



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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DECISION

ZBA CASE NO: 20-09

PROPERTY LOCATION: 329 West Main Street

PETITIONER: New Bridge Granite Corp.

PROPERTY OWNER: S&S Hudson Trust, LLC

RECORDED WITH THE WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 62157 Pg: 280

This document is the **DECISION** of the Northborough Zoning Board of Appeals on the petition of New Bridge Granite Corp., for a Special Permit per 7-07-010 Groundwater Protection Overlay District and a Special Permit with Site Plan Approval per 7-03-050, to allow the use of a finish marble and granite countertop and related items showroom and retail store and accessory use of countertop preparation, on the property located at 329 West Main Street, Map 81, Parcel 13, in the Business West District and Groundwater Protection Overlay District Area 3.

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

On May 19, 2020, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for a Special Permit and a Special Permit with Site Plan Approval, to allow the use of a finish marble and granite countertop and related items showroom and retail store and accessory use of countertop preparation, on the property located at 329 West Main Street, Map 81, Parcel 13, in the Business West District and Groundwater Protection Overlay District Area 3.

Notice of the July 1, 2020 public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on Monday, June 16, 2020 and June 23, 2020; and was mailed to abutters and other parties in interest on June 11, 2020.

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 329 West Main Street, submitted by Christopher Splaine, and signed by Robert Frederico, Inspector of Buildings/Zoning Enforcement Officer, on October 22, 2019;
 - b. A certified abutters list for parcels 300 feet from 329 West Main Street, signed by Megan Hennessy for the Town of Northborough Board of Assessors; and a GIS Viewer map, both dated April 30, 2020;

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- c. A Quitclaim deed for 329 West Main Street and 333 West Main Street and a right of way adjacent to 333 West Main Street, Northborough; recorded at the Worcester District Registry of Deeds on July 21, 2000, Book: 22820, Page: 011;
 - d. Two 24"x36" sheets, dated April 24, 2020, labeled Plan Showing Existing Building Surveyed for New Bridge Granite Corporation 329 West Main Street Northborough Massachusetts, prepared by Jarvis Land Survey, Inc.
 - e. A 24"x36" plan set, dated September 4, 2020 identified as: Sheet 1 of 3 Parking Improvement Plan, Sheet 2 of 3 Erosion Control Plan, and Sheet 3 of 3 Construction Details of 329 West Main Street in Northborough MA; prepared by Connorstone Engineering Inc of Northborough MA;
2. A letter to Brad Blanchette, Chairman, Northborough Zoning Board of Appeals from Fred Litchfield, Town Engineer, dated June 30, 2020, RE: 329-333 West Main Street, Map 81 Parcel 13;
 3. A letter to Fran Bakstran, Chairman, Northborough Zoning Board of Appeals from Fred Litchfield, Town Engineer, dated September 29, 2020, RE: 329-333 West Main Street, Map 81 Parcel 13;
 4. An email from Kathy Joubert, Town Planner to the Zoning Board of Appeals, dated September 28, 2020 stating "Per your request at the September 22nd meeting, Bob and Fred visited the site this morning and verified there are no floor drains in the portion of the building that the New Bridge Granite Company is planning on leasing for their granite business."

HEARING

Attorney Michael Norris, representing the Applicants, and Applicants Sebastian Gomes and Patricia Teixeira were all present at the duly noticed public hearing on September 22, 2020; and the all were present at the continued public hearing on September 29, 2020. At the request of the Applicants the July 1, 2020 hearing was continued to July 28, 2020, August 25, 2020, September 22, 2020 and September 29, 2020. The hearing was closed on September 29, 2020.

Voting members Fran Bakstran, Chairperson; Richard Rand, Brad Blanchette, Mark Rutan and Paul Tagliaferri; and alternate members Jeff Leland and Leslie Harrison, were present throughout the proceedings on September 22, 2020 and September 29, 2020.

