



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

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ZBA CASE NO. 13-01

PROPERTY LOCATION: 89 South Street

PETITIONER: Raven Homes, Inc.

PROPERTY OWNER: Van Fleet Family Realty Trust

RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 42514 Pg: 67

This document is the DECISION of the Northborough Zoning Board of Appeals on the petition of Raven Homes, Inc. for a Variance/Special Permit to allow the use of a proposed two-family dwelling (duplex) in Groundwater Protection Overlay District Area 3 on the property located at 89 South Street, GIS Map 74, Parcel 54.

APPLICATION

1. On February 4, 2013, 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 7-07-010, Groundwater Protection Overlay District, of the Northborough Zoning Bylaw to allow the use of a proposed two-family in Groundwater Protection Overlay District Area 3, on the property located at 89 South Street.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on February 11, 2013 and February 18, 2013, and was mailed to abutters and other parties in interest on February 7, 2013.

EXHIBITS

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

1. Application for Hearing before the Zoning Board of Appeals including:
 - a. A narrative entitled "89 South Street Special Permit";
 - b. A Quitclaim Deed for 89 South Street, recorded at the Worcester District Registry of Deeds on 03/05/2008, Bk: 42514 Pg: 87;
 - c. A certified abutters list for parcels 300 feet from 89 South Street, including a cover sheet signed by Susan M. Reagan, for the Town of Northborough Board of Assessors, dated January 29, 2013; and
 - d. A plan entitled "Sketch Plan for 89 South Street, Northborough, MA", prepared for John Mshooshian by Connorstone Consulting Civil Engineers and Land Surveyors, dated January 22, 2013, showing the proposed Lot 1 and Lot 2.
2. A corrected plan, submitted at the ZBA hearing on February 26, 2013, entitled "Sketch Plan for 89 South Street, Northborough, MA", prepared for John Mshooshian by Connorstone Consulting Civil Engineers and Land Surveyors, dated January 22, 2013, showing Lots 1 & 2 correctly identified in red pencil;

3. A letter to Richard Rand, Chairman, Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, RE: 89 South Street, Map 74, Parcel 54, dated February 22, 2013; and
4. A letter to Richard Rand, Chairman, Zoning Board of Appeals from Fred Litchfield, Town Engineer, RE: 89 South Street, Map 74, Parcel 54, dated February 26, 2013.

HEARING

Attorney George Pember and Vito Colonna, Engineer, Connorstone Consulting Civil Engineers and Land Surveyors, representing the Applicant, Raven Homes, Inc., presented the Application at a duly noticed public hearing of the Board on February 26, 2013 in Conference Room B of the Northborough Town Office, 63 Main Street, Northborough, MA 01532. Voting members Richard Rand, Mark Rutan, Fran Bakstran and Dick Kane, and alternate members Robert Berger and Jeffrey Cayer, were present throughout the proceedings.

Chairman Rand appointed Robert Berger as a voting member for this public hearing.

Mr. Pember explained the Applicant is proposing to demolish the existing home on the lot and acquire land from an abutting resident to add to the existing lot, located in the General Residential District. The lot will then be subdivided into 2 lots. One of the two lots will be partially located in Groundwater Protection Overlay District Area 3. The proposed lot that is not in a groundwater district meets the frontage and area requirements of the General Residential District and the lot within the groundwater district meets the requirements of the Groundwater Protection Overlay District. Mr. Pember noted the use of two-family dwellings is allowed by right in the General Residential District.

Mr. Pember stated the groundwater area is located along the rear of the property and any earth removal and filling for the project will be done in the front and side of the property, away from the groundwater area.

Mr. Colonna stated each unit may have its own driveway with a turn-around in order for cars to head out onto South Street, rather than having to back out onto South Street.

No one present spoke in opposition to the project and the board received no letters in opposition to the project.

The hearing was closed on February 26, 2013.

FINDINGS OF FACT

1. The subject property is located in General Residential District and Groundwater Protection Overlay District Area 3.
2. In the General Residential District, the use of a two-family dwelling is allowed by right.
3. In Groundwater Protection Overlay District Area 3, a Special Permit for the use of a two-family home is required per Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, of the Northborough Zoning Bylaw.
4. The Applicant proposes to remove the existing single-family home, subdivide the existing lot into 2 lots and construct one 46-foot by 60-foot two-family dwelling on each lot.
5. On a corrected plan identified as "Sketch Plan for 89 South Street, Northborough, MA, prepared for John Mshooshian by Connorstone Consulting Civil Engineers and Land Surveyors, dated January 22, 2013", Lot 1 is 23,458 square feet in size and is located partially in Groundwater Protection Overlay District Area 3. In Groundwater Protection Overlay District Area 3, the minimum required lot area is 20,000 square feet, and therefore it meets the requirements of Section 7-07-010, Groundwater Protection Overlay District, of the Northborough Zoning Bylaw.

