



Approved 10/25/16

**Zoning Board of Appeals  
Meeting Minutes  
July 12, 2016**

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

**Others in attendance:** Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Joe Atchue, Building Inspector; Elaine Rowe, Board Secretary; Attorney George Pember; Rick Leif; Tim Firment, Habitat for Humanity; Pat Burke, HS&T Group (Habitat for Humanity); Zac Couture, HS&T Group (Habitat for Humanity); Ratnam Ratnaseelan, 2 Harris Avenue; Frank Bicchieri, Bertin Engineering; Leslie Rutan, Northborough Board of Selectmen, 22 Hemlock Drive

**Chair Fran Bakstran called the meeting to order at 7:06PM.**

**Continued Public Hearing to consider the petition of Ian Gow for a Variance/Special Permit to allow the use of a proposed self-storage warehouse facility containing 6 buildings on the property located at 1 Lyman Street, in the Industrial District and Groundwater Protection Overlay District Area 1**

Chair Fran Bakstran explained that the applicant has withdrawn his application for this project.

Jeffrey Leland made a motion to accept the applicant's withdrawal without prejudice. Mark Rutan seconded; motion carries by unanimous vote.

**Continued Public Hearing to consider the petition of AMERCO Real Estate/U-Haul Construction Department for a Variance/Special Permit, Special Permit, Groundwater Protection Overlay District/Site Plan Approval to change the use of an existing industrial building to a commercial self-storage facility and to construct a new warehouse building on the property located at 40 Bearfoot Road in the Industrial District and Groundwater Protection Overlay District Area 2**

Ms. Joubert explained that the applicant had sent a request to the Groundwater Advisory Committee requesting a continuance to their next meeting and she assumes that they believed that would also take care of a continuance of their ZBA hearing. She suggested that the board continue the hearing to the July 26, 2016 meeting, when it can be further continued if necessary.

Mark Rutan made a motion to continue the hearing to July 26, 2016 at 7:00PM. Mr. Rand seconded the motion made by Mark Rutan; motion carries by unanimous vote.

**Public Hearing to consider the petition of Thuchiya & Ratnam Ratnaseelan for a Variance/Special Permit/Special Permit Groundwater Protection Overlay District, to allow the construction of a two-story addition to the existing single-family dwelling that is limited to three bedrooms per a decision granted by the Zoning Board of Appeals for 2 Harris Avenue, Case No. 96-07, dated September 10, 1996, on the property located at 2 Harris Avenue, in the Residential C District and Groundwater Protection Overlay District Area 2**

Ratnam Ratnaseelan explained that he was in the midst of planning to add a 24' x 24', 2-story addition to his 4-bedroom home when he discovered that there was a previous ZBA decision limiting the home to a maximum of 3 bedrooms. He indicated that his plans are to keep the home to 4 bedrooms as currently exists. Ms. Bakstran asked what the addition is for. Mr. Ratnaseelan noted that he is seeking to make the existing rooms larger. He reiterated that he only recently learned of the issue when he contacted the Building Department about construction of the addition. He explained that he has 58 feet on the side of the house, so has sufficient room to build and still comply with the required setbacks. In response to a question from Ms. Bakstran, Mr. Ratnaseelan indicated that the septic system is appropriately sized for 4 bedrooms. Ms. Bakstran asked if the only reason that a special permit is needed is due to the 3-bedroom limitation stipulated in the original decision. Ms. Joubert explained that the addition does not require any variances from any of the setbacks. She noted that, while the previous decision limited the house to no more than 3 bedrooms, it was built as a 4-bedroom home, the septic system was sized for 4 bedrooms, and the home has been assessed as a 4-bedroom. She stated that the decision from 1996 stands, and noted that she has a letter from the Groundwater Advisory Committee voicing approval for 4 bedrooms.

