



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 02.24.2015

Zoning Board of Appeals Meeting Minutes September 30, 2014

Members in attendance: Richard Rand, Chairman; Mark Rutan, Clerk; Robert Berger; Fran Bakstran

Members excused: Brad Blanchette

Others present: Kathy Joubert, Town Planner; Elaine Rowe, Board Secretary; Fred Litchfield, Town Engineer; Nick Antanavica, Building Inspector; Jeff Amberson; Michele Horan; Richard & Harry (Will) Dale, 94 Main Street; Anthony Ross, 17 South Street; Sue Kelly; Euclid Stone; Suzanne Stimson, 81 Meadow Road; Brittany McNamara, Metrowest Daily News; Attorney Marshall Gould; Kevin Giblin; Bill DePietri; Jay Gallant; Paula Thompson, Waterman Design

Chairman Rand called the meeting to order at 7:00PM.

Public Hearing to consider the petition of HWD Enterprises, LLC for a Variance/Special Permit to allow the use of a health club (cross-fit gym) in the Business East District on the property located at 94 Main Street, Map 64, Parcel 19

Richard Dale discussed plans to open a fitness facility on the property, which is currently zoned for business. Mr. Dale explained that there is currently a landscaping company in the space, so minor modifications will be needed including the installation of an ADA compliant bathroom. Mr. Dale noted that his son, Will, intends to operate a Crossfit gym, which has much less traffic than a traditional fitness facility. In response to a question from Chairman Rand, Will Dale stated that the gym will be approximately 2850 square feet. Chairman Rand asked if the facility will be co-ed. Will Dale confirmed that it will be. Mr. Rutan asked about any changes to the exterior. Richard Dale noted that there are no exterior changes planned. Chairman Rand asked if the garage doors will be removed. Richard Dale indicated that they will remain. Mr. Rutan asked if any additional insulation will be installed. Will Dale stated that there will not.

Ms. Joubert asked if the space is located within the main building on the site. Richard Dale noted that it is in the back portion of the main building. Ms. Joubert asked about parking needs. Will Dale noted that Crossfit classes are spaced throughout the day, and members are required to sign up for each specific class. He also noted that the other tenants in the building (sign installer, construction company, and barber) do not require substantial parking. Ms. Kelly, daughter of building owner Euclid Stone, commented that there is more than ample parking for this use. Ms. Bakstran noted that the parking lot is not lined, and suggested that it is not possible to determine how many parking spaces exist if they are not delineated. She also noted that there are trailers and two homes at the back of the parcel. Ms. Kelly reiterated that she believes there is sufficient space.

Ms. Joubert commented that the zoning bylaw stipulates minimum parking requirements but, in the absence of striping, it is not possible to determine how many spaces exist. Chairman Rand voiced his assumption that there is ample parking. Ms. Joubert stated that she does not recall the board ever having approved a project without a parking plan.

In response to a question from Mr. Rutan, Will Dale noted that the operating hours will be as follows:

Monday – Friday	5:30AM – 9:00PM
Saturdays	9:00AM – noon

Ms. Bakstran asked about staff for the gym. Will Dale indicated that he will be the sole employee to start.

Ms. Kelly voiced her opinion that this a good use for the property and a great location for this type of business.

Mark Rutan made a motion to close the hearing. Robert Berger seconded; vote unanimous.

Public Hearing to consider the petition of Suzanne Stimson for a Variance/Special Permit to allow the location of a proposed garage addition to be less than the required distance from the west side property line on the property located at 81 Meadow Road, Map 94, Parcel 215

Suzanne Stimson explained that she is seeking a variance to reduce the side yard setback to 7.4 feet to allow construction of a one car garage on the property. She noted that the positioning of the garage is dictated by the oddly shaped lot, with the property line becoming narrower as it approaches the house. Chairman Rand asked if there is any other way to construct the addition that would not require a variance. Ms. Stimson noted that the lot is very small, which results in issues with any other potential locations. Chairman Rand asked if access to the back yard is still possible once the garage is built. Ms. Stimson confirmed that it is.

