



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 1/28/14

Zoning Board of Appeals Meeting Minutes November 26, 2013

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

Others in attendance: Kathy Joubert, Town Planner; Fred Lonardo, Building Inspector; Fred Litchfield, Town Engineer; Elaine Rowe, Board Secretary; Mark Simmons; Nitin & Vasanti Shah, 99 Indian Meadow Drive; Megan & Lyn Copenhaver, 9 Lexington Road; Joyce Teggart, 41 Longfellow Road; Shawn Kenny, 113 Indian Meadow Road; Ben & Ashley Davies, 168 South Street; Tammy Noyes Renkawitz, 21 Lexington Road; Don Smith, 21 Abenaki Drive; Peter Drake, 13 Lexington Road; Robert Wales, 2 Hawthorne Circle; John Deady, 10 Charina Road; Mary & Robert Michalik, 9 Charina Road; Frank DeFalco; Tom Racca, 121 Indian Meadow Drive; Cialin Heinze, 17 Lexington Road; Scott & Amy Poretsky, 47 Indian Meadow Road

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

Continued Public Hearing to consider the petition of Genzyme Corporation, a Sanofi Company, for a Variance/Special Permit to allow the use of an environmentally-friendly form of salt, containing ice melt, during winter months in Groundwater Protection Overlay District Area 3, on the property located at 11 Forbes

Mark Simmons appeared on behalf of Genzyme Corporation to discuss their request. After providing a brief background about the company, Mr. Simmons explained Genzyme began leasing the property at 11 Forbes Road in 2010. He noted the company had undertaken substantial renovations and went to great expense to do so in an environmentally-friendly manner, resulting in a building that now holds a LEED certification.

Mr. Simmons explained that, while doing due diligence for EPA purposes, it was discovered the salt shed onsite is not up to specs for being a sturdy shelter, with rain falling on the salt storage. He was further advised by Mr. Lonardo about a pre-existing condition that prohibits the use of salt on the property. Mr. Simmons discussed the problems resulting from compliance with this condition, including treacherous conditions that jeopardize the safety of the 200 employees at this facility. He also noted that, given the sloped nature of the site, it is difficult to address snowy and icy conditions.

Ms. Joubert referenced a letter from the Town Engineer written on behalf of the Groundwater Advisory Committee (copy attached). Chair Fran Bakstran clarified the need for a special permit because the Groundwater Advisory Committee does not allow the use of salt since the site is located within the Groundwater Protection Overlay district.

Mr. Simmons voiced his understanding that the road is located within the GW3 area, and noted that the town had set strict guidelines in 1978 when the town Groundwater maps were created. He voiced his opinion that it is unfair for the applicant to be prohibited from using the product when nobody else

seems to have this same restriction, so Genzyme is seeking some type of relief. He also noted that the applicant has met with the Groundwater Advisory Committee four times and they approve of using one of the following four deicers (magnesium chloride, calcium chloride, potassium acetate, or calcium magnesium acetate) in addition to the road salt.

Mr. Berger noted that many communities are now using straight salt, with sand being used on smaller areas. Mr. Cayer asked if the town salts the abutting roadway. Mr. Litchfield confirmed that they do. Chair Fran Bakstran asked Mr. Simmons if the applicant has any issues with complying with the conditions in Mr. Litchfield's letter. Mr. Simmons stated that they do not, except that they would prefer not to be restricted to using a specific brand name.

Chair Fran Bakstran asked if a new salt shed will be built within the same footprint as the existing one, and reiterated the need for salt to be stored in an area protected from the elements. Mr. Simmons noted that the current contractor would prefer to store salt onsite, provided they can get a permit to build the shed. Ms. Bakstran suggested that, until an adequate storage facility can be located on the property, salt will need to be hauled in as needed. Mr. Lonardo suggested that the decision include language requiring the applicant to obtain a building permit for the onsite storage facility, and that they agree to build it prior to storing any salt onsite. Mike Pippo agreed to comply with this condition, and to have the contractor bring salt to the site as needed. He also noted that, since they do have the ability to store a small amount of salt inside the building, this should not be an issue.

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

Continued Public Hearing to consider the petition of Steve Scott for a Variance/Special Permit to change the existing non-conforming use of a public golf course to the non-conforming use of a golf course and golf practice facilities (driving range) on the property located at 275 Turnpike Road, Westborough, Massachusetts and on property in Northborough, Massachusetts identified as GIS Maps 104 & 105, Parcels 51 & 52

Chair Fran Bakstran explained that the applicant has requested a continuance of this hearing until January 28, 2014. She noted that, based on recent discussions with the Planning Board, there are some modifications to be made to the plans. Mr. Rutan asked if there is any reason to believe that the applicant will be ready on January 28th.

