



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. 13-09

PROPERTY LOCATION: 61-65 West Main Street

PETITIONER: Northborough Commons, LLC

PROPERTY OWNER: John Pierce

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of Northborough Commons, LLC, for five Special Permits, five Waivers and four Variances to allow construction and use of a horizontal mixed-use multifamily development comprised of two buildings containing 20 one-bedroom residential dwelling units and 30,800 square feet of business uses in the Downtown Business District and Groundwater Protection Overlay District Area 3, on the property located at 61-65 West Main Street, GIS Map 63, Parcels 9 & 10.

APPLICATION

1. On May 23, 2013, the Applicant filed with Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining Special Permits, Waivers and Variances to allow the use of a horizontal mixed-use commercial/residential development in the Downtown Business District and Groundwater Protection Overlay District Area 3, per Sections 7-03-050, 7-05-030, 7-06-020, 7-07-010, 7-09-020, 7-09-030 and 7-09-040 of the Northborough Zoning Bylaw, on the property located at 61- 65 West Main Street.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on June 10, 2013 and June 17, 2013, and was mailed to abutters and other parties in interest on June 6, 2013.

EXHIBITS

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

1. An Application for Hearing, as follows:
 - a. A 7-page document entitled "Town of Northborough, Special Permit with Site Plan Approval; Request for Variance and Special Permit (Groundwater Protection Overlay – 7-07-010) Attachment to Application for Public Hearing"
 - b. A Quitclaim Deed for 61-65 West Main Street recorded at the Worcester District Registry of Deeds on 12/29/2008, Bk: 43628 Pg: 291;
 - c. A Quitclaim Deed for 65 West Main Street recorded at the Worcester District Registry of Deeds on 12/29/2008, Bk: 41623 Pg: 199;
 - d. A plan entitled "Plan of Land in Northboro, Mass. owned by William B. Walker", dated July 29, 1954, signed by the Town of Northborough Planning Board on August 6, 1954,

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registered at the Worcester District Registry of Deeds on October 5, 1954, Plan Book 200, Plan 87;

- e. A plan entitled "Plan of Property Surveyed for James Vogel, Vogel Development, 61-65 West Main Street, Northborough, Massachusetts, dated 04/22/13, signed and stamped by Kevin J. Jarvis, Professional Land Surveyor, on 04/22/13;
- f. A set of four 8" x 10" color architectural renderings by Smook Architecture and Urban Design, Inc., for West Main Street, Northborough, Massachusetts, dated April 2013, and identified as follows: "Retail Shops"; "Scheme 1, West Main Street Elevations, Retail Shops"; "Scheme 1, Section, Retail Shops"; and "Scheme 1" Retail Shops";
- g. A set of three 8" x 10" color photos identified as follows: "Free Standing Sign at 290 Main Street"; "Building Mounted Signs at 290 West Main Street"; and "Building Mounted Signs at 290 Main Street";
- h. A certified abutters list for parcels 300 feet from 61 & 65 West Main Street , including a cover sheet signed by Mary E. Carey, for the Town of Northborough Board of Assessors, dated April 11, 2013;
- i. A document entitled "Northborough Commons Compliance with Groundwater Protection Overlay District 3 Regulations" and a two-page document entitled "Calculation Sheet for Increase to Impervious Surface: 61 and 65 West Main Street, signed by James Tetreault, Thompson Liston Associates, Inc., on 5/21/2013;
- j. An undated document entitled "Northborough Commons Development Impact Analysis" from Thompson-Liston Associates, Inc.
- k. A set of eight 24" x 36" plan sheets entitled "Northborough Commons, Site Plan of Land at 61 & 65 West Main Street in Northborough, Massachusetts", prepared for Vogel Development Corp. by Thompson-Liston Associates, Inc., dated April 19, 2013, revised May 20, 2013, signed and stamped by James L. Tetreault, Civil Registered Professional Engineer on 5/20/2013 and Lawrence C. Greene, Jr., Registered Landscape Architect on 5/20/13, with sheets identified as: Sheet 1, Title Sheet; Sheet L2, Existing Conditions Plan; Sheet G3, Grading Plan; Sheet SL4, Site Layout Plan; Sheet LS5, Landscape Plan; Sheet D6, Details; Sheet D7, Details; and Sheet D8, Details;
- l. A set of eight 24" x 36" plan sheets entitled "Northborough Commons, Site Plan of Land at 61 & 65 West Main Street in Northborough, Massachusetts", prepared for Vogel Development Corp. by Thompson-Liston Associates, Inc., dated April 19, 2013, revised May 20, 2013, signed and stamped by James L. Tetreault, Civil Registered Professional Engineer on 5/20/2013 and Lawrence C. Greene, Jr., Registered Landscape Architect on 5/20/13, with sheets identified as: Sheet 1, Title Sheet; Sheet L2, Existing Conditions Plan; Sheet G3, Grading Plan; Sheet SL4, Site Layout Plan; Sheet LS5, Landscape Plan; Sheet D6, Details; Sheet D7, Details; and Sheet D8, Details;
- m. A set of eight 24" x 36" plan sheets entitled "Northborough Commons, Site Plan of Land at 61 & 65 West Main Street in Northborough, Massachusetts", prepared for Vogel Development Corp. by Thompson-Liston Associates, Inc., dated April 19, 2013, revised May 20, 2013 and June 27, 2013, signed and stamped by James L. Tetreault, Civil Registered Professional Engineer on 6/27/13 and Lawrence C. Greene, Jr., Registered Landscape Architect on 6/27/13, with sheets identified as: Sheet 1, Title Sheet; Sheet L2, Existing Conditions Plan; Sheet G3, Grading Plan; Sheet SL4, Site Layout Plan; Sheet LS5,

