



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

ZBA CASE NO. 16-17

PROPERTY LOCATION: 1C Belmont Street

PETITIONER & PROPERTY OWNER: 240 Turnpike Inc.

RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 42269 Page: 93

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of 240 Turnpike Inc., for Amendments to Variances approved per ZBA Case No. 15-14, to allow a proposed free-standing sign to be 50 feet in height, 32 feet in width and 800 square-feet in area; and to allow the free-standing sign, proposed to be located at 1C Belmont Street, to advertise the Northborough Crossing retail development, Northborough AvalonBay, and the New England Baseball facility, which are not on the property on which the sign will be erected.

APPLICATION

1. On September 22, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of amending Variances granted per ZBA Case No. 15-14, from Section 7-09-040G(1)(c)[2] of the Northborough Zoning Bylaw, to allow a proposed 800 square-foot free-standing sign to be 50 feet in height, from the ground to the top and 4-feet in depth, with the area (cabinet) for signage to be 25 feet in height and 32 feet in width; and from Section 7-09-040D(1) of the Northborough Zoning Bylaw to allow the free-standing sign, proposed to be located at 1C Belmont Street, to advertise the Northborough Crossing retail development and AvalonBay at 370 Southwest Cutoff and the New England Baseball Enterprise facility at 333 Southwest Cutoff, which are not on the property on which the sign will be erected.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on October 10, 2016 and October 17, 2016; and was mailed to abutters and other parties in interest on September 27, 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 Application cover letter to the Zoning Board of Appeals from John M. Grenier, P.E., J.M. Grenier Associates, Inc., dated September 21, 2016, RE: 1C Belmont Street, Map 109, Parcel 2;
 - b. A Zoning Interpretation Request Form for 1C Belmont Street, submitted by Mo Bayou and signed by Joseph M. Atchue, Zoning Enforcement Officer/Inspector of Buildings, on September 20, 2016;

- c. A certified abutters list for parcels 300 feet from 1C Belmont Street, Map 109, Parcel 2, from the Town dated September 27, 2016; and a Town of Northborough, MA color map entitled "1C Belmont Street-300ft Abutters, dated September 20, 2016;
 - d. A Quitclaim Deed for 1C Belmont Street, Northborough, Mass., recorded at the Worcester District Registry of Deeds on 01/03/2008, Bk: 42269, Pg: 93;
 - e. An 8.5" x 11" Approval Not Required (ANR) plan entitled "Plan of Land in Northborough, Mass. owned by Ralph C. & Bertha F. Lawrence", prepared by N. B. Kasperson, Eng., dated April 1956, signed by the Northborough Planning Board on May 24, 1956 and recorded with the Worcester District Registry of Deeds on June 1, 1956, Plan Book 215, Plan 123;
 - f. An 8.5" x 11" color rendering of a 32-foot wide by 50-foot high free-standing Pylon sign, from the ground to the top, with a 32-foot wide by 25-foot high area for signage;
 - g. A color rendering of a free-standing Pylon sign with individual business signs displayed;
 - h. A copy of a decision for 1C Belmont Street, ZBA Case No. 10-07, Mo Bayou, 240 Turnpike Inc., Petitioner and Property Owner, date-stamped by the Town Clerk on September 24, 2010
 - i. A copy of a decision for 1C Belmont Street, ZBA Case No. 15-14, Mo Bayou, 240 Turnpike Inc., Petitioner and Property Owner, date-stamped at the Town Clerk's office on November 2, 2015;
 - j. A set of ZBA meeting minutes for August 24, 2010 approved on 10/26/10; and
 - k. Two 24" x 36" plans prepared for 240 Turnpike Inc., by J. M. Grenier Associates, Inc., dated September 21, 2016, and identified as: "Sheet 1 of 1, Proposed Pylon Sign at 1C Belmont Street, Northborough, Massachusetts"; and "Sheet 1 of 1 Proposed Pylon Landscaping Plan at 1C Belmont Street, Northborough, Massachusetts".
2. A letter to William Pantazis, Chair, Town of Northborough Board of Selectmen from John R. Romano, Director, MassDOT - Office of Outdoor Advertising, re: Application for permit(s) for the construction of two (2) static billboard(s), dated July 27, 2016; and
 3. A document entitled "Application for Permit(s) to Locate Outdoor Advertising", from MassDOT, Office of Outdoor Advertising, submitted by 240 Turnpike Inc., Applicant, for 1C Belmont Street, Northborough, MA 01532, Principal Business Address, Application #2016053, dated July 27, 2016.

HEARING

Applicant Mo Bayou, 240 Turnpike Inc., presented the Application at a duly noticed public hearing of the Board on October 25, 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. Bayou reminded the board members that they granted Variances for a Pylon sign last year per ZBA Case No. 15-14. He explained that, due to State and Federal requirements of which he was unaware, he had to acquire a license to conduct business for outdoor advertising. He contacted the MassDOT Office of Outdoor Advertising and within a three-month time frame, received the necessary license. He presented the approved sign plans to the Director of Outdoor Advertising and after an additional 3 months, he was told the sign cabinet was too tall; that it could be no higher than 25 feet.

