



# TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 6.23.15

## Zoning Board of Appeals Meeting Minutes February 24, 2015

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

**Others in attendance:** Kathy Joubert, Town Planner; Nick Antanavica, Building Inspector; Fred Litchfield, Town Engineer; Elaine Rowe, Board Secretary; Tim Shay; Donna Weaver, Northborough Food Pantry; Ann Taggart, Northborough Food Pantry; Helen Calverly; Amy Poretsky; Jodie & David Utter; Suzanne Russell; Jim Chapdelaine; Dale Schaetzke, 64 Barnard Street, Shrewsbury; Seth Donohoe, Acton Survey & Engineering; Attorney Jeff Leland; Andrew DeWolfe; Nick Muskopf; Paul Shattuck; Lincoln Merrihew

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

Mark Rutan made a motion to accept the extension request for 37 Pierce Street. Robert Berger seconded; and the vote was unanimous.

**Public Hearing to consider the petition of Try to Do Good, LLC for a Variance/Special Permit to allow the use of a food pantry (Northborough Food Pantry) in the Downtown Neighborhood District on the property located at 37 Pierce Street, Map 54, Parcel 62**

Tim Shay discussed his plan to renovate the property so that the Northborough Food Pantry can relocate there. He noted that this property provides more privacy for residents using the services of the food pantry.

Donna Weaver, co-director of the Northborough Food Pantry, stated that their current location in Town Hall has served the town well, but they have outgrown the space. She also agreed that maintaining privacy and confidentiality for the food pantry clients is difficult in the current location.

Chairman Rand voiced his opinion that this is a good use for the property. In response to a question from Ms. Bakstran, Mr. Shay confirmed that there will be no changes to the exterior of the property or the parking area.

Ms. Joubert referenced a review letter from the Fire Chief, in which he indicates he has no issues with the proposal. She also noted that the board has received letters voicing support from the Director of

the Food Pantry, Father Houston from St. Rose of Lima Church, and a resident who volunteers at the food pantry.

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

**Public Hearing to consider the petition of Andrew DeWolfe for a Variance/Special Permit to allow the use of pre-owned vehicle sales on the property located at 12-14 King Street, Map 82, Parcel 22**

Andrew DeWolfe explained that he is seeking a variance to allow used car sales on the property. He noted his desire to display 4 to 5 cars at the front of the parcel, with storage in the rear. He explained that approval will allow him to obtain a dealer's license, which will enable him to dispose of abandoned vehicles.

Mr. DeWolfe commented that he had just been handed a copy of a letter of opposition that was provided to the board. He noted that he makes every effort to keep his site tidy. He emphasized that he has no intention of turning this into a large dealership.

Ms. Bakstran voiced her understanding that Mr. DeWolfe's main objective is to obtain a class 2 license for used vehicle sales. She also stated that the vehicles being sold must be on the paved area only and questioned whether the applicant is comfortable with that condition. Mr. DeWolfe stated that he would prefer to display the cars on the driveway. Ms. Bakstran stated her preference that the driveway not be blocked in any way. Ms. Joubert asked Mr. DeWolfe to clarify that the driveway exiting onto Route 20 is the one he intends to use for displaying vehicles to be sold. Mr. DeWolfe confirmed that it is.

Mr. Rutan asked about the distance between the vehicles and the roadway, and suggested that the board may wish to impose a condition requiring that the cars be a minimum of 10 feet off the roadway. Ms. Joubert voiced her understanding that the driveway is 22 feet wide.

Ms. Poretsky stated that she was the author of the letter of opposition. She noted that the zoning bylaws were changed in 2009 to disallow used car lots in town, and voiced her opinion that approval of this application will set a precedent. She also commented that there are already 12 used car lots in town. Ms. Bakstran indicated that granting of variances does not create precedent. She also stated that there is no real change as the applicant is already selling vehicles on the property. Ms. Poretsky voiced her understanding that a use variance is allowed only if there is no other viable use of the property.