Landscape Plan; Sheet D6, Details; Sheet D7, Details; and Sheet D8, Details, which shall be referred to hereafter as the "Plans" ;

2. A Memorandum from Ms. Jennifer Conley, PE, PTOE, Conley Associates, to Mr. James Vogel, dated April 16, 2013, Re: Trip Generation of Proposed Redevelopment , 61-65 West Main Street, Northborough, Massachusetts;
3. A letter from Paul J. Ayoub, Nutter McClennen & Fish LLP, to Kathy A. Joubert, Town Planner, dated May 31, 2013, Re: Northborough Commons LLC, 600 West Main Street, Northborough, MA 01532, Supplement to Request for Special Permit with Site Plan Approval, Special Permit for the Groundwater Protection Overlay District and Request for Variance and Waivers and variances on requirements of the Zoning Bylaw as part of the proposed development;
4. A letter from Fire Chief David Durgin to the Town of Northborough Board of Appeals, dated June 3, 2013, Subject: 61-65 West Main Street – Application for Hearing;
5. A letter to David Allain, Manager, Gas Sales and Marketing, NStar, from Kathy Joubert, Town Planner, dated June 5, 2013;
6. A memo to the Zoning Board of Appeals from Kathy Joubert, Town Planner and Fred Lonardo, Inspector of Buildings/Zoning Enforcement Officer, RE: 61-65 West Main Street, dated June 20, 2013;
7. A document entitled "Northborough Commons, Zoning Sign Relief, by Smook Architecture & Urban Design, dated 20 June 2013;
8. An 8.5" x 11" color photo of the house at 65 West Main Street with architectural details circled in red, submitted 06/20/13;
9. A set of 5 color architectural plans by Smook Architecture and Urban Design, Inc., for Northborough Commons, 61-65 West Main Street, Northborough, MA, submitted 6-20-13 and identified as follows: 1-Site Plan; 2-North Elevation; 3-Building 2; 4-Freestanding Sign; and 5-Six color pictures identified as: 30 Year Architectural Asphalt Shingles, Vinyl Siding, Fabric Awnings, PVC Corner boards and Trim, White Vinyl Operable Windows, and Insulated Aluminum Storefront;
10. A set of five 8.5" x 11" pages with information from the Holopane lighting company on Pechina commercial lighting, with 3 of the pages identified as: Designers Group - Pechina; Decorative Outdoor – Arlington LED Postop Luminaire; and Decorative Outdoor – Arlington LED Series Luminaire, dated 6/20/13;
11. A hard copy of a PowerPoint presentation submitted by Smook Architecture & Urban Design on June 25, 2013, with architectural plans for the proposed project at 61-65 West Main Street, with slides identified as follows: Site Plan; West Main Street Elevation; Section; Perspective, West Main Street Traveling East; Perspective, Looking Southwest into Courtyard; Perspective, West Main Street Traveling West; Perspective, Aerial Looking Southwest; 1-Site Plan; 2-North Elevation, Building 1; 3-Building 2; 4-Freestanding Sign; and 5-Six color pictures identified as: 30 Year Architectural Asphalt Shingles, Vinyl Siding, Fabric Awnings, PVC Corner boards and Trim, White Vinyl Operable Windows, and Insulated Aluminum Storefront;
12. Two memos to Chairman, Zoning Board of Appeals, from Rick Leif, Chairman, Planning Board, RE: 61-65 West Main Street, dated June 25, 2013 and August 16, 2013;
13. A cover letter to Kathy Joubert, Northborough Town Planner from James Tetreault, Thompson-Liston Associates, Inc., dated July 10, 2013, Re: Northborough Commons mixed use development, 61 and 65 West Main Street, Northborough, with full-size and half-size revised Site Plan sheets G3, Grading Plan; and SL4, Site Layout Plan;

