



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Zoning Board of Appeals Meeting Minutes November 22, 2016

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

Others in attendance: Kathy Joubert, Town Planner; Joe Atchue, Building Inspector; Elaine Rowe, Board Secretary; John Grenier; Amy Poretsky, 47 Indian Meadow Drive; Attorney George Pember; Rashid Shaikh, ZHS Realty; Linda DeWolfe, 29 King Street; Linda Sowden, 19 King Street; EJ Sowden, 15 King Street; Tara DeWolfe, 34 King Street; Jim Venincasa; Nilton Lisboa, 156 East Main Street; George Connors, Connorstone Engineering; Alys & Mitch Cohen; Norm Corbin, 35 Whitney Street; Alvin Aldrich, 370 Davis Street; Bill Norman, 11 King Street; Wayne Belec, Waterman Designs; Andy Clark; Mike Sullivan; Dan Wezniak

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

John Grenier discussed plans for the construction of 16 multi-family dwellings on the lots, located on the southerly side of King Street just off of Southwest Cutoff. He noted that the land is currently two individual lots of approximately one acre each, with an old abandoned home on the most southerly lot, and is located in the Business West district.

Mr. Grenier stated that, when the applicant originally considered development options for the parcel, he discovered that the zoning allows for multi-family residential with a density of 8 units per lot. Mr. Grenier explained that, after multiple meetings with the DRC, he was encouraged to consider combining the two lots and building a total of 16 units. By doing so, he is able to construct a horseshoe shaped roadway with only two points of access onto King Street and eliminate the need for traffic to back out onto King Street. In addition, the applicant was able to improve the design of the project as follows

- size of the units has been reduced from a depth of 46 feet to 38 feet
- building layouts on the parcel are better
- property can be kept as two distinct lots, with a lot line zig-zagging between buildings 2 and 3, eliminating the need for a variance for 16 units on one lot

Mr. Grenier indicated that the project will functionally all work the same. He stated that the property is fairly flat at the front of the site and drops off dramatically to the rear. He discussed the presence of wetlands, and noted that the Conservation Commission has a 15 foot No Disturb and a 30 foot No Build zone. Mr. Grenier stated that the original plan was modified to include the installation of a retaining wall at the 30-foot line, with the wall to wrap around the rear portion of lot 1. He also noted that the wall is considered a structure because it is more than 4 feet tall, so a variance will be needed for the wall setback. He explained that it is possible to make up the elevation difference in the foundations, but they have opted not to do so in response to the Fire Department's request for access around the rear of the units.

Mr. Grenier and Mr. Shaikh reviewed the elevation plans, which were also presented to the Design Review Committee (DRC) last week where they were modified slightly and ultimately met with approval. Mr. Shaikh expressed his appreciation to the DRC and town staff for their input and assistance during the process.

Mr. Shaikh also indicated that he has been before the Board of Health with a septic system design. He explained that, based on concerns from the neighborhood about impacts and betterment fees associated with town sewer, he has opted to utilize an onsite septic system.

Mr. Shaikh discussed the updated landscaping plan, which also incorporates modifications to garage doors, doors, windows, and trim that were requested by the DRC. He also noted that the lighting plan includes the use of 8 foot poles at the front and solar LED lights on top of the fence that will run along the top of the retaining wall.

In response to a question from Chairman Rand, Mr. Grenier indicated that the height of the retaining wall will vary from 2 feet to approximately 22 feet in the area where the topography of the site drops off. He also stated that plans include a 42-inch high fence along the top of the wall. Chairman Rand asked if the wall will run along the property line for the DeWolfe property. After clarifying the location of the DeWolfe property, Mr. Shaikh confirmed that there will be a wall and fencing installed in that location to provide separation and safety for all parties.

Ms. Bakstran noted that the original application sought a variance to allow 16 units on one lot, and voiced her understanding that the applicant is now seeking a setback variance. Mr. Grenier commented that he believed that this would be less of a variation from zoning, since it is possible to run an interior lot line between the two buildings, but noted that the project could be developed either way. In response to Ms. Bakstran's a request for clarification about setback variances, Mr. Grenier noted that two are needed for lot one and one is needed for lot 2. He also clarified that 39 King Street is the more northerly lot.

