



Approved 9/24/13

**Zoning Board of Appeals
Meeting Minutes
July 23, 2013**

Members in attendance: Fran Bakstran, Chair; Mark Rutan, Clerk; Robert Berger; Richard Kane; Brad Blanchette, Alternate; Jeffrey Cayer, Alternate

Members excused: Richard Rand

Others in attendance: Kathy Joubert, Town Planner; Daniel Nason, DPW Director; Elaine Rowe, Board Secretary; Attorney Marshall Gould; Michelle Gillespie; Tony Abu; Leslie Harrison; Peter Simoneau; Deborah Simoneau; James Tetreault, PE, Thompson-Liston; Walter Talbot; Tom Reardon; Amy Jo White; Pat & Fran Doyle; Bob Gleeson; Brian Smith; Norm Corbin; Amy Poretsky; Kevin & Chris Thompson; Allyn Phelps; John Pierce; David Bramley; Carol Chione; Daniel Griffin; Theresa Capobianco; George Pember; Mike Sullivan; Attorney Todd Brodeur

Fran Bakstran called the meeting to order at 7:00 PM.

Public Hearing to consider the petition of Peter Simoneau for a Variance/Special Permit to allow the expansion of an existing kitchen and the addition of a family room with an unfinished basement that together will exceed 80% of the gross floor area of the existing home on a lot with less than the required minimum lot area on the property located at 62 Oak Avenue.

Ms. Bakstran appointed Brad Blanchette as a voting member for this hearing.

Peter Simoneau discussed his request for a special permit to exceed 80% of the gross floor area of an existing structure. He explained that he would like to bump out the back of the house to expand the kitchen and construct a 20' x 20' family room with basement. Mr. Simoneau stated that he did not realize that he would be required to factor in the floor area of a previous addition, and that doing so put him over the 80% maximum allowed in the bylaw. Mr. Simoneau also stated that there are no boundary issues, and the addition will fit within the lot and comply with all setbacks.

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

Continued Public Hearing to consider the petition of PAMJAM Realty LLC for a Variance/Special Permit to allow the use of two duplexes on two lots in the Residential C District, on the property located at 15 Pinehaven Drive, GIS Map 82, Parcels 12 & 13 (remanded to the Board of Appeals for a de novo rehearing after an appeal)

Ms. Bakstran appointed Jeffrey Cayer as a voting member for this hearing.

Attorney Marshall Gould and engineer John Grenier appeared on behalf of the applicant. Attorney Gould explained that the original hearing for this application produced a vote of 3 in

favor and 2 opposed, resulting in the denial of the special permit. He noted that the applicant had appealed that decision on the basis of law, and requested a remand. He stated that Town Counsel had agreed to that request, and the court granted a motion for a de novo rehearing.

Attorney Gould explained that the parcel is currently composed of two lots; a ½ acre lot and another 4.5 acre lot, which is partially located in a commercial zone and partially in a residential C zone. Attorney Gould distributed copies of property maps illustrating the location of the commercial zone, properties directly abutting the parcel in question, and locations of other two-family homes in the vicinity. He also distributed copies of marketing materials for the nearby Cyrus Brook development, a project of duplexes that all sold in the high \$300,000 or low \$400,000 price range. Attorney Gould reiterated that the parcel is bordered by commercial property on two sides, and commented that this was one of the reasons that the Cyrus Brook project was approved. He noted that the units in the Cyrus Brook development are all in private ownership and are not intended to be rental units. He stated that the proposed development provides an opportunity for home ownership at an affordable price for a home of this size. Mr. Grenier confirmed that the homes will be configured to meet the zoning requirements, with a special permit being required to allow for two-family homes.

Attorney Gould stated that the criterion for granting a special permit includes many things, one of which relates to the Master Plan. He noted that, at this point, the Master Plan is about 20 years old, and addresses transitioning between the commercial and residential zones. He explained that the existing single family home has been there since the 1950s and is not on town sewer. He indicated that the two proposed duplexes will both meet the minimum requirement for density, with no variances being requested for size. He noted that there have been concerns voiced about existing drainage issues, and explained that the applicant is obligated to ensure that no drainage issues will be created by their project. He also voiced his opinion that the proposed development represents an improvement over what currently exists and reiterated that the Cyrus Brook project has proven to be a successful project with no problems attributed to that development.