14. A letter to Fran Bakstran, Chairman, Northborough Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated July 16, 2013, re: 61-65 West Street, Map 63 Parcels 9 and 10;
15. A memo to Fran Bakstran, Chairman, Zoning Board of Appeals from Michelle Gillespie, Chairman, Design Review Committee, RE: 61-65 West Main Street, dated July 22, 2013;
16. A letter to Richard Rand, Chairman, Northborough Zoning Board of Appeals from James Tetreault, Thompson-Liston Associates, Inc., Re: Northborough Commons mixed use development, 61 and 65 West Main Street, Northborough, dated July 23, 2013;
17. A letter to Mr. Clay Benjamin Smook, Smook Architecture and Urban Design, Inc., from Brian H. Smith, Re: 61-65 West Main Street Demolition Delay, dated July 29, 2013;
18. A letter to the Northborough Zoning Board of Appeals from Amy Poretsky, Re: Hearing and application for 61 and 65 West Main Street, dated August 22, 2013;
19. A letter to Ms. Fran Bakstran, Northborough Zoning Board of Appeal from James Vogel, Manager, Northborough Commons LLC, re: 61-65 West Main Street, dated August 27, 2013; and
20. An email message from janice.fournier@verizon.net, sent: Tuesday, August 27, 2013, to: Kathy Joubert, Subject: main street.

HEARING

The Applicant James Vogel, Northborough Commons, LLC; Paul Ayoub, Esq., Nutter McClennen & Fish LLP; James Tetreault, Engineer, Thompson-Liston Associates, Inc.; and Clay Smook, Architect, Smook Architecture and Urban Design, Inc. presented the Application at a duly noticed public hearing of the board on July 23, 2013 and August 27, 2013 in the Conference Room B of the Northborough Town Hall Offices, 63 Main Street, Northborough.

Voting members Fran Bakstran, Mark Rutan, Robert Berger, Richard Kane, and alternate member Jeffrey Cayer were present throughout the proceedings. Alternate member Brad Blanchette was present on July 23, 2013 and member Dick Rand was present on August 27, 2013.

The public hearing for the proposed project at 61-65 West Main Street was opened at the Zoning Board of Appeals meeting on June 26, 2013, and at the request of the Applicant via an email message to Town Planner, Kathy Joubert, the Board voted to continue the public hearing to their meeting on July 23, 2013.

At the Zoning Board of Appeals meeting on July 23, 2013, revised site plans submitted by the Applicant, as well as correspondence received by the Design Review Committee, Planning Board, Fire Chief, DPW Director, Town Engineer, Town Planner and Inspector of Buildings/Zoning Enforcement Officer, were distributed to the Board members by Kathy Joubert, Town Planner.

Mr. Vogel gave a brief history of the proposed project. He explained that, as a resident of the town for many years, has wanted to do something about the Pierce Oil site. He and Paul Ayoub worked together to develop the project, along with their lead architect, Clay Smook and Engineer, James Tetreault.

Mr. Vogel stated he is proposing to construct a horizontal mixed-use development consisting of two buildings, the first having retail use on the first floor and multifamily residential use on the second floor (Building 1) and the second building having a single story of retail use (Building 2), on the properties at 61 and 65 West Main Street.

Mr. Smook presented a PowerPoint slideshow of the proposed architectural plans for the project. He explained the topography of the site is interesting, as the grade rises 80 feet above the building, and they have used this unusual topography to design a ramp to a parking area at grade level for residents of the apartments above the retail businesses on the first floor. He noted their original design included Building 1 with 3 stories, but with the help of the Design Review Committee, they scaled it down to 2 stories.

Mr. Tetreault explained the site is 142,000 square feet in size, with 410 feet of frontage and is located in Groundwater Protection Overlay District Area 3. They are asking for a special permit to allow commercial use in a groundwater 3 area. He stated he has submitted calculations showing the project will increase impervious surface on the site by no more than that which is allowed. He noted this is a worthwhile special permit for the board to grant because as part of the project, the applicant is completing remediation for petroleum in the soil. In addition, the 1-story retail building will be pulled back from the front property line by up to 50 feet because the soils in that area of the site are the only ones appropriate for leaching.

Mr. Tetreault listed and explained the special permits, waivers, and variances the applicant is requesting, and responded to questions asked by the board members. He also mentioned a traffic study, submitted and prepared by Conley Associates for the site, indicates the impacts of the project to traffic in the area will be minor and insignificant.

Mr. Ayoub explained the essence of smart growth is to have 24/7 population in the area and the proposed project will have a positive effect on the area. The twenty 1-bedroom units will have a minimal impact and are not likely to be attractive to families with children. Mr. Vogel could have designed the project for three lots as of right, which could have had three buildings with a total of twenty-four 2-3 bedroom dwelling units total. However, it was not his preference and Mr. Vogel is proud of the design they have proposed. It fits well with the area and is better than what otherwise could be there. Mr. Vogel stated he wants this to be a first-class project.

DPW Director Dan Nason discussed the installation of a 450-foot sidewalk and how the sidewalks on either side of the project are going to transition.

No abutters attended the meeting nor did the Board receive any letters of opposition from any abutter. Four Planning Board members attended the hearing on July 23, 2013 with one member speaking in favor of the development, two members speaking in opposition to the proposed twenty residential units and one member speaking in opposition to allowing any individual retail establishment to exceed 5000 square feet.

The Board members requested the hearing be continued to further discuss the number of dwelling units, the traffic study and the remediation of petroleum on the site. The hearing was continued to August 27, 2013.

At the hearing on August 27, 2013, a second Planning Board review letter, and a letter from a resident in opposition to the whole project, was distributed to the board members.

Joe Higgins, Innovative Engineering Solutions, Inc., addressed the remediation of the site, as requested by board member Robert Berger. Mr. Higgins stated the site is in temporary solution, has been reported to the Department of Environmental Protection (DEP) and the Applicant has a timeframe in which the clean-up must be done.

Mr. Tetreault presented the traffic report from Conley Associates and stated the conclusion is a 1% to 4% difference in traffic as a result of this project. Most traffic coming through to the site will be people already on the road. He noted sight distance from the driveway is over 200 feet in each direction.

It was determined by Town staff that the Applicant did not need a variance for a proposed 4-foot high retaining wall, so that variance was withdrawn. In addition, the Applicant withdrew his request for a variance for a free-standing sign as well as their request for a variance to allow an individual retail establishment to be over 15,000 square feet in gross floor area.

The board discussed the information received from the Applicant, Town staff, other Town boards and committees, Town board members and residents.

Three members of the Planning Board attended the hearing on August 27, 2013 with one member speaking in favor of the development, one member speaking in opposition to the proposed twenty residential units, and one member speaking in opposition to any retail establishment exceeding 5000 square feet. Several residents spoke both in favor and opposed to the proposed development. One letter in opposition to the proposed project was received by the Zoning Board of Appeals.

The hearing was closed on August 27, 2013.