Mr. Blanchette asked if a 42-inch fence will provide sufficient safeguards. Mr. Shaikh indicated that this is what was requested by the DRC. Mr. Atchue confirmed that 42 inches is all that is required per the building code. Chairman Rand asked about the type of fencing to be used. Mr. Shaikh stated that, if he stays with a 42-inch fence, it will be some type of decorative fencing but if he opts for a 6-foot fence, he would likely use chain-link.

Ms. Joubert provided members of the board with a copy of the DRC review memo, and reiterated that the DRC is satisfied with the plans as presented tonight and they are much happier with the retaining wall than the 4-story building at the rear of the property as was originally proposed. She did, however, suggest that the board include a condition in their decision stipulating that the DRC must approve the final landscaping plan prior to the issuance of a Building Permit.

Chairman Rand asked if there has been any discussion between the various town departments about King Street itself. Ms. Joubert noted that, when the project was initially proposed, there were discussions but the final conclusion from the Police Chief was that he did not believe that this project would cause any more detriment to the roadway either physically or traffic-wise. She stated that the circular driveway pattern was preferable to the original design that had cars backing out onto King Street.

Ms. Bakstran asked about the inclusion of sidewalks. Ms. Joubert voiced her opinion that the right-of-way may not be large enough to accommodate sidewalks.

Mr. Litchfield requested that the board include the following conditions if they approve the project:

- Condominium documents must include an ongoing Operations & Maintenance Plan for both the septic system and the drainage system.
- An Earthwork Permit will be required.
- Permeability tests are to be performed prior to the issuance of a Building Permit
- An as-built plan is to be provided

In response to questions about the drainage system, Mr. Litchfield indicated that if the system needs to be enlarged or modified in any way, the town would want to know that before any building is underway. Mr. Grenier noted that he had done soil testing and dug some test pits in the area where the drainage is proposed, and agreed to provide the information on permeability to the Town Engineer prior to seeking Building Permits. He also indicated that, should there be any changes needed to the drainage system, larger underground chambers could be used.

In response to a question from Ms. Bakstran, Mr. Shaikh confirmed that the units will have 3 bedrooms and 2 bathrooms.

Linda DeWolfe, 29 King Street, asked for clarification about frontage and voiced her understanding that 150 feet of frontage per lot is required, and the applicant only has 133 feet on one lot and 123 on the other. Mr. Atchue noted that these are pre-existing, nonconforming lots. Mr. Litchfield indicated that any change to the lot lines will negate the pre-existing condition. Mr. Grenier noted that 39 King Street will have 150 feet of frontage and 41 King Street will have 123.15 feet, which will require a variance of the minimum frontage.

Ms. DeWolfe noted that there do not appear to be decks on any of the units and asked if there will be and, if so, how far off the property line they will be. Mr. Shaikh indicated that there will be balconies (6

feet deep x 16 feet wide) on the back of the buildings, which will be installed with brackets. He stated that the balconies will 14 feet from the property line, but there will be no posts on the ground.

Ms. DeWolfe commented that the retaining wall as shown on the plans appears to be on her property. Mr. Shaikh indicated that it will not be. Ms. DeWolfe asked how close the wall will be to her property line. Mr. Grenier stated that it will be one foot off the line. Ms. DeWolfe questioned how they will be able to construct the retaining wall without disrupting her property.

Chairman Rand asked about the height of the slope to where the DeWolfe's parking lot is located. Mr. Grenier commented that he does not know the grade of the parking lot, but noted that the elevation goes from 320 to 312, with the basement floor at 344. Mr. Shaikh stated that the bottom of the wall at the bend is at 316 and the top elevation is 340.

Chairman Rand asked about the stability of the wall and the building material to be used. Mr. Grenier noted that this will be a structural wall designed by a structural engineer and will be constructed of large (6'x3'x3'), precast blocks. Chairman Rand asked if the block will be finished on the exposed side. Mr. Grenier confirmed that it will be.