Attorney Gould voiced his opinion that the proposed project is compatible with other homes in the area and meets the goals of the Master Plan. He reiterated that the applicant is proposing to reconfigure two existing lots to create two lots and construct two, 2-family dwellings that will be connected to town water and sewer. He also noted that the Groundwater Advisory Committee has provided a letter voicing their support and offering conditions to which the applicant has agreed. He reiterated that the proposed project will be an improvement over existing conditions and is in harmony with the area.

Attorney Gould confirmed that the project meets all zoning, dimensional, and infiltration requirements, there will be no disturbance within 10 feet of the existing stone wall, and will comply with the conditions required by the Groundwater Advisory Committee.

Attorney Gould recalled that, at the last hearing, there was a homeowner who indicated that the project would adversely affect the neighborhood, and he argued that the project on Cyrus Way did not do so. He also commented that those units are not the only duplexes in the neighborhood.

Mr. Cayer asked about the homes on Cyrus Way. Mr. Abu explained that that project involved 7 lots with 14 homes, all of which have been sold in the high \$300,000/low \$400,000 range. He also commented that there do not appear to be traffic or drainage problems as the result of that development.

Mr. Cayer asked about the estimated tax revenue from the proposed project. Attorney Gould stated that the tax rate will be based on assessed value, and noted that the existing home has an assessed value of \$166,000 and the new units are expected to be in the high \$300,000 range, so the tax revenue should be considerably more.

Mr. Cayer asked about other duplexes on the street. Attorney Gould voiced his understanding that the home at 67-69 Pinehaven Street is a duplex, and reiterated that the homes on Cyrus Way are located on the outskirts of this neighborhood.

Mr. Cayer also recalled that there were concerns about water and drainage, with water flowing into the basement of the home across the street. He questioned whether more roof space and less ground area will exacerbate that issue. Mr. Grenier stated that roof runoff will be collected and recharged into the ground.

Attorney Gould commented that a great deal of engineering work was done for this project. He also noted that some of the neighbors indicated that water problems have improved since town sewer was installed in the area.

Mr. Rutan asked if each lot will involve a separate condo document. Attorney Gould explained that they will each be established as a Condex, with two owners. He also commented that there will be very little maintenance anticipated for quite some time. Mr. Rutan asked if each lot will be independently owned and managed. Attorney Gould confirmed that they will.

Mr. Cayer asked for examples of other transitional areas in town. Attorney Gould noted that there are only a few business areas in town. He explained that the Master Plan encouraged some multifamily uses and though there has not been much following of that Master Plan, there has been some development on the outskirts. He cited the development directly across from Northborough Crossing and a residential development behind the former Fiske's Nursery as two successful projects.

Ms. Joubert referenced a comment letter from the Groundwater Advisory Committee and an agreement about planting of a landscape buffer between PAMJAM and the Griffin's property.

Attorney Gould cited case law supporting approval of special permits, and noted that there must exist very strong reasons to deny. He also noted that the fact that comparable projects have been allowed in similar areas in town would make any denial ripe for appeal. He stated that the developer is sensitive to the concerns of the neighbors, but reiterated that the Cyrus Way project is proof that this type of development can be done successfully.

Mr. Cayer asked for examples of similar projects. Attorney Gould cited duplexes on South Street that were recently approved, and several duplexes in proximity to single family homes on Ridge Road.

Daniel Griffin, 21 Pinehaven Drive, stated that there is a misconception that traffic through the neighborhood comes from Route 20 and voiced his opinion that most of the cut-through traffic is from Route 290.

Walter Talbot, 7 Cyrus Way, commented that this builder does a nice job and that duplexes are a great housing option. He voiced his opinion that the project should be approved, but voiced concern that the map shown does not include topographical details. He stated that there are currently major drainage issues within the Cyrus Way project, so much so that the road is still not an official street because of those issues. He expressed concern that this project could

exacerbate the situation. Ms. Bakstran reiterated that the applicant will be required to ensure that the drainage be no worse and commented that it could actually result in improved conditions.

Attorney Gould asked the board members to voice any and all concerns about the project so that they can be addressed prior to closing the hearing. He asked whether the two board members who were originally opposed to the project still have negative opinions. Mr. Cayer explained that he had wanted more detail. He stated that he did not believe the project to be in harmony with the neighborhood and, though he has still not heard about similar transitional projects, he does feel a bit better about this project. Mr. Rutan noted that a mixed-use development behind Texas BBQ is a good example of transition between business from Route 20 and residential. Ms. Joubert also noted a series of duplexes on Bartlett Street that transitions from Route 20 to an area of single family homes, and Ms. Bakstran cited duplexes built in the extension of Crestwood Drive.

