



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## Zoning Board of Appeals Meeting Minutes August 27, 2019

**Members in attendance:** Richard Rand, Acting Chairman; Mark Rutan, Paul Tagliaferri, Fran Bakstran, Leslie Harrison, Jeffrey Leland.

**Others in attendance:** Kathy Joubert, Town Planner; Robert Frederico, Inspector of Building/Zoning Enforcement Officer; David Parenti, Fire Chief, Attorney Stephen Madaus, Mirick O'Connell; Mike Corelli, Plant Manager, Steris A.S.T.; Rich Whitehouse, Engineer, VHB; Jerry Dzwierzynski, Director of Energy, Steris A.S.T.; David Jackson, Radiation Expert, Steris A.S.T.; Henry Squillante, 72 Crestwood Drive; Anthony Ziton, 17 Franklin Circle; Kerri Martinek, 16 Hemlock Drive; Joseph E. and Beverly Kelly, 22 Coolidge Circle; Jonathan Gorman, 391 Whitney Street; Jay Furlo, 21 Babcock Drive; Christine Huggins, 95 Coolidge Circle; Diana A. Woodruff; Anastasia Zhux Guc, 30 Stone Drive; Holly Bazinet, 424 Whitney Street; Jim Shore, 34 Coolidge Circle

**Acting Chairman Rand opened the meeting at 7:00pm. He noted that Chairman Brad Blanchette will not be attending the meeting and Alternative member, Jeffrey Leland, will be a voting member in place of Chairman Blanchette.**

**To consider the petition of STERIS A.S.T. for a Variance/Special Permit, to allow a proposed 26,000 square-foot addition to the western side of an existing building that will be 20 feet from the side property line, in order to improve the property for its medical products warehouse, sterilization and distribution operations, on the property located at 425 Whitney Street, in the Industrial District**

Mr. Rand noted Lisa Maselli will be recording the meeting as well as the ZBA members.

Attorney Stephen Madaus, Mirick O'Connell, representing the Applicant, Steris A.S.T., along with Rich Whitehouse, Engineer, VHB; Mike Corelli, Plant Manager, Steris A.S.T.; Jerry Dzwierzynski, Director of Energy, Steris A.S.T.; David Jackson, Radiation Expert, Steris A.S.T.; and John Raposo, Design Project Manager, Cutler Associates were present.

Mr. Madaus presented the Plan, stating the Applicant recently purchased the property located at 425 Whitney Street and is proposing to construct additions to the existing building as shown on the plan he presented and which was prepared by Rich Whitehouse, VHB, entitled "Facility Expansions", 425 Whitney Street, Northborough, Massachusetts dated May 29, 2019. He stated the Applicant intends to improve the property for its medical products warehouse, sterilization, and distribution operations. The proposed additions to the existing building are shown on the Plan as "Approximate Building Expansion". The Applicant's proposed redevelopment of the property represents a significant expansion of the Applicant's existing operations located at 435 Whitney Street in Northborough, that will continue to operate.

Mr. Madaus stated the shape of the lot, as shown on the plan, is such that the western sideline is angled at approximately 60 degrees instead of 90 degrees as shown on the eastern side of the site. The angle of

the western sideline limits the available envelope for the expansion of the existing building and represents a “shape of the lot” constraint, especially affecting the subject property but not affecting the general zoning district. In addition, the rear of the lot is encumbered by wetlands resource areas, which are soil conditions that effectively prohibit the construction of an addition to the building in the rear of the lot.

Mr. Madaus explained the Property is located in the Industrial District. The proposed 26,000± square-foot addition to the western side of the existing building will be located 20 feet from the side property line. In the Industrial District, the minimum side yard setback is 20 feet, unless the parcel in the Industrial Zoning District is adjacent to a residential zoning district. If the parcel is adjacent to a residential zoning district, the side yard setback adjacent to the residential zoning district shall be 100 feet. In addition, when the residential zoning district boundary is located in or at a street, the setback may be reduced by the width of the street that is in the residential zone.

Mr. Madaus noted that, as shown on the plan, the distance from the proposed building addition to the boundary of the nearest property used for residential purposes is 268 feet, which is well in excess of the 100-foot setback requirement in the Zoning Bylaw. In addition, there is almost no likelihood that the land areas of the Consolidated Rail Corporation and the DCR will be developed for residential use. Accordingly, the extensive buffer provided between the property and the nearest residential lot should remain in its current state, in perpetuity. He noted the rail road property and the DCR properties more protective of a residential use than any street.

