



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

**ZBA CASE NO. 16-20**

**PROPERTY LOCATION: 12 Whitney Street**

**PETITIONER: Rashid Shaikh**

**PROPERTY OWNER: Whitney Street Home Builders LLC**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 55990 Pg: 2**

This document is the decision of the Northborough Board of Appeals on the petition of Rashid Shaikh for Special Permits, Groundwater Protection Overlay District, to allow the use of two two-family dwellings, one on Lot #2 and one on lot #3; and a Variance to allow Lot #2 to have less than the required lot area in a Groundwater Protection Overlay District, on the property at 12 Whitney Street, Map 54, Parcel 38.

### APPLICATION

1. On October 23, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining **Special Permits, Groundwater Protection Overlay District**, per Section 7-07-010D(3)(c)[6] to allow the use of two two-family dwellings, one two-family dwelling on Lot #2 and one two-family dwelling on Lot #3, in Groundwater Protection Overlay District Area 3; and a Variance from Section 7-07-010D(3)(c)[6], to allow Lot 2 to have less than the required lot area on the property located 12 Whitney Street.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on November 7, 2016 and November 14, 2016, and was mailed to abutters and other parties in interest October 26, 2016.

### EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

1. Application for Hearing before the Zoning Board of Appeals, including:
  - a. A 2-page cover letter to the Zoning Board of Appeals Chairman from Wayne M. Belec, Senior Project Manager, Waterman Design Associates, Inc., dated October 21, 2016, Re: Application for Hearing: Special Permit – Groundwater Protection Overlay District (7-07-010)/Variance, 14/16 (Lot 2) & 18/20 (Lot 3) Whitney Street, Northborough, Massachusetts;

- b. A Quitclaim Deed for Off Whitney Street, Northborough, MA, recorded at the Worcester District Registry of Deeds on 09/19/2016, Bk: 55990, Pg: 2;
- c. A "Calculation Sheet for Increase to Impervious Surface: Groundwater Protection Overlay District" for 14 & 16 Whitney Street (Lot 2), submitted by Wayne Belec, Engineer on 10/21/16;
- d. A "Calculation Sheet for Increase to Impervious Surface: Groundwater Protection Overlay District" for 18 & 20 Whitney Street (Lot 3) submitted by Wayne Belec, Engineer on 10/21/16;
- e. A Zoning Interpretation Request Form for 14/16 & 18/20 Whitney Street, Map 54, Parcel 38, submitted by Rashid Shaikh and signed by Joseph M. Atchue, Inspector of Buildings, on 10/24/2016;
- f. A certified abutters list for parcels 300 feet from 12 Whitney Street, Lot 2 & Lot 3, signed by Julie Brownlee on behalf of the Northborough Board of Assessors, dated 10-18-2016; and a Town of Northborough, MA map identified as Lots 2 and 3, formerly part of 12 Whitney Street-300ft Abutters, dated 10-18-16;
- g. A 3-page letter to the Groundwater Advisory Committee, c/o Mr. Fred Litchfield, PE, Town Engineer, from Wayne M. Belec, Waterman Design Associates, Senior Project Manager/Business Development, dated November 7, 2016, re: Groundwater Advisory Committee – Response to Comments, 14/16 (Lot2) & 18/20 (Lot3) Whitney Street, Northborough, Massachusetts;
- h. A "Calculation Sheet for Increase to Impervious Surface: Groundwater Protection Overlay District" for 14 & 16 Whitney Street (Lot 2), submitted by Wayne Belec, Engineer on 11/7/16;
- i. A "Calculation Sheet for Increase to Impervious Surface: Groundwater Protection Overlay District" for 18 & 20 Whitney Street (Lot 3), submitted by Wayne Belec, Engineer on 11/7/16;
- j. A document entitled "Stormwater Management System Operation and Maintenance Plan, 14/16 & 18/20 Whitney Street, Northborough, MA", dated November 2016;
- k. A 24" x 36" Approval Not Required (ANR) plan entitled "Plan of Land in Northborough, Massachusetts" owned by James F. Laurence and Joan M. Laurence, dated August 23, 2016; prepared by Thompson-Liston Associates, Inc., signed, stamped and dated by Andrew Barry Liston, Registered Professional Land Surveyor, on 08/23/16; signed by the Northborough Planning Board on 9.6.2016; recorded at the Worcester District Registry of Deeds on 9/19/16, Plan Book 922, Plan 44;

