



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Northborough Zoning Board of Appeals

Zoom Meeting Minutes

October 24, 2023

Approved January 23, 2024

In accordance with the provisions of MGL Chapter 40A, Section 9, the Northborough Zoning Board of Appeals held a public meeting on Tuesday, October 24, 2023 at 7:00pm. Pursuant to Chapter 2 of the Acts of 2023, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency, signed into law on March 29, 2023, this meeting was conducted via remote participation. No in-person attendance by members of the public was permitted. To participate in the public comment portion of this meeting from a PC, Mac, iPad, iPhone or Android device, attendees were encouraged to click this URL to join: <https://town-northborough-ma-us.zoom.us/j/84075375325> Or join by phone: +1 646 876 9923 Webinar ID: 840 7537 5325 Passcode: 311390

Members (Remotely): Paul Tagliaferri, Chair; Fran Bakstran, Suzy Cieslica, Mark Rutan, Brad Blanchette.

Staff (Remotely): Laurie Connors, Planning Director; Robert Frederico, Building Inspector and Zoning Enforcement Officer.

Others (Remotely): David Cooley; Brian Marchetti, McCarty Engineering; Jay Gallant, Gallant Architecture; Vivien Chen; Wenying Yi; Jay Correia; Clay Smook, Smook Architecture; Karina Almeida; Hannah Chen; Sandy Howard, 9 Johnson Avenue.

The meeting began at 6:00pm.

Continuation of the consideration of the petition of David Cooley for a Special Permit to reconstruct a nonconforming structure destroyed by fire, Special Permit for use in a Groundwater Protection Overlay District, and Site Plan Approval for a proposed five-unit, 4600-square foot multifamily structure and associated site work on the property located at 129 Maple Street, Map 52, Parcels 17/18/29 in the Residential C Zoning District and Groundwater Protection Overlay District Area 2.

HEARING

Brian Marchetti, McCarty Engineering, discussed the revisions made as shown in the most recent site plan, dated October 18, 2023, which included: eliminating the second driveway on the right side of the page and enlarging the parking area on the left; modifications to the landscaping, such as trees added along the street frontage; the addition of lighting along the walkway; pavers on the patios behind the units will now match the pavers on the walkway; the building was moved further away from the street to approximately 78', when before it had been 51'; the three parcels have been combined into one lot totaling 52,702 square feet, which helped reduce the impervious coverage.

Mr. Marchetti went through the draft conditions of approval.

Jay Gallant, Gallant Architecture, next discussed updates made to the floor plans; the first floor will be an open floor plan comprised of a kitchen, a dining area, living room, and a bathroom, and the bedroom was moved to the second floor, which also has a bathroom. Other updates included clarification on design features and materials and the addition of windows on the sides.

Mr. Frederico said that per the State energy code adopted on January 1, one electronic vehicle charging station was required for each unit. He wasn't sure if that was included in the draft conditions. Mr. Marchetti said they would agree to that condition being added.

Mr. Rutan asked if there would be fencing or screening between the patios. Mr. Marchetti said no.

Ms. Cieslica asked if the bedroom had no ability to turn into two bedrooms, and if the basements were finished. Mr. Gallant said the bedroom was a large open space with a bathroom, and that the basements were unfinished.

Chair Tagliaferri next took public comment.

Sandy Howard, 9 Johnson Avenue, asked how they intended to mitigate the dangers of cleaning up the site, out of concern for a neighbor with health conditions and sensitivity to dust and pollutants.

Mr. Frederico said asbestos was present but has been abated. Tests for cleanliness and air quality have come back satisfactory per DEP. Mr. Frederico suggested that the neighbor keep their windows shut, but that the demolition team could have a truck of water with a spray gun in the event the site gets very dusty.

Ms. Howard said she was not in favor of this petition; she didn't think it fit the neighborhood and didn't want townhouses and apartments on her corner. Mr. Cooley said the previously existing multifamily house had sat there for almost 200 years, it is now a disaster and embarrassment to the Town, he is trying to improve that site. She asked Mr. Cooley how many units he was proposing. Mr. Cooley said five units were originally there and five units are proposed. Chair Tagliaferri said the plan presented is a five unit building with five total bedrooms and can't exceed that per the Board of Health's septic requirements. Ms. Howard was concerned that rooms could be turned into makeshift bedrooms and asked how parking would be controlled. Chair Tagliaferri said they were in compliance with the parking requirements, which Mr. Frederico confirmed.

