



**TOWN OF NORTHBOROUGH** Zoning Board of Appeals  
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Approved 11/22/16

**Zoning Board of Appeals  
Meeting Minutes  
July 26, 2016**

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

**Others in attendance:** Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Joe Atchue, Building Inspector; Rashid Shaikh; John Grenier, Grenier Associates; Linda DeWolfe; EJ Sowden; Linda Sowden: Lando & Samantha Bates

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

**Election of Officers** – Ms. Bakstran noted that the board is due to hold its annual election of officers.

Mark Rutan made a motion to elect Richard Rand as Chairman. Jeffrey Leland seconded; motion carries by unanimous vote.

Richard Rand made a motion to elect Mark Rutan as Clerk. Jeffrey Leland seconded; motion carries by unanimous vote.

Richard Rand assumed the role of Chairman.

**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 indicated that the applicant has requested a continuance of their hearing to the board's August meeting. She noted that the applicant was previously before the board and received a use variance and is now seeking site plan approval.

Fran Bakstran made a motion to continue the hearing to August 23, 2016 at 7:00PM. Jeffrey Leland seconded; motion carries by unanimous vote.

**Public Hearing to consider the petition of ZHS Realty Trust for Variances/Special Permits to allow two proposed principle buildings on one lot; and to allow the proposed use of 16 multi-family dwelling units (8 dwelling units per building) on a proposed lot to be created by combining the properties located at 39 & 43 King Street, in the Business West District and Groundwater Protection Overlay District Area 3**

Rashid Shaikh and John Grenier, Grenier Associates, appeared before the board to discuss the project. Mr. Shaikh explained that he had met with the Design Review Committee (DRC) who suggested some modifications to his original plan that he believes will result in a better project for the community. He explained that the zoning bylaw allows 8 units per lot (16 units total) by right. He indicated that the DRC expressed concerns about the original layout and suggested that he combine the two lots to make it more like a neighborhood environment, which he has now done. He noted that the revised plan allows for better traffic flow, improved safety, and a nicer neighborhood feel. He reiterated that the project has the same density in an improved design.

Mr. Shaikh discussed elevations. He noted that the proposed buildings will be two stories, with 3 bedrooms in each unit and a one car garage. He explained that, even though the buildings are consistent, some of the rear elevations are different due to the slopes in the back portion of the lot and a small section of conservation land. He stated that he plans to build the foundation of Building 3 into the slope.

In response to a question from Chairman Rand, Mr. Shaikh indicated that the distance between the deck on Building 1 and the edge of the property line is approximately 25 feet. Mr. Shaikh also stated that these units will have patios and not decks. Ms. Bakstran asked about the front setback, which Mr. Shaikh confirmed will be 15 feet. Mr. Rutan asked about retaining walls. Mr. Shaikh noted that the walls in the previous plan have been eliminated. In response to a question from Chairman Rand, Mr. Shaikh clarified the details and locations of architectural fencing. Chairman Rand asked about any allowance for visitor parking. Mr. Shaikh indicated that there will be 32 parking spaces for residents (one in the garage and one outside), with 4 extra spaces for visitors (3 are required).

Ms. Bakstran noted the absence of feedback from town safety officials and voiced concerns about the width of King Street, which is currently quite narrow. Mr. Litchfield indicated that there have been no discussions about the roadway itself. He stated that there were concerns about cars backing onto King Street in the original design, but that issue has been resolved with the modified plan. He explained that the roadway will likely be looked at more closely when the plans are more final. Mr. Blanchette noted that Building 1 will have terraces and asked if the other buildings will as well. Mr. Shaikh confirmed that terraces are allowed in the bylaw and will be included where necessary, but decks will also be proposed in other locations where they can be in compliance. Mr. Shaikh discussed plans to provide 8' x 8' patios with flower beds for beautification instead of walkways. In response to a question from Mr. Blanchette, Mr. Shaikh stated that the top story of the buildings is not planned to be used as living space but could provide attic storage.

Mr. Rutan asked about snow storage and trash removal. Mr. Shaikh expressed his desire to use town trash removal services, and noted that the condo association will ultimately mandate the trash removal process. He suggested that the area that is now not needed for dumpsters can be used for snow storage. Ms. Bakstran asked about exterior lighting. Mr. Shaikh referenced the lighting plan. He also noted that, based on feedback from the DRC, the plans include 6-foot fence posts, and the fencing along King Street will have a light on every other post. In addition, he indicated that there will be lights on the posts on either side of the entry, at each bend in the roadway, and above the patios. Chairman Rand asked if the project will be on town sewer. Mr. Shaikh explained that this question has not yet been resolved, but there is a possibility that it will be.