EJ Sowden, 15 King Street, asked about the elevation of the wall behind building 1 in relation to the parking lot. He also suggested that there should be a series of terraced, 10-foot walls instead of one solid wall. He questioned where the foot of the wall is to be located in relation to the lot line and parking area. In addition, Mr. Sowden stated that he would like to see a 90-degree turn-out to slow traffic as has been done elsewhere in town.

Mr. Sowden stated that roadway improvements are needed at the top of the street. Mr. Rutan agreed, but noted that it is not within the scope of this project. Mr. Sowden emphasized that this project adds a great deal more to an already bad situation, and something needs to be done to ensure safety. Chairman Rand indicated that this matter does not fall within the board's purview. Mr. Grenier reiterated that the applicant had met with the Police Chief and he did not make any requests nor did he see anything with this project that would alter anything on King Street.

Ms. DeWolfe stated that she has serious concerns about what will happen to her property if the applicant places a retaining wall one foot off of her property line. Mr. Grenier reiterated that this will be a structural wall that will be reviewed by engineers and the Building Department, and be inspected during construction. Ms. DeWolfe asked if Mr. Grenier can guarantee that there will be no damage to her property. Mr. Grenier confirmed that there would not be. In response to a question from Chairman Rand, Mr. Grenier explained that the footing of the wall will need to go down deep enough so that there is no horizontal load on the wall, with the pressure on the footing to be on the interior of the applicant's property. Ms. Bakstran asked if a variance is needed to allow the wall to be in the side setback. Mr. Atchue confirmed that a variance is required. Mr. Grenier noted that the original design, featuring a basement walkout, was modified to provide access to the back of the units as was requested by the Fire Chief and the DRC. Ms. Bakstran asked why the wall can't be outside of the setback, and suggested that moving it further away from the slope might allay some of the neighbor's concerns. Mr. Rutan asked if moving the wall will result in loss of the vehicle access to the backs of the units. After some discussion,

Mr. Shaikh agreed to pull the wall 3 feet in and away from the DeWolfe property line. Ms. Joubert indicated that this will still require a variance.

Bill Norman, 11 King Street, asked if there is any possibility that the construction vehicles can stay on Route 20 rather than being on King Street. Mr. Shaikh agreed to try to do so. Mr. Sowden suggested that a site foreman can emphasize the need for appropriate truck traffic flow.

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

Public hearing to consider the petition of David Franca, 352 Church Street LLC, for a Variance/Special Permit/Appeal to allow the use of a proposed single-family dwelling on the property at 352 Church Street, on which a Wireless Communications Facility is located

Jeffrey Leland recused himself, citing a conflict of interest.

Attorney George Connors appeared on behalf of the applicant to discuss the project. He noted that the applicant is seeking a decision to overturn the Building Inspector's decision denying a building Permit. Mr. Connors discussed the location of a wireless communications facility that was approved by special permit in 1997 and later amended in 2004. He noted that there are a host of structures within 500 feet of the existing wireless communications facility. He also voiced his opinion that the bylaw specifically details the placement of these towers but not the location of houses, and asked for an interpretation that a structure can be built within 500 feet of a wireless communications facility.

Attorney Connors presented plans for the project showing the proposed locations for the house and septic system. He noted that the Conservation Commission had looked at a depression on the parcel and determined that it was not a wetland resource but expressed a preference to stay as far away from it as possible. He also stated that, in order to place the house at least 500 feet from the existing tower, it would end up at the front of the lot and would involve building close to the depression and septic system. He reiterated his request for the board to review the language of the bylaw that he believes pertains to the placement of the tower but not the placement of the house. Attorney Connors indicated that the proposed house will be 125 feet from the tower.

Attorney Connors stated that, should the board choose to uphold the Building Inspector's determination he would then seek a variance. He commented that the proposal is not detrimental to the neighborhood and does not derogate from the intent of the bylaw. He explained that the shape of the lot and the septic system location result in placement of the house near the tower

Ms. Bakstran questioned the timeline for the construction of the tower and the associated zoning bylaw. Ms. Joubert confirmed that this tower and the tower on Bearfoot Road both came to the ZBA before the town had a cell tower bylaw. Ms. Bakstran questioned the intent of the setback, and noted that this application states that the applicant will take on the risk of having a home in close proximity to the tower. Ms. Joubert asked when the lot was created and noted that the ANR process in Massachusetts is limited to what can and cannot be done but does not necessarily mean that the lot conforms to zoning or guarantee that it is a buildable lot. She also noted that the Building Inspector had questioned Town

Counsel about this matter and was advised that the bylaw does in fact apply both ways and any new construction near a cell tower is required to meet the setback.

