



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. 20-15

PROPERTY LOCATION: 399 Hudson Street

PETITIONER and PROPERTY OWNER: William and Christine Poutre

RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 61387 Pg: 18

This document is the **DECISION** of the Northborough Zoning Board of Appeals on the petition of William and Christine Poutre, for Special Permit, Groundwater Protection Overlay District, and a Special Permit with Site Plan Approval and to allow the construction a two-family home on the property located at 399 Hudson Street, Map 30, Parcel 81, in the Residential C 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

1. On August 8, 2020, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for:
 - A **Special Permit** per Section 7-07-010D(3)(C)[6] Groundwater Protection Overlay District, Use Regulations, Area 3, Two-Family and Multi-Family Residential Development, to allow a proposed two-family home in Groundwater Protection Overlay District Area 3 on the subject property; and
 - A **Special Permit with Site Plan Approval** per Section 7-03-050A(2), Administration and Enforcement, Site Plans, Applicability, Special Permit with Site Plan Approval, for the use of a two-family home on the subject property that requires a Special Permit from the Zoning Board of Appeals, to allow a two-family home on the property located at 399 Hudson Street, Map 30, Parcel 81.
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 on September 6, 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 cover letter dated August 11, 2020 from Peter Bemis, Engineering Design Consultants Inc. to the Zoning Board of Appeals;

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- b. A Zoning Interpretation Request Form to Bill Poutre from Robert Frederico, Inspector of Buildings/Zoning Enforcement Officer, Dated October 1, 2019, RE: 399 Hudson Street, 2 Family Duplex;
 - c. A Quitclaim Deed for 399 Hudson Street, Northborough, MA, 01532, recorded at the Worcester District Registry of Deeds on 11/08/2019, Bk: 61387 Pg: 18;
 - d. A certified abutters list for parcels 300 feet from 343 Hudson Street, Northborough, MA, signed by Julie Brownlee for the for the Town of Northborough Board of Assessors, and a GIS Viewer map of the site, both dated May 12, 2020;
 - e. A 24" x 36" Site Plan dated June 30, 2020, with revision dates September 15, 2020 and September 29, 2020, entitled "Site Plan, 399 Hudson Street, Northborough MA" prepared for William J & Christine L Poutre, 6 Red Gate Land, Southborough MA by Engineering Design Consultants, Inc., 32 Turnpike Road, Southborough MA; and
 - f. A 24" x 36" set of six sheets of building elevations and floor plans entitled "Project" by Residential Design Inc., dated February 21, 2018 with plan sheets identified as: A-1 – A-3 Elevations; A-4 – A-5 Floor Plans; and F-1 Foundation.
2. Two letters to the Town of Northborough Zoning Board of Appeals from David Parenti, Fire Chief, both dated Augusts 26, 2020, RE: Special Permit 399 Hudson Street and RE: Special Permit and Special Permit with Site Plan Approval for 399 Hudson Street, Map 30 Parcel 81;
 3. A memo dated September 17, 2020 to the Chairpersons of the Zoning Board of Appeals and Planning Board from Michelle Gillespie, Chairperson, Design Review Committee RE: 399 Hudson Street;
 4. A letter to Ms. Fran Bakstran, Chairperson, Northborough Zoning Board of Appeals, from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated September 18, 2020, RE: 399 Hudson Street, Map 30, Parcel 81.

HEARING

Peter Bemis of Engineering Design Consultants Inc., representing the Applicants William and Christine Poutre, presented the Application at a duly noticed public hearing of the Board on September 29, 2020 .

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

Mr. Bemis reviewed the Application with the Board members and stated this parcel was recently created as an ANR lot in addition to three abutting lots on Hudson Street. His clients purchased this single lot and are seeking a Special Permit in accordance with section 7-07-010D(3)(C)[6] for the purpose of constructing a two-family dwelling unit in Groundwater Overlay Area 3 and a Special Permit with Site Plan Approval in accordance with section 7-03-050A(2). The lot contains the required square footage and frontage in accordance with section 7-06-030J(5).

