



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

**ZBA CASE NO. 14-07**

**PROPERTY LOCATION: 333 Southwest Cutoff**

**PETITIONER: New England Baseball Enterprises, LLC**

**PROPERTY OWNER: North Acres, LLC**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 22708 Pg: 69**

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of New England Baseball Enterprises, LLC for a Special Permit to allow the indoor recreational use of a health club or athletic facility in a portion of a building to be constructed on the property at 333 Southwest Cutoff in the Major Commercial Overlay District.

## APPLICATION

1. On June 20, 2014, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit per Section 7-07-030D(2)(d), Major Commercial Overlay District, Use Regulations, Uses Allowed by Special Permit, of the Northborough Zoning Bylaw, to allow the indoor recreational use of a health club or athletic facility in a portion of a building to be constructed on the property at 333 Southwest Cutoff, Map 109, Parcels 009, 011, 012, and 013.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on July 7, 2014 and July 14, 2014 and was mailed to abutters and other parties in interest on July 1, 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 3-page document regarding New England Baseball Enterprises, LLC, Application for Special Permit, Major Commercial Development Overlay District, 333 Southwest Cutoff, Northborough, Massachusetts, entitled "Memorandum of Petition in Support of Application for Special Permit";
  - b. A Quitclaim Deed for 333 Southwest Cutoff, Northborough, MA, recorded at the Worcester District Registry of Deeds on June 22, 2000, Bk: 22708 Pg: 69;
  - c. A certified abutters list for parcels 300 feet from 333 Southwest Cutoff, including a cover sheet signed by Susan M. Reagan, for the Town of Northborough Board of Assessors, dated June 17, 2014; and a GIS Viewer Map for 333 Southwest Cutoff dated 6/17/14;
  - d. A cover letter to the Zoning Board of Appeals from Mark L. Donahue, Fletcher Tilton, dated June 27, 2014, Re: New England Baseball Enterprises, LLC/Application for Special Permit, 333 Southwest Cutoff, Northborough, Massachusetts, and a set of six 8.5" x 11" plan sheets prepared for New England Baseball Enterprises, LLC, prepared by Waterman Design Associates, Inc., dated May 17, 2014, and identified as: Sheet 1, Office Site Plan; Level 1-Floor Plan; Level 2-Floor Plan; 1-West Elevation and 2-East Elevation; 1- NE

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### **HEARING**

Andrew Collins, New England Baseball Enterprises, LLC, Applicant; Attorney Todd Brodeur, Fletcher Tilton, PC; and Randy LeClair, Construction Manager, presented the Application at a duly noticed public hearing of the Board on July 22, 2014 in the Selectmen's Meeting Room of the Northborough Town Offices, 63 Main Street, Northborough, MA 01532. Voting members Fran Bakstran, Mark Rutan, Robert Berger and Brad Blanchette were present throughout the proceedings.

Mr. Brodeur explained New England Baseball Enterprises, LLC, is seeking a Special Permit to allow the indoor recreational use of a health club or athletic facility in a portion of a building approved in 2013 for the baseball component of the New England Baseball, LLC development on the site at 333 Southwest Cutoff. At the time it was approved, tenants for the subject building were not known. Currently, the owners of Cressey Sports Performance (CSP) in Hudson, Massachusetts, a facility that grooms athletes at the high school and college level to be professional athletes, are interested in locating in the building. Mr. Brodeur stated the facility will not be like a regular gym, but more specialized with customized programs for the needs of individual athletes.

Mr. Collins explained CSP will run the strength conditioning program for the Ruffnecks and will have 4,574 square feet of the building for their own use. Their hours of operation will be the same as those for the Ruffnecks. He states this is a seasonal business and during the middle of the baseball season it will not be very busy, as strengthening programs are typically held off-season.

Mr. Brodeur noted the Applicant will be filing an amendment to the Special Permit granted by the Planning Board in 2013 to change the square footage of the subject building, but not the footprint, from 15,000 square feet to 30,000 square feet. He stated a floor will be added, but the building will look the same from the street.

Mr. Brodeur stated the use falls in the "athletic or health club" category, but is not a typical gym, and fits well with the main use of the baseball training complex on the site.

There were no persons present who were opposed to the project, and the board received no letters in opposition to the project.

The hearing was closed on July 22, 2014.

