning Board of Appeals Meeting Minutes June 23, 2009

Members in Attendance: Richard Rand, Chairman; Mark Rutan, Clerk; Richard Kane; Dan Ginsberg, Alternate; Gerry Benson; Alternate

Members excused: Sandra Landau, Alternate

Others in attendance: Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; Elaine Rowe, Board Secretary; John Fouracre; Mark and Tamara Leonard; Edward St. Pierre; Jeff Amberson; Howie Stone; Paul and Jody Blanchard

Chairman Rand called the meeting to order at 7:06PM.

Richard Kane made a motion to retain the existing officers, Richard Rand as Chairman and Mark Rutan as Clerk, for the next year. Gerry Benson seconded vote unanimous.

Continued Public Hearing to consider the petition of Dimitrios Voyiatzis for a Variance/Special Permit/Site Plan Review to allow a 13,268 square-foot two-story mixed use building to be used for restaurant, retail, commercial and/or office use on the property located at 73-85 West Main Street

Ms. Joubert presented the board with a letter from the applicant, dated June 17th but received earlier today, requesting a continuance to the July meeting. Mr. Kane indicated that he will not be able to attend the July meeting. All other members confirmed their availability.

Richard Kane made a motion to continue the hearing to July 28, 2009 at 7:00PM.

Ms. Joubert noted that, at this point, this is the only hearing scheduled for the July meeting. Mr. Farnsworth stated that he has recently spoken with two parties who may submit applications in time for the July meeting. Members of the board discussed whether or not the July meeting should be held, given the potential for just this one hearing.

Richard Kane withdrew his motion and made a motion to continue the hearing to August 25, 2009. Chairman Rand voiced his opinion that the July meeting should be held as scheduled. Richard Kane withdrew his motion and Mark Rutan made a motion to continue the hearing to July 28, 2009 at 7PM. Richard Kane seconded, vote unanimous.

Mr. Kane voiced concern about the delays with the hearing for the project at 73-85 West Main Street.

John Fouracre, 99 Pleasant Street, questioned whether the board will still meet on July 28th if there is no other business to come before them. Chairman Rand confirmed that they will.

Review Minutes of the Meeting of May 26, 2009 - Ms. Joubert noted a spelling correction for the minutes as follows:

Amend "Taza D'Oror Espresso Bar" to read "Tazza D'Oro Espresso Bar".

Richard Kane made a motion to approve the Minutes of the Meeting of May 26, 2009 as amended. Mark Rutan seconded, vote unanimous.

Zoning Bylaw - Ms. Joubert informed the members of the board that she is still awaiting approval from the Attorney General's office. She reiterated that the new bylaw became effective immediately following the vote at Town Meeting, but is pending final approval by the AG's office. As soon as she hears back from them, any corrections will be made in-house and the new document will go to print.

Ms. Joubert also noted that the change in board membership that was approved by Town Meeting must also be approved by the Attorney General's office. She stated that the Town Administrator has advertised for two full board positions, and all of the alternates were notified that they should officially communicate any interest in pursuing a position as a voting member. Dan Ginsberg commented that he is not pursuing a regular board position. Ms. Joubert voiced her understanding that Sandra Landau is not intending to either. Mr. Benson indicated that he will. Mr. Kane expressed his disappointment that Mr. Ginsberg will not pursue a regular board position. Mr. Ginsberg explained that, since he is hoping to be away for a good part of the winter, he does not feel it is appropriate to be a full board member.

Public Hearing to consider the petition of Mark and Tamara Leonard for a Variance/Special Permit to allow construction of an attached garage within a side setback on the property located at 258 Rice Avenue, 7:20PM

Tamara Leonard explained that she and her husband are seeking a variance to build a garage adjacent to their house. She stated that they have submitted new paperwork to show the location of the garage, and noted that their options are quite limited because of the shape of the lot. Chairman Rand asked about the location of the septic system. Ms. Leonard indicated that the septic system is in the front left portion of the property. Mr. Farnsworth explained that the system is in the front and the reserve area is in the rear, so the applicant is unable to build in either of those areas. Chairman Rand asked if the garage will be a single story. Ms. Leonard confirmed that it will be a one-story, two-car garage. Mr. Ginsberg asked if there has been any communication from any of the abutters. Ms. Joubert indicated that there has not. Chairman Rand asked about the side setbacks. Mr. Leonard noted that the setback requirement is 15 feet, and he is seeking approval to encroach to within

11.8 feet. Mr. Kane voiced his opinion that the proposed construction does not create an adverse impact to the neighborhood.

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

Richard Kane made a motion to grant a variance, due to the shape of the lot, to reduce the setback from the right side property line to 10 feet to allow for the construction of a garage as generally shown on the plans labeled "ZBA Petition Plan" dated May 18, 2009. Mark Rutan seconded, vote unanimous.