Attorney Gould commented that the proposed houses will be the first two homes encountered from Route 20, so they are not “in the midst” of the neighborhood.

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

Continued Public Hearing to consider the petition of Abu Construction for a Variance/Special Permit/Special Permit Site Plan Approval/Special Permit Groundwater Protection Overlay District to allow construction and use of a commercial building, with associated parking, access drives, utilities and landscaping, on the property located at 9 Monroe Street in Groundwater Protection Overlay District 3

Ms. Bakstran appointed Brad Blanchette as a voting member for this hearing and explained that Mr. Berger would be unable to vote as he was not present for the first portion of the hearing.

Ms. Joubert noted that, with 4 voting members, the vote must be unanimous.

Ms. Bakstran explained that the hearing had been continued to allow the applicant to meet with the Town Engineer and other individuals to address some issues that arose during the original discussion.

Mike Sullivan explained that the applicant met with the Town Engineer and DPW Director to discuss the sidewalk requirement. He stated that Mr. Abu is willing to construct a 150-foot section of sidewalk in front of his parcel, but town staff has requested Mr. Abu to install sidewalk from the high side of the parcel to Route 20. Mr. Sullivan discussed Mr. Abu's desire for the board to understand the costs associated with the sidewalk construction and requested that they require him to just do the portion within his property.

Mr. Sullivan also noted that Mr. Litchfield had believed there was a storm drain nearby, but to date no information has been found. Since it may not be possible to tie into an existing drain, the applicant hopes that the board will allow a cultec system instead. He stated that it would take nine back-to-back storms of 5.3 inches to result in an overflow, so the applicant does not believe it is necessary to spend additional money to extend the overflow. Mr. Sullivan confirmed that an Operations and Maintenance (O&M) Plan has been prepared, including annual inspection of all structures and cleaning as needed. He also stated that if the board wishes to impose a condition requiring annual submission of inspection reports to the Town Engineer, the

applicant will agree to do so. He also indicated that the height of the four proposed light poles will be no higher than 20 feet.

Mr. Sullivan also addressed a question that was raised about the stormceptor, and noted that the manufacturer has confirmed that the system will handle the pipes proposed. He also explained that, since the building will not be sprinklered, the hydrant that the Fire Chief requested is not necessary.

Ms. Bakstran noted that the total frontage for the parcel is 151 feet, and the total out to Route 20 is 325 feet. Mr. Sullivan stated that the estimate for the sidewalk installation and associated drainage is \$20,000 to \$25,000. He also voiced his understanding that the DPW Director anticipates that it will be far less than that.

DPW Director Daniel Nason voiced his desire for the board to consider town staff's recommendation to require the applicant to install sidewalk, curbing, and required catch basins. He also disagreed with the cost estimate of \$20,000 to \$25,000 for the work, and estimated it to be more in the \$9,000 to \$10,000 range. Mr. Sullivan asked if this estimate includes the drainage work that will be required. Mr. Nason stated that it did not, but also noted that he still does not believe it will be as costly as the \$20,000+ estimate. He also reiterated that the DPW does not have resources for this type of work, so if the applicant is not required to install the sidewalk it will never get done.

Ms. Bakstran questioned whether the board can require the applicant to install just the 150 feet on his property. Mr. Nason suggested that this will cause problems with water spilling off of Monroe Street. Ms. Bakstran asked about the impacts of not requiring any sidewalks or curbing. Mr. Nason indicated that this will allow water to flow freely and will likely cause problems with Mr. Abu's project.

Michelle Gillespie, 117 Howard Street, introduced herself as Chair of the Design Review Committee (DRC) and stated the DRC and the Planning Board also requested the sidewalk. Ms. Bakstran mentioned that the Groundwater Advisory Committee has also requested storm drain improvements.

Mr. Nason emphasized the value of having the sidewalk, which will connect major areas of the town and allow people to walk more safely to the park.

Amy White, 23 Brigham Street, asked who would be responsible for the icy sidewalk during the winter months. Mr. Nason indicated that the property owner(s) would bear that responsibility.

Mark Rutan made a motion to close the hearing. Brad Blanchette seconded, vote unanimous.

Continued Public Hearing to consider the petition of Northborough Commons, LLC, for a Variance/Special Permit/Special Permit, Groundwater Protection Overlay District to allow a proposed horizontal mixed-use development, consisting of a single-story building for retail use and a 2-story building with retail use on the first floor and residential use on the second floor, on the property located at 61 and 65 West Main Street in Groundwater Protection Overlay District Area 3

Ms. Bakstran appointed Jeffrey Cayer as a voting member for this hearing.