Mr. Shaikh discussed hydrant locations, and noted that he has agreed to comply with the Fire Chief's request for additional hydrants. He referenced the utility plan, showing locations for gas, electric, water and sewer.

Mr. Leland asked about the accessory building and if there will be access to the land at the rear of the site. Mr. Shaikh noted that the first plan showed an open drainage basin, but the plan has been modified to move it underground with grass above. He stated that, since the land is relatively flat, the road was extended and he is considering adding an accessory building for the condo association to use for meetings and an exercise room for residents. Chairman Rand asked if the pathway to the accessory building will be paved. Mr. Shaikh indicated that he will do so if the board wishes.

Chairman Rand asked about accessibility for fire apparatus. Mr. Shaikh explained that the building is only 50 feet in, so is reachable from the roadway as proposed. Mr. Blanchette asked if the units will be sold or leased. Mr. Shaikh stated that he has not yet decided, but may include a combination of both.

Ms. Joubert noted that the applicant has met twice with the DRC and will be going back to them with the revisions presented here tonight. She asked if the height of Building 3 has been reduced by one story. She explained that the DRC's wishes were for this to be a unified development. She indicated that the Fire Chief had attended the last DRC meeting and had provided an initial review letter based on the original plan but will be drafting a revised letter based on this modified plan. She noted that the Fire Chief is not requesting driving access around all of the buildings but did ask for accommodation for the accessory building, which was granted by means of the increased paved area that has been provided. Ms. Joubert explained that the height of Building 3 was an issue for the Fire Chief, who expressed concern about not being able to get to the top floor from the back of the building. She voiced her understanding that the fire suppression system is to be upgraded to a commercial system so all buildings will have sprinklers.

Ms. Joubert noted that the DRC had also discussed reducing the height of Building 3. She commented that, though all of the buildings meet the limit in the bylaw, the rear of Building 3 is quite sloped. Mr. Shaikh indicated that he has reduced the height of the buildings so that they are all consistent. He also agreed to meet with the Fire Chief to ensure that all of his concerns are addressed. Ms. Joubert voiced her opinion that continuing this hearing would be advisable to enable the applicant to complete the process with the Fire Chief, Police Chief, and DRC.

Mr. Rutan asked if there will be a requirement in the condo documents to ensure regular inspections of the sprinkler system. Mr. Atchue confirmed that annual inspections will be required.

Ms. Bakstran commented that King Street is quite narrow, and voiced her opinion that there is no safe way out of King Street with the traffic volume that will be generated from this project. She expressed concern about people coming off of King Street and heading in any direction, and suggested that putting that many families on King Street is of grave concern. Mr. Shaikh agreed to discuss the issue with the Police Chief, and suggested making King Street a one-way street to minimize the safety concerns. Ms. Bakstran voiced her desire that the town and the applicant can come to a satisfactory resolution. Mr. Shaikh expressed his appreciation to the DRC for their input and suggestions.

**Linda DeWolfe, 29 King Street**, explained that her property abuts this parcel on two sides. She commented that, while she would embrace anyone coming in to help beautify King Street, she has the following issues with the proposed project:

- Objection to the proposal to make King Street a one-way road, and the addition of 64 to 70 people living there and disrupting the area.
- Traffic concerns resulting from a development of this size on a street that is not designed to handle it.
- Elevation of Building 2 – Ms. DeWolfe expressed concerns that the elevation of Building 2 will infringe on her privacy, given its proximity to her shop. Mr. Shaikh indicated that the elevation of Building 2 will only be 25 feet in the front and 25 to 30 feet in the rear.
- Complaints from residents - Ms. DeWolfe noted that her auto repair business has been in existence for over 20 years, and voiced concern that residents will complain about noise generated from her business as well as others in the neighborhood. Ms. Shaikh stated that Ms. DeWolfe's business abuts a residential area and noted that there are other multi-family units across the street on Route 20.
- Betterment fees for town sewer - Ms. DeWolfe explained that her property has a private well and private septic system, and the betterment fees that she will be subjected to are a financial burden that she does not want or need. Chairman Rand asked Mr. Litchfield to clarify the issue of betterment fees. Mr. Litchfield noted that, if town water and/or sewer is brought down the street, there is a betterment fee that is imposed because the properties are believed to be more valuable. Mr. Shaikh stated that buildings with town utilities are more attractive to buyers.
- Drainage – Ms. DeWolfe expressed concern about drainage flowing onto her property. She also voiced her opinion that the plan has not provided for sufficient snow storage. Mr. Shaikh emphasized that the engineer will make sure that the drainage calculations are correct, and Mr. Litchfield will review them to ensure that the project does not create any drainage issues. Mr. Grenier explained that runoff from all paved surfaces will be captured, treated, and recharged into the ground. He noted that the calculations analyze current conditions and the developer is required to reduce the amount of runoff leaving the site. In response to a comment from Ms. DeWolfe, Mr. Grenier noted that, though runoff will discharge onto her property, it will not do so at a rate greater than it does currently. Ms. DeWolfe suggested that the issue needs further consideration. Chairman Rand asked about snow storage, and agreed that it does not appear to be sufficient. Mr. Shaikh indicated that he will highlight the snow areas on the plans to better illustrate that there is adequate area for snow storage.

