



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 11/22/16

## Zoning Board of Appeals Meeting Minutes October 25, 2016

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

**Others in attendance:** Kathy Joubert, Town Planner; Joe Atchue, Building Inspector; Elaine Rowe, Board Secretary; Mo Bayou; Jonathan Hanna; Lewis & Beryl Krouse; Brian & Smith

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

**Continued 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**

Chairman Rand indicated that the applicant has requested a continuance to the next meeting.

Mark Rutan made a motion to continue the hearing to November 22, 2016 at 7:00PM. Jeffrey Leland seconded; motion carries by unanimous vote.

**Public Hearing to consider the petition of James Tobin for a Variance/Special Permit to allow the use of a two-family home in the Business East District on the property located at 100 Main Street**

James and Michael Tobin appeared before the board to discuss their application. James Tobin explained that they were always under the impression that the dwelling was a 2-family, since it has operated as such with a business in the detached garage. Michael Tobin noted that there are no changes proposed at this time, they are simply trying to clean up the paperwork in order to sell the property. He reiterated that the property has been operating as a multi-use residential unit with a mechanic business in the detached garage for several years and they would like to maintain it as such.

Ms. Bakstran asked if there is a reason that the applicants are now wishing to formalize this. James Tobin explained that the property is on the market. Ms. Joubert noted that the property is located in the business east district, so in order for it to operate legally as a 2-family, a variance is required. In response to a question from Mr. Rutan, Ms. Joubert stated that she was uncertain as to whether the original use as a 2-family pre-dates the zoning bylaw. She also commented that this situation is not unusual, and these issues typically come to light when properties are being transferred.

Chairman Rand asked if the home meets all of the requirements for a 2-family. Mr. Atchue confirmed that it does. In response to a question from Ms. Bakstran, James Tobin indicated that the mechanic business is still operating out of the detached garage. Mr. Atchue indicated that this is an allowed use. Ms. Bakstran asked about ownership of the garage. James Tobin explained that everything will be sold as one property, and the business in the garage will become a tenant of the new owner.

A resident from 97 Main Street asked if there will be any requirements that the person that owns the building must live there. James Tobin indicated that it will be up to the owner whether they wish to do so.

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

**Public Hearing to consider the petition of 240 Turnpike Inc. for an Amendment to Variances approved per ZBA Case No. 15-14, to allow a proposed free-standing sign to be 50 feet in height, 32 feet in width and 800 square-feet in area; and to allow the free-standing sign, proposed to be located at 1C Belmont Street, to advertise the Northborough Crossing retail development, which is not on the property on which the sign will be erected**

Mo Bayou explained that he had been before the board a year ago and obtained approval for a pylon sign on his property. He noted that, based on the decision, he was required to decide whether to move forward with the pylon sign or the car dealership that was previously approved. He indicated that he had decided to move forward with the pylon sign so as not to let the business owners in Northborough Crossing down and, in the midst of trying to do so, he learned that there are state and federal requirements for the signage. He explained that he had contacted the Office of Outdoor Advertising and learned that he would be required to be licensed to conduct business for outdoor advertising, which he has now done. Following approval of his license, he met with the director of the agency to discuss the details of the sign that was approved by the Northborough ZBA and he was informed that the sign height was in excess of state regulations. He noted that the regulations limit the sign to a height of 25 feet, so he recalculated and modified the sign to be wider than what was originally approved, and is was scheduled for a hearing with the agency on September 14<sup>th</sup>.

Mr. Bayou indicated that he subsequently contacted Mr. Atchue to discuss the situation, and both he and Ms. Joubert suggested that Mr. Bayou come back to the board to present the proposed changes. He explained that the Office of Outdoor Advertising considers the proposed signage to be a billboard, and he has tried to dress it up so it will not appear as one. He expressed his desire that the board will find the revised sign satisfactory.

Chairman Rand asked about the dimensions of the new sign. Mr. Bayou explained that the new sign will still be 50 feet high from the ground up, but the sign itself will be 25' high x 32' wide. He noted that the original sign was a total of 810 square feet and the new sign will be 800 square feet.

In response to a question from Ms. Bakstran, Mr. Bayou confirmed that the sign location has not changed. Mr. Blanchette asked about the sign dimensions for the individual signs to be included on the pylon sign. Mr. Bayou noted that the approval allowed for a minimum of 7 businesses to be advertised but Wegmans could take a larger panel if they are interested. Ms. Bakstran asked Mr. Bayou if he is still comfortable with the minimum number of individual signs

that was required in the original decision. Mr. Bayou confirmed that he is, but asked if the board would be agreeable to including other businesses on the sign. He noted that he is currently limited to only businesses within Northborough Crossing, but there has been some interest expressed by businesses in the development across the street at 333 Southwest Cutoff. He expressed a desire to be able to market to those businesses as well, in hopes of being able to fill the sign.