Mr. Madaus asked the board members if they wanted to talk about the difference of the operations at the building at 435 Whitney Street compared to the proposed operation at 425 Whitney Street. He noted people want to know about the uses, but reminded those present that the hearing is not for a use Variance, but for a Dimensional Variance.

Mike Corelli, Plant Manager, Steris A.S.T, explained the use proposed in the 425 Whitney Street building will be for an X-ray system, run by electricity, that will improve their medical products warehouse, sterilization and distribution operations. The X-rays will work the same as an X-ray that a dentist office would use, but are stronger. The company produces a variety of healthcare products from Band-Aids to implants to pharmaceuticals and more.

Mr. Rutan confirmed with Mr. Corelli that the machine will be turned on and then turned off, and there will be no contamination, nothing to leak out and the concrete will be the container.

Mr. Rand asked Mr. Corelli what the 12-foot high walls are for and Mr. Corelli explained they are needed to contain the X-ray system.

Mr. Tagliaferri asked about the 20-foot by 20-foot area on the plan and Jerry Dzwierzynski, Steris Director of Energy, stated the area has walls that are 9.8 feet high for the actual X-ray maze pattern of the conveyor belt process. Mr. Dzwierzynski explained their customer’s products come in on pallets, go through the conveyor belt process on the pallets, and come out on the other side in the pallets.

Mr. Tagliaferri asked Mr. Corelli when he purchased the property and when the plans were finalized for the project. Mr. Corelli stated the plans were finalized in May of 2019, and the parcel was bought in July of 2019.

Ms. Bakstran confirmed with Mr. Corelli that the parcel was bought before it was decided to use it. Mr. Corelli agreed, but stated it was always their intention to use it for the subject technology.

Ms. Harrison stated she feels it is brazen of Steris to buy the property before they knew if they could use it for the proposed operation.

Mr. Rand ask if it is a new technology and Mr. Dzwierzynski responded it is new in this area and, with the use of the pallets, it is a much smoother process.

In response to questions from Mr. Rutan and Mr. Rand regarding anything that could create noise on the site, Mr. Dzwierzynski explained there will be three chillers that will keep the water in the X-ray machine cool. He noted the chillers will be behind the other building, at the rear of the property, and will be out of sight. They will be like regular air-conditioners, but will be much larger. They come in packaged units that they purchase and are the quiet type. He noted he does not know about the decibel levels.

Mr. Leland asked if the addition could be moved to the area where the other building is located. Mr. Whitehouse stated that could not be done, as it would require moving the existing parking spaces and the truck bays. In addition, the shape of the lot and the soil conditions limit and/or prevent the location of an addition to the existing building. He noted it would be very expensive to do, as well.

Mr. Rand asked about the difference between what is done in the building at 435 Whitney Street and the proposed addition to the subject building at 425 Whitney Street. Mr. Jackson, Radiation Expert, Steris A.S.T, explained the proposed process at 425 Whitney Street will be done with electricity, which is a clean use. Mr. Rutan confirmed with Mr. Jackson that the process is like the use of X-rays at a dentist office – the machine is turned on and then turned off.

Ms. Bakstran noted there doesn't seem to be anything in the Zoning Bylaw that covers the proposed use, and Mr. Frederico explained it comes under Industrial Uses, Light Manufacturing, Processing and Packaging.

Mr. Rutan asked about the hours of operation and Mr. Corelli replied it will be 24/7 eventually.

Ms. Bakstran asked about the number of employees they will have, and Mr. Corelli stated there will be 4 shifts and up to 50 employees, including office staff.

Ms. Joubert stated the members received a review letter from Fire Chief David Parenti, who was also present. Chief Parenti responded to a question by Ms. Bakstran, stating the once-a-year inspection of the building is normal and adequate, but the board could ask for more inspections. . Ms. Joubert also noted that the members received email messages in opposition to the proposed project, and also received a two-page petition from residents who are in opposition to the project.

The residents who sent email messages in opposition of the project are as follows:

Kerry McMullen, 91 Coolidge Circle; Gina Babcock, 54 Coolidge Circle; Heather Baer, 6 Coolidge Circle; Diana Adams Woodruff, 46 Coolidge Circle; Laura Ziton, 17 Franklin Circle; John & Marion Gillis, 25 Coolidge Circle; Brian & Shari Spadafora, 38 Cherlyn Drive; Michelle Hurlman, 19 Whitney Street; Elizabeth Driscoll, 7 Newton Street; Karen Maria Tucker, 1 Treetop Circle; Charlotte Hebert, 178 Whitney Street; and Kathleen M. Howland, 20 School Street.

