



TOWN OF NORTHBOROUGH Zoning Board of Appeals

Town Hall Offices • 63 Main Street • Northborough, MA 01532 • 508-393-5019 • 508-393-6996 Fax

Approved 5/14/13

Zoning Board of Appeals Meeting Minutes February 26, 2013

Members in attendance: Richard Rand, Chairman; Mark Rutan, Clerk; Richard Kane; Fran Bakstran; Rob Berger, alternate; Jeffrey Cayer, alternate

Others in attendance: Kathy Joubert, Town Planner; Fred Lonardo, Building Inspector; Fred Litchfield, Town Engineer; Elaine Rowe, Board Secretary; Bernice Conway, 1 Assabet Drive; Elaine Hatch Finney, 43 Colburn Street; Vito Colonna, Connorstone Engineering; Tom Blasko, 18 Pond View Way; John Goddard, 84 South Street; Toshihiro Uchida, 80 South Street; Beryl & Chuck Krouse, 2 Beverly Road; Chris Cooke, 10 Beverly Road; Stephanie Sullivan, 4 Assabet Drive; William F. Donovan, 3B Pond View Way; Attorney Christopher Novak, National Grid; Robert Russell, National Grid; Nancy Marshall, National Grid; Peter Harley, National Grid; Kris Thebado, National Grid

Chairman Rand called meeting to order at 7:00PM

Public Hearing to consider the petition of Raven Homes, Inc. for a Variance/Special Permit to allow the use of a proposed two-family dwelling (duplex) in Groundwater Protection Overlay District Area 3 on the property located at 89 South Street, GIS Map 74, Parcel 54

Chairman Rand appointed Rob Berger as a voting member for this hearing.

Attorney George Pember appeared on behalf of the applicant to discuss plans for the construction of a two-family dwelling on the property. He noted that, since a portion of the property is located within the Groundwater 3 District, a special permit under the Groundwater bylaw is required. He explained that there is an existing house on one of the lots, and that lot will be combined with a small strip of land on an abutting parcel to create an appropriately sized lot for the project.

Chairman Rand asked if the home is to be served by town water and sewer. Attorney Pember confirmed that it will be, and also noted that there is gas in the area that will be connected. He voiced his understanding that the units will be sold as condominiums. Ms. Bakstran commented that the Groundwater Advisory Committee has recommended that the units be heated by gas, and Attorney Pember confirmed that they will be. Ms. Bakstran questioned impervious coverage and discussed the importance of ensuring that runoff is handled properly. She also noted the Groundwater area in the back yard. Attorney Pember stated that there will be no impact to the groundwater as the work will be confined to the other side of the property. He also stated that the Town Engineer had requested only one driveway per building in order to minimize the paved area. Vito Colonna of Connorstone Engineering indicated that he is looking at the possibility of having

two driveways, with a turnaround for each one. Ms. Bakstran commented that there will be 4 curb cuts onto South Street where there is currently only one.

Mr. Rutan noted that the plans show the units situated 90 degrees to one another and asked how the driveway for the second unit will be configured. Mr. Colonna explained that one building will have two driveways in front, while the second building will have a garage on the front and back sides. He also stated that, even with two 20-foot wide driveways, the increase in impervious coverage is only 5%, which is well below the 15% that is allowed. Ms. Bakstran asked if the impervious coverage has been calculated. Mr. Colonna confirmed that it has been, and will be submitted as part of the Building Permit process. Ms. Bakstran voiced her opinion that there will be a considerable amount of pavement in an area that currently does not have it.

Ms. Joubert noted that the board has comment letters from the Town Engineer and Groundwater Advisory Committee (copies attached). Mr. Litchfield explained that the Groundwater Advisory Committee had met last week, and stated that the only reason the applicant is before the board is because a portion of lot 1 is being utilized to meet the minimum lot area requirement, and a special permit is needed for lot 1. He also confirmed that the impervious coverage calculation will be required during the Building Permit process and will be verified with an as-built plan at completion of the project. Mr. Litchfield noted that the second comment letter from him deals with the safety aspects of 4 driveways as opposed to 2. He voiced his desire for the house to be pulled back to allow a turnaround so that backing out onto South Street will not be necessary.