Ms. DeWolfe indicated that, if the project is approved, she is requesting a 15 foot no-cut buffer zone between Building 2 and her property. Mr. Shaikh expressed a desire to keep as many trees as possible and did not see an issue with accommodating the request. He also suggested including a small fence in the area.

**Linda Sowden, 19 King Street**, also voiced concerns about traffic. She noted that, currently, cars race down the street to miss the light at the junction, and it is impossible to see traffic coming around the curve. She commented that the issue needs to be addressed, and noted that this project will substantially increase the traffic on the roadway. She also stated that, while she does not fully understand the betterment issue, she is concerned about the financial hardship it will impose on her.

**The property owner from 14 & 34 King Street** explained that she operates a 24 hour business at 14 King Street and is concerned about complaints from the residents. She also emphasized that King Street is a dangerous road and increased traffic is of concern.

**EJ Sowden, 15 King Street**, expressed concerns about the project as well, especially the traffic impacts from 32 or more additional cars. He also voiced confusion about the plan, and the number of buildings and dwelling units proposed. Mr. Shaikh noted that there are still 16 units proposed, and he has simply changed the layout of the four buildings. Mr. Sowden commented that four foundations are too much for the lot.

In response to a question from Mr. Sowden, Mr. Shaikh indicated that the water line will be coming from the Shrewsbury side and the sewer will be coming from the Northborough side. Mr. Sowden commented that running the sewer up King Street will negatively impact the residents. He also stated that he would not be in favor of converting the roadway to a one-way street. In addition, he suggested that the building heights are excessive and will look huge compared to the other structures on the street.

Mr. Sowden reiterated his concerns that the water and sewer work will negatively impact the neighbors. He also noted concerns about the drainage and commented that the developer has not yet fully decided what he is planning to do on the site. Chairman Rand explained that this hearing will be continued to the board's next meeting, where some of the unresolved questions will be addressed.

Ms. Sowden explained that she already has gas service and town water, which she paid for herself, so she does not wish to have a betterment fee imposed on her.

Mr. Sowden asked about the depth of the sewer line, since this will dictate whether sewer service is gravity fed or will require a pump. Mr. Grenier indicated that the sewer line will be an average of 8 feet down coming up King Street. Mr. Sowden noted that his foundation is 8 feet below the street, which means that he will have an added expense of installing a pumping station. Mr. Shaikh agreed to discuss the issue with Mr. Sowden.

**The property owner from 12 King Street** asked if residents will be required to connect to town sewer or simply pay the betterment fee. Mr. Rutan asked Mr. Litchfield to clarify. Mr. Litchfield noted that a betterment is put on the property when town sewer goes by, and the fee can be paid entirely or financed at a low interest rate for a period of 20 years. He confirmed that landowners are not required to connect but do have to pay the betterment fee.

In response to a question from Ms. Bakstran, Mr. Shaikh noted that the back of Building 1 is 25 feet high and the back of Building 2 is roughly 35 feet high. He confirmed that the street view will be a height of 25 feet.

**Kota Suba, 21 Southwest Cutoff**, explained that she has access to her property via both Route 20 and King Street, and questioned the sewer issue. Mr. Litchfield explained that she would have the ability to connect if the sewer line is accessible to her building.