Ms. Joubert explained that plans were revised to reflect comments made by the DRC. She also noted that, given the complexity of this project, she has provided copies of all of the correspondence to date, including comment letters from the DRC, Planning Board, Fire Chief, DPW Director, and Town Engineer, as well as a memo written by her and Fred Lonardo that outlines the various special permits, variances, and waivers requested by the Applicant.

Jim Vogel discussed his motivation for bringing forth the proposed project. He explained that he lives in town and pays taxes here, and was growing tired of driving by the old Pierce Oil site and wondering why nothing was being done with it. In response, he has partnered with Paul Ayoub to bring forth a proposal for what they believe to be a great project for the site.

Architect Clay Smook voiced excitement about designing the project. He noted that the site is interesting from a topographical standpoint, with the grade rising up about 80 feet above the roof of the building. He stated that the project has been scaled back from the 3-story structures that were originally discussed, and now include two buildings, with one being an L-shaped, 2-story structure with retail below and apartments above and the other being a 1-story retail building. Mr. Smook noted that the plans call for one row of angled parking to the façade, and with ramped up parking to the rear to allow grade entry into the second floor apartments.

Mr. Smook stated that the tenants for the development have not yet been identified. He indicated that they intend to maintain the natural aesthetic of the back of the site.

James Tetreault, PE, Thompson-Liston explained that the 142,000 square foot site is located in the downtown business district, across the street from Dunkin Donuts, and contains 410 feet of frontage. He reiterated that Building #1 will be an L-shaped, 2-story structure with parking on the second level for access to the apartments and Building #2 will be a 1-story building with retail only. He noted that drainage for the project will feature inground detention, and an infiltration area in front of Building # 2. Mr. Tetreault explained that a special permit is required for a commercial use in a GW3 area, and commented that the front 1/3 of the site shows on maps as having wonderful sand and gravel soils. However, he stated that he did not find quite as much of the suitable soils as he expected, so the infiltration in front of building #2 was located in order to take advantage of where suitable soils were found.

Mr. Tetreault explained that he had submitted calculations that illustrate that the increase in impervious cover does not exceed what is allowed under the bylaw, and that the volume of runoff will not increase by more than 15%. He also voiced his opinion that it is in the town's best interest for the board to grant the special permit for commercial use in a GW3 area because the applicant will be completing remediation for the petroleum in the soil as part of the project.

Mr. Tetreault discussed waivers, variances, and special permits being sought. Waivers are being requested as follows:

- A waiver of the requirement that the applicant include a street tree every 25 feet along the frontage. Mr. Tetreault noted that the DRC has suggested fewer trees, and the landscape plan presented is thoughtful and attractive.
- A waiver relating to the landscaped buffer between business use and adjacent residential district. Mr. Tetreault noted that all of the residential uses bordering this site are at significantly higher elevations than the building, so residents would see over any landscaping.

- A waiver relating to a 10 foot wide buffer around the parking areas. Mr. Tetreault noted that the plan does not provide for a 10 foot buffer between the parking area and Avidia Bank. Ms. Bakstran asked if the DRC had commented on this. Ms. Joubert indicated that they did not comment on that matter, but did approve the overall site plan and location of the buildings.
- A waiver to decrease the required distance of 8 feet from parking space to building wall. Mr. Tetreault commented that the plan calls for angled parking, and the applicant is trying to ensure that there is sufficient room for drainage and snow storage by reducing the distance from 8 feet to 5 feet.
- A waiver to increase the width of the access drive from 24 feet to 32 feet wide. Mr. Tetreault explained that this will allow sufficient space for traffic to get safely in and out of the development.

Special Permits are being requested as follows:

- Special Permit with site plan approval.
- Special Permit for horizontal mixed-use development. Mr. Tetreault noted that 2 buildings are proposed on the site, one of which will have residential use on the second level and retail on the lower level. He voiced his opinion that this is an appropriate use for the site. Mr. Rutan asked for clarification about access to the residential units. Mr. Berger asked about secondary egress. Mr. Tetreault noted that this matter is being worked out with the Fire Chief. Ms. Bakstran asked for confirmation that there are no windows on the back of the lower level. Mr. Tetreault confirmed that is the case. Ms. Bakstran commented that all deliveries will have to come in through the front doors.
- Special Permit to allow maximum gross floor area of 15,000 square feet for one individual retail establishment. Mr. Ayoub stated that they are in the initial stages of trying to market the property, so possible tenants are unknown at this point. He voiced his desire to have as much flexibility as possible to ensure that the project is viable. Mr. Cayer asked if the applicant is seeking 15,000 square feet for both spaces. It was suggested that either building could house a tenant requiring greater than the allowed 5,000 square feet.
- Special permit per Groundwater Overlay District for commercial development.
- Special permit per Groundwater Overlay District for multifamily use.