Their issues/comments regarding the project included the proposed 12-foot thick walls that would be handling Gamma, (Cobalt 60-radiation) and Ethylene Oxide (a highly explosive and carcinogenic substance); the location of the proposed building that would be 20 feet from the railroad tracks and approximately 500 feet from the nearest residence; the residents have already been under siege with

the on-going 10-year with the SA Farms dumpsite, with no relief in sight; there could be a possibility of a malfunction of the operations; the aqueduct is not a sufficient barrier from any pollution happening on the opposite side; it could be unsafe for people to run, hike, cross-country ski and use the historic trail; Berlin and Northborough should work together to make residents and the environment in this area safe; a variance was denied once in 1990 due to dangers and hazards; there is no hardship due to the shape, soils or topography of the site; and a financial issue is not a hardship.

In the two-page petition submitted to the ZBA members, the thirty-two residents listed below, stated the following:

*"I am a resident of Coolidge Circle and I am against granting the setback variance for Steris Corp at 425 Whitney Street. Setbacks between residential neighborhoods and Industrial Zones were set for a reason and should not be reduced by 80%. 12-foot walls are a "red flag" of something dangerous which should not be even within a mile of a neighborhood, never mind 100, 20 or even 268 feet."*

Joshua Aldenberg, 399 Whitney Street; Seveli Oyola, 405 Whitney Street; Peter Simoneau, 407 Whitney Street; John & Leona Zawacki, 26 Coolidge Circle; Kelly Luciani, 2 Coolidge Circle; Heather Baer, 6 Coolidge Circle; Lori Albert, 10 Coolidge Circle; Karen Bernachki, 2 Cherlyn Drive; Mark & Kelley McNeal, 74 Coolidge Circle; Kim & Jeff Faulconer, 82 Coolidge Circle; Dana Locke, 7 Macalister Drive; Andi Daunus, 278 Whitney Street; Nora Watkins, 94 Coolidge Circle; Anil Sitole, 87 Coolidge Circle; Kerry McMullen, 91 Coolidge Circle; Scott Stocklin, 12 Patrick Drive; Sue Kane, 15 Patrick Drive; Robert D. & Gina Babcock, 54 Coolidge Circle; Jonathan Gorham, 391 Whitney Street; Jay Furlo, 21 Babcock Drive; Christine Huggins, 95 Coolidge Circle; Anastasia Zhux Guc, 30 Stone Drive; Diana A. Woodruff, 46 Coolidge Circle; Lisa & Jim Stone, 17 Coolidge Circle; Ken Maclean, 92 Coolidge Circle; Beverly Ann & Joseph E. Kelly, 92 Coolidge Circle; and Igor Achkinaz, 38 Coolidge Circle.

Mr. Rand opened the hearing to the audience.

Resident Amy Poretsky, 47 Indian Meadow Drive, read portions of a six-page document she submitted to the ZBA members, dated August 25, 2019 and stated, in part, that she is in opposition of the Variance required for 425 Whitney Street as there is no hardship due to the shape, soil, or topography, of the site and if approved, there would also be a substantial detriment to the neighborhood and town.

Jonathan Gorham, 391 Whitney Street, stated he wants the board to deny the variance because there is no hardship, there will be noise from the building because it will be running 24/7, and it will be too close to the residential area.

Diana Woodruff, 46 Coolidge Circle, noted her property is 700 feet from 425 Whitney Street. She stated the residents do not have enough information and what they have is vague.

Mr. Rand asked about the number of trucks there will be, and Mr. Corelli replied there will be approximately 50 trucks. Ms. Bakstran was concerned that the trucks would be going through the neighborhoods and Mr. Rand stated they cannot go that way because they are too heavy for the bridge.

Helene Aldenberg, 399 Whitney Street, stated she fears there is the potential of harm with this project, especially having other issues in their area in the past with 429 Whitney Street, and questioned why the company picked Northborough for this project. She asked about the trucks that will be coming in and out of the site.

Gina Babcock, 54 Coolidge Circle, asked Mr. Rand and Mr. Frederico how they define the process, as it is new. Mr. Rand and Mr. Frederico stated it is in the Zoning Bylaw.

