



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

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ZBA CASE NO. 14-03

PROPERTY LOCATION: 16 Hudson Street

PETITIONER & PROPERTY OWNER: Paul Gallagher

RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 42366 Pg: 252

This document is the **DECISION** of the Northborough Zoning Board of Appeals on the AMENDED petition of Paul Gallagher for **VARIANCES** and a **SPECIAL PERMIT** to allow the use of a two-family dwelling (duplex) in the Downtown Business District and Groundwater Protection Overlay District Area 3, on the property located at 16 Hudson Street.

APPLICATION

1. On April 3, 2014 the Applicant filed, with the Town Clerk, an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining various **VARIANCES** and **SPECIAL PERMITS** to allow the use of a multi-family dwelling in the Downtown Business District and Groundwater Protection Overlay District Area 3 on the property located at 16 Hudson Street.
2. On June 4, 2014, the Applicant filed, with the Town Clerk, an Amended Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a **VARIANCE** from Section 7-05-030, Table 1. Table of Uses. Part B., Commercial and Industrial Districts, to allow the use of a two-family dwelling in the Downtown Business District; a **VARIANCE** from Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, Use Regulations, Area 3, Two-family and multifamily residential development, to allow a proposed two-family dwelling to be located on a site with less than the required lot area in Groundwater Protection Overlay District Area 3; and a **SPECIAL PERMIT** per Section 7-07-010D(3)(c)[6], to allow the use of a two-family dwelling in Groundwater Protection Overlay District Area 3, of the Northborough Zoning Bylaw, on the property located at 16 Hudson Street.
3. Notice of the public hearing for the original Application filed on April 3, 2014, for the May 27, 2014 Zoning Board of Appeals meeting, was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on May 12, 2014 and May 19, 2014 and was mailed to abutters and other parties in interest on May 7, 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 document entitled "Calculation Sheet for Increase to Impervious Surface: Groundwater Protection Overlay District, for 16 Hudson Street, dated 6/6/2014;
 - b. A Quitclaim Deed for 16 Hudson Street, Northborough, MA 01532 recorded at the Worcester District Registry of Deeds on 1/31/2008, Bk: 42366 Pg: 252;

- c. A certified abutters list for parcels 300 feet from 16 Hudson Street, including a cover sheet signed by Mary E. Carey, for the Town of Northborough Board of Assessors, dated January 15, 2013, and a Northborough, MA GIS Viewer map entitled "16 Hudson Street, Northborough, MA, dated 1/14/2013;
 - d. A document entitled "Hydrology & Stormwater Management Report" for 16 Hudson Street, Northborough, MA, dated March 7, 2014, revised June 2, 2014, prepared for Paul Gallagher by H.S. & T. Group, Inc.; and
 - e. A set of six 24" x 36" plan sheets entitled "16 Hudson Street, Northborough, Massachusetts, submitted March 19, 2014, Special Permit Site Plan", revised 6/2/14, Redesign for Two-Family Building; with sheets identified as: Sheet 1, Cover Sheet; Sheet 2, Existing Conditions Plan; Sheet 3, Site Layout Plan; Sheet 4, Grading, Drainage, Utility and Erosion Control Plan; Sheet 5, Details; and Sheet 6, Details.
2. A letter to the Zoning Board of Appeals from Carol Redden, H. S. & T. Group, Inc., dated May 9, 2014, RE: Continuance of Hearing Request for 16 Hudson Street Site Plan Application;
 3. A letter to the Zoning Board of Appeals from David M. Durgin, Fire Chief, Subject: 16 Hudson Street, dated June 16, 2014; and
 4. A letter to the Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, Re: 16 Hudson Street, Map 63, Parcel 82, dated June 20, 2014.

HEARING

At the May 27, 2014 Zoning Board of Appeals meeting, Chairman Fran Bakstran opened the public hearing and Carol Redden, Engineer, H.S. & T. Group, representing the Applicant, Paul Gallagher, submitted a letter requesting the public hearing be continued to June 24, 2014.

Ms. Redden, representing the Applicant, Paul Gallagher, presented an amended Application on June 24, 2014, in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Fran Bakstran, Richard Rand, Robert Berger, Mark Rutan, and Brad Blanchette were present throughout the proceedings.

