



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

ZBA CASE NO. 20-07

PROPERTY LOCATION: 1 Lyman Street (also includes 29 Lyman Street and 0 Bartlett Street)

PETITIONER: Cable Matters Inc.

PROPERTY OWNER: Ian A. Gow, individually and as Trustee of The Black Stone Trust

Recorded with the Worcester District Registry of Deeds: Bk: 22918 Pg: 189

This document is the **DECISION** of the Northborough Zoning Board of Appeals to consider the petition of Cable Matters Inc. for a Variance to allow the construction of a 20,000 square-foot building, including 17,000 of warehouse space and 3,000 square-feet on each of the first and second-floor office space, on the property located at 1 Lyman Street, Map 66-9, 10 & 11; Parcels 66-9-10 & 11, in the Industrial District and Groundwater Protection Overlay District Area 1.

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 February 20, 2020, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals to consider the petition of Cable Matters Inc. for a **VARIANCE** to allow the construction of a 20,000 square-foot building footprint, to include 17,000 square-feet of warehouse space and 3,000 square-feet on both the first and second-floor office space, on the property located at 1 Lyman Street, Map 66-9, 10 & 11; Parcels 66-9-10 & 11, in the Industrial District and Groundwater Protection Overlay District Area 1.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on March 9, 2020 and March 16, 2020; and was mailed to abutters and other parties in interest on March 2, 2020.
3. The March 24, 2020 meeting was cancelled due to the coronavirus.
4. Notice of the public hearing for the July 1, 2020 meeting was published in the "THE WORCESTER TELEGRAM & GAZETTE" on June 16, 2020, and June 23, 2020; and was mailed to abutters and other parties on June 11, 2020.

EXHIBITS

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

Application for Hearing before the Zoning Board of Appeals, including:

- a. A Zoning Interpretation Request Form for 1 Lyman Street, submitted for the Applicant by Marshall Gould, and signed by Robert J. Frederico, Inspector of Building/Zoning Enforcement Officer, on 2/12/2020;
- b. A certified abutters list for parcels 300 feet from 1 and 29 Lyman Street and 0 Bartlett Street, Northborough, MA, signed by Megan Hennessy, for the Town of Northborough Board of Assessors; and three GIS Viewer Maps of the site, identified as 1 Lyman, 29 Lyman, and 0 Bartlett, dated 2/12/2020;
- c. An Executor's Deed for One Lyman Street and 0 Bartlett Street, Northborough, MA, recorded August 22, 2000, granted to Ian A. Gow, of One Lyman Street, Northborough, MA, 01532, with Quitclaim Covenants, recorded at the Worcester District Registry of Deeds, BK: 22918, PG: 189;
- d. A Deed to The BLACK STONE TRUST for 29 Lyman Street, Northborough, dated December 23, 1986, recorded at the Worcester District Registry of Deeds on December 26, 1986, Book 10089 , Page 95;
- e. A document identified as "THE BLACK STONE TRUST APPOINTMENT OF ADDITIONAL TRUSTEE"; recorded at the Worcester District Registry of Deeds on 10/20/2004, Bk: 34872 Pg: 177;
- f. A sheet of white-lined paper with the names of Scott Hughes, Vito Colonna, Jeff Jiang, and Marshall Gould, with seventeen items listed;
- g. An 8-inch by 10-inch black and white plan entitled "Plan of Land in Northborough, Mass; and with Lot 1 identified as 29 Lyman St; Property of: Black Iron Trust, dated November 10, 1986; Guerriere & Halnon, Inc., Engineering and Land Surveying; recorded at the Worcester District Registry of Deeds, , Plan Book: 568 Plan 42, on December 26, 1986;
- h. An 8-inch by 10-inch black and white plan entitled "SKETCH PLAN" 1 Lyman Street, in Northborough, MA; prepared for Ian Gow, by Connorstone Consulting Civil Engineers, and Land Surveyors, dated January 20, 2020, with revisions, and identifying a proposed Front Façade on the site;
- i. A 24-inch by 36-inch black and white plan entitled "ZONING PETITION PLAN of 1 LYMAN STREET" in NORTHBOROUGH, MA"; Sheet 1 of 1; dated February 19, 2020, prepared for Jeff Jiang, Cable, Matters, Inc.; by Connorstone Consulting Civil Engineers, and Land Surveyors, signed and stamped by Vito Colonna, Registered Professional Engineer, on 2/19/20;
- j. An email from David Parenti, Fire Chief/Emergency Management Director , to Debbie Grampietro, dated Monday, June 22, 2020, re: ZBA agenda; and

- k. A letter to Brad Blanchette, Chairman; Northborough Zoning Board of Appeals; from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated June 29, 2020; re: 1 Lyman Street; Map 66, Parcels 9, 10, and 11.