Ms. Bakstran asked for clarification of the groundwater issue. Mr. Tetreault presented a plan showing existing conditions, including the Groundwater Overlay protection district boundary. He noted that the front portion of the site lies in the GW3 district. Ms. Bakstran asked if the project will be served by town water and sewer. Mr. Tetreault confirmed that it will.

Variances are being requested are as follows:

- Variance for one individual retail establishment to be in excess of 15,000 square feet - Mr. Tetreault reiterated that this allows the applicant flexibility when trying to secure tenants. Ms. Bakstran asked if a larger tenant in the project would change the parking requirements. Ms. Joubert stated that the parking requirements are based on use. Mr. Tetreault noted that 57% of the project is open space, so the ability to accommodate an

increase in parking exists if there is a real concern. He also stated that the parking calculation was done assuming that all of the first floor will be retail use. Based on the calculation, 98 spaces are required and 102 are provided. Ms. Bakstran questioned whether the board would want to grant a variance for a large store that could potentially create an issue with parking.

- Variance to allow front setback greater than 20 feet - Mr. Tetreault explained that the only area onsite that has soils suitable for infiltration is an area at the front of the parcel, so it is necessary for Building #2 to be pushed back to allow for infiltration. He also noted that Building #1 is closer, but they are trying to position it to nestle against the hill and use topography to achieve the desired appearance. Ms. Bakstran asked how much of a setback is needed. Mr. Tetreault estimated that a minimum 34 foot setback will be needed.
- Variance for retaining wall setback – Mr. Tetreault noted that a small retaining wall is proposed to create some flat space behind Building #1, but it will be less than 10 feet from the property line. Ms. Joubert asked what relief is needed. Mr. Tetreault stated that the closest point will be 4 feet from the property line. Mr. Rutan asked if there will be a fence along the top of the retaining wall. Mr. Tetreault indicated that fencing will not be necessary. Mr. Rutan asked what would prevent someone from walking along the top of the wall. Mr. Tetreault stated that, while no fencing was proposed, he could re-evaluate and provide some type of barrier.

Ms. Joubert stated that the dimensional table for the downtown business district stipulates that there are no side or rear setback requirements, so a variance is not needed for the retaining wall.

- Variance to allow parking in front of building – Mr. Tetreault explained that angled parking in front of Building #2 is proposed in order to make use of the space in front of the building created by the location of the infiltration.
- Variance to allow freestanding sign to exceed height limit – Mr. Smook explained that signage of up to 10 feet is allowed, and the structure of the sign can go as high as 12 feet. He stated that the applicant is proposing to lift the sign 5 feet off the ground to allow for visibility beneath the sign, so is seeking approval for the pylon sign to be 17 feet in height.
- Variance to allow two wall signs for one tenant – Mr. Smook stated that each tenant is allowed an individual 32 square foot sign, but an additional sign is being sought for the corner tenant. Mr. Blanchette questioned the amount of lighting to be put on all of the signs. Mr. Smook indicated that, rather than having an interior illuminated box, he would prefer to see individually illuminated letters.
- Variance to allow 20 multifamily units on the lot. Mr. Ayoub stated that he and his partner tried to design an appropriate project for the site, and suggested that 20, 1-bedroom units will have minimal impact as they are not likely to house families. He also indicated that the parcel could be split into three separate lots that could house 24 units by right. Mr. Ayoub reiterated that they had tried to design a project that will work and be something they can be proud of. He also voiced his opinion that the project as proposed is better than what otherwise could be done on the site. Mr. Cayer made reference to the applicant's original plan and asked why they chose not to go with it. Mr. Ayoub stated that it was not as attractive. Ms. Bakstran noted that there is a good deal of

residential use in an L-shaped building situated where the topography is not optimal. Mr. Smook stated that egress from the building is dictated by the building code, so will not be an issue. Ms. Joubert noted that the comment letter from the Fire Chief makes specific references to the residential and CMR codes.