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

**Public Hearing to consider the petition of Franca Enterprise Services for a Variance/Special Permit/Special Permit Groundwater Protection Overlay District to amend ZBA Case No. 14-03 by allowing a three-story building with two 3-bedroom dwelling units (duplex) on the property located at 16 Hudson Street, in Groundwater Protection Overlay District Area 3, Map 63, Parcel 82**

Seth Donohoe explained that the applicant is seeking to amend the decision for the project on this property. He stated that the site plan and footprint are unchanged, and the only changes will be the addition of a third bedroom and a third story to incorporate a garage under each unit. He indicated that an architect's rendering was provided in the application packet to show the revised buildings.

Mr. Blanchette suggested that, technically, there are to be four stories. Ms. Bakstran indicated that the new building will be adjacent to the senior housing unit that is only one story. In response to a question from Ms. Bakstran, Mr. Donohoe indicated that the buildings will be 39' 9" tall. Chairman Rand asked about the rationale for increasing the size of the building. Mr. Donohoe indicated that the revision will result in the type of units that buyers are seeking, and there are no other options because the lot is only 5,000 square feet. Chairman Rand noted that the board had granted a variance to allow a duplex because of the small size of the lot, and voiced his opinion that adding a third bedroom seems excessive. Ms. Bakstran asked if the plan is to provide a one car garage for each unit. Ms. Donohoe confirmed that it is. Ms. Bakstran suggested that adding a third bedroom will increase the chances that there could be multiple cars for each unit. Ms. Bakstran asked if there will be basements for these units. Mr. Donohoe indicated that there will not. Ms. Bakstran also agreed that this is a lot of house for such a small lot.

Mr. Donohoe reiterated that the units will occupy the same footprint as the original. Ms. Bakstran commented that the additional bedroom invites a larger family resulting in more vehicles and more traffic on the small lot. Mr. Blanchette agreed that increasing the size of the house could result in an increased number of vehicles.

**Helen Calverly, 14 Hudson Street**, commented that the proposed project is overwhelming for such a small lot. She also voiced concerns about increased traffic in an area where conditions are already challenging.

Ms. Poretsky agreed that a 6,000 square foot building on a 5,000 square foot lot is excessive.

Mr. Litchfield stated that, because there were no changes to the impervious coverage and the project is on town water and sewer, the Groundwater Advisory Committee found no issues with the revisions.

Brad Blanchette made a motion to close the hearing. Fran Bakstran seconded; vote unanimous.

**Public Hearing to consider the petition of Raven Homes, Inc. for a Variance/Special Permit to allow the use of duplexes on two proposed lots, on the property located at 206 South Street, Map 83, Parcel 61**

George Pember appeared on behalf of the applicant to discuss the proposal. He noted that the property is in the Residential C zone, which allows duplexes under special permit. He explained that the property is currently the location of the Steiman home, and will be divided into 3 lots with the existing house to remain.

Chairman Rand asked how far the houses will be from the street. Mr. Pember indicated that this has not yet been determined. Chairman Rand asked if the lots are to be 30,000 square feet. Mr. Pember confirmed that they will be. Mr. Rutan asked if the buildings will encroach on any of the required setbacks. Mr. Pember stated that they will not.

Ms. Bakstran asked about access onto South Street. Mr. Pember stated that each duplex will have its own driveway. Ms. Bakstran voiced concern about three driveways coming out onto South Street at the curve in the roadway and asked if there had been any consideration about utilizing a single driveway. Mr. Pember commented that the Steiman family would prefer to maintain their privacy.

Ms. Bakstran asked about line of sight issues. Mr. Litchfield indicated that the board can recommend minimum sight distance as part of their decision. Mr. Rutan noted that the driveways will be on the outside of the curve, which is better for visibility. Ms. Bakstran stated that she has the same concerns as she did with the last duplex project on South Street and reiterated that she would prefer to see a single driveway.

Mr. Rutan asked if these units will be sold individually. Mr. Pember confirmed that they will be.

Ms. Joubert suggested that the board require the applicant to come back with plans showing where the houses and driveways are to be located. She also noted that there are some issues with the two duplexes that were built closer to town. Mr. Pember reiterated that the lots for this project are 30,000 square feet, whereas the lots for the other project were not as large and there was also a substantial drop off at the rear of the lots that restricted where the building could be placed. Ms. Joubert also agreed that a common driveway should be given some consideration.

