



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. 21-03

PROPERTY LOCATION: 90 West Main Street

PETITIONER and PROPERTY OWNER: MA Group Real Estate LLC

Recorded with the Worcester District Registry of Deeds: Bk: 64337 Pg: 384

NORTHBOROUGH TOWN CLERK
RCUD 2021 JUN 1 PM4:26

This document is the **DECISION** of the Northborough Zoning Board of Appeals to consider the petition of MA Group Real Estate, LLC for a Special Permit with Site Plan Approval and a Special Permit in the Groundwater Protection Overlay District for a proposed vertical mixed use building located on 90 West Main Street, Map 62 and Parcel 59, in the Downtown Business Zoning District and Groundwater Protection Overlay Districts 2 & 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 March 26, 2021, the Applicant filed with the Town Clerk and Application for Hearing before the Zoning Board of Appeals to consider the petition of MA Group Real Estate, LLC for a Special Permit with Site Plan Approval and a Special Permit in the Groundwater Protection Overlay District for a proposed vertical mixed use building located on 90 West Main Street, Map 62 and Parcel 59, in the Downtown Business Zoning District and Groundwater Protection Overlay Districts 2 & 3.
2. Notice of the public hearing was duly published in "THE WORCESTER TELEGRAM & GAZETTE" on April 7, 2021 and April 14, 2021; and was mailed to abutters and other parties in interest on April 5, 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 90 West Main Street, submitted by Vito Colonna, Connorstone Engineering, on behalf of Applicant MA Group Real Estate, signed by Robert J, Frederico, Inspector of Building/Zoning Enforcement Officer, dated March 12, 2021;
 - b. A certified abutters list for parcels 300 feet from 90 West Main Street, Northborough, MA prepared by the Northborough Board of Assessors, and a

GIS Viewer Map of the site, titled 90 West Main Street-300ft abutters, both dated February 23, 2021;

- c. A Deed for 90 West Main Street, Northborough, Worcester County, Massachusetts, recorded at the Worcester District Register of Deeds on January 28, 2021, Bk: 64337 Pg: 384;
 - d. A set of five A 24" x 36" black and white sheets entitled, respectively, "Existing Conditions Plan"; "Proposed Site Plan"; "Erosion Control Plan"; "Construction Details"; and "Landscape Plan"; Owner: MA Group Real Estate, LLC; Prepared By: Connorstone Engineering; Dated February 9, 2021;
 - e. A 24" x 36" black and white sheet entitled "Exterior Elevations"; Prepared By: Reardon & Co. Architecture Construction;
 - f. Two 11" x 17" black white sheets showing the Outdoor Lighting Plan, prepared by Charles Debeau, DRK Enterprises LLC/LED Lighting Supply; Dated February 11, 2021 and;
 - g. A set of 21 8.5" x 11" sheets entitled "Design Documentation For 90 West Main Street, Northborough, Massachusetts, Proposed Vertical Mixed Use Building", dated February 10, 2021, containing: Project Narrative, Locus Map, Impervious Area Calculation Sheet, Deed to Locus, Soil Mapping Area, Mass DEP Stormwater Checklist and Documentation, and Stormwater Operations and Maintenance Plan.
2. A memorandum from David Parenti, Northborough Fire Chief, dated March 29, 2021;
 3. A memorandum dated April 21, 2021 from Fred Litchfield, Town Engineer, on behalf of the Groundwater Advisory Committee to Fran Bakstran, Chairman of the Zoning Board of Appeals;
 4. A memorandum dated April 27, 2021 to Fran Bakstran, Zoning Board of Appeals, from Michelle Gillespie, Chairperson, Design Review Committee; and
 5. A memorandum dated April 27, 2021 to Fran Bakstran, Chairperson, Zoning Board of Appeals, from Kerri Martinek, Chairperson, Planning Board.

HEARING

An application for MA Group Real Estate, LLC, was presented at a duly noticed public hearing of the Board on April 27, 2021. Board member Paul Tagliaferri was promoted to Chair as Fran Bakstran was absent. Other participating Board members were Brad Blanchette, Richard Rand and Mark Rutan; and Alternate member Leslie Harrison, and voting members were Paul Tagliaferri, Chair; Brad Blanchette, Richard Rand and Mark Rutan; and Alternate member Leslie Harrison.

Vito Colonna, Connorstone Engineering, presented on behalf of the Applicant. The existing two-family home on this property is proposed to be demolished and replaced with a vertical, mixed use building. The ground floor will be for commercial use by the Applicant for a home remodeling/design build company. The upper floors will be for residential use and will have two three-bedroom units and one two-bedroom unit.

Behind the existing building is a garage pavement/concrete slab which will be removed. Loam and native grass seed mix will be added to help return the land to its natural state.

The site is split between Groundwater Overlay Districts 2 and 3. Mr. Colonna said that by moving the impervious areas further away, improvements will be made to the groundwater area; where they do have an increase to impervious, they've proposed a roof drain drywell, under the pavