



TOWN OF NORTHBOROUGH Zoning Board of Appeals

Town Hall Offices • 63 Main Street • Northborough, MA 01532 • 508-393-5019 • 508-393-6996 Fax

DECISION

ZBA CASE NO. 14-01

PROPERTY LOCATION: 137 West Main Street

PETITIONER & PROPERTY OWNER: TShay LLC

RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 51575 Pg: 29

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of TShay LLC for a Variance, Special Permit and Special Permit with Site Plan Approval to allow renovation/expansion of an existing building for commercial use, and for relief from front setback and parking requirements, on property located at 137 West Main Street, Map 62, Parcel 89.

APPLICATION

1. On January 13, 2014, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit with Site Plan Approval per Sections 7-03-050A(2) Site Plan, Applicability; and 7-08-020B, Nonconforming Uses and Structures, Special Permit Required, to allow the expansion and reconstruction of a non-conforming structure; a Variance from Section 7-09-030C(5)(a)[1], to allow 6 parking spaces in front of the front line of the principal structure within the Downtown Business District; and a Waiver from Section 7-09-020C(5)(a)[1] of the Northborough Zoning Bylaw, to allow a landscaped buffer to be less than the required 25-foot width along the property line of the property located at 137 West Main Street.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on February 10, 2014 and February 17, 2014 and was mailed to abutters and other parties in interest on February 6, 2014.

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 document entitled "Project Narrative";
 - b. A certified abutters list for parcels 300 feet from 137 West Main Street, including a cover sheet signed by Mary E. Carey, for the Town of Northborough Board of Assessors, dated December 23, 2013; a map entitled "Northborough MA GIS Viewer" for 137 West Main Street, dated 12/23/13; and a Residential Property Record Card for 137 West Main Street, Map 62, Parcel 89, dated 12/20/13;
 - c. A Quitclaim Deed for 137 West Main Street, recorded at the Worcester District Registry of Deeds on 10/01/2013, Bk: 51575, Pg: 29;
 - d. A plan entitled "Land in Northboro, Mass, Surveyed for Richard Martino", dated Sept. 1988, signed and stamped by James W. Chisholm, Registered Land Surveyor on 9/26/88; and
 - e. A document entitled "Subsurface Soil Data, NRCS Soil Mapping and Test Pit Results";

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- f. A document entitled Stormwater Operations and Maintenance Plan and Long-Term Pollution Prevention Plan” for 137 West Main Street, Northborough, MA, dated December 16, 2013;
2. A set of five 11” x 17” architectural plans entitled “Stoneridge Development, 137 West Main Street, Northborough, MA 01532”, prepared by Silver Street Architects, LLC, dated 12-06-12, with sheets identified as: B-1, Option A, Shutters, Rear Elevation & Left Side Elevation; B-1, Option A, Shutters, Front Elevation & Right Side Elevation; B-2, Option B, Shutters, Front Elevation & Right Side Elevation; B-2, Option B, Shutters;
3. A set of plans, with six 24” x 36” sheets, entitled “Site Plan of 137 West Main Street, Northborough, Mass”, dated December 19, 2013, for TShay, LLC, prepared by Connorstone Consulting Civil Engineers and Land Surveyors, signed and stamped by Vito Colonna, Civil Registered Professional Engineer, on 12/19/13, with sheets identified as: Sheet 1 of 6, Cover Sheet; Sheet 2 of 6, Existing Conditions Plan; Sheet 3 of 6, Proposed Site Plan; Sheet 4 of 6, Proposed Erosion Control Plan; Sheet 5 of 6, Proposed Landscape & Lighting Plan; and Sheet 6 of 6, Construction Details;
4. A set of three 11” x 17” architectural plans entitled “Stoneridge Development, 137 West Main Street, Northborough, MA 01532”, prepared by Silver Street Architects, LLC, dated 01/08/14, with sheets identified as: A-2, Option A Shutters, Rear Elevation & Left Side Elevation; A-2, Option A Shutters, Front Elevation & Right Side Elevation; and four color renderings for 137 West Main Street, Northborough, MA, identified as Front Elevation, Right Side Elevation, Rear Elevation and Left Side Elevation;
5. A 24” x 36” plan sheet prepared for TShay LLC by Connorstone Consulting Civil Engineers and Land Surveyors, dated December 19, 2013 and revised 1-22-14, identified as “Landscaping & Lighting Plan of 137 West Main Street, Northborough, MA;
6. A letter dated January 15, 2014 from David M. Durgin, Chief, Northborough Fire Department to Town of Northborough Zoning Board of Appeals, Subject: 137 West Main Street – Variance, Special Permit, and Special Permit with Site Plan Approval;
7. A memo dated January 24, 2014 to Kathy Joubert, Town Planner from Vito Colonna, PE, Connorstone Engineering, Inc., Re: 137 West Main Street, Northborough, Revised Landscaping Plans;
8. A set of three 24” x 36” plan sheets prepared by Holbrook Associated by RAB Lighting, for Job Name: Northboro, 137 W Main S, Northborough, MA, with sheets identified as Lighting Layout, Version B, dated 1/13/2014;
9. An 11” x 17” architectural plan entitled “Stoneridge Development, 137 West Main Street, Northborough, MA 01532”, prepared by Silver Street Architects, LLC, dated 02-03-14 and identified as “A1.0, Lighting Plan”;
10. A letter from Connorstone Engineering, Inc., to Fire Chief David M. Durgin, dated February 21, 2014, Re: 137 West Main Street;
11. A letter dated February 21, 2014 from Fred Litchfield, Town Engineer, to Fran Bakstran, Chairman, Zoning Board of Appeals, Re: 137 West Main Street, Map 62, Parcel 89;