Ms. Joubert indicated that the lots have been approved by the Planning Board under a simple ANR process. Mr. Rutan asked if the applicant would object to a condition restricting them to one driveway. Mr. Pember commented that a common driveway would require Planning Board approval. Ms. Joubert indicated that this is a fairly easy process and is typically approved. Ms. Bakstran stated that this does not address the line of sight issue. Chairman Rand asked if the applicant would be willing to come back to the board with more specifics. Mr. Blanchette agreed that he would be more comfortable making a decision with more details. Mr. Pember stated that, based on the size of the lots, he sees no issue with the placement of the buildings. He also stated that there is no viable reason for the board not to approve the application as submitted.

Mr. Berger voiced a preference for two driveways. Mr. Litchfield suggested that it is reasonable for the board to ask the applicant to provide details about driveway locations and sight distance. Chairman Rand found no issue with the proposal, and suggested that there are always hazards when pulling out onto a street.

Ms. Joubert indicated that a letter of opposition had been received.

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

**Public Hearing to consider the petition of Jodi and David Utter for a Variance/Special Permit to allow the use of a professional (psychologist's) office in the Residential C District and in Groundwater Protection Overlay District Area 1, on the property located at 222 Church Street, Map 43, Parcel 45**

Attorney Jeff Leland appeared on behalf of the applicant to discuss their plans. He noted that there are no changes proposed to the exterior other than some maintenance. Mr. Leland explained that the proposal requires two variances; one for the Groundwater Overlay District and a second for use.

Mr. Leland explained that the property has been used as a day care facility for 10 or more years. He indicated that the septic system was designed for 4 bedrooms (440 gallons of flow per day) and was built in 2003. He also noted that the proposed use will be less of a burden than the previous use, and there will be no chemical or hazardous waste generated.

Mr. Leland reiterated that the applicants are seeking a use variance for a professional office (psychologist's office). In addition, the Utter's are hoping to rent space in the building to four independent contractors.

Mr. Leland confirmed that there will be off-street parking, and noted that the location of the septic system limits what can be done on the lot. He reiterated that the proposed use will be less burdensome to the neighborhood and property, with anticipated hours of operation to be 8:00AM to 8:00PM at most. He also noted that, since day care centers are exempt, it would be possible to put another day care on the property.

Chairman Rand asked about signage. Mr. Leland stated that the applicant will comply with whatever is allowed. Mr. Rutan asked if the applicant would have any objection to a condition limiting operations to 7:00AM to 9:00PM. Mr. Leland requested that operations be allowed 7 days per week, in the event that emergency services are needed on Sundays from time to time. Mr. Rutan asked if any exterior lighting is to be added. Mr. Leland indicated that the applicant would like to do so for safety reasons, and has worked with the Building Inspector to determine the best way to address the issue with minimal impacts to the neighbors.

Chairman Rand asked about the amount of parking on the property. Mr. Leland noted that a parking design has not yet been prepared, but he expects that there will be 5 spaces provided in front with another 5 or 6 spaces in back by the garage. He also commented that, if there is to be an increase in parking, the applicant would be required to go back to the Groundwater Advisory Committee as well as the ZBA. Chairman Rand voiced concern about parking on the street. Ms. Bakstran noted that, since no delineated parking plan has been provided, the board has no way of ensuring that there will be sufficient parking provided. Mr. Antanavica explained that adequate parking and appropriate ADA access will be confirmed as part of the occupancy permit process.

Ms. Bakstran noted that exterior lighting will be needed and asked if our building requirements are sufficient to ensure that there will be no light pollution affecting neighboring properties. She suggested that the board either needs more details about the lighting plan or should impose conditions.

Mr. Litchfield explained that the Groundwater Advisory Committee has recommended approval with the condition that there be no increase to the septic system/septic loading.

Ms. Joubert voiced her opinion that signage would require a variance since the property is in the residential district. Mr. Antanavica indicated that signage is restricted to 2 square feet, so anything larger will require the applicant to come back to the board.

**Jim Chapdelaine, 220 Church Street**, noted that his wife had questions about expansions to the parking. Mr. Leland voiced a desire not to have to come back to the board, so questioned whether it might be possible to keep the lighting similar to that found on a residential property. He also noted that the oversized playpen structure on the property will be removed. Mr. Rutan asked if the playground equipment will be removed. Mr. Leland indicated that there was no discussion about doing so, but it is not needed as part of the practice.

