



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: 21-01

PROPERTY LOCATION: 318 Main Street

PETITIONER: Be Well Living LLC d/b/a HOTWORX

PROPERTY OWNER: 318 Post Road Corporation

RECORDED WITH THE WORCESTER DISTRICT REGISTRY OF DEEDS: Bk: 7010 Pg: 192

This document is the **DECISION** of the Northborough Board of Appeals on the petition of Be Well Living d/b/a HOTWORX for a **Special Permit/Special Permit with Site Plan Approval** to operate a new indoor commercial recreation use on the property located at 318 Main Street, Map 47 and Parcel 93, in the Business East zoning district and Groundwater Protection Overlay District 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 February 18, 2021, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for a Special Permit per Groundwater Protection Overlay District and a Special Permit with Site Plan Approval, to operate a new indoor commercial recreation use on the property located at 318 Main Street, Map 47 and Parcel 93, in the Business East zoning district and Groundwater Protection Overlay District 3.

Notice of the March 23, 2021 public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on March 2, 2021 and March 9, 2021; and was mailed to abutters and other parties in interest on February 25, 2021.

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 318 Main Street, submitted by Attorney Brian Falk, Mirick O'Connell, with an attached email from Robert Frederico, Inspector of Buildings/Zoning Enforcement Officer, to William Depietri, Owner, dated January 13, 2021, which serves as the completed response to the Zoning Interpretation Request Form;
 - b. A certified abutters list for parcels 300 feet from 318 Main Street, signed by Tiffany Peters for the Town of Northborough Board of Assessors; and a GIS Viewer map, both dated February 5, 2021;

RECEIVED
NORTHBOROUGH TOWN CLERK
2021 APR -8 PM 2:57

- c. A Quitclaim deed for 318 Main Street, Northborough; recorded at the Worcester District Registry of Deeds on July 11, 1980, Book: 7010, Page: 192;
 - d. One 24"x36" black and white plan, dated January 29, 2007, not stamped, titled 'As-Built Plan for Post Road Marketplace', Surveyed for 318 Post Road Corporation, 318 Main Street, Northborough, Massachusetts, prepared by Connorstone Consulting Civil Engineers and Land Surveyors;
 - e. One 18.5"x36" black and white floor plan titled 'HOTWORX Studio, Northborough, MA';
 - f. A six page, 8.5"x11" document titled 'Case 04-18, Property Address: 318 Main Street', dated November 19, 2004;
 - g. One 8.5"x11" document titled 'Certificate of No Appeal', Case 04-18, dated December 13, 2004;
 - h. A four page, 8.5"x11" document titled 'Decision, ZBA Case 13-10, Property Address: 318 Main Street', dated November 19, 2004; dated August 13, 2013;
 - i. One 8.5"x11" document titled 'Certificate of No Appeal', Case 13-10, dated September 18th, 2013;
 - j. A three page, 8.5"x11" document titled 'Decision, Case 14-02, Property Address: 318 Main Street', dated March 7, 2014;
 - k. One 8.5"x11" document titled 'Certificate of No Appeal', Case 14-02, dated March 28, 2014;
 - l. A four page, 8.5"x11" document titled 'Decision, ZBA Case 17-09, Property Address: 318 Main Street', dated July 10, 2017
 - m. One 8.5"x11" document titled 'Certificate of No Appeal', Case 17-09, dated July 31, 2017;
 - n. A six page, 8.5"x11" document titled 'Case 18-11, Property Address: 318 Main Street', dated September 26, 2018; and
 - o. One 8.5"x11" document titled 'Certificate of No Appeal', Case 18-11, dated October 17, 2018.
2. A memo to the Northborough Zoning Board of Appeals from David Parenti, Northborough Fire Chief, dated March 4, 2021, RE: Special Permit and Site Plan Review, 318 Main Street, Unit 190;
 3. An email to Attorney Brian Falk from Fred Litchfield, Town Engineer, dated March 23, 2021;
 4. A letter to Fran Bakstran, Chair, Northborough Zoning Board of Appeals from Fred Litchfield, Town Engineer, dated March 23, 2021, RE: 318 Main Street, Map 47 Parcel 93; and
 5. A five page, 8.5"x11" color Power Point document titled 'HOTWORX'.

HEARING

Attorney Brian Falk, Mirick O'Connell, and Applicants Jonathan and Sara Bell presented the Application at a duly noticed public hearing of the Board on March 23, 2021. Participating Board members were: Fran Bakstran, Chair; Paul Tagliaferri, Dick Rand, Brand Blanchette, and Mark Rutan; and Alternate members Jeffrey Leland and Leslie Harrison were present throughout the proceedings.

Mr. Falk explained that they were before the board to request a Special Permit per Groundwater Protection Overlay District and Special Permit with Site Plan Approval to operate a new commercial use in existing space at 318 Main Street. HOTWORX would operate infrared sauna workouts in Suite 190, with approximately 2,200 square feet of space.

Mr. Falk said that initially they had applied for a Groundwater Protection Overlay District special permit also, thinking they were in Groundwater 2, but later learned from the Building Inspector and the Town Engineer that the property is in Groundwater 3, where the proposed use is allowed by right within Groundwater Area 3.

Ms. Bell said this facility will be open to members 24 hours per day, 7 days per week, by reservation. Access to the building will be via a pin pad or key fob. Membership will be limited to ages 12+; ages 12-15 must be accompanied by a guardian. Turnover in the parking areas will be fairly quick as the workouts will be 15-45 minutes long.