Mr. Rutan asked if the board can restrict the sign to a locust of properties. Ms. Joubert explained that the original decision restricted the sign to businesses within the Northborough Crossing development, and 2/3 of the sign was to be for businesses of 20,000 square feet or less, with a minimum of 7 businesses to be advertised. She noted that the board did not wish to see the sign turn into one large sign for a single business. Ms. Joubert indicated that the board has the ability to condition anything they want and could opt to incorporate businesses at 333 Southwest Cutoff.

Ms. Joubert explained that she and Mr. Atchue had been in contact with the Office of Outdoor Advertising and, though they were extremely helpful, she still does not have all of the details about their requirements. She also noted that she was unable to get them to commit to whether there is any leeway within their regulations. Mr. Bayou noted that the size of the sign is regulated by federal regulations, which the state agency has no flexibility with.

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

**Public Hearing to consider the petition of Jonathan Hanna for a Variance/Special Permit to allow the use of a two-bedroom, two-family home on a pre-existing, non-conforming lot in the Business East District, located at 16 East Main Street**

In the absence of the applicant, Chairman Rand deferred the discussion pending his arrival.

**Consideration of Minutes** – Jeffrey Leland requested that the minutes be edited to reflect that his address is 22 Pleasant Street.

Jeffrey Leland made a motion to approve the minutes of July 12, 2016 as amended. Mark Rutan seconded; motion carries by unanimous vote.

**Lights at Northborough Crossing** – Ms. Joubert voiced her understanding that one of the new traffic signals had been installed earlier in the day and they should all be operational by the end of the month. She also indicated that the new lights will be connected remotely to the signals on Route 20 (Southwest Cutoff) and at the ramps using adaptive technology.

Ms. Joubert stated that traffic studies have been done at the northerly entrance and it has been determined that the warrant for a signal has been met. She commented that it typically takes 12 to 18 months for a signal to be designed and installed, and the town has conveyed that it needs to be done before the 2017 holiday shopping season. She also noted that the infrastructure has already been installed, so the construction period should be shorter than normal.

Jonathan Hanna arrived and the board considered his petition for the property at 16 East Main Street.

**16 East Main Street** – Mr. Hanna discussed his plans to demolish the existing structure and construct a 2-bedroom, 2-family home in the same footprint. Mr. Hanna provided plans for the proposed building and a conceptual drawing showing gable roofs facing both Main Street and East Main Street. He noted that the Planning Board had previously approved a commercial building on the property, and reiterated that he is planning to construct the homes within the same footprint as approved. He indicated that he still needs to discuss his proposal with the Fire Chief and Police Chief, so the orientation may need to change. In response to a question from Ms. Bakstran, Mr. Atchue indicated that the new foundation for the rear building will meet the required setbacks. Mr. Blanchette asked if both units will have East Main Street addresses and Chairman Rand asked if there will be separate driveways for each. Mr. Hanna confirmed that there will be, though reiterated that input from the Police Chief and Fire Chief is still needed. Mr. Blanchette asked about curb cuts, and Mr. Hanna explained that he plans to use the two that currently exist. Ms. Joubert reiterated that input from the Police and Fire Departments may alter the plans. Mr. Rutan voiced his desire for both driveways to come in off of East Main Street since pulling out onto Main Street could prove challenging.

In response to a question from Chairman Rand, Mr. Hanna indicated that the project will utilize an existing, newly installed septic system and town water. Mr. Atchue explained that, though there is town sewer available on Main Street, there is a moratorium prohibiting cutting into Route 20.

**Lewis Krouse, 2 Beverly Road**, indicated that he owns the white house adjacent to this property and noted that there is no town sewer available that far down on East Main Street. He asked the applicant to clarify the details of the buildings. Mr. Hanna explained that the two buildings will be joined together and will look like one building. He also noted that the two structures will share a demising wall so will be a true 2-family. Mr. Krouse asked if the site could be cleaned up a bit. Mr. Hanna indicated that he intends to do so. Mr. Krouse commented that the proposed project will be a tremendous improvement over what currently exists.

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

## **DECISIONS**

**100 Main Street** – Mr. Rutan reiterated that the applicant is simply cleaning up the paperwork to make the existing use legal.

Mark Rutan made a motion to grant a variance for 100 Main Street to allow the 2-family use. Ms. Joubert indicated that there is no action needed for the garage as it is a pre-existing nonconforming use. Jeffrey Leland seconded the motion made by Mark Rutan; motion carries by unanimous vote.

**1C Belmont Street** – Ms. Bakstran voiced frustration that the state requirements are going to result in the sign being uglier than the board would like it to be. She also indicated that she would like to maintain the conditions as included in the original decision. She stated that she is not opposed to including businesses from 333 SW Cutoff, but does want to impose limits to ensure that the resulting sign accomplishes the original objective of providing exposure for some of the smaller stores. Ms. Joubert asked if the board still wishes to require that 2/3 of the sign be devoted to businesses of less than 20,000 square feet. Members of the board confirmed that they do. Chairman Rand asked that all of the conditions from the original

decision be included in the new decision. Mr. Blanchette requested that the right-turn/u-turn language be clarified.