Attorney Connors stated that the Planning Board endorsed the creation of this lot on April 9, 1996, and the Special Permit for the cell tower was issued on May 20, 1997. Mr. Rutan commented that the setbacks are in place not only to provide a safe fall zone but also to protect nearby structures from anything that may blow off the tower in high winds. Attorney Connors reiterated his opinion that the bylaw addresses placement of a Wireless Communications facility near an existing home but not the placement of a new structure near an existing tower. Based on the discussion, Attorney Connors requested the board's consideration of a variance of the 500 foot setback from a structure and 600 feet from the lot line. Chairman Rand stated that it does not make sense that a town can enact a bylaw that invalidates a useable lot.

Ms. Joubert commented that the hardship was the result of the property owner creating the lot, and reiterated that Town Counsel has reviewed this case and determined that the result of the various actions is an infectious invalidity. Ms. Bakstran stated that she would want to have a clear understanding of the timeline of the various events. Mr. Rutan indicated that he would like to know what the restrictions were at the time the lot was created.

In response to a request from Ms. Bakstran, Attorney Connors agreed to continue the hearing and present the pertinent timeline details at the next meeting, provided he can obtain them.

Fran Bakstran made a motion to continue the hearing to January 24, 2017 at 7:00PM. Mark Rutan seconded; motion carries by unanimous vote (Jeffrey Leland recused).

Jeffrey Leland returned.

Public hearing to consider the petition of Rashid Shaikh for a Variance/Special Permit/Special Permit, Groundwater Protection Overlay District, to allow the use of two 2-family dwellings, one on Lot #2 and one on lot #3, with less than the required lot area in a Groundwater Protection Overlay District, on the property at 12 Whitney Street

Rashid Shaikh discussed his request for a special permit and variance on 2 ANR lots (lots 2 & 3, or 14,16 18, & 20 Whitney Street). He indicated that he had been before the Groundwater Advisory Committee (GAC) on November 8, 2016.

Wayne Belec of Waterman Design, indicated that the property is located on Whitney Street, just north of the Route 20 intersection. He noted that there is an existing single family home with garage on the lot to the south, owned by Mr. Cohen who is in attendance tonight. He explained that the project involves development of two lots in the General Residential zone, which has a minimum required lot size of 15,000 square feet or 20,000 square feet for a duplex and a minimum frontage of 150 feet. He stated that all of the requirements can be met for a single family residence but they are 2,000 square feet under what is required for a duplex on lot 2. He also noted that there is a swale and Mill Pond to the east of the property, and a small section of the parcel is in the 100 year flood plain. Mr. Belec mentioned that the GAC did not support the variance request for lot 2, so the applicant is withdrawing

that request without prejudice and, in lieu of a variance, would like to obtain a small portion of land from the abutter to bring the lot into compliance. Mr. Belec indicated that the applicant is here tonight seeking a special permit for lot 3, with development on lot 2 pending until the client can work out an agreement to purchase a section of land from the abutter. Given the situation, Mr. Belec expressed a desire to present the two lots separately.

Mr. Belec discussed the project proposed for lot 3 (18 & 20 Whitney Street), which calls for a duplex that will meet the dimensional setbacks from the lot lines. He noted that he did receive a recommendation from the Town Engineer to access each of the lots via a single driveway to serve the two units. In addition, the GAC has requested that the grading for the unit to the right pitch toward the common property line. He indicated that the grading follows the topography and runoff will flow toward the back of the lot, with 50% of the roof runoff to be captured and directed to stormwater units. He noted that all work will occur outside of the 100 foot buffer to a wetland, so the project is not required to go before the Conservation Commission.

Mr. Belec stated that the proposal for lot 2 is similar to that of lot 3, with the only real difference being that $\frac{3}{4}$ of the roof runoff will be captured. He noted that the applicant is seeking conditional approval for this lot, provided he can obtain the additional 2,000 square feet of land needed for the lot to be in compliance.