Mr. Leland confirmed that there will be no prescription drugs on property.

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

**Public Hearing to consider the petition of Suzanne Russell for a Variance/Special Permit/Special Permit Groundwater Protection Overlay District Area 3 to allow the use of a canine hydrotherapy and rehabilitation center in the Business West District and Groundwater Protection Overlay District Area 3, on the property located at 276 West Main Street, Map 82, Parcel 12**

Suzanne Russell explained that her business is currently located in the Northborough Shopping Plaza across the street, but she has outgrown the space. She noted that she treats canine patients by appointment, and gets many of her referrals from the VCA nearby.

In response to a question from Ms. Bakstran, Ms. Russell confirmed that there will be no medications or prescriptions sold from this business.

Mr. Litchfield noted that the Groundwater Advisory Committee is recommending approval. He stated that there were several questions about chemicals to be used, especially given the presence of a pool. He explained that applicant has indicated that she will be using chlorine tablets, which pose no risk.

Mr. Litchfield discussed a need to verify parking for the entire plaza, and noted that the current use had a greater need than that of Ms. Russell's business.

Mr. Rutan asked about overnight stays for canine patients. Ms. Russell indicated that there are no plans for that, but she would like to have the ability to do so if the need arises.

Ms. Joubert asked if patients will access the business through the back door. Ms. Russell indicated that she will include signage to direct clients appropriately. Ms. Joubert noted that the board had received one letter of opposition. Mr. Rutan commented that the issues in the letter do not fall under the purview of this board. Ms. Bakstran asked if there is parking in the back of the building. Ms. Russell confirmed that there is.

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

**Public Hearing to consider the petition of Mali Realty I, LLC for a Variance/Special Permit/Special Permit with Site Plan Approval/Special Permit Groundwater Protection Overlay District Area 2 to allow the reconstruction of a pre-existing, non-conforming building, including an 1,800 square-foot addition, paved parking, drainage and landscaping for retail, medical, and professional office uses, with less than the required front yard setback, lot frontage and lot area, on the property located at 25 West Main Street, Map 63, Parcels 154 & 166**

Applicant Laurie Carbonneau; Mike Sullivan, Connorstone Engineering; Attorney Jeffrey Leland, Leland Law Associates; and Dan Wezniak, Silverstreet Architects, were present. Mr. Sullivan explained that the subject site at 25 West Main Street is 15,559 square feet in area and consists of two parcels of land - 25 West Main Street (6131 square feet) and 10 Rear Gale Street (9,438 square feet). He noted that it is in the Downtown Business District and Groundwater Protection Overlay District Area 3, and abuts Shattuck Pharmacy at 17 West Main Street and Bank of America at 31 West Main Street. He stated that the front parcel is developed as a commercial use building with associated parking to the rear of the building, and is serviced by Town water and sewer services within West Main Street. He also noted that the rear parcel is partially developed as a parking lot utilized by an abutter.

Mr. Sullivan explained the proposed plan, which includes the demolition of the rear portion of the building and construction of a 1,800 square foot building addition. He indicated that the building will be owner-occupied; and a retail use (bridal shop) and medical office use (plastic surgeon) will be located in the building. He stated that the proposed parking area will include 10 standard parking spaces and 1 handicapped-accessible space. He also noted that a drainage system under the parking area has been designed to mitigate the increase in stormwater runoff due to the proposed increase of impervious surface on the site and flow from the drainage system will ultimately discharge into the Town's system in West Main Street. Mr. Sullivan confirmed that access to the site from West Main Street will be via an easement on the abutting property at 10-Rear Gale Street. He indicated that, currently, there is no access to the site from Gale Street.

Mr. Sullivan explained that the proposed project requires a Variance for frontage and front setback requirements; a Special Permit for the reconstruction of a non-conforming structure; a Special Permit for the expansion of a nonconforming commercial use within Groundwater Protection Overlay District Area 3 on a lot with less than 20,000 square feet; a Site Plan Approval for an addition greater than 1,000 square feet; and an Earthwork Permit. He indicated that, per the zoning bylaw, the applicant is also required to provide 50% open space in the front of the site, but that is not going to happen and would

not happen even without the proposed addition. Mr. Sullivan stated that the proposal is for a 10-foot landscape buffer from a duplex on Gale Street and 25 feet is required.

