



TOWN OF NORTHBOROUGH Zoning Board of Appeals

Town Hall Offices • 63 Main Street • Northborough, MA 01532 • 508-393-5019 • 508-393-6996 Fax

DECISION

ZBA CASE NO. 20-13

PROPERTY LOCATION: 50 Southwest Cutoff

PETITIONER and PROPERTY OWNER: 86-88 Main Street, LLC

Recorded with the Worcester District Registry of Deeds: Bk: 61170 Pg: 298

This document is the **DECISION** of the Northborough Zoning Board of Appeals to consider the petition of 86-88 Main Street, LLC for a Special Permit and a Special Permit with Site Plan Approval to construct two buildings on a pre-existing nonconforming lot. The subject property is located at 50 Southwest Cutoff, Map 82 Parcel 1 and Map 95 Parcels 11 & 12, in the Business West and Residential C Districts.

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 August 19, 2020, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for:
 - A Special Permit per Section 7-06-030H Supplemental Regulations to allow construction of two buildings on one lot on the subject property; and
 - A Special Permit with Site Plan Approval per Section 7-030-050A(2), Administration and Enforcement, Site Plans, Applicability, Special Permit with Site Plan Approval, for the construction of a contractor's yard on the property located at 50 Southwest Cutoff, Maps 82 & 95, Parcels 1, 11 & 12
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on September 6, 2020 and September 13, 2020; and was mailed to abutters and other parties in interest on September 6, 2020.

EXHIBITS

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

1. An application for Hearing before the Zoning Board of Appeals, including:
 - a. A cover letter dated August 6, 2020 from James Tetreault, Thompson-Liston Associates, Inc. to the Zoning Board of Appeals;
 - b. A Zoning Interpretation Request Form for 50 Southwest Cutoff, submitted by Applicant Tim Shay, signed by Robert J, Frederico, Inspector of Building/Zoning Enforcement Officer, dated February 10, 2020;
 - c. A Quitclaim Deed for 50 Southwest Cutoff, Northborough, Worcester County, Massachusetts, recorded at the Worcester District Registry of Deeds on September 11, 2019, Bk: 4598, Pg: 590;
 - d. A certified abutters list for parcels located within 300 feet of 50 Southwest Cutoff, Northborough, MA prepared by the Northborough Board of Assessors, and a GIS Viewer Map of the site, titled 50 Southwest Cutoff-300ft abutters, both dated June 10, 2020;

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- e. A 24" x 36" Site Plan dated August 4, 2020, revised September 21, 2020, October 28, 2020, November 6, 2020, and November 11, 2020, entitled "Site Plan, 50 Southwest Cutoff, Northborough MA" prepared for 86-88 Main Street, LLC by Thompson-Liston Associates, 51 Main Street, Boylston, MA;
 - f. A 24" x 36" Landscaping Plan, prepared and stamped by Lawrence Green, RLA, entitled "Site Plan of Land at 50 Southwest Cutoff, Landscaping Plan – L4", dated August 4, 2020 and revised September 21, 2020, October 28, 2020, November 6, 2020, and November 11, 2020;
 - g. A 24" x 36" sheet entitled "Predevelopment Drainage Area Plan"; Owner: 86-88 Main Street, LLC; Prepared by Thompson-Liston Associates;
 - h. A 24" x 36" sheet entitled "Postdevelopment Drainage Area Plan"; Owner: 86-88 Main Street, LLC; Prepared by Thompson-Liston Associates; and
 - i. A 24" x 36" set of two sheets of floor plans and elevations entitled "Stoneridge Development" by Ted Greenlaw, dated January 28, 2020, with plan sheets identified as S1 Floor and S2 Elevation; and
 - j. A 24" x 36" set of three sheets of elevations entitled "Schematic Elevations, 86-88 Main LLC., 50 SW Cutoff, Northborough MA" prepared by J Ferrera Associates Inc., dated November 9, 2020.
2. A Drainage Report dated August 4, 2020 stamped by James Tetreault, PE, Thompson-Liston Associates, Inc;
 3. A letter to the Town of Northborough Zoning Board of Appeals from David Parenti, Fire Chief, dated August 24, 2020, RE: Special Permit 50 Southwest Cutoff;
 4. An email dated October 14, 2020 from Linda Berthiaume, 60 Southwest Cutoff, Northborough MA, stating her support of the proposal;
 5. A letter to Fran Bakstran, Chairperson of the Zoning Board of Appeals from Kerri Martinek, Chairperson of the Planning Board, dated October 18, 2020;
 6. A letter to the Northborough Planning Board containing questions for the Planning Board from Joanne Krause, 10 Buckhill Road, Northborough MA dated October 10, 2020;
 7. A letter to the Northborough Zoning Board of Appeals from Joanne Krause, 10 Buckhill Road, Northborough MA, dated November 20, 2020, stating her objections to the proposal;
 8. A letter to Fran Bakstran, Chairperson of the Zoning Board of Appeals, from Fred Litchfield, Town Engineer, dated November 20, 2020;
 9. A letter to the Zoning Board of Appeals from Greg Caldicott, 23 Buckhill Road, Northborough MA, dated November 21, 2020 regarding his objections to the proposal;
 10. A letter to Zoning Board of Appeals members from James Tetreault, PE, CPESC, Thompson-Liston Associates, Inc regarding noise complaints, dated November 23, 2020;
 11. A letter to Fran Bakstran, Chairperson of the Zoning Board of Appeals from Michelle Gillespie, Chairman of the Design Review Board, dated November 24, 2020;
 12. An email dated November 24, 2020 from Lisa Maselli, 13 Maple Street, Northborough MA, RE: 50 Southwest Cutoff application for Industrial Use in a Commercial Zone;