Mr. Belec noted the existence of other multi-family use in the area, and voiced his opinion that the project fits with the character of the neighborhood. He also discussed Mr. Cohen's request for modifications to the grading to minimize runoff toward his property, which he hopes can be addressed with the creation of a gentle swale and installation of some type of screening between the two properties.

In response to a question from Ms. Bakstran, Mr. Belec indicated that the buildings will be 64-feet by 42 to 44 feet, 27 feet high in the front and 35 feet high in the back, with two, 2,000 square foot residential units in each.

Mr. Litchfield discussed his comment letter dated November 18, 2016.

Ms. Bakstran asked for clarification of whether this is only before the board because of groundwater and would otherwise be allowed by right. Mr. Litchfield indicated that a single family home is allowed by right and a duplex is allowed by special permit.

Mitch Cohen, 12 Whitney Street, stated that he was initially told by Mr. Shaikh that each unit would be 2300 square feet and asked if that has since been reduced. Mr. Shaikh stated that the unit size was merely estimated and he expects they will end up somewhere between 2000 – 2300 square feet. Mr. Cohen commented that he understands the purpose of the infiltration system but it seems to be more complicated than what would be needed for a single family home. He also expressed concern that it will be ignored and not appropriately maintained, which could negatively impact his property.

Mr. Cohen also voiced concerns about the massive size of the buildings, which is completely out of character with the neighborhood. He emphasized that either one of the proposed buildings would be the third largest residential structure on the entire street on a very small lot, with the only larger structures being on 5 and 10 acre parcels.

Mr. Cohen noted that the bylaw stipulates that a special permit can be granted only when the benefits will outweigh the adverse effects, and asked the board to seriously consider whether approval is warranted. He commented that this is a very diverse neighborhood, but there is nothing remotely like what is being proposed anywhere in the vicinity. He also expressed concern about traffic impacts.

Mr. Belec explained that the infiltration system will function no differently than a septic system, and potential impacts will be addressed. He also stated that he would expect the homeowners to maintain the system as it will behoove them to do so. With respect to the size of the buildings, Mr. Belec noted that the maximum lot coverage allowed is 30%, with the coverage on lot 3 at 14% and lot 2 coverage will be 16%.

Mr. Shaikh discussed 4 similar duplexes on Route 135, and noted that the proposed units are similar in size.

Ms. Bakstran voiced frustration about the fact that duplexes in recent years are actually two full size homes that share a common wall, and expressed a desire for the buildings to be smaller. She commented that these buildings are not attractive and are not in line with the character of the town. Chairman Rand asked what the expected sale price will be for these units. Mr. Shaikh stated that they will be approximately \$450,000, whereas single family homes in town are selling for \$600,000 to \$700,000.

Norm Corbin, 35 Whitney Street, expressed concerns about both the size and design of the buildings. Ms. Joubert noted that single family and 2-family homes are not required to go before the Design Review Committee (DRC). Ms. Bakstran commented that the General Residential zone is meant to be densely populated and within walking distance to downtown.

Mr. Cohen noted that there had been extensive discussion at both the Planning Board and Groundwater Advisory Committee meetings about changes to the zoning bylaw to address this exact issue, and there seems to be a strong consensus that this is inappropriate. He also stated that there is no law requiring the board to grant a special permit, and asked the board to seriously consider whether this project is appropriate.

Alvin Aldrich, 370 Davis Street asked about the number of bedrooms and bathrooms in the units and suggested that the front yard appears to be all pavement and is very tight to the road. He also asked about the setbacks, which Mr. Belec indicated will be 31 – 32 feet. Mr. Aldrich commented that, when driving up Whitney Street the sides of these buildings will be visible and will look like a huge barn adjacent to a beautiful house, and asked if there is any possibility to move the buildings further off the road. Mr. Belec discussed the need to maintain the 100 foot buffer from the adjacent wetland. Mr. Shaikh noted that the units will have 4 bedrooms and 2 ½ bathrooms.