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

**Public Hearing to consider the petition of Gerald Cestaro, Ce-Star Homes, for a Variance/Special Permit/Special Permit Groundwater Protection Overlay District, to allow a proposed addition to an existing single-family dwelling to be less than the required 15 feet from a side property line on the property located at 77 Maple Lane, in the Residential C District and Groundwater Protection Overlay District Area 2**

Frank Bicchieri from Bertin Engineering discussed plans to raise the existing 2-bedroom house to the foundation and construct a new, 3-bedroom home on the existing foundation. He noted that the property currently contains a shed and the 2-bedroom home on a cesspool that will be replaced with an upgraded Title 5 septic system to serve the proposed 3-bedroom home. He also stated that there is an onsite well, and an enhanced nitrogen removal septic system is needed.

Mr. Bicchieri explained that the applicant went before the Groundwater Advisory Committee (GAC) for the expansion of a 2-bedroom home to a 3-bedroom. He noted that the 26,000 square foot parcel is in a GW2 area, which requires a minimum lot size of 40,000 square feet, so this proposed home requires a special permit for the expansion of an existing nonconformity. In addition, he indicated that a variance is needed to reduce the required side setback to 4.6 feet and this should not pose a problem because the neighboring house will still be 36.5 feet away.

Mr. Bicchieri explained that there is an existing small, non-buildable parcel of land between the two homes that is not owned by either entity but is owned by the estate of one of the previous homeowners. He stated that, in the future, there is a potential that this parcel could be transferred to one of the two landowners. He voiced his opinion that a variance from the 15-foot side yard setback is reasonable, and reiterated that the applicant is seeking to reduce the setback to 4.6 feet. Mr. Rand asked if it is possible to move the house away from the property line. Mr. Bicchieri indicated it is not, since the plan is to use the existing foundation and he needs to maintain the required setback from the septic system that cannot be located elsewhere on the lot due to the location of existing wells. He also noted that relief is needed from the Conservation Commission and the Board of Health for the proposed septic system.

In response to a question from Ms. Bakstran, Mr. Bicchieri indicated that additional concrete will need to be poured for the expansion and addition of a garage. Ms. Bakstran asked if the applicant would be able to comply with the required 15-foot setback if they were able to purchase the small parcel of abutting land previously discussed. Mr. Bicchieri confirmed that they would, but that no purchase is currently planned.

Mr. Litchfield confirmed that the Groundwater Advisory Committee (GAC) had voted to recommend approval of the project. He reiterated that a special permit to expand the use from 2 bedrooms to 3 bedrooms is needed because of the pre-existing, nonconforming lot. He also noted that the upgraded septic system is an improvement over the existing cesspool. Ms. Bakstran asked about any conditions requested by the GAC. Ms. Joubert indicated that the proposed conditions are included in the GAC comment letter provided by Mr. Litchfield. In response to a question from Ms. Bakstran, Mr. Bicchieri confirmed that a 4.5 foot setback should be adequate. Mr. Rutan asked what the setback would be if the property owner is able to purchase the small, non-buildable parcel. Mr. Bicchieri indicated that it would be over 17 feet.

Mr. Rutan asked if the board is able to grant a variance related to the distance from the existing lot line to prohibit the landowner from acquiring the extra parcel of land and then building to within 4 feet from that line. Ms. Joubert confirmed that it is possible to write the decision in such a manner.

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

**Public Hearing to consider the petition of Tim Firment, Habitat for Humanity MetroWest/Greater Worcester, for a Comprehensive Permit, per Massachusetts General Laws Chapter 40B, to allow the conversion of two existing multi-family dwellings to affordable multi-family dwellings on the property located at 33 Main Street and 37-39 Main Street, in the Main Street Residential District and Groundwater Protection Overlay District Area 2**