There were no further comments from the public. Mr. Rutan made a motion to close the hearing. Mr. Blanchette seconded the motion. Roll call vote was taken, all were in favor.

HEARING

Continuation of the consideration of the petition for a Variance, submitted by Om Shri Jagadamba LLC, for relief from the requirement to submit a Disposal Works Construction Permit issued by the Board of Health with a building permit application to allow reconstruction of the structure on the property located at 27 Belmont Street, Map 109, Parcel 20, in the Highway Business Zoning District and Groundwater Protection Overlay District Area 2.

Chair Tagliaferri said the Applicant has requested to continue this case without testimony to the ZBA's November 28 meeting. Mr. Blanchette made a motion to continue the case to November 28, Mr. Rutan seconded the motion. Roll call vote followed, all were in favor.

HEARING

Continuation of the consideration of the petition for a Special Permit in a Groundwater Protection Overlay District, submitted by Wenying Yi, for the use of a personal service establishment on the property located at 247B West Main Street, Map 82, Parcel 16, in the Business West Zoning District and Groundwater Protection Overlay District Area 3.

Vivien Chen presented on behalf of Wenying Yi. Ms. Yi is proposing aroma therapy and massage services on a 1,200-sf location that was previously a clothing store. Proposed hours of business will be Monday-Sunday, 10am-9pm. The area is in a groundwater protection overlay district. Materials proposed to be used are like those used in many households, such as lavender oil, baby oil, shampoo, conditioner, body wash, soap, and body lotion, and that MSDS sheets had been submitted. There will be two employees with the appropriate credentials and licenses. Parking is not expected to be an issue as the proposed business will be in a strip mall. The property uses municipal water and sewer. Because this is a proposed personal service establishment and not one of the exempt by-right uses in the zoning table, it has to go before the ZBA for a special permit in a groundwater area. A memo dated October 17, 2023 from the Assistant DPW Director recommended approval of the special permit.

There were no questions from the Board or from staff. There were no questions from the public. Mr. Blanchette made a motion to close the public hearing. Mr. Rutan seconded the motion. Roll call vote followed, all were in favor.

HEARING

To consider the petition for a modification to an existing Site Plan Approval and Special Permit in the Groundwater Protection Overlay District, submitted by Lilika Grooming Spa, Inc., to eliminate the office use limitation and allow the use of a pet grooming business on the property located at 440 West Main Street, Map 80, Parcel 33, in the Business West Zoning District and Groundwater Protection Overlay District Area 3.

Clay Smook, Smook Architecture, said the building was built before the pandemic with the assumption that office space would be in demand, but since the pandemic, not many people were adding such space, so Mr. Correia felt the proposed use of a pet grooming business was the best use at this time.

Chair Tagliaferri said this is a modification of an existing decision from 2017 in which the ZBA, at that time, had a condition that required the building to be for office use only. Ms. Connors confirmed and said in that zoning district, office use is a by-right use, but personal service is also a by-right use; a special permit is not needed for the personal service establishment, but it is for the groundwater protection overlay.

It was noted that the MSDS sheets submitted were vetted, and the Assistant DPW Director provided a memo dated October 19, 2023 in which she recommended approval, provided the same guidelines they adhere to at the current location will be followed. Ms. Connors shared a draft of the conditions.

The business will be open from Monday-Saturday. The hours listed in the 2021 decision were 9am-5pm, which Ms. Almeida would like to expand to 6:30am-7pm.

There were no questions from the Board or from staff. There were no questions from the public. Mr. Rutan made a motion to close the public hearing. Ms. Bakstran seconded the motion. Roll call vote followed, all were in favor.

HEARING

To consider the petition for a Special Permit and Special Permit in the Groundwater Protection Overlay District, submitted by Hannah Chen, for the accessory use of a home personal service on the property located at 29 Wilson Road, Map 100, Parcel 51, in the Residential C Zoning District and Groundwater Protection Overlay District Area 2.

