



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. 14-14

PROPERTY LOCATION: 370 Southwest Cutoff

PETITIONER: 920 LLC

PROPERTY OWNERS: Brendon Properties Two, LLC and

Leslie S. Carey, Trustee of Loop Realty Trust

RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 42001 Pg: 328;

Bk: 42001 Pg: 387; and Bk: 43797 Pg: 135

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This document is the **DECISION** of the Northborough Zoning Board of Appeals for the petition of 920 LLC for a Special Permit with Site Plan Approval to allow retail, restaurant, bank and medical office/clinic uses, with appropriate access, signs and retaining walls, to be located on the property at 370 Southwest Cutoff, Map 109, Parcel 15 and Map 108, Parcel 2, in the Industrial District and the Major Commercial Development Overlay District.

APPLICATION

1. On October 2, 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** with **Site Plan Approval** per Section 7-03-050A(2) from the Northborough Zoning Bylaw for retail, restaurant, bank and medical office/clinic uses, with appropriate access, signs and retaining walls on the property located at 370 Southwest Cutoff, Map 109, Parcel 15 and Map 108, Parcel 2, in the Industrial District and the Major Commercial Development Overlay District.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on October 10, 2014 and October 17, 2014 and was mailed to abutters and other parties in interest on October 10, 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 document entitled "Attachment to ZBA Application, 920 LLC, Summary";
 - b. Copies of prior ZBA decisions for 370 Southwest Cutoff and 370 Southwest Cutoff Rear, as follows: Case No. 05-30, dated December 12, 2005; Case No. 5-30, dated June 7, 2006; Case No. 08-12, dated August 26, 2008; and Case No. 10-08, dated June 22, 2010.
 - c. A Quitclaim Deed for Route 20, Southwest Cutoff, Northborough, Mass., recorded at the Worcester District Registry of Deeds on 10/30/2007, Bk: 42001 Pg: 328;
 - d. A Quitclaim Deed for Route 20, Southwest Cutoff, Northborough, Mass., recorded at the Worcester District Registry of Deeds on 10/30/2007, Bk: 42001, Pg: 387;

- e. A Quitclaim Deed for Southwest Cutoff, Northborough, Massachusetts, recorded at the Worcester District Registry of Deeds on 02/13/2009, Bk: 43797 Pg: 135;
 - f. A certified abutters list for parcels 300 feet from 370 Southwest Cutoff, Map 108 Parcel 2 and 0 Southwest Cutoff, Map 109 Parcel 15, including a cover sheet signed by Susan M. Reagan, for the Town of Northborough Board of Assessors, dated August 18, 2014, and a Northborough, MA GIS Viewer map entitled "Map 109/15 & 108/2, 370 Southwest Cutoff, Northborough, MA" dated August 18, 2014;
 - g. A document entitled "Traffic Impact and Access Study, Proposed Retail Development, Northborough, MA", prepared for 920 LLC, by Vanasse & Associates, Inc., dated October 2014, received October 23, 2014;
 - h. A document entitled "Stormwater Management Report for 370 Southwest Cutoff, Northborough, Massachusetts" for Project Proponent 920 LLC, dated September 29, 2014, prepared by Waterman Design Associates, Inc., stamped and signed by Paula A. Thompson, P.E., Registered Professional Engineer, on September 29, 2014;
 - i. A set of fifteen 24" x 36" plans entitled "Site Plans for 370 Southwest Cutoff in Northborough, Massachusetts", prepared for 920 LLC, by Waterman Design Associates, Inc., dated September 29, 2014, stamped and signed by Stephen P. Converse, Professional Land Surveyor; and Paula A. Thompson, Registered Professional Engineer, on September 29, 2014, with sheets identified as follows: Cover Sheet; 1, Site Context Plan; 2, Existing Conditions Plan; 3, Overall Layout Plan; 4, Layout and Materials Plan; 5, Grading and Drainage Plan; 6, Utility Plan; 7, Planting Plan; 8, Details; 9, Details; 10, Details; 11, Details; 12, Details; 13, Details; and SL-1, Lighting Photometric Analysis;
 - j. A set of three 24" x 36" plan sheets for 370 Southwest Cutoff, prepared by Waterman Design Associates, Inc., for 920 LLC, dated 10/28/14, stamped and dated by Paula A. Thompson, Registered Professional Engineer, on October 28, 2014, with sheets identified as follows: 4, Layout Materials Plan; 5, Grading and Drainage Plan; and 7, Planting Plan; and
 - k. A 24" x 36" colored plan entitled "Conceptual Improvement Plan", dated 10/28/14, prepared by Vanasse & Associates, Inc., stamped and signed by Scott W. Thornton, Registered Professional Engineer, on October 28, 2014.
- 2. A letter to the Zoning Board of Appeals from Fire Chief David M. Durgin, dated October 8, 2014, Subject: 370 Southwest Cutoff – Special Permit with Site Plan Approval;
 - 3. An email message from Amy Poretsky to Kathy Joubert, Town Planner and Fran Bakstran, Zoning Board of Appeals, dated October 28, 2014, Subject: 920 LLC; and
 - 4. A memo to Dick Rand, Chairman, Zoning Board of Appeals, from Kathy Joubert, Town Planner; Dan Nason, Public Works Director; Mark Leahy, Police Chief; Fred Litchfield, Town Engineer; and Nick Antanavica, Building Inspector/Zoning Enforcement Officer, Re: 370 Southwest Cutoff, dated October 28, 2014.