Amy Poretsky, 47 Indian Meadow Drive, reiterated that the benefits of the project must outweigh the detriments and noted that the size of these units do not meet the affordability factor. She commented that the average home price in town is \$392,000 and the statements being used by the applicant to justify approval are not valid. She also stated that the abutters to the duplexes on Route 135 have come forward and said that the project did create problems with runoff.

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

The board took a brief recess at 9:35PM.; the meeting resumed at 9:40PM.

Public hearing to consider the petition of Mohamed Kafel for a Variance/Special Permit/Special Permit with Site Plan Approval, to allow construction of an auto repair shop on the property located at 269 Main Street

After introducing Andy Clark, Mike Sullivan, and architect Dan Wezniak, Attorney George Pember explained that the applicant is seeking a special permit for an auto repair shop and a special permit under the groundwater bylaw. He noted that the project has been before the Design Review Committee several times.

Mr. Sullivan provided a brief overview of project to be constructed on the $\frac{3}{4}$ acre lot across the street from St. Bernadette's Church. He stated that there is an abandoned single family dwelling on the property, and a proposed 60' x 60' single story building will be constructed in roughly the same location. Mr. Sullivan noted that the applicant currently has a business on Bartlett Street and is seeking to relocate.

Mr. Sullivan noted that traffic access will be in a one-way pattern in and out of the property. He explained that plans included subsurface drainage utilizing deep sump catch basins and a 2,000 gallon tight tank with alarms to collect oil and grit. He also indicated that 12 parking spaces are required and 16 have been provided. He stated that the open space requirement is 20% and this plan provides 47%, with the landscaping to feature mature trees complimented with evergreens, birch trees, azaleas, reed grass and perennial beds. Mr. Sullivan confirmed that a photometric plan has been done and there will be no light impacts to the neighbors.

Mr. Wezniak noted that the site allows the proposed 60' x 60' box, which will be a simple, steel frame building with metal cladding on the outside. He indicated that the applicant had wanted 8 bays, but ended up with 6. He also noted that there will be surface mounted lights by the bay area and downlights by the front door.

Mr. Clark discussed the signage plan, which calls for a 14' x 6', 2-sided internally lit monument sign with a 30 square feet icon for the graphic and an additional 15 square feet for the required inspectional station placard. He explained that the applicant is seeking relief on the height restriction in order to accommodate the sign banner for the inspectional component.

In response to a question from Chairman Rand, Mr. Clark confirmed that a variance is needed to allow a sign height of 14 feet (maximum allowed is 10 feet), and noted that the state mandated the size of the inspectional placard portion. Ms. Bakstran asked if the sign exceeds 32 square feet in area. Mr. Clark indicated it does not and explained that the supporting structure is not included in the sign calculation.

Ms. Bakstran indicated that flashing, moving, and animated signs are prohibited but changeable copy is allowed. She asked if the moving piece of the sign is part of the illuminated section that cannot be lit between midnight and 6:00AM. Mr. Clark confirmed that it is, and noted that St. Bernadette's Church had recently received approval for a sign with changeable copy.

Mr. Litchfield discussed the conditions he requested in his comment letter and his reasoning for them.

Ms. Joubert indicated that the letter from the Fire Department indicates that they have no objections to the project. She also discussed the letter from the DRC, in which they request that a final landscaping plan, designed by a member of the DRC and approved by them, and a revised photometrics plan must be submitted prior to the issuance of a building permit. In response to a question from Ms. Joubert, Mr. Sullivan indicated that the dumpster will be located to the rear of the building. Ms. Bakstran asked if the sign on the building will be illuminated. Mr. Clark confirmed it will be, and noted that this allowable per the zoning bylaw. Mr. Clark asked if it is customary for signage to be included in the photometrics plan. Ms. Joubert indicated that it is.