Mr. Lonardo explained that a duplex is only allowed by special permit, and noted that if the applicant had chosen to build a single family home they would not have been required to appear before this board. It was also noted that, if it were not for the groundwater issue, both duplexes would be allowed by right. Ms. Joubert clarified that lot 1 is the southerly lot. Mr. Lonardo also noted that the lots are not yet in ANR form, so any decision would be subject to ANR.

Mr. Litchfield explained that the Groundwater Advisory Committee recommends permeability tests be done prior to construction to verify suitability of the soil for infiltration.

John Goddard, 84 South Street, noted that there had been much discussion about driveways and water infiltration. He asked if the board has any concerns about changing drastically what is typically a single family neighborhood to crowd two duplexes onto this lot. He questioned whether there are any laws to prevent this project. Ms. Bakstran referred to the town zoning map, and noted that the property is within the general residential area where two-family dwellings are allowed by right.

Stefanie Sullivan, 4 Assabet Drive, stated that she has two concerns. The issue of groundwater has been addressed to her satisfaction, but she does have concerns about traffic impacts and multiple driveways entering onto Route 135. She strongly suggested limiting the project to one curb cut per building for safety reasons.

Beryl Krouse, 2 Beverly Road, asked about the distance between the buildings and the property lines. Mr. Colonna stated that it is approximately 500 feet to Beverly Road.

Chuck Krouse, 2 Beverly Road, asked about the developer. Mr. Lonardo stated that Raven Homes is a builder who lives in town, and has built in Northborough previously.

Chris Cook, 10 Beverly Road, asked if the appearance will be similar to the two yellow condominiums that were recently built on South Street. Mr. Colonna indicated that he believes they will be.

Toshihiro Uchida, 80 South Street, asked if the applicant is planning to cut down any of the large trees. He also asked about the height of the buildings. Mr. Colonna stated that he has not yet seen the architect's plans. He also stated that there is a large tree in the front of the parcel that they would like to save, but much will depend on the final locations of the driveways.

A gentleman whose mother lives at 1 Assabet Drive voiced concern about impacts to her property from runoff. Mr. Colonna noted that most of the runoff currently flows to the gully, and will continue to do so. He also commented that dry wells are planned for lot 1.

Mr. Litchfield stated that the plan that was submitted did not include any topography details, either existing or proposed. He stated that infiltration will reduce the runoff but water flow will depend on how the lot is graded.

Mr. Krouse commented that the gully serves as a mosquito breeding pond. Mr. Litchfield stated that this does not fall under the requirements of a conservation filing, and he also does not know if there is any standing water there. Mr. Colonna stated that there was no evidence of standing water when he was on the property.

Ms. Sullivan, speaking on behalf of Mrs. Conway, stated that the gully does not cross the road and does have water in it at certain times during the year. Since the topography does slope towards her house, Mrs. Conway is extremely concerned about harmful water infiltration on her property.

Mr. Goddard commented that there have been several accidents between the property and the cross road, and questioned the possibility of squeezing 4 driveways on the property and not ending up with cars backing out onto South Street.

Ms. Sullivan suggested that if the building were set further back on the parcel, it would be possible to have a narrower curb cut and the driveway could split out to the two garages. Attorney Pember stated that there is a steep drop off toward the rear, so setting the building further back would involve considerably more expense with minimal improvements in safety.

An audience member asked if there will be any impact to the existing property line, wall and fence. Mr. Colonna stated that the work will not be anywhere close to the rear of the property.

Ms. Bakstran asked if the dwellings will be 2-bedroom units. She also voiced her opinion that the turnaround will be used to park additional cars making it unusable as a turnaround. She stated that she still has concerns about 4 driveways.