Mark Rutan made a motion to continue the hearing to January 28, 2014 at 7:00PM. Richard Kane seconded, vote unanimous.

Public Hearing to consider the petition of Benjamin N. Davies for a Variance/Special Permit to allow reconstruction of a kitchen/mudroom on the existing single-family home in an area of the lot with less than the required minimum lot width; to allow a proposed detached garage to have a second story; and to allow the proposed detached garage to have a second floor, on the property located at 168 South Street

Ben and Ashley Davies appeared to discuss plans for renovations to the existing home. Mr. Davies explained that he and his wife had moved into Northborough four years ago and have since been making improvements to both the interior and exterior of the home. He stated that they are now seeking to reconstruct the kitchen/mudroom, increase its footprint slightly, and add a detached one-car garage with storage space on the second floor. Mr. Davies noted that variances are being requested as follows:

- Reduce the required lot width from 100 feet to 98 feet
- Reduce the side yard setback from the required 15 feet to 5 feet
- Allow for a 2-story detached garage

Mr. Davies noted that the home is built on ledge with large outcroppings, which limits feasible locations for the proposed construction. He also noted that the shape of the lot is unique due to a subdivision of the property that occurred prior to his purchase in order to construct a duplex next door. In order to comply with the lot requirements for the duplex, the result was that his property is quite narrow, with an unusable triangular section of land at the back of his lot. Mr. Davies also stated that the steep incline on the parcel further limits the potential areas for constructions.

Ms. Davies commented that a previous addition on the back of the home was done poorly, so they are seeking to rectify that situation. She also noted that, due to the steepness of the driveway, room for a turnaround is needed behind the house so that cars can safely access South Street. Therefore, the proposed garage needs to be set further back on the lot to accommodate the turnaround.

Ms. Davies noted that nothing had been done to the house in at least 30 years, and the existing kitchen was never really properly designed, so they are hoping to reconstruct it to provide them with a modern kitchen. Mr. Davies commented that there was a deed restriction on the stone wall that was not originally noted by their surveyor, so a correction has been made to stipulate that the stone wall may not be moved or removed without express written permission of both owners.

Chair Fran Bakstran asked if there will be any widening of the driveway. Mr. Davies stated that there will not be. He noted that there is already a bit of a turnaround, and it will simply be extended up to the area of the proposed garage.

Mr. Rand asked about the distance between the existing driveway and proposed garage, and questioned whether the garage could be moved forward at all. Ms. Davies stated that they would like to do so, but a large outcropping of ledge makes it not feasible to do so.

Mr. Rutan asked the applicant if they intend to rework and repair the foundation during this renovation. Mr. Davies stated that they do. Mr. Rutan asked if there are any drainage issues with the ledge behind the house. Mr. Davies indicated that there have not been any serious issues, and though they do occasionally get water in the basement he does not believe the proposed renovations will exacerbate the situation. Ms. Bakstran asked if Mr. Davies has any concerns about encountering more ledge than anticipated. Mr. Davies noted that it will be possible to pin into ledge for the foundation if necessary.

Mr. Lonardo noted that, because the lot is so poorly shaped and given the way that the lot width is interpreted, the applicant is actually in need of relief to 70 feet not the 98.5 feet indicated in the application.

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

Public Hearing to consider the petition of Ammar Alzaher for a Variance/Special Permit/Special Permit, Groundwater Protection Overlay District, to allow construction of a new service bay to be attached to an existing structure on the property located at 35 West Main Street

Ammar Alzahr and his engineer, Frank DeFalco, discussed the request. Mr. DeFalco explained that Mr. Alzahr is seeking approval to add an additional service bay to the right side of the existing building. He noted that the new bay will be used for state inspections only, with no lifts. He also stated that the location for the new bay is already paved, so there will be no increase in impervious cover. In addition, a dry well is proposed at the back of the lot to capture rain water from the new roof, and the existing water and sewer lines will remain unchanged.

Mr. DeFalco reiterated that the applicant is seeking a Special Permit to allow a nonconforming use (gas station) as well as a Special Permit for Groundwater Protection Overlay District.

Mr. Rutan asked where the drainage currently flows. Mr. DeFalco stated that it drains back toward the grassy area. Ms. Bakstran commented that the lot appears to be fairly deep and questioned why the applicant is squeezing the new bay on the right side instead of behind the existing building. Mr. Alzahr stated that the fuel tank is located behind the station.

Ms. Joubert commented that, as the site exists today, there are already issues with traffic backing out onto Route 20. She asked Mr. Alzahr how he intends to handle the additional traffic. Mr. Alzahr stated that he actually expects traffic to be less of an issue, since he will now have a dedicated bay for cars needing inspection.

