



# 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. 14-02**

**PROPERTY LOCATION: 318 Main Street**

**PETITIONER: ViewPoint Sign & Awning**

**PROPERTY OWNER: 318 Post Road Corporation/AKA Fiske's Garden Center, Inc.**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 7010 Pg: 192**

RECEIVED  
NORTHBOROUGH TOWN CLERK  
2014 MAR -7 PM 12:01

This document is the DECISION of the Northborough Zoning Board of Appeals the petition of ViewPoint Sign & Awning for a Variance to allow the use of an awning with lettering to advertise the Tavern in the Square restaurant located in the building at 318 Main Street, Map 47, Parcel 93.

## APPLICATION

1. On January 21, 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 7-09-040D(3) to allow the use of an awning with lettering to advertise the Tavern in the Square restaurant located in the building at 318 Main Street, Map 47, Parcel 93.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on February 10, 2014 and February 17, 2014 and was mailed to abutters and other parties in interest on February 6, 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 Statute Form of Quitclaim Deed for Boston Post Road Off, recorded at the Worcester District Registry of Deeds on August 12, 1980, Bk: 20, Pg: 72; and a Quitclaim Deed for Tracts Bartlett St. and Post Boston Rd (Fiske's Garden Center, Inc.), recorded at the Worcester Registry of Deeds on July 3, 1980, Book: 7010, Page: 192;
  - b. An 8"x11" plan entitled "Subdivision of Land in Northborough" identified as "copy of part of plan file in Land Registration Office, July 15, 1949, recorded at the Worcester District Registry of Deeds, Certificate No. 3872, Registration Book 20; on August 3, 1950, subdivision of part of Land shown Plan 4247, Sheet 2;
  - c. A stock certificate indicating William A. Depietri is the owner of 300 shares of the Capital Stock of Fiske's Garden Center, Inc., Certificate Number 56, dated March 31, 2005, signed by Allen T. Fiske, Treasurer;
  - d. A document from ViewPoint Sign and Awning entitled "Landlord Authorization", dated 1/21/14, signed by William Depietri, owner of the property at 318 Main Street, Northborough, MA 01532;

- e. A page from the decision for ZBA Case No. 04-18, dated November 19, 2004, recorded at the Worcester Registry of Deeds, Bk; 36180. Pg: 243, with condition #3 of the decision highlighted in yellow; and
  - f. A certified abutters list for parcels 300 feet from 318 Main Street, including a cover sheet signed by Susan M. Reagan, for the Town of Northborough Board of Assessors, dated January 17, 2014; and a map entitled "Northborough MA GIS Viewer" for 318 Main Street, dated 1/17/2014.
2. An 11" x 17" plan entitled "As-Built Plan for Post Road Marketplace in Massachusetts", prepared by Connorstone Consulting Civil Engineers and Land Surveyors, dated 7/31/2006, with revisions dated October 13, 2006 and January 29, 2007; and
  3. A set of 11" x 17" architectural plans entitled "Tavern in the Square, Northborough, 318 Main Street, Northborough, MA 01532", prepared by Sousa design Architects, dated 1-14-2014, with sheets identified as A-3.1 Exterior Elevation and A-3.2 Exterior Details.

### **HEARING**

Jeff Kwass, representing the Applicant, ViewPoint Sign and Awning, and Joey Arcari, Tavern in the Square, presented the Application at a duly noticed public hearing of the Board on February 25, 2014 in Conference Room B of the Northborough Town Hall. Board members Fran Bakstran, Mark Rutan, Dick Rand, Dick Kane, Rob Berger and alternate board member Brad Blanchette were present throughout the proceedings.

Mr. Kwass and Mr. Arcari stated they have been working with the property owner to develop a sign concept for the Tavern in the Square restaurant. In replacement of the allowed wall sign, they are proposing to have an awning with 54-square feet of lettering (sign area) as a store-front sign. Mr. Kwass noted condition #3 of the ZBA decision for the building at 318 Main Street, Case No. 04-18, states in part that if one tenant occupies more than one unit, said tenant shall be allowed signage on the building not to exceed 96 square feet. The zoning bylaw does not allow signage on awnings and therefore a Variance is required.

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

The hearing was closed on February 25, 2014.

### **FINDINGS OF FACT**

1. The subject property at 318 Main Street is located in the Business East District and is the site of a retail/commercial building known as Post Road Marketplace.
2. A restaurant known as Tavern in the Square is in the process of locating in four units of the building on the subject site, and instead of using a wall sign to advertise their location in the building, the Applicant is proposing to use an awning with 54 square-feet of lettering. Section 7-09-040D(3) of the Northborough Zoning Bylaw states no sign shall be part of, or attached to, marquees or awning and therefore a Variance is required.
3. The Zoning Board of Appeals granted various Variances and Special Permits for the use of a proposed retail building on the subject site, known as Post Road Marketplace, in November 2004, per Case No. 04-18. Included in the permits granted for the proposed retail building is a Variance for the Applicant's proposed formula for tenant wall sign allocations. In addition, condition #3 of the decision states in part *"if one tenant occupies more than one unit then said tenant shall be allowed signage on the building based on the formula of thirty-two square feet per unit, not to exceed ninety-six square feet"*.

4. The building on the subject site, known as Post Road Marketplace, is a traditional retail development designed to be occupied by several store-fronts units. The Tavern in the Square restaurant is combining four of the store-front units into a single restaurant facing Main Street (state highway Route 20). It will be a major tenant in the Post Road Marketplace and, per the decision issued for ZBA Case No. 04-18, is allowed 96 square-feet of sign area.
5. The proposed 54 square-foot lettering is in compliance with the Zoning Bylaw. An awning is allowed without lettering, and lettering is allowed on the building in the form of a wall sign. The lettering proposed on the awning is not allowed.
6. The Tavern in the Square has designed a traditional and attractive storefront and the awning and illumination will add an element of architectural interest.
7. Due to circumstances relating to the size of the retail building and its location on a state highway (Route 20), as well as the Tavern in the Square's location in four store-front units of the building, the proposed awning with 54 square-feet of sign area is needed to provide appropriate visible identification for the Tavern in the Square restaurant, and a literal enforcement of the application of the Zoning Bylaw would involve substantial hardship to the Applicant.
8. The proposed awning with 54-square feet of sign area will create an environment that displays the scale of the Tavern in the Square in its 4 store-front units of the building. It will not change the current use of the building. Therefore the relief sought will be in harmony with the retail use of the building, will not constitute a detriment to the public good, and will not nullify or substantially derogate from the purpose and intent of the Northborough Zoning Bylaw.

#### **DECISION**

1. On February 25, 2014 after due consideration of the Application, the Board voted unanimously to **GRANT** a **VARIANCE** from Section 7-09-040D(3) to allow 80 square-feet of total boxed area for all lettering on the proposed awning for the Tavern in the Square restaurant located in the Post Road Marketplace building on the property located at 318 Main Street, per the plans identified as:
  - a. A set of 11" x 17" architectural plans entitled "Tavern in the Square, Northborough, 318 Main Street, Northborough, MA 01532", prepared by Sousa design Architects, dated 1-14-2014, with sheets identified as A-3.1 Exterior Elevation and A-3.2 Exterior Details.
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**