



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

NORTHBOROUGH TOWN CLERK
RCUD 2021 JUN 24 PM2:28

ZBA CASE NO. 21-04

PROPERTY LOCATION: 369 West Main Street

PETITIONER: Karina Silva De Almedia

PROPERTY OWNER: VTT Management

Recorded with the Worcester District Registry of Deeds: Bk: 60886 Pg: 174

This document is the **DECISION** of the Northborough Zoning Board of Appeals to consider the petition of Karina Silva de Almeida for Site Plan Approval and a Special Permit Groundwater Protection Overlay District to operate a pet grooming business on the property located at 369 West Main Street, Map 81 and Parcel 19, in the Business West Zoning District and Groundwater Protection Overlay District 2.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 20A, S18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Northborough Zoning Board of Appeals was conducted via remote participation.

APPLICATION

1. On April 20, 2021, the Applicant filed with the Town Clerk and Application for Hearing before the Zoning Board of Appeals for a Site Plan Approval and Special Permit Groundwater Protection Overlay District to operate a pet grooming business on the property located at 369 West Main Street, Map 81 and Parcel 19, in the Business West Zoning District and Groundwater Protection Overlay District 2.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on May 9, 2021 and May 16, 2021; and was mailed to abutters and other parties in interest on May 5, 2021.

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 369 West Main Street, submitted by Karina Silva De Almeida and Elise Vieira, signed by Robert J. Frederico, Inspector of Buildings/Zoning Enforcement Officer, with a handwritten notation indicating 'Incorrect Response', dated April 8, 2021;
 - b. A Zoning Interpretation Request Form for 369 West Main Street, submitted by Karina Silva De Almeida and Elise Vieira, signed by Robert J. Frederico, Inspector of Buildings/Zoning Enforcement Officer, with a handwritten notation indicating 'Updated Response', dated April 20, 2021;

- c. A letter addressed to Karina Almeida and Elise Vieira from Robert Frederico, Inspector of Buildings/Zoning Enforcement Officer, dated April 12, 2021;
 - d. A certified abutters list for parcels 300 feet from 369 West Main Street, Northborough, MA prepared by the Northborough Board of Assessors, and a GIS Viewer Map of the site, titled 369 West Main Street-300ft abutters, both dated April 20, 2021;
 - e. A Deed for 369 West Main Street, Northborough, Worcester County, Massachusetts, recorded at the Worcester District Register of Deeds on August 15, 2019, Bk: 60886 Pg: 174;
 - f. An 8.5" x 11" black and white sheet, depicting a floor plan; and
 - g. An 8.5" x 11" black and white copy of a Business Certificate for Lilika Grooming Spa, 369 West Main Street, Northborough.
2. A memorandum from David Parenti, Northborough Fire Chief, dated April 26, 2021;
 3. A memorandum dated May 11, 2021 from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee to Fran Bakstran, Chairman of the Zoning Board of Appeals; and
 4. A memorandum dated May 24, 2021 to Fran Bakstran, Zoning Board of Appeals, from Fred Litchfield, Town Engineer.

HEARING

An application for Karina Silva de Almeida was presented at a duly noticed public hearing of the Board on May 25, 2021. Participating Board members were Chair Fran Bakstran, Paul Tagliaferri, Brad Blanchette, Dick Rand, Mark Rutan and Alternates Jeff Leland and Suzy Cieslica.

Ms. Almeida proposed to operate a dog grooming business at the property at 369 West Main Street, which is in a strip mall. Other tenants on this property are restaurants/food establishments and a convenience store.

Ms. Almeida proposed to bathe dogs and trim their hair/fur. She will be working with a partner, they plan to groom 1-2 dogs at a time, for possibly 5-7 dogs a day. Hours will be 9-4pm, Monday through Saturday. There will be no boarding of dogs.

All operations will take place indoors. Ms. Almeida said she has a designated room for pets to wait for pick-up, which will also allow as a spot for dogs to relieve themselves if necessary. However, since appointments are for just 1-2 hours, she doesn't anticipate a problem.

The site is in the Business West Zoning District, where other pet grooming businesses exist. However, a special permit is needed for operation of a dog grooming business because the site is in Groundwater Protection Overlay District 2.