HEARING

Tim Shay, TShay LLC, Applicant; Nick Muskopf, TShay LLC, and Vito Colonna, Engineer, Connorstone Consulting Civil Engineers and Land Surveyors, presented the Application at a duly noticed public hearing of the Board on February 25, 2014 in Conference Room B of the Northborough Town Hall. Board members Fran Bakstran, Richard Rand, Richard Kane, Robert Berger and Brad Blanchette were present throughout the proceedings.

Mr. Colonna explained an existing non-conforming structure for residential and business use, along with a parking area, are located on the .9 acre site at 137 West Main Street in the Downtown Business District. It is serviced by town water and a septic system. Soil conditions are most suitable for development in the front area of the site.

Mr. Colonna stated the Applicant is proposing to retain the residential side of the existing structure, demolish the business side and construct a 2,112 square-foot addition. The proposed use of the renovated building will be commercial, which may include personal or business service, medical office, retail stores or office space. The Applicant is seeking a Special Permit with Site Plan Approval to allow the expansion and reconstruction of the existing nonconforming building and a Variance to allow 6 parking spaces to be located in front of the front line of the principal structure in the zoning district. In addition, an Earth Removal Permit is required for earth disturbance, as well as an Access Permit from the Massachusetts Department of Transportation (MassDOT) for reconstruction of the existing curb cut on West Main Street. Proposed plans for drainage include roof drains and an additional catch basin; and a trench drain has been requested by the Town Engineer. Site lighting, signage and landscaping have been reviewed and approved by the Design Review Committee. A waiver has been requested to allow the proposed landscape buffers along the north and south side property lines to be less than the required 25 feet in width.

Mr. Colona stated the subject property meets the dimensional requirements of the Downtown Business District and the proposed business use is allowed by right in the Downtown Business District. The size of the proposed building will be consistent with the existing building and the proposed project will improve drainage on the site and access to the site.

No person present spoke in opposition to the project and the Board received no letters in opposition to the project.

The hearing was closed on February 25, 2014.

FINDINGS OF FACT

1. The subject property at 137 West Main Street is .94 acres (40,833 square-feet) in size and is located in the Downtown Business District. A building for residential and business use is currently located on the site, along with the driveway and a parking area.
2. The existing building is 41 feet from the front property line and, in the Downtown Business District, the required maximum distance of a principal structure from the front property line is 20 feet. Therefore, the existing building is a pre-existing, non-conforming structure.
3. The Applicant is proposing to renovate and expand the pre-existing, nonconforming structure on the site by demolishing the south half of the subject building and constructing a 2,112 square-foot addition to the remaining portion of the pre-existing, nonconforming building. Therefore, a Special Permit is required per Section 7-08-020B, Nonconforming Uses and Structures, Special Permit Required, of the Northborough Zoning Bylaw to allow the expansion and reconstruction of a non-conforming structure.
4. The proposed commercial building will be a total of 3330 square feet in gross floor area. Currently there are 16 parking spaces on the site. The proposed commercial use in the Downtown Business District requires 1 parking space per 250 square feet of gross floor area, and therefore 14 parking spaces are required for the proposed commercial use on the site. In addition, one of the 16 parking spaces proposed is handicapped-accessible and is located in the rear of the lot, at the end of the proposed addition.
5. Section 7-09-030C(2)(a), Development Regulations, Off-street Parking and Loading, Off-Street Parking Design Standards, Location, Design and Construction of Off-Street Parking, states all off-street parking spaces shall be located behind or beside the principal structure on the lot. No parking shall be located closer to the front lot line than the front line of the principal structure

