



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 4/5/16

**Zoning Board of Appeals  
Meeting Minutes  
February 23, 2016**

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

**Others in attendance:** Kathy Joubert, Town Planner; Elaine Rowe, Board Secretary; Attorney Mark Donahue; Mohamad Ramadan; Jason Barthe, Sunshine Sign Company; Raju and Mercy Matthews, Rajkumar Arcot, Michael and Nailia Green

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

**Public Hearing to consider the petition of 333 Building One, LLC for a Variance/Special Permit to allow a proposed pylon sign to exceed the required maximum allowed height and maximum allowed area on the property located at 333 Southwest Cutoff, in the Highway Business District –** Attorney Mark Donahue explained that the applicant is an affiliate of New England Baseball Enterprises, who is developing the 30 acre site at the intersection of Routes 9 and 20. He noted that the complex includes baseball fields, a snack facility, and a 30,000 square foot office building that currently houses two tenants. He also noted that there is a 1¼ acre of undeveloped land for which plans are being generated for future use.

Attorney Donahue explained that the applicant is seeking a variance from the height and size limitations for signage in the Highway Business District. He noted that the sign will be a single pylon with signs for multiple tenants; analogous to those across the street at Northborough Crossing, and color renderings of the proposed sign was submitted as part of the application package.

Attorney Donahue voiced his opinion that the applicant has met the requirements for a variance due to the shape and topography of the site. He commented that, given that the signs are consistent with those across the street, there will be no detriments to the public and no derogation of the bylaw. He emphasized that the tenants in the development believe the proposed signage will be very important to their success. He introduced Jason Barthe from Sunshine Sign, who is here tonight to address any questions.

Mr. Rand asked about the number of tenants in the development. Attorney Donahue noted that, in addition to the baseball complex, there will likely be 2 or 3 additional tenants in Building 1. He stated that it is not yet known what will be developed on the other side of the property.

Ms. Bakstran noted that the overall height of the sign is taller than the one across the street but the site sits a bit lower. Attorney Donahue stated that the measurement provided is from the ground level to the top of the sign, including the base, and voiced his understanding that the measurement provided for the sign across the street did not include the base. Ms. Bakstran asked if this is the only sign intended to be on the property. Attorney Donahue confirmed that it is at this point, but much will depend on the development on the other portion of the lot. He noted that wall signs or building signs may be more effective for that development. Mr. Rutan commented that it would be senseless to install multiple large pylon signs.

Ms. Bakstran asked about lighting and hours of illumination. Mr. Barthe explained that the sign will contain bright white LED bulbs (standard temperature 5200 light), with the top header and "New England Baseball" portions not expected to be lit. In response to a question from Mr. Blanchette, Mr. Barthe confirmed that the lighting will be similar to that in the signs across the street. Mr. Blanchette asked about the hours of illumination for the signs at Northborough Crossing. Ms. Joubert stated that there are no restrictions on the hours of illumination in the decision for that development and offered to ask the Police Department to check after midnight if the signs remain illuminated. Mr. Barthe indicated a willingness to work within any restrictions imposed by the board as long as the sign can be lit when the businesses are open. Mr. Rutan asked about the hours of operation for CareWell. Attorney Donahue stated that he does not know their hours, but there is no restriction in their lease. He reiterated the applicant's request to allow the sign to be lit at any time the tenants are open. Mr. Rutan asked if it is possible to illuminate only sections of the sign. Mr. Barthe indicated that it is possible to do so with some additional work. Mr. Rutan noted that, as a condition of approval for the baseball facility, certain improvements were required in order to improve safety for pedestrians.

In response to questions from Ms. Joubert, Attorney Donahue clarified the sign specifications that had been further refined since the application was filed and confirmed that both sides of the sign will be the same.

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

**Public Hearing to consider the petition of Dunia Gardens LLD/Mohamad Ramadan to amend the comprehensive permit granted for ZBA Case No. 05-34, to allow the rear setbacks of five dwelling units in the Dunia Gardens condominium complex to be less than the minimum required 25 feet from the rear property lines on the properties located at 16, 17, 18, 21, and 22 Dunia Lane** – Mr. Ramadan appeared before the board to discuss his request to amend the comprehensive permit for the Chapter 40B project. He noted that, when the project was approved, the waiver list was not accurately stated.