Fred Litchfield, Town Engineer, stated when Ms. Almeida initially filed her application, she provided a list of chemicals and quantities that might be used and that the MSDS that came with those indicated that containment would be required. After it was explained to her how those chemicals might interact with

the septic system, she agreed to using only natural and organic materials and supplied an MSDS list for those. Mr. Litchfield said that there are approximately eight gallons of material which are all natural and pose no hazards, therefore there is no reason that it can't go into the septic system and there is no need for a tight tank. Mr. Litchfield stated the property is in a groundwater area, the section of the bylaw she is applying under calls for annual certification to the Board of Health and Building Department.

Ms. Cieslica asked if there was an area behind the building for dogs to relieve themselves, she knows some of those businesses in the strip mall are open for lunch and was concerned about any odors affecting customers of those businesses. Mr. Litchfield stated the Applicant had been before the Groundwater Advisory Committee and had indicated a room on the floor plan where dogs could go while waiting to be picked up and she indicated the dogs would not be taken outside for any reason other than by their owner to get to their car. Chair Bakstran said that is another condition that can be added to mitigate any potential negative impact on the dining.

Chair Bakstran suggested that another way to control the dog from the owner to the shop would be that the animals remain in the car with the owner until the appointment. If the dogs mark after leaving the car and before entering the business, there is no control over that.

Mr. Litchfield stated Ms. Almeida was asked at the Groundwater Advisory Committee's meeting about the pick-up and drop-off operations for the dogs, and if there was a need for pet waste to be controlled outside the building. Ms. Almeida stated she will give owners a pet waste bag at the time of pick up in the event the dog needed to relieve itself outside the building. Since Ms. Almeida indicated that her lease included three parking spaces, that committee recommended adding as a condition of approval that there be three dedicated parking spaces for customers. Mr. Litchfield stated Ms. Almeida agreed to clean these spots daily, and to dispose of waste in the dumpster behind the building, which Mr. Litchfield assumed was emptied weekly.

Chair Bakstran suggested the three dedicated parking spots be the last three at the furthest left of the building, which happens to be directly on front of the proposed location.

Mr. Tagliaferri stated, in addition to the dedicated parking spots being as close to the building as possible, he would like to add a condition that any pet waste in the parking lot be cleaned up as soon as possible. He assumed there would be no impact to the groundwater there due to the size of the building and given the facts that there will be no boarding, with limited hours of operation, and just 6-8 dogs daily.

Mr. Litchfield agreed that there will be no impact. He said that the chemicals are all natural and organic, and if Ms. Almeida continues to use those items that she provided to the Groundwater Advisory Committee, there is no potential impact. He added that the reason the special permit is required is so that she can't change the chemicals that she uses without coming back before the board; that was the focus of the Groundwater Advisory Committee.

Ms. Joubert noted a letter had been received from the Fire Chief and he stated that he had no concerns.

Barbara Smith said she has owned a dog grooming business at 367 West Main Street for 11 years. Ms. Smith uses the markers of Yama Zakura and Steakloft to help new clients find her business and was worried there would be extreme confusion as she is in the plaza next door. Additionally, she said there are 3-4 other similar businesses within 3 miles of each other and this new grooming business would

pose a hardship for her business after a year in which she'd experienced significant financial loss due to the effects of the pandemic.

Henry Shin, 1 Oak Meadow Drive, said he'd like to know more about how the groundwater would be impacted. He understood that Mr. Litchfield there should be no impact but asked how it was enforced. Mr. Litchfield said the list provided by the Applicant contained MSDS sheets that proved that there are no toxic or hazardous chemicals within the compounds of the products she plans to use. The Groundwater Committee recommended approval if there is an annual certification to the Building Department and the Board of Health as outlined in the bylaw verifying that the chemicals haven't changed. Mr. Shin asked if that certification would involve inspection. Mr. Litchfield said it is generally a letter submitted to the Building Department or the Board of Health; he believed that the Building Inspector and the Fire Department does an annual inspection for various permits on an annual basis around the beginning/end of the calendar year. The Applicant indicated she would contact Mr. Litchfield if she plans to change the products she is using and would provide the MSDS sheets for those to be sure she remains in compliance. Mr. Litchfield, to the board, suggested adding that to the list of conditions, it is not in the letter from the Groundwater Committee, but that the Applicant seemed fine with that.