Ms. Joubert noted that the board was provided with a GIS map illustrating the layout of the neighborhood as well as where the applicant currently parks her vehicles. She reiterated that the lot is oddly shaped compared to the others in the area. Ms. Bakstran asked where the second car will be parked once the garage is constructed. Ms. Stimson noted that it will be parked in front of the garage. Ms. Bakstran asked if the stairs from the garage into the living area currently exist. Architect Jay Gallant indicated that stairs will need to be constructed because there is a 2 foot elevation difference between the driveway and the level of the house. Ms. Joubert expressed appreciation to the applicant for the rendition that was submitted, as it provides a great visual for the board members.

Mr. Rutan asked if the 7 foot setback will be sufficient. Ms. Stimson expressed her belief that it will be. Mr. Rutan asked if a fire wall is required between the garage and the house. Mr. Antanavica stated that appropriate fire rating already exists since it is an exterior wall. He commented that the door will meet the requirement as well.

Mark Rutan made a motion to close the hearing. Fran Bakstran seconded; vote unanimous.

Public Hearing to consider the petition of Michelle Horan for a Variance/Special Permit to allow more than one freestanding sign with less than 10 tenants; and to allow 2 freestanding signs to be located less than 50 feet apart, on the property located at 27 South Street, Map 30, Parcel 29

Michele Horan explained that she has purchased space in the building for her real estate business, and she distributed a photograph showing the proposed location for the new sign. She also stated that the old sign will remain and that there will actually be more than 50 feet between the two signs. Ms. Horan noted that the building's condo association has voiced their approval for the proposed sign.

Chairman Rand asked how many units the building houses. Ms. Horan noted that there are 6 units. Chairman Rand asked why it is not possible to have signs for all units on one sign. Ms. Horan explained that her unit contains space for three offices and, since she plans to sub-lease two of the offices, there is insufficient space for her tenants on the existing sign.

Ms. Horan noted that the existing sign is wooden, while the proposed new sign will be aluminum. Chairman Rand asked about the condo association's approval of the new sign. Ms. Horan stated that a copy of their approval letter is included in the application packet. Chairman Rand noted that the approval letter was signed by only one individual. Ms. Horan stated that she had offered to replace the existing sign, but that request was denied so she is seeking to add another sign to cover any of her potential tenants.

Ms. Bakstran voiced her understanding that there are two separate buildings on the site, with Dr. Wald's office being located in the building at 29 South Street. She questioned why the sign for 27 South Street is located in front of 29 South Street, and voiced confusion about which building Ms. Horan is requesting signage for. Ms. Horan reiterated that there are office suites within her unit that she is renting out. Ms. Bakstran voiced concern about the potential for multiple tenants in the building, and also questioned how Ms. Horan intends to locate the new sign so that it will be 50 feet from the existing sign. Ms. Horan noted that there is a bush that will be removed for the installation of the new sign. She explained that she had been instructed by the condo association to get her own sign, and they voted to allow her to do so. Mr. Berger voiced concern about other unit owners in the building subletting space, resulting in the need for further signage. Ms. Bakstran agreed.

Chairman Rand read a letter from Michelle Gillespie (attached) into the record. Ms. Horan commented that Ms. Gillespie is a competitor and requested that her comments not be included in the record. Chairman Rand stated that Ms. Gillespie has a right to be heard in an open meeting. Chairman Rand noted that Ms. Gillespie requested that the board respectfully deny this petition in light of the town's sign bylaw. Ms. Bakstran stated that the town has gone to great lengths to be sign savvy. She also voiced her desire that the actual measurements be verified. Mr. Antanavica explained that, since the applicant is not seeking a variance of the 50 foot offset, he will verify that the signs are at least 50 feet apart or the applicant will be required to move her sign. Ms. Joubert asked if it makes sense for the proposed new sign to be a bit larger to accommodate potential additional tenants. Mr. Antanavica suggested that it would be better for the town to require all signage to be on a single sign post, but if the board chooses not to do so, it would be up to the board whether to allow more signs in the future. Ms. Joubert noted that directory signs are allowed per the bylaw and may be a better option.