Mr. Bayou stated he is requesting to amend the Variances approved last year by changing the dimensions of the approved free-standing, double-sided 50-foot by 17-foot internally illuminated Pylon sign to be 50 feet in height, from the ground to the top of the sign, and 4-feet in depth, with an area (cabinet) for signage that will be 25 feet in height and 32 feet in width. The total area of the sign will be 800 square feet, fifty less than what was originally by the ZBA in 2015.

Mr. Bayou stated the same businesses located at 370 Southwest Cutoff (Northborough Crossing and AvalonBay Northborough) and 333 Southwest Cutoff (New England Baseball Enterprises), will be advertised on the proposed amended sign. He stated state and federal regulations consider the subject sign a billboard, but that is not the intended use and he is caught in the middle of two different requirements, local and state. He noted he did what he could to make it look less like a billboard by adding craftsman-style pillars.

Mr. Bayou stated he is all right with the approved allowed minimum of 7 business panels on the sign. He noted Wegmans may want to take one of the larger panels; UMass Medical Center at 333 Southwest Cutoff has expressed an interest to locate on the sign; and he would like to get other tenants in close proximity to his property to fill his sign so he wouldn't have empty space.

No person in attendance expressed opposition to the project and no letters in opposition to the project were received by the Board.

The hearing was closed on September 27, 2016.

FINDINGS OF FACT

1. The subject property at 1C Belmont Street (Route 9) is located in the Highway Business District.
2. In the Highway Business District, the maximum allowed area of a free-standing sign for three or more tenants is 100 square feet; and the allowed height of a free-standing sign for more than three tenants is 20 feet as measured from the ground to the highest point of the sign. In addition, development regulations of the Northborough Zoning Bylaw require a sign to be located only on the property on which the businesses it advertises are located.

3. On September 29, 2015, the Zoning Board of Appeals granted the following Variances for a proposed Pylon sign per ZBA Case No 15-14:
 - *A Variance from Section 7-09-040G(1)(c)[2] of the Northborough Zoning Bylaw, to allow a free-standing, double-sided 50-foot by 17-foot internally illuminated Pylon sign to be 850 square-feet in area, on the property located at 1C Belmont Street;*
 - *A Variance from Section 7-09-040G(1)(c)[2] of the Northborough Zoning Bylaw, to allow a free-standing, double-sided, internally illuminated Pylon sign to be 50 feet in height, on the property located at 1C Belmont Street; and*
 - *A Variance from Section 7-09-040D(1) of the Northborough Zoning Bylaw to allow the proposed sign to be located on the property at 1C Belmont Street (Route 9) for the purpose of advertising businesses located in the Northborough Crossing retail development at 370 Southwest Cutoff.*
4. The Applicant is requesting to amend the Variances approved last year per ZBA Case No. 15-14, by changing the dimensions of the approved free-standing, double-sided 50-foot by 17-foot internally illuminated Pylon sign to be 800 square feet in area, 50 feet in height, from the ground to the top of the sign, and 4-feet in depth, with an area (cabinet) for signs that will be 25 feet in height and 32 feet in width.
5. The Applicant is requesting modifications to the dimensions of the approved sign in order to comply with regulations of the MassDOT Office of Outdoor Advertising and has received a license from that office to conduct business for outdoor advertising.
6. The proposed free-standing, double-side, internally illuminated Pylon sign may advertise, the businesses located exclusively at:
 - 370 Southwest Cutoff, Map 106, Parcel 7 – Northborough Crossing
 - 100-906 Bay Drive, Map 108, Parcels 3 & 5 - AvalonBay Northborough
 - 333 Southwest Cutoff, Map 109, Parcels 9 & 11 - NorthAcres LLC, owner
 - 370 Southwest Cutoff, Map 108, Parcels - 2 & 15, 920 LLC, owner
7. The subject site at 1C Belmont Street is 154,594 square feet in area, approximately 3.56 acres, and is long and narrow, with steep grades.
8. The entire site lies within riverfront area. There are approximately 2 acres of wetlands on the site, and Little Bummet Brook runs through the property as well.
9. There are two 20-foot drainage easements on the site.
10. There are no municipal water or sewer services on the site, and an existing septic system is small and non-conforming.
11. A Special Permit and a Special Permit with Site Plan Approval were granted for a petition submitted by the Applicant, ZBA Case No. 10-07, to allow construction of a 5,000 square-foot building for the use of pre-existing second-hand cars sales, and the accessory use of an automobile repair area for the vehicles associated with the second-hand car sales business only, on the property located at 1C Belmont Street.
12. An Order of Conditions issued by the Northborough Conservation Commission, DEP file #247-0969, allowed the Applicant to remove the pre-existing mini-golf course structures

and concrete putting greens within 100 feet of a bordering vegetated wetland and within 200 feet of a riverfront area.