HEARING

Applicant and property owner, Kevin Giblin, Brendon Properties Two, LLC, and 920 LLC; Attorney Marshall Gould, Gould and Ettenberg; Paula Thompson, Engineer, Waterman Design Associates, Inc.,

and Scott Thornton, Registered Professional Engineer, Vanasse & Associates, Inc., presented the Application at a duly noticed public hearing of the Board on October 28, 2014, in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Richard Rand, Fran Bakstran, Robert Berger, Brad Blanchette, and Mark Rutan were present throughout the proceedings.

Mr. Gould stated the purpose of the Application is to approve the Site Plan for the property at 370 Southwest Cutoff to be used for retail, restaurant, bank and medical office uses, with appropriate access, signs and required retaining walls. He noted the site is in the Industrial District and is within the Major Commercial Development Overlay District. Specifically, the Applicant is proposing to develop approximately 19 acres of the site at 370 Southwest Cutoff, in close proximity to the Route 9 and Route 20 interchange, directly across from BJ's Gas, Burger King and Starbucks.

Mr. Gould explained Variances were granted at the September 30, 2014 ZBA meeting for the proposed development to allow reduced frontage; vehicular access to a building site that is not through the frontage of the lot; necessary retaining walls over 4 feet in height within the setback area; and 2 freestanding Pylon signs and for those signs to be larger than the maximum size allowed. At the same meeting, Special Permits were also granted to allow a retail store of more than 25,000 square feet; or two or more retail stores on one lot; the use of restaurants including alcoholic beverages; and the use of a bank or automated teller machine.

Mr. Gould stated the Northborough Crossing/AvalonBay development is the largest project to be constructed within the past 10 years in Central Massachusetts, with over 600,000 square-feet of retail use. The subject 19-acre site is part of the 200-acre site that was master-planned for multiple uses, including the retail uses proposed; and is the final phase of the Northborough Crossing development. He stated the proposed final phase of the Northborough Crossing development is the best use of the property.

Paula Thompson, Waterman Design Associates, Inc., presented the site plan for the proposed development. She stated the proposal includes up to 65,000 square-feet of retail space, including two 200-seat, 6,300 square-foot restaurants, one 17,700 square-foot retail building, one 24,300 square-foot retail building, and a 5,400 square-foot mixed use building with a 2,000 square-foot bank and a 3,400 medical clinic or buildings substantially similar thereto. Access to the proposed project is from Shops Way, the 50- to 70-foot wide access drive for the Northborough Crossing/AvalonBay development. Parking provided for all of the proposed buildings meets zoning and tenant requirements.

Ms. Thompson explained the existing site has frontage on Southwest Cutoff and rises up 50 feet to the rear of the site on the west side. The site will be re-graded and retaining walls will be constructed at points around the site. A stormwater management report has been submitted with the Application and describes the existing project site, the proposed project, and analyses performed to develop a stormwater management system that will protect public safety and convenience, and minimize environmental impacts. Ms. Thompson noted the project has been before the Conservation Commission and the stormwater management report prepared as part of the Application has been submitted to the Commission.

