



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

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ZBA CASE NO. 16-04

PROPERTY LOCATION: 357 Main Street

PETITIONER: Abu Construction

PROPERTY OWNER: Paul & Jayne Mong and Keith & Sheryl Parker

RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 4719, Page: 352

Bk: 4731, Page: 284

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of Abu Construction for a Special Permit and Special Permit, Groundwater Protection Overlay District, to allow the use of two 2-family dwellings, on lots of at least 20,000 square feet, on the property located at 357 Main Street, in the Residential C District and Groundwater Protection Overlay District Area 3.

APPLICATION

1. On March 7, 2016, 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 7-05-030, Table of Uses, Part A, Residential District, to allow the use of a proposed two-family dwelling unit on proposed Lot 1A and the use of a proposed two-family dwelling unit on proposed Lot 1B, on the property located at 357 Main Street in the Residential C District; and a Special Permit per Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, Use Regulations, Area 3, Two-Family Development, to allow the use of a proposed two-family dwelling unit on a lot of 20,121 square feet in area (proposed Lot 1A) and the use of a proposed two-family dwelling unit on a lot of 20,421 square feet (proposed Lot 1B), in Groundwater Protection Overlay District Area 3, on the property located at 357 Main Street.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on March 21, 2016 and March 28, 2016; and was mailed to abutters and other parties in interest on March 16, 2016.

EXHIBITS

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

1. Application for Hearing before the Zoning Board of Appeals, including:
 - a. A Zoning Interpretation Request Form from Abu Construction for 357 Main Street, Map 48, Parcels 8 & 9, signed by Joseph M. Atchue, Inspector of Buildings, on 3/7/2016;
 - b. A document entitled "Calculation Sheet for Increase to Impervious Surface: Groundwater Protection Overlay District", for 357 Main

Street, signed by Andrew Abu, Manager, Abu Construction, Inc. on 2/11/16;

- c. A 3-page document entitled "Project Narrative & Stormwater Documentation" for 357 Main Street, Northborough, Massachusetts, dated February 10, 2016, prepared by Connorstone Engineering, Inc.;
 - d. A document entitled "357 Main Street, Northborough, MA, Stormwater Operations and Management Plan, Final Commissioning and Long-term Maintenance Program";
 - e. A certified abutters list for parcels 300 feet from 357 Main Street, Map 48, Parcels 8 & 9, dated February 9, 2016; and a Northborough, MA GIS Viewer map for 357 Main Street, dated 2/9/2016;
 - f. A Quitclaim Deed for 357 Main Street, recorded at the Worcester District Registry of Deeds on May 12, 1970, Book 5029 Page 107;
 - g. A document entitled Special Warranty Deed for 357 Main Street, Northborough, recorded at the Worcester Registry Land Registration Office January 26, 1967, Book 4731, Page 285
 - h. An 8.5" x 11" black and white plan entitled "Plan of Land in Northborough, Mass" owned by Harry C. and Ethel M. Clemmer, dated July 20, 1956, revised on April 25, 1958 July 21, 1958, prepared by MacCarthy Engineering Service, Inc., recorded at the Worcester District Registry of Deeds on August 1, 1958, Plan Book 233, Plan 26;
 - i. A draft 8.5" x 11" black and white plan entitled "Plan of Land of 357 Main Street in Northborough, Mass., dated January 26, 2016, prepared for Paul & Jayne Mong and Keith & Sheryl Parker by Connorstone Engineering, Inc.; and
 - j. A set of two black and white 24" x 36" plans prepared for Paul & Jayne Mong and Keith & Sheryl Parker by Connorstone Engineering, dated February 15, 2016, revised on 2-25-16 and March 15, 2016, stamped and signed by Vito Colonna, Civil Registered Professional Engineer on 3/15/16, with sheets identified as: Sheet 1 of 2, Existing Conditions Plan of 357 Main Street in Northborough, Mass.; and Sheet 2 of 2, Proposed Site Plan of 357 Main Street in Northborough, Mass.
- 2. A letter to the Zoning Board of Appeals from Chief Parenti, Northborough Fire Department, RE: Common Driveway Special Permit, dated February 25, 2016;
 - 3. A memorandum dated: March 3, 2016, To: Kathy Joubert, Town Planner, From: Department of Public Works, Re: Site Plan Review Comments – 357 Main Street; and
 - 4. An email message from Scott Charpentier sent Tuesday, March 15, 2016 to theresa@capolawfirm.com, cc: Kathy Joubert; Dan Nason; Fred Litchfield; Subject: FW: 357 Main Street Plans; Attachments: Sheet 2.pdf; Sheet 1.pdf;
 - 5. A letter to Fran Bakstran, Chairman, Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated April 4, 2016, RE: 357 Main Street, Map 48, Parcels 8 and 9, and

6. A letter and photos to Theresa Capobianco, Chairman, and Planning Board Members, signed by Steve and Ann Champeon, 79 Little Pond Road and Parkash and Hema Tallabattula, 75 Little Pond Road, dated April 4, 2016.

