



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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

Approved 2/25/14

Zoning Board of Appeals Meeting Minutes January 28, 2014

Members Present: Fran Bakstran, Brad Blanchette, Jeffrey Cayer, Robert Berger, Mark Rutan

Others Present: Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Fred Lonardo, Inspector of Buildings/Zoning Enforcement Officer; Tom Racca, Yao Zhang, Thaddeus Zskoda, Derek Haley, Jonathan Bonsall, Robert Plitnick, Brad Petrishen, Wendy Morrison, Patti Kress, Amy Poretsky, Michelle Gillespie

Chairman Bakstran called the meeting to order at 7pm, and explained the five board members present will be voting on all the agenda items this evening.

Continued consideration of 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

Chairman Bakstran explained the Applicant submitted a request to continue their public hearing to the March 25, 2014 meeting.

Tom Racca, 121 Indian Meadow Drive, said he was not familiar with the continuation process and asked that it be explained to the residents.

Ms. Bakstran stated the process is based on Massachusetts General Law, but not governed by it. The Applicant starts the process by filing for relief; the public has the opportunity to hear the information presented by the Applicant, and also to hear supporting and opposing information presented by town staff, board members and other parties in interest. Residents also have the opportunity to express their concerns and ask questions. However, it is the Applicant's hearing and Applicants have the right to ask for continuances. It is not about two sides making their cases, but about the Applicant making his/her case. If the board made a negative decision without the Applicant's input, but based on input from residents only, the Applicant would appeal and the board would not have followed the process. She noted she believes the Applicant is taking into consideration what the residents said at the Planning Board meeting on November 19, 2013. Now the board and the residents have to wait until the March meeting to see how the Applicant will proceed and what new information he may submit. Ms. Bakstran stated it is not in anyone's best interest to close the hearing prematurely. If the Applicant proves to be unwilling to work with the board, it would be reflected in the decision.

Ms. Joubert explained the ZBA filing process requires the board to hold a hearing within 65 days of receiving the application from the Applicant which has been date-stamped by the Town Clerk's office. Once the hearing has been closed, the board has 90 days to make their decision.

Ms. Bakstran stated the board can ask an Applicant to continue the hearing if, for some reason, the board may be unable to meet on the scheduled meeting date. The Applicant does not need to explain why the continuance is being requested, and sometimes the Applicant comes to the meeting and requests the continuance with no advance notice or explanation, which is his/her prerogative.

Mr. Racca suggested the board could deny this Applicant's request for continuance. Mr. Rutan stated the board would then be voting on an incomplete process.

Mr. Lonardo stated that, if the board were to issue a negative decision for no apparent reason, even on appeal, the project could be granted constructive approval. He explained the Applicant indicated there was some confusion with the purchase and sale agreement and legal issues are being worked out.

Mr. Rutan noted the Applicant could also request to withdraw the application without prejudice, if he wanted to do so.

Mr. Rutan motioned to grant the Applicant's request for continuance of the public hearing from January 28, 2014 to March 25, 2014. Mr. Blanchette seconded the motion and the vote was unanimously in favor of granting the continuance.

Continued consideration of 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

Ms. Bakstran explained the board received a request by email from the Applicant's attorney to continue the hearing to March 25, 2014. She noted the Applicant knew they would be requesting this continuance at the last meeting and addressed most questions asked by those present at that meeting. She read the request for continuance submitted by Attorney Marshall Gould, representing the Applicant, 51 Southwest Cutoff LLC.

Mr. Blanchette motioned to grant the continuance from January 28, 2014 to March 25, 2014. Mr. Rutan seconded the motion and the vote was unanimously in favor of granting the continuance.

To consider the petition of Yao Zhang for a Special Permit and a Special Permit, Groundwater Protection Overlay District, to allow the reconstruction and expansion of an existing home on a non-conforming lot to exceed 80% of the gross floor area of the existing home, and to be located less than the required distance from a side property line, on the property located at 81 Maple Lane, in Groundwater Protection Overlay District Area 2

The Applicant, Yao Zhang and the engineer for the project, Thaddeus Szkoda, were present. Ms. Zhang explained she lived in a larger home in Northborough, but recently bought a smaller house at 81 Maple Lane. It needs remodeling, failed Title 5 and has a lot of aesthetic issues, so she decided to construct a new, energy-efficient house with Mr. Szkoda, who specializes in designing zero-energy homes.

Mr. Szkoda explained since he and Ms. Zhang met with Mr. Lonardo, they have worked to decrease the size of the proposed house in order to keep it the same distance from the west side property line as the existing house is now. He submitted a sketch showing how they plan to decrease the size of the house by eliminating a 2-foot overhang. He stated they are planning to rebuild on the original foundation, but Mr. Lonardo questioned the structural strength of the foundation. At some point, Ms. Zhang may want to add a second floor and an attic, and if the foundation does not pass a structural test, or it gets damaged during demolition of the existing house and it can't be used, he requests the addition of a new foundation as a possibility. If they go with the decreased house size as shown in the sketch, the board would only need to grant a special permit for the gross floor area that will exceed 80% of the existing gross floor area. If Ms. Zhang eventually wants to have the bonus space over the garage and in the attic, it would increase the gross floor area to over 80% of the existing gross floor area. If they don't have to work within the limits of the existing foundation, the house could be shifted and would then be able to accommodate a deck.