Amy Poretsky, 47 Indian Meadow Road, reiterated that a special permit may be granted only if the benefits of the project outweigh the detriments and asked what the benefits are for this proposal. Attorney Pember stated that this will be an attractive, well designed project that will generate tax revenue for the town. Ms. Bakstran asked if the DRC is confident that the building will not have the appearance of a typical industrial building. Ms. Joubert stated that the DRC is satisfied with the design. Ms. Poretsky indicated that she had attended the DRC meeting, where the applicant provided plans to construct an industrial type steel building. Mr. Wezniak suggested that Ms. Poretsky focus on the design and appearance of the building and not just the construction material. Ms. Poretsky commented that she is supportive of promoting local business but simply does not believe that this is the appropriate location for this project. She noted that there are already 12 automotive repair shops in town, 7 of which are on Main Street. Mr. Wezniak noted that the new shop will be 1/8 of a mile from the applicant's current location. Ms. Poretsky stated that the adjacent businesses are more in line with professional offices, retail, and restaurant uses. She also asked for the interpretation of the groundwater and zoning bylaws that was used, and voiced her opinion that commercial development is limited to business/professional use and this is not that. Mr. Litchfield explained that there is no "and" statement between sections in the zoning bylaw.

Ms. Poretsky voiced her opinion that it is detrimental to move from Groundwater 3 to Groundwater 2 and, given the issues with noise and aesthetics from having the garage doors open during the summer months, she does not believe the benefits outweigh the detriments.

EJ Sowden, 15 King Street, discussed the state inspection portion of the sign. He noted that other stations have these posted on the physical building itself and questioned why the applicant can't do so

in order for the monument sign to comply with the bylaw. Mr. Clark indicated that the proximity to the street is important, and the building is set back from the roadway.

Alvin Aldrich, 370 David Street, expressed concerns about the groundwater and commented that he believes the automotive repair use is not allowed in Groundwater 2. He also asked if anyone has looked closely at the circulation on the site and noted that it appears to be too tight for this operation. In response to a question from Mr. Aldrich, Mr. Wezniak indicated that there will no wash bays in the building. Ms. Bakstran asked about curb cuts. Mr. Sullivan noted that there are two new curb cuts proposed due to the change of use.

Ms. Bakstran asked if the size of the changing sign can be reduced by 4 feet. Mr. Clark explained that he is designing the sign around a module that is purchased, and agreed to research other options that might be available. Ms. Bakstran also noted that the building is only 15 feet from the street, so placing the state inspection sign on the building would work.

Ms. Poretsky emphasized that the absence of a comment letter from the Planning Board does not indicated support, and noted that the members of the board had not had the opportunity to discuss it.

Nilton Lisboa, 156 East Main Street (residential abutter), asked if there is any possibility to add a fence along his property line as a barrier for his young child who currently enjoys walking around in the wooded area. Attorney Pember agreed to do so.

Mr. Aldrich asked for clarification of the ZBA process. Chairman Rand explained that the board will discuss the project and render a decision, which can be appealed within 20 days of the filing of the decision Ms. Bakstran noted that there is no abutter notification when the decision is filed, so residents are encouraged to contact the Planning Office. Mr. Aldrich expressed extreme concern about toxic materials that are going to be used and stored onsite. Chairman Rand reiterated that materials will discharge to a tight tank that will be emptied when full. Mr. Aldrich commented that flow from outside parking areas will go to drains with traps and eventually end up in the groundwater. Mr. Sullivan stated that the protection on this site is superior to any other site in town. In response to a question from Mr. Aldrich about maintenance, Mr. Sullivan indicated that the applicant is required to do quarterly inspections and cleaning of the drainage structures.

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

DECISIONS

King Street – Ms. Bakstran commented that the applicant has worked hard to make this a nice project, but she believes that this is not the appropriate site for it and the result will be too many adverse impacts to the neighborhood. She also noted that, while she agrees that it will be an improvement over what currently exists, that in itself is not justification for approval and she cannot support it. Mr. Blanchette agreed. Mr. Rutan expressed safety concerns for small children living in this residential development in close proximity to a 20-foot retaining wall. Mr. Leland suggested that denial will not

stop the project; the applicant will simply find another proposal that will meet the requirements of the bylaw. Ms. Bakstran reiterated that the project places 16 homes on less than 2 acres of land, and suggested that the intent of the bylaw was not to allow this type of project. Chairman Rand expressed concerns that denial may result in a worse project being developed.

Mark Rutan made a motion to grant a special permit to allow multi-family use and a special permit with site plan review with the conditions as noted in the Groundwater Advisory Committee's letter and that the wall must be a minimum of 3 feet from the property line with fencing along the top of at least 42 inches in height. Jeffrey Leland seconded; motion was denied by a vote on 1 in favor (Jeff Leland) and 4 opposed.

