



# 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. 14-05**

**PROPERTY LOCATION: 29 East Main Street**

**PETITIONER: Stirrup Brook LLC**

**PROPERTY OWNER: Susan C. & William S. Brackett, Trustees of Brackett Realty Trust**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 21739 Pg: 261**

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of Stirrup Brook LLC for a Variance to allow the location of an existing home to be less than the required 30 feet from a second front property line as part of a subdivision to be proposed on the property located at 29 East Main Street.

## APPLICATION

1. On April 25, 2014, 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 existing home to be less than the required 30 feet from a second front property as part of a subdivision to be proposed on the property located at 29 East Main Street, Map 53, Parcel 105.
2. Notice of the public hearing 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 Quitclaim Deed for 29 East Main Street, Northborough, MA, recorded at the Worcester District Registry of Deeds on August 17, 1999, Book: 21739, Page: 261;
  - b. A Quitclaim Deed for 29 East Main Street, Northborough, MA, recorded at the Worcester District Registry of Deeds on 4/13/2010, Book: 45668, Page: 274;
  - c. A certified abutters list for parcels 300 feet from 29 East Main Street with a Property Record Card for 29 East Main Street Street and a Northborough, MA GIS Viewer map entitled "29 East Main Street, Northborough, MA", dated 4/16/2014 ; and
  - d. An 8" x 10" plan entitled "29 East Main Street Proposed 5 Lot Concept, Site Plan in Northborough, Mass"; prepared by Newbridge Construction, dated February 2014.
2. An 11" x 17" plan entitled "29 East Main Street Proposed 5 Lot Concept, Site Plan in Northborough, Mass"; prepared by Newbridge Construction, dated February 2014; and

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3. A letter to the Zoning Board of Appeals from Fire Chief David Durgin, dated May 1, 2014, Subject: 29 East Main Street – Application for Variance.

### **HEARING**

Applicant Scott Miller, Stirrup Brook Estates LLC, and Attorney Marshall Gould, representing the Applicant, presented the Application at a duly noticed public hearing of the Board on May 27, 2014, in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Fran Bakstran, Richard Rand, Mark Rutan, Robert Berger, and Brad Blanchette were present throughout the proceedings.

Mr. Gould explained the Applicant is requesting a Variance from a second front setback that will be included in a concept 5-lot subdivision plan for the property, to be proposed in the future. The proposed second front property line will be 16.2 feet from the existing home and a 30-foot front setback is required.

Mr. Miller explained the design of the concept 5-lot subdivision will be in keeping with the existing streetscape if the existing home is not demolished. He noted no additional lot will be added to the concept 5-lot subdivision if the requested relief is granted.

Several abutters were present for this hearing, none of whom expressed opposition to the petition and no letters in opposition to the petition were received by the Board.

The hearing was closed on May 27, 2014.

### **FINDINGS OF FACT**

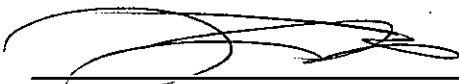
1. The subject property at 29 East Main Street is 3.26 acres in size and is in the Residential C District. The current owners are planning to sell the property to the Applicant, Scott Miller, Stirrup Brook Estates LLC.
2. The Applicant is planning to submit an application and plans for a 5-lot subdivision on the subject property that will include an access road on the property off East Main Street to service 4 of the 5 lots. The existing home at 29 East Main Street will be the 5<sup>th</sup> lot of the subdivision. As a result of the creation of the access road, 29 East Main Street will become a corner lot with two front property lines.
3. In the Residential C District, the minimum required distance from a main structure to a front property line is 30 feet. The distance of the existing home from the front property line created by the access road of the concept 5-lot subdivision is 16.2 feet and therefore a Variance is required from Section 7-06-030, Table 2, Table of Density and Dimensional Regulations of the Northborough Zoning Bylaw.
4. In a letter to the Zoning Board of Appeals from Fire Chief David Durgin, dated May 1, 2014, Subject: 29 East Main Street – Application for Variance, Chief Durgin states he has no comments to provide at this time on this Variance relating to fire suppression or rescue concerning the Northborough Fire Department's operations as the proposed Variance only relates to setback distances.
5. The subject lot is oddly shaped, having 6 property lines, and the existing house and garage, which will be preserved, are in the narrowest portion of the lot.
6. The existing home on the subject property was built in 1916 and is of colonial architecture with a New England-style covered front porch. It is in character with other homes along East Main Street by reason of its architectural qualities and age. Therefore, the Applicant prefers to include the home in his plans for the concept 5-lot subdivision, rather than to demolish it and replace it with a new single-family home.

7. Due to circumstances relating to the odd shape of the lot, and the age and architecture of the existing home on the subject property, built in 1916 and with Colonial-type architecture, which are in keeping with the character of other homes along East Main Street, but which would have to be demolished and replaced with a new home if the Variance was not granted, affecting the subject property but not necessarily other lots in the district, a literal enforcement of the Zoning Bylaw would involve substantial hardship.
8. No additional lots will be created if the Variance is granted.
9. The existing home on the subject property is similar to other homes in the area. The front of the home will continue to face East Main Street, and will have adequate setback distances if the Variance is granted, as shown on the site plan for the concept 5-lot subdivision. The side of the home that will face the new roadway is not the "front" of the home. It complies with side setback requirements in the Residential C District in which the property is located. It is only the definition of a corner lot that causes the need for the Variance.
10. Therefore, the relief granted will not cause substantial detriment to the public good. There will be no adverse impact on the neighborhood and there will not be any nuisance or serious hazards to vehicles or pedestrians.

#### **DECISION**

1. On May 27, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT** a **VARIANCE** from Section 7-06-030 of the Northborough Zoning Bylaw to allow a front setback to be not less than 16 feet from the existing home and garage on the property due to the shape of the lot, per the plan submitted and identified as "29 East Main Street, Proposed 5 Lot Concept Site Plan in Northborough, Mass"; prepared by Newbridge Construction, dated February 2014.
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**



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**FRAN BAKSTRAN, CHAIRMAN**