



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## Zoning Board of Appeals Meeting Minutes October 28, 2014

**Members Present:** Dick Rand, Fran Bakstran, Mark Rutan, Rob Berger, Brad Blanchette

**Others Present:** Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Dan Nason, DPW Director; Bill Pantazis, Board of Selectmen; Attorney Marshall Gould; Kevin Giblin, Brendon Properties II, LLC; Paula Thompson, Waterman Design; Scott Thornton, Vanasse & Associates, Inc.

Chairman Rand opened the meeting at 7pm.

**To consider the petition of 920 LLC for Variance/Special Permit/Special Permit with Site Plan Review 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**

Chairman Rand read the legal notice for the public hearing into the record.

Marshall Gould, Gould and Ettenberg; Paula Thompson, Engineer, Waterman Design Associates, Inc., and Scott Thornton, Registered Professional Engineer, Vanasse & Associates, Inc., presented the project.

Mr. Gould stated the Applicant is seeking a Special Permit with Site Plan Approval to allow the property at 370 Southwest Cutoff to be used for retail, restaurant, bank and medical office uses, with appropriate access, signs and required retaining walls. He noted the site is in the Industrial District and is within the Major Commercial Development Overlay District. Specifically, the Applicant is proposing to develop approximately 19 acres of the site at 370 Southwest Cutoff, at Route 9 and Route 20, directly across from BJ's Gas, Burger King and Starbucks.

Mr. Gould explained Variances were granted at the September 30, 2014 ZBA meeting for the proposed development to allow reduced frontage; vehicular access to a building site that is not through the frontage of the lot; necessary retaining walls over 4 feet in height within the setback area; and 2 freestanding Pylon signs and for those signs to be larger than the maximum size allowed. At the same meeting, Special Permits were also granted to allow a retail store of more than 25,000 square feet; or two or more retail stores on one lot; the use of restaurants including alcoholic beverages; and the use of a bank or automated teller machine.

Mr. Gould stated the Northborough Crossing/AvalonBay development is the largest project to be done over the last 10 years in Central Massachusetts, with well over 600,000 square-feet of retail use. The subject 19-acre site is part of the almost 200-acres that was master-planned for multiple uses, including the retail uses proposed, and is the final phase of the Northborough Crossing development. He stated the proposed final phase of the Northborough Crossing development is the best use of the property.

Paula Thompson, Waterman Design Associates, Inc., presented the site plan for the project. She stated the proposed development includes 65,000 square-feet of retail space, including two 200-seat, 6,300

square-foot restaurants, one 17,700 square-foot retail building, one 24,300 square-foot retail building, and a 5,400 square-foot building in which a 2,000 square-foot bank and a 3,400 medical clinic will be located. Access to the proposed project is from Shops Way, the access drive for the Northborough Crossing/AvalonBay development. Parking provided for all of the proposed buildings meets zoning and tenant requirements. The required number of parking spaces for the development is 268, and the Applicant is providing 405 spaces, 11 of which are handicapped-accessible spaces.

Ms. Thompson explained the existing site has frontage on Southwest Cutoff and rises up 50 feet to the top of the hill. The top will be taken off and retaining walls will be constructed at points around the site. A stormwater management report has been submitted with the Application and describes the existing project site, the proposed project, and analyses performed to develop a stormwater management system that will promote public safety and convenience, and minimize environmental impacts. Ms. Thompson noted they received an Order of Conditions for the project from the Conservation Commission, DEP #247-1082; and a copy of the stormwater management report, prepared as part of the Application, has been submitted to the Commission members.

Ms. Thompson reviewed the landscaping plan for the project, stating the types and amount of trees proposed for the development meet zoning regulations. She stated there has been concern about the look and height of the retaining wall. After receiving an easement for grading and landscaping from AvalonBay Communities, the retaining wall has been reduced in height and its highest point, originally 26 feet, is now 16 feet. In addition, decorative iron fencing on the top of the retaining wall has replaced chain-link fencing that was originally proposed. She noted the final site plan will reflect the revisions to the retaining wall.

Scott Thornton, Vanasse and Associates, Inc. reviewed existing and proposed traffic, signalization, signage and vehicular circulation for Northborough Crossing and the proposed retail development. He presented a plan entitled "Conceptual Improvement Plan", which is part of the Traffic Impact and Access Study Summary for the subject site. It shows a portion of both sides of Shops Way at the intersection of the access drive for BJ's Gas and the proposed site driveway, and includes proposed pedestrian safety signs; vehicular STOP signs with red LED flashers; and a proposed stamped colored (thermoplastic) asphalt crosswalk extending from the access drive for BJ's Gas across to the access drive for the proposed development. He noted the use of colored thermoplastic on the pedestrian sidewalk will make it more visible and can be reapplied as needed.