HEARING

Applicant Jeff Jiang, Cable Matters Inc.; Marshall Gould, Esquire; and Michael Sullivan, Connorstone Engineering Inc., presented the Application at a duly noticed public hearing of the Board on July 1, 2020. Participating Board members were Brad Blanchette, Chairman; Fran Bakstran, Mark Rutan, Paul Tagliaferri, and Jeffrey Leland; and Alternate member Leslie Harrison; and voting members were Brad Blanchette, Chairman; Fran Bakstran, Mark Rutan, Paul Tagliaferri, and Jeffrey Leland. Board member Richard Rand recused himself.

Mr. Gould stated the Applicant wants to build a 20,000 square-foot footprint building with 17,000 square-feet of warehouse space, and 3,000 square-feet on both the first and second floor would be office space. He explained the Applicant wants to move his business from Southborough to Northborough. It currently occupies 5,000 square-feet of warehouse and 3,000 square-feet of office space in Southborough; and 45 parking spaces are proposed.

Mr. Gould explained the Zoning Bylaw Aquifer Protection Area 1 does not list office/warehouse as a permitted use, nor does it list the use of a prohibited use. Therefore, a **Variance** is required under Section 7-07-010D.(3)(a), of the Northborough Zoning Bylaw.

Mr. Gould explained the main office of the business is in China and most of the goods go through Amazon. Cable Matters currently employs nine people. In five to ten years, they plan to have fifteen to twenty employees. The work is distribution and sales, and space is needed in Northborough for picking up and delivery. The business will leave Southborough and move to the site in Northborough. No customers will come to the building; and two to three UPS-like trucks daily will go to the site daily. There will be one tractor trailer delivery monthly.

Mr. Gould noted that nothing on the site is combustible or will be detrimental to the air, soil or groundwater. All products are connectivity products to include cables, adapters and docking stations and come properly packaged and boxed.

Mr. Gould reviewed the Groundwater Protection Overlay District Bylaw and explained why the Variance should be granted. The property is in an Industrial District. The only reason a Variance is required is because the site is in the Groundwater Protection Area 1. Any non-residential building or use in this Area would require a Variance. The property lies in the most northwesterly corner of the Overlay District. On the north and west, the site is bounded by public ways. On the east and south, it is bordered by other industrial buildings and uses.

The engineer, Michael Sullivan, explained that the septic system and water usage would be similar to a residential property. This is the only undeveloped lot for industrial use left in the Industrial Zone bounded by Lyman and Bartlett Streets. The proposed use will be less intensive with much less truck traffic than other industrial properties on Lyman and Bartlett Streets. The soil conditions will work very well for a septic system, but the Applicant has agreed that if sewer service is available near the site at the time of construction, the applicant would agree to connect to the sewer.

The hardship is also because this is the only industrially zoned property in this area not used for industrial use. The Overlay District adversely affects this parcel which is in the far corner of the

Overlay District and where the soils and the use would not adversely impact the groundwater. The Applicant also noted that town wells are not currently used by the Town of Northborough. The Town Engineer acknowledged that the town wells are not currently anticipated to be used and further that the wells could not “simply” be put back into service.

Several letters were sent to the Zoning Board of Appeals from residents and others, who wished to voice their opposition to this project and respectfully asked that the requested Variance/Special Permit please be denied;

Matthew Coutu, 138 Bartlett Street; Keven Hey, 138 Bartlett Street; Anne Beckstrom and Steven Stone, 152 Bartlett Street; Amy Poretsky, 47 Indian Meadow Road; and Kerri Martinek, 16 Hemlock Drive.

A resident spoke in favor of the proposal citing it is appropriately located in the Industrial District.

The hearing was closed on July 1, 2020.