Ms. Thompson reviewed the landscaping plan for the project, stating it meets the zoning regulations. She stated there has been concern about the look and height of the retaining wall. After receiving an easement for grading and landscaping from AvalonBay Communities, the retaining wall is 16 feet at its highest point. In addition, decorative iron fencing on the top of the retaining wall has replaced chain-link fencing that was originally proposed.

Scott Thornton, Vanasse and Associates, Inc., reviewed existing and proposed traffic, signalization, signage and vehicular circulation for Northborough Crossing and the proposed retail development, which is included in the Traffic Impact and Access Study submitted with the Application.

Dan Nason, Public Works Director, discussed a letter from Fire Chief David Durgin to the Board, regarding water supply and facilities for the existing Northborough Crossing development and the proposed retail development. Mr. Nason also explained the water and sewer requirements of the Department of Public Works. Mr. Nason wants the Applicant to connect to the water and sewer currently in use at Northborough Crossing and not have a separate booster water pumping station as requested by the Fire Chief.

A letter from town staff to the Board was reviewed and included items regarding a proposed water line for the project; a required Earthworks permit; Police Department concerns; traffic control and signalization; pedestrian crosswalks, street lighting along Southwest Cutoff; and an existing drainage issue.

An email message from Planning Board member Amy Poretsky to the Zoning Board members was read by Chairman Rand, in which she explained her concerns regarding the proposed project, including landscaping, the retaining wall, pedestrian crosswalks and access across Shops Way.

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

The hearing was closed on October 28, 2014.

FINDINGS OF FACT

1. The subject property at 370 Southwest Cutoff is in the Industrial District and the Major Commercial Development Overlay District. The Major Commercial Development Overlay District is an overlay district superimposed on land in the Industrial District in the vicinity of the Southwest Cutoff (Route 20), as shown on the Town of Northborough Zoning Map.
2. The subject property is comprised of three parcels identified as Parcel 2A, containing 11.63 acres; Parcel 2B, containing 6.26 acres; and Parcel 2C, containing 1.18 acres. Parcel 2A abuts the access drive to Northborough Crossing known as Shops Way. Parcel 2C has 70.49 feet of frontage on Southwest Cutoff (Route 20). These are the remaining parcels of the property known as Northborough Crossing.
3. The Applicant is proposing to develop approximately 19 acres of the site at 370 Southwest Cutoff, near the interchange of Route 9 and Route 20, directly across from the existing BJ's Gas, Burger King and Starbucks. The plan for the proposed development includes up to 65,000 square feet of buildings, including two 6,300 square-foot restaurants, one 17,700 square-foot retail building, one 24,300 square-foot retail building, a 5,400 square-foot mixed use building in which a 2,000 square-foot bank and a 3,400 medical clinic are proposed, or something substantially similar in size to these buildings.
4. In the Major Commercial Development Overlay District, the use of one retail store exceeding twenty-five thousand (25,000) square feet; or two (2) or more retail stores on one lot, is allowed by Special Permit per Section 7-07-030D(2)(a), Major Commercial Development Overlay District, Use Regulations, Uses allow by Special Permit, of the Northborough Zoning Bylaw.
5. In the Major Commercial Development Overlay District, the use of restaurants serving alcohol is allowed by Special Permit per Section 7-07-030D(2)(b), Major Commercial Development Overlay District, Use Regulations, Uses allow by Special Permit, of the Northborough Zoning Bylaw.