Ms. Poretsky noted she is concerned because the site is in groundwater protection overlay district 3, Northborough is a Green Community, and there is no hardship.

Jim Shore, 34 Coolidge Circle, stated there are risks and benefits for the town. There have been explosions in one of their buildings in Chicago, and contamination to the water system in a building in California. He also was concerned about another parcel he owns that is close to the subject site, as he intends to develop it in the future.

Scott Stocklin, 12 Patrick Drive, asked Mr. Rand what they will do if the variance is denied. Mr. Rand responded that it would be up to the Applicant.

Ms. Babcock stated there is no hardship; the company knew what they were doing; and the buffer of the railroad and the aqueduct are not similar to a road.

Ms. Joubert noted the project is before the board only for a dimensional variance, and the Applicant will be going to the Planning Board for Site Plan Approval along with the Groundwater Protection Overlay District, which will cover all the other issues talked about tonight.

Kerri Martinek, 16 Hemlock Drive, explained the Applicant will be going to the Planning Board, but cannot be denied the Site Plan Approval. She noted that, in some court cases, they can be denied for a self-inflicted hardship.

Ms. Bakstran motioned to close the hearing; Mr. Rutan seconded the motion, and the vote was unanimously in favor of closing the hearing.

Ms. Bakstran stated she doesn't like the proposed project, but believes the three criteria to allow the requested Variance are met, especially as the site is buffered by the aqueduct and the railroad property.

Mr. Tagliaferri stated he believes there is no hardship, as the Applicant knew about the shape, soils and topography of the site, and bought it anyway. He noted the Applicant's timeline for the project has been short; only three to four months.

Mr. Rutan stated they will be using electricity, there is no danger of leakage, there will be nothing that would be radioactive, it is a clean process, it works with X-rays like a dentist office, on & off, any residential property will at least 100 feet from the site, and the railroad and the aqueduct will be buffers.

Ms. Harrison, Mr. Leland and Mr. Rand agreed with Ms. Bakstran.

#### **DECISION – 425 Whitney Street**

Mr. Rutan motioned to grant a **Variance** to allow a proposed ±26,000 square-foot addition to the western side of an existing building, to encroach 80 feet into the western side property line, on the property located at 425 Whitney Street, in the Industrial District. Ms. Bakstran seconded the motion and the vote was four members in favor, and one member opposed, to **granting** the **Variance**.

#### **OLD/NEW BUSINESS**

##### **261 Main Street, Case No. 15-13:**

Request from Sam Lotuff, LLL3, LLC, for a one-year extension of the Special Permit with Site Plan Approval and the Special Permit per Groundwater Protection Overlay District

Mr. Rand stated he would like to have Mr. Lotuff attend their September 24<sup>th</sup> meeting, as he and the other members, along with Ms. Joubert, have questions regarding the decision, including if there has

been changes to Lot 1C; who the owners of the two lots are; and if the lots have been split. Ms. Joubert stated she will contact Mr. Lotuff regarding attending their September 24th meeting.

**Approval of Minutes:**

**Minutes of July 23, 2019:** Mr. Tagliaferri motioned to approve the minutes of the July 23, 2019 meeting; Mr. Rutan seconded the motion and the vote was unanimously in favor of the motion.

**Master Plan Update:** Ms. Bakstran explained the Master Plan Steering Committee will be meeting on Thursday, September 19<sup>th</sup> in the Northborough Free Library at 7pm. Copies of the draft Implementation Plan will be sent to the members on September 5<sup>th</sup>. Their comments will be due back on September 12<sup>th</sup>, and the revised version of the plan will be sent to the members on September 16<sup>th</sup> for review before the meeting on September 19<sup>th</sup>.

Ms. Bakstran noted the presentation of the Master Plan, by the Steering Committee and the consultants from VHB, will be held at the Northborough Free Library on October 24th at 7pm. Town boards, committees and the public will be invited to attend.

**Meeting with the Planning Board:** Ms. Joubert explained the Planning Board would like to have joint meeting with the ZBA members and the members were interested in having a joint meeting.

Ms. Bakstran motioned to adjourn the meeting, Mr. Rutan seconded and the vote was unanimously in favor of the motion.

The meeting adjourned at 8:45pm.

Respectfully Submitted by,

Debbie Grampietro

ZBA Administrative Assistant