Mr. Sullivan indicated that plans were presented to the Groundwater Advisory Committee who has provided a letter of support with conditions. He noted that the project has also been before the Design Review Committee, and they have not yet completed that process. He indicated that there are some landscaping and lighting issues that remain to be addressed, and suggested that the board continue this hearing until the issues with the Design Review Committee have been resolved.

Chairman Rand asked if the access to the proposed parking area is a deeded right-of-way. Mr. Leland responded it is and the information has been submitted to the Town Planner.

Dan Wezniak presented architectural renderings of the proposed building. He stated that they are not the final plans, as they have not completed the process with the Design Review Committee yet. He noted that the windows are slightly smaller because they are in treatment rooms. He also stated that the roof and lighting designs are comparable to the buildings at 130 Main Street and 137 West Main Street.

In response to a question from Mr. Rutan, Mr. Wezniak replied that the proposed uses are professional office and retail, with no residential use. He commented that the building has been designed with two units, and there will be three entrances; one in the front and one specifically for each business.

Mr. Blanchett questioned what will prevent people from parking behind Shattuck Pharmacy. Mr. Wezniak explained that a landscape plan was devised, which includes a written easement with the Bank of America. He noted that there will be no connection between the Shattuck Pharmacy parking lot and the parking lot proposed on the subject property.

Ms. Bakstran asked how this project plays into the traffic signalization. Mr. Sullivan explained that drivers will take a right turn into the site and a right turn out of the site at the traffic lights on West Main Street. He reiterated that they have no legal easement to use Gale Street.

Ms. Joubert explained that access was a substantial concern. She noted that Mr. Leland has provided the access easement document, and it is clear that they cannot legally get to the site from Gale Street. Ms. Joubert commented that there may or may not be some issues with Shattuck Pharmacy's driveway, and suggested that perhaps there should be some signage stipulating that it is only for use by patrons of the pharmacy. She noted that the deed does appear to have rights to come off of West Main Street.

Ms. Joubert reiterated that the applicant is still in discussions with the Design Review Committee, who is very happy with the building design. She confirmed that the DRC is scheduled to meet prior to the ZBA meeting on March 24, 2015.

Chairman Rand asked the applicant how she felt about continuing the hearing to March 24, 2015. Mr. Leland stated that the applicant understands that Design Review is required and would like to know if



the members of the ZBA have any issues that she should be aware of so that plans can be finalized for the next ZBA meeting.

Chairman Rand voiced his opinion that the project is a nice improvement for the center of town. Ms. Bakstran stated that there is no easy entrance from Shattuck Pharmacy and asked if they had proposed a fence to keep people from entering onto Shattuck's property. Mr. Leland responded that they have not yet discussed this with Mr. Shattuck, but will work with him regarding his issues. Mr. Rutan noted that a fence can be a nuisance and an obstruction, and could make both properties look worse.

Mr. Wezniak reiterated that there are three issues to be addressed for the Design Review Committee, which are signage for the front of the building; a change in windows for treatment rooms; and a change in the windows in the back corner of the building. He stated that, architecturally, it is not going to be much of a change a lot.

Mr. Sullivan noted that the existing vestibule is 11 feet off of the front property line, and they are proposing to push it forward another 6 inches to allow for the porch.

**Paul Shattuck, Shattuck Pharmacy**, stated that the proposed building looks nice and, since he has been an abutter to commercial space that has been abandoned for eight years, he would like to see the proposed improvements. He indicated that when the applicant first purchased the property, Ms. Carbonneau spoke to him, but he has not heard anything since and he is disappointed about that. He commented that the proposal looks like a huge addition and big building, and he has numerous concerns.