Mr. Thornton explained the 4 intersections closest to the proposed project are identified as: the Route 20 and Route 9 exchanges; Route 20 at Shops Way and the New England Baseball complex driveway; the Route 20 intersection with Shops Way and Hitching Post Lane; and the intersection of Shops Way at the access driveway of BJ's Gas, Starbucks and Burger King and the proposed site driveway. Traffic associated with the proposed development will result in a maximum of approximately 2,672 additional vehicle trips during an average weekday; 3,354 additional vehicle trips during an average Saturday; 231 additional vehicle trips during the weekday evening peak hour; and 312 additional vehicle trips during the Saturday mid-day peak hour. Traffic volume increases were shown to be between 1.2 and 3.4 percent during the peak hours of the facility and are expected to be less during other hours of the day.

Mr. Thornton stated the access drive for the subject site will have STOP signs with red LED flashers; and the eastbound lanes of Shops Way will be enhanced with oversized STOP signs and rumble strips to remind motorists to stop where directed. The existing intersection signalization operates with acceptable levels of delay and with proposed future conditions, operations will be generally the same with minor increases to delay on the various approaches and overall intersection operations. The

unsignalized intersections operate with some delays, but they are generally not expected to affect state highway or major street operations.

Mr. Thornton explained \$4,000,000 was spent on traffic improvements for the Northborough Crossing/AvalonBay development. A lot of mitigation was done in the Route 20 corridor for Northborough Crossing. Route 20 was widened in Northborough and Shrewsbury; 2 traffic lights were installed; and the ramps at Route 9 and Route 20 were improved. With the proposed project, there will be an increase in traffic on the Route 9 West ramp and the potential for an increase in the rear-end type crashes to occur due to acceleration and deceleration of merging from the ramp onto Route 9. A MassDOT audit has identified that 95% of accidents there were rear-enders. Traffic counts in 2014 indicated the site is generating 30% less traffic than had been anticipated. This actually was expected because there is a lot of cross-capture between the provided retail, restaurant and residential uses with a development of this size.

Mr. Giblin noted MassDOT is working on the design for improvements to the ramp that will include an acceleration lane currently in the design phase. He stated the state did not want a traffic light at this location and was concerned about maintaining the integrity of the state highway corridor, as it is part of a coordinated system.

Chairman Rand read a project review letter submitted to the Board from Fire Chief David Durgin into the record. He noted he asked Dan Nason, Director of Public Works, to attend this meeting to discuss water issues for the whole site and concerns expressed by the Fire Chief in his review letter.

Mr. Nason stated he recommends the water line for the proposed retail area be connected to the existing water line in Shops Way, rather than the existing water line in Route 20, in order to avoid the installation of another Town-owned booster station. He stated the Fire Chief prefers the water line be connected to the existing water line in Route 20 (Southwest Cutoff). He noted the existing town-owned booster station has a problem that sets off alarms in other buildings in town. Mr. Nason stated the Applicant needs to make sure pressure-reducing valves are installed so there will be no problems with water pressure. The proposed plan will not make the water pressure problems worse. He noted the issue was at Northborough Crossing, and stated the system is complicated there. Mr. Giblin agreed with Mr. Nason and stated the situation sounds worse than it is. The back-flow preventers cause the problems.

In response to questions from Mr. Rand and Mr. Berger, Mr. Nason stated backflow preventers may or may not be required for a commercial building, but for AvalonBay, they would have to have them. The backflow preventer makes sure it doesn't come back into the system. It is not the same for drinking water.

A memo from town staff to the Board, dated October 28, 2014, was reviewed and included items regarding a proposed water line for the project; an Earthworks permit; Police Department concerns; traffic control and signalization; pedestrian crosswalks; street lighting along Southwest Cutoff; and an existing drainage issue.

An email message from Planning Board member Amy Poretsky to the Zoning Board members was read by Chairman Rand, in which she forwarded her comments concerning the proposed project, including landscaping, the retaining wall, pedestrian crosswalks and access across Shops Way.

Mr. Rutan asked if there will be any problem with stormwater runoff from the site flowing onto the property at 360 Southwest Cutoff, owned by Donald Lavin. Ms. Thompson replied there will not be a

problem. She explained the site has been designed with multiple infiltration and detention areas. Stormwater runoff from the parking areas will be collected in deep-sump, hooded catch basins and conveyed to a stormwater treatment unit, sediment forebay, and surface infiltration or detention basin. Outflow will be discharged to upland areas at a rate equal to, or less than, existing conditions. Infiltration systems have been designed to infiltrate the required volume to meet the regulations of the Town of Northborough and MA DEP Stormwater Management Standards.

