



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 10/27/15

Zoning Board of Appeals Meeting Minutes September 29, 2015

Members in attendance: Fran Bakstran, Chair; Mark Rutan, Clerk; Richard Rand; Jeffrey Leland; Brad Blanchette

Others in attendance: Kathy Joubert, Town Planner; Joe Atchue, Building Inspector; Fred Litchfield, Town Engineer; Elaine Rowe, Board Secretary; Mo Bayou; John Grenier, JM Grenier Associates; Attorney Marshall Gould; Jim Blair, U-Haul; Randy Waterman, Waterman Design; Tom & Deb Blasko, 18 Pondview Way; Adam LeBlanc; Kelly Barger; Kristine McEnchern; Cheryl Gavin

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

Continued Public Hearing to consider the petition of 240 Turnpike Inc. for Variances/Special Permits to allow a proposed 50-foot by 17-foot Pylon sign to be larger than the maximum allowed area of 100 square feet; to allow the proposed sign to be of a height greater than the maximum allowed height of 20 feet; and to allow the proposed sign to be located on 1C Belmont Street (Route 9) for the purpose of advertising businesses located at 370 Southwest Cutoff (Northborough Crossing)

Mo Bayou, property owner, and John Grenier, JM Grenier Associates, appeared to discuss the proposal. Mr. Grenier noted that, at the last meeting, the board had asked the applicant to meet with adjacent property owners to address landscaping plans and any other concerns. Ms. Joubert provided color renderings of the proposed sign, landscaping details, and a draft letter from Mr. Bayou (copy attached) that were submitted by the applicant. Mr. Grenier explained that the 3.5-acre parcel is located on the westbound side of Route 9 just east of the off-ramp for Route 20. He stated that the rear portion of the property has a perennial stream, which limits development on the site. Mr. Grenier noted that only about 1 acre is developable and the existing septic system cannot be expanded due to wetland/riverfront regulations.

Mr. Grenier stated that Mr. Bayou has looked at several options for development on the site, including the relocation of his existing auto sales lot, but determined that the costs of construction were not feasible. He also noted that Mr. Bayou looked into the possibility of selling the property for a more intense use such as specialty retail or a small restaurant, and cited a hardship due to the inability to expand the septic system and the lack of town water and sewer in the vicinity.

Mr. Grenier stated that Mr. Bayou recognized a problem with limited signage for the shops in the Northborough Crossing development, so has proposed placing a pylon sign on his property to provide signage for some of the smaller shops in that development. Mr. Grenier also indicated that Mr. Bayou is willing to restrict signage to only those businesses located within Shops Way, the Avalon Bay property, the 920 LLC development, and the New England Baseball site. In addition, Mr. Grenier stated that Mr. Bayou will agree to a condition requiring maintenance and upkeep of the sign, stone wall, landscaping, and lawn area. Mr. Grenier voiced his opinion that the proposed pylon sign offers the following benefits:

- Provides direction for traffic travelling onto Route 20 eastbound
- Supports local businesses by creating visibility on Route 9
- Assists in alleviating hardship on locus property due to existing site conditions
- Creates better presence on Route 9 for the Town of Northborough

Ms. Bakstran noted that the new rendering shows a four-foot high granite wall with planting area, and asked if that area is included in the height calculation for the sign. Mr. Grenier confirmed that it is, and reiterated that the sign will be 50 feet high.

In response to a question from Mr. Rand, Mr. Grenier stated that the sign will be 5 to 10 feet off of the right of way and 40 feet from the travel way. Mr. Rand asked about the distance between the sign and the off-ramp. Mr. Grenier noted that it is approximately 300 feet from the ramp, with sufficient visibility for it to be seen well before the ramp. Mr. Bayou stated that the balloon test confirmed that the sign will be visible from the Casa Vallarta Mexican restaurant to the east.

Ms. Bakstran commented that the initial intent was to help smaller businesses within the Northborough Crossing development but it now appears that Mr. Bayou intends to include other businesses on the sign, which is contrary to the intent. She asked Mr. Bayou why he has opted to broaden it. Mr. Bayou stated his desire to be able to fill the sign, and indicated that he will approach the smaller shops in Northborough Crossing initially and only approach others if he is unable to fill it. Mr. Rutan voiced concern that drivers will see the sign and pull into the driveway before it. Mr. Bayou noted that the sign will include the directional instruction of "next right". Mr. Rutan suggested removing the paved driveway to avoid confusion.