Rick Leif, President of the Northborough Affordable Housing Corporation (NAHC) explained that there are currently two houses on two very narrow lots adjacent to the Trinity Church parking lot. He stated that Trinity Church came into possession of the two homes and built two apartments in one and four in the other to rent out at affordable rates. He indicated that currently Trico holds the mortgage, serves as the landlord and is responsible for all maintenance. He explained that Trico is now seeking to get out of the business of being a landlord and had approached the NAHC about the possibility of creating real affordable housing units. He stated that Habitat for Humanity previously inspected the property and determined that it could be done as an affordable project. He noted that the NAHC has some CPA funds to use for the project, and had gone before the Board of Selectmen to discuss converting the property from 6 apartments to 3 affordable condominium units and they agreed. He explained that the NAHC had signed a Purchase & Sale Agreement at a price well below appraised value, and the P&S is contingent upon approval of a Comprehensive Permit for the project. He also noted that an easement is needed from the church to allow tenants to traverse the church parking lot. He noted that an August 30<sup>th</sup> closing is planned, after which NAHC plans to donate the property to Habitat for Humanity who will then have control of the property. Mr. Leif explained that a letter of eligibility is required from the state and, once received, Habitat for Humanity will do the renovations and hold a lottery to place low income families into the newly created affordable units.

Zac Couture from HS&T Group (Habitat for Humanity) reviewed the general layout for the two existing, narrow, nonconforming lots. He discussed plans to combine the two lots and subdivide the northerly portion of the lot and turn that portion back over to Trico. He noted that the exteriors of the two existing homes will remain the same and the interiors will be completely gutted and rebuilt. He stated that access will be from Hudson Street, with a 9 space parking lot with 2 van-accessible spaces and a handicap walkway to the two buildings. He reiterated that an easement is needed to allow traffic to traverse through the church parking lot. He also indicated that two subsurface infiltration systems are proposed, with a Cultec chamber under the parking area to handle runoff from that area and an infiltration basin will be located near the homes to handle roof runoff.

In response to a question from Ms. Bakstran, Mr. Couture indicated that the current tenants park in designated spaces in the church parking lot.

Mr. Rand questioned what would happen if the church doesn't grant the easement. Mr. Couture stated that they will need to start from scratch with a different plan. Mr. Leif noted that there were concerns about a curb cut and two-way traffic on Route 20. He suggested that the project

would need to be abandoned if an easement cannot be obtained, but assumes that one will be granted.

Pat Burke from HS&T Group explained that the mortgage for these properties will be based on income. In response to a question from Mr. Rand, Mr. Burke indicated that condo fees will be included in the mortgage calculation. He explained that Habitat for Humanity serves as the bank in the equation, issuing a 20 to 25 year mortgage at 0% interest. Mr. Rand asked if the condo fees from the 5 units will cover maintenance costs. Mr. Leif commented that Habitat for Humanity has a great deal of experience with these types of projects. Mr. Burke noted that Habitat is currently doing 4 units in Wayland. He explained that the lottery will be dictated by the state, which is required in order for the units to count as eligible property. Mr. Rutan asked about the need for a construction loan. Mr. Burke indicated that Habitat will self-finance the project. He also noted that Assabet Valley Technical High School is expected to be a big part of the project, with as many as 5 departments at the school excited about participating. He explained that Habitat also has full-time construction managers on staff to oversee the work. Mr. Leif noted that CPA is funding a large portion of the project, with the balance to be provided by Habitat for Humanity. Mr. Burke stated that two first floor units are to be handicap accessible.

Ms. Bakstran noted that a 5-bedroom unit is proposed in one of the buildings and asked why the applicant would do that instead of creating a third unit. Mr. Burke explained that the existence of the attic lends itself to the creation of a 5-bedroom unit. Mr. Rand asked if Habitat for Humanity remains involved once the units are sold. Mr. Burke indicated that they will remain partners with the homeowners forever. Mr. Leif also noted that there will be a permanent affordability deed restriction on the properties.