HEARING

Bob Gleeson, representing the Applicant, Tony Abu, Abu Construction, and Michael Sullivan, Connorstone Engineering, Inc., presented the Application at a duly noticed public hearing of the Board on April 5, 2016 in Conference Room B of the Northborough Town Offices, 63 Main Street, Northborough, MA 01532. Voting members Richard Rand, Fran Bakstran, Jeffrey Leland, Brad Blanchette, and Mark Rutan were present throughout the proceedings.

Mr. Sullivan explained that, after demolishing the existing home on the subject property at 357 Main Street, the Applicant proposes to split the property at 357 Main Street into two lots and construct a two-story, two-family, two-bedrooms per unit, dwelling unit (duplex) on each of the two proposed lots. The two duplexes will share a common driveway; and an attached two-car garage will be located in the front portion of each of the units in the duplexes.

Mr. Sullivan confirmed the Applicant will be submitting an Approval Not Required (ANR) plan that shows the locations of the two lots on the property at 357 Main Street.

Mr. Sullivan stated a stormwater operation and maintenance plan for drainage has been reviewed by the Town Engineer; and the Building Inspector, Fire Chief, the Department of Public Works and Design Review Committee have also reviewed the project.

Abutters Steve and Ann Champeon 79 Little Pond Road, were present and submitted a letter and five photos to the board that was signed by them and by Parkash and Hema Tallabattula, 75 Little Pond Road. In addition, Hema Tallabattula, through a message delivered by the Champeon's, expressed opposition to the project due to issues involving fencing, drainage, noise and lighting.

Mr. Gleeson explained the Applicant (Mr. Abu) was not able to attend the meeting but has indicated to him that he would like to meet with abutters to discuss their concerns about the project.

The board did not receive any letters in opposition to the proposed project.

The hearing was closed on April 5, 2016.

FINDINGS OF FACT

1. The subject property at 357 Main Street is located in the Residential C District and Groundwater Protection Overlay District Area 3.
2. An existing single-family home on the subject site at 357 Main Street will be demolished.
3. The Applicant plans to create two lots, identified on the plans submitted as Lot 1A and Lot 1B, 357 Main Street, and construct a 2,000 square-foot, two-story, two bedroom per unit duplex on each lot.
4. In the Residential C District, the use of a 2-family dwelling is allowed by Special Permit per Section 7-05-030, Table of Uses, Part A, Residential District of the Northborough Zoning Bylaw.
5. In Groundwater Protection Overlay District Area 3, per Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, Use Regulations, Area 3, Two-Family and Multi-

Family Residential Development, of the Northborough Zoning Bylaw, a Special Permit is required for the use of two-family residential developments on lots of at least 20,000 square feet, such that the increase in post-development net runoff volume shall not exceed existing conditions by more than 15%, or such that the impervious cover of the building lot is increased over existing conditions by no more than 15% and any on-site sewage disposal is less than or equal to 220 gallons per day per 10,000 square feet of lot area.

6. The proposed lot identified as Lot 1A is 20,121 square feet in area and the proposed lot identified as Lot 1B is 20,421 square feet in area. In Groundwater Protection Overlay District Area 3, lots of at least twenty-thousand (20,000) square feet in area are required for 2-family residential developments.
7. There are two drainage patterns on the site, where the front half of the property discharges towards Main Street and the rear half drains to the abutting parcel to the east. Four drywells have been proposed throughout the site and have been located to collect runoff from almost all of the proposed impervious surfaces.
8. A calculation sheet submitted by the Applicant for 357 Main Street entitled "Increase To Impervious Surface In A Groundwater Protection Overlay District", indicates the subject property is 40,542 square feet in area with no impervious surface. The allowable increase in impervious surface is 6,081 square feet.
9. The impervious surface created from the subject project is 12,993 square feet, however the area recharged by a proposed infiltration system is 12,792 square feet, which results in an increase to impervious surface of 200 square feet.
10. A Stormwater Operation and Maintenance Plan has been submitted and reviewed by the Town Engineer, and indicates groundwater recharge has been provided in excess of the minimum required to protect the interests of Groundwater Protection Overlay District Area 3.
11. A septic system is proposed in the front portion of the lots for each of the two duplexes and the Applicant is proposing a total of 880 gallons (440 gallons per duplex) per day for on-site sewage disposal.
12. The two proposed duplexes will be serviced by Town water that is available from the opposite side of Main Street.
13. In a Memo to the Planning Department from David Parenti, Fire Chief, RE: Common Driveway Special Permit, Dated 2/25/2016, Chief Parenti states the plan as presented is acceptable.
14. All items listed in a Memorandum dated March 3, 2016 to Kathy Joubert, Town Planner from the Department of Public Works, Re: Site Plan Review Comments – 357 Main Street, have been or will be addressed by the Applicant.
15. In an email from Vito Colonna, Connorstone Engineering, to Scott Charpentier, forwarded to Theresa Capobianco, dated March 15, 2016, Subject: 357 Main Street Plans, Mr. Colonna included two revised plans showing changes requested by the Department of Public Works.