Ms. Bakstran noted that Mr. Bayou is seeking permission to illuminate the sign 365 days per year from dusk to 11:30PM, and voiced her opinion that this is a bit extreme. Mr. Bayou explained that he had proposed this at the request of Mr. Depietri. Mr. Grenier suggested that any restrictions on the illumination of the proposed sign should be consistent with the other pylon sign on Route 9. Mr. Bayou agreed to dim the sign to 50% illumination during certain hours out of consideration for the neighbors.

Mr. Grenier noted that, at the last meeting, there were some concerns about this sign being associated with Shops Way and their brand. He stated that the purpose of the proposed sign is not to detract but to be a betterment, and the applicant is agreeable to conditions requiring

maintenance and upkeep. Mr. Grenier noted that the majority of shoppers coming to the area come from Route 9, and voiced his opinion that the sign will be a benefit and not negatively impact the brand.

Mr. Rand asked what will be contained on the opposite side of the sign. Mr. Bayou stated that both sides will be identical, with the exception of the “next right” directive.

Ms. Bakstran asked Mr. Bayou if he intends for the pylon sign to be the only use on the property. Mr. Bayou stated that he still intends to locate his car dealership on the lot, and the income from the sign will help alleviate some of the financial issues to do so. Mr. Grenier noted that the plans for the dealership that were approved have the building set back on the lot so there should be no issues with the building or vehicles blocking the sign. Ms. Joubert asked where Mr. Bayou will locate the sign for his car dealership. Mr. Bayou indicated that he will use the existing sign that is located on state property. Ms. Joubert suggested that the board could impose a condition that no additional signage can be placed on the site.

Attorney Marshall Gould, representing Kevin Giblin and Bill Depietri, stated that his clients were not previously notified about this project because they are not direct abutters, but learned about it through a phone conversation. He explained that Mr. Giblin is the original developer of the Northborough Crossing project, and he and Mr. Depietri are the remaining owners (920 LLC) of approximately 20 acres still being developed there. He noted that his clients have major concerns that were expressed at the previous meeting. He stated that, though they believe it is beneficial to help some of the smaller businesses, they remain concerned about maintaining the integrity of the brand and protecting an investment of over 100 million dollars.

Attorney Gould voiced concern about the proposed sign being located on a site that will also contain a used car dealership, and the negative impact that might have on the public perception of the Northborough Crossing development. He also commented that the renderings demonstrated what the lot will look like with the pylon sign, but did not show the sign surrounded by a used car lot. He reiterated his client’s concerns about preserving their brand.

Attorney Gould noted that 370 SW Cutoff is Northborough Crossing, but what is being represented goes beyond the scope of the application. He voiced concern that the applicant had not discussed his proposal with the owners of Northborough Crossing, and had agreed to do so at the last meeting to ensure that the tenants in the smaller stores actually get what they want and receive the protection they are seeking. He stated that neither Mr. Giblin nor Mr. Depietri had been contacted by the applicant until last week when Mr. Giblin was out of town. He indicated that Mr. Giblin and Mr. Depietri had met earlier today and decided that this is not something they can support. He explained that it is possible to use the Borgatti parcel and achieve the same result without the sign being in the midst of a car dealership. He asked the board to deny the application or to require the applicant to go back and meet with the owners of the 370 SW Cutoff property.

Ms. Bakstran asked for clarification about the location of the sign. Mr. Bayou noted that the placement of the sign was based on the appropriate angle for traffic travelling westbound on Route 9. Mr. Grenier commented that the sign will not be in the middle of a used car lot. He noted that the area within the right-of-way will be a maintained lawn area, and any type of development will be in the rear portion of the site. He also noted that the vehicles Mr. Bayou sells are all late model cars, and not broken down clunkers. Mr. Bayou stated that any further development will also go through Design Review. Mr. Grenier voiced his opinion that the Borgatti site does not offer the best visibility and does not work as well.