Mr. Lonardo asked Mr. Alzahr how he will queue up cars waiting for inspection to prevent traffic from flowing out onto Route 20. Mr. DeFalco noted that two cars can fit in the space in front of the new bay without limiting access to the fuel pumps. Mr. Rand voiced his opinion that it will be much more efficient than what currently exists.

Ms. Bakstran asked the applicant if they agree to comply with the conditions requested by the Groundwater Advisory Committee. Mr. DeFalco indicated that they will.

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

Public Hearing to consider the petition of Robert Wales for a Variance/Special Permit to allow a proposed in-ground pool to be located less than the required distance from a side property line on the property located at 2 Hawthorne Circle

Robert Wales appeared before the board seeking a special permit to install a pool in his back yard. He noted that the pool will be centered in the yard, but in order to keep it a respectable distance from the garage he needs approval to encroach within the 15 foot setback (within 9 feet from the property line). Ms. Bakstran asked if the entire pool will be confined within a fence, and if there will be ample room to allow foot traffic on either side of the fence. Mr. Wales indicated that there will.

Mr. Rutan questioned the relief being sought. Ms. Joubert noted that, since the home is on a corner lot, Mr. Wales actually has 2 front yards and 2 side yards. Mr. Lonardo indicated that the setback is 15 feet regardless of how it is defined. Ms. Bakstran asked about the height and type of fence to be installed. Mr. Wales stated that he plans to install a 6-foot cedar fence. Mr. Cayer suggested that distancing the pool from the garage is necessary for safety. Mr. Wales commented that he would like to keep the pool a good distance from the garage so that the roof cannot be used as a jumping platform.

Ms. Joubert stated that she received emails and letters from nearby residents, some of whom voiced support and some expressed opposition.

Joyce Teggart, 41 Longfellow Rd, stated that while she has found Mr. Wales to be a good neighbor, she still has an issue with the proximity of the pool to her house. She also commented that a zoning rule is a rule and should therefore be upheld. Ms. Teggart suggested that anything closer than 15 feet could eventually negatively impact her and reiterated that the pool should not be allowed to be closer than 15 feet.

Paula Moore, 20 Longfellow Rd., agreed with Ms. Teggart and voiced her opinion that everyone in the neighborhood should be required to abide by the covenants that they all signed.

Brian Smith, 29 Longfellow Rd., voiced support of the opinions expressed by Ms. Teggart and Ms. Moore and agreed that the 15 foot setback should be enforced.

Kathleen Smith, 29 Longfellow Rd., voiced her opinion that the pool will be too close to Longfellow Road. Chair Fran Bakstran stated that the pool can be as close as 15 feet from the sidewalk, and the proposal is for it to be twice that distance. She also noted that a special permit is required because of groundwater. Mr. Lonardo explained that, since this is a pre-existing nonconforming lot, the board must find that the proposed pool is not more detrimental to the neighborhood. Ms. Bakstran noted that, since the lot size is less than the required 80,000 in a Groundwater overlay district, a special permit is required to allow a smaller setback than is required under the bylaw.

Ms. Teggart asked how the board makes a ruling to override a regulation when the neighbors clearly disagree. Ms. Bakstran reiterated that the board must determine that the proposed pool is no more detrimental to the neighborhood than the fact that the lot already has a house on it. Mr. Rutan commented that, even if the neighbors believe that it is not detrimental, the board could rule that it is.

Ms. Bakstran asked about the covenants that were signed, and whether there are deed restrictions and/or if new owners are required to sign the same covenants.

Doug Moore, 20 Longfellow Rd., explained that the covenants were imposed by the builder when the development was built. Ms. Joubert asked if the covenants were included in the deeds and Mr. Lonardo asked how the covenant was enforced. Mr. Moore commented that it was a neighborhood agreement, but he has no idea about the legality of the covenant. Ms. Joubert stated that the deeds that were provided with the application contain no reference to the covenant and, since the town did not impose it, the town cannot enforce it.

Ms. Teggart reiterated that she is not opposed to the pool, but she is opposed to it being in such close proximity to her property, which could negatively impact her resale value. She requested that the board enforce the 15 foot setback requirement.

Ms. Bakstran noted that the septic system is located on the other side of the house, so that would not be a potential location for the pool. Ms. Joubert stated that most residents on Hawthorne Circle have pools. Mr. Moore noted that most homeowners in the area have converted to town sewer.

Robert Berger asked the distance between the existing pool and fence at 41 Longfellow Road. A comment was made that it is approximately 30 to 40 feet. Ms. Teggart stated that the proposed pool will be outside her bedroom window.

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

Public Hearing to consider the petition of Susanne Russell for a Variance/Special Permit/Special Permit-Groundwater Protection Overlay District, to allow the use of a canine hydrotherapy and rehabilitation center on the property located at 261 Main Street

Susanne Russell from Northborough Canine Rehabilitation explained that her business is currently located in the Northborough Shopping Plaza behind Jack's Guitar Shop and she is looking to move into the space previously occupied by Havana House. She noted that a special permit is required to allow her to build and operate on this site.

Ms. Russell explained that she provides therapy for dogs, sometimes utilizing a small swimming pool. Because that pool can be difficult to get patients in and out of, she would like to put in a larger pool that would provide better accessibility. Ms. Bakstran asked if there will be any changes to the building footprint. Ms. Russell stated that there will not be. Ms. Bakstran asked if all activities will be confined to the interior of the building. Ms. Russell stated that there is an exterior area that she would likely use when weather permits.

Mr. Rutan asked if Ms. Russell will allow dogs to run unsupervised outside. Ms. Russell stated that, because many of her clients are competition dogs, she will utilize jumps in order to assess and determine the best course of treatment.

Ms. Joubert noted that a special permit is needed for use, under the category of "veterinary clinic", and also for groundwater. Ms. Bakstran asked Ms. Russell if she has any concerns about the conditions requested by the Groundwater Advisory Committee. Mr. Rutan asked how often the pool will be emptied and refilled. Ms. Russell suggested that she will likely do so twice a year but will consider doing so more often if needed.

Ms. Joubert asked about the number of employees and the number of parking spaces that will be needed. Ms. Russell stated that there is a good amount of parking behind the building. She also stated that the business can only accommodate 1 to 2 patients at a time, so she does not anticipate there will be any issues with parking.

Mr. Lonardo asked if the parking area will be used as a run or other outdoor facility for the business. Ms. Russell stated that it will not. Mr. Rutan asked if any dogs were kept overnight in the past. Ms. Russell noted that there have been very few, and she has typically taken them home with her at night. Mr. Lonardo stated that, should Ms. Russell decide to board dogs, she will be required to come back to the board for permission to do so.

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

Public Hearing to consider the petition of 51 Southwest Cutoff LLC for a Variance/Special Permit/Special Permit with Site Plan Approval, to allow sale and service of buses and trucks, including those with a gross vehicle weight of over 10,000 lbs. and a wheel base larger than 135 inches, on the property located at 51 Southwest Cutoff

Attorney Marshall Gould introduced property manager, Ed Flynn, and engineer John Grenier. He explained that Mr. Flynn had acquired the 130,000 square foot parcel, located in the Business West district, from the Ritchie Bus Company who had previously operated out of the site for many years.

Attorney Gould indicated that the applicant is seeking a special permit, special permit with site plan approval, and possibly a variance.

Attorney Gould explained that Ritchie Bus had operated a full size bus service, including maintenance of their own vehicles and vehicles of other bus companies under a reciprocal agreement. He noted that the primary proposed new use will be the sale, lease, and service of mini buses. He stated that, in reviewing the proposal with Town staff, it was determined that certain of these uses are allowed by special permit including the sale and service of vehicles. Attorney Gould stated that, in addition to the sale and service of mini buses, the applicant is also considering the possibility of selling and servicing tractor trailers.

Attorney Gould stated that the applicant is also seeking a special permit with site plan review. He noted that the hearing will need to be continued as there is still some information pending on the site plan, but the applicant has chosen to present tonight in order to hear all of the concerns that will need to be addressed.

Attorney Gould explained that, for the special permit, the applicant is required to illustrate that their proposed use is no more detrimental than what was previously there. He noted that the property abuts Route 20 and King Street, with its primary entrance off of Route 20. He stated that, when accessing the property from Route 20, there is a significant elevation drop and the first area of plateau was previously used for passenger and employee parking. He indicated that there are no changes proposed to the size or exterior of the existing building. In the rear of the property, there is an existing large parking lot that is partially paved. Beyond that is a steep slope with another very significant drop. Attorney Gould noted that the Town of Northborough owns a strip of land between this site and the abutters on Lexington. He also noted that, currently, there is little to no structure to the rear parking area.

Attorney Gould explained that there will be customer and employee parking at the front of the site, the existing building and a 10,000 gallon above ground tank in the rear will remain, and the large parking lot to the rear will be cleaned up and used for stacking inventory and for buses and smaller trucks waiting for repair.

Attorney Gould stated that the unusual aspects of this property are the elevation changes, with drainage flowing away from Route 20. He noted that there is a large buffer of trees on the land to the south, but they are bare at this time of year. He discussed the applicant's plans to install fencing and evergreen plantings that will provide a buffer from the sight and sound that exists today. He also noted that the nearest property lines are approximately 250 feet south of the parcel, which abuts properties on Lexington Road. He also commented that, to the east of the rear parking lot, the distance to abutting properties will be 600 to 700 feet with a high slope, so it is highly unlikely that they will see the building and trucks.