Ms. Bakstran asked if the board has the ability to make recommendations and requirements about the grading so that they do not grade toward the back. Ms. Joubert stated that, in the case of a special permit, the expectation would be for the board to include conditions. Ms. Bakstran asked if the board can request a review by the Design Review Committee (DRC). Ms. Joubert stated that a

DRC review would have to be voluntary on behalf of the applicant because the DRC bylaw does not deal with single family and 2 family houses. Mr. Lonardo reiterated that the lot drops off significantly. Ms. Joubert suggested that the board may wish to ask for additional information such as showing the topography and asking for additional scenarios.

Chairman Rand asked if the board can be provided with topography information and a second scenario. Mr. Colonna agreed that he could do so, but noted that an alternative design will likely include a good deal more pavement.

Ms. Bakstran asked if the builder would consider the possibility of constructing one duplex and one single family home. Attorney Pember noted that the applicant would want the 2 duplexes, which are allowed by right. Ms. Bakstran voiced her opinion that what is allowed by right and what is practical are two different things. She noted that the lot itself is big enough, but the useable land is squeezed into just the front portion.

Mr. Rutan stated that combining two of the driveways may result in more problems, and suggested that there may be instances where cars could be waiting on South Street to get into the driveway. Chairman Rand commented that there will be the same number of cars regardless of the number of driveways.

Ms. Goddard asked about lot 2. Mr. Lonardo explained that the board has no jurisdiction on that lot, and reiterated that what the applicant is proposing is allowed by right. Ms. Joubert stated that any decision rendered by the board would apply only to the lower lot.

Ms. Bakstran asked if having a topographical layout would change anything or result in different conditions. Mr. Litchfield commented that, even with grading details, there is no way to tell what will happen with the groundwater. He noted that the law stipulates that the applicant's project cannot discharge more water onto a neighbor's property than what currently exists, but the only recourse a neighbor would have if they did would be to take the applicant to court.

Mr. Rutan asked if there is any reasonable way that the culvert can be reshaped to spread the water out over a larger area. Mr. Litchfield stated that it is only a gulley and it is not entirely on the applicant's property so he does not have control over it. He also noted that permeability tests could help to verify if the soils are suitable and would capture some of the water before it gets to the property line. He stated that though this work is not required, the builder has indicated a willingness to do it.

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

Public Hearing to consider the petition of Massachusetts Electric Company, d/b/a National Grid, for a Variance/Special Permit to allow the storage and use of four above-ground diesel fuel tanks with secondary containments in Groundwater Protection Overlay District Areas 2 & 3, which is a change and extension of a pre-existing, non-conforming use on the property located at 55 Bearfoot Road, GIS Map 29 Parcel 46

Chairman Rand appointed Jeffrey Cayer as a voting member for this hearing.

Attorney Novak introduced Robert Russell, Nancy Marshall, Peter Harley, and Kris Thebado, from National Grid.

Attorney Novak explained that the applicant is before the board seeking an extension of a pre-existing, nonconforming use.

Attorney Novak explained that National Grid owns this 29 acre parcel of land located in the Industrial zone, with portions falling in the Groundwater 2 and Groundwater 3 areas. He noted that they are seeking special permits for above ground diesel storage tanks with secondary containment measures.

Attorney Novak discussed the site history, and noted that storage and use of hazardous materials is a pre-existing, nonconforming use that has existed since 1979. He explained that Raytheon, the previous occupant, had stored approximately 27,000 gallons of diesel fuel in 2 underground storage tanks beginning in 1979. They ceased that use in 1992 and discontinued use of liquefied nitrogen in 1994. In May 1986, the Northborough Groundwater bylaw was adopted. In 1996, Massachusetts Electric installed an emergency generator on the site and continued the storage of fuel in a 1500 gallon above ground tank. Later in 1996, Massachusetts Electric installed another emergency generator, with a third being installed in 2010. He explained that the installations were necessary to ensure the availability of an emergency power source for electricity and heat for the customer support center, and the units are routinely operated once every week for 20 minutes. In addition, they were recently used for emergency power during Hurricane Sandy.