Hannah Chen presented. She was seeking permission to operate a cottage kitchen bakery out of her residence. She proposed a bakery free of the top eight allergens. She planned to start with a low volume, specialty order only and hoped to expand to farmers markets in the future. Pick-ups were proposed between 9am-6pm, customers will park in her driveway, which can hold up to six cars. Her house is the first house on the block, so she didn't feel this proposal would be a nuisance to her neighbors. Ms. Chen will be the only employee. There were no plans for signage at this time.

Chair Tagliaferri noted that the Assistant DPW Director had submitted a memo dated October 19, 2023 in which she indicated she had no concern for any impacts to the Groundwater Overlay District.

There were no questions or comments from the public. There were no further questions from the Board. Mr. Rutan made a motion to close the public hearing; Mr. Blanchette seconded the motion. Roll call vote followed, all were in favor.

DECISION—29 Wilson Road

Mr. Rutan felt this was a goodwill effort on the business owner's part to inform the Board of her intent to have a home business. He felt it would have little impact on the neighborhood and that if the business were to grow substantially, she could move to a commercial location.

Ms. Bakstran agreed with Mr. Rutan's comments and noted receipt of letters of support from abutters. Being familiar with Ms. Chen's neighborhood, she felt signage would be needed at some point. She felt there should not be any restrictions in the decision on the hours that customers can pick up orders.

Mr. Blanchette made a motion to approve the petition for a special permit and special permit in the Groundwater Protection Overlay District for the accessory use of a home personal service on the property at 29 Wilson Road with the conditions amended in the decision and addition of the condition for signage. Ms. Bakstran seconded the motion. Roll call vote was as follows: Mr. Blanchette—aye; Ms. Bakstran—aye; Mr. Rutan—aye; Ms. Cieslica—aye; Chair Tagliaferri—aye. Motion passed.

DECISION—440 West Main Street

Chair Tagliaferri said this business wanted to upsize to a larger building. Business will be done during the day. There was no threat to the groundwater. Members had no concerns.

Ms. Bakstran made a motion to approve the modification to an existing Site Plan Approval and Special Permit in the Groundwater Protection Overlay District, submitted by Lilika Grooming Spa, Inc., to eliminate the office use limitation and allow the use of a pet grooming business on the property located at 440 West Main Street with the draft conditions as discussed. Mr. Blanchette seconded. Roll call vote was as follows: Ms. Bakstran—aye; Mr. Blanchette—aye; Mr. Rutan—aye; Ms. Cieslica—aye; Chair Tagliaferri—aye. Motion passed.

DECISION—247B West Main Street

Chair Tagliaferri understood that personal service in that area triggered the requirement for a permit in the groundwater overlay district. He had no concerns about the chemicals to be used, which were vetted by staff. The hours of operation are acceptable.

Mr. Blanchette made a motion to approve the petition for a Special Permit in a Groundwater Protection Overlay District, submitted by Wenying Yi, for the use of a personal service establishment on the property located at 247B West Main Street, Map 82, Parcel 16, in the Business West Zoning District and Groundwater Protection Overlay District Area 3. Mr. Rutan seconded. Roll call vote was as follows: Mr. Blanchette—aye; Mr. Rutan—aye; Ms. Bakstran—aye; Ms. Cieslica—aye. Motion passed.

DECISION—129 Maple Street

Mr. Rutan stated he was in favor of the proposal; the location was appropriate for affordable housing. Enough time had passed to attract someone who might want to construct a single-family unit like the rest of the area, but that hadn't happened. Since the units are just one-bedrooms, he felt it could provide affordable housing for single people or small couples. The proposal would clean up that area and increase the home values there.

Ms. Bakstran stated that housing alternatives to single family homes was a need in the country, state, and in town. She didn't believe the five proposed, connected townhouses were massive. The previously existing house was not in keeping with the style of ranch homes in the area. There were five units with seven residents in that home prior to the fire, these are five units with a potential of seven residents. Code requires septic to be based on the number of bedrooms, and their decision is not based on whether a couple or a single person moves into them. She appreciated the time and effort put forth by the Applicant, particularly with regard to working with Design Review. She felt it would be a benefit to the community.