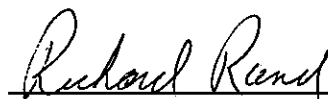
6. On a corrected plan identified as "Sketch Plan for 89 South Street, Northborough, MA, prepared for John Mshooshian by Connorstone Consulting Civil Engineers and Land Surveyors, dated January 22, 2013", Lot 2 is 15,058 square feet in size. In the General Residential District, the minimum required lot area is 15,000 square feet.
7. The proposed two-family dwellings will be connected to Town sewer and water, and heated by natural gas.
8. In a letter to Richard Rand, Chairman, Zoning Board of Appeals from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, RE: 89 South Street, Map 74, Parcel 54, dated February 22, 2013, Mr. Litchfield states the Committee reviewed the Application, unanimously voted to recommend approval, and offered their comments.
9. The property is located in the General Residential District in which two-family dwellings are allowed by right. Therefore the proposal is in substantial harmony with the Northborough Master Plan and Zoning Bylaws.
10. Lot 1 has more than adequate frontage on South Street and is substantially larger at 23,458 square feet than the minimum of 15,000 square feet in the General Residential District, and the minimum of 20,000 square feet required in Groundwater Protection Overlay District Area 3. Therefore, the proposed site is an appropriate location for a two-family dwelling.
11. The use of a two-family dwelling on Lot 1 will not adversely affect the neighborhood. It will be compatible with other two-family homes in the General Residential District.
12. Adequate sight distance exiting the proposed two-family dwelling on Lot 1 will be provided. Therefore, the proposed two-family dwelling will cause no nuisance or serious hazard to vehicles or pedestrians.
13. The project as developed will have no adverse impact on the natural environment. It will not impair the ambient water quality or reduce existing recharge capacity beyond that allowed by the Groundwater Protection Overlay District bylaw. The use of a two-family dwelling on Lot 1 will comply with the post-development run-off and impervious cover requirements of Groundwater Protection Overlay District Area 3. Therefore, it will not derogate from the purpose and intent of the Groundwater Protection Overlay District bylaw.
14. The construction of the two-family dwelling on Lot 1 will conform to any special requirements of the Zoning Board of Appeals, as stated in their written decision.
15. Adequate and appropriate facilities will be provided for the proper operation of the proposed use of a two-family dwelling on Lot 1, in Groundwater Protection Overlay District Area 3.

DECISION

1. On February 26, 2013, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT** to allow the use of a two-family home in Groundwater Protection Overlay District Area 3, per Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, of the Northborough Zoning Bylaw, on the property located at 89 South Street (Lot 1), with the following conditions:
 - a. The proposed buildings shall be heated by natural gas.
 - b. Prior to the issuance of a building permit, two permeability tests shall be performed to verify the infiltration rates assumed for the sizing of any subsurface infiltration system. Test results shall be submitted to and reviewed by the Town Engineer. In the event the soil conditions are conducive to infiltration, a subsurface infiltration system will not be required.

- c. Prior to the issuance of a final Certificate of Occupancy, an Operation and Maintenance Plan shall be submitted in a Stormwater Report and incorporated into any approval and shall be submitted to and approved by the Town Engineer. The Operation and Maintenance Plan shall include the following: the Town Engineer shall be notified before the work is performed and shall be afforded the opportunity to inspect the work. The Town Engineer and the Groundwater Advisory Committee shall be provided copies of the contract, all inspection reports and invoices for the work performed. All material removed from the drainage system shall be disposed of offsite. The Operation and Maintenance plan shall be recorded with the decision at the Worcester Registry of Deeds.
 - d. An as-built site plan shall be submitted to the Town Engineer for 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 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 (NAVD 88) and the horizontal datum (NAD 83).
 - e. An as-built landscape plan shall be submitted to the Building Inspector for approval prior to the issuance of a certificate of occupancy. The as-built landscape plan shall include certification from a landscape architect stating the landscaping as constructed on the site substantially meets the landscaping as shown on the approved plan.
- 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** 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** 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**



RICHARD RAND, CHAIRMAN