Mark Rutan made a motion to close the hearing. Robert Berger seconded; vote unanimous.

Public Hearing to consider the petition of 920 LLC for Variances/Special Permits to allow retail, restaurant, bank and medical office/clinic uses, with appropriate access, signs and retaining walls, to be located on the property at 370 Southwest Cutoff, Map 109, Parcel 15 and Map 108, Parcel 2, in the Industrial District and the Major Commercial Development Overlay District

Attorney Marshall Gould explained that the site is on land originally owned by Borgatti and O'Mara in the area of Northborough Crossing and the loop road known as Shops Way. He noted that the entrance to the nearly 19 acre site is off of Shops Way close to Route 20, directly opposite BJ's Gas, Burger King, and Starbucks.

Attorney Gould noted that this parcel was originally part of the entire development now known as Northborough Crossing, and the project has been before the ZBA numerous times. He noted that copies of the ZBA decisions rendered in 2005, 2006, 2008 and 2010 were included in the application packet.

Attorney Gould explained that the original design for Northborough Crossing included two restaurants at the top of the hill and two on the lower portion of the site. He also noted that the remaining portion of the parcel (previously owned by O'Mara) has been permitted by the ZBA for 60,000 square feet of

retail with another 20,000 square feet in two additional stories. Attorney Gould stated that, in the course of putting the project together, some site work and construction was initiated. Unfortunately, during this time, the lending bank was nationalized and funding for the project was pulled. He noted that, after facing some difficulty with obtaining funding, Mr. Giblin partnered with New England Development and the project was developed in phases and the last area to be done is that which is now before the board.

Attorney Gould noted that the applicant has been working on the design for some time and, though all engineering for the site plan is not yet completed, the project is before the board to determine whether the variances will be granted before moving ahead any further.

Attorney Gould noted that the summary on pages 6 through 8 of the application covers all details needed for the board's consideration. He commented that variances and special permits were previously granted but have expired. He also noted that the three parcels combined are 19 acres, currently under ownership by Brendon Properties 2 and Lesley Carey, Trustee, and are zoned Industrial. He explained that the applicant is seeking a variance to reduce the required frontage from 150 feet to 70.5 feet, and the project will be developed in the same way as originally planned. Attorney Gould noted that other variances are being requested as follows, and indicated that pages 8 and 9 of the application include the conditions under which these variances are allowable:

1. Variance to allow access to the site from Shops Way
2. Variance to allow the necessary retaining walls
3. Variance to allow pylon signs, given that the site is not visible from Route 20 or Shops Way

In addition to the variances, Attorney Gould explained that the applicant is seeking the following special permits:

1. Special Permit to allow retail space of more than 25,000 square feet or two retail spaces
2. Special Permit to allow restaurant use
3. Special Permit to allow Bank and/or ATM use

Attorney Gould reiterated that the sale of the development by Northborough Crossing created a hardship for the applicant. He noted that the size and topography require major site work, with the need for some retaining walls to be as high as 26 feet. He stated that the significant slopes, ledge, and topographical changes on the site are all hardships and, without relief, the applicant does not have the ability to develop the parcel due to its limited frontage. He also noted that it is not possible to get approval for a separate driveway from Route 20.

Attorney Gould discussed five site-specific all alcoholic beverages licenses that were approved at Town Meeting, none of which are being utilized at this time. He voiced his opinion that this development needs to include a venue that provides dinner and beverages.

Attorney Gould explained that this application cited the prior ZBA decision, and noted that the plan shown on page 52 is roughly the first plan shown tonight. He stated that the last two pages of the application show what the signs will look like. He commented that they will be similar to the existing signs for Northborough Crossing but will not be as large as the pylon sign on Route 9. He stated that the proposed sign is 536 square feet, but could be reduced to approximately 400 square feet. He commented that the sign opposite BJs Gas is 270 square feet.

Paula Thompson of Waterman Design provided a brief overview of the site plan. She explained that the main access drive will be off of Shops Way directly across from the access drive for BJs Gas, Burger King

and Starbucks. She stated that the proposal is for a bank with drive-through window, small medical clinic, two 200-seat restaurants and 42,000 square feet of retail space.