Attorney Novak informed the board that the applicant is seeking a special permit for 2 emergency generators and an additional storage tank, all of which are integral to the operation of the center. He explained that at the time these items were installed, they were believed to be accessory to the operation center use and the failure to obtain approval was truly an honest oversight. After speaking with town officials, and in the interest of caution and being a good corporate citizen, they agreed it would be appropriate to appear before the board to seek a special permit.

Attorney Novak discussed safety features employed to meet the standard required for a special permit, which includes having the generators and tanks located within their own chain link fenced area. In addition, concrete pads and secondary containment are provided to prevent contamination of the groundwater, with a monitoring system to trigger an alarm in the event of a leak.

Mr. Kane asked about means of firefighting onsite in the event of fire. Mr. Thebado stated that a call is made to 911 for Northborough Fire to respond. Mr. Kane asked about the response time, and noted concerns about an excessive amount of flammable fuel stored onsite. Mr. Harley commented that diesel fuel is technically combustible and not a flammable material, so is not an extremely ignitable substance.

Mr. Cayer asked about procedures in the event of a leak. Mr. Thebado explained that an alarm goes out to 5 individuals who work for the company, including himself and his boss. In the event of an alarm, they all proceed to the area to evaluate the situation. Mr. Harley commented that National Grid's environmental staff is on call 24 hours a day, 7 days a week, and Clean Harbors is under contract and, by agreement, is required to be onsite within 2 hours. He also noted that the

transformers on the poles are all oil filled, and the track record for addressing oil spills is quite good.

Ms. Marshall discussed spill prevention plans. She noted that all 4 tanks are a tank within tank design, so that any oil leakage would involve a release from the inner tank to the outer tank with nothing spilling on the ground. Mr. Kane asked if the tanks are steel or fiberglass. Ms. Marshall noted that they are steel within steel. Mr. Kane asked about the age of the tanks. Ms. Marshall stated that the oldest has been in place since 1996.

Ms. Marshall also discussed spills during the transfer process, and noted that since these are manned operations, if an issue arises it is addressed immediately. She noted that there is trap rock around the tank, and there are specific clean up procedures should a spill occur.

Mr. Berger asked about the piping systems. Ms. Marshall stated that the piping systems are double walled, so that any drain in the pipe will drain back into the sump, and there is an alarm on the sump. Mr. Berger asked if there have been any regulated releases reported to DEP. Mr. Marshall stated that there have been none to her knowledge. Mr. Rutan asked about the integrity of the exterior tank. Ms. Marshall stated that the standard procedure for a double-walled tank is a visual inspection, and reiterated that all tanks are sitting on a concrete slab. Mr. Cayer asked if there is a procedural checklist. Ms. Marshall confirmed that there is. Mr. Berger asked how often the SPC has to be updated. Ms. Marshall noted that they must be updated every 5 years unless anything changes, in which case the SPC must be updated within 6 months of the change. Mr. Berger asked about procedures in the event the delivery vessel was to have a catastrophic release, and asked if there is equipment onsite to quickly handle it. Ms. Marshall commented that spills during transfer are normally small in volume, and any breaks in the hose will trigger a kill switch.

Ms. Bakstran asked if the Fire Chief had provided any comments. Ms. Joubert indicated that he had not. She noted that the next step will be for National Grid to appear before the Board of Selectman, and she would assume that will be where the Fire Chief will comment.

Bill Donovan, 3B Pondview Way, asked why National Grid did not go with natural gas. Attorney Novak explained that the facility is served by natural gas, so they needed a source other than natural gas. Mr. Lonardo voiced his understanding that the Fire Chief would prefer diesel fuel over propane, since diesel fuel is much more stable.

Mr. Donovan asked if the Fire Chief has reviewed National Grid's SPCC. Mr. Lonardo stated that it is available for him to look at, and noted that since they are storing in excess of the 10,000 gallon threshold, they will have to be licensed by the Board of Selectmen and the Fire Chief.