Mr. Blanchette asked if Habitat for Humanity has oversight on the maintenance of the properties. Mr. Burke explained that, once they take ownership from the NAHC, they will take the project all the way through construction and the close. He also noted that, once the property is sold, the families become the homeowners and have full responsibility for the homes and all maintenance. Mr. Leland asked if there is an association for general maintenance on the exterior. Mr. Burke indicated that there will be a monitoring agent.

Ms. Bakstran commented that there is some assumption that the eligibility letter from the Department of Housing and Community Development (DHCD) will be obtained. Mr. Leif commented that the DHCD representative had expressed an expectation that the project should qualify and the letter will likely be provided after the upcoming site visit.

Mr. Litchfield confirmed that the Groundwater Advisory Committee has reviewed the project and has recommended approval. He reiterated that the applicant is planning to recharge all of the roof and parking lot runoff, and the GAC is quite happy with the project as proposed.

Ms. Joubert noted that the applicant is seeking multiple waivers, as is typical in a Comprehensive Permit project. She noted that town staff has been working closely with the

parties for the past 6 to 9 months and the process has been very cooperative and productive. Ms. Bakstran asked if the exterior appearance is to remain unchanged. Ms. Joubert noted that the Historical District Commission is aware of the project and thrilled that the two buildings will remain. Mr. Leif indicated that the funding agreement will state that the exteriors of the two buildings must remain.

Mr. Rutan asked about the waiver for earth removal. Mr. Litchfield explained that a project with more than 3 units requires an earthwork permit.

Ms. Joubert asked if the 20-foot easement is going to be marked on the pavement so that the residents are aware of their travel lane. Mr. Leif indicated that it will be up to the church to decide whether they wish to do so, but it is pretty clear where the residents are supposed to park and how they should traverse the parking lot to get there. Mr. Litchfield suggested that the church can pin the easement with iron pins if they feel it is necessary. Attorney George Pember explained that the proposed easement as written gives Trinity the option to relocate the easement, so they would likely not wish to pin down an exact location.

Leslie Rutan asked what handicap accessibility means in terms of the interior of the structure. Mr. Couture explained that there will be a handicap ramp leading into the building and the interior widths will be altered to accommodate wheelchair access. He also stated that, if the specific handicap situation is known, they will adapt the unit to address it. Ms. Rutan asked if the adjustments will act as a deterrent to the next owner. Mr. Couture noted that many Habitat families do not tend to move out. He also stated that Habitat has the right of first refusal, so if they opt to take the house they will remodel it to bring it up to the current code.

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

## **DECISIONS:**

**2 Harris Ave** – Ms. Bakstran voiced support for granting a special permit for the conversion of a 3-bedroom to a 4-bedroom, since the 4 bedrooms have existed all along. Mr. Atchue explained that the board's action would be an amendment to the existing decision since it allows only 3 bedrooms.

Mark Rutan made a motion to amend the existing decision to allow up to 4 bedrooms in the dwelling. Jeffrey Leland seconded; motion carries by unanimous vote.

**77 Maple Lane** – Ms. Bakstran reiterated that the applicant needs a special permit to allow expansion of the nonconformity and a variance to allow a reduction of the required setback from the existing property line. Mr. Rutan voiced his opinion that the septic system improvement and an improved home will be beneficial to the neighborhood.

Mark Rutan made a motion to grant a special permit to allow an expansion of the nonconformity on a lot less than 40,000 square feet. Jeffrey Leland seconded; motion carries by unanimous vote.

Mark Rutan made a motion to grant a variance to reduce the side setback to 4 feet from the existing lot line with the following condition:

- An as-built site plan shall be submitted to the Town Engineer for review and 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).

Jeffrey Leland seconded the motion; motion carries by unanimous vote.

**33-35 Main Street and 37-39 Main Street** – Ms. Joubert noted that the ANR plan has not yet been submitted, but she assumes that the back portion of the lot will get added to the church's address.