FINDINGS OF FACT

1. The subject property is comprised of 1 Lyman Street, 29 Lyman Street, and 0 Bartlett Street; and is in the Industrial District and Groundwater Protection Overlay District Area 1, Map 66-9, Parcel 10-11.
2. The Applicant is seeking a **Variance** to allow the construction of a 20,000 square-foot footprint building with 17,000 square-feet of warehouse space, and 3,000 square-feet on both the first and second floor would be office space, per **Section 7-07-010D.(3)(a), Overlay Districts, Groundwater Protection Overlay District, Use Regulations, Area 1, of the Northborough Zoning Bylaw.**
3. The soil conditions, shape, and topography of the lot include considerable open space and wetlands which limit the use of the 4-acre lot. It fronts on Lyman Street and Bartlett Street. Adequate recharge and protection of the groundwater can be engineered on the site. The town wells are not presently used, and there are no current plans to utilize these wells. This Board finds that the use of this property, as presented, poses no risk to the groundwater.
4. In a letter to Brad Blanchette, Chairman; Northborough Zoning Board of Appeals; from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated June 29, 2020; re: 1 Lyman Street; Map 66, Parcels 9, 10, and 11; Mr. Litchfield stated the Groundwater Advisory Committee, at their meeting held on March 10, 2020, reviewed the Variance Application dated February 20, 2020 as submitted by Cable Matters, Inc. for the above referenced property, which is located entirely within Groundwater Overlay Area 1. The applicant has filed for a Variance relative to section 7-07-010D(3)(a) of the Zoning Bylaw for the purpose of constructing an approximately 20,000 square foot footprint building. The Groundwater Advisory Committee voted 4 to 1 in favor of recommending approval and would like to offer the following comments as conditions of approval:
 - 1) *There shall be no storage of toxic or hazardous chemicals beyond an amount normally found in a single-family home.*
 - 2) *The applicant shall adhere to all the requirements of section 7-07-010 D. (3) (b) (5) when the Site Plan Approval application is filed.*

- 3) *The applicant should consider connecting to Town sewer, if a connection is available within 800 feet of their property line.*
5. Even in this Industrial Zone, any non-residential building or non-residential use on this lot would require a Variance.
6. Currently, there are three buildings which include a house and two barns.
7. The new building would be set back 100 feet from a residential zone as provided in the Zoning Bylaw.
8. No dimensional Variances are requested.
9. The use of the building will contain no chemicals, solutions, liquids or powders of any greater quantity than would be found in a residence.
10. The proposed use is allowed by right in an Industrial Zone.
11. The only reason a Variance is required is because of the provisions of the Groundwater Protection Area 1.
12. The proposed use will not be more detrimental to the groundwater than the existing residential use with two barns.
13. The proposed use is no more detrimental than that of a residential property in a Groundwater Protection Area.
14. Due to circumstances relating to the fact that the soil conditions, shape, and topography of the lot include considerable open space and wetlands which limit the use of the 4-acre lot; and its location fronting on Lyman Street and Bartlett Street, affecting the subject property but not necessarily property in the same zoning district, a literal interpretation of the Zoning Bylaw would involve substantial hardship. The Board agrees with the facts presented by the Applicant for the unique characteristics of this parcel including the location in a far corner of the Overlay Zone and it being surrounded in that zone by other industrial buildings and uses.
15. 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. The Board agrees with the Advisory Committee that there will be no danger to the groundwater.

DECISION

1. **On July 1, 2020**, after due consideration of the Application, the Board unanimously voted by a roll call vote, to **GRANT a VARIANCE**, from **Section 7-07-010D(3)(a), Overlay Districts, Groundwater Protection Overlay District, Use Regulations, Area 1, of the Northborough Zoning Bylaw**, to allow the construction of a 20,000 square-foot footprint building with 17,000 square-feet of warehouse space and 3,000 square-feet on each of the first and second floor of office space, on the property located at 1 Lyman Street, 29 Lyman Street, and 0 Bartlett Street, in the Industrial District and Groundwater Protection Overlay District Area 1, Map 66-9, Parcel 10-11; and with the plans identified as:

- a. An 8-inch by 10-inch black and white plan entitled "Plan of Land in Northborough, Mass; and with Lot 1 identified as 29 Lyman St; Property of: Black Iron Trust, dated November 10, 1986; Guerriere & Halnon, Inc., Engineering and Land Surveying; recorded at the Worcester District Registry of Deeds, , Plan Book: 568 Plan 42, on December 26, 1986;
- b. An 8-inch by 10-inch black and white plan entitled "SKETCH PLAN" 1 Lyman Street, in Northborough, MA; prepared for Ian Gow, by Connorstone Consulting Civil Engineers, and Land Surveyors, dated January 20, 2020, with revisions, and identifying a proposed Front Façade on the site; and
- c. A 24-inch by 36-inch black and white plan entitled "ZONING PETITION PLAN of 1 LYMAN STREET" in NORTHBOROUGH, MA"; Sheet 1 of 1; dated February 19, 2020, prepared for Jeff Jiang, Cable, Matters, Inc.; by Connorstone Consulting Civil Engineers, and Land Surveyors, signed and stamped by Vito Colonna, Registered Professional Engineer, on 2/19/20.

2. The Roll Call vote was taken by the members, as follows:

Brad Blanchette	"aye"
Fran Bakstran	"aye"
Mark Rutan	"aye"
Paul Tagliaferri	"aye"
Jeffrey Leland	"aye"

3. 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.
4. The **VARIANCE** 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."
5. If the rights authorized by the **VARIANCE** 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.

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

BRAD BLANCHETTE, CHAIRMAN