FINDINGS OF FACT

1. The subject site at 61-65 West Main Street (Route 20) is located in the Downtown Business District. In the Downtown Business District, a Horizontal Mixed-Use Development and a Multifamily Development are allowed by Special Permit, per Section 7-05-030, and by Special Permit with Site Plan Approval, per Section 7-03-050A(2) of the Northborough Zoning Bylaw.
2. In the Downtown Business District, the required minimum lot area is 4000 square feet and the minimum lot frontage is 50 feet. The lot area of the subject property is 3.269 acres, or 142,387 square feet with 410.78 feet of frontage on West Main Street. The required amount of open space for the project is 15% and the proposed amount of open space for the site is 57%.
3. The Applicant is proposing to construct a Horizontal Mixed Use and Multifamily development that includes demolition of the existing gas station, home and other accessory structures on the site, and the construction of one single story 8800 square foot commercial building and one two-story 22,000 square foot building containing commercial uses on the first floor and twenty one-bedroom residential units on the second floor.
4. Proposed parking for the horizontal mixed-use development including commercial and residential uses is 74 spaces for 30,800 square feet of retail space and 33 spaces for the residential units totaling 107 spaces. Section 7-09-030B(5) of the Zoning Bylaw modifies the parking requirement for sites in the Downtown Business District to 80% of the parking spaces total for sites with 40% or more of gross floor area on the 2nd floor or higher. This proposal has 41.6% (22,000/52,800) of gross floor area on the 2nd floor making the site's requirement $107 \times .80 = 86$ spaces. In accordance with Section 7-09-030B(5), a total of 86 spaces are required and 92 spaces have been proposed, 8 of which are handicap accessible.
5. A decrease in the required parking spaces is authorized as being consistent with the provisions of Section 7-09-030B(5).
6. The buildings will be connected to Town water and sewer services located in West Main Street.

7. Outdoor lighting, including lighting on the exterior of the proposed buildings and lighting in parking areas, as shown on the Site Plan, is arranged to minimize glare and light spilling over to neighboring properties and otherwise complies with the requirements of Section 7-09-020D.
8. The open space and parking area landscaping as shown on the Site Plan is designed to enhance the visual impact of the use upon the Site and adjacent property and to enhance the visual appearance of the parking areas, to ensure traffic safety and to minimize the adverse effects of the parking on the natural environment.
9. The scale of the proposed project and its planning characteristics as shown on the "Plans" are suitable for the site.
10. The Site is an appropriate location for the proposed Project as shown on the "Plans".
11. The proposed project as shown on the "Plans" will not adversely affect the neighborhood.
12. There will be no nuisance or serious hazard to vehicles or pedestrians from the proposed project as shown on the "Plans".
13. A traffic study entitled "Trip Generation of Proposed Redevelopment 61-65 West Main Street, Northborough, Massachusetts" prepared for Mr. James Vogel by Conley Associates of Boston MA and Killington VT, dated April 16, 2013, indicates traffic generated from the proposed development would increase the overall volume of traffic on West Main Street by one percent (1%) to four percent (4%) during peak hours. The redevelopment of the site is anticipated to generate 32 vehicles trips (15 in and 17 out) during the weekday AM peak hour; 96 vehicle trips (45 in and 51 out) during the weekday PM peak hour, and during the Saturday midday peak hour, 118 vehicle trips (61 in and 57 out).
14. The site is not located in any area regulated under the Local Wetland Bylaw or Massachusetts Wetlands Protection Act.
15. The development as proposed exceeds the maximum setback of 20' for the Downtown Business District. Due to the nature of the soils at the property, the only location for a stormwater infiltration area is in the front of the property between the street and Building 2. As a result, Building 2 must be set back 42.2' and Building 1 must be set back 31.1'. In addition, three underground retention areas to limit stormwater runoff have been placed on the property which impacts the placement of the buildings on the site. The ability to infiltrate water into the ground and reduce runoff meets the goal of the Groundwater Protection Overlay District and serves to enhance the surrounding area. Granting a variance from Section 7-06-020 Table 2. Table of Density and Dimensional Regulations will be in harmony with the general purpose and intent of the Zoning Bylaw and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
16. In a letter to Fran Bakstran, Chairman, Northborough Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated July 16, 2013, re: 61-65 West Street, Map 63 Parcels 9 and 10, Mr. Litchfield states *"The Groundwater Advisory Committee reviewed the application and supplemental information on behalf of Northborough Commons LLC at their June 11, 2013 meeting and recommended approval with comments. received May 23, 2013 and the supplemental information received on June 3, 2013 as submitted by Paul Ayoub, Esquire on behalf of Northborough Commons, LLC for the above referenced property at their meeting held on Tuesday, June 11, 2013 and recommends approval."*
17. Due to the location of the infiltration area at the front of Building 2, where the only suitable soils for such a system exist on the property, the area for parking behind or beside this structure is limited. Granting a variance from Section 7-09-030C(2)(a) to place seventeen parking spaces (18%

of the total number of parking spaces) in front of Building 2 will be in harmony with the general purpose and intent of the Zoning Bylaw and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