Based on discussions with the Town Engineer and Design Review Committee the plan has been revised to include to two driveway curb cuts which merge into one driveway to service both units.

Fred Litchfield, Town Engineer, reviewed the Groundwater Advisory Committee's position on the application and the Committee recommends approval of the two-family dwelling unit with the following conditions as outlined in the September 18, 2020 letter from Mr. Litchfield:

- 1) The applicant has not submitted the information as required in section 7-07-010 D (4) (a) [1-5] with the application for a Special Permit. However, since the application is for single family units some of this information is not applicable but item 5 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 has not been submitted.
- 2) This project appears to meet the requirements of section 7-07-010 D (3) (C) [6] and of the Zoning Bylaw as it contains 30, 028 square feet which is more than the minimum requirement of 20,000 sf and the onsite sewage disposal system is equal to the required 220 gallons per day per 10,000 square feet of lot area, which is a maximum of a total of six bedrooms. Any approval must require there be no more bedrooms than 6 bedrooms in total for this lot as that is the maximum allowed based on the area of the lot. There shall also be a deed restriction submitted and approved by the Town Engineer prior to issuance of any occupancy permits.
- 3) The units are to be heated by natural gas or propane.
- 4) Drainage calculations were submitted after the Groundwater Advisory Committee meeting which do meet the requirements of the zoning bylaw.
I understand the applicant will be revising the plan in order to amend the driveway layout and reduce the amount of pavement as requested by Design Review Committee and myself. I would also like to note the drainage system has been designed to accommodate the larger paved driveway and the drainage calculations are acceptable as submitted.
- 5) Depending on the type of ownership of the units, the approval of this project should include details adequate to define the responsibility of maintaining the drainage system.
- 6) A minimum of one permeability test shall be performed within each area to be utilized for infiltration in order to verify all assumptions made in the design of the drainage system. The permeability tests shall be performed, and the results submitted to the Town Engineer prior to the issuance of the building permit.
- 7) The applicant must confirm the bottom of all infiltration areas are a minimum of 2 feet above any signs of groundwater.
- 8) 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.

- 9) A final set of plans verifying all conditions of approval have been met shall be reviewed and approved by the Town Engineer prior to the start of any site work. The final set of plans shall include the same revision date on all sheets.

- 10) An as-built site plan shall 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 each of the infiltration areas were built in accordance with the approved plan and will function as designed. The as-built plan shall also indicate any areas where the as-built conditions deviate from the approved plan. A minimum of one completed inspection report shall be submitted with 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).

No person present expressed opposition to the project and the board received no letters in opposition to the project.

The public hearing was closed on September 29, 2020.

FINDINGS OF FACT

1. The subject property at 399 Hudson Street is in the Residential C District and partially in Groundwater Protection Overlay District Area 3.
2. The Applicant is proposing to construct a two-family dwelling unit.
3. In the Residential C District, the minimum required lot area is 30,000 square-feet and 150 feet of frontage for a two-family residential dwelling unit. The subject property contains 30,028 square feet of area and 156.09 feet of frontage.
4. In Groundwater Protection Overlay District Area 3, a Special Permit is required per Section 7-07-010D(3)(c)[6] Groundwater Protection Overlay District, Use Regulations, Area 3, Two-Family and Multi-Family Residential Development, for a two-family dwelling unit. Per this section, the minimum requirement for lot size is 20,000 square feet and the lot contains 30,028 square feet.
5. In Groundwater Protection Overlay District Area 3, a Special Permit is required per Section 7-07-010D(3)(c)[6] Groundwater Protection Overlay District, Use Regulations, Area 3, Two-Family and Multi-Family Residential Development, for a two-family dwelling unit. Per this section, onsite sewage disposal system is equal to the required 220 gallons per day per 10,000 square feet of lot area which equates to a maximum of six bedrooms for the lot.
6. 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 use of a two-family home on the subject property that requires a Special Permit from the Zoning Board of Appeals, to allow the construction of a two-family dwelling unit.
7. The subject site will be serviced by an on-site septic system.