Mark Rutan made a motion to grant a variance for the property at 43 King Street to reduce the internal side setback to 10 feet and to reduce the minimum required frontage to 137 feet. Fran Bakstran seconded; motion carries by unanimous vote.

Mark Rutan made a motion to grant a variance for the property at 39 King Street to reduce the internal side setback to 10 feet. Fran Bakstran seconded; motion carries by unanimous vote.

Mark Rutan made a motion to grant a variance for the property at 39 King Street to allow a wall to be within 3 feet of the property line. Fran Bakstran seconded; motion carries by unanimous vote.

12 Whitney Street – Ms. Bakstran commented that the project is too big for the property, but it does represent what was meant for the General Residential district. Mr. Rutan noted that this project will result in the largest building on Whitney Street on the smallest lot, and voiced his opinion that it is not in substantial harmony with the neighborhood. Ms. Bakstran indicated that she was curious about the neighbor that is negotiating to sell the 2,000 square feet of land needed to bring lot 2 into compliance who voiced so many objections to the project. She also noted that a single family home on the parcel could take up the same footprint. Mr. Rutan indicated that a single family home would not have as much pavement. He also stated that he is not in favor of conditional approvals. Mr. Leland stated that, if the applicant is not able to secure the additional 2,000 square feet of land, it is likely he will construct a large, single family home and the board would not have the ability to impose any conditions.

Mark Rutan made a motion to grant a special permit for lot 3 at 12 Whitney for a duplex with conditions as noted in the Groundwater Advisory Committee letter dated November 18, 2016. Fran Bakstran seconded; motion carries by a vote of 4 in favor and 1 opposed (Brad Blanchette opposed).

Mark Rutan made a motion to grant a special permit for lot 2 with the condition that the additional 2,000 square feet of land is acquired and the conditions as noted in the Groundwater Advisory Committee letter dated November 18, 2016. Fran Bakstran seconded; motion was denied by a vote of 2 in favor (Jeffrey Leland and Richard Rand) and 3 opposed (Mark Rutan, Brad Blanchette and Fran Bakstran).

269 Main Street – Mr. Rutan commented that the applicant is moving from their current location with a gravel parking lot that drains to a nearby swamp into a modern facility where runoff and drainage will

be controlled. He also stated that he does not see an issue with the traffic circulation. Ms. Bakstran noted that the site is in a commercial area, and the project should be a nice improvement if the building looks as nice as was shown on the plans. She also stated that she was not in favor of the sign as proposed.

Mark Rutan made a motion to grant a special permit for an automotive repair use, a special permit for groundwater, and a special permit site plan review for the project at 269 Main Street with the conditions as requested in the Groundwater Advisory Committee letter dated November 18, 2016 (copy attached) and the following additional conditions:

- lights are not to be illuminated between the hours of 10PM and 6AM
- a fence is to be installed along the area where the site abuts the easterly property line of the residential lot at map 47 parcel 11 on East Main Street
- A final landscaping plan, designed by a member of the DRC and approved by them must be submitted prior to the issuance of a building permit
- A revised photometrics plan must be submitted prior to the issuance of a building permit. In response to

Brad Blanchette seconded the motion; motion carries by unanimous vote.

Members of the board expressed concerns about the size of the sign.

Mark Rutan made a motion to grant a variance to allow a 14 foot sign. Fran Bakstran seconded; motion was denied by a unanimous vote of opposition.

Consideration of Minutes

Fran Bakstran made a motion to approve the Minutes of the Meeting of July 26, 2016 as submitted. Jeffrey Leland seconded; motion carries by unanimous vote.

Fran Bakstran made a motion to approve the Minutes of the Meeting of September 27, 2016 as submitted. Jeffrey Leland seconded; motion carries by unanimous vote.

Fran Bakstran made a motion to approve the Minutes of the Meeting of October 25, 2016 as submitted. Jeffrey Leland seconded; motion carries by unanimous vote.

Meeting adjourned at 11:05PM.

Respectfully submitted,

Elaine Rowe
Board Secretary