



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

**ZBA CASE NO. 16-10**

**PROPERTY LOCATION: 77 Maple Lane**

**PETITIONER & PROPERTY OWNER: Gerald Cestaro, Ce-Star Homes**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 51680 Pg: 39**

This document is the **DECISION** of the Northborough Zoning Board of Appeals on the petition of Gerald Cestaro, Ce-Star Homes, for a Variance to allow a proposed addition to the footprint of an existing two-bedroom single-family home to be less than the required distance from a side property line; and a Special Permit, Groundwater Protection Overlay District, to allow the use of a proposed three-bedroom single-family home on a pre-existing, non-conforming lot with less than the minimum required lot area in a Groundwater Protection Overlay District on the property located at 77 Maple Lane, in the Residential C District and Groundwater Protection Overlay District Area 2.

## APPLICATION

1. On May 20, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for a Variance to allow a proposed addition to the footprint of an existing two-bedroom single-family home to be less than the required distance from a side property line; and a Special Permit, Groundwater Protection Overlay District, to allow the use of a proposed three-bedroom single-family home on a lot with less than the minimum required lot area in Groundwater Protection Overlay District on the property located at 77 Maple Lane, Map 65, Parcel 43.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on Monday, June 27, 2016 and Monday, July 4, 2016; and was mailed to abutters and other parties in interest on June 23, 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 for 77 Maple Lane submitted by Gerald Cestaro and signed by Joseph M. Atchue, Inspector of Buildings, on 5/19/16;
  - b. A Quitclaim Deed for 77 Maple Lane, Northborough, recorded at the Worcester District Registry of Deeds on 10/29/2013, Bk: 51680 Pg: 39;
  - c. A certified abutters list for parcels 300 feet from 77 Maple Lane, Map 65, Parcel 43, signed by Julie Brownlee for the Board of Assessors, and a MA GIS Viewer map for 77 Maple Lane, dated May 16, 2016;
  - d. A set of seven color 8.5" x 11" architectural plans entitled "Renovations for Bonnie Ryan, 77 Maple Lane, Northborough, MA, May 19, 2016" prepared by Ce-Star Homes, with sheets identified as "First Floor Plan"; "Second Floor Plan"; "Front Center"; "Front Right"; "View"; "Porch"; and "Front Left";
  - e. A letter from Frank Bicchieri, P.E., Senior Engineer, Bertin Engineering, dated July 5, 2016, Re: 77 Maple Lane;

- f. A 24" x 36" black and white plan entitled "Subsurface Sewage Disposal Plan" for 77 Maple Lane, Northborough, MA, Sheet 1 of 2; dated 5/19/16 and revised on 7/15/16; and
  - g. A document entitled "Calculation Sheet for Increase to Impervious Surface, Groundwater Protection Overlay District", for 77 Maple Lane, signed by Gerard Cestaro, dated 7/5/16.
- 2. A letter to the Groundwater Advisory Committee from Fred Litchfield, Town Engineer, dated 7/11/16, Re: 77 Maple Street, Map 65, Parcel 43.

### **HEARING**

Frank Bicchieri, Engineer, Bertin Engineering, Inc., representing the Applicant, Gerald Cestaro, Ce-Star Homes, presented the Application at a duly noticed public hearing of the Board on July 12, 2016 in Conference Room B of the Northborough Town Offices, 63 Main Street, Northborough, MA 01532. Voting members Richard Rand, Fran Bakstran, Brad Blanchette, Mark Rutan and Jeffrey Leland were present throughout the proceedings.

Mr. Bicchieri explained the site at 77 Maple Lane is in the Residential C District, Groundwater Protection Overlay District Area 2, and is 26,136 square feet in area. The lot is non-conforming as it does not meet the required lot area of 40,000 square feet in the groundwater district. There is an existing 2-bedroom house with a cesspool and a shed on the property. The Applicant is proposing to raze the existing two-bedroom single-family home down to the foundation and construct a new 3-bedroom single-family home. In addition, the existing driveway will be expanded to provide access to a proposed garage and a new septic system is proposed to provide for the increase in bedrooms. He explained the siting of the on-site septic system, wetlands setbacks and the location of the wells on the property limit the area on which the new house could be located. He noted the distance of the proposed house to a neighboring property is 36.5 feet.

Mr. Bicchieri stated the Applicant is requesting a Special Permit for the expansion of the existing 2-bedroom home to a 3-bedroom home; and for the proposed septic which will replace the cesspool, on a pre-existing, non-conforming lot in Groundwater Protection Overlay District Area 2; and a Variance to allow a reduced side-yard setback from the required 15 feet to 4.6 feet.

Fred Litchfield, Town Engineer, explained the Groundwater Advisory Committee met earlier in the evening to review the revised plans and impervious cover calculation sheet, as well as his review letter for the project dated July 11, 2016; and the Committee voted to support approval of the project with comments.

The hearing was closed on July 12, 2016.

No person in attendance expressed opposition to the project and the board received no letters in opposition to the project.