Mr. Cayer asked if a traffic study has been done, given the number of units being proposed. Mr. Tetreault confirmed that a traffic study was submitted by Connolly Associates, who has indicated that impacts are minor and insignificant. Mr. Cayer voiced his opinion that it may be challenging to get in and out of the site.

Brian Smith, 97 Main Street, stated that he had voiced opposition to multifamily housing and horizontal mixed-use developments in those places where it was previously allowed in the Business East district and is now no longer allowed in that district. He commented that the proposed project is a good example of an appropriate application of mixed-use, and he believes that the 1-bedroom units will be attractive. He also stated that he was previously opposed to these types of projects because of the tacky appearance of those previously proposed, but noted that the placement of the residential units in this project is well done.

Michelle Gillespie, 117 Howard Street, stated that the applicant did not present details of the pylon sign when he appeared before the Planning Board, and questioned why the additional 5 feet is necessary. She voiced her opinion that the height of the sign will really stand out on Main Street.

Ms. Gillespie also contemplated the precedents that would be set if the project is approved with 20 residential units, and worried about doing so. Ms. Bakstran indicated that variances hold no precedence setting.

Kevin Thompson, 133 Howard Street, expressed support for the project, which he believes is well thought out and tastefully done. He commented that some other projects in the downtown area were not.

Allyn Phelps, 195 South Street, agreed that the proposed project fits the town well and will be a benefit.

Teresa Capobianco, 34 Samuel Gamwel Road, voiced her opinion that this is a great project with a lot of attractive aspects. She did, however, have issues with the number of multifamily units proposed, and noted that the town had voted twice to downgrade or eliminate multifamily. She also mentioned that the Planning Board had suggested that the applicant offer some 2 and 3 bedroom units.

Leslie Harrison, 28 Moore Lane, agreed with the comments made by both Ms. Gillespie and Ms. Capobianco. She also expressed concerns about the square footage or a retail tenant exceeding 15,000 square feet, and suggested that the restrictions are in the bylaw for a reason. She voiced her opinion that having two large businesses in this area will be detrimental for the town.

Norm Corbin, 35 Whitney Street, expressed concern about the number of units, but also recognized that this may be preferable to three lots with 8 units on each.

Christine Thompson, 133 Howard Street, stated that she likes the proposed project and it is certainly better than the 300 unit development that went in a few years ago.

Planning Board Member George Pember commented that he has done a fair amount of planning over the years, and noted that the desire is to increase the business development in the center of town. In order to do so, it is important to have people living in the area and a walkable downtown. He stated that by including the residential component in this project, it will provide a ready supply of people who will positively impact the downtown businesses. He also noted that this will supply residents with additional housing options, and he is not opposed to 20, 1-bedroom units as it will increase the tax base with little to no impact on schools. He voiced his opinion that this is a classy project, and not simply just a developer trying the finesse the maximum usage of the space.

DPW Director Dan Nason reiterated his request to require the applicant to install 450 feet of sidewalk, as was indicated in the comment memo from the Town Engineer.

Tom Reardon, a member of the Design Review Committee, agreed with the comments made by Mr. Pember and wholeheartedly supports this project. He stated that the project is well designed and appropriate for the site, and is in keeping with the direction that our town goals wanted us to pursue.

Carol Chione, 15 Brigham Street, asked if Fire Chief is still weighing some of the issues or if he is satisfied with the project as presented. Ms. Bakstran voiced her understanding that there are still some outstanding questions about egress. Ms. Chione cautioned the board members about approving this project in an already busy downtown area.

Ms. Capobianco suggested that a single tenant in Building #2 would dramatically change the character of the downtown area, and allowing these variances and special permits will change the nature of downtown forever. She reiterated that, in recent years, the town has intentionally downgraded the number of multi-family units, and this proposal is for 2 ½ times what the zoning allows. Ms. Gillespie agreed. Ms. Bakstran commented that the downsizing was done for the Business East zone.

Ms. Chione asked the board if they have read the traffic study. Mr. Tetreault stated that the traffic study evaluated the level of service and concluded that the impact will be insignificant. Ms. Chione requested that the traffic report be made available to the public. Mr. Cayer stated that he would be interested in seeing the traffic study. Copies of the report were part of the original submittal provided to the board and Ms. Joubert will email copies of the report to the board members.

Ms. Bakstran requested the applicant's permission to continue the hearing to August 27, 2013 in order to further address issues with the 20 units, sidewalks, and traffic. Mr. Berger asked the applicant to also provide details of the current status of the environmental issues on the site.