18. Due to the significant topographical changes, an elevation change of approximately 78', between the roadway and the rear of the Site, being a circumstance relating to the topography of the Site and especially affecting the Site but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship to the Applicant. The substantial changes in topography between the proposed development and the adjacent properties provide additional buffering for the abutters from the proposed development. In most instances, the existing residential properties are 20 to 65 feet higher than the proposed development.
19. Granting a variance from Section 7-09-040G(1)(a)[2][b] to allow two externally lit wall signs, each sign not to exceed 32 square feet, for one tenant on Building 2 as shown and described on the Signage Plan may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.
20. The existing parcels contain frontage and area to subdivide the property into three lots, with each lot supporting a mixed use building including up to eight residential units in each building. By approving the proposed site design of two buildings with twenty residential units (as opposed to 24 units on three lots), two curb cuts with one being limited to right turn out only and 57% of the site remaining as open space, the number of bedrooms will be limited to one bedroom per residential unit and as such will not place an undue strain on the school system. Granting a variance from Section 7-05-030 Table of Uses Table 1. Part B. Commercial and Industrial Districts, Footnote 9 is in substantial harmony with the general purpose and intent of the Zoning Bylaw and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
21. The Applicant and his Architect, Clay Smook, in addition to several other members of the development team met with the Design Review Committee on July 12, 2013, June 20, 2013, May 6, 2013, and January 11, 2013. In a memo from Michelle Gillespie, Chairman, Design Review Committee to Fran Bakstran, Chairman, Zoning Board of Appeals, Re: 61-65 West Main Street, dated July 22, 2013, Ms. Gillespie states: *"The Design Review Committee has met several times with the Applicant and his team to review the design components of the buildings and other site features of the proposed development at 61-65 West Main Street. The Applicant has addressed every question and comment raised by members of the Design Review Committee. The development to be presented to you on July 23, 2013 has our complete support. We believe the scale and location of the buildings is appropriate for the site and will be a benefit to the Northborough downtown area. This development is a positive asset to the commercial district located along West Main Street. We appreciate the willingness of the Applicant to work cooperatively with the staff and the Design Review Committee. It was a pleasure to work with this developer on such a key site in the downtown of Northborough. In addition to the original plans submitted as part of the ZBA application packet, we respectfully request your decision reflect the following revised plans submitted to the Design Review Committee:*
 - a. *Site Layout Plan prepared by Thompson-Liston Associates, Inc. dated April 19, 2013 and revised on 5/20/13 and 6/27/13;*
 - b. *Grading Plan prepared by Thompson-Liston Associates, Inc. dated April 19, 2013 and revised on 5/20/13 and 6/27/13; and*
 - c. *Landscape Plan prepared by Thompson-Liston Associates, Inc. dated April 19, 2013 and revised on 5/20/13 and 6/27/13."*