Attorney Gould stated that the applicant has a tentative agreement with a mini bus company, and reiterated his opinion that this is an appropriate use. He noted that much of the inventory kept on site will be either new buses or buses awaiting service.

Mr. Rutan asked if the applicant plans to pave the parking area. Attorney Gould confirmed that they do. Mr. Rutan asked about increased drainage requirements. Attorney Gould commented that the natural drainage on the site works. John Grenier indicated that the proposal is to repave the area, which is currently impervious. He explained that the plan is to grind pavement in place, pack, and repave those same areas and make it neater. He stated that they will not be increasing the rate of runoff because

they are simply replacing impervious areas. He also stated that, as a result of conversations with the Town Engineer, they have agreed to pave any area where vehicles will be parked. Mr. Rutan asked about stormwater management. Mr. Grenier indicated that they have not yet addressed that, but will have further conversations with the Town Engineer. Attorney Gould reiterated that the water will continue to flow where it always has and will be absorbed.

Chair Fran Bakstran asked where the large buses will be parked awaiting repair. Attorney Gould suggested that there will be plenty of space as there will be fewer vehicles onsite than were previously. Ms. Bakstran asked how many buses Ritchie had onsite in their heyday. Attorney Gould stated that at one time Ritchie had over 30 buses, but it has not been that way for many years. Ms. Bakstran asked if repairs will be confined to the interior of the building. Attorney Gould stated that no body work will be done onsite, but some diagnostic work may be done outside.

Mr. Berger asked what measures will be implemented to manage exhaust fumes from within the building. John Pollack, Sr. Vice President and General Manager for TriState Freightliner, indicated that a system will be installed to handle the exhaust.

Ms. Bakstran asked if the buses used by Ritchie Bus had a gross vehicle weight of over 10,000 pounds with a wheel base larger than 135 inches. Attorney Gould confirmed that they did. Ms. Bakstran commented that the new proposed use would be for similar-sized vehicles with the addition of sales and service of mini buses. Attorney Gould noted that there may be some sales or leases of buses and trucks. Ms. Bakstran asked what type of truck. Mr. Pollack suggested that there could be repairs of some box trucks, and also some tractors but no trailers.

Mr. Rand asked about the age of the existing fuel tank, and whether it will be replaced. Mr. Flynn stated that the existing tank meets the current standards, and the permit was recently renewed.

Mr. Rutan asked about lighting. Attorney Gould stated that those details have not yet been decided, but will be included in the final site plan. Mr. Grenier suggested addressing the lighting plan at the next meeting.

Mr. Rand asked about the Town land adjacent to this parcel. Ms. Joubert agreed to look up the deed and provide information at the next meeting.

Tammy Renkawitz, 21 Lexington Road, submitted a petition signed by many of the neighbors who oppose this variance request and proposed use. She stated that the neighbors oppose the entire project as it has been submitted, and have concerns that this is not the final proposal.

Ms. Renkawitz asked if TriState Freightliner is going to be the tenant on the property. Attorney Gould stated that the business is a division owned by TriState Freightliner. Ms. Renkawitz noted that TriState is currently located in a limited industrial zone in Shrewsbury. She also commented about the size of the vehicles at that sight, and Attorney Gould reiterated that vehicles at the Northborough site are all expected to be over 10,000 pounds.

Ms. Renkawitz voiced her understanding that all of the operations to be done on this site will require a special permit. Ms. Joubert noted that the applicant is applying for a variance and some special permits. Ms. Renkawitz asked why the town would not consider this to be an industrial use, and voiced concern that this is a “back door” way to gain approval and then turn it into an industrial use. Mr. Lonardo explained that, under the Business section, vehicle sales and service is allowed with a special permit

being required for vehicles over 10,000 pounds with a wheel base of 135 inches or more. Mr. Rand asked why this use would not be considered a trucking freight terminal. Mr. Lonardo stated that this is not a freight terminal use. A question was raised as to why the proposed use would not fall under an industrial use. Mr. Lonardo noted that the applicant is requesting approval for sales of vehicles, with repairs coming under coincidental use. Ms. Renkawitz asked if the applicant will be repairing any vehicles not being sold from his facility. She also asked what percentage of the business will involve repair of vehicles.