Mr. Nason requested the Applicant come before the Water and Sewer Commission in order to obtain permission to connect to the sanitary sewer system. Mr. Marshall stated with Northborough Crossing, they had expected there would be 5 restaurants, so with only 2 proposed for this project, the flows should be less than originally anticipated. He stated they will gladly attend the Water and Sewer Commission meeting as they need assurance there will be enough water and sewer capacity for the proposed development. He asked Mr. Nason if he has any other issues relating to water and sewer services, and Mr. Nason said he did not.

There was a discussion regarding the possibility of having a traffic signal at the proposed new intersection at the access drive for the subject development and the access drive for BJ's gas. Mr. Litchfield stated he spoke with Barry Lorian, MassDOT, and Mr. Lorian was not opposed to a light at this intersection. Mr. Litchfield explained there would be queue detection that would change the light when traffic backed up on Shops Way. The proposed illuminated STOP signs and rumble strips should improve the intersection and police should be there for a while after it's done.

Mr. Giblin noted Equity One has not allowed the police to be on the site. Mr. Litchfield agreed, stating the Police Chief has asked Equity One to allow them to write tickets, and Equity One has denied them. He said Mr. Lorian stated Equity One is pursuing a private firm to do it.

Ms. Joubert and Mr. Litchfield reviewed the staff memo dated October 28, 2014 with those present. Mr. Litchfield stated he would like to see a light at the proposed new intersection. He explained he would like to support the Applicant's proposal to use rumble strips and thermoplastic on the pedestrian crosswalk, however he would like the board to require the Applicant to evaluate a traffic signal at the new 4-way intersection at 50% occupancy and 100% occupancy. If the evaluation determines a traffic signal is warranted, it would be installed at the applicant's expense and at the specified occupancy level. He noted he and Ms. Joubert were at the site for only a half-hour and two people drove through the STOP sign at the existing intersection. Ms. Joubert noted Police Chief Mark Leahy stated in the staff memo that cars frequently fail to obey the existing STOP signs and the police are powerless to enforce any traffic violations because it's private property. She stated the staff memo also indicates an additional crosswalk in Shops Way should be installed using the imprinted crosswalk system as in the downtown, and should be equipped with a pedestrian light. In addition, the crosswalks proposed on Route 20 and on Shops Way should have amber LED warning flashers and the Applicant should be required to install them.

Mr. Thornton stated he doesn't think the intersections with the pedestrian crosswalks would meet the requirements of 20 pedestrians an hour for 8 hours to warrant a light. The LED flashers would get the pedestrians across the crosswalk. It would have to meet the same warrants as on a private street.

Mr. Rutan asked if the intersection will work as well with a walk signal there as it will without one. Mr. Thornton replied it will take time away from somewhere. He noted he thinks there is a better way to do the lights at the baseball complex with the pedestrian crosswalk.

Ms. Joubert asked if the same warrants need to be met on a private street. Mr. Thornton responded it would have to meet the same warrants.

Mr. Litchfield discussed lighting on Route 20. Mr. Giblin suggested they could increase the heads. Ms. Joubert noted lighting is an ongoing issue of the Police Chief.

Mr. Litchfield also noted the Police Chief's comment that his department is being taxed by the development and they don't have the ability to write tickets there. Mr. Giblin explained the development is still being managed by New England Development, and he will discuss the ticket issue with them. Mr. Gould explained New England Development allows police on the property, but has not given permission to issue tickets. Private details are on the site as well.

Mr. Litchfield stated the grading on the ramp affects the drainage and causes icing. Mr. Giblin noted he will have to work with MEPA regarding the ramp, and will take care of that. It will be in the MassDOT study. Mr. Litchfield noted he received the traffic study on Thursday afternoon and has not had time to review it. He stated he would like to get wording as to things that need to be done.