Ms. Redden presented the plans for the project, stating a previously existing structure on the subject property at 16 Hudson Street has been demolished and only two paved driveways which serviced the razed building remain on the lot. The Applicant had originally proposed a 4-unit multi-family dwelling with parking in front of the building, which faced Hudson Street. However, due to the small size of the lot at 5,479 square feet in area, and in order to be more compliant with the zoning district, the Applicant amended the plans and is now proposing a two-story, two-family dwelling with two bedrooms per unit. The front door will be on one side of the building and will face the parking area on the other side of the site. The parking area will be comprised of 4 spaces, two per unit. A walkway will be constructed around portions of the proposed building.

Ms. Redden explained the subject property is located in the Downtown Business District and Groundwater Protection Overlay District Area 3. The Applicant is requesting a Variance to allow the use of a two-family dwelling in the Downtown Business District; a Variance to allow the construction of a two-family dwelling on a lot with less than the required 20,000 square feet in Groundwater Protection Overlay District Area 3; and a Special Permit to allow the use of a two-family dwelling in Groundwater Protection Overlay District Area 3.

Ms. Redden stated the project has been reviewed by the Fire Chief and the Groundwater Advisory Committee. The site is relatively flat with a mild slope from the front to the rear of the parcel and

stormwater management plans for the site will address any runoff from the site to neighboring properties. During construction, hay bales and silt fence will be located on three sides of the site and a construction entrance will be installed to protect the site from debris from construction vehicles. After construction, the site will be loamed and seeded.

Ms. Redden stated the location of the proposed two-family dwelling is approximately 450 feet from Main Street. There are a number of two-family and multi-family buildings in the area similar to what is being proposed. The proposed two-family dwelling will fit in well with the character of the surrounding area.

Abutter Helen Calverley, 14 Hudson Street, expressed concern about runoff from the subject property flowing onto her property.

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

The hearing was closed on June 24, 2014.

FINDINGS OF FACT

1. The subject property at 16 Hudson Street is located in the Downtown Business District and Groundwater Protection Overlay District Area 3. An original structure on the site has been demolished.
2. The Applicant is proposing to construct a two-story, two-family residential building, consisting of two bedrooms per unit, on the subject site. The footprint area for this proposed building will be 1500 square feet (3,000 square feet in gross floor area) and a parking area for the building's residents, along with a walkway to access the building, is also proposed.
3. In the Downtown Business District, the use of a two-family dwelling (duplex) is not allowed and therefore a Variance is required from Section 7-05-030, Table 1. Table of Uses. Part B., Commercial and Industrial Districts, of the Northborough Zoning Bylaw.
4. The subject property is 5,479 square-feet in area. In Groundwater Protection Overlay District Area 3, the minimum required lot area is 20,000 square feet, and therefore, a Variance is required for the proposed project from Section 7-07-010D(3)(c)[6] Groundwater Protection Overlay District, Use Regulations, Area 3, Two-family and multifamily residential development, of the Northborough Zoning Bylaw.
5. In Groundwater Protection Overlay District Area 3, the use of a two-family dwelling is allowed by Special Permit per Section 7-07-010D(3)(c)[6] Groundwater Protection Overlay District, Use Regulations, Area 3, Two-family and multifamily residential development, of the Northborough Zoning Bylaw.
6. The proposed two-story, two-family dwelling, with a total of 4 bedrooms, will be connected to public utilities in and along Hudson Street.
7. The subject property at 16 Hudson Street is in the Downtown Business District in an area in which other two-family and multi-family dwellings are located, and meets all setbacks required in the zoning district.
8. The subject property is located entirely within Groundwater Protection Overlay District Area 3.
9. A residential building was previously located on the subject parcel, along with two paved driveways. After the original survey for the property was completed, the existing building was demolished and removed from the site. Presently, the two paved driveways which serviced the demolished building remain on the lot and the rest of the site consists of overgrown areas of grass.