The facility will be staffed 50 hours per week during the projected peak hours of Monday-Thursday, 11am-8pm; Friday, 9am-6pm; and Saturday, 11am-4pm. 1-3 staff people are expected to be hired based upon enrollment. The facility will have 24-hour surveillance inside and an emergency response system (Mytrex Personal Emergency Response System) will be in place. The security company will not be actively monitoring the cameras; as owners of the franchise, that responsibility falls to Mr. and Mrs. Bell. The surveillance videos will be recorded and Mr. and Mrs. Bell would have access to that footage if necessary. When asked by Mr. Rutan if there was a plan to install a security camera outside, Mr. Falk said he didn't know but that it could be part of their security plan or added as a condition.

Ms. Bell said 20-30 people are expected to use the space during regular hours. Occupancy will be limited to 45 people, although with the current pandemic, less than that will be allowed until restrictions are lifted. Ms. Bell said there will be 10 saunas and each will fit a maximum of 3 people, with a few people in the functional training zone. The use of workout buddies/partners during non-hours will be highly encouraged as a safety precaution. Workouts are led virtually.

Mr. Rutan asked if there was a system to check automatically how many people are in the facility. Ms. Bell said their security system will monitor check-ins and people using the facility but wasn't sure if some sort of alert could be built to monitor the number of people in attendance.

Mr. Rutan asked if there is additional lighting planned since the facility will be open 24 hours. Mr. Falk said it is his understanding that the current lighting is sufficient.

Mr. Rutan asked if the operation of the facility produces waste. Ms. Bell said there is a shower in that space and there will be a water fountain. There are no locker rooms, but there are two bathrooms. She expects that people will generally shower at home.

Mr. Falk said that an analysis of the plaza's septic usage had been submitted; the site has sufficient parking and the lot is generally half-full.

Mr. Falk felt the Applicants were meeting all the criteria needed for a special permit and concluded his presentation with noting that earlier in the day, the Town Engineer submitted a letter to the ZBA with his comments.

Ms. Joubert, referring to the letter sent to the board from Mr. Litchfield, said that initially it was thought that a special permit would be needed based on the Groundwater Protection Overlay District bylaw, but that the special permit needed is for the indoor commercial use, as well as site plan approval. Speaking on Mr. Litchfield's behalf, she said that there have been a number of past decisions on this property that all still stand, and that he wanted to make sure that the conditions from the 2018 decision (Case 18-11) and 2013 decision (Case 13-10) are kept in place; any new decision would not supersede those; the septic system is a very unique system, and certain conditions are in place with the dentist at that plaza. Chair Bakstran asked Mr. Falk if his clients were aware that the conditions already in place are not to be modified or changed in any way. Mr. Falk said yes, the conditions in place refer to either the site in general, which is the landlord's concern, or the individual units, which is beyond their control.

Chair Bakstran asked Mr. and Ms. Bell if the special permit was granted, do they have any concerns with exterior surveillance being installed and kept in place 24-7? Ms. Bell said no.

No one spoke in opposition of the proposed project; and the board received no letters in opposition of the proposed project.

The hearing was closed on March 23, 2021.

FINDINGS OF FACT

1. The subject property located at 318 Main Street, Map 47 and Parcel 93, in the Business East zoning district and Groundwater Protection Overlay District 3.
2. The Applicant is seeking a **Special Permit/Special Permit with Site Plan Approval** to operate a new indoor commercial recreation use on the property located at 318 Main Street.
3. The proposed use is allowed by right within Groundwater Area 3 and no changes are proposed or required to the impervious cover limits at this location, no special permit is required from the Groundwater Advisory Committee.
4. A Special Permit with Site Plan Approval is required per Section 7-03-040C 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.
5. 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.
6. The proposed use will not be more detrimental to the neighborhood and the site is an appropriate location for the proposed use.
7. There will be no nuisance or serious hazard to vehicles or pedestrians.
8. The existing principal structure contains adequate and appropriate facilities for the proper operation of the proposed use.
9. 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.

DECISION

1. On March 23, 2021, after due consideration of the Application, the Board voted unanimously to grant a **SPECIAL PERMIT WITH SITE PLAN REVIEW** per Section 7-03-040C 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 on the property at 318 Main Street, with the following conditions listed in the Town Engineer's memo to the Zoning Board of Appeals on March 23, 2021:
 - a. This property is subject to previous ZBA case No. 13-10 regarding the expansion of the on-site septic system and all previous conditions shall remain in effect. This previous decision outlined a specific septic system loading table limiting the total flow to 9000 gallons per day, which should be updated at the time this space is to be occupied to confirm the total flow of the building as currently occupied does not exceed the maximum allowed.
 - b. The application as submitted does indicate the septic loading with this new proposed use is well below the limit of 9000 gallons per day as referenced in ZBA case No. 13-10.
 - c. This property is also subject to previous conditions of ZBA case No. 18-11.
 - d. The application indicates the proposed use for indoor recreation will not use or store on the premises any hazardous materials greater than those associated with normal household use and this should be added as a condition of approval.
 - e. The As-built plan revision dated January 29, 2007 which was submitted with the application is unstamped and should be stamped and updated to show the location of all the various tenants and their rental space in accordance with the 318 Main Street septic system gallonage chart also submitted with the application.
2. 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."
3. 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.
4. 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, CHAIR