Ms. Renkawitz also voiced concern about the potential lighting onsite. She also asked about accusations of illegal filling previously done on the property. She voiced her understanding that, based on information she obtained from the Conservation Commission, it appears that there was filling of a red maple swamp within part of the flood plain. Ms. Bakstran explained that these very issues are part of the reason that the applicant is seeking a continuance of this hearing. She also stated that conservation issues will be addressed by the Town Engineer. Mr. Litchfield stated that there have been no wetlands violations brought to his attention, but he agreed to investigate the records. Ms. Joubert voiced her understanding that, based on an inquiry made of the Conservation Agent, it was determined that a Certificate of Compliance was issued for the site, and the Order of Conditions was closed out. She agreed to get further information about this for the next meeting. Ms. Bakstran stated that the lighting plan will be part of a comprehensive site plan.

Ms. Renkawitz asked if the board will look back into the tax records to determine the number of buses operated by Ritchie Bus, and voiced her understanding that the scope of the proposed new business will be four-fold. She discussed the existing traffic, and how difficult it already is to get out of Lexington Road. She also asked if the board will address the potential for a 24 hour operation, as well as issues with runoff and air quality. She reiterated her opinion that the proposed use will be an extreme detriment to the neighbors.

Chair Fran Bakstran noted that the question about the number of buses has already been raised, and the site plan will address other concerns like air pollution, drainage, and lighting. She noted that, should the applicant wish to operate 24 hours a day, an additional hearing will be required.

Ms. Renkawitz voiced additional concerns about the above ground fuel tank. She stated that she found records that indicate the last permit issued was in July 2007, but that yearly renewals are required. She also suggested that the tank appears to be rusting and may be leaking. Ms. Bakstran voiced her understanding that the permitting process was recently completed, and suggested that the board could ask for a review by the Fire Chief as part of the comprehensive site plan review. She also indicated that the board could ask the Police Chief if he has any concerns about the traffic patterns.

Ms. Renkawitz discussed further concerns about soil quality since it appears that there had been some filling done on the site, as well as vehicle repairs done outside in the past. Ms. Bakstran stated that the soil quality would be a conservation issue to be addressed by the Town Engineer.

Attorney Gould asked to see a copy of the neighborhood's petition. He also commented that the neighbors appear to be opposed to a use that is similar to that of the previous use. He also confirmed that the proposed use is not a freight terminal.

Ms. Bakstran asked if a car dealership is allowable in the Business West district. Mr. Lonardo indicated that it would require a special permit, and reiterated that the bylaw does not distinguish between vehicle types. Ms. Bakstran asked if a retail store would be allowed by right.

Ms. Renkawitz reiterated concerns that the business would start as a small sales operation and escalate into a large trucking facility.

Ms. Bakstran asked about the size of the Shrewsbury site. Mr. Pollack noted that it is 35 acres. Mr. Rutan asked if operations in Shrewsbury are 24/7. Mr. Pollack stated that hours there are continuous from 6:30AM on Mondays until 3:00PM on Saturdays. Mr. Lonardo stated that there is no bylaw about hours of operation, but it is certainly within the board's purview to condition that.

Lyn Copenhaver, 9 Lexington Road, emphasized that this project will negatively impact residents of Washington and Charina Roads as well as those living on Lexington Road.

Cailin Heinze, 17 Lexington Road, commented that, regardless of tree cover, there is a direct line of site to the entire property and she has a difficult time believing that the applicant could immediately remedy it. She noted that she had bought her house in May and has found the neighborhood to be quiet where one can even see stars in the night sky. She agrees that it will be difficult if not impossible for these proposed uses to occur on the site and not destroy the pleasant elements of the neighborhood. Attorney Gould reiterated that the applicant will work with the town and the abutters to minimize impacts. Ms. Bakstran commented that reasonable conditions will be imposed on the applicant if the project is approved.

Peter Drake, 13 Lexington Road, stated that he has lived in the neighborhood for 13 years. He explained that the typical operation for Ritchie Bus Lines was to fire up the buses in the early morning hours and return around 5:00PM with little noise and minimal disturbance. He also voiced his opinion that the proposed use is not similar in any way.

John Deady, 10 Charina Road, voiced concerns about negative impacts to property values. He suggested that the proposed use is a much larger operation than Ritchie Bus and he encouraged the board to seriously consider the neighborhood voices.

Tim Shay, 38 Southwest Cutoff, commented that the proposed use appears to be a lesser use than that of Ritchie Bus. He suggested that the new business will result in improvements on the property. He also believes that vehicles leaving the site would turn right, not left, which would lessen the impacts to Lexington Road. He voiced his opinion that business owners should have the ability to generate income on their properties.

Attorney Gould requested that the hearing be continued until the board's next meeting.

Ms. Joubert stated that the applicant will be filing a complete site plan, and she offered to notify the abutters or a spokesperson for the group when the site plan has been filed. Ms. Renkawitz asked how much time there will be between submission of the site plan and the board's next meeting. She questioned whether it is possible for the site plan to be filed a day before the meeting. Ms. Joubert suggested that it would not be in the applicant's best interest to do so. Mr. Rutan stated that the board generally would have the site plan two to three weeks prior to the meeting. Attorney Gould confirmed that they will.