16. In a letter to Fran Bakstran, Chairman, Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated April 4, 2016, RE: 357 Main Street, Map 48, Parcels 8 and 9, Mr. Litchfield states the Groundwater Advisory Committee reviewed the Application and Site Plan dated February 15, 2016, revised March 15, 2016, recommended approval of the project and offered their comments. In addition, Mr. Litchfield states the Applicant has submitted all items as required in Section 7-07-010D(4)(a)[1-5], which are required with an application for a Special Permit.
17. The proposed use of two 2-family residential dwellings is consistent with the abutting residential uses in the zoning district and is allowed by Special Permit in the Residential C District.
18. The proposed site access will be located at the existing curb cut and a common driveway has been approved by the Planning Board to minimize entrance and exit movements. The location has sufficient sight distance in both locations.
19. Adequate parking and site access for emergency vehicles have been provided. Soil testing has been performed to verify the suitability for on-site septic systems and drainage.

DECISION

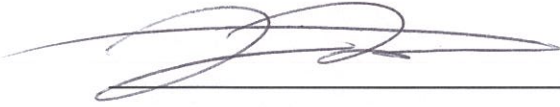
1. On April 5, 2016, after due consideration of the Application, the Board voted 4 members in favor and 1 member opposed, to **GRANT a SPECIAL PERMIT** per Section 7-05-030, Table of Uses, Part A, Residential District, of the Northborough Zoning Bylaw to allow the use of a two-story, two-bedrooms per unit, duplex on Lot 1A; and to allow the use of a two-story, two-bedrooms per unit, duplex on Lot 1B, on the property located at 357 Main Street, in the Residential C District.
2. On April 5, 2016, after due consideration of the Application, the Board voted 4 members in favor and 1 member opposed, to **GRANT a SPECIAL PERMIT** per Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, Use Regulations, Area 3, Two-Family and Multi-Family Residential Development, of the Northborough Zoning Bylaw, to allow the use of a two-story, two-bedrooms per unit, duplex on Lot 1A; and to allow the use of a two-story, two-bedrooms per unit, duplex on Lot 1B, on the property located at 357 Main Street, in Groundwater Protection Overlay District Area 3, per the plans approved and identified as:
 - a. A set of two black and white 24" x 36" plans prepared for Paul & Jayne Mong and Keith & Sheryl Parker by Connorstone Engineering, dated February 15, 2016, revised February 25, 2016 and March 15, 2016, stamped and signed by Vito Colonna, Civil Registered Professional Engineer on 3/15/16, with sheets identified as: Sheet 1 of 2, Existing Conditions Plan of 357 Main Street in Northborough, Mass.; and Sheet 2 of 2, Proposed Site Plan of 357 Main Street in Northborough, Mass.

And with the following conditions:

- b. A calculation sheet submitted by the Applicant for 357 Main Street entitled "Increase To Impervious Surface In A Groundwater Protection Overlay District", indicates the subject property is 40,542 square feet in area with no impervious surface. The allowable increase in impervious surface is 6,081 square feet.

- c. The Applicant shall submit to the Town Engineer an "Increase To Impervious Surface in a Groundwater Protection Overlay District" calculation sheet for each of the two proposed lots (Lot 1A and Lot 1B) separately.
 - d. The Stormwater Operations and Maintenance Plan included in the "Stormwater Operations and Management Plan, Final Commissioning and Long-term Maintenance Program", submitted by the Applicant on March 7, 2016, shall be made part of this decision with annual reports submitted to the Town Engineer including a record of all activities performed within the previous twelve months. The Town Engineer and the Groundwater Advisory Committee shall be provided copies of the contract, all inspection reports and all invoices for the work performed.
 - e. An as-built site plan shall be submitted to the Town Engineer for review and 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).
 - f. The As-built site plan shall also include the location of a fence to be constructed for the privacy of the homeowners at 79 Little Pond Road.
 - g. An Earthwork Permit shall be obtained from the Earthwork Board prior to the start of any earth moving operations on site.
 - h. An access permit for traffic shall be obtained from the Massachusetts Department of Transportation prior to the application for a building permit.
- 3. 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.
 - 4. 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."
 - 5. 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. 9.

TOWN OF NORTHBOROUGH, MASSACHUSETTS
ZONING BOARD OF APPEALS

A handwritten signature in dark ink, appearing to read 'Fran Bakstran', is written over a horizontal line.

FRAN BAKSTRAN, CHAIRMAN