Mr. Shaikh commented that installing town sewer involves a tremendous expense to the developer, and will prove beneficial to nearby residents if they should experience any issues with their septic systems in the future. Ms. DeWolfe did not agree with Mr. Shaikh's position that this is a benefit. She emphasized that this project has the potential to shut down her business and will be an extreme financial hardship. She suggested that the neighbors who have made this their home over the years are entitled to some consideration.

Mr. Sowden commented that, if the project moves forward and the developer does put in town sewer, it would be wise to put the laterals in at the same time.

**David Feitler, 51 SW Cutoff**, applauded the applicant for efforts to beautify the neighborhood but expressed concerns about the project. He emphasized that the street is a major problem, and needs to be considered. He explained that he has installed “No Left Turn” signs to prohibit trucks leaving his property from travelling down King Street because it is so narrow and it is impossible for two cars to pass on the street. He also noted that all of the neighbors have a problem with the betterment issue, and it is not fair to impose this financial hardship on people who have been in the area for years. He also voiced concerns about noise complaints from neighbors.

Chairman Rand explained that the project is located in a Business West zone, where this use is allowed by special permit.

**Samantha Bates, 313 Brigham Street**, asked the applicant to clarify what is meant by “architectural fence”. Mr. Grenier noted that this type of fencing is more upscale, and not simply a chain-link fence. Ms. Bates asked about the lot site for the two combined lots. Mr. Shaikh indicated it is just over 2 acres. Ms. Bates commented that it is fascinating how the applicant has managed to get 16 homes on the small piece of property.

Mr. Sowden asked if any soil testing has been done. He explained that he had grown up on the street and heard rumors about chemicals in the ground. Mr. Grenier indicated that testing of this type has not been done. Mr. Sowden suggested that the town may wish to have this done before the project gets started.

**Lando Bates, 313 Brigham Street**, voiced his understanding that the original proposal was considered to be a public safety hazard and asked if granting a variance to allow the applicant to build these four buildings helps alleviate the hazards. Ms. Bakstran explained that a variance would not be needed if the applicant left these as two separate lots and built 8 units on each, which is allowed in the bylaw by right. She noted that, for design purposes, the proposal is to combine the two lots. Mr. Shaikh reiterated that the number of units (16 total) is the same as the original proposal. Ms. Bakstran commented that this plan is safer than the original since it eliminates the need for cars to back out onto King Street. Chairman Rand noted that it is more aesthetically pleasing as well.

Brad Blanchette made a motion to continue the hearing to August 23, 2016 at 7:00PM. Fran Bakstran seconded; motion carries by unanimous vote.

**Public Hearing to consider the petition of Lando and Samantha Bates for a Variance/Special Permit to allow a proposed single-family dwelling on a lot of at least 80,000 square feet; and to allow a proposed single-family dwelling on a lot of 56,000 square feet, with both lots to be created by the division of the property located at 313 Brigham Street, in the Residential C District and Groundwater Protection Overlay District Area 1**

Mr. Bates explained that he is asking the board to continue this hearing to August 23, 2016 to allow him time to receive documents and information that he has requested from the town.

Mark Rutan made a motion to continue the hearing to August 23, 2016 at 7:00PM. Fran Bakstran seconded; motion carries by unanimous vote.

### **Consideration of Minutes**

Fran Bakstran made a motion to accept the Minutes of the Meeting of April 5, 2016 as submitted. Brad Blanchette seconded; motion carries by unanimous vote.

Fran Bakstran made a motion to accept the Minutes of the Meeting of May 24, 2016 as submitted. Brad Blanchette seconded; motion carries by unanimous vote.

**Next Meeting** – Ms. Joubert discussed applications for the August 23<sup>rd</sup> meeting as follows:

- A request to change a one-family home to a two-family at 173 West Main Street (property adjacent to Mayo's Pets). Ms. Joubert voiced her opinion that the property was represented as a two-family when it was on the market. Mr. Atchue noted that there are two existing apartments, and the new owner is seeking to make it a legal two-family.
- Ms. Joubert explained that there is an appeal of a scenic road decision issued by the Planning Board on the agenda for the next ZBA meeting. She commented that the applicant did not appeal the decision through the Planning Board and believes that an appeal through this board is appropriate. She voiced her opinion that it is not, and agreed to confirm with Town Counsel before the next meeting.

Ms. Joubert explained that the Comprehensive Permit decision for the project on Main Street has been reviewed by staff and she will get it out to the board shortly. She noted that, in the meantime, the town has received the site eligibility letter from the state.

**Meeting adjourned at 8:35PM.**

Respectfully submitted,

Elaine Rowe  
Board Secretary