Mr. Norris noted the site is in Groundwater Protection Overlay District Area 3, and therefore the proposed project went before the Groundwater Advisory Committee on June 24, 2020. Per Mr. Litchfield's review letter dated June 30, 2020, the Groundwater Advisory Committee unanimously voted in favor of recommending approval with one member absent. The Committee requested the following conditions be considered by the Zoning Board of Appeals:

1. The applicant has requested a waiver of the required item 5 of section 7-07-010 D (4) (a) which requires an analysis by a technically qualified expert certifying that the quality and supply of the underlying groundwater resources will not be degraded to the point whereby a hazard to the public or ecological damage results and this statement is required. The Groundwater Advisory Committee was agreement with this request as all chemicals on site are to be stored within an appropriate container to be protected from any sprinkler water.
2. The applicant has submitted a photo of a cabinet and specifications for a Justrite flammable cabinet model 894520 and the maximum volume of storage capacity within this cabinet is 45 gallons and must not be exceeded.
3. The Applicant provided a list of nine chemicals (attached) and the total maximum volume to be stored on site is limited to ten (10) gallons.

4. There shall be no floor drains within this portion of the building.
5. There shall be no on-site disposal of any waste or process materials.
6. There shall be no outside storage of any toxic or hazardous materials.
7. Controlled/contained drainage facilities in areas of potential spillage or release shall be verified on an approved site plan.
8. 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 site shall be submitted.
9. The applicant for a building or occupancy permit must demonstrate 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.

Mr. Norris noted past and current uses of the site include a dance studio, a welding business (Heritage Welding), a contractor's yard for a tree business, a contractor's yard for a trucking company (AllState Power-Vac), and a transmission business.

Mr. Norris explained the Applicant needs the following Special Permits from the Zoning Board of Appeals:

- A Groundwater Protection Overlay District Special Permit for uses involving storage and transportation of toxic or hazardous materials with adequate controlled/contained drainage facilities in areas of potential spillage or release and adequate contingency plans in case of spillage or release as provided in Section 7-07-010D(3)(c)[5] of the Northborough Zoning Bylaw; and
- A Special Permit with Site Plan Approval per Section 7-03-050A(1)(c) of the Northborough Zoning Bylaw for any use requiring a Special Permit.

Mr. Norris stated the site is in the Business West District and Groundwater Protection Overlay District Area 3. The site is serviced by Town water and a private septic system. Adequate parking exists for the site and thirteen parking spaces will be provided by the owner for the proposed use.

Mr. Gomes and Ms. Teixeira stated hours of operation for the business will be Monday – Saturday for the retail showroom and Monday – Friday for countertop preparation. They are willing to not perform any granite cutting or preparation on Saturday's.

Abutters and residents present expressed concern and some were opposed to the proposed project due to the potential noise level of the operation and the number of deliveries that could occur in a day; noise level of the forklifts; and how is the wastewater from the fabrication disposed of. Mr. Gomes specifically addressed the wastewater question and explained that a machine separates the muck from the water and the water is reused. Mr. Norris explained a machine called an Abaco Dehydrator is used which recycles and separates the water from the muck and the water is then reused and the muck is disposed of.

The public hearing was closed on September 29, 2020.

FINDINGS OF FACT

1. The subject property is identified as 329 West Main Street, Map 81, Parcel 13 and is in the Business West District and Groundwater Protection Overlay District Area 3.
2. A Groundwater Protection Overlay District Special Permit is required per Section 7-07-010D(3)(c)[5] for uses involving storage and transportation of toxic or hazardous materials with adequate controlled/contained drainage facilities in areas of potential spillage or release and adequate contingency plans in case of spillage or release on the property located at 329 West Main Street, in Groundwater Protection Overlay District Area 3.