Mr. Grenier explained that he had spoken to Mr. Depietri two weeks ago and had provided him with copies of the landscaping plans and renderings, which Mr. Depietri had agreed to discuss with Mr. Giblin. He explained that he had subsequently reached out to Mr. Depietri to address any issues. He noted that Mr. Depietri had sent a letter to Ms. Joubert proposing conditions, which he later rescinded with an intention to remain neutral. Mr. Grenier commented that the fact that Attorney Gould is claiming that his clients are completely opposed to the proposal comes as quite a surprise to both he and the applicant as it is contrary to every conversation he has had with them. He also noted that it now appears that Mr. Giblin and Mr. Depietri are interested in installing a similar sign on a nearby parcel.

Mr. Leland asked about the location of the grandfathered septic system and where the proposed building will be. Mr. Grenier noted that the septic system is in the far easterly section of the lot. Mr. Rand indicated that the formal plans show the building directly in front of the driveway. Mr. Grenier confirmed that location to be correct, but reiterated that it will be set back on the lot and will not block the proposed sign.

Mr. Leland asked the applicant if he would have an issue if the board approved the petition with a condition that there can be no vehicles within 50 feet of the sign. Mr. Bayou stated that this condition would eliminate much of the customer parking. Mr. Leland reiterated that parking cars around the sign is of concern to Attorney Gould's clients. Mr. Bayou noted that the sign will be raised up off of the ground. Mr. Blanchette suggested a condition prohibiting cars from being parked to the west of the sign. Mr. Leland suggested a condition limiting the percentage of sign space that can be used for the larger box stores. Mr. Bayou reiterated his desire to cater to the smaller stores, but emphasized the need to fill the sign. He also commented that the existing pylon sign on Route 9 has had a vacancy for quite some time.

In response to a question from Mr. Rutan, it was noted that the Supercuts store is approximately 1,300 square feet and the EMS store is 14,000 square feet.

Mr. Rutan asked if there would be an issue if the board imposed a condition that no more than 30% of the sign can be used for stores greater than 20,000 square feet. Mr. Bayou agreed, as long as he has the ability to fill the sign. Ms. Joubert asked if the sign would be limited to stores in the Northborough Crossing development. Attorney Gould noted that, at the last meeting, there was some concern from the board about the applicant advertising businesses on other properties, which is exactly what he is here proposing to do tonight. Ms. Joubert stated that this

is the first sign in town during her tenure not to be located on the property that it is advertising. She noted that, while decisions are individual and not precedent-setting, this petition seems substantial and very precedent-setting. She also questioned whether the board would be interested in seeing a rendering showing both the pylon sign and the used car dealership.

Mr. Grenier voiced his understanding that the existing pylon sign on Route 9 is on a property that is not the same as the businesses it advertises. Ms. Joubert noted that that property is owned by Equity One, who is the current owner of Northborough Crossing. Mr. Grenier commented he thought that the Route 9 sign is on property owned by 920 LLC.

Mr. Grenier discussed previous conversations about conditions that would prevent display cars from interfering with the pylon sign. He also noted that, since the proposed building will be set back on the site, it will not be a hindrance either. Ms. Bakstran asked if there will be parking spaces on both sides of the pylon. Mr. Grenier confirmed that there will be.

Mr. Bayou explained that his proposal to advertise businesses from other parcels in addition to Northborough Crossing businesses resulted from discussions during the board's last meeting. He reiterated that one of the main purposes for installing the sign is to assist with traffic flow.

Ms. Rutan noted that the New England Baseball facility will include other uses. Ms. Joubert voiced her understanding that the building under construction is completely leased, but there are two other pads and the existing pro shop that could potentially be used for additional tenants who at this point have not been identified.

Adam LeBlanc, Manager of the GNC Store, explained that he had recently relocated to this store and hears very often that people are not aware his store is in the development. He voiced his opinion that this sign on Route 9 will be very beneficial.

Mark Rutan made a motion to close the hearing. Richard Rand seconded; motion carries by unanimous vote.

Public Hearing to consider the petition of U-Haul International, Inc. for Variances/Special Permit/Special Permit, Groundwater Protection Overlay District, to allow the uses of self-storage, warehouse storage, retail sales, equipment rental and storage of vehicles, boats and recreational vehicles related to a U-Haul business, as well as appropriate signage visible to Interstate 290 and Bearfoot Road, on the property located at 40 Bearfoot Road

Attorney Marshall Gould introduced Jim Blair from U-Haul and Randy Waterman from Waterman Design, and discussed plans for the 10-acre parcel located in the industrial zone with frontage on Bearfoot Road and abutting Route 290 to the rear. He explained that the existing building, previously occupied by Peterson Spring, has been vacant for a couple of years. Attorney Gould noted that the property is attractive to U-Haul because of its proximity to the highway.