Jeffrey Cayer made a motion to continue the hearing to August 27, 2013 at 7:00PM. Robert Berger seconded, vote unanimous.

Continued Public Hearing to consider the petition of 318 Post Road Corporation for a Variance/Special Permit to allow in Groundwater Protection Overlay District Area 3, the expansion of the existing on-site sewage disposal system to service a proposed restaurant to be located in the building at 318 Main Street

Ms. Bakstran appointed Brad Blanchette as a voting member for this hearing.

Attorney Todd Brodeur discussed plans for an increase from 125 to 200 seats for a proposed restaurant. He also stated that he has reviewed Mr. Litchfield's letter and has found the Groundwater Advisory Committee's findings and conditions to be acceptable. He also noted that Attorney Mark Donahue had suggested an additional condition in his letter to the board dated July 9, 2013 (copy attached).

Mr. Blanchette asked about the FAST system, and questioned how often such a system has been used in the past and if there are any resulting issues. Mike Sullivan, engineer for the project with Connorstone Engineering, commented that the state requires a minimum of 50 installed systems in order for the system to obtain general approval, and confirmed that this system has met that requirement. He also stated that he is not aware of any problems attributed to the system.

Attorney Brodeur also suggested a condition requiring regular testing of the system. Mr. Kane asked for clarification of the location. Mr. Sullivan stated that the site in question was previously occupied by Sea Dog Restaurant. He explained that the existing system includes an 18,000 gallon septic tank, 5,000 gallon grease trap, and pump station. He noted that the new flow will be 9,000 gallons per day as opposed to the existing 6,000 gallons per day. He also confirmed that the proposed system has been reviewed by the Board of Health, who has voiced support of this approach.

Mr. Rutan noted that cleanouts and inspections are stipulated to be every 3 months for the first two years, and asked how often they are to be done in normal operation. Mr. Sullivan noted that they will be done annually after the initial 2 years.

Mr. Berger asked about the increase in seating. Attorney Brodeur indicated that the applicant plans to expand into the space currently occupied by the nail salon. Ms. Bakstran commented that the existing space is acoustically poor, and suggested that the applicant try to resolve that issue.

Mr. Nason commented that the FAST systems are not really all that new. Mr. Berger stated that he has some experience with them and has never seen any issues.

Ms. Chione asked about the new tenant for the space. Ms. Bakstran indicated that this information has not yet been divulged.

Brad Blanchette made a motion to close the hearing. Robert Berger seconded, vote unanimous.

DECISIONS:

318 Main Street – Members of the board indicated that they have no concerns with this project.

Robert Berger made a motion to grant a Variance to allow in Groundwater Protection Overlay District Area 3, the expansion of the existing on-site sewage disposal system to service a proposed restaurant with the following conditions:

- The applicant shall be required to remove grease from grease traps on a quarterly basis for the first two years from the date of the issuance of the certificate of occupancy for the restaurant. The applicant shall provide the Board of Health with documentation verifying all pumping of the grease traps. Any reduction in the frequency of this pumping schedule after the two year period must be approved by the Board of Health.

- Quarterly reports verifying that the nitrogen level is no greater than the proposed amount of 1.9 lbs. per day for the daily flow of 9000 gallons in accordance with the letter from Attorney Donahue dated July 9, 2013 (as referenced above) shall be submitted to the Board of Health. Any reduction in the frequency of this reporting schedule after the two year period, must be approved by the Board of Health.
- Copies of all maintenance contracts shall be forwarded to the Town Engineer and Board of Health.
- 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 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 (U.S.G.S. Datum of 1988).
- The applicant shall obtain an earthwork permit prior to the start of any construction.
- The applicant shall submit an annual report to the Town Engineer verifying all maintenance and inspections have been completed in accordance the original approval on the drainage system.
- The applicant shall submit all plans for the expanded septic system to the Northborough Board of Health and receive all necessary permits and approvals from the Board of Health prior to construction. The septic system plan to be submitted by the Applicant shall in all events include the implementation of a modular fixed activated sludge treatment (FAST) system as manufactured by Smith and Loveless Company, Inc. and approved for a general use in the Commonwealth of Massachusetts pursuant to certificate of the Massachusetts Department of Environmental Protection dated February 19, 2013.

Brad Blanchette seconded, vote unanimous.

62 Oak Avenue – Mr. Rutan noted that there are no setback encroachments, and stated that he has no issues with this project.