There were no other public comments. There were no other comments from board members.

Mr. Rutan made a motion to close the hearing, Mr. Rand seconded, all were in favor.

The hearing was closed on May 25, 2021.

FINDINGS OF FACT

1. The subject property at 369 West Main Street is in the Business West Zoning District and Groundwater Protection Overlay Districts 2.
2. The Applicant is seeking Site Plan Approval and a Special Permit in the Groundwater Protection Overlay District for a proposed pet grooming business on the property located at 369 West Main Street, Map 81 and Parcel 19, in the Business West Zoning District and Groundwater Protection Overlay District 2.
3. A special permit with site plan approval shall be required for any use requiring a special permit, in which case the special permit granting authority shall also act as site plan approval authority, per 7-030-050A(2). Land clearing and grading activities for a use requiring a special permit shall be incorporated within the special permit with site plan approval.
4. Per 7-07-010D(3)(b)[6], Commercial or industrial activities which involve as accessory uses the manufacture, storage, application, transportation and/or disposal of toxic or hazardous materials; provided, that there shall be no on-site disposal of any waste or process materials, no outside storage of toxic or hazardous materials, contained drainage facilities in areas of potential spillage or release, adequate contingency plans in case of spillage or release and approved routing of suppliers and haulers of any toxic or hazardous materials to or from the state. The proponent for a building or occupancy permit must demonstrate and certify on an annual basis to the Building Department and Board of Health that all applicable federal, state and Town of Northborough licenses, permits and standards for the handling, use, storage and disposal of any regulated materials have been obtained or met.

5. Personal service establishments are allowed by right in the Downtown Business Zoning District, per 7-05-030, Table 1, Part B.
6. The proposed site is an appropriate location for such use.
7. The use as developed will not adversely affect the neighborhood; the building and surrounding area is commercially oriented.
8. The proposed use will conform to any special requirements of the special permit granting authority as stated in its written decision.

DECISION

1. **On May 25, 2021**, after due consideration of the Application, the Board unanimously voted to **Grant Site Plan Approval** to operate a pet grooming business on the property located at 369 West Main Street, Map 81 and Parcel 19, in the Business West Zoning District and Groundwater Protection Overlay District 2, with the following conditions:
 - a. Two groomers at the most on site.
 - b. Dogs must be kept in their car until they are able to enter the building for their appointment.
 - c. All waste must be cleaned up immediately off the pavement if there is an accident with the dog being delivered in or taken out of the property.
 - d. Hours of operation to be Monday-Saturday, 9am-5pm.
 - e. Annual groundwater reporting regarding chemicals used being natural and organic.
 - f. Employees shall not walk dogs outside.
 - g. The three leftmost spaces on the property at the building would be designated for parking for customers of that building coming and going.
2. **On May 25, 2021**, after due consideration of the Application, the Board unanimously voted to **Grant a Special Permit in the Groundwater Protection Overlay District** for operation of a pet grooming business on the property located at 369 West Main Street, Map 81 and Parcel 19, in the Business West Zoning District and Groundwater Protection Overlay District 2, with the following conditions:
 - a. Pet waste shall be collected daily within the parking lot and disposed of in a dumpster on a weekly basis.
 - b. There shall be no boarding of dogs at this location.
 - c. The applicant shall erect 3 dedicated parking signs for this business.
 - d. There shall be no storage of any toxic or hazardous chemicals at this location. All dog grooming products shall be organic and natural. In accordance with section 7-07-010 D (3) (b) [6] of the Zoning Bylaw the proponent for a building or occupancy permit must demonstrate and certify on an annual basis to the Building Department and Board of Health that all grooming products stored on site are organic and natural.
 - e. If at any point in the future, the applicant plans to store or use any products that are toxic or hazardous at this location, the Applicant must apply for an amended Special Permit and include the type, quantity, and containment/storage requirements.
3. The **SPECIAL PERMIT AND SITE PLAN APPROVAL** 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 AND SITE PLAN APPROVAL** are not exercised within two years from the time of granting, they shall lapse in accordance with the provisions of Massachusetts General Laws, Ch. 40A, Sec. 9.
5. 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**



Fran Bakstran, Chair