nearest the front lot line. A Special Permit may be granted to locate up to twenty-five percent (25%) of the required off-street parking spaces in front of a principal structure, except in the Downtown Business District.

6. The Applicant is proposing to locate 6 of the 14 parking spaces in front of the front line of the building (principal structure) on the site and therefore a Variance is required from Section 7-09-030C(2)(a) of the Northborough Zoning Bylaw.
7. Section 7-09-020C(5)(a)[1], Development Regulations, Site Design Standards, Landscape Buffer Requirements, of the Northborough Zoning Bylaw, states for any business use abutting a residential district or a lot with an existing residential use, a landscaped buffer of at least twenty-five (25) feet in width shall be required along the lot line between the business use and the adjacent residential district or use.
8. In the Downtown Business District, there are no required side or rear setbacks. The portion of the pre-existing, nonconforming structure to remain is 16.2 feet from the north side property line. On the south side, the existing limit of pavement is 6.5 feet from the (south) property line. The Applicant is requesting a Waiver from Section 7-09-020C(5)(a)[1] of the Northborough Zoning Bylaw, to allow a landscaped buffer to remain at a width of 16.2 feet on the north side property line; to be 10 feet wide at its closest point on the south side property line; and to be up to 18 feet wide on the southwest corner of the subject property.
9. An Earthwork Permit will be required for the disturbance of more than 100 cubic yards of material on the site.
10. An Access Permit from MassDOT is required for the reconstruction of the existing access driveway on West Main Street
11. The existing impervious surface on the site is 8,054 square feet; the proposed impervious surface is 10,463 square feet, and the increase to impervious surface on the site will be 2,409 square feet. In order to mitigate the runoff from the increased impervious area, all of the existing and proposed roof areas will be infiltrated through subsurface drywells. An additional drainage structure consisting of a deep sump hooded catch basin with recharge chamber has been added near the entrance driveway on West Main Street. This structure has been added to collect flows from smaller, more frequent storm events. Based on the design calculations, the leaching basin will infiltrate all runoff up to a 2.7-inch rain event.
12. The Stormwater Management System for the site has been designed in compliance with Sections 7-09-010, Development Regulations, Land Clearing and Grading; 7-09-020, Development Regulations, Site Design Standards; and 7-03-050, Site Plan Design Standards, Site Plans, of the Northborough Zoning Bylaw.
13. The subject site is not located within the buffer zone of an area regulated under the Local or Massachusetts Wetlands Protection Act, and therefore is not subject to the Mass Stormwater Management Standards.
14. The subject site is not in a Groundwater Protection Overlay District and the Natural Heritage and Endangered Species Program has not identified any areas on-site as lying within the reported Priority or Estimated Habitat Areas.
15. The lot area of the site is 40,833 square feet and the required open space is 15% of the lot area, or 6,125 square-feet, in this case. The Applicant is proposing 30,370 square feet of open space (74%), with 4,306 square feet of the open space in front of the proposed building.
16. A dumpster on the site will be screened, and snow storage is provided in the rear of the lot, past the paved parking area.