Ms. Thompson discussed the topography on the site, and noted that the elevation at the intersection of the ramp from Route 20 is 360 feet while the top of the site is at 410 feet. She explained that the plans call for bringing the top of the site down to an elevation of 390 feet, and a necessary retaining wall will encroach within the side yard setback. She also noted that the site is surrounded by wetlands, so there are no other options for either site access or building locations. Attorney Gould commented that a site plan review will be done next month, and voiced his understanding that the Fire Chief is comfortable with the plan.

Mr. Giblin stated that he had previously met with the Planning Board, and they voiced concern about the size and appearance of the wall. He noted that, while the wall cannot be built out of individual stones, he will come up with an acceptable design and landscaping plan for it.

Ms. Bakstran asked about the variances, and noted that two of them (frontage and access) had not previously been requested. She also suggested that the board needs to be specific about the sizes of the signs to be approved. Ms. Bakstran discussed the Fire Chief's letter and noted that there were several details that he deemed important. Attorney Gould stated that all of the Fire Chief's concerns will be addressed during Site Plan Review.

Ms. Bakstran suggested that a 28 foot retaining wall will look like the back of a building. Attorney Gould agreed, but reiterated that it is not possible to build the project without it. Ms. Bakstran asked about the material for the wall if it is not to be stone. Mr. Giblin indicated that it will be a block wall, and offered to bring in samples to show the board.

Mr. Rutan asked about the liquor licenses. Attorney Gould noted that 11.5 acres of this 19 acre parcel were part of the original Northborough Crossing, for which site-specific licenses were granted for restaurants to be located in the upper area of the development. He voiced his opinion that the applicant will need to go back to the Board of Selectmen with a request.

Mr. Rutan asked if there is any way to prevent access to the top of the wall, especially given the location of the baseball facility across the street. Ms. Thompson explained that the top side has a guardrail and fence along the entire length, with groups of very full evergreens at the base of the wall.

Mr. Amberson cited a long positive history with this applicant and this project, and noted that the applicant has always done everything he said he was going to do. He voiced his appreciation for the applicant's willingness to work with the town in the past.

Ms. Joubert advised the board members about a letter from the Shrewsbury Town Planner (attached), a copy of which was provided to each of them.

Ms. Joubert asked for clarification about the size of the sign at the main entrance. Attorney Gould voiced his understanding that it is in the range of 400 square feet, while the sign at the northern entrance is closer to 200 square feet. Mr. Giblin commented that placing a sign near the entrance way will make it clear that there is retail within the newly developed area.

Ms. Joubert asked about the size of the cement wall at the Shoppes at Blackstone Valley. Ms. Thompson commented that it is 80 to 100 feet high. Ms. Joubert commented that the highest point on the proposed wall is at the corner where the setback is met. She also noted that the building code requires a fence but does not stipulate that it be chain link. Mr. Giblin agreed to make every effort to make it as attractive as possible.

Ms. Bakstran asked about the location of the 270 square foot sign in relation to the main sign. Ms. Thompson indicated that the 270 square foot sign is at the corner near Burger King. Ms. Bakstran suggested that that sign will be barely visible from Route 20.

Mark Rutan made a motion to close the hearing. Robert Berger seconded; vote unanimous.

DECISIONS:

94 Main Street – Chairman Rand voiced his opinion that this is an appropriate use for the site, and there is sufficient parking. Ms. Bakstran reiterated her desire that the board require delineated parking. Mr. Rutan commented that requiring delineated parking may be too much of a burden on a new business. Ms. Bakstran noted that the photograph presented shows 13 cars and a truck in the parking lot and asked where the gym clientele will park. She stated that she is not comfortable with the position that there is sufficient parking.