Ms. Bakstran and Mr. Rutan agreed the Applicant could proceed with the proposal submitted as the worst-case scenario, and ask for relief from the side setback and gross-floor area.

Mr. Lonardo noted the only limiting factor to removing the existing foundation is requirements of the Conservation Commission. They may put some restrictions on it.

Ms. Bakstran read an email from the Conservation Commission into the record. It stated in part that the Commission is expecting a filing for the work as shown on the plan, which will require a more detailed delineation of the wetland resource areas on the property, and may require the house location to change to avoid the 30-foot no structure and 15-foot no disturb buffer zones required by the Northborough Wetlands Bylaw.

Mr. Rutan asked if the septic system should be shown on the plan. Mr. Lonardo replied the Applicant is working with the Board of Health on that. There is additional work and testing to be done, but due to the extremely cold weather, it has not been done. However, it will be part of the building permit process. The Applicant knows she has to have approval from the Board of Health.

Mr. Cayer motioned to close the hearing, Mr. Berger seconded the motion and the vote was unanimously in favor of closing the hearing.

To consider the petition of McKesson Medical-Surgical for a Special Permit-Groundwater Protection Overlay District, to allow the storage and handling of hazardous liquids associated with the operation of a distribution center for medical and surgical supplies, on the property located at 55 Lyman Street, in Groundwater Protection Overlay District Area 1

Attorney Jonathan Bonsall, representing McKesson Medical-Surgical, introduced Derek Haley, Distribution Center Manager for McKesson Medical-Surgical at 55 Lyman Street. Mr. Bonsall noted McKesson is a tenant and not the owner of the building. He explained McKesson operates the distribution center for the receipt, stocking, repacking and shipping of medical and surgical supplies. Mr. Bonsall stated the special permit is requested to allow the storage and handling of the 25 hazardous liquids processed through the distribution center on property located in a Groundwater Protection Overlay District. A specialist from Capaccio Environmental Engineering was hired to identify the hazardous materials. The Applicant reviewed a draft of the Capaccio report with Mr. Litchfield and Mr. Lonardo. Mr. Bonsall stated the Applicant is proposing to keep the identified 25 liquids in a specific area of the center that would contain any spillage under those circumstances. Mr. Bonsall also noted there is no manufacturing done in the center.

Mr. Haley stated he met with Mr. Litchfield spoke with him today and as a result, he has amended attachment G of their application to include the total amounts of each of the 25 hazardous liquids on the site because the town needs this amount to make sure the containment system will contain the materials.

Mr. Haley explained the customers the distribution center services are hospitals, physicians, home health care providers and they provide home delivery. The products they provide include briefs, gloves, antiseptics (such as alcohol), adhesive remover for removing bandages, hand sanitizers, and other common products. During the distribution process, there is no handling of the materials by employees.

Mr. Bonsall noted the Groundwater Advisory Committee reviewed and supports the approval of the requested relief, and offered conditions to be included in the ZBA's decision.

Ms. Bakstran stated the board has received the review letter from the Groundwater Advisory Committee (GAC) which indicated they were in support of the application, and which included conditions they would like the Board to include in their decision.

Mr. Cayer asked what the process is if all the products spilled at the same time. He noted they have a full-size spill kit. Mr. Haley stated they would call in a specialist for removal and contact the vendors of the products to help them. They are going to add 4 additional spill kits in the event of a breach of the containment tray.

Mr. Berger asked if any employees are OSHA-trained. Mr. Haley stated there are 3 people who have been trained and that information is in their application. They have not gone through 29CFR (Code of Federal Regulations) training, but have gone through McKesson training. Mr. Berger suggested the Applicant may want to consider having the employees trained for OSHA compliance.

Mr. Berger also stated he noticed mild peroxides listed, but not any hydrogen peroxides, and wondered if the peroxides they stock are compatible with other products. Something incompatible with others could react together to cause combustion – they could oxidize. He asked if Capaccio looked at that. Mr. Bonsall replied Capaccio did not identify that.

Mr. Blanchette asked the Applicant if there has been any substantial spillage. Mr. Haley replied there has not, but there might have been something small.

Mr. Rutan asked if there is adequate ventilation if the flammable materials were to spill. Mr. Haley replied it was considered, but this aspect is handled better by the container tray system. When liquid is spilled on the floor, it allows it to spread out and evaporate rapidly.

Mr. Haley noted they have 120 employees and will be expanding.

Ms. Joubert noted conditions 2, 3 and 4 of the review letter from the Groundwater Advisory Committee will be included in the board's decision.

Mr. Rutan motioned to close the hearing, Mr. Cayer seconded the motion and the vote was unanimously in favor of closing the hearing.