Mr. Shattuck commented that, currently, vehicles are not allowed to turn left into Bank of America, and he thinks people will use his area. He also stated that there appears to be a sidewalk from the applicant's property to his back lot. He noted that the proposal includes eleven parking spaces for a building of significant size, and questioned how many will be used by staff and how many will be left for patients and clients. Mr. Shattuck stated that his parking area appears to be closer for patients than the applicant's, which he believes will further encourage clients to use his parking lot instead of theirs. He also suggested that the narrow driveway between the two properties needs to be open at all times for deliveries and customers.

Mr. Shattuck stated that he has already dealt with two major construction projects that have cost him a devastating loss of business. He voiced concerns about this ambitious project, including demolition, renovation and construction, being done without affecting his parking lot and property. He indicated that he has plenty of parking for his customers but does need extra space for delivery vehicles. He reiterated his concerns about the cluttered parking and accessibility to the lot.

Mr. Shattuck asked where deliveries to the proposed building will be made, given their limited parking and access. He reiterated that his lot is closer to their entrances than their own parking, and stated that he would have preferred for the applicant to have worked more closely with him or at least kept him

informed. He stated that the renovation will be a welcome improvement to the property, but he doesn't want his business and livelihood to be adversely affected.

Chairman Rand asked Mr. Shattuck how he felt about the fence that was suggested. Mr. Shattuck responded that he does not want to be a bad neighbor and he does not want a fence, but he does have real concerns. Mr. Rutan noted that the existing building is currently sitting partially on Mr. Shattuck's property. Mr. Shattuck commented that this is the result of a human error at the time of construction and he has lived with it and had good relationships with his neighbors. He reiterated his beliefs that people coming from the east will use his lot. Mr. Rutan commented that delivery people will be more likely to know the traffic pattern there.

**Cynthia Poulos, owner of Classique Medical Spa at 17 South Street**, stated that traffic will increase and it will be a real issue for her clients who have to go through the light to get to her business. She indicated that she has two parking lots and people use her lot and push snow onto it. She asked if Bank of America is going to allow the applicant to use their lot for snow storage and overflow parking because there is no room for snow on their lot. Ms. Poulos also stated that they all suffer the same types of issues, with limited parking, limited access and parking issues. She also asked if the apartment in the existing building will remain. Mr. Wezniak stated that it will not.

Attorney Jeff Leland noted that, as a business owner in the area himself, they all have to deal with snow. He stated that, presently, the applicant's lot is being used by abutters for snow storage. He also noted that deliveries will be by UPS, not 18-wheelers.

Mr. Sullivan stated that, from a construction standpoint, sequentially, there will be a pad for all construction vehicles on which to park; the site will be brought to grade; and a gravel binder coat will be put down so they don't use Mr. Shattuck's or Bank of America's parking areas for construction vehicles. He added that the applicant will meet with Mr. Shattuck to review what will happen and outline the steps so that he will be comfortable before the start of construction. Mr. Shattuck stated that he would like to meet with the engineer, architect, applicant and attorney. Mr. Wezniak stated there are still a number of steps to be completed and, once they are, a meeting can be arranged. He agreed that someone should have spoken to Mr. Shattuck. Ms. Carbonneau commented that she is still trying to determine what she can put on the site.

**Lincoln Merrihew, 3 Country Candle Lane**, expressed excitement about something being done with this abandoned property. He noted that the former business, Lowe's Market, had frequent traffic and voiced his opinion that the proposed use will be a lower impact than that of Lowe's Market and other options.

**Attorney Roger Leland, 20 South Street**, stated that he has known Paul Shattuck for a number of years and is an abutter to his property and the subject property. He stated that Mr. Shattuck is a good neighbor and he understands his concerns, but he is happy to see the project. He voiced support for the plan, stated his belief that Ms. Carbonneau will be a good neighbor, and agrees that this project will be an asset to the downtown area.

Ms. Bakstran requested that, between now and the March meeting, she would like to see the neighbors' concerns regarding deliveries and construction addressed. She suggested that a back door entrance may not be easily accessible.

Fran Bakstran made a motion to continue the hearing to March 24, 2015 at 7:00PM. Brad Blanchette seconded; vote unanimous.

