



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 8.22.17

Zoning Board of Appeals Meeting Minutes January 24, 2017

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

Others in attendance: Kathy Joubert, Town Planner; Joe Atchue, Building Inspector; Elaine Rowe, Board Secretary; Attorney George Connors; Attorney Marshall Gould; Bob Depietri; Bill Fox

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

Continued 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 from the hearing, citing a conflict of interest.

Attorney George Connors appeared on behalf of the applicant to appeal the Building Inspector's decision not to issue a permit because there is a wireless facility located behind the property and the bylaw requires a 600-foot setback from a house. He noted that, at a previous meeting, the timeline for the installation of the wireless communication facility (WCF) was discussed. He stated that in 1996, the subject lot at 352 Church Street and the lot at 348 Church Street were created via an Approval Not Required (ANR) plan. In 1996, the use of a Wireless Communications Facility was granted on the property at 348 Church Street per Special Permit and Site Plan Approval of the Zoning Board of Appeals, ZBA Case No. 96-27. In 1998, the Town of Northborough adopted a Wireless Communications Facilities Bylaw and in 1999, houses were built on both sides of the property at 348 Church Street; and more recently, a 40B Comprehensive Permit development that directly abuts 348 Church Street was constructed.

Attorney Connors voiced his opinion that the bylaw addresses placement of a tower away from residential structures and not the reverse, and the applicant is appealing the Building Inspector's decision based on his interpretation that the bylaw does not apply to this scenario. Absent that, Mr. Connors requested that the board grant a variance to construct the house within 500 feet of the tower. He noted that this is the best location for the dwelling due to soil conditions and the wetland location.

He explained that it is possible to place the house more than 500 feet from the WCF, but this will put the house up against the street and the applicant would prefer not to do so.

In response to a question from Mr. Rutan, Ms. Joubert confirmed that there were no regulations on cell towers prior to 1998. She also voiced her understanding that the timeline provided by Attorney Connors is accurate. Ms. Joubert commented that staff and Town Counsel are of the opinion that the bylaw works both ways, so what is before the board is a request for variances and not an appeal of the Zoning Enforcement Officer's decision. She clarified that two variances are needed; one to allow a house within 500 feet of a wireless communication facility and a second for the house to be less than the required 4 times the maximum height of the cell tower structure (150 foot tower x 4 = 600 feet).

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

Public Hearing to consider the petition of 920 LLC for a Variance/Special Permit to allow a free-standing sign to be located on the property between MedPost Urgent Care and the existing Avalon Pylon sign; and to allow two wall signs to be located on the south and east walls of the building in which Saint Vincent Medical Group is located, on the property located 10,010 Shops Way

Attorney Marshall Gould introduced developer, Bob Depietri, and Bill Fox from St. Vincent's Medical Group, the parent company of MedPost. Attorney Gould noted that the project has two large buildings, built in an L-shape, with St. Vincent's Medical Group to be located in the corner. He explained that the applicant is seeking to install a small pylon sign that will be visible to traffic driving along Route 20 near the entrance. He noted that the applicant would also like to install wall signs on both the back (south facing) and side (east facing) of the building for improved visibility for the medical practice.

Attorney Gould explained that there is an existing pylon sign at the entrance to Northborough Crossing, and the applicant is seeking an additional pylon sign to be seen from the Shops Way roadway. He mentioned the UMass emergency care facility across the street that is causing a great deal of confusion for people trying to find the MedPost facility, and voiced concerns with patients being delayed when seeking medical care. He commented that the elevation and size of the development is such that signage is not visible until people are actually in the parking lot, so the applicant is seeking approval for signage that will be visible when approaching from both directions.

Attorney Gould noted the size of the development, which calls for more signage than would normally be allowed on one lot. He stated that the bylaw allows for more pylon signs if there are more than 10 tenants, and noted that the proposed sign will be more than 50 feet from the "Avalon" sign and will be smaller than the sign at the entrance to Northborough Crossing. He reiterated the importance of increased visibility for the medical facility.

Attorney Gould explained that the legal portion of the application begins on page 6, and reiterated that the applicant is seeking variances to allow a freestanding sign and two wall signs on the same building.

He noted that a small portion of the lot has frontage on Route 20 but the majority of frontage is on Shops Way. He reiterated that there is a similar medical facility across the street with wall signs and a pylon sign that are visible from Route 20, enabling those patients to more easily find that facility. He suggested that the proposed signs will properly call attention to the location and will not constitute any detriment to the public good. He reiterated that the proposed signs will contribute to safety and minimize traffic confusion.

In response to a question from Chairman Rand, Attorney Gould indicated that St. Vincent's Medical Group is expected to occupy approximately 1/3 of the building. Chairman Rand asked about additional tenants for the building and their anticipated signage needs. Mr. Depietri indicated that retail tenants are typically more interested in space on a pylon sign. Attorney Gould commented that Northborough Crossing is known as a shopping destination and not identified with medical uses, so the lack of appropriate signage will have serious negative impacts to the business.