Public Hearing to consider the petition of Edward James Stores for a Variance/Special Permit to allow a change from one nonconforming use to another nonconforming use on the property located at 56 Hudson Street, 7:30PM

Edward St. Pierre explained that he is seeking a special permit to change from one nonconforming use to another to enable him to operate his internet mail order business at this site. He said he is not sure what type of business was previously operating at the site, but he does know that it was an approved nonconforming use.

Mr. St. Pierre voiced his opinion that allowing his proposed use is in substantial harmony with the master plan and with the purpose of the bylaw, will not adversely affect the neighborhood, and does not create a nuisance or serious hazard to vehicle or pedestrian traffic. He also confirmed that adequate and appropriate facilities will be provided, and he agreed to conform to any special conditions imposed by the board. He also stated that there will be no walk-in traffic to the business.

Mr. Ginsberg commented that the businesses website shows cabinets, an inside store location, and does indicate the existence of walk-in traffic. Mr. St. Pierre stated that the pictures on the website show a retail store that he previously operated in Northborough, and he agreed to modify the website to appropriately reflect the nature of his business. He reiterated that there will be no walk-in traffic at this new location. Mr. Ginsberg suggested that this should be so stipulated in the decision.

Mr. Farnsworth explained that, when he became aware that the applicant was occupying this space, he advised Mr. St. Pierre that he needed to do a zoning determination since the property is now in a downtown neighborhood zone that results in the previous use being nonconforming. He also reiterated that it must be very explicit that there is to be no walk-in traffic.

Mr. Rutan asked about the number of employees at the business. Mr. St. Pierre stated that he has two part time employees.

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

Mark Rutan made motion to approve the special permit to change from one nonconforming use to another with the stipulation that no walk-in customers are allowed. Richard Kane seconded, vote unanimous.

Public Hearing to consider the petition of Paul and Jody Blanchard for a Variance/Special Permit to allow construction of an addition to a nonconforming structure on a lot with less than the required lot width on the property located at 346 South Street, 7:41PM

Paul Blanchard explained that he is seeking a special permit to construct an addition to his home. He stated that the town requires a minimum lot width of 100 feet, and at the current house it is only 98 feet. In the area where the addition is proposed, the width is only 94.5 feet so he is requesting a reduction in the minimum lot width. He is also requesting approval to increase the living area by 66% to accommodate the proposed 1600 square foot addition. He explained that, under the revised bylaw, only a 50% increase is allowed.

Mr. Farnsworth explained that the applicant has sufficient frontage, but less than the required lot width. At present, the minimum at the building is 98 feet wide, but the proposed addition off the back of the home will be at a width of 94.5 feet, thus increasing the nonconformity. He also noted that the existing home is 2599 square feet, and the new bylaw allows an increase of up to 50% (1250 s.f.). The proposed addition is 1656 square feet, which results in a 66.24% increase. The increase in the nonconformity and the living area both require a special permit.

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

Mark Rutan made a motion to grant a special permit to allow for an addition of no more than 1700 square feet and a special permit to allow for the lot width at the rear to be 93 feet. Richard Kane seconded, vote unanimous.

John Fouracre asked about the problem with runoff at 73-85 West Main Street and suggested that the applicant should be asked to stabilize the soil with some hydroseeding. Ms. Joubert agreed to discuss the matter with the Town Engineer.

Public Hearing to consider the petition of Jeff Amberson for a Variance/Special Permit to allow placement of a shed within the front yard setback on the property located at 260 Green Street. 7:50PM

Jeff Amberson explained that he is requesting a variance to put shed on his property, between his home and Green Street, and noted that this is the only possible location given the topography of the lot. He explained that it would also be possible to place it in his back yard, between his house and his neighbor's, but that this would be less desirable for his neighbor. He also stated that the shed will not be visible from the street.

Mr. Rutan asked about the dimensions for the shed. Mr. Amberson stated that the application is for a 12 x 18-foot shed, but he anticipates it will be closer to 12 x 16 feet to ensure that he has sufficient room between his house and the shed for access by a septic truck. Chairman Rand commented that the house sits perpendicular to the street, so locating the shed in the front yard makes sense. Mr. Rutan asked if the proposed location for the shed could potentially interfere with any future improvements to Green Street. Ms. Joubert indicated that this would not be an issue. Mr. Rutan asked if there will be any issues during the winter months due to snow plowing on Green Street. Mr. Farnsworth indicated that there should not.

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

Richard Kane made a motion to grant a variance as requested due to the topography of the lot to allow for a shed no larger than 14x18 feet, and no closer than 10 feet from the property line. Mark Rutan seconded, vote unanimous.

Adjourned at 8:00PM.

Respectfully submitted,

**Elaine Rowe
Board Secretary**