Tom Blasko, 18 Pondview Way, asked if the 27,000 gallon tanks that were used by Raytheon have been removed. Attorney Novak confirmed that they have been, and noted that DEP has verified that they were removed on April 8, 1992. Mr. Blasko asked about the distance between the fuel tanks and the pond. Mr. Harley indicated that they are 250 feet apart or more. Mr. Berger commented that they appear to be 270 to 280 feet from the pond. Mr. Blasko asked where the catch basin in the back parking lot flows to. Ms. Marshall stated that there are two catch basins behind the property that tie together and daylight, then run overland to the pond. She also noted that Mr. Litchfield has requested a survey of the stormwater system onsite, so there will be more

information once that survey is completed. Mr. Berger suggested that a sausage boom be placed in the swale at all times as a precautionary measure.

Mr. Blasko asked how close the connection from the truck is to the sump, and voiced concern if there is a release at the truck. Ms. Marshall stated that the truck will be in the driveway and not on the stone pad. Mr. Cayer asked how often the tanks are filled. Mr. Thebado noted that it is done about once a year.

Fran Bakstran made a motion to close the hearing. Richard Kane seconded, vote unanimous.

Review Minutes of the Meeting of January 22, 2013 - Fran Bakstran made a motion to accept the Minutes of the Meeting of January 22, 2013 as submitted. Richard Kane seconded; vote unanimous.

DECISIONS:

89 South Street – Ms. Bakstran noted that Mr. Rutan had made a good point about the driveways, so she is much more comfortable with the plan. She also commented that if there is ledge present, water is currently not infiltrating into the ground so the situation will not be worsened by construction of this project. She voiced her desire for the applicant to meet with the Design Review Committee to encourage an attractive design, and reiterated her desire that the development not create water issues for Mrs. Conway.

Fran Bakstran made a motion to grant a special permit to allow the use of a two-family dwelling (duplex) in Groundwater Protection Overlay District Area 3 on the property located at 89 South Street with the following conditions:

- At least two permeability tests should be performed to verify the infiltration rates assumed for the sizing of any subsurface infiltration system. These tests should be performed prior to the issuance of the first building permit in order to allow for any changes to the plan.
- An Operation and Maintenance Plan should be submitted in a Stormwater Report and be incorporated into any approval and should be submitted to and approved by the Town Engineer prior to the issuance of the final Certificate of Occupancy. The Operation and Maintenance Plan shall include the following: The Town Engineer shall be notified before the work is performed and shall be afforded the opportunity to inspect the work. The Town Engineer and the Groundwater Advisory Committee shall be provided copies of the contract, all inspection reports and invoices for the work performed. All material removed from the drainage system shall be disposed of offsite. The Operation and Maintenance plan should be part of the decision by the Zoning Board of Appeals so that it will be recorded at the Worcester Registry of Deeds and become a permanent part of the chain of title.
- An as-built site plan shall be submitted to the Town Engineer for approval prior to the issuance of a certificate of occupancy. The as-built plan shall include, at a minimum, and as applicable to the project, a permanent benchmark, elevation of all utilities, pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. Upon approval by the Town Engineer one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system and the Town's vertical datum (NAVD 88) and the horizontal datum (NAD 83).

Mark Rutan seconded the motion; vote unanimous.

55 Bearfoot Road (National Grid) – Mr. Rutan voiced his opinion that the applicant is very experienced and knows what they are doing. Mr. Berger agreed. Mr. Cayer commented that National Grid needs these tanks in order to do business. Ms. Bakstran noted that the system must be sound since it has not posed any issues in all the time it has been there.

Fran Bakstran made a motion to allow the storage and use of four above-ground diesel fuel tanks with secondary containments, not to exceed 15,000 gallons, in Groundwater Protection Overlay District Areas 2 & 3, which is a change and extension of a pre-existing, non-conforming use on the property located at 55 Bearfoot Road. Richard Kane seconded, vote unanimous.

Ms. Joubert reminded the board that there will be no meeting in April.

Adjourned at 8:42pm.

Respectfully submitted,

Elaine Rowe
Board Secretary