Mark Rutan made a motion to continue the hearing to January 28, 2014 at 7:00PM. Richard Kane seconded, vote unanimous.

Public Hearing to consider the petition of Tim Shay for a Variance/Special Permit/Special Permit, Groundwater Overlay Protection District, to allow addition of a 1-stall attached garage to the existing garage on the property located at 338A Main Street

Tim Shay discussed plans to construct a 20' x 30' garage adjacent to the existing garage on the site. Ms. Bakstran asked if the area is already paved. Mr. Shay indicated that it is mostly paved, with a grass strip adjacent. He also stated that the garage will be used primarily for an area to leave cars where they can be out of the elements while awaiting customer pickup. Ms. Bakstran asked what the existing garage is used for. Mr. Shay indicated that it is used for small repairs and to prepare cars for pickup. Mr. Rutan asked about the orientation of the proposed garage. Mr. Shay provided details, and noted that it will be further off of Route 20 and mostly unseen.

Ms. Bakstran clarified that the existing use is nonconforming, so any change requires a special permit. In addition, the site is located in a groundwater district, so an additional special permit is required for that.

Mr. Rutan asked if the new garage will be any higher than the existing garage. Mr. Shay indicated it will not. Ms. Bakstran asked if the applicant had met with the Groundwater Advisory Committee. Mr. Shay confirmed that they have, and noted that rainwater will be collected and put into galleys that already exist. He also confirmed that the applicant is willing to abide by the conditions requested by the Groundwater Advisory Committee. Mr. Rand asked if the proposed garage will replace the tent previously used. Mr. Shay confirmed that it will.

Robert Berger made a motion to close the hearing. Richard Kane seconded, vote unanimous.

Other Business:

ZBA Case 12-10 Belmont Street, Variance Extension – Ms. Bakstran explained that the board had previously voted to grant the applicant a one year extension, which is not allowed by law. Therefore, it is necessary for the board to amend their previous decision to grant an extension of no more than 6 months.

Mark Rutan made a motion to amend the decision to reduce the variance extension to 6 months in order to be in compliance with state law. Richard Kane seconded, vote unanimous.

ZBA Case No. 06-28, 45 West Main Street Request – Ms. Joubert explained that the applicant was granted approval in 2006 for a mixed use development, but the permits lapsed several years ago. She noted that the State Extension Permit Act granted automatic extensions of special permits which extended this permit up to December 14, 2013. Ms. Joubert stated that the applicant is now seeking an additional extension to December 14, 2014. Mr. Rutan voiced support of the extension. Mr. Rand agreed.

Mark Rutan made a motion to extend the special permits to December 14, 2014. Richard Kane seconded, vote unanimous.

2014 Meeting Schedule – Ms. Joubert distributed copies of the proposed 2014 Meeting Schedule and invited comments. Mr. Rand indicated that he will not be able to attend the July meeting.

Review Minutes of the Meeting of September 24, 2013 – Mark Rutan made a motion to approve the Minutes of the Meeting of September 24, 2013 as amended. Richard Kane seconded, vote unanimous.

Review Minutes of the Meeting of October 22, 2013 – Mark Rutan made a motion to approve the Minutes of the Meeting of October 22, 2013 as submitted. Richard Kane seconded, vote unanimous.

Ms. Joubert noted that Town Counsel has provided a response to the questions that were raised at the last meeting regarding the Indian Meadow project.

DECISIONS:

11 Forbes Road (Genzyme) – Chair Fran Bakstran commented that, since the town uses salt on the nearby roadways, she does not believe that the applicant should be prohibited from doing so. Mr. Cayer suggested that the use of salt is not as detrimental as a potential diesel truck accident caused by slippery conditions. He also reiterated that the composition of salt is less caustic than products of days past. Ms. Joubert noted that the GAC had recommended approval, provided that an enclosed structure is completed, with appropriate permits, prior to any onsite storage.

Robert Berger made a motion to amend the original decision to remove condition #4 and replace it with the following conditions:

- The applicant shall conduct water quality tests on the Infiltration Pond twice per year for the next three years. The tests shall be performed prior to the any ice management operations (beginning this year) and prior to any landscape irrigation in the spring of each year. The testing shall be done to determine the salt content within the pond along with any other chemicals which may be harmful to the Town’s drinking water supply.
- The water drawn out of the infiltration pond shall be monitored and reduced by 50% over previous years (except during the months of July and August) and be monitored and reported to the Town annually.

Richard Rand seconded, vote unanimous.