13. The sign as proposed will be located approximately 5 feet from the existing property line and 45+ feet from the traveled way on Belmont Street/Route 9.
14. The sign as proposed will be located approximately 300 feet from the existing free-standing internally-illuminated Pylon sign advertising Northborough Crossing businesses located on the westbound side of Route 9, after the exit onto Route 20.
15. Advertising on the subject sign will be on both the front and the back sides. The business advertising (panels) on these two sides will be mirror images of each other, with the exception of a "Next Right" panel on the front (facing west) and a "U-Turn" panel on the back (facing east).
16. The subject sign is proposed to be internally-illuminated 365 days per year from dusk to 11:30pm, at a minimum.
17. No cars are proposed to be parked on the site in front of the sign, or between the sign and the driveway.
18. The sign as proposed will be a beneficial use of the property given the site restraints.
19. The subject sign will provide directional signage, as well as tenant information, for the businesses located at Northborough Crossing.
20. The proposed modified sign will provide visibility for motorists traveling on Belmont Street/Route 9, as it will allow them to read it clearly without slowing down and impeding the normal flow of traffic and will give them time to decelerate and exit off of Belmont Street/Route 9.
21. The 50-foot height of the subject sign will provide visibility from Belmont Street/Route 9 for motorists particularly because the grade slopes downhill from the Belmont Street/Route 9 pavement to the subject site. In addition, the height of the subject sign will have no negative impact on neighboring property as it is located 350 feet to the west of the property line of the abutter to the east, and there are no developed abutting parcels.
22. The proposed subject sign serves to advertise a "Business Center" of 3 or more tenants, and its function is to provide information and directional signage for the Northborough Crossing retail development at 370 Southwest Cutoff and the commercial development at 333 Southwest Cutoff.
23. Although the subject sign does not function like a typical billboard as seen along a highway, nor does the shape and character of the sign resemble one, it is considered a billboard sign by the MassDOT Office of Outdoor Advertising.
24. Due to circumstances relating to the long, narrow shape of the lot and the multitude of restraints on the 3.5 acre site, that limit the potential for suitable locations on which buildings could be located, including steep grades; 2 acres of wetland area; a riverfront area and Little Bummet Brook; two drainage easements; the lack of municipal water or sewer services; and an undersized, pre-existing septic system, affecting only the subject land but not generally affecting land or structures in the same zoning district, a literal enforcement of the Zoning Bylaw would involve substantial hardship.

25. Without the requested zoning relief, the sign will not comply with requirements of MassDOT's Office of Outdoor Advertising, which requires the area of the sign (the cabinet) on which the businesses are advertised to be not more than 25 feet in height. As a result, the site will likely remain undeveloped for the foreseeable future due to the multiple hardships that affect the ability to utilize the site for commercial uses in the Highway Business District. Therefore, the relief sought will not constitute a substantial detriment to the public good and will not nullify or substantially derogate from the intent and purpose of the Northborough Zoning Bylaw.

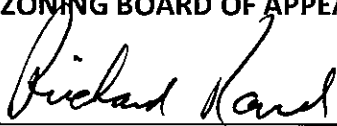
DECISION

1. On September 27, 2016, after due consideration of the Application, the Board voted unanimously to **AMEND** the **VARIANCE** granted per ZBA Case No. 15-14, from Section 7-09-040G(1)(c)[2] of the Northborough Zoning Bylaw, by allowing a free-standing, double-sided, internally illuminated Pylon sign to be 50 feet in height, from the ground to the top of the sign, and 4-feet in depth; with an area for signs (cabinet) that will be 25 feet in height and 32 feet in width, on the property located at 1C Belmont Street.
2. On September 27, 2016, after due consideration of the Application, the Board voted unanimously to **AMEND** the **VARIANCE** granted per ZBA Case No. 15-14, from Section 7-09-040G(1)(c)[2] of the Northborough Zoning Bylaw, to allow a free-standing, double-sided, internally illuminated Pylon sign to be no more than 50 feet in height, on the property located at 1C Belmont Street.
3. On September 27, 2016, after due consideration of the Application, the Board voted unanimously to **GRANT** a **VARIANCE** from Section 7-09-040D(1) of the Northborough Zoning Bylaw to allow the proposed sign to be located on the property at 1C Belmont Street (Route 9) for the purpose of advertising businesses located in the Northborough Crossing retail development at 370 Southwest Cutoff and commercial development at 333 Southwest Cutoff, with the following conditions:
 - a. Two-thirds of the sign as proposed shall be used for businesses less than 20,000 square-feet in size located on the property owned by 920 LLC and Equity One, collectively Northborough Crossing, at 370 Southwest Cutoff and for the commercial property located at 333 Southwest Cutoff.
 - b. A minimum of 7 businesses shall be advertised on the subject sign.
 - c. The subject sign will be the only use on the subject property.
 - d. The signs (panels) on the front and back sides of the subject sign will be mirror images, with the exception of the "NEXT RIGHT" sign on the front side and "U-TURN" on the back side.
 - e. A service contract shall be put in place to ensure bi-monthly maintenance of the landscaping around the sign.
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. 9.

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

A handwritten signature in black ink, appearing to read "Richard Rand", is written over a horizontal line.

RICHARD RAND, CHAIRMAN