



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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

DECISION

RECEIVED
NORTHBOROUGH TOWN CLERK
2013 OCT -4 AM 11:02

ZBA CASE NO. 13-16

PROPERTY LOCATION: 246 Ball Street

PETITIONER & PROPERTY OWNER: Maurice F. and Phyllis P. Tougas, Trustees

RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 7220 Pg: 357

This document is the **DECISION** of the Northborough Zoning Board of Appeals on the petition of Maurice & Phyllis Tougas for a **VARIANCE** to allow the minimum lot width to be .72 feet less than the required 200 feet on the property located at 246 Ball Street, Map 22 Parcel 6

APPLICATION

1. On August 14, 2013, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a **VARIANCE** from Section 7-06-030 Table 2. Table of Density and Dimensional Regulations of the Northborough Zoning Bylaw, to allow the lot width to be .72 feet less than the required 200 feet on the property located at 246 Ball Street.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on September 9, 2013 and September 16, 2013, and was mailed to abutters and other parties in interest on August 28, 2013.

EXHIBITS

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

1. Application for Hearing before the Zoning Board of Appeals including:
 - a. A Quitclaim Deed for Ball Street, Northborough, recorded at the Worcester District Registry of Deeds on May 4, 1981, Bk: 7220 Pg: 357;
 - b. A certified abutters list for parcels 300 feet from 246 Ball Street with a Property Record Card for 246 Ball Street and a Northborough, MA GIS Viewer map entitled "246 Ball Street, Northborough, MA", dated 8/12/13 ; and
 - c. A plan identified as "Plan of Land, 246 Ball Street", prepared by Connorstone Consulting Civil Engineers and Land Surveyors for Maurice & Phyllis Tougas, dated August 9, 2012, signed and stamped by Varoujan H. Hagopian. Professional Land Surveyor, on 8/9/2013.

HEARING

Applicant Maurice Tougas presented the Application at a duly noticed public hearing of the Board on September 24, 2013, in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Fran Bakstran, Richard Rand, Dick Kane, Mark Rutan and voting alternate member Brad Blanchette were present throughout the proceedings.

Mr. Tougas explained his property at 246 Ball Street is 180,000 square-feet in size and has 200 feet of frontage, which presently meets zoning regulations. However, in the course of doing some estate planning proposing the current parcel be subdivided to create a revised house lot with 200 feet of

frontage and 87,120 square feet of land area and the remaining 93,074 square feet of land area where the barns and storage buildings are located be combined with the existing farmland, the minimum lot width at the location of the existing home on the lot is measured as 199.28 feet, less than 1 foot short of the required 200 feet. He stated he is requesting a Variance to allow the minimum lot width of the property to be 199.28 feet. Mr. Tougas stated the lot was created in 1981 by the former owner. In a recent survey of the lot, it was determined the lot width at the house was not 200 feet, probably due to instruments used by the engineer who created the lot that were not as accurate as the instruments used today.

Mr. Tougas stated it would be very difficult to take even a small .72-foot strip of land from his adjacent property to give to the subject lot, because the adjacent lot is protected farm land and has an Agricultural Preservation Restriction on it.

Zoning Board member Richard Rand was opposed to granting the requested relief to create a non-conforming lot.

There were no abutters present for this hearing and no letters in opposition to the petition were received by the Board.

The hearing was closed on September 24, 2013.

FINDINGS OF FACT

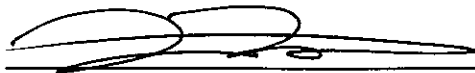
1. The subject property at 246 Ball Street is in the Residential A District. In the Residential A District, the minimum required lot width is 200 feet.
2. The subject property is presently 180,000 square-feet in area with 200 feet of frontage and therefore meets lot requirements for the Residential A District.
3. In proposing a new lot for the existing home at 246 Ball Street with 87,120 square feet of land area and 200 feet of frontage, the minimum lot width at the location of the existing house should be 200 feet but on the subject property it is 199.28 feet, or .72 feet less than the required 200-foot required minimum lot width for the district. Therefore, a Variance is required from Section 7-06-030, Table 2. Table of Density and Dimensional Regulations, to allow the minimum lot width to be 199.28 feet.
4. The subject lot is adjacent to farm land that has an Agricultural Preservation Restriction (APR) on it and it would be a very difficult process, including multiple hearings and an act of the Legislature, to get the State to release the .72-foot sliver of land in order to make the width of the subject lot 200 feet.
5. A plan submitted by the Applicant identified as "Plan of Land, 246 Ball Street", prepared by Connorstone Consulting Civil Engineers and Land Surveyors for Maurice & Phyllis Tougas, dated August 9, 2012, signed and stamped by Varoujan H. Hagopian. Professional Land Surveyor, on 8/9/2013, is a proposed Approval Not Required (ANR) plan showing the nonconforming subject lot as "Lot 1, 246 Ball Street" and another lot identified as "Parcel A". Note 3 on the subject plan states "Parcel A is to be combined with the remaining land of Tougas Farm. Parcel A is not to be considered a separate individual building lot".
6. Due to circumstances relating to the unusual condition that affects the subject lot, which is adjacent to farm land with an Agricultural Preservation Restriction, and the extreme degree of difficulty in getting the State to release its Agricultural Preservation Restriction on the subject parcel of land, 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.

7. There will be no adverse impact on the neighborhood and there will not be any nuisance or serious hazards to vehicles or pedestrians. The relief granted will not cause substantial detriment to the public good.
8. The correction of a .72-foot deviation that has inadvertently existed since 1981 is not substantial. Therefore, the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the Northborough Zoning Bylaw.

DECISION

1. On September 24, 2013, after due consideration of the Application, the Board voted 4 in favor, 1 opposed, to **GRANT** a **VARIANCE** from Section 7-06-030 of the Northborough Zoning Bylaw to allow the required minimum lot width to be 199 feet on the property located at 246 Ball Street, per the plans submitted and identified as "Plan of Land, 246 Ball Street", prepared by Connorstone Consulting Civil Engineers and Land Surveyors for Maurice & Phyllis Tougas, dated August 9, 2012, signed and stamped by Varoujan H. Hagopian, Professional Land Surveyor, on 8/9/2013 and with the condition that Parcel A is to be combined with the remaining land of Tougas Farm and is not to be considered a separate individual building lot, as indicated in Note 3 of the subject plans.
2. 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."
3. 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.

TOWN OF NORTHBOROUGH, MASSACHUSETTS ZONING BOARD OF APPEALS



FRAN BAKSTRAN, CHAIRMAN