Ms. Bakstran asked if the board should reference the state regulations in the decision. Mr. Rutan suggested that the decision include conditions about the town's dimensional requirements so that if the state allows any alteration, the applicant would be required to come back to the ZBA. Chairman Rand suggested that the board impose a condition requiring the sign to be removed if it does not meet a certain percentage of occupancy. Mr. Leland recommended that the applicant be required to come back for approval to alter the condition if he is unable to fill the sign due to the limitations imposed in the decision. Ms. Bakstran voiced a preference not to impose too many conditions on the sign. Mr. Rutan commented that, though he is not in favor of forcing people to come back to the board, it is impossible to cover all contingencies.

Mark Rutan made a motion to amend that variance granted per ZBA Case No. 15-14 to allow a freestanding, double-sided sign not to exceed 32 feet wide x 25 feet high. Jeffrey Leland seconded; motion carries by unanimous vote.

Mark Rutan made a motion to amend the variance granted per ZBA Case No. 15-14 to allow a freestanding, double-sided sign not to exceed 50 feet in height. Jeffrey Leland seconded; motion carries by unanimous vote.

Fran Bakstran made a motion to grant a variance to allow the proposed sign to be located on the property at 1C Belmont Street (Route 9) for the purpose of advertising businesses located in the Northborough Crossing retail development at 370 Southwest Cutoff and the commercial development at 333 Southwest Cutoff, with the following conditions:

- Two-thirds of the sign as proposed shall be used for businesses less than 20,000 square-feet in size located on the property owned by 920 LLC and Equity One, collectively Northborough Crossing, at 370 Southwest Cutoff and for the commercial property located at 333 Southwest Cutoff.
- A minimum of 7 businesses shall be advertised on the subject sign.
- The subject sign will be the only use on the subject property.
- The signs (panels) on the front and back sides of the subject sign will be mirror images, with the exception of the "NEXT RIGHT" sign on the front side and "U-TURN" on the back side.
- A service contract shall be put in place to ensure bi-monthly maintenance of the landscaping around the sign.

Jeffrey Leland seconded; motion carries by unanimous vote.

**16 East Main Street** – Chairman Rand voiced his opinion that this is a nice use of the property. Ms. Bakstran commented that the 2-bedroom units will accommodate a different demographic than we are typically seeing in duplexes. Mr. Atchue explained that he has been trying to get

the existing building demolished for months, and noted that there was a demolition permit pulled but it was never enacted. He indicated that the permit has been transferred to Mr. Hanna and he is ready to take the structure down.

Mr. Atchue explained that this project requires a use variance as well as a special permit for reconstruction after demolition on a nonconforming lot.

Mark Rutan made a motion to grant a variance to allow the 2-family use. Fran Bakstran seconded; motion carries by unanimous vote.

Mark Rutan made a motion to grant a special permit for the reconstruction on a pre-existing nonconforming lot after demolition. Jeffrey Leland seconded; motion carries by unanimous vote.

In response to a question from Chairman Rand, Mr. Hanna expressed a desire to demolish the existing structure as soon as he is able to do so. Mr. Atchue explained that the demolition can be done at any time, but construction cannot begin until the 20 day appeal period on the decision has lapsed.

**Duplexes** – Ms. Joubert explained that town staff has been discussing issues related to the construction of and number of duplexes as there is no mechanism in place to review grading, drainage, driveway locations, etc. and there are issues arising with some of the recent projects including challenges getting in and out of driveways and issues with drainage onto neighboring properties. Given these recent issues, she noted that town staff has suggested requiring a site plan review by staff before these projects come before the board to ensure that these types of issues are addressed.

Ms. Joubert also noted that some town residents have voiced complaints about these types of projects, since what are now being built are not serving the affordability factor as they have in the past. She discussed a proposal to increase the minimum lot size for a duplex. Mr. Atchue asked if there has been any consideration about changing the Master Plan and coming up with different zoning altogether. Ms. Joubert noted that she will be putting out an RFP to hire a consultant to re-do the Master Plan. Mr. Atchue indicated that the Table of Uses in the zoning bylaw appears to be missing a lot of things that should be included in certain districts. Ms. Joubert reiterated that the issue of duplexes seems to be problematic and needs to be addressed.

Chairman Rand commented that the same drainage issues would exist on South Street if the buildings were single family homes and not duplexes. Ms. Joubert suggested that the real issue is the massing of these units. She noted that, in the past, duplexes were the size of a single family house but in recent years the two-family units are being built as two single-family homes attached and are often double or triple the square footage.

**Meeting adjourned at 8:08PM.**

Respectfully submitted,

Elaine Rowe  
Board Secretary