Attorney Gould indicated that U-Haul intends to use the existing 61,530 square foot building, most of the existing paved areas, and is proposing construction of a small 2500 square foot warehouse at the back of the property. He noted that the applicant had met with the Groundwater Advisory Committee and, based on their input, has opted to come to the ZBA for input before doing the engineering work required for groundwater protection.

Attorney Gould noted that the applicant is seeking to include a self-storage facility on the property, in addition to the vehicle and equipment rental. He also explained that storage of certain vehicles will be allowed, but approvals needed in connection with aquifer protection will be addressed at a later date. He explained that the proposed uses listed below are similar to what previously existed on the site, but approval is required due to the adoption of the aquifer protection bylaw.

Proposed uses include:

- Retail sales and leasing of products
- Self-storage facility
- Outdoor storage of vehicles (to be addressed when the applicant comes back for approval of special permits)
- Typical equipment rental (small vans, trucks, etc.)

Attorney Gould noted that signs in the industrial area are not to exceed 200 square feet. He stated that, since this property faces both Bearfoot Road and Route 290, the applicant is seeking approval for a large freestanding sign facing Route 290. He noted that, since the property is at a lower elevation than the roadway, the applicant is also seeking approval for the sign to be higher than the 20 feet that is allowed in the bylaw.

Attorney Gould voiced his opinion that the site is appropriate for the proposed use and that such use will not constitute a substantial detriment to the public good. He noted that uses allowed by right in the bylaw include sales of grain, lumber yard, construction, and garden supply. He also stated that the bylaw allows for transportation and distribution uses, all of which are much more intense uses than what is proposed. He suggested that the proposed use is less extreme in terms of traffic, less threatening to the environmental resources and water supply, and is compatible with uses on adjoining parcels. He noted that the applicant would have the ability to locate this facility in many areas in downtown Northborough as a matter of right, but the close proximity to Route 290 makes this location much more ideal. He also stated that the topography of the site and location issues are such that the proposed uses, sign requirements, and access are all appropriate.

Mr. Rutan asked if the interior of the existing building will be used for individual storage units. Mr. Blair confirmed that it will be. Mr. Rutan asked about inside storage of lawnmowers or similar equipment. Mr. Blair noted that no equipment with gasoline, propane, or other flammable materials will be permitted to be stored indoors. Ms. Bakstran asked if the units will

be heated bays that small businesses sometimes operate from. Mr. Blair explained that there will be no electricity in the storage units.

Mr. Rand asked about the height of the sign, and the elevation difference between the parcel and Route 290. Attorney Gould stated that the applicant is not seeking approval of a specific size for the sign just yet, and will address this during site plan review. Mr. Waterman noted that the grade at the west corner of the parcel is about 10 feet lower than Route 290 and, while he expects the sign will need to be higher than 20 feet, they have not yet done sufficient work to clearly define what is required.

Ms. Joubert explained that a special permit for groundwater in the industrial district would go before the Planning Board per the town bylaw. Attorney Gould voiced his understanding that, in conjunction with site plan review, the application would go before the ZBA. Ms. Bakstran noted that that issue has no bearing on tonight's decision.

Mr. Litchfield confirmed that the applicant had been before the Groundwater Advisory Committee and, though they had nothing specific to look at, they have no objections to the use variances so long as there are no variances from the groundwater bylaw.

Tom Blasko, 18 Pondview Way, noted that the Peterson Spring operation did not involve a heavy use of the site, and there were typically only about a dozen cars in the lot on any given day and one freight truck daily around 5:00PM. He asked if the storage facility will have 24 hour access. Mr. Blair indicated that hours of operation will be 7AM – 7PM Monday through Thursday, 7AM -8AM on Friday with limited hours on Saturday and Sunday. In response to a question from Mr. Blasko, Mr. Blair confirmed that the outdoor storage area will be fenced and gated. Mr. Blasko discussed the applicant's plans to allow storage of recreational vehicles and boats and asked what would prevent someone from dumping a tank on the ground. He asked what type of oversight will be in place to ensure compliance and guarantee that no inappropriate materials are brought onsite. Mr. Blair stated that staff will be onsite during move-in, and cameras will be used to monitor activity.