HEARING

James Tetreault from Thompson-Liston Associates presented the Application at a duly noticed public hearing of the Board on September 29, 2020 and November 24, 2020.

Voting members in attendance at both hearing dates were Fran Bakstran, Chairperson; Brad Blanchette, Richard Rand, Mark Rutan, Paul Tagliaferri; and Alternate members Leslie Harrison, and Jeffery Leland, and voting members were Fran Bakstran, Chairperson; Brad Blanchette, Richard Rand, Mark Rutan, and Paul Tagliaferri.

Mr. Tetrault reviewed the Application with the Board members.

The site is categorized by the Building Inspector as a preexisting nonconforming contractor's yard use and the Applicant intends to continue the use as a contractor's yard. It is a continuation of the previous use of this site and similar to other uses in the area. The Applicant is proposing to construct two buildings for use by contractors. In accordance with Section 7-06-030H a special permit is necessary for more than one principal building to be located on the same lot under and in accordance with Section 7-03-050A(2) a special permit with site plan approval is required.

Approximately two-thirds of the property is in the Business West District and approximately one-third of the property is in the Residential C District.

Based on discussions with the Design Review Committee, landscaping plans and building elevation plans were revised and recommended for approval. The Design Review Committee expressed their preference for two separate buildings rather than one larger building. The revised landscaping plan includes more plantings as a buffer along the Southwest Cutoff as well as on the property line facing the abutter.

After discussing the proposed location of the new curb cut with Mass DOT, Mr. Tetrault explained the new access point on the Southwest Cutoff will provide improved sight distance.

Greg Caldicott, 23 Buckhill Road stated he believes this is an industrial use, is concerned with the noise coming from the parcel, and stated the proposed use is not like what has been there in the past.

Joanne Krause, 10 Buckhill Road stated she was concerned about the type of business that might locate here because her neighborhood has thirteen drinking wells. Mr. Tetrault responded stating there are no direct abutters to this property who are on private wells.

Fred Litchfield, Town Engineer, provided a memo to the board and suggested the following conditions be placed on the property if the Board were to approve the Special Permit:

- 1) A minimum of two permeability tests shall be performed in the area of the proposed subsurface Stormwater system to verify the assumed exfiltration rate prior to the start of construction.
- 2) The project will require a permit be issued by the Earthwork Board prior to the start of any earth moving operations on site.
- 3) The project requires an access permit be issued by Mass DOT and a copy of that permit shall be submitted to the Town Engineer prior to the start of any construction on site.
- 4) The project requires a water betterment of \$8,400 be paid to the DPW prior to the issuance of any building permits.
- 5) The applicant should verify the septic plan has been approved by the Board of Health prior to approval.
- 6) A Stormwater Operation and Maintenance plan shall be submitted which includes a copy of the Manufacturer's maintenance manual for the Water Quality Units and annual notification to the Town Engineer before the work is performed. The Stormwater Operation and Maintenance Manual shall include a blank inspection report outlining all areas to be inspected. The Town Engineer shall be afforded the opportunity to inspect the work. The Town Engineer shall be provided copies of the contract and invoices for all work performed. All material removed from the drainage system shall be properly disposed of off-site. The Stormwater Operation and Maintenance plan shall be included as part of any approval and recorded with the Board's decision.
- 7) All changes to either the interior or the exterior of the building shall be shown on an as-built site plan to be submitted to the Town Engineer for review and 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 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. The as-built plan shall also include certification the drainage system was built in accordance with the approved plan and will function as designed. A completed Operation and Maintenance

inspection report shall be submitted with the as-built plan prior to the issuance of an occupancy permit. A list of all changes to the approved plan shall be submitted with/or be shown on the as-built plan. 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 (U.S.G.S. Datum of 1988).

The public hearing was closed on November 24, 2020.