**Public Hearing to consider the petition of Richard J. Gabriel for a Variance/Special Permit to allow the non-conforming use of a therapeutic massage and spa business to replace the pre-existing, non-conforming use of a chiropractor office on the property located at 37 South Street, Map 63, Parcel 175**

Attorney George Pember discussed the applicant's request for a business use in a residential zone. He noted that, under normal circumstances, this use would not be allowed but since the building has been used for business purposes for years, he is asking the board to allow another business use. Chairman Rand asked how many other businesses are in the building. Mr. Pember stated that he believes there are five, but he is not positive.

Dale Schaetzke explained that his wife, Ruifang, is the prospective tenant for the space. He noted that the space is located on the north side of the building, previously occupied by a chiropractor. He also indicated that, while they would prefer to have no restrictions on hours of operation, his wife is hoping to operate from 10:00AM to 9:00PM, 7 days per week. He voiced his opinion that the proposed use is not detrimental to the neighborhood.

Ms. Bakstran asked if Ruifang will be a sole practitioner. Mr. Schaetzke indicated that initially she will be, but more practitioners may be added as the business grows.

Mr. Pember confirmed that there will be no alterations to the exterior of the property. Ms. Bakstran requested that the applicant comply with signage regulations. Mr. Schaetzke asked if an illuminated "open" sign is allowed. Mr. Antanavica confirmed that it is, but it cannot flash or blink.

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

**Public Hearing to consider the petition of Barry Rocha/Barry's Auto Sales, Inc. for a Variance/Special Permit/Special Permit Groundwater Overlay District, to extend/expand the pre-existing, non-conforming use of pre-owned car sales by increasing the number of vehicles stored on the site from 58 to 80, on the property located at 25 Rear Bartlett, in Groundwater Protection Overlay District Area 2, Map 47, Parcel 96**

Chairman Rand voiced his understanding that this application was withdrawn.

Mark Rutan made a motion to accept the applicant's request for withdrawal without prejudice. Fran Bakstran seconded; vote unanimous.

Members of the board took a brief recess at 9:00PM; meeting resumed at 9:05PM.

## **DECISIONS**

**37 Pierce Street** – Members of the board agreed that this is a great use for the property.

Mark Rutan made a motion to grant a variance to allow the use of a food pantry on the property located at 37 Pierce Street. Robert Berger seconded; vote unanimous.

**12-14 King Street** – Ms. Bakstran stated that she is not in favor of allowing 4 cars on the driveway, and would prefer to see three vehicles on the flat portion. She expressed concern about the appearance of these vehicles being displayed on a driveway that is used as a main entrance. Members of the board agreed that they would prefer to allow a maximum of three vehicles to be parked on the paved area above. Mr. Berger indicated that he is still opposed to approval. Mr. Antanavica commented that, from a safety standpoint, the Fire Department will not permit vehicles to be parked in the entrance.

Fran Bakstran made a motion to grant a variance to allow the use of pre-owned vehicle sales on the property located at 12-14 King Street with the condition that said cars will not be displayed anywhere other than on the paved flat surface on the south side of the property near the inspection/bay area, with no more than 3 vehicles to be displayed at any time. Mark Rutan seconded; vote was 4 in favor and 1 opposed (Robert Berger opposed).

**16 Hudson Street** – Members of the board agreed that the revised proposal is too excessive, and that an additional bedroom will increase the parking needs on the site. Mr. Berger noted that approval for a duplex development with 2 bedrooms per unit has already been granted. Ms. Bakstran commented that the special permit granted to allow the 2-family dwelling in the groundwater area does not go with the property, but it is up to the applicant to figure out how to proceed.

Mark Rutan made a motion to grant a variance and a special permit to allow for a third bedroom to be added to each unit and for a third floor to be added to the duplex. Fran Bakstran seconded; vote was 0 in favor and 5 opposed. Motion denied.

**206 South Street** – Ms. Bakstran indicated that she is not certain she can support the project, given that her issues with the driveway and line of sight were not fully addressed prior to the hearing being closed. Mr. Rutan noted that the applicant has the right to build two single family homes with two driveways, so he sees no reason to put a restriction on this project. Mr. Berger expressed a preference for only one driveway for each duplex. Ms. Bakstran commented that this project involves four households using two driveways instead of two households, and suggested that these could be large duplexes.