### **FINDINGS OF FACT**

1. The subject property at 77 Maple Lane is located in the Residential C District and entirely in Groundwater Protection Overlay District Area 2.
2. The Applicant is proposing to demolish the existing 2-bedroom single-family home on the subject site down to the foundation and construct a 3-bedroom single-family home. In addition, the existing driveway will be expanded in order to provide access to a proposed garage.
3. The 3-bedroom single-family home as proposed will be located 4.6 feet from the southwest property line. In the Residential C District, the required minimum distance of a principle structure to a side property line is 15 feet. Therefore, a Variance is required from Section 7-06-030, Table 2., Density and Dimensional Regulations, Supplemental Regulations, Table of Density and Dimensional

Regulations, of the Northborough Zoning Bylaw, to allow the proposed 3-bedroom single-family home to be less than 15 feet from the southwest property line.

4. In Groundwater Protection Overlay District Area 2, the minimum required lot area is 40,000 square feet. The subject site is 26,136 square feet in area and therefore is a pre-existing and non-conforming lot.
5. The Applicant is proposing to expand the use of the existing 2-bedroom single-family home on the subject lot to a 3-bedroom single-family home. In addition, the existing cesspool will be replaced by a septic system to service the 3-bedroom home. Therefore, a Special Permit is required per Section 7-07-010D(1)(b)[2], Overlay Districts, Groundwater Protection Overlay District, Use Regulations, Area 2, to allow the expansion of a single-family home from 2 bedrooms to 3 bedrooms, and to allow the proposed septic system to replace the existing cesspool.
6. In a letter to the Groundwater Advisory Committee from Fred Litchfield, Town Engineer, dated July 11, 2016, RE: 77 Maple Lane, Map 65, Parcel 43, Mr. Litchfield stated he reviewed the revised plan and impervious cover calculation sheet dated July 5, 2016 for the subject site submitted by Mr. Bicchieri. At their meeting on Tuesday, July 12, 2016, at which Mr. Litchfield was present, the Groundwater Advisory Committee recommended approval of the project and offered their comments.
7. The proposed septic system is in compliance with current Title V and Groundwater Protection Overlay District Area 2 requirements as it will be substantially less detrimental to the water supply than the existing cesspool.
8. A calculation sheet for impervious surface on the site indicates the subject property is 26,136 square feet in area and the total existing impervious surface on the property, including the 2-bedroom home and driveway, is 2,715 square feet. The allowed increase to the existing impervious surface is 3,513 square feet and the proposed increase in impervious surface is 1,925 square feet (or 10.3%). Therefore, the project will meet the Groundwater Protection Overlay District Area 2 requirement that the proposed impervious surface on the subject lot shall not exceed existing conditions by more than fifteen percent (15%).
9. The project as proposed will not change the residential use of a single-family home on the subject property.
10. The proposed 3-bedroom single-family home and septic system will improve the subject site and will be beneficial to the neighborhood.
11. The relief sought will not constitute substantial detriment to the public good and may be given without nullifying or substantially derogating from the intent or purpose of the Northborough Zoning Bylaw.
12. Due to circumstances relating to the location of existing wells and wetland resource areas on the subject site that limit the area of the property on which the septic system and the proposed 3-bedroom single-family home can be located, affecting the subject property but not necessarily properties in the same zoning district, a literal enforcement of the applicable provision of the Zoning Bylaw would involve substantial hardship, financial or otherwise, but not of a personal nature, to the petitioner or appellant.

#### **DECISION**

1. On July 12, 2016, after due consideration of the Application, the Board voted unanimously to **GRANT** a **VARIANCE** from Section 7-06-030, Table 2., Density and Dimensional Regulations, Supplemental Regulations, Table of Density and Dimensional Regulations, to allow a 3-bedroom single-family home as proposed to be located no less than 4 feet from the southwest side property

line on the property located at 77 Maple Lane, Map 65, Parcel 43, in the Residential C District, per the plans presented and identified as:

- a. A 24" x 36" black and white plan entitled "Subsurface Sewage Disposal Plan" for 77 Maple Lane, Northborough, MA, Sheet 1 of 2; dated 5/19/16 and revised on 7/15/16; and
  - b. A set of seven color 8.5" x 11" architectural plans entitled "Renovations for Bonnie Ryan, 77 Maple Lane, Northborough, MA, May 19, 2016" prepared by Ce-Star Homes, with sheets identified as "First Floor Plan"; "Second Floor Plan"; "Front Center"; "Front Right"; "View"; "Porch"; and "Front Left".
2. On July 12, 2016, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT** per Section 7-07-010D(1)(b)[2], Overlay Districts, Groundwater Protection Overlay District, Use Regulations, Area 2, to allow the expansion of a 2-bedroom single-family home to a 3-bedroom single-family home; and to allow a proposed septic system to replace the existing cesspool on the pre-existing non-conforming lot located at 77 Maple Lane, in Groundwater Protection Overlay District Area 2, **with the following conditions**:
  - c. 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 asbuilt 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).
3. The **VARIANCES** 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 **VARIANCES** are not exercised within one year from the time of granting, they shall lapse in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 9.
5. 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."
6. 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.
7. 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.

TOWN OF NORTHBOROUGH, MASSACHUSETTS  
ZONING BOARD OF APPEALS

  
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RICHARD RAND, CHAIRMAN