6. In the Major Commercial Development Overlay District, the use of a bank or automated teller machine is allowed by Special Permit per Section 7-07-030D(2)(f), Major Commercial Development Overlay District, Use Regulations, Uses allow by Special Permit, of the Northborough Zoning Bylaw.
7. Section 7-03-050A(2) Site Plans, Applicability, states *"A Special Permit with Site Plan Approval shall be required for any use requiring a Special Permit, in which case the special permit granting authority shall also act as Site Plan Approval authority. Land clearing and grading activities for a use requiring a Special Permit shall be incorporated within the Special Permit with Site Plan Approval.* Therefore, the use of one retail store exceeding twenty-five thousand (25,000) square feet; or two (2) or more retail stores on one lot; the use of restaurants serving alcoholic; and the use of a bank or automated teller machine, are allowed by Special Permit with Site Plan Approval, per Section 7-03-050A(2) of the Northborough Zoning Bylaw.
8. On September 30, 2014, the Zoning Board of Appeals granted **Special Permits** for ZBA Case No. 14-12, 370 Southwest Cutoff, to allow the use of one retail store exceeding twenty-five thousand (25,000) square feet; or two (2) or more retail stores on one lot; to allow the use of restaurants serving alcohol; and to allow the use of a bank or automated teller machine, per Sections 7-07-030D(2)(a); 07-030D(2)(b); and 7-07-030D(2)(f) of the Northborough Zoning Bylaw, respectively.
9. On September 30, 2014, the Zoning Board of Appeals granted **Variances** for ZBA Case No. 14-12, 370 Southwest Cutoff, for frontage to be not less than 70.49 feet; for vehicular access to a building site that is not through the frontage of the lot; for necessary retaining walls over 4 feet in height within the setback area; for 2 freestanding Pylon signs, and for those signs to be larger than the maximum size allowed, from Sections 7-02-040; 7-06-030; and 7-09-040G(1)(c)[2] of the Northborough Zoning Bylaw, respectively.
10. The project site is located on the west side of Route 20 and south of the existing Northborough Crossing access driveway known as Shops Way. The development involves construction of approximately 65,000 square feet of retail and restaurant space with approximately 405 parking spaces. Access will be provided via a curb cut on Shops Way, at the intersection of the access drive into the BJ's Gas, Starbucks and Burger King site.
11. The subject site at 370 Southwest Cutoff is 830,706 square feet in area, and the plans for the proposed development indicate it meets all dimensional regulations of the Industrial and Highway Business Districts and the Major Commercial Development Overlay District, with the exception of the frontage requirement, for which a Variance was granted for ZBA Case No. 14-12.
12. A 270 square-foot freestanding Pylon sign has been proposed at the entrance to the site at Shops Way; and a 536 square-foot freestanding Pylon sign has been proposed at the Route 9 West ramp. The proposed Pylon signs as described will be similar in size and shape to the Pylon sign allowed at the northerly secondary entrance to Northborough Crossing.
13. Two retail buildings of approximately 24,300 square feet and 17,700 square feet in size; two 6,300 square-foot restaurants; a 5,400 square-foot mixed use building containing a 2,000 square-foot bank; and a 3,400 square-foot medical clinic are proposed on the site, or something substantially similar thereto.
14. The two proposed retail buildings total 42,000 square-feet in size, and the required parking for these buildings is 96 spaces. The Applicant is providing 175 spaces, 6 of which are handicapped accessible spaces. The two proposed restaurants total 12,600 square-feet in size, and the required parking for these buildings is 150 spaces. The Applicant is providing 184 spaces, 8 of which are handicapped accessible spaces. The proposed bank is 2,000 square-feet in size, and the required parking for the bank area of the building is 8 spaces. The Applicant is providing 16 spaces, 1 of which is a handicapped accessible space. The proposed medical clinic is 3,400 square-feet in size, and the required parking for the medical clinic area of the building is 14 spaces. The Applicant is

providing 30 spaces, 2 of which are handicapped accessible spaces. The total required parking spaces for the buildings proposed on the subject site is 268 spaces, and the Applicant is providing 405 spaces, 11 of which are handicapped accessible spaces.

15. The intersections closest to the proposed project are the Route 20 and Route 9 exchanges, consisting of 4 intersections; Route 20 at Shops Way and the New England Baseball complex driveway; the Route 20 intersection with Shops Way and Hitching Post Lane; and the intersection of Shops Way at the access driveway of BJ's Gas, Starbucks and Burger King and the proposed site driveway.
16. Traffic associated with the proposed development will result in a maximum of approximately 2,672 additional vehicle trips during an average weekday; 3,354 additional vehicle trips during an average Saturday; 231 additional vehicle trips during the weekday evening peak hour; and 312 additional vehicle trips during the Saturday mid-day peak hour. Traffic volume increases associated with the project were shown to be between 1.2 and 3.4 percent during the peak hours of the facility and are expected to be less during other hours of the day.
17. The Applicant proposes the access drive for the subject site to be placed under STOP sign control; and also proposes additional enhancements to the eastbound lanes of Shops Way, including oversized STOP signs and rumble strips to remind motorists to stop where directed.
18. The existing intersection signalization at Shops Way and Route 20 operates with acceptable levels of delay and with proposed future conditions, operations will be generally the same with minor increases to delay on the various approaches and overall intersection operations.
19. The unsignalized intersections operate with some delays, but they are generally not expected to affect state highway or major street operations.
20. A plan entitled "Conceptual Improvement Plan" dated 10/28/14, part of the Traffic Impact and Access Study Summary for the subject site, shows a portion of both sides of Shops Way at the intersection of the access drive for BJ's Gas and the proposed site driveway, and includes proposed pedestrian safety signs; vehicular STOP signs with red LED flashers; and a proposed stamped colored asphalt crosswalk extending from the access drive for BJ's Gas across to the access drive for the proposed development.
21. Necessary retaining walls over 4 feet in height, were proposed up to a height of 16 feet in some areas. The Applicant obtained an easement from AvalonBay Communities for grading and landscaping.
22. The proposed retaining walls will be topped with decorative iron fencing that will make the wall more aesthetically pleasing.
23. Landscaping for the subject site includes the use of deciduous shade trees, flowering/understory trees, large and medium evergreen trees, and drought-resistant ornamental grasses throughout the development. Twenty-one (21) trees are provided for the retail parking area; 19 trees are provided for the restaurant parking areas; and 5 trees are provided for the bank and medical clinic parking area, for a total of 45 trees, which meets zoning requirements.
24. The subject site has been designed with multiple infiltration and detention areas. Stormwater runoff from the parking areas will be collected in deep-sump, hooded catch basins and conveyed to a stormwater treatment unit, sediment forebay, and surface infiltration or detention basin. Infiltration systems have been designed to infiltrate the required volume to meet the requirements of the Town of Northborough and MA DEP Stormwater Management Standards.
25. Due to the location of wetland areas on the subject site, the Applicant filed a Notice of Intent with the Northborough Conservation Commission, DEP ##247-1082. An Order of Conditions was issued by the Conservation Commission at their meeting on October 20, 2014, for the construction of

approximately 42,000 square feet of retail space, two 6,300 square foot restaurants, a 2,000 square foot bank and a 3,400 square foot medical clinic with a total of approximately 430 parking spaces, and access drive and utility connections from Shops Way and stormwater management facilities, within 100 feet of a bordering vegetated wetland.

26. Water and sewer services are not located on the subject site currently, but are available for the proposed development, as the site and the services were included in the original plans for Northborough Crossing.
27. The property is in a Major Commercial Development Overlay District approved as a zone change at a duly called Town Meeting in 2009.
28. The property is an appropriate location for the proposed development. The site was part of the originally permitted commercial development formerly known as The Loop and now known as Northborough Crossing. Northborough Crossing was sold within the past year, but without including the subject undeveloped site. The property was always contemplated to be part of the shopping center.
29. The development of the site for such use is appropriate and will not adversely affect the neighborhood; and there will be no nuisance or serious hazard to vehicles or pedestrians. The shopping center was built with adequate facilities for the use intended.
30. The proposed use will conform to any special requirement of the special permit granting authority as stated in its written decision.
31. The proposed project as presented may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.

DECISION

1. On October 28, 2014, after due consideration of the Application, the Board voted 4 in favor and 1 opposed to **GRANT a SPECIAL PERMIT with SITE PLAN APPROVAL** per Section 7-03-050A(2) of the Northborough Zoning Bylaw to allow the Site Plan for retail, restaurant, bank and medical office/clinic uses, with appropriate access, signs and retaining walls, to be located on the property at 370 Southwest Cutoff, Map 109, Parcel 15 and Map 108, Parcel 2, in the Industrial District and the Major Commercial Development Overlay District, substantially as per the plans submitted and identified as:
 - a. A set of fifteen 24" x 36" plans entitled "Site Plans for 370 Southwest Cutoff in Northborough, Massachusetts", prepared for 920 LLC, by Waterman Design Associates, Inc., dated September 29, 2014, stamped and signed by Stephen P. Converse, Professional Land Surveyor; and Paula A. Thompson, Registered Professional Engineer, on September 29, 2014, with sheets identified as follows: Cover Sheet; 1, Site Context Plan; 2, Existing Conditions Plan; 3, Overall Layout Plan; 4, Layout and Materials Plan; 5, Grading and Drainage Plan; 6, Utility Plan; 7, Planting Plan; 8, Details; 9, Details; 10, Details; 11, Details; 12, Details; 13, Details; and SL-1, Lighting Photometric Analysis;
 - b. A set of three revised 24" x 36" plan sheets for 370 Southwest Cutoff, prepared by Waterman Design Associates, Inc., for 920 LLC, dated 10/28/14, stamped and dated by Paula A. Thompson, Registered Professional Engineer, on October 28, 2014, with sheets identified as follows: 4, Layout Materials Plan; 5, Grading and Drainage Plan; and 7, Planting Plan; and
 - c. A 24" x 36" colored plan entitled "Conceptual Improvement Plan", dated 10/28/14, prepared by Vanasse & Associates, Inc., stamped and signed by

Scott W. Thornton, Registered Professional Engineer, on October 28, 2014. In addition to the improvements shown on the "Conceptual Improvement Plan", the Applicant shall also install an additional fifty feet of rumble strips on Shops Way 100' in advance of those shown on the "Conceptual Improvement Plan".

And with the following conditions:

- d. In accordance with DPW regulations, the water line for the proposed retail area shall be connected to the existing water line in Shops Way rather than the existing water line in Route 20 in order to avoid the installation of another booster station.
- e. The applicant shall appear before the Water and Sewer Commission to obtain permission to connect to the sanitary sewer system.
- f. Standard-sized Stop signs ringed with red LED lights shall be installed on Shops Way eastbound at the intersection of Shops Way and the entrance to this development. Existing stop signs at said intersection shall be up graded with LED lights. Vegetation in the vicinity of the intersection shall be kept below 24 inches in height.
- g. The applicant shall hire a traffic engineer to evaluate the need for a traffic control signal at the new four way intersection and include this evaluation in an update of the "Traffic Impact and Access Study" This evaluation shall be done at the following intervals: (1) prior to the issuance of any Certificate of Occupancy; (2) prior to exceeding 50% occupancy; and (3) prior to 100% occupancy. Copies of the evaluation, to be included in the updated traffic study, shall be provided to the Town Engineer, DPW Director, and MassDOT for their review and determination regarding the installation of a traffic signal meeting any of the signal warrants in the MUTCD manual. If the evaluation supports the addition of a traffic signal, the signal shall be installed at the applicant's expense at the specified occupancy level.
- h. Due to the high volume of traffic on Shops Way, an additional crosswalk in Shops Way shall be installed using the imprinted crosswalk system similar to the system utilized in the downtown area.
- i. If at any time during the occupancy of the commercial complex, upon determination by the Police Chief, Town Engineer, and the DPW Director, the first curb cut into the restaurants' parking lot shall be modified, at the expense of and by the Applicant, to allow entrance only movements.
- j. A final plan shall be developed by the Applicant, and approved by the Fire Chief, in accordance with 527 CMR 10:00 establishing and showing permanent pavement markings or signage for the establishment of fire lanes. Plan shall also establish the permanent locations of all dumpsters, exterior storage, and recycle machines/containers.
- k. An Opti-Com traffic preemption device shall be installed at the intersection of Shops Way and Southwest Cutoff for use by fire apparatus and ambulances departing Shops Way onto the Southwest Cutoff.
- l. There shall be no burial of any tree stumps or demolition debris on the site.

- m. The Applicant's lighting shall be constructed substantially as shown, in location and detail, on the Site Plan. Lighting shall be designed and constructed so that all light is cast downward upon the site.
 - n. An as-built site plan shall be submitted to the Town Engineer for approval prior to the issuance of the final certificate of occupancy. The as-built plan shall include, at a minimum, and as applicable to the project, a permanent benchmark, elevation of all utilities, 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).
- 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** with **SITE PLAN APPROVAL** 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** with **SITE PLAN APPROVAL** 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



RICHARD RAND, CHAIRMAN