Chair Tagliaferri said this property existed as a five-unit, multi-family structure for a number of years and it was clear that it had the pre-existing non-conforming protections that exist in the town's bylaws. The structure was destroyed in a fire and could be reconstructed if it was determined to be in accordance with the provisions established in zoning bylaw section 7-08-060. He said he had three issues he was struggling with, and first discussed size differences between the existing and proposed structures. The original structure's footprint is 2,600 sf; the footprint of the proposed structure is 4,600 sf. Current square footage is 3,900 sf, proposed footage is 7,420 sf. Gross square footage of the existing building is 5,400 sf, proposed is 13,900 sf. He next commented on the size differential relative to surrounding neighbors: homes in that area range from 1400-1600 sf in size. Chair Tagliaferri's last point was that sixteen multi-families exist in the town, averaging square footages of 3,400 sf. With all of this taken into account, he found that the size differential was too great. Bylaws have since been updated to prohibit multi-families in residential zones, but this property was protected. He had difficulty with allowing a change as substantial as this. The goal of pre-existing, non-conforming is to eventually get things into conformity, but this proposal, if approved, would set a bad precedent for future pre-existing, non-conformity because of the increase in size.

Mr. Blanchette said he agreed. Multi-family can still exist at that location as long as its in the same footprint. This is moving further in the direction of non-conformity.

Ms. Bakstran asked to confirm the footprint of the proposed structure. Ms. Connors said that based on the latest elevation and floor plan, the footprint is 4,720 sf.

Ms. Cieslica thought that the building was attractive prior to the fire and was in favor of a similar design on the same footprint.

Ms. Bakstran said the proposed units are not large, they are 1,472 sf per unit, similar to that of homes in that area. The townhouse style is very contemporary and neighborhood friendly. The property has been combined from three lots to one. There needs to be thought given to people who want to try to live here and rent a small home, she didn't find that to be detrimental or offensive, multi-families exist in this area. She didn't understand how five single one-bedroom townhouses were more detrimental than five apartments in a building. They are interpreting the non-conforming use. These are five one-bedroom apartments that meet today's standard of acceptance.

Mr. Rutan had several points. The lot that building sits on is twice the size of others in the neighborhood. While others may have liked the exterior of the building, the interior was crowded. If the structure was rebuilt on the existing footprint, he felt no one would want to live there. He thought the Applicant had created a pleasant place to live for five units in a marketable way on this property.

Chair Tagliaferri said that neighborhood is all single-family houses. This structure was originally a farmhouse converted to a multi-family. Multi-families are now prohibited because they impact a neighborhood. The proposed structure is 2.6 x the size of gross square footage or 1.9 x the finished square footage, there are other options for this property. They can continue the use as it exists, but he found the increase in size to be problematic.

Ms. Connors suggested to members that, in making their decision, that they apply the criteria listed under 7-07-010D(4)[e], Groundwater Protection Overlay District, Use Regulations, Procedures for issuance of a special permit and 7-08-060A(3), Nonconforming Uses and Structures, Reconstruction after catastrophe or demolition.

Discussion followed. The decision will be rendered at the next ZBA meeting.

OLD/NEW BUSINESS

Vote to be taken regarding the petition of SALIII 305-309 Main Street, LLC for a Special Permit for use, Special Permit per Groundwater Protection Overlay District, and Special Permit with Site Plan Approval for the operation of a drive-through food service at the existing structure at 305 & 309 Main Street, Map 47, Parcels 7 & 8, in the Business East Zoning District and Groundwater Protection Overlay District Area 3.

Chair Tagliaferri noted that there are three separate special permits to vote on; a special permit for use with regards to the drive-thru; a special permit with site plan approval; and a special permit in the groundwater protection overlay district.