In response to questions from staff regarding the site plan, Ms. Thompson said the site has been designed to allow for better circulation for trucks and emergency vehicles. Mr. Antanavica and Mr. Litchfield stated they were concerned there would not be enough room for stacking of vehicles and would like it to be a right-turn only. Mr. Thornton stated it is going to function as a 3-way stop. Ms. Thompson and Mr. Giblin stated if it's a problem, it can be one-way. Ms. Thompson stated the tenants may prefer to have it both ways, though. Mr. Giblin stated he does not mind making it at the town's discretion. Mr. Thornton stated they can take a look at the queue and if it doesn't impact operation, then there's no problem. Ms. Joubert stated this all works as long as Mr. Giblin and Mr. Depietri own the property. If it's at the staff's discretion that it needs to be changed, and the owner changes, it all works if you're dealing with the people present tonight. Mr. Nason asked if Mr. Giblin would be willing to agree to a right-turn only tonight. Mr. Giblin stated it's better without restricting it and their traffic people think it will be fine. Ms. Joubert asked who the restaurants would call if it becomes an issue. Mr. Nason stated staff wants to know how it will be enforced. Mr. Gould stated it will be done under the terms of the decision per a lawyer. Mr. Litchfield stated if they put it as a condition in the decision, and it doesn't work, the building inspector can enforce it.

Ms. Bakstran asked if there will be enough turning room for trucks in the development. Mr. Thornton replied the restaurants will not be open when trucks deliver.

Mr. Rand asked Mr. Thornton why there was an increase in traffic accidents this year at the ramp. Mr. Thornton replied there's just more traffic - up to 28,000 trips per day - with a large portion from AvalonBay and Northborough Crossing. An initial study indicted there were about 11 crashes per year on the westbound and eastbound ramps. Now the westbound ramps average 28 crashes per year and the eastbound ramps are down to 7 crashes per year.

In response to a question from Ms. Bakstran regarding the walls, Ms. Thompson stated they plan to use the same material as was used on the existing wall. They used a block pattern with a texture to it. Mr. Giblin stated he is well aware this area is the entrance into the town and he is concerned more with aesthetics and making the area look good than he is with saving money on a wall. Ms. Thompson noted they are replacing the originally planned 4-foot high chain-link fence on top of the wall with a black iron fence that has a decorative top.

Ms. Bakstran stated originally the Fire Chief indicated an Opti-Com system was to be installed and he was under the impression that it wasn't, or isn't, functioning. Ms. Thompson replied it is their understanding that it's for Route 20 and the Fire Chief is asking Mr. Giblin to have it included as part of their package. She noted it was a condition of the decision for the New England Baseball Enterprises site at 333 Southwest Cutoff.

Mr. Depietri stated Mr. Giblin has been a great partner, does a great job and has done everything they've asked of him. Whatever he says, he stands behind his words. He asked the board to consider this when they make their decision.

A memo from Amy Poretsky, Indian Meadow Drive and Planning Board member, indicated she is concerned about the wall and wants it to have the same appearance as the existing wall in front of Burger King.

Mr. Rand asked for comments from the audience and there were none.

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

Mr. Rutan commented the traffic seems to flow well there now and he is amazed he gets in and out as well as he does. Mr. Rand agreed, stating, with the exception of the intersection of Shops Way and Dick's Sporting Goods, everything flows well. Ms. Bakstran stated the development will bring a significant amount of traffic to the site. Mr. Rutan stated the pedestrian crossings are scary to him. Mr. Blanchette agreed, stating he would be scared with children using the pedestrian crossing. Ms. Bakstran stated as long as the crosswalks are on the north side and on the sidewalk by BJ's Gas, they can walk up and meet the intersection. She noted she likes the rumble strip idea. The Dick's Sporting Goods/BJ's Warehouse intersection is not an issue with the subject site. Mr. Rutan stated there is no pedestrian signal because there is no traffic signal proposed at the new intersection. They could ask for the big STOP sign with solar-powered lighting. Mr. Rutan stated he has no problem with the reduced-height wall. Ms. Bakstran stated she agrees, as long as the only change is the lowering of the wall and improvement to the fence.

Mr. Blanchette was concerned about the strain on the police and fire departments. Mr. Rand responded the Town Administrator is addressing that with the Police Chief and Fire Chief. Mr. Blanchette stated he thought the police and fire departments were getting more staff.

Mr. Rutan motioned to grant a Special Permit with Site Plan Approval per the plans dated 10/28/14 and with the conditions discussed during the hearing. Mr. Berger seconded the motion and the vote was 4 in favor, 1 opposed (Mr. Blanchette) to grant the Special Permit with Site Plan Approval.

#### **Next Meeting**

Ms. Joubert noted an application has been submitted for the November 25<sup>th</sup> meeting for 14 King Street. The Applicant is requesting to add the use of pre-owned vehicle sales on the site on which his use is auto repairs. The deadline for any other submittals is the end of this week.

The meeting adjourned at 9:10 pm.

Respectfully submitted,  
Debbie Grampietro