Mr. Blasko asked for clarification on the variance. Ms. Bakstran explained that a variance is specific to the property it is located on, and each must stand on its own merit. Mr. Blasko stated that he does not wish to see boats, box trucks, or an oversized sign from his property on Pondview Way.

Ms. Bakstran asked about the exterior façade. Mr. Waterman stated that the intention is to paint the exterior. Ms. Bakstran asked about signage. Attorney Gould explained that the sign on the Route 290 side of the property will need to exceed what is allowed in the bylaw.

Attorney Gould stated that the applicant is not asking for specific permission for the vehicle storage at this time, but will address the issue during site plan review when the board will have the ability to impose conditions. He also noted that the proposed retail area and most of the storage will be at the rear of the site.

Mr. Blasko noted that, along the section of Solomon Pond Road near this site, two lanes of traffic funnel down to one. He voiced concern about box trucks trying to navigate that, as it already presents problems for traffic. He also reiterated his concerns about recreational vehicles being stored onsite. Attorney Gould indicated that vehicle storage is not expected to be a large part of the business, and it is in the businesses best interest to ensure compliance with regulations to prevent spills. Mr. Blasko stated that his home is located on the pond and expressed concern about the impacts to water quality. He also asked if the applicant had looked at other locations in town. Mr. Gould commented that this will be a company-owned store, so quality controls and site conditions will be much better maintained. Ms. Blasko also expressed concern about the vehicle storage and security measures to ensure safe operations. Attorney Gould agreed to try to address these concerns and noted that the board can condition the decision to guarantee compliance and protection.

Ms. Blasko also noted concerns with truck traffic on Bearfoot Road, especially with the heavy impacts when trucks cross the train tracks. Ms. Bakstran asked Mr. Litchfield to look into the matter, and he agreed to do so.

Mark Rutan made a motion to close the hearing. Richard Rand seconded; motion carries by unanimous vote.

Consideration of Minutes – Mark Rutan made a motion to accept the Minutes of the Meeting of August 25, 2015 as submitted. Jeff Leland seconded; motion carries by unanimous vote.

DECISIONS:

1C Belmont Street – Mr. Rutan voiced support of the proposal, given the need for signage for the smaller shops and the value of providing direction for shoppers travelling to Northborough Crossing. He also suggested that the applicant will be encouraged to maintain the property so as not to lose tenants for the sign. Mr. Blanchette agreed, but indicated that he would be in favor of imposing conditions. Ms. Bakstran stated that, while she finds merit in the proposal, she also has a desire to uphold the intent of a variance, which is to provide an alternative for a property that cannot be used for an allowable purpose. She noted that, if the parcel were only to be used for the placement of the pylon sign, she would be comfortable with approving a variance. However, she believes that the intention to include a used car lot on the parcel negates the need for a variance. She commented that she would support allowing either the sign or the used car dealership, but reiterated that allowing both is not within the bylaw.

Mr. Rand stated that, while the sign is beneficial for directional assistance, it is just a giant billboard. He noted that the Town of Westborough allows billboards and, while there are several of them along Route 9, he does not see any of the Northborough Crossing businesses being advertised on any of them. He suggested that the pylon sign is not absolutely necessary. Mr. Rutan commented that the location just prior to the off-ramp is valuable, and reiterated his support for the sign. Mr. Rand agreed that the sign may be safer for traffic travelling to the

development. Ms. Bakstran asked if the safety component is minimized by wrapping a used car lot around the sign. Mr. Rutan indicated that the cars will be below the level of the sign and will not interfere.

Mr. Leland stated that, while he believes the sign makes sense, he would be in favor of limiting use of the sign to the small businesses in Northborough Crossing. He also suggested that, in the absence of more dialogue between Mr. Bayou and the other property owners, he is not as supportive of the proposal as he was originally. Ms. Bakstran reiterated that the variance is not justified if there is an alternate use for the property. She also noted that the town has not historically allowed signs on properties other than that of the business being advertised. She also voiced her opinion that the majority of shoppers use the internet or a smartphone to locate businesses.

