



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

ZBA CASE NO. 13-23

PROPERTY LOCATION: 261 Main Street

PETITIONER: Susanne Russell

PROPERTY OWNERS: A.R. Realty Trust, Joseph Rinaldo & Paul Abasciano, Trustees

PROPERTY RECORDED WITH WORCESTER REGISTRY OF DEEDS: Book 20811, Page 303

This document is the **DECISION** of the Northborough Zoning Board of Appeals to consider the petition of Susanne Russell for Special Permits to allow the use of a canine hydrotherapy and rehabilitation center in the Business East District and Groundwater Protection Overlay District Area 2, on the property located at 261 Main Street, GIS Map 47, Parcel 2.

APPLICATION

1. On October 24, 2013, the Applicant filed with Town Clerk an Application for Hearing before the Zoning Board of Appeal for the purpose of obtaining a **SPECIAL PERMIT** per Section 7-05-030 Table of Uses, Part B, of the Northborough Zoning Bylaw, to allow the use of a canine hydrotherapy and rehabilitation center in the Business East District; and a **SPECIAL PERMIT** per Section 7-07-010, Groundwater Protection Overlay District, of the Northborough Zoning Bylaw, to allow the accessory uses of toxic/hazardous materials (chlorine and animal waste), associated with the use of a canine hydrotherapy and rehabilitation center, in Groundwater Protection Overlay District Area 2, on the property located at 261 Main Street.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on November 11, 2013 and November 18, 2013 and was mailed to abutters and other parties in interest on October 28, 2013.

EXHIBITS

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

1. Application for Hearing before the Zoning Board of Appeals, including the following;
 - a. A 2-page document entitled "Proposed Business Plan for Northborough Canine Rehabilitation & Fitness Center" for 261 Main Street, dated 10/23/13 from Susanne Russell;
 - b. A Quitclaim Deed for 261 Main Street, Northborough, recorded at the Worcester District Registry of Deeds on August 30, 1994, Book 16539 Page 303;
 - c. Two plan sheets prepared by E.J. Flynn Engineers, Inc., for 261 Main Street, Northboro, Massachusetts, dated 9/4/85, date-stamped by the Town Clerk's Office on October 24, 2013, and identified as: "Proposed Gas Easement" and "Northboro Canine Rehabilitation & Fitness Center".

- d. A 4-page document entitled "12.5% Sodium Hypochlorite Solution Material Data Sheet", by HASA; and
 - e. A certified abutters list for properties within 300 feet of 261 Main Street, dated 9/20/13.
2. A letter to the Northborough Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated November 25, 2013, RE: 261 Main Street, Map 47, Parcel 2.

HEARING

Applicant Susanne Russell, Northborough Canine Rehabilitation & Fitness Center, presented the Application at a duly noticed public hearing of the Board on November 26, 2013 in Conference Room B of the Northborough Town Hall. Voting board members Fran Bakstran, Richard Rand, Mark Rutan, Richard Kane and Robert Berger, and non-voting alternate members Jeffrey Cayer and Brad Blanchette, were present throughout the proceedings.

Ms. Russell explained she is seeking a Special Permit to allow the use of a hydrotherapy and rehabilitation facility (under the classification of a veterinary clinic) for canine patients with orthopedic conditions, in the lower level of the building on the property located at 261 Main Street. In addition, she is seeking a Special Permit to allow the use of toxic/hazardous waste (chlorine and animal waste) in Groundwater Protection Overlay District Area 2. She stated she will renovate the interior of the building for installation of the hydrotherapy tub/pool. The outside area will be used for walking and running dogs to assess their conditions. Parking is available on the site and will be sufficient for the anticipated number of clients and employees. She stated there may be times in which a canine client may need to stay overnight, but it would be done on a limited basis and the average number of times a dog has stayed overnight is about 5 per year.

No one spoke against the Application and the Board did not receive any letters in opposition to the project.

The hearing was closed on November 26, 2013.

FINDINGS OF FACT

1. The subject property is located in the Business East District and Groundwater Protection Overlay District Area 2.
2. The use as presented by the Applicant, under the business name of Northborough Canine Rehabilitation & Fitness Center, is a hydrotherapy and rehabilitation facility for canine patients with orthopedic conditions, and consists of rehabilitative long-term care for canine patients recovering from surgery or injury, with limited boarding.
3. The subject use falls under the definition of a veterinary clinic, which is defined as a facility for medical or surgical treatment of domestic animals and incidental short-term boarding within a fully enclosed building.
4. In the Business East District, the use of a veterinary clinic as proposed by the Applicant requires a Special Permit per Section 7-05-030 Table 1. Table of Uses, Part B, Commercial and Industrial Districts, of the Northborough Zoning Bylaw.
5. The use of a veterinary clinic on the subject property at 261 Main Street, located in Groundwater Protection Overlay District Area 2, requires a Special Permit per Section 7-07-010D(3)(b)[6], Groundwater Protection Overlay District, Use Regulations, Area 2, of the Northborough Zoning Bylaw, to allow the accessory uses of toxic/hazardous materials (chlorine and animal waste) with no on-site disposal of any waste materials.

