



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

**ZBA CASE NO. 14-04**

**PROPERTY LOCATION: 51 Southwest Cutoff**

**PETITIONER & PROPERTY OWNER: 51 Southwest Cutoff LLC**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 50393 Pg: 13**

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of 51 Southwest Cutoff LLC for a Special Permit and Special Permit with Site Plan Review to allow sliding tarp systems to be sold, serviced and installed on trailer, farm and construction trucks, or other similar vehicles, on the property located at 51 Southwest Cutoff.

## 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 Special Permit per Section 7-05-020G(6)(b) and (c), Classification of Uses, Business Uses, Vehicle Sales & Service, Auto Repair Shop and Auto Body Shop, of the Northborough Zoning Bylaw, to allow the use of sales, service and installation of sliding tarp systems for trailer, farm and construction trucks and other similar vehicles; and a Special Permit with Site Plan Approval per Section 7-03-050A(2), Site Plans, Applicability, of the Northborough Zoning Bylaw, on the property located at 51 Southwest Cutoff, Map 95, Parcel 13.
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 51 Southwest Cutoff, Northborough, MA, recorded at the Worcester District Registry of Deeds on 02/04/2013, Bk: 50393 Pg: 13;
  - b. A certified abutters list for parcels 300 feet from 51 Southwest Cutoff, including a cover sheet signed by Mary E. Carey, for the Town of Northborough Board of Assessors, dated April 17, 2014; and a GIS Viewer Map for 51 Southwest Cutoff dated 4/17/14;
  - c. A document entitled "Stormwater Management Report", 51 Southwest Cutoff, Northborough, Massachusetts, dated April 18, 2014, prepared by J.M. Grenier Associates Inc., signed and stamped on April 18, 2014 by John M. Grenier, Civil Registered Professional Engineer;
  - d. A set of 24" x 36" plans entitled "Site Plan for 51 Southwest Cutoff, Northborough, Massachusetts 01532", dated April 18, 2014, prepared by J.M. Grenier Associates, Inc., with 8 sheets identified as: Sheet 1 of 8, Cover; Sheet 2 of 8, Existing Conditions Plan; Sheet 3 of 8, Layout Plan; Sheet 4 of 8, Grading and Drainage Plan; Sheet 5 of 8, Utility Plan; Sheet 6 of 8, Landscape

Plan; Sheet 7 of 8, Lighting/Photometric Plan; and Sheet 8 of 8, Detail Plan; and

- e. A set of two 24" x 36" plans entitled "Site Plan for 51 Southwest Cutoff, LLC dated April 18, 2014, identified as: Sheet 1 of 2, Pre-Development Drainage Areas; and Sheet 2 of 2, Post-Development Drainage Areas.
  - f. Five 8" x 10" color photos of various buildings identified as "Cramaro Tarp Systems", submitted to the Board by the Applicant at the meeting on May 27, 2014;
  - g. Two color brochures entitled "Cramaro Tarpaulin Systems", one red brochure identified as "Tarp-All"; and one blue brochure identified as "Aggregate & Asphalt Systems"; submitted to the Board by the Applicant at the meeting on May 27, 2014;
2. A letter to the Zoning Board of Appeals from David Durgin, Fire Chief, dated May 2, 2014, Subject: 51 Southwest Cutoff – Application for Special Permit and Special Permit with Site Plan Approval;
  3. A copy of a letter to Marshall Gould, Esquire, from Frederick J. Lonardo, Inspector of Buildings/Zoning Enforcement Officer, re: 51 Southwest Cutoff;
  4. A letter to Fran Bakstran, Chairman, Zoning Board of Appeals from Fred Litchfield, Town Engineer, dated May 21, 2014, re: 51 Southwest Cutoff, Map 95, Parcel 13; and
  5. A letter to Fran Bakstran, Chairman, Zoning Board of Appeals, from Theresa Capobianco, Chairman, Planning Board, re: 51 Southwest Cutoff, dated May 27, 2014.

#### **HEARING**

Attorney Marshall Gould, representing the Applicant and property owner, Ed Flynn, 51 Southwest Cutoff LLC; David Feitler, President, Cramaro Tarpaulin Systems, Shrewsbury, MA; and John Grenier, Engineer, J.M. Grenier Associates, Inc., presented the Application at a duly noticed public hearing of the Board on May 27, 2014 in Conference Room B of the Northborough Town Offices, 63 Main Street, Northborough, MA 01532. Voting members Fran Bakstran, Mark Rutan, Richard Rand, Robert Berger and Brad Blanchette were present throughout the proceedings.