22. The applicant met with the Fire Chief and addressed the landscaping concerns by relocating several of the proposed trees on the site.
23. The Applicant has or will comply with all items listed in a letter from Fire Chief David Durgin to the Town of Northborough Board of Appeals, dated June 3, 2013, Subject: 61-65 West Main Street – Application for Hearing.
24. Per the memo received from Rick Leif, Chairman, Planning Board, Re: 61-65 West Main Street, dated June 25, 2013, the Planning Board recommends the applicant be required to install a sidewalk within the State's right-of-way from the westerly edge of 65 West Main Street across the frontage of 73-79 West Main Street (Map 63 Parcel 11) and terminating at the westerly edge of that parcel.
25. Per the memo received from Rick Leif, Chairman, Planning Board, Re: 61-65 West Main Street, dated August 16, 2013, four of the Planning Board members support a Special Permit to allow for one retail tenant to exceed 5000 square feet in building 2 and four members support a Special Permit to allow for one tenant not to exceed 15,000 square feet in building 1.
26. The lot and the proposed plan meet the dimensional requirements of the zoning district, and the uses are allowed in the Downtown Business District by special permit. Therefore the proposed project is in substantial harmony with the purposes of the Northborough Zoning Bylaw.
27. The subject site has frontage on West Main Street (Route 20) and has been zoned for business since 1955, the year zoning was adopted in Northborough. The surrounding commercial and residential uses have existed for years and have proven to be compatible with the neighborhood. Therefore the proposal is in substantial harmony with the Northborough Master Plan and subsequent Community Development Plan, and other plans approved or amended from time to time by the Northborough Planning Board.
28. The proposed use is consistent with the area in which there are residential and business uses on the abutting sites. The site plan prepared by Thompson-Liston Associates, Inc. entitled "Northborough Commons, 61 & 65 West Main Street, Northborough MA", dated April 19, 2013 and revised on May 20, 2013 and June 27, 2013 show the existing wooded area on the rear of the lot will be maintained as a natural buffer between the proposed development and the existing residential uses. Therefore, the horizontal mixed-use and multifamily development including business and residential uses will not adversely affect the neighborhood and there will be no nuisance or serious hazard to vehicles or pedestrians. The relief sought may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Northborough Zoning Bylaw.
29. Adequate and appropriate facilities will be provided for the proper operation of the proposed horizontal mixed-use and multifamily development, and the proposed uses will conform to any special requirements of the special permit granting authority as stated in its written decision.
30. The overall development of the site as a horizontal mixed-use development is not a substantial detriment to the public good and is a benefit to the surrounding area and to the Town. The property has been a blighted site for many years and the redevelopment of the site will revitalize the vacant site into a vibrant mixed use site providing upgrades to the West Main Street streetscape and retaining open space on the property. The granting of the Special Permits and Variances will be in harmony with the general purpose and intent of the Zoning Bylaw and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

DECISION

1. **On August 27, 2013**, after due consideration of the Application, the Board voted to **GRANT** the following **SPECIAL PERMITS** to allow the construction and use of the following, which shall be referred to hereafter as the "Project", horizontal mixed-use development including two buildings, one building with business uses on the first floor and one building with business uses on the first floor and twenty one-bedroom multifamily units on the second floor, in the Downtown Business District on the property located at 61-65 West Main Street, per the Application and plans submitted and identified as: "A set of eight 24" x 36" plan sheets entitled "Northborough Commons, Site Plan of Land at 61 & 65 West Main Street in Northborough, Massachusetts", prepared for Vogel Development Corp. by Thompson-Liston Associates, Inc., dated April 19, 2013, revised May 20, 2013 and June 27, 2013, signed and stamped by James L. Tetreault, Civil Registered Professional Engineer on 6/27/13 and Lawrence C. Greene, Jr., Registered Landscape Architect on 6/27/13, with sheets identified as: Sheet 1, Title Sheet; Sheet L2, Existing Conditions Plan; Sheet G3, Grading Plan; Sheet SL4, Site Layout Plan; Sheet LS5, Landscape Plan; Sheet D6, Details; Sheet D7, Details; and Sheet D8, Details.":
 - a. A Special Permit with Site Plan Approval in accordance with Section 7-03-050A(2), including the installation of a 415'+/- concrete sidewalk, in the right-of-way, with granite curbing on the southerly side of West Main Street from the end of the existing sidewalk at 65 West Main Street, Map 63 Parcel 10 to the westerly end of 79 West Main Street, Map 63 Parcel 11. Sidewalk shall be completed in accordance with the MassDOT standards and shall be completed prior to the issuance of the final Certificate of Occupancy issued for the final portion of the Project.
 - b. A Special Permit in accordance with Section 7-05-030 Table of Uses Table 1. Part B. Commercial and Industrial Districts to allow for a horizontal mixed-use development;
 - c. A Special Permit in accordance with Section 7-05-030 Table of Uses Table 1. Part B. Commercial and Industrial Districts, Footnote 10 to allow the maximum gross floor area of one retail establishment to be up to 15,000 square feet in each building;
 - d. Special Permit in accordance with Section 7-07-010D(3)(c)[3] of the Groundwater Protection Overlay District for commercial development; and
 - e. Special Permit in accordance with Section 7-07-010D(3)(c)[6] of the Groundwater Protection Overlay District for multifamily development.