10. A calculation sheet for impervious surface on the site has been submitted and indicates the subject property is 5,479 square feet in area and the total previously existing impervious surface on the property is 1,136 square feet. The allowed increase to the existing impervious surface is 651 square feet and the proposed increase in impervious surface is 2,959 square feet (1,500 square feet for the building and 1,459 square feet for the parking area and walkway).
11. A stormwater management plan for the site will be provided to address stormwater quality; to prevent runoff from going onto neighboring properties; and to provide adequate storage such that the increase in post-development net runoff volume does not exceed existing conditions by more than fifteen percent (15%). Therefore, the project will meet the Groundwater Protection Overlay District Area 3 requirement that the proposed impervious surface on the subject lot shall not exceed existing conditions by more than fifteen percent (15%).
12. In a letter to the Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, Re: 16 Hudson Street, Map 63, Parcel 82, dated June 20, 2014, the members voted unanimously in favor of recommending approval of the requested Variance and Special Permit, with conditions.
13. All items in a letter to the Zoning Board of Appeals from David M. Durgin, Fire Chief, Subject: 16 Hudson Street, dated June 11, 2014, have been or will be addressed by the Applicant.
14. Due to circumstances relating to the size of subject lot, at 5,479 square feet, which limits development on the site, and the site's location entirely in Groundwater Protection Overlay District Area 3, which requires a site to be a minimum of 20,000 square feet in area, which generally do not affect land or structures in the same zoning district, a literal enforcement of the Zoning Bylaw would involve substantial hardship.
15. There are a number of two-family and multi-family buildings in the area similar to that which is being proposed. In addition, the proposed development provides relatively affordable housing for individuals such as singles, couples, and empty-nesters. The location of the proposed building is in very close proximity to the downtown area such that residents could easily walk to local amenities and stores. Since the proposed two-family dwelling will include 2 two-bedroom units, traffic generated from the site will most likely be minimal. Therefore, the relief sought will not constitute substantial detriment to the public good, will not adversely affect the neighborhood and there will be no nuisance or serious hazard to vehicles or pedestrians.
16. The subject site can be served by Town water and sewer, as water and sewer service is available in Hudson Street. In addition, a stormwater management system has been designed for the site to comply with the Massachusetts Department of Environmental Protection's Stormwater Management Policy and the requirements of the Town. Therefore, the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the Northborough Zoning Bylaw.
17. The impacts on the natural environment from the proposed development have been mitigated by the proposed stormwater management facility. The proposed development is in accord with the historical development in the center of Town. No historic buildings will be affected by this development. Therefore, the proposal as presented could not reasonably be altered to reduce adverse impacts on the natural environment, to be compatible with historic development patterns of the town, or to preserve historically significant buildings.

DECISION

1. On June 24, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT** a **VARIANCE** from Section 7-05-030, Table 1. Table of Uses. Part B., Commercial and Industrial Districts, of the Northborough Zoning Bylaw, to allow the use of a two-family dwelling

(duplex) with a total of 4 bedrooms in the Downtown Business District on the property located at 16 Hudson Street.

2. On June 24, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT** a **VARIANCE** from Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, Use Regulations, Area 3, to allow the construction of a two-family dwelling with associated parking on a lot with less than the required 20,000 square feet in lot size in Groundwater Protection Overlay District Area 3, on the property located at 16 Hudson Street.
3. On June 24, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT** per Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, Use Regulations, Area 3, to allow the use of a two-family dwelling (duplex) with a total of 4 bedrooms in Groundwater Protection Overlay District Area 3, on the property located at 16 Hudson Street, per the plans submitted and identified as:
 - a. A set of six 24" x 36" plan sheets entitled "16 Hudson Street, Northborough, Massachusetts, submitted March 19, 2014, Special Permit Site Plan", revised 6/2/14, with sheets identified as: Sheet 1, Cover Sheet; Sheet 2, Existing Conditions Plan; Sheet 3, Site Layout Plan; Sheet 4, Grading, Drainage, Utility and Erosion Control Plan; Sheet 5, Details; and Sheet 6, Details.

And with the following conditions:

- b. An asphalt berm shall be installed around the perimeter of the parking area to help guide stormwater in the proposed catch basin.
- c. The Hydrology and Stormwater Report shall be revised to verify the volume of runoff leaving the site at design point two shall not exceed the predevelopment condition by more than 15%. This calculation shall be performed and approved by the Town Engineer prior to the issuance of the building permit.
- d. A permeability test shall be performed within the naturally occurring material beneath the proposed infiltration chambers. The permeability test must not be performed within any areas of fill.
- e. Any changes in the impervious cover proposed as the project gets built must be verified by the as-built drawing and will require a new calculation sheet.
- f. The "O & M Activities After Construction Is Completed" portion of the Hydrology and Stormwater Management Report shown in Appendix L shall be amended to include the following: The Town Engineer shall be notified before the work is performed and shall be afforded the opportunity to inspect the work. The Town Engineer and the Groundwater Advisory Committee shall be provided copies of the contract, all inspection reports and invoices for the work performed. All material removed from the drainage system shall be disposed of offsite. This portion of the Operation and Maintenance plan should be made part of the final decision by the Zoning Board of Appeals and recorded at the Worcester Registry of Deeds and become a permanent part of the chain of title.
- g. An as-built site plan shall be submitted to the Town Engineer for 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 utilities, 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).

4. 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.
5. The **VARIANCES** 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 **VARIANCES** 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 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**



FRAN BAKSTRAN, CHAIRMAN