168 South Street – Chair Fran Bakstran reiterated that it is not possible to put the garage in any other location, and suggested that the applicant be granted permission to reduce the minimum lot width to 60 feet, reduce the side setback to 4 feet, and allow a second story over the garage.

Mark Rutan made a motion to grant variances as follows:

- Reduce minimum lot width to 60 feet
- Reduce side setback to 4 feet
- Allow second story on the proposed garage

Richard Kane seconded, vote unanimous.

35 West Main Street - Chair Fran Bakstran stated that this is a tight piece of property, and though she is not confident that the additional bay will make it any better, she does not think it will make it worse since the new bay will be located where the applicant currently stores junk. Mr. Rutan voiced his opinion that it will be an improvement.

Mark Rutan made a motion to grant a special permit to expand the pre-existing nonconforming use to allow construction of a new service bay to be attached to the existing structure. Richard Kane seconded, vote unanimous.

Mark Rutan made a motion to grant a special permit in the Groundwater Advisory District with the following conditions:

- The application must provide all items as required in section 7-07-010 D (4) (a) [1-5] which is required of each application for a special permit. Since this is an expansion of an existing use and the types and quantities of materials stored on site are not increasing this information should be submitted prior to the issuance of a building permit and be kept on file in the Building Department for future reference.
- The application must provide details about the impervious cover on site currently. This information should be submitted and be kept on file in the Building Department for future reference.
- The application must provide details about existing drainage and the location of the underground storage tanks on the site as well as confirmation that roof runoff will be captured and recharged if possible. An revised site plan should be submitted to the town engineer prior to the issuance of a building permit.
- At least one permeability test should be performed within any area proposed for subsurface infiltration of roof runoff to verify the rates of infiltration. The design of the proposed drywell should be submitted and approved by the Town Engineer prior to the issuance of the building permit.
- An Operation and Maintenance Plan shall be included in any approval and a report shall be provided to the Town Engineer and Groundwater Advisory Committee annually prior to the issuance of a certificate of compliance.
- 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.

Richard Kane seconded, vote unanimous.

2 Hawthorne Circle – Mr. Cayer voiced mixed feelings about this proposal. Mr. Rutan voiced his opinion that this is a lot that should not have a pool. Ms. Bakstran commented that the applicant could install a 6-foot fence around the entire perimeter of his property and you would never see the pool. Ms. Joubert stated that, if the applicant were to connect to town sewer and relocate the pool, another abutter would have the same concerns. Mr. Cayer suggested that, if the applicant wants the pool, then he should be the one dealing with the impacts and not his neighbors. Mr. Rutan reiterated that the applicant is asking for too much to be squeezed onto the lot, and he is not in favor of allowing him to impinge on the 15 foot setback. Mr. Lonardo reminded the board that, in denying the petition, they

must find that the proposal is more detrimental than the existing nonconformity. Mr. Berger stated that he does not believe it is.

Chair Fran Bakstran indicated that the five regular board members will vote on this application.

Mr. Rutan made a motion to grant a special permit to allow construction of a pool with an 8 foot setback. Richard Kane seconded, vote was 4 in favor and 1 opposed (Mark Rutan opposed).

261 Main Street - Chair Fran Bakstran indicated that the five regular board members will vote on this application. She also commented that it is nice to see that this property is now going to be used for something.

Mark Rutan made a motion to grant a special permit and a special permit for groundwater, with the following conditions:

- The application must provide all items as required in section 7-07-010 D (4) (a) [1-5] which is required of each application for a special permit. The applicant indicated there will be one five (5) gallon container of 12.5% Sodium Hypochlorite Solution on site at any time this material and the Groundwater Advisory Committee recommends this material be stored within a flame proof cabinet.
- The application indicates there is an area for walking patients and bags for the removal of waste will be available, the waste from these animals must not be disposed of onsite.
- If any exterior changes are proposed then 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). It is also my understanding there is an outstanding Order of Conditions which should be addressed with the Conservation Commission by the owner of this property.

Richard Kane seconded, vote unanimous.

338A Main Street – Mark Rutan made a motion to grant a Special Permit and a Special Permit per the groundwater bylaw with the following conditions:

- The application must provide a site plan that includes details about the changes in impervious cover in the proposed condition to be kept on file in the Building Department.
- The previously approved Operation and Maintenance Plan shall be included in any approval and reports shall continue to be provided to the Town Engineer and Groundwater Advisory Committee annually.
- The applicant shall obtain an earthwork permit prior to the start of any construction.

- 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).

Richard Kane seconded, vote unanimous.

Mr. Cayer asked if alternate board members could be released early if they are not needed. Mr. Rand and Mr. Berger both indicated that Mr. Cayer's comments and input are of value even if he is not voting on the petitions.

Adjourned at 10:30PM.

Respectfully submitted,

Elaine Rowe
Board Secretary