Ms. Bakstran asked if St. Vincent's plans to have a sign on the front of the building in addition to the two signs on the sides. Attorney Gould indicated that they will have a sign on the front above their space. Ms. Bakstran asked if a single business is allowed to have three signs. Mr. Atchue stated that a variance will be required. Ms. Joubert noted that the sign on the front of the building was included in the original variance that was granted for all the signs. Ms. Bakstran commented that MedPost currently has two signs on their building that can be seen from Route 20 and they are now asking for a pylon sign as well. She also noted that the proposed location for the pylon sign is within the interior of the property to the left of the "Avalon" sign, and asked if the proposed sign will block that sign. Mr. Depietri indicated that the plan is not to do so. Ms. Bakstran also expressed her desire for the sign to be illuminated only during the tenant's hours of operation and not overnight. Mr. Atchue mentioned that the bylaw does limit when a sign can be lit.

Mr. Blanchette asked if there is a reason why the applicant is only seeking a pylon sign for MedPost and St. Vincent's Medical Group and voiced concern that they will be back before the board for more signage in the future. Mr. Depietri stated that signage has not been an issue with other retail tenants. Attorney Gould suggested that retail businesses and restaurants typically benefit more from word-of-mouth advertising. Chairman Rand recalled that businesses in the development at the top of the hill had complained about the lack of signage and he would expect the same from tenants in this portion of the project as well. Attorney Gould commented that a little store in this development is not going to get lost as has been the case with some of the stores in the corner of the upper development. In response to a question from Ms. Joubert, Mr. Depietri confirmed that the signs on the corners of the building are to be backlit.

Ms. Joubert explained that Mr. Atchue had provided the board with details about all of the others signs that have been approved for the entire complex to date, and noted that a large (almost 200 square feet) freestanding sign was approved on Route 9 but has not yet been built.

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

DECISIONS

352 Church Street – Mr. Rutan commented that, while he believes it is generally bad to allow a tower to be built next to a house, he thinks it is possible to justify building a house next to a tower as a potential buyer will easily see that the tower is there and would be aware of the situation they are getting into. Chairman Rand agreed. Ms. Bakstran voiced support of the Building Inspector’s decision to deny the permit, but did concur that a buyer will go into a purchase knowing about the existence of the tower. Mr. Blanchette agreed

Mark Rutan made a motion to grant a variance to allow construction of a house within 500 feet of an existing wireless communication facility. Brad Blanchette seconded, motion carries by unanimous vote (Jeffrey Leland recused).

920 LLC – Ms. Bakstran commented that the signs on the building make sense, and will not be intrusive or a detriment to the neighborhood but she does not believe an additional pylon sign is necessary. Mr. Rutan indicated that he does believe that more signage is needed to enable patients to find the medical facility, and he does not think that they are too intrusive. Mr. Leland agreed, but stated that he will not be as willing to allow additional signage in the future and would not like to see a proliferation of them. Mr. Atchue informed the board that MedPost Urgent Care has an open permit for a 25’8” x 2’ high illuminated sign that has not yet been acted on. Ms. Bakstran asked if the open permit is something that can be rescinded. She also suggested that too many signs could cause more confusion. Chairman Rand voiced his opinion that two wall signs are appropriate but he did not agree that an additional pylon sign is needed.

Fran Bakstran made a motion to grant a variance to allow two illuminated wall signs to be located on the southern and eastern sides of the building as shown on plan sheet identified as “Overall Layout Plan, 370 Southwest Cutoff, Sheet 3”, dated 09/29/14, revised 10/28/14 and 4/03/15, with the condition that the signs can only be illuminated during normal business hours. Mark Rutan seconded; motion carries by unanimous vote.

Fran Bakstran made a motion to grant a variance to allow an 8.1-foot by 6.2-foot freestanding internally-illuminated Pylon sign to be located between the MedPost Urgent Care building and the existing Avalon pylon sign, on the property located at 10,000 – 10,010 Shops Way. Mr. Rutan seconded the motion. Mr. Leland indicated that he does not support this request, given that there was an approved sign that was not enacted. The vote was 1 member in favor (Mr. Rutan) and 4 opposed, as the proposed freestanding sign was deemed to be confusing and not necessarily safer, by the majority of the voting members

King Street – In response to a question from Mr. Rutan, Ms. Joubert explained that the subpoena has been sent to Town Counsel.

Proposed Zoning Revisions – Ms. Joubert discussed zoning revisions that are being considered by the Planning Board as follows:

1. A minor housekeeping change to clarify the regulations that apply to common driveways
2. Require Site Plan Review for two-family residential developments
3. Reduce maximum number of multi-family units on a lot from 8 to 6
4. Increase minimum required lot area in the Business West district for multi-family units
5. A one year moratorium on recreational marijuana is being proposed to allow the state time to enact regulations.
6. A one year moratorium on duplexes
7. Changes that will prohibit auto repair and auto body uses along Route 20 and West Main Street
8. Revised definition of “research and development” pertaining to Green Communities Program
9. Adoption of stretch energy code pertaining to Green Communities Program

Ms. Joubert indicated that the proposed revisions have been discussed by the Planning Board but they have not yet taken a vote. Public hearing will begin March 21, 2017.

Next Meeting - February 28, 2017.

Meeting adjourned at 8:36PM

Respectfully submitted,

Elaine Rowe
Board Secretary