17. The Design Review Committee reviewed and approved the proposed project per the plans as presented, as follows:
 - a. A set of three 11" x 17" architectural plans entitled "Stoneridge Development, 137 West Main Street, Northborough, MA 01532", prepared by Silver Street Architects, LLC, dated 01/08/14, with sheets identified as: A-2, Option A Shutters, Rear Elevation & Left Side Elevation; A-2, Option A Shutters, Front Elevation & Right Side Elevation; and a sheet of four color renderings for 137 West Main Street, Northborough, MA, identified as Front Elevation, Right Side Elevation, Rear Elevation and Left Side Elevation;
 - b. A set of three 24" x 36" plan sheets prepared by Holbrook Associates by RAB Lighting, for Job Name: Northboro, 137 W Main Street, Northborough, MA, with the 3 sheets identified as Lighting Layout, Version B, dated 1/13/2014; and
 - c. "A 24" x 36" plan sheet prepared for TShay LLC by Connorstone Consulting Civil Engineers and Land Surveyors, dated December 19, 2013 and revised 1-22-14, identified as "Landscaping & Lighting Plan of 137 West Main Street, Northborough, MA".
18. All items in a letter dated January 15, 2014 from David M. Durgin, Chief, Northborough Fire Department, to Town of Northborough Zoning Board of Appeals, Subject: 137 West Main Street – Variance, Special Permit, and Special Permit with Site Plan Approval, have been addressed by the Applicant.
19. All items in a letter dated February 21, 2014 from Fred Litchfield, Town Engineer, to Fran Bakstran, Chairman, Zoning Board of Appeals, Re: 137 West Main Street, Map 62, Parcel 89, have been or shall be addressed by the Applicant.
20. The renovated and expanded building on the subject site will be used for commercial purposes, including personal or business service, medical office, retail stores or office space, which are uses allow by right in the Downtown Business District. Therefore the proposed site is an appropriate location for the use, and the proposal is in substantial harmony with the Northborough Master Plan and other plans approved or amended from time to time by the Northborough Planning Board and with the purposes of the Zoning Bylaw.
21. The proposed commercial use is allowed in the Downtown Business District, and the scale of the building is consistent with the pre-existing, nonconforming use, as well as with the surrounding neighborhood. Therefore the use as developed will not adversely affect the neighborhood.
22. The site access is located off West Main Street (Route 20). Adequate sight distance is provided and the driveway does not cross a pedestrian route. Internal sidewalks have been provided for pedestrian circulation. Therefore there will be no nuisance or serious hazard to vehicles or pedestrians.
23. Currently, there is no sidewalk along the front portion of the subject lot on West Main Street (Route 20). In an effort to promote safe pedestrian travel along Route 20, the Zoning Board of Appeals requests Applicants, who are proposing projects along Main Street and West Main Street, to construct sidewalks across the frontage of their subject lots.
24. The proposed site plans provide the required parking, including access, utility connections and stormwater drainage. The drainage system has been sized to control the rate of runoff in compliance with the site plan review design standards. The existing on-site septic system is sized to accommodate the proposed flows. Therefore, adequate and appropriate facilities will be provided for the proper operation of the proposed use.

25. The existing topography does not allow for placement of the required parking entirely to the side or the rear of the building without extensive earthwork, while soil conditions to the front of the site are more suitable for development because they consist of sandy material with groundwater at a good depth. The soils to the rear of the site transition to a sandy loam with groundwater at shallower depths, and locating parking in this area would require additional drainage infrastructure.
26. Due to circumstances relating to the topography and odd shape of the lot, which make it difficult to locate 6 of the proposed 16 parking spaces on the side or to the rear of the property without extensive earthwork and additional drainage infrastructure, affecting the subject lot but not necessarily other lots in the zoning district, a literal enforcement of the application of the Zoning Bylaw would involve substantial hardship the Applicant.
27. The pre-existing parking lot has spaces in front of the building and the proposed plan will not increase this nonconformity. The pre-existing limit of pavement (parking) is 3 feet from the right of way line and is 38 feet in front of the building. The proposed plan will reduce the pre-existing nonconformity where the limit of parking has been moved back 19 feet from the right of way line and will be 22 feet in front of the building. In addition, the proposed plan will provide an increased buffer and will maintain safe access to the site. Therefore, the relief sought will not constitute substantial detriment to the public good.
28. The proposed use will conform to any special requirements of the special permit granting authority as stated in its written decision.
29. The proposed parking on the site is in general compliance with the intent of the bylaw. It provides adequate spaces for the intended use, and provides safe vehicular access to the site. The proposed plan provides a parking layout that is less nonconforming than the pre-existing conditions. Therefore, the relief sought will not nullify or substantially derogate from the intent or purpose of the Zoning Bylaw.