FINDINGS OF FACT

1. The subject property at 50 Southwest Cutoff is in the Business West and Residential C Districts.
2. The Applicant is proposing to construct two buildings for use as a contractor's yard.
3. In the Business West District, the minimum required lot area is 20,000 square feet and 150 feet of frontage. In the Residential C District, the minimum required lot area is 20,000 square feet, with 100 feet of frontage. The subject property contains 119,779 square feet of area and 444 feet of frontage.
4. A Special Permit is required per Section 7-06-030H. Per this section, only one (1) principal building shall be permitted on a lot except as may be allowed by special permit.
5. A Site Plan Approval is required per Section 7-03-050A(2), Administration and Enforcement, Site Plans, Applicability, Special Permit with Site Plan Approval, for the construction of two contractor's yard buildings. Per this section, 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. Land clearing and grading activities for a use requiring a special permit shall be incorporated within the special permit with site plan approval.
6. Design review is required per Section 7-03-060B(1)(a), Administration and Enforcement, Design review, Applicability. Per this section, design review by the Design Review Committee shall be required as part of the site plan approval or a special permit with site plan approval; in any business district, new construction or exterior alterations or expansion of any commercial, municipal, institutional or multifamily structure.
7. The site is an appropriate location for the proposed use.
8. The use as developed will not adversely affect the neighborhood.
9. There will be no nuisance or serious hazard to vehicles or pedestrians. In accordance with Mass DOT, the applicant will close the two existing curb cuts and create a single entrance/exit at a location affording the best sight distance possible from this property.
10. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
11. The proposal could not reasonably be altered to reduce adverse impacts on the natural environment, to be compatible with historic development patterns of the town, or to preserve historically significant buildings.
12. The subject site will be serviced by an on-site septic system.
13. In one letter to the Town of Northborough Zoning Board of Appeals from David Parenti, Fire Chief, dated August 24, 2020, RE: Special Permit with Site Plan Approval for 50 Southwest Cutoff, Chief Parenti states he has reviewed the application for the subject address and states all turning radius should follow the American Association of State Highway and Transportation Officials (AASHTO) standards and all angle of approach and angle of departure grades will be eight degrees or less.
14. In a memo to Chairperson Bakstran, Northborough Zoning Board of Appeals, from Michelle Gillespie, Chairperson, Design Review Committee, dated November 24, 2020, RE: 50 Southwest Cutoff, the Design Review Committee voted four in favor, one opposed to

recommend approval of the site plan and building design based on the revised site plan entitled "Site Plan of Land at 50 Southwest Cutoff", prepared for 86-88 Main Street, LLC, by Thompson-Liston Associates, Inc., and dated August 4, 2020 and revised on September 21, 2020, October 28, 2020, November 6, 2020, and November 11, 2020, in addition to the elevation plans entitled "Schematic Elevations, 86-88 Main LLC, 50 Southwest Cutoff, Northborough, MA:", prepared for 86-88 LLC, prepared by J Ferrara Associates Inc., and dated November 8, 2020.

15. The granting of a Special Permit 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.

DECISION

1. On November 24, 2020, after due consideration of the Application, the Board voted unanimously to **GRANT a SPECIAL PERMIT** per Section 7-06-030H and to **GRANT a SPECIAL PERMIT WITH SITE PLAN APPROVAL** for the construction of two contractor's yard buildings on the subject property located at 50 Southwest Cutoff, Map 82 Parcel 1 and Map 95 Parcels 11 & 12, in the Business West and Residential C Districts with the following conditions:
 - a. The hours of business are to be 7am-8pm, six days a week, Monday-Saturday.
 - b. Outside storage shall not be visible from the street.
 - c. No more than 2000 square feet of outside storage is allowed for the entire site.
 - d. The Drainage Report is appropriate for the development proposed on site.
 - e. A minimum of two permeability tests shall be performed in the area of the proposed subsurface Stormwater system to verify the assumed exfiltration rate prior to the start of construction.
 - f. The project will require a permit be issued by the Earthwork Board prior to the start of any earth moving operations on site.
 - g. The project requires an access permit be issued by Mass DOT and a copy of that permit shall be submitted to the Town Engineer prior to the start of any construction on site.
 - h. The project requires a water betterment of \$8,400 be paid to the DPW prior to the issuance of any building permits.
 - i. The applicant shall verify the septic plan has been approved by the Board of Health prior to issuance of the Building Permit.
 - j. A Stormwater Operation and Maintenance plan shall be submitted to the Town Engineer which includes a copy of the Manufacturer's maintenance manual for the Water Quality Units and annual notification to the Town Engineer before the work is performed. The Stormwater Operation and Maintenance Manual shall include a blank inspection report outlining all areas to be inspected. The Town Engineer shall be afforded the opportunity to inspect the work. The Town Engineer shall be provided copies of the contract and invoices for all work performed. All material removed from the drainage system shall be properly disposed of off-site. The Stormwater Operation and Maintenance plan shall be included as part of any approval and recorded with the Board's decision.
 - k. All changes to either the interior or the exterior of the building shall be shown on an as-built site plan to be submitted to the Town Engineer for review and 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 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. The as-built plan shall also include certification the drainage system was built in accordance with the approved plan and will function as designed. A

completed Operation and Maintenance inspection report shall be submitted with the as-built plan prior to the issuance of an occupancy permit. A list of all changes to the approved plan shall be submitted with/or be shown on the as-built plan. 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 (U.S.G.S. Datum of 1988).

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** 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** and **SPECIAL PERMIT WITH 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.

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



FRAN BAKSTRAN, CHAIRPERSON