- i. A set of three 24" x 36" plans for 12 Whitney Street, prepared for Rashid Shaikh by Waterman Design Associates, Inc; signed, stamped and dated by Kenneth T. Strom, Professional Land Surveyor, with sheets identified as follows: Sheet EX, Existing Conditions, dated 10/21/16, revised 10/24/16; Sheet C1, Site Plan, dated 10/21/16, revised 10/24/16 and 11/7/16; and Sheet C2, Details Sheet, dated 10/21/16, revised 10/24/16 and 11/7/16; and
  - m. A set of fifteen 11" x 17" architectural drawings for Lot 2-3, 14/16 – 18-20 Whitney Street, 2-unit Design, Northborough, MA", prepared by Residential Design Inc., date-stamped by the Town Clerk on October 23, 2016, with drawings identified as follows: Cover Sheet; Sheet A-1, Elevations; Sheet A-2, Elevations; Sheet A-3, Floor Plans; Sheet A-4, Floor Plans; Sheet A-5, Floor Plans; SK-1; SK-2; Sheet S-1, Cross Sections; Sheet S-2, Cross Sections; Sheet FR-1, First Floor Framing Plan; Sheet W-1, Wall Bracing; Sheet W-2, Wall Bracing; Sheet D-1, Prescriptive Deck Details; and Sheet F-1, Foundation Plan.
2. A letter to Dick Rand, Chairman, Northborough Zoning Board of Appeals, from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated November 18, 2016, RE: 14/16 and 18/20 Whitney Street, Map 54, Parcel 38.

#### **HEARING**

Applicant Rashid Shaikh; Wayne Belec, Engineer, Waterman Design Associates, Inc.; and James Venincasa, property owner, presented the Application at a duly noticed public hearing of the Board on November 22, 2016 in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Richard Rand, Fran Bakstran, Jeffrey Leland, Brad Blanchette and Mark Rutan were present throughout the proceedings.

Mr. Belec explained the property at 12 Whitney Street has been divided into three lots identified as Lot 1, Lot 2 and Lot 3. An existing single-family home is located on Lot 1. The Applicant is proposing to locate a two-family dwelling on Lot 2 and a two-family dwelling on Lot 3. Both lots meet the lot area requirement of the underlying General Residential District; and the use of a two-family home in the General Residential District is allowed by right. The properties are entirely in Groundwater Protection Overlay District Area 3; and Lot 2 does not meet the minimum required 20,000 square feet in area for a lot in the groundwater overlay protection district.

Mr. Belec explained the Applicant is seeking Special Permits to allow the use of a two-family dwelling on both Lot 2 and Lot 3. Originally, the Applicant was also seeking a Variance to allow Lot 2 to be less than 20,000 square feet in area in Groundwater Protection Overlay District Area 3. However, the Applicant withdrew his request for said Variance without prejudice at the meeting, stating he plans to approach an abutter about obtaining some of his land to add to Lot 2 in order to make it conforming in the groundwater overlay protection district.

Mr. Belec stated the proposed two-family dwellings will each have 4 bedrooms and 2 ½ baths; and will be 64 feet by 44 feet total, with 2000 – 2300 square feet of area per unit. Town utilities

will service the two-family dwellings; a stormwater operation and management plan, along with calculations for impervious surface for both lots, has been submitted and reviewed by the Town Engineer and the Groundwater Advisory Committee.

Mitch Cohen, Lot 1, 12 Whitney Street, expressed concerns regarding the size of the proposed structures; an increase in traffic; and the impact of the proposed two-family dwellings in the neighborhood.

The hearing closed on November 22, 2016.