8. In two letters to the Town of Northborough Zoning Board of Appeals from David Parenti, Fire Chief, both dated August 26, 2020, RE: Special Permit and Special Permit with Site Plan Approval for 399 Hudson Street, 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 8-degrees or less.
9. In a memo dated September 17, 2020 to the Chairpersons of the Zoning Board of Appeals and Planning Board from Michelle Gillespie, Chairperson, Design Review Committee RE: 399 Hudson Street, the Design Review Committee recommended approval of the two-family dwelling unit based on the design presented at the September 16, 2020 Design Review Committee meeting. The Committee suggests earth tone colors for the exterior of the home and the revised driveway layout with two curb cuts and a planting area along Hudson Street in between the two curb cuts.
10. In a letter to Chairperson Bakstran, Northborough Zoning Board of Appeals, from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee, dated September 18, 2020, RE: 399 Hudson Street, Map 30, Parcel 81, Mr. Litchfield stated the Groundwater Advisory Committee voted to recommend approval of the two-family dwelling unit, with conditions.
11. The subject site is a vacant parcel.
12. The site is an appropriate location for the proposed use.
13. There is a mix of single-family homes, two-family homes, and multifamily homes in the neighborhood. This two-family dwelling unit will not adversely affect the neighborhood nor will there be any nuisance or serious hazard to vehicles or pedestrians.
14. The addition of a two-family dwelling unit meets, and will not derogate from, the purpose and intent of the Groundwater Protection Overlay District, Section 7-07-010, of the Northborough Zoning Bylaw.
15. Adequate and appropriate facilities will be provided for the proper operation of the use of the proposed two-family dwelling unit, and the use will conform to any special requirements of the special permit granting authority as stated in its written decision.
16. 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 September 29, 2020, after due consideration of the Application, the Board voted unanimously to **GRANT** a **SPECIAL PERMIT** per Section 7-07-010D(3)(c)[6], Groundwater Protection Overlay District, Use Regulations, Area 3, Two-Family and Multi-Family Residential Development, to allow a two-family home, on the property located at 399 Hudson Street, in Groundwater Protection Overlay District Area 3 with the following conditions:
 - a. The applicant shall submit to the Town Engineer 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. Six bedrooms in total is the maximum allowed based on the area of the lot. There shall also be a restriction placed on the deed stipulating the maximum of six bedrooms and the language shall be submitted and approved by the Town Engineer prior to issuance of any occupancy permits.
 - c. The units are to be heated by natural gas or propane.
 - d. The deed shall also define the responsibility of maintaining the drainage system.
 - e. A minimum of one permeability test shall be performed within each area to be utilized for infiltration in order to verify all assumptions made in the design of the drainage system. The permeability tests shall be performed, and the results submitted to the Town Engineer prior to the issuance of the building permit.
 - f. The applicant must confirm the bottom of all infiltration areas are a minimum of 2 feet above any signs of groundwater.
 - g. 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.
 - h. A final set of plans verifying all conditions of approval have been met shall be reviewed and approved by the Town Engineer prior to the start of any site work. The final set of plans shall include the same revision date on all sheets.
 - i. An as-built site plan shall 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 each of the infiltration areas were built in accordance with the approved plan and will function as designed. The as-built plan shall also indicate any areas where the as-built conditions deviate from the approved plan. A minimum of one completed inspection report shall be submitted with 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. 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(2), Administration and Enforcement, Site Plans, Applicability, Special Permit with Site Plan Approval, for the use of a two-family dwelling unit on the subject property that requires a Special Permit from the Zoning Board of Appeals, to allow the construction of a two-family dwelling unit on the property located at 399 Hudson Street.

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 **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."
5. 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.

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



FRAN BAKSTRAN, CHAIRPERSON