Ms. Bakstran also mentioned the potential for these duplexes to be placed far from the street, which will involve a lot of asphalt. Chairman Rand and Mr. Berger agreed with Mr. Rutan's position about there being two buildable lots on the property. Mr. Rutan stated that he sees very little difference in traffic impacts between a duplex and a single family home. Ms. Bakstran reiterated concerns about the

line of sight, and suggested that the decision include a condition that the driveway locations must adhere to the required 200 foot line of sight for safety reasons. She also stated that if the driveways cannot be placed safely, then a single shared driveway may be better.

Mr. Blanchette stated that he would have preferred to have more information as well. Mr. Litchfield explained that there must be a minimum of a 200 foot sight distance from the end of driveway, and there is a method that the engineer uses to calculate that. Ms. Bakstran emphasized that she would like the board to do its due diligence and do what they should do. She stressed that this project involves four families, which doubles the impact and therefore warrants caution. She reiterated her desire to ensure that the driveways will not pose safety issues. Mr. Blanchette agreed that he would like to see conditions included in the decision. Mr. Rutan agreed. Chairman Rand noted that there are two house lots on the opposite side of the street that will not have a 200-foot line of sight.

Fran Bakstran made a motion to grant a special permit to allow the use of duplexes on two proposed lots with the condition that the line of sight for the proposed driveways must meet the required 200 feet in either direction. Robert Berger seconded; vote unanimous.

**222 Church Street** – Mr. Berger asked about the possibility of including conditions about lighting in the decision. Mr. Rutan suggested that they be similar in character to residential lighting. Mr. Antanavica stated that the town has a lighting ordinance that does not allow for spread over property lines.

Fran Bakstran made a motion to grant a variance to allow the use of a professional (psychologists) office in the Residential C District and in Groundwater Protection Overlay District Area 1, on the property located at 222 Church Street with the following conditions:

- Hours of operation are limited to 7:00AM to 9:00PM.
- A parking plan is to be provided, and parking must be adequate to meet the requirements of the Zoning Bylaw.
- Applicant must ensure that there is no parking on Church Street.
- Lighting plan to be provided and must be in conformance with residential lighting.
- Playground structure and fence are to be removed.
- No toxic or hazardous material to be kept onsite.
- The septic loading limit shall not be increased over the existing limit.
- The applicant shall verify the existing impervious cover for this site (or in the proposed condition if additional parking spaces are required), prior to the issuance of a building permit and this information shall be kept on file in the Building Department.
- If any site plan changes are proposed to provide additional parking spaces 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).

Mark Rutan seconded; vote unanimous.

**276 West Main Street** – Mr. Rutan indicated his desire to limit the number of overnights to no more than 12 overnights per calendar year in order to prohibit the facility from becoming a kennel.

Fran Bakstran made a motion to grant a special permit and a special permit Groundwater Protection Overlay District Area 3 to allow the use of a canine hydrotherapy and rehabilitation center in the Business West District and Groundwater Protection Overlay District Area 3 on the property located at 276 West Main Street with the following conditions:

- Dogs may be kept overnight no more than 12 times in a calendar year.
- The only hazardous materials to be stored onsite will be a container of small chlorine tablets which presents minimal risk to the groundwater.
- All patients shall be walked on a leash and all waste shall be removed immediately.
- Adequate parking must be verified with the Building Inspector.

Mark Rutan seconded; vote unanimous.

**37 South Street** – Ms. Bakstran voiced her opinion that the use makes sense, and is not much different from the previous use. Members of the board agreed.

Mark Rutan made a motion to grant a special permit to allow the non-conforming use of a therapeutic massage and spa business to replace the pre-existing, non-conforming use of a chiropractic office on the property located at 37 South Street, with the conditions that hours of operation be limited to 8:00AM to 9:00PM, 7 days a week. Brad Blanchette seconded; vote unanimous.

### **Consideration of Minutes**

Fran Bakstran made a motion to approve the Minutes of the Meetings of September 30, 2014, October 28, 2014, November 13, 2014, and November 25, 2014 as submitted. Robert Berger seconded; vote unanimous.

**March ZBA meeting** – Ms. Joubert noted that an application for a special permit was submitted by Bistro Limoncello because of a change in ownership.

**Adjourned at 9:50PM.**

Respectfully submitted,  
Elaine Rowe  
Board Secretary