To consider the petition of Coram Healthcare Corporation of Massachusetts for a Special Permit, Groundwater Protection Overlay District, to allow the use of an infusion therapy pharmacy on the property located at 367 West Main Street, Unit F, in Groundwater Protection Overlay District Area 2

Mr. Robert Plitnick, Pharmacist, Coram Healthcare Corporation of Massachusetts, was present and stated he is standing in for a co-worker. He stated he has spoken with Mr. Lonardo and Mr. Litchfield. He explained the proposed use is a pharmacy specializing in injectable medicine and the company wants to be able to greater serve several areas. The Coram facility will most likely deliver the first dose of medicine a patient will receive, and subsequent deliveries would be done by FedEx or another carrier. Patients are serviced almost exclusively at their homes and Coram may have contracts to deliver to other facilities. It is rare that a patient would be seen at the facility. A small part of what Coram does is home healthcare. They work with visiting nursing agencies and Coram has their own medical staff, as well. Coram is a dispensary, not a medical center. Mr. Plitnick stated the application includes a small list of hazardous waste materials and they have not had an issue with spills or combustibles.

Mr. Berger asked about a chemotherapy check list and asked if there are any of these products on the site. Mr. Plitnick stated the manager has indicated the site will be a first-dose center and chemotherapy is not considered a first-dose medicine.

Mr. Berger asked what happens to outdated medicines. Mr. Plitnick stated they return them to the vendors.

Ms. Bakstran asked Mr. Plitnick if he was aware of the conditions in the Groundwater Advisory Committee's review letter for the application. Mr. Plitnick stated he had not received it, as he was a stand-in for another person who was supposed to attend the meeting.

Mr. Litchfield stated there are two outstanding issues that are most important to the project and they require coordination between the Applicant and the Building Inspector, who needs to make sure there is adequate parking on the site. If there is not enough parking, more must be provided and that would result in an increase to impervious cover on the site. As a result, impervious cover calculations would have to be revised and submitted. Mr. Plitnick noted there are 70 parking spaces for the center.

Mr. Lonardo stated he will work this through with Applicant.

Mr. Litchfield stated if the list of chemicals expands in the future, the Applicant will need to come back to the board to revise the quantities.

Mr. Rutan asked if there will be any narcotics in the building. Mr. Plitnick stated they do have pain medication and the security on the site will meet the requirements of the Board of Pharmacy.

Patti Kress, 60 Old Colonial Way, stated she is concerned about the size of the vehicles that will be used for the deliveries. Mr. Plitnick stated most of the carriers use cars, vans or mini-vans.

Mr. Rutan motioned to close the hearing, Mr. Blanchette seconded the motion and the vote was unanimously in favor of closing the hearing.

DECISIONS

13-25, 81 Maple Lane: Mr. Cayer suggested leaving the calculations as submitted and allowing not less than 13 feet from the side setback so the Applicant doesn't have to come back to the board. Mr. Rutan stated he is glad the lot will be improved and it is a win for the town and the neighbors.

Mr. Rutan motioned to grant a Special Permit, Groundwater Protection Overlay District, to allow the gross floor area of the existing home to be increased by not more than 700 square feet over the allowable limit for the property; and a Special Permit to allow the distance from the west side setback to the proposed new house to be not less than 13 feet, for the property located at 81 Maple Lane, and per the plans submitted. Mr. Cayer seconded the motion and the vote was unanimously in favor of granting both Special Permits.

55 Lyman Street: Mr. Litchfield stated conditions 2 & 3 of the Groundwater Advisory Committee's letter should be included as conditions in the board's decision. He stated the words "for the racking system" should be put added to the end of condition 3.

Mr. Cayer motioned to grant the Special Permit, Groundwater Protection Overlay District, to allow the storage and handling of hazardous liquids associated with the operation of a distribution center for medical and surgical supplies on the property located at 55 Lyman Street, with conditions 2, 3 and 4 of the Groundwater Advisory Committee's letter dated January 28, 2014, and the addition of the wording "for the racking system" at the end of condition 3. Mr. Rutan seconded the motion and the vote was unanimously in favor of granting the Special Permit.

367 West Main Street: Condition 3 of the Groundwater Advisory Committee's letter needs to be in the decision and tied to the occupancy permit. Ms. Joubert stated Condition 2 requires the Applicant to show they have adequate parking. Mr. Lonardo stated he can take care of it as long as the board agrees, so the Applicant doesn't have to come back to the board.

Mr. Blanchette motioned to grant the Special Permit, Groundwater Protection Overlay District, to allow the use of an infusion therapy pharmacy on the property located at 367 West Main Street, with the 7 conditions listed in the Groundwater Advisory Committee's letter dated January 28, 2014, and with the addition of the words "prior to the issuance of the occupancy permit" at the end of condition 3. Mr. Cayer seconded the motion and the vote was unanimously in favor of granting the Special Permit.

Approval of Minutes – November 26, 2013: Mr. Rutan motioned to approve the minutes of November 26, 2013, Jeff Cayer seconded the motion and the vote was unanimously in favor of approving the minutes.

The meeting adjourned at 8:45 pm.

Respectfully submitted,

Debbie Grampietro, ZBA Administrative Assistant