#### **FINDINGS OF FACT**

1. The subject properties at 12 Whitney Street are identified as Lot 2 and Lot 3, and are in the General Residential and entirely in Groundwater Protection Overlay District Area 3.
2. The Applicant is proposing to construct a two-family dwelling on Lot 2 and a two-family dwelling on Lot 3.
3. In the General Residential District, the use of a two-family dwelling is allowed by right. However, a Special Permit is required for the use of a two-family dwelling in Groundwater Protection Overlay District Area 3, per Section 7-07-010D(3)(c)[6], Overlay Districts, Groundwater Protection Overlay District, Use Regulations, Area 3, Two-family and Multifamily Residential Development, of the Northborough Zoning Bylaw.
4. In the General Residential District, the required minimum lot area is 15,000 square feet; however, in Groundwater Protection Overlay District Area 3, the required minimum lot area is 20,000 square feet.
5. Lot 2 is 17,950 square feet in area and therefore, does not meet the minimum lot area requirement of 20,000 square feet in Groundwater Protection Overlay District Area 3.
6. Lot 3 is 20,013 square feet in area and therefore meets the minimum required lot area of Groundwater Protection Overlay District Area 3.
7. The two-family dwellings as presented will be 27 feet high in the front of the property and 35 feet high in the rear of property.
8. The dwelling units of the proposed two-family buildings will have a first floor; a second floor; a basement; a garage; 4 bedrooms; 2½ bathrooms; and will be from 2000 square feet – 2300 square feet in area per unit.
9. Each lot will have a single curb cut to minimize curb cuts off Whitney Street.
10. The unit driveways are designed with turnouts for each unit, eliminating the need to back out into the public right-of-way when exiting each unit.
11. Calculation sheets submitted for increase to impervious surface for both Lot 2 and Lot 3 indicate the increase to impervious surface for Lot 2 is 2,200 square feet and up to 2,692 square feet is allowed; and the increase in impervious surface for Lot 3 is 2,997 square feet and up to 3,001 square feet is allowed.

12. Infiltration systems are proposed to mitigate the stormwater runoff from each lot to ensure the runoff volume does not exceed fifteen percent (15%) from that of the existing conditions.
13. Wastewater is proposed to discharge into the municipal wastewater collection system so that nitrogen loading is not a concern. The units will also be connected to municipal water.
14. In a letter to Dick Rand, Chairman, Northborough Zoning Board of Appeals, from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated November 18, 2016, RE: 14/16 and 18/20 Whitney Street, Map 54, Parcel 38, Mr. Litchfield states the Groundwater Advisory Committee unanimously voted to recommend approval of the requested Special Permits and offered conditions.
15. The two-family dwellings are proposed in an area populated with single-family and multi-family residences, and within the proximity of commercial uses along Route 20. Located within 600 feet of Church Street, and within 1,200 feet of Route 20, this location would allow for pedestrian, rather than vehicular, activity to local establishments. Therefore, the proposed site is an appropriate location for such use.
16. The use is consistent with other uses in the neighborhood, including existing two-family and multifamily residential uses. Bituminous concrete sidewalks exist along the frontage of each lot. The sidewalk is part of an extensive and contiguous pedestrian walkway system that extends north along Whitney Street and south towards Route 135 and 20. Therefore, the use as developed will not adversely affect the neighborhood and there will be no nuisance or serious hazard to vehicles or pedestrians.
17. The proposed two-family dwelling on Lot 3 meets the requirements of Section 07-010D(3)(c)[6], Overlay Districts, Groundwater Protection Overlay District, Use Regulations, Area 3, Two-family and Multifamily Residential Development, of the Northborough Zoning Bylaw.

## DECISION

1. On November 22, 2016, after due consideration of the Application, the Board voted **2 in favor, 3 opposed** to **GRANT a SPECIAL PERMIT, GROUNDWATER PROTECTION OVERLAY DISTRICT**, per Section 7-07-010, Overlay District, Groundwater Protection Overlay District, Area 2, to allow the use of a two-family dwelling on a lot with less than the minimum required lot area in Groundwater Protection Overlay District Area 3, on the property identified as Lot 2, 12 Whitney Street, Map 54, Parcel 38.
2. On November 22, 2016, after due consideration of the Application, the Board voted **4 in favor, 1 opposed**, to **GRANT a SPECIAL PERMIT, GROUNDWATER PROTECTION OVERLAY DISTRICT**, per Section 7-07-010, Overlay District, Groundwater Protection Overlay District, Area 2, to allow the use of a two-family dwelling on the property located in Groundwater Protection Overlay District Area 3, identified as Lot 3, 12 Whitney Street, Map 54, Parcel 38, per the plans submitted and approved, as follows:

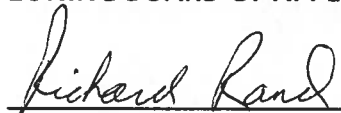
- a. A set of three 24" x 36" plans for 12 Whitney Street, prepared for Rashid Shaikh by Waterman Design Associates, Inc; signed, stamped and dated by Kenneth T. Strom, Professional Land Surveyor, with sheets identified as follows: Sheet EX, Existing Conditions, dated 10/21/16, revised 10/24/16; Sheet C1, Site Plan, dated 10/21/16, revised 10/24/16 and 11/7/16; and Sheet C2, Details Sheet, dated 10/21/16, revised 10/24/16 and 11/7/16; and
- b. A set of fifteen 11" x 17" architectural drawings for Lot 2-3, 14/16 – 18-20 Whitney Street, 2-unit Design, Northborough, MA", prepared by Residential Design Inc., date-stamped by the Town Clerk on October 23, 2016, with drawings identified as follows: Cover Sheet; Sheet A-1, Elevations; Sheet A-2, Elevations; Sheet A-3, Floor Plans; Sheet A-4, Floor Plans; Sheet A-5, Floor Plans; SK-1; SK-2; Sheet S-1, Cross Sections; Sheet S-2, Cross Sections; Sheet FR-1, First Floor Framing Plan; Sheet W-1, Wall Bracing; Sheet W-2, Wall Bracing; Sheet D-1, Prescriptive Deck Details; and Sheet F-1, Foundation Plan.

**And with the following conditions:**

- c. The applicant shall connect the duplex on Lot 3 to both Town sewer and water as shown on the proposed plans.
- d. Permeability tests shall be performed in naturally occurring material beneath each area of proposed infiltration prior the issuance of a building permit for Lot 3.
- e. The grading of the site plan shall be revised to include some additional spot elevations to verify the driveway runoff is directed to the area between the proposed lots 2 and 3. The grading of the site plan shall also be revised to reduce runoff from the southwesterly side of Lot 2 and be directed away from Lot 1. The revised Site Plan shall be submitted and approved by the Town Engineer prior to the issuance of any building permits.
- f. Calculations shall be submitted to verify the size of the proposed infiltration areas and shall be approved by the Town Engineer prior to the issuance of any building permits.
- g. A Stormwater Operation and Maintenance Plan shall be recorded with this decision. The Operation and Maintenance Plan shall also be recorded with the deed of each unit indicating the owner of that unit is responsible for maintaining and inspecting the system associated with the unit owned.
- h. The project will require a permit to be filed with the Earthwork Board prior to the start of any earth-moving operations on site.

- i. An as-built site plan shall be submitted to the Town Engineer for review and approval prior to the issuance of a certificate of occupancy. The as-built plan shall include, at a minimum, and as applicable to the project, a permanent benchmark, elevation of all pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. Upon approval by the Town Engineer one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system and the Town's vertical datum (U.S.G.S. Datum of 1988).
3. Appeals, if any, from this decision shall be made pursuant to Massachusetts General Laws, Ch. 40A, Sec. 17 and shall be filed within twenty (20) days after the date of filing of this decision in the office of the Town Clerk.
4. The **SPECIAL PERMIT** shall not take effect until a copy of the decision bearing the certificate of the Town Clerk is recorded with the Worcester District Registry of Deeds in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 11 and 15 stating that "twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed it has been dismissed or denied."
5. If the rights authorized by the **SPECIAL PERMIT** are not exercised within two years from the time of granting, it shall lapse in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 10.

**TOWN OF NORTHBOROUGH, MASSACHUSETTS  
ZONING BOARD OF APPEALS**



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**RICHARD RAND, CHAIRMAN**