



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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## DECISION

**ZBA CASE NO. 20-17**

**PROPERTY LOCATION: 10,000-10,010 Shops Way**

**PETITIONER & PROPERTY OWNER: 920 LLC**

**RECORDED WITH WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 54324 Pg: 158**

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This document is the **DECISION** of the Northborough Zoning Board of Appeals for the petition of 920 LLC for Amendments to the **SPECIAL PERMITS WITH SITE PLAN APPROVAL** ZBA Case No. 14-12 to allow a 3000 square-foot bank with automated teller machine on the property and ZBA Case No. 15-11 to add and relocate a drive-through to service the bank with automated teller machine in Building R6 located at 10,000-10,010 Shops Way, Map 109 Parcel 15.

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 25, 2020, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of amending ZBA Case Nos. 14-12 and 15-11. Condition #9 of ZBA Case No. 14-12 limited a bank to be 2000 square feet at 370 Southwest Cutoff, now known as 10,000-10,010 Shops Way, and Condition 1 of ZBA Case No. 15-11, at the request of the Applicant, eliminated a drive-through to service a bank with an automated teller machine. The Applicant is seeking modifications to both decisions to now allow a bank with an automated teller machine to be 3000 square feet in size and to allow a drive-through to service the 3000 square-foot bank with an automated teller machine. The drive-through service was previously approved for the R5 building on the site plans dated 09/02/14 prepared by Waterman Design Associates and the application seeks to add back the drive-through service and relocate it on the R6 building.
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. Application for Hearing before the Zoning Board of Appeals, including:
  - a. Application date-stamped August 25, 2020;
  - b. A set of five 24" x 36" plans prepared for 920 LLC, prepared by Land Design Collaborative, dated August 18, 2020, with sheets identified as: Cover sheet entitled Amended Site Plan/Special Permit for Building R6 – Northborough

Crossing, 10,008 Shops Way, Northborough MA; Sheet 1 As-Built Plan (By Others); Sheet c-001 General Notes and Legend; Sheet C-101 Site Plan & Details; and EX-101 Vehicle Stacking Exhibit;

- c. Letter from The Engineering Corp to William Depietri, dated August 20, 2020 RE: Northborough Crossing, Bank Queue Length Review;
  - d. Copies of prior ZBA decisions for 370 Southwest Cutoff and 370 Southwest Cutoff Rear, as follows: Case No. 14-12, dated November 14, 2014; and Case No. 15-11, dated August 27, 2015;
  - e. A certified abutters list for parcels 300 feet from 10,000-10,010 Shops Way, Map 109 Parcel 15, including a cover sheet signed by Julie Brownlee for the Town of Northborough Board of Assessors, dated August 18, 2020; and
  - f. A Confirmatory Deed for 370 Southwest Cutoff, Northborough, Mass., recorded at the Worcester District Registry of Deeds on 09/22/2015, Bk: 54324 Pg: 158.
2. A letter to the Zoning Board of Appeals from David L. Parenti, Fire Chief, dated September 3, 2020, Subject: Special Permit with Site Plan Approval at 10,000-10,010 Shops Way;

### **HEARING**

Applicant and property owner, Bob Depietri, Capital Group Properties; Daniel Ruiz Permitting Manager, Capital Group Properties; Attorney Marshall Gould, Gould and Ettenberg; and James Almonte, RLA, Principal, Land Design Collaborative, 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.

Mr. Gould explained the history of ZBA Case Nos. 14-12 and 15-11. In 2014 and 2015, based on the real estate market and the economy, the Applicant sought and was granted amendments to allow for the use of commercial amusement; additional restaurants with alcoholic beverages; the addition of a 3,000 square-foot building; and the removal of a drive-through to service a bank with an automated teller machine.

Mr. Almonte reviewed the changes to the site plan including the change in the traffic pattern to allow for use of the bank including a lane for the automated teller machine, a lane for the bank window, and a bypass lane. A canopy will be added to cover the drive-through lanes for the bank and the automated teller machine. There was a discussion of the loss of thirteen parking spaces in the vicinity due to the reconfiguration of the area for the drive-through lanes, but 485 parking spaces will remain in the immediate area. By reconfiguring landscaping islands, there will be a slight decrease in the impervious coverage. The grading and drainage patterns will remain the same, utilities will remain the same, and additional landscaping will be added in the areas where pavement will be removed.

A traffic study was presented, and it was noted that a 2,000 square-foot bank would have less traffic than a 3,000 square-foot restaurant. Chairman Bakstran noted the decision should be clear the 3,000 square-foot building is for a bank with an automated teller machine and not for a restaurant use with a drive-through service as the traffic generated by a restaurant would be significantly different than a bank.

No person present spoke in opposition to the project and no letters in opposition to the project were received by the Board.

The hearing was closed on September 29, 2020.

## FINDINGS OF FACT

1. The subject property at 10,000-10,010 Shops Way, formerly 370 Southwest Cutoff, is in the Industrial District and the Major Commercial Development Overlay District. The Major Commercial Development Overlay District, approved at the 2009 Annual Town Meeting, is an overlay district superimposed on land in the Industrial District in the vicinity of the Southwest Cutoff (Route 20). The commercial development is in harmony with the Northborough Master Plan approved by the Planning Board and with the purposes of the Northborough Zoning Bylaw.
2. Banks and automated teller machines are uses allowed by a Special Permit within the Major Commercial Development Overlay District in accordance with Section 7-07-030D.
3. On September 30, 2014, the Zoning Board of Appeals granted Special Permits for 370 Southwest Cutoff, Case No. 14-12 for the Northborough Crossing 2 development, to allow, in part, a 2,000 square-foot bank. In addition, a Special Permit was granted to allow the use of a drive-through to service a bank with an automated teller machine.
4. On June 23, 2015, the Zoning Board of Appeals granted to Amend a Special Permit with Site Plan Approval for 370 Southwest Cutoff, Case No. 15-11 for the Northborough Crossing 2 development, in part, to remove the use of a drive-through to service a bank with an automated teller machine.
5. The property is an appropriate location for the proposed amended Special Permits and will not adversely affect the neighborhood.
6. Adequate and appropriate facilities will be provided for the proper operation of this site.
7. The proposed use will conform to any special requirement of the special permit granting authority as stated in its written decision.
8. The proposal could not reasonably be altered to reduce adverse impacts on the natural environment, to be compatible with historical development patterns of the town or to historically significant buildings.

## DECISION

1. On September 29, 2020, after due consideration of the Application, the Board voted unanimously to **AMEND** the **SPECIAL PERMITS** granted for ZBA Case No. 14-12 and allow the addition of a 3,000 square-foot bank with an automated teller machine and allow the addition of a drive-through to service a bank with an automated teller machine.
2. On September 29, 2020, after due consideration of the Application, the Board voted unanimously to **AMEND** the **SPECIAL PERMITS** granted for ZBA Case No. 15-11 and allow the addition of a drive-through to service a bank with an automated teller machine.
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 **AMENDED SPECIAL PERMITS** 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 **AMENDED SPECIAL PERMITS** with **SITE PLAN APPROVAL** are not exercised within two years from the time of granting, it 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**