Mark Rutan made a motion to grant a special permit to allow an expansion to exceed 80% of the gross living area by no more than 600 square feet. Brad Blanchette seconded, vote unanimous.

9 Monroe Street – Ms. Bakstran reiterated that only 4 members are eligible to vote. She also noted that there were some conditions recommended by the Groundwater Advisory Committee that the applicant agreed to comply with. She also stated that the Design Review Committee has requested that the light poles not exceed 20 feet, and that screening be provided for the dumpster.

Mr. Rutan voiced his opinion that it does not seem fair to burden the applicant with fixing the sidewalk issue. Ms. Bakstran suggested that it does not make sense to require the applicant to do only a portion of the sidewalk needed, especially given the drainage issues. Ms. Joubert

indicated that the developer of the project at 318 Main Street was required to install sidewalk across the front of their property. Mr. Rutan commented that we did not require him to do more than the portion on his own property. Ms. Bakstran asked if the town has ever asked a developer to do drainage improvements to resolve issues not directly related to their project. Ms. Joubert commented that there are all types of offsite mitigation that might be requested. Mr. Nason explained that, if we do not require the applicant to do the sidewalk work in front of his property, he will complain that there is a drainage problem, and if he only does that portion, it will create more serious drainage issues.

Mark Rutan made a motion to grant special permit with site plan approval with the following conditions:

- The proposed building will be connected to Town sewer, water and will use propane gas for heating.
- The application indicates a subsurface infiltration system and should include an overflow to the existing storm drain in Monroe Street.
- At least one permeability test should be performed within the area of the proposed subsurface infiltration system to verify the rates of infiltration.
- The applicant shall provide a Stormwater Operations and Maintenance Plan.
- 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 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 (U.S.G.S. Datum of 1988).
- The applicant shall be required to install an asphalt sidewalk and berm on the easterly side of Monroe Street from approximately 20 feet south of the property line and extending to the sidewalk on West Main Street (a total of approx. 325 feet). A drain manhole and catchbasin with a granite curb inlet shall also be installed on the easterly side of Monroe Street in order to capture the existing gutter flow.
- The applicant shall provide a new water service and cut off the old service at the curb. The new water shut off shall be installed in the grass plot.
- The overflow pipe from the subsurface infiltration system shall be relocated to Monroe Street as opposed to discharging to the abutter at the rear of this site. The overflow pipe shall be assumed to be flowing full and have the capacity of all downstream pipes evaluated for this additional flow.
- The height of the light poles shall not exceed 20 feet.

Brad Blanchette seconded, vote unanimous.

15 Pinehaven – Ms. Bakstran and Mr. Cayer both voiced appreciation for the presentation by the applicant. Mr. Cayer also noted the absence of abutters voicing concerns at tonight's hearing.

Jeffrey Cayer made a motion to grant a special permit to allow the use of two duplexes on two lots (to be created) with the following conditions:

- Require that two lots be created.
- No disturbance is allowed within 10 feet of the southerly property line of property owned by abutters Daniel & Helen Griffin.
- Increase in post-development net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%) and any on-site sewage disposal is less than or equal to two hundred twenty (220) gallons per day per ten thousand (10,000) square feet of lot area.
- Recharge of roof runoff will be required on the southerly lot based on the size of the proposed building and driveway. An impervious area calculation sheet for the lot has not been submitted with the application and should be required for future reference. Any changes in the impervious cover proposed as the project gets built must be verified by the as-built drawing and will require a new calculation sheet.
- 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 start of construction in order to allow for any changes to the plan.
- 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 (U.S.G.S. Datum of 1988).
- An Operation and Maintenance Plan for the infiltration system on the southerly lot should be submitted in a Stormwater Report and be incorporated into any approval and should be submitted to and approved by the Town Engineer. 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.

Mark Rutan seconded the motion, vote unanimous.

Review Minutes of the Meeting of May 14, 2013 – Robert Berger made a motion to approve the Minutes of the Meeting of May 14, 2013 as submitted. Brad Blanchette seconded, vote unanimous.

Review Minutes of the Executive Session of May 14, 2013 - Robert Berger made a motion to approve the Minutes of the Executive Session of May 14, 2013 as submitted. Richard Kane seconded, vote unanimous.

Review Minutes of the Meeting of June 26, 2013 – Mark Rutan made a motion to approve the Minutes of the Meeting of June 26, 2013 as submitted. Brad Blanchette seconded, vote unanimous.

Adjourned at 10:25PM.

Respectfully submitted,

Elaine Rowe
Board Secretary