DECISION

1. On February 25, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT a VARIANCE** from Section 7-09-030C(5)(a)[1], to allow 6 parking spaces in front of the front line of the principal structure within the Downtown Business District, on the property located at 137 West Main Street.
2. On February 25, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT a SPECIAL PERMIT** from Section 7-08-020B, Nonconforming Uses and Structures, Special Permit Required, to allow the expansion and reconstruction of a non-conforming structure, on the property located at 137 West Main Street.
3. On February 25, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT a WAIVER** from Section 7-09-020C(5)(a)[1] of the Northborough Zoning Bylaw, to allow a landscaped buffer to remain at a width of 16.2 feet on the north side property line; to be 10 feet wide at its closest point on the south side property line; and to be up to 18 feet wide on the southwest corner of the property located at 137 West Main Street.
4. On February 25, 2014 after due consideration of the Application, the Board voted unanimously to **GRANT a SITE PLAN APPROVAL** from Section 7-03-050A(2) Site Plan, Applicability, for the property located at 137 West Main Street, per the plans submitted and identified as:
 - a. A set of plans, with six 24" x 36" sheets, entitled "Site Plan of 137 West Main Street, Northborough, Mass", dated December 19, 2013, for TShay, LLC, prepared by Connorstone Consulting Civil Engineers and Land Surveyors, signed and stamped by Vito Colonna, Civil Registered Professional Engineer, on

12/19/13, with Sheets 1-4 and 6 identified as: Sheet 1 of 6, Cover Sheet; Sheet 2 of 6, Existing Conditions Plan; Sheet 3 of 6, Proposed Site Plan; Sheet 4 of 6, Proposed Erosion Control Plan; and Sheet 6 of 6, Construction Details; and with Sheet 5 of 6 identified as "Landscaping & Lighting Plan of 137 West Main Street, Northborough, MA", dated December 19, 2013 and revised 1-22-14;

- b. A set of three 11" x 17" architectural plans entitled "Stoneridge Development, 137 West Main Street, Northborough, MA 01532", prepared by Silver Street Architects, LLC, dated 01/08/14, with sheets identified as: A-2, Option A Shutters, Rear Elevation & Left Side Elevation; A-2, Option A Shutters, Front Elevation & Right Side Elevation; and a sheet of four color renderings for 137 West Main Street, Northborough, MA, identified as Front Elevation, Right Side Elevation, Rear Elevation and Left Side Elevation;
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- d. A set of three 24" x 36" plan sheets prepared by Holbrook Associates by RAB Lighting, for Job Name: Northboro, 137 W Main Street, Northborough, MA, with the 3 sheets identified as Lighting Layout, Version B, dated 1/13/2014.

And with the following conditions:

- e. The handicapped parking space proposed shall be Universal 11' handicapped van accessible.
- f. The water service location shall be shown on the plan.
- g. An Earthwork Permit is required prior to any construction.
- h. The gas trap located inside CB-1 shall extend a minimum of 12 inches below the invert to Dry Well – 3.
- i. A permeability test shall be performed in the area of each proposed dry well to verify the infiltration rate.
- j. The applicant shall obtain a curb cut permit to access the State Highway from the Massachusetts Department of Transportation prior to the issuance of a building permit.
- k. The plan shall indicate if the existing shed is to be removed or stay.
- l. If the Applicant installs a trench drain for driveway surface water, it shall be installed in compliance with the MassDOT curb cut permit.
- m. If the Applicant installs a crushed stone trench along the northeast side of the property, it shall be connected to the storm drainage system on site prior to the issuance of Certificate of Occupancy.
- n. The applicant shall install a five foot wide sidewalk along the length of the frontage of this property in accordance with MassDOT specifications.
- o. Upon completion of the work and prior to the issuance of the certificate of occupancy, the applicant shall submit an as-built plan. The as-built plan shall include, at a minimum, and as applicable to the project, 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. The drainage system shall also be certified by a Professional

Engineer stating the drainage system was built substantially in accordance with the design and will performed as designed. 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. The as-built plan shall be based on the 1988 NGVD vertical datum.

5. The **VARIANCE** 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."
6. If the rights authorized by the **VARIANCE** are not exercised within one year from the time of granting, it shall lapse in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 10.
7. 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."
8. If the rights authorized by the **SPECIAL PERMITS** 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**



FRAN BAKSTRAN, CHAIRMAN