### **FINDINGS OF FACT**

1. The subject site at 333 Southwest Cutoff is located in the Industrial District and the Major Commercial Development Overlay District. Zoning requirements of the Major Commercial Development District supersede the zoning requirements of the Industrial District.
2. On July 25, 2013, the Planning Board granted a Special Permit for the outdoor commercial recreation use of a college-development baseball training complex known as the New England Ruffnecks on the site, which would include 3 full-sized, fenced in baseball diamonds; a concession stand for participants and spectators; and an administration building with batting cages, all of which would be located in the back portion of the property at 333 Southwest Cutoff.
3. The Applicant is proposing to locate the indoor recreational use of a health club or athletic facility in a portion of the subject building to be constructed on the subject site at 333 Southwest Cutoff.
4. In the Major Commercial Development Overlay District, the indoor recreational use of a health club or athletic facility requires a Special Permit per Section 7-07-030D(2)(d), Major Commercial Overlay District, Use Regulations, Uses Allowed by Special Permit, of the Northborough Zoning Bylaw.



5. Cressey Sports Performance (CSP), a high-performance sports training facility currently located in Hudson, Massachusetts, is interested in locating in the subject building on the site.
6. The proposed indoor commercial recreation use on the subject property is intended to be utilized as a performance training facility for serious athletes, including professional athletes. The use will include lavatory facilities and limited locker room facilities. The domestic water pressure flows will be minimal and will not have any adverse impact upon the municipal system. Therefore, the proposed use will not cause insufficient domestic water pressure or fire flows in offsite locations, based upon review by the Department of Public Works or an outside consultant of the Water Systems Impacts Analysis submitted by the Applicant.
7. The subject site has one primary entrance at a signalized intersection which was created in conjunction with the Avalon Bay/Northborough Crossing development. It is anticipated that the vast majority of patrons to the site will arrive by way of Boston Turnpike (Route 9). There is the possibility of an additional entrance (but not an exit) to the property which is subject to Massachusetts Department of Transportation's jurisdiction. The signalized intersection insures that appropriate traffic controls are in place and will accommodate the projected traffic along Southwest Cutoff from the proposed use of a health club or athletic facility. Therefore major street intersections and roads within a minimum radius of two (2) miles of the boundary of the development will provide sufficient capacity to accommodate current and projected future traffic in a safe and efficient manner.
8. The traffic improvements implemented as part of Northborough Crossing and Avalon Bay insure the Level of Service at appropriate intersections will meet or exceed Level of Service D, as required by the Northborough Zoning Bylaw, and is the additional traffic mitigation required as part of the MEPA approval. Therefore, major street intersections affected by the proposed development which currently operate at an acceptable level of service, defined as Level of Service "D" or better, will continue to operate under such conditions or better upon completion and occupancy of the project, including the proposed use of an indoor commercial recreation health club or athletic facility, as determined by an independent review of traffic impacts analysis submitted by the proponent.
9. In conjunction with the 2013 permits from the Town of Northborough, the Applicant proceeded with seeking approval pursuant to the Massachusetts Environmental Policy Act (MEPA). By the Decision dated August 9, 2013, the Secretary of Energy and Environmental Affairs issued a conclusion as to the filing. The conclusion requires certain traffic improvements to be made in conjunction with Phase II of the development. It is anticipated that many of those improvements will be implemented in conjunction with the proposed expansion of the building on the baseball facility to 30,000 square feet and the inclusion of office space and the commercial recreation indoor use. Therefore, adequate traffic improvements are either in place or, as a condition of the Special Permit, will be required to be constructed and completed prior to, or subsequent to, the issuance of any certificate of occupancy for any portion of the project in order to satisfy the criteria under 7-07-030(G)(2) and (3) the Northborough Zoning Bylaw.
10. The proposed indoor commercial recreation use of a health club or athletic facility, to be located in a portion of the subject building, is consistent with the Northborough Zoning Bylaw and the Master Plan for the subject property at 333 Southwest Cutoff.
11. Adequate and appropriate facilities, including site development standards, off-street parking and signage, will be provided for the proper operation of the proposed use.

## DECISION

1. **On July 22, 2014**, after due consideration of the Application, the Board voted unanimously to **GRANT a SPECIAL PERMIT** to allow the indoor recreational use of a health club or athletic facility in a portion of a building to be constructed on the property at 333 Southwest Cutoff in the Industrial District and the Major Commercial Overlay District.
2. 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.
3. The **SPECIAL PERMIT** 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."
4. If the rights authorized by the **SPECIAL PERMIT** is 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.

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

A handwritten signature in blue ink, reading "Richard Rand", is written over a horizontal line.

**RICHARD RAND, CHAIRMAN**