Ms. Bakstran asked how to address the issue of the easement that is needed. Mr. Atchue suggested that a condition be included in the decision to ensure driveway access, especially for emergency vehicles. Ms. Joubert suggested that the condition stipulate that no occupancy permits can be granted until the easement is provided. Ms. Bakstran asked if the homeowners can use the existing curb cut on Route 20. Mr. Litchfield noted that saplings have grown up in that area so access is not possible. He also noted that the Fire Chief's comment letter indicated that he has no objections to the project as proposed.

Mr. Litchfield noted that he had received a revised plan earlier today that showed a slight change to the drainage, and he requested that it be referenced in the decision (Revision date of July 12, 2016).

Ms. Joubert reiterated that, in addition to the conditions requested by the GAC, the following condition should be included in the decision:

- An easement to allow access to the homes through the church parking lot is to be provided by Trinity Church prior to the issuance of any occupancy permits.
- A letter of eligibility from the DHCD must be obtained prior to the issuance of a building permit.

Mr. Litchfield indicated that condition #3 in the GAC comment letter has been addressed in the revised plan. He also noted that the issue of impervious cover has been addressed, but the decision should include the requirement of an as-built plan verifying the parking and drainage.

Ms. Joubert stated that the decision needs to reference the list of waivers that were requested by the applicant and granted by the board. Mr. Litchfield explained that some of the waivers are no longer necessary because the project meets the specific bylaw.

Brad Blanchette made a motion to grant a comprehensive permit to allow for the renovation and conversion of two principle buildings on one lot for the use of four affordable homeownership (condominium) units as described in the materials submitted by the Applicant and per the site plan dated July 12, 2016 for the property located at 33-35 and 37-39 Main Street with the following conditions:

- A detail shall be provided for the proposed catch basin in the parking area which contains an oil/water separator or a separate oil/water separator shall be installed between the catch basin and proposed Cultec System 1.
- A copy of the proposed access easement through the church parking lot should be submitted prior to the issuance of any occupancy permits.
- An as-built site plan shall be submitted to the Town Engineer for review and 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).
- Applicant must provide a copy of the DHCD letter of eligibility for the project prior to the issuance of a Building Permit.

And waivers as follows:

1. A WAIVER from Section 7-03-040, Special Permit with Site Plan, from any requirement associated with obtaining a Special Permit with Site Plan Approval
2. A WAIVER from Section 7•03•050, Site Plan Approval, from any requirement associated with obtaining Site Plan Approval;
3. A WAIVER from Section 7-05-030, Use Regulations, Table of Uses, Table 1 Part A., to allow the use of multi-family dwellings in the Main Street Residential District;
4. A WAIVER from Section 7•06•020, Table of Density and Dimensional Regulations, as the two buildings are pre-existing and will not change in size or location; and



5. A WAIVER from Section 7•06-030H, Density & Dimensional Regulations Supplemental Regulations, to allow two principal buildings to be located on the same lot with a minimum separation between them of less than 20 feet.

Jeffrey Leland seconded the motion; motion carries by unanimous vote.

**Consideration of Minutes** was deferred to the next meeting.

**Next meeting, July 26<sup>th</sup>** – Ms. Joubert indicated that the following projects are on the agenda for the next meeting:

- 313 Brigham Street will be back before the board applying for another variance to reconfigure the lots. Mr. Litchfield noted that the GAC continued the discussion of this project to their August 9<sup>th</sup> meeting.
- Multi-family project proposed for King Street – Ms. Joubert explained that 8 units per lot are allowed by special permit. She noted that the applicant had originally applied for approval for 8 units on each of the two lots but, after much collaboration with the DRC, the applicant will be presenting an alternate plan to combine the two lots and construct 16 units (4 buildings of 4 townhouses each). She stated that the proposed redesign prevents residents from having to back out onto King Street.

**Election of Officers** – Chair Fran Bakstran noted that the election of officers will be addressed at the next meeting.

**Meeting adjourned at 8:20PM.**

Respectfully submitted,

Elaine Rowe  
Board Secretary