Ms. Joubert asked Mr. Antanavica if this project would trigger a minor site plan review during which the need for a parking layout could be addressed. Mr. Antanavica confirmed that the new business/change of use would do so. Ms. Joubert commented that tonight's hearing is to address the special permit for use, and reiterated that town staff will address the parking issue in conjunction with the minor site plan review. She also commented that the parking situation would be the responsibility of the building owner and not the tenant. Ms. Joubert advised the applicant that they would need to apply for a minor site plan review prior to a building permit being issued. Mr. Antanavica explained that the applicant is able to start construction but a Certificate of Occupancy could potentially be held up until the parking lot situation is addressed. Ms. Joubert noted that the ZBA decision has a 20 day appeal period from when it is filed with Town Clerk's office, so there is still a fair amount of time. Mr. Antanavica suggested that the applicant stop by his office to discuss a reasonable timetable for the project.

Chairman Rand asked if there is a town bylaw that requires parking lots to be striped. Mr. Antanavica stated that there is for all new building, but that it is a bit more convoluted when it comes to existing buildings.

Mr. Rutan voiced objection to putting an additional burden on the applicant, given that there are no significant changes proposed and the existing businesses have been getting by with the parking as is. Ms. Bakstran commented that the new use changes the parking needs. Mr. Rutan stated that the gym's clients will dictate parking for the business. Ms. Joubert recalled that the board had previously required an applicant (canine training facility) to provide a parking plan and to demonstrate that there were sufficient parking spaces for the proposed use. Ms. Bakstran reiterated her concerns about the parking.

The applicant asked if it is possible for the board to grant a preliminary approval with conditions, subject to the minor site plan review.

Chairman Rand emphasized his opinion that the parking has been adequate for years. Mr. Rutan suggested that, if the applicant's business is tremendously successful, he will need a larger facility anyway. Ms. Joubert reiterated that the parking issue can be addressed by town staff during the minor site plan review. Ms. Bakstran asked for confirmation that there will still be an in-house review. Mr. Antanavica indicated that there will be.

Robert Berger made a motion to grant a special permit to allow the use of a health club (cross-fit gym) in the Business East District on the property located at 94 Main Street. Mark Rutan seconded; vote unanimous.

81 Meadow Road – Mark Rutan made a motion to grant a variance to reduce the side setback on the west side of the property to 7 feet. Robert Berger seconded; vote unanimous.

27 South Street – Mr. Berger expressed his desire for a single sign to cover all units in the building. Mr. Rutan suggested that such a sign might be too large. Ms. Bakstran commented that this building is located in a tight area that has far too many signs already. Members agreed that, if other tenants opt to subdivide their units, the issue with excessive signage will be exacerbated. Ms. Bakstran stated that the board can be more restrictive but cannot be more lenient about what to allow.

Mark Rutan made a motion to grant a variance to allow the additional sign on the property. Robert Berger seconded. Vote was 0 in favor and 4 opposed; motion denied.

370 Southwest Cutoff – Mr. Rutan stated that, given the traffic on Route 9 and Route 20, the need for signage is a safety issue. Mr. Antanavica suggested that there might be ways to dress up the large retaining wall with a step design. Ms. Bakstran stated that she would like to see maximum sizes for the signs as a condition of approval.

Mark Rutan made a motion to grant a variance to reduce the required frontage to 70 feet. Robert Berger seconded; vote unanimous.

Mark Rutan made a motion to grant a variance to allow access from Shops Way. Robert Berger seconded; vote unanimous.

Mark Rutan made a motion to grant a variance to allow the size signs per the application. Robert Berger seconded; vote unanimous.

Mark Rutan made a motion to grant the following special permits:

1. Special Permit to allow retail space of more than 25,000 square feet or two retail spaces
2. Special Permit to allow restaurant use
3. Special Permit to allow Bank and/or ATM use

Robert Berger seconded; vote unanimous.

Review Minutes of the Meeting of August 26, 2014 – Mark Rutan made a motion to approve the Minutes of the Meeting of August 26, 2014 as amended. Fran Bakstran seconded; vote unanimous.

Ms. Joubert informed the board members that she has had applicants inquire about a December meeting. Mr. Rutan noted that the board is already shorthanded, and voiced a preference to meet in early January if there is a desperate need.

Adjourned at 9:30PM.

Respectfully submitted,
Elaine Rowe, Board Secretary