Ms. Bakstran made a motion to approve the special permit for the commercial development in groundwater protection overlay District Area 3 on the subject property located at 305 and 309 Main Street with the condition safeguards and limitations on the time or use as set forth in the draft decision submitted by the Planning Director. Mr. Rutan seconded the motion. Roll call vote was as follows: Ms. Bakstran—aye; Mr. Rutan—aye; Mr. Blanchette—aye; Ms. Cieslica—aye; Chair Tagliaferri—aye. The motion passed unanimously.

Ms. Bakstran made a motion to approve the Special Permit for a drive-through food service. Mr. Rutan seconded the motion. Roll call vote was as follows: Ms. Bakstran—aye; Mr. Rutan—aye; Mr. Blanchette—nay; Ms. Cieslica—nay; Chair Tagliaferri—nay. The motion failed.

Ms. Bakstran made a motion to approve the special permit with site plan approval per section 7-03-050A(1)[c] to allow the expansion or redesign of the existing parking lot at 305 and 309 Main Street with the condition safeguards and limitations on the time of use set forth in the draft decision submitted by the Planning Director. Mr. Rutan seconded the motion. Roll call vote was as follows: Roll call vote was as follows: Ms. Bakstran—aye; Mr. Rutan—aye; Mr. Blanchette—nay; Ms. Cieslica—nay; Chair Tagliaferri—nay. The motion failed.

Ms. Bakstran made a motion to grant a waiver of the requirement to install the 7" high safety curb butting a walkway that abuts the exterior side or rear wall where it exits an entrance or exits normally used by the public as depicted on the site plan the curb is 6" high. Mr. Rutan seconded the motion. Roll call vote was as follows: Ms. Bakstran—aye; Mr. Rutan—aye; Mr. Blanchette—nay; Ms. Cieslica—nay; Chair Tagliaferri—nay. The motion failed.

Ms. Bakstran made a motion to grant the waiver from the Planning Board Rules and Regulation section 7.2C(9) for a waiver of the requirement to show all existing trees over 10" in diameter at breast height on the site plan. Mr. Blanchette seconded the motion. Roll call vote was as follows: Ms. Bakstran—aye; Mr. Blanchette—nay; Mr. Rutan—aye; Ms. Cieslica—nay; Chair Tagliaferri—nay. Motion failed.

Ms. Connors asked members if they agreed with the reasons of denial for the special permit for the drive-through and reasons of denial of the site plan approval she'd provided in the draft decision, or if they would like to make changes to the wording.

Ms. Cieslica suggested a change to add; she thought that the issue of children having to walk from the parking lot and crossing the drive-through area to get to the picnic table area four times was a safety concern and important to include in the denial for the site plan. Ms. Connors asked her to provide the language she wanted her to use. Ms. Cieslica said she would send that in an email. Ms. Connors said that each member would need to individually respond to her to agree to that modification after which the decision would be finalized.

Discussion of Possible Change of Town Council

Chair Tagliaferri said that the Planning Board recently discussed a possible change to Town Council. Currently, David Doneski, a municipal lawyer for KP law, is the liaison for land use questions. The Planning Board sent a letter to the Interim Town Administrator requesting someone who specializes in land use cases and has a background in land use law, whereas Attorney Doneski has a background in municipal bylaws. Chair Tagliaferri said Ms. Connors had a recommendation for someone that she had experience working with. He was proposing that the Zoning Board do something similar.

Ms. Bakstran said that Attorney Doneski is part of a large practice and could consult with the land use specialist, he's been their attorney for some time, and she didn't think there were any issues. She was concerned about any additional financial cost to the Town in having two attorneys on retainer.

Ms. Connors said it was a different attorney within the same firm, so the only cost difference would be fluctuations in their hourly rates.

There were no other comments.

Chair Tagliaferri will draft a letter to the Interim Town Administrator.

Consideration of Minutes from August 22, 2023

Ms. Bakstran made a motion to approve the minutes from August 22, 2023 as submitted. Mr. Blanchette seconded the motion. Roll call vote was taken, all were in favor.

Next Meeting—November 28th at 7pm.

Ms. Bakstran made a motion to adjourn. Mr. Rutan seconded the motion. Roll call vote was taken, all were in favor. The meeting adjourned at 9:50pm.

Respectfully Submitted by
Michelle Cilley, ZBA Board Secretary