3. A Special Permit with Site Plan Approval is required per Section 7-03-050A(1)(c) of the Northborough Zoning Bylaw for any use requiring a Special Permit in which case the special permit granting authority shall also acts as site plan approval authority.
4. 329 West Main Street contains 282 feet of frontage along West Main Street and approximately 2.14 acres of land. The original building on the site was built in 1984; and an expansion and free-standing garage were added in 1988. The site also contains a paved shared parking facility, gravel travel areas, subsurface drainage infrastructure, a 20-foot wide waterline easement containing an existing subsurface waterline and is serviced by overhead electric, municipal water, gas, and a subsurface sewage disposal located on the adjacent lot.
5. The administration office, business services establishment, place of assembly, and storage warehouse uses located on the first and second floors of the principal building, as well as the existing welding business located in the detached accessory garage building will remain.
6. The existing entrance and egress driveways will remain and continue to serve as the main access from West Main Street for the facility.
7. The shared parking facility, as well as the existing pavement, utilities, drainage infrastructure and other site elements will remain and will be upgraded as necessary.
8. An adequate number of parking spaces can be provided utilizing the interior garage space as well as the existing exterior paved areas. The proposed site plan will rectify the pavement and drainage issues that are not associated with this tenant.
9. The site is serviced by Town water and a private septic system.
10. Outdoor storage of granite slabs will be allowed in a 200 square foot area in the rear of the building.
11. Per Mr. Litchfield's review letter dated June 30, 2020, the Groundwater Advisory Committee unanimously voted in favor of recommending approval with one member absent. The Committee offered their comments as conditions of approval.
12. The proposed project will be in substantial harmony with the Northborough Master Plan and other plans approved or amended from time to time by the Northborough Planning Board and with the purposes of this bylaw.
13. The proposed use will not be more detrimental to the neighborhood and the site is an appropriate location for the proposed use.
14. The existing site and its uses have co-existed for years with the neighboring uses. The use as developed will not adversely affect the neighborhood.
15. The proposed development will continue to utilize pre-existing entrance and egress drives as well as the shared parking facility. There will be no nuisance or serious hazard to vehicles or pedestrians.
16. The existing principal structure contains adequate and appropriate facilities for the proper operation of the proposed use.
17. The Applicant will ensure that the proposed uses conform to any special requirements of the special permit granting. Therefore, the proposed use will conform to any special permit granting authority as stated in its written decision.
18. No historically significant buildings or property are adversely affected by this proposal.

DECISION

1. **On September 29, 2020**, after due consideration of the Application, the Board voted unanimously to grant a **SPECIAL PERMIT GROUNDWATER PROTECTION OVERLAY DISTRICT** per Section 7-07-010D(3)(c)[5] for uses involving storage and transportation of toxic or hazardous materials with adequate controlled/contained drainage facilities in areas of potential spillage or release and adequate contingency plans in case of spillage or release on the property located at 329 West Main Street, in Groundwater Protection Overlay District Area 3 with the following conditions:
 - a. All chemicals on site will be stored within an appropriate container to be protected from any sprinkler water therefore a waiver is granted for the requirement item 5 of section 7-07-010 D (4) (a) which requires an analysis by a technically qualified expert certifying that the quality and supply of the underlying groundwater resources will not be degraded to the point whereby a hazard to the public or ecological damage results.
 - b. A Justrite flammable cabinet model 894520 with the maximum volume of storage capacity of 45 gallons will be provided onsite and the maximum storage capacity must not be exceeded.
 - c. There shall be no floor drains within this portion of the building.
 - d. There shall be no on-site disposal of any waste or process materials.
 - e. There shall be no outside storage of any toxic or hazardous materials.
 - f. Controlled/contained drainage facilities in areas of potential spillage or release shall be verified on an approved site plan.
 - g. 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 site shall be submitted to the Town Engineer prior to the issuance of an occupancy permit.
 - h. The applicant must demonstrate 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.
2. **On September 29, 2020**, after due consideration of the Application, the Board voted unanimously to grant a **SPECIAL PERMIT with SITE PLAN APPROVAL** per Section 7-03-050A(1)(c) of the Northborough Zoning Bylaw for any use requiring a Special Permit with the following conditions:
 - a. Outdoor storage of materials shall be limited to an area of 200 square feet at the rear of the property.
 - b. Hours of operation for the retail portion of the business and the showroom shall be Monday-Saturday. Hours of operation for the granite cutting shall be Monday-Friday and shall be limited to indoors and the doors of the facility shall remain shut.
 - c. The Inspector of Buildings/Zoning Enforcement Officer shall measure the ambient noise levels along the property line of 329 West Main Street prior to the occupancy permit being issued.
3. The **SPECIAL PERMIT** and **SPECIAL PERMIT WITH 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** 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, CHAIRMAN