He commented that the project is a 28 unit townhouse complex, all of which have decks on the back, but there were some units shown on the plans with stairs instead of the decks.

Mr. Ramadan explained that when he tried to secure occupancy permits upon completion of the units, the Building Inspector indicated that the waivers are not accurate. In response to a question from Ms. Bakstran, Mr. Ramadan confirmed that the decks have already been built. Ms. Bakstran asked if units 16 through 18 are at lower elevations than the abutting properties behind. Mr. Ramadan confirmed that they are. Mr. Blanchette asked if the decks are all in unison across all of the units. Mr. Ramadan confirmed that they are all 10 feet x 12 feet. Mr. Rand asked about the height of the deck off of the ground. Mr. Ramadan stated that the decks are 1½ to 2 feet above ground level. Ms. Joubert explained that a comprehensive permit overrides local zoning, so an applicant will typically provide a list of waivers being requested for the project.

Mr. Rutan asked if units 21 & 22 rise up to the adjoining property. Mr. Ramadan stated that the property does rise up, but the adjacent property drops down from the lot line.

**Raju Matthews, 245 Hudson Street**, voiced displeasure about the balconies from these units protruding close to his house and infringing on his privacy. He noted that he is a 30 year resident and had rebuilt his home a few years ago in compliance with the town's zoning requirements. He explained that the balconies overlook the bedroom in his home, and requested an explanation as to why the town allowed such a dense project on the site. He also questioned why the applicant was not required to adhere to the bylaws and building codes as he was.

Ms. Bakstran explained that the project was constructed under the rules of 40B, which gives the applicant the right to densely develop on a property that may have housed a single family home in the past. Ms. Joubert noted that, when a development in any town falls under a 40B comprehensive permit, the entire development overrides local zoning. She noted that local zoning requires a 25-foot setback but since this is a 40B project, compliance with that regulation is not required.

Ms. Joubert voiced her understanding that the decks on units 21 and 22 are at ground level and asked how it overlooks into the bedroom. Mr. Ramadan noted that the house on the abutting parcel is at a lower elevation, but there is a tree buffer in place.

Mr. Leland reiterated that state laws override our local Northborough zoning, and there is very little that the town can do to protect the rights of its residents.

**A resident from 11 Dunia Lane** asked about the reasoning for a 25-foot setback. Ms. Bakstran noted that every area of town has different zoning, and the objective is to manage development. Mr. Rutan stated that the setback corresponds to a certain customary look and characteristics that the town wishes to maintain in the area of the town.

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

**333 Southwest Cutoff** – Members of the board voiced support for the proposal and emphasized the importance of providing adequate direction for the travelling public.

Mark Rutan made a motion to grant a variance to allow signage per the plans submitted this evening, dated February 23, 2016, and not to exceed 26 feet in height and 14 feet in width with a maximum allowable square footage of 280 square feet. Jeffrey Leland seconded; motion carries by a unanimous vote.

**Dunia Gardens** – Mr. Rutan noted that the concerned abutter's home was built after construction on the 40B project had started. Mr. Rand reiterated that, since this is a 40B project, the board's hands are tied.

Mark Rutan made a motion to grant a waiver to allow the rear setbacks of five dwelling units to be less than the minimum required 25 feet from the rear property lines and no less than 10 feet for units 16 through 18 and no less than 17 feet for units 21 & 22. Richard Rand seconded; motion carries by unanimous vote.

Mr. Rand requested that applicants be required to provide full size plans in the future. Ms. Joubert agreed to require them to do so.

Mr. Rand reiterated his disappointment over the situation with the project at 370 Southwest Cutoff, and noted that the meeting minutes do reflect that the board had raised concerns about the height of the wall. Ms. Joubert agreed that the board had discussed a 16-foot height, but it did not get listed as a condition of the decision.

Richard Rand made a motion to adjourn. Jeffrey Leland seconded; motion carries by unanimous vote.

Adjourned at 7:51PM.

Respectfully submitted,

Elaine Rowe  
Board Secretary