Mr. Rutan indicated that he has no issue with the conditions as previously discussed, but would add a condition allowing only 1/3 of the total signage area to be used to advertise stores larger than 20,000 square feet. Ms. Bakstran asked if this decision has any impact on the previous decision rendered for this parcel. Ms. Joubert stated that the board must consider this application as a standalone ruling, and noted that the board can impose an unlimited number of conditions including one that would allow the sign to be the only use on the property. She also suggested that the board consider a "sunset clause" that would require the applicant to remove the sign if the applicant fails to secure sufficient tenants for it. Mr. Rand voiced support of the suggestion to allow only this single use on the property. Ms. Bakstran agreed, but commented that she would still like to impose the other conditions as discussed.

Ms. Joubert asked if both sides of the sign need to be identical. Mr. Rutan stated that he sees no need to require that they be, but would allow only 1/3 of each side of the sign to be used by stores larger than 20,000 square feet.

Ms. Bakstran asked the board if they agree to the stipulation about an exclusive use. Mr. Rutan confirmed that he would, and noted that the applicant can come back to the board with an alternate proposal. Ms. Bakstran asked about other conditions to be imposed, since the rendering provided does not look anything like the property or what she envisions. Mr. Rutan stated that he is comfortable with plantings around the sign, the elevation of the sign, and planting and maintenance of grass in the state right-of-way. Ms. Joubert noted that the sign is not to be illuminated between midnight and 6AM. Ms. Bakstran suggested that the sign may be illuminated only during normal business hours or in compliance with the bylaw, whichever is earlier. She also indicated that she would be in favor of reducing the illumination by 50% after 10:00PM. Mr. Rutan asked if this would be enforceable. Mr. Atchue stated that it would be difficult.

Mark Rutan made a motion to grant a variance to allow a pylon sign on the property advertising businesses located on another property, with a size of up to 850 square feet and up to a height of 50 feet on the property located at 1C Belmont Street with the following conditions:

- A minimum of 2/3 of each side of the sign to be dedicated to businesses less than 20,000 square feet in size.
- Sign to be limited to businesses on properties owned by 920 LLC and Equity One, located at 370 SW Cutoff, which collectively is known as Northborough Crossing (excluding Avalon).
- Freestanding sign is to be the only use allowed on the property.
- A minimum of seven (7) businesses are to be advertised on the sign.
- Both sides of the sign are to be identical, with the exception of the elimination of the directional instructions “next right” that will be included on the side visible to westbound traffic.
- A service contract is to be established to ensure bi-monthly maintenance of the landscaping around the sign. Ms. Bakstran suggested that this condition could be excluded if it is determined to be unenforceable.

Richard Rand seconded; motion carries by unanimous vote.

40 Bearfoot Road – Ms. Bakstran expressed support for the proposal, especially given that there are to be no major changes to the existing building or pavement. Mr. Rutan commented that, although the proposed use is commercial, it is similar in character to that of an industrial use and is not a detriment to the neighborhood.

Mr. Rutan made a motion to grant the following variances for the property located at 40 Bearfoot Road:

1. Variance to allow use of a self-storage facility.
2. Variance to allow use of retail sales and leasing.
3. Variance to allow use of equipment rental.
4. Variance to allow signs not to exceed 400 square feet and to be no taller than 45 feet in height from ground level for the sign on the north side of the property.

Richard Rand seconded; motion carries by unanimous vote.

Decision for 261 Main Street – Ms. Joubert noted that the revised version provided includes the corrected numbers as well as changes proposed by Fran Bakstran and Richard Rand.

The Board also discussed the seven criteria for issuing a Special Permit in accordance with Section 7-03-040 Special Permit of the Zoning Bylaw.

Mr. Rutan asked about the Stormwater Management Plan. Mr. Litchfield indicated that there will be only one, and it will not come into play until the second building is constructed.

Members of the board reviewed and approved the draft decision for 261 Main Street.

Mark Rutan made a motion to adjourn. Richard Rand seconded; motion carries by unanimous vote.

Meeting adjourned at 10:00PM.

Respectfully submitted,

Elaine Rowe

Board Secretary