Mr. Gould explained the subject property at 51 Southwest Cutoff was the site of the former Ritchie Bus Company through the spring of 2013. The proposed new use is the sales, service and installation of sliding tarp systems on trailers, farm and construction trucks, or similar motor vehicles, by Cramaro Tarpaulin Systems. All repairs, except minor repairs, shall be conducted entirely within the building. There is no manufacturing done on the premises. All sliding tarp systems are made at another facility and will be delivered to the subject site for installation on trailers (the majority of the business) and other motor vehicles. The installation of the tarp systems is similar to the installation of a convertible top to an automobile, but sized to the trailer or other motor vehicle. The new use requires Special Permits for the use of an Auto Repair Shop and Auto Body Shop; and a Special Permit with Site Plan Approval.

Mr. Gould noted the subject site is in the Business West District and Groundwater Protection Overlay District Area 3, however only a small portion of the site is in a groundwater area and no work will be done in that area.

Mr. Feitler explained he is relocating his business from Shrewsbury to the subject site.

Several abutters were present for this hearing. Resident Marie-Annette Amato, 10 Lexington Road, stated a tractor-trailer-related business does not belong in her neighborhood. None of the other

abutters present 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 51 Southwest Cutoff is located in the Business West District and Groundwater Protection Overlay District Area 3.
2. In the Business West District, the use of an Auto Repair Shop and the use of an Auto Body Shop (in this case for the sales, service and installation of sliding tarp systems for trailer, farm and construction trucks and other similar vehicles) is allowed by Special Permit per Section 7-05-020G(6)(b) and (c); and by Special Permit with Site Plan Approval per Section 7-03-050A(2), of the Northborough Zoning Bylaw.
3. The subject property is a 3-acre parcel which fronts on the Southwest Cutoff (Route 20) and partly on King Street. The lot slopes downward from the street to the building and the parking lot in front of the building. Thereafter, the lot gently slopes downward easterly from the building where most of the parking spaces will be located.
4. The most easterly portion of the property slopes downhill at a very steep angle to the area that is in Groundwater Protection Overlay District Area 3. None of the proposed use of the property, or proposed parking area of the property, will be located in the portion of the property in Groundwater Protection Overlay District Area 3.
5. The existing building on the subject lot is approximately 60 feet by 100 feet and there is no planned expansion of the building. The historical use of the site was a bus company and those buses were serviced on-site. The industrial-style building has 5 large overhead doors which were used for the entrance and exit by the large vehicles including the buses and trailers.
6. The significant slope to the north side of the property and the easterly side of the property prevents use or expansion of a significant portion of the lot. The significant slope from Southwest Cutoff (Route 20) to the building and parking areas, effectively shields the view of the building and parking areas from Route 20.
7. The building will be serviced by a private well, which shall be shown on the site plans.
8. The Southwest Cutoff driveway will be used as the main entrance and exit.
9. There shall be no right turns onto King Street by any trucks associated with the proposed use of the subject site.
10. A 4-yard dumpster shall be placed on site and shall be added to the site plans.
11. Delivery of the product to the site will be done by UPS approximately every day, in the morning and evening; and approximately once every 3 weeks from the Cramaro Tarpaulin Systems facility.
12. Trailers will be dropped off for service at the site between the hours of 8am and 5pm, with a turnaround time of approximately 48 hours.
13. There shall be no engine, brake, or liquid work done to any of the vehicles on the subject property.
14. There shall be no washing of vehicles on the site.
15. All items in a letter to the Zoning Board of Appeals from David Durgin, Fire Chief, dated May 2, 2014, Subject: 51 Southwest Cutoff – Application for Special Permit and Special Permit with Site Plan Approval, have been or shall be addressed by the Applicant.

16. A copy of a letter to Marshall Gould, Esquire, from Frederick J. Lonardo, Inspector of Buildings/Zoning Enforcement Officer, re: 51 Southwest Cutoff, indicates Mr. Lonardo determined the use as proposed fits most closely the definitions of an Auto Repair Shop and an Auto Body Shop.
17. All items in a letter to Fran Bakstran, Chairman, Zoning Board of Appeals from Fred Litchfield, Town Engineer, dated May 21, 2014, re: 51 Southwest Cutoff, Map 95, Parcel 13, have been or will be addressed by the Applicant.
18. In a letter to Fran Bakstran, Chairman, Zoning Board of Appeals, from Theresa Capobianco, Chairman, Planning Board, re: 51 Southwest Cutoff, dated May 27, 2014, the Planning Board offered the following comment for the consideration of the Zoning Board of Appeals:

*"Due to the continuing increase of truck traffic on our local roads, we ask you to direct the applicant's customers to utilizing Route 9 and Route 20 when accessing and leaving the site. With the recent cross-dock developments on Bartlett Street and Lyman Street, residents have recently commented on the increase in volume of trucks using local roads, in particular Church Street, Hudson Street and South Street. In the A. Duie Pyle Site Plan Approval decision for the site on Bartlett Street, the Planning Board limited the truck access on local roads and directed the applicant to use I-290 and not Route 20 except for local deliveries."*