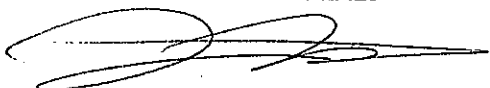
6. Patients of the Northborough Canine Rehabilitation & Fitness Center will be seen on an appointment-only basis and will be accompanied by an adult at all times during their appointments.
7. Eight 3-foot by 6-foot suites are proposed to accommodate patients staying for limited, long-term care. A staff member will always be on the premises for overnight patients.
8. The use of a veterinary clinic, per Section 7-05-020G(7)(a), Zoning District, Classification of Uses, Other Business Uses, is defined, in part, as "A facility for medical or surgical treatment of domestic animals and incidental short-term boarding within a fully enclosed building". The Applicant has stated the average number of times a dog has stayed overnight is about 5 times per year.
9. There will be no boarding of dogs that are not patients of the Northborough Rehabilitation & Fitness Center.
10. An underwater hydrotherapy treadmill unit, and an approximately 10-foot by 24-foot by 4.5-foot deep indoor therapy pool will be installed and utilized for patient rehabilitation. The indoor therapy pool will act as a holding tank for the water needed for the treadmill unit. The water will be changed as regulated by the Board of Health.
11. The proposed Northborough Hydrotherapy & Rehabilitation Center at 261 Main Street will share the existing building with the CX Computer Exchange business, with which it will also share the existing parking area.
12. There are 15 parking spaces available on the subject site, and the subject use will require from 6 to 9 spaces for clients (usually 2 spaces at a time) and employees.
13. In a letter to the Northborough Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated November 25, 2013, RE: 261 Main Street, Map 47, Parcel 2, the Groundwater Advisory Committee voted unanimously in favor of recommending approval of the requested Special Permit, and offered conditions.
14. The building on the subject property located at 261 Main Street, in the Business East District, is surrounded by other commercial businesses in the area along Main Street (Route 20). Therefore, the site is an appropriate location for the use of the Northborough Rehabilitation & Fitness Center as proposed.
15. From the parking area in the rear of the lot, a fenced area for walking dogs before and after appointments is off the left side of the building. Canine patients are on leashes at all times when outside the building. Small bags and a trash receptacle will be provided for removal of waste. Therefore, the use as proposed will not adversely affect the neighborhood, and there will be no nuisance or serious hazard to vehicles or pedestrians.
16. The proposed use meets, and will not derogate from, the purpose and intent of the Northborough Zoning Bylaw.
17. Adequate and appropriate facilities will be provided for the proper operation of the use.

DECISION

1. On November 26, 2013, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT** per 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 canine hydrotherapy and rehabilitation center with limited boarding (veterinary clinic), known as the Northborough Rehabilitation & Fitness Center, in the Business East District and Groundwater Protection Overlay District Area 2, on the property located at 261 Main Street, with the following conditions:

- a. Incidental short-term boarding shall be limited to 5 overnight stays per dog per year for patients of the Northborough Canine Rehabilitation and Fitness Center; and
 - b. There shall be no boarding of dogs that are not patients of the Northborough Rehabilitation & Fitness Center.
2. On November 26, 2013, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT** per Section 7-07-010D(3)(b)[6], Groundwater Protection Overlay District, Use Regulations, Area 2, of the Northborough Zoning Bylaw, to allow the accessory uses of toxic/hazardous materials (chlorine and animal waste) associated with the use of a canine hydrotherapy and rehabilitation center with limited boarding (veterinary clinic), in Groundwater Protection Overlay District Area 2, on the property located at 261 Main Street, with the following conditions:
 - a. The five-gallon container of 12.5% Sodium Hypochlorite Solution, indicated by the Applicant to be on-site at all times, shall be stored within a flame proof cabinet.
 - b. Small bags and a trash receptacle shall be provided for removal of animal waste when canine patients are taken outside to walk and run in the fenced area to the right of the building. The waste from these animals shall not be disposed of on-site.
 - c. 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 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. 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.
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 **Special Permits** 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".

TOWN OF NORTHBOROUGH, MASSACHUSETTS
ZONING BOARD OF APPEALS



FRAN BAKSTRAN, CHAIRMAN