With the following conditions:

From Fire Chief David Durgin

- a. The interior parking lot radius shall conform to the AASHTO Standard Turning Template for an SU-Truck.
- b. The rear turning "T" shall accommodate and facilitate the turning radius of the AASHTO Template for SU-Trucks.
- c. The weight rating of all ground structures shall be capable of withstanding and supporting a minimum of forty-two (42) tons during any operation.

- d. One ten-inch (10") water main is shown on the submitted plan. Each building shall have a minimum of an eight-inch (8") water main to supply the fire suppression sprinkler system.
- e. A fire hydrant shall be located within one hundred feet (100') of each of the fire department fire sprinkler connections. Fire suppression sprinkler systems are required in both proposed structures.

From the Groundwater Advisory Committee

- a. At this time the application does not include any information regarding any use involving the manufacturing, storage, application, transportation and/or disposal of toxic or hazardous materials and therefore this special permit is not required.
- b. At least one permeability test should be performed within the area of the proposed subsurface infiltration system to verify the rates of infiltration.
- c. An Operation and Maintenance Plan shall be included in any approval and a report shall be provided to the Town Engineer and Groundwater Advisory Committee annually.
- d. 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 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.
- e. 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).

From the Department of Public Works and the Engineering Department

- a. The applicant shall be required to install a concrete sidewalk with granite curbing on the southerly side of West Main Street from the end of the existing sidewalk recently installed by Mass DOT as part of the downtown traffic improvements approximately 415 feet to the west.
- b. The proposed impervious cover is changing and should be verified within the standard form generally used by the Building Department at the time the building permit application is submitted. The application shall document all impervious cover installed both before and after 1986 as well as the limit of impervious cover to be recharged through infiltration.
- c. The most recent groundwater test results from the former gas station on this site shall be filed with the Town prior to the issuance of the building permit along with any correspondence from the Massachusetts Department of Environmental Protection regarding any contamination. The plans shall show the location of the existing monitoring wells and describe the use of these wells in the future.

2. **On August 27, 2013**, after due consideration of the Application, the Board voted to **GRANT** the following **VARIANCES** to allow the construction and use of the Project, a horizontal mixed-use

development including two buildings, one building with business uses on the first floor and one building with business uses on the first floor and twenty one-bedroom multifamily units on the second floor in the Downtown Business District on the property located at 61-65 West Main Street, per the Application and the Plans:

- a. A Variance from Section 7-05-030 Table of Uses Table 1. Part B. Commercial and Industrial Districts, Footnote 9 to allow twenty one-bedroom multifamily units on a lot;
 - b. A Variance from Section 7-06-020 Table 2. Table of Density and Dimensional Regulations to allow a front setback greater than twenty feet;
 - c. A Variance from Section 7-09-030C(2)(a) to allow for parking in front of building 1; and
 - d. A Variance from Section 7-09-040G(1)(a)[2][b] to allow for two wall signs, up to thirty-two square feet each, on building 1.
3. **On August 27, 2013**, after due consideration of the Application, the Board voted to **GRANT** the following **WAIVERS** in accordance with Section 7-09-030G to allow the construction and use of the Project, a horizontal mixed-use development including two buildings, one building with business uses on the first floor and one building with business uses on the first floor and twenty one-bedroom multifamily units on the second floor in the Downtown Business District on the property located at 61-65 West Main Street, per the Application and the Plans:
 - a. Section 7-09-030C(1)(a) - A Waiver to increase width of access drive from 24 feet wide to 32 feet wide;
 - b. Section 7-09-030C(2)(b) - A Waiver to decrease distance of required 8 feet from parking space to building wall;
 - c. Section 7-09-030C(4)(a)[1] - A Waiver relating to 10 foot wide landscaped buffer strip around parking areas;
 - d. Section 7-09-030E(7) - A Waiver relating to number of trees provided on-site; and
 - e. Section 7-09-020C(5)(a)[1] - A Waiver relating to landscaped buffer between business use and adjacent residential district. The Waiver is approved to reduce the landscaped buffer width in the Downtown Business District by the ZBA, as the applicable special permit granting authority, as the proponent demonstrated in its landscaping plan that the reduced landscape buffer meets the intent of this section.
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.
5. If the rights authorized by the **VARIANCES** 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.
6. 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.

7. The **SPECIAL PERMITS, VARIANCES** and **WAIVERS** 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.

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



FRAN BAKSTRAN, CHAIRMAN