*Four of the five members voted in favor of these comments.*

19. The subject site at 51 Southwest Cutoff, and existing building, will be used for sales, installations, and repairs as allowed by Special Permit in the Business West District. The uses as an Auto Repair Shop and Auto Body Shop, and the reconfiguration of the parking lot to provide a more organized site layout, require the Special Permit and Special Permit with Site Plan Review. Therefore the proposal is in substantial harmony with the Northborough Master Plan and other plans approved or amended from time to time by the Northborough Planning Board and the purposes of the Northborough Zoning Bylaw.
20. The subject site will be very similar to, and will have less active use than, the former Ritchie Bus Company. The proposed use will have less traffic than the prior use, as well. Therefore, the proposed site is an appropriate location for the use as proposed, and the use as developed will not adversely affect the neighborhood.
21. The prior use by Ritchie Bus Company was greater in intensity than the proposed use of the property. The former use created no nuisance or hazard to vehicles or pedestrians, and the proposed use will have less traffic than the prior use. Therefore there will be no nuisance or serious hazard to vehicles or pedestrians.
22. With the reconfigured and better-structured parking lot, the property will better provide for the proper operation of the proposed use compared to the former use by Ritchie Bus Company. Therefore, adequate and appropriate facilities will be provided for the proper operation of the proposed use.
23. The use will not adversely affect the vegetation on site or the Groundwater Protection Overlay District Area 3, which is in the most easterly portion of the property and will not be used or impacted as a result of this project. The building will be the same building as used by Ritchie Bus Company.
24. The Applicant proposes to remove the existing above-ground fuel storage tank.
25. The proposed use is in substantial harmony with the Northborough Master Plan and the purposes of the Zoning Bylaw.

## **DECISION**

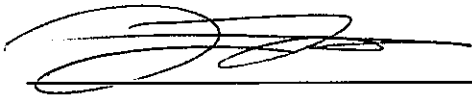
1. On May 27, 2014, after due consideration of the Application, the Board voted unanimously to **GRANT** three **SPECIAL PERMITS** to allow the use of the sales, service and installation of sliding tarp systems for trailers, farm and construction trucks and other similar vehicles, per Section 7-05-020G(6)(b) and (c), Classification of Uses, Business Uses, Vehicle Sales & Service, Auto Repair Shop and Auto Body Shop; and Section 7-03-050A(2), Site Plans, Applicability, of the Northborough Zoning Bylaw, on the property located at 51 Southwest Cutoff, Map 95, Parcel 13, per the plans submitted and identified as:
  - a. A set of 24" x 36" plans entitled "Site Plan for 51 Southwest Cutoff, Northborough, Massachusetts 01532", dated April 18, 2014, prepared by J.M. Grenier Associates, Inc., with 8 sheets identified as: Sheet 1 of 8, Cover; Sheet 2 of 8, Existing Conditions Plan; Sheet 3 of 8, Layout Plan; Sheet 4 of 8, Grading and Drainage Plan; Sheet 5 of 8, Utility Plan; Sheet 6 of 8, Landscape Plan; Sheet 7 of 8, Lighting/Photometric Plan; and Sheet 8 of 8, Detail Plan; and
  - b. A set of two 24" x 36" plans entitled "Site Plan for 51 Southwest Cutoff, LLC dated April 18, 2014, identified as: Sheet 1 of 2, Pre-Development Drainage Areas; and Sheet 2 of 2, Post-Development Drainage Areas.

### ***And with the following conditions:***

- c. The applicant shall install a "No Right Turn" sign at the King Street driveway.
- d. An Earthwork Permit is required prior to any construction.
- e. There shall be no right turns onto King Street by any trucks associated with the proposed use of the subject site.
- f. The water line size in Southwest Cutoff and a water service location or a proposed well shall be shown on the site plan and added to the as-built plan.
- g. A permeability test shall be performed in the area of the proposed dry well to verify the infiltration rate.
- h. The applicant must obtain a curb cut permit to access the State Highway from the Massachusetts Department of Transportation prior to any construction.
- i. The location of the dumpster shall be added to the site plan and to the as-built plan.
- j. The applicant shall file a copy of the operation and maintenance report as listed in the Stormwater Management Report with the Town Engineer annually.
- k. An as-built lighting plan shall be provided with a certification by a Professional stating the lighting system was built substantially in accordance with the approved plan.
- l. An as-built landscape plan shall be provided with a certification by a Professional stating the landscaping was built substantially in accordance with the approved plan.

- m. Upon completion of the work and prior to the issuance of the certificate of occupancy, the applicant shall submit an as-built plan. The as-built plan shall include, at a minimum, and as applicable to the project, 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. The drainage system shall also be certified by a Professional Engineer stating the drainage system was built substantially in accordance with the design and will performed as designed. 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. The as-built plan shall be based on the 1988 NGVD vertical datum.
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 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."
  4. 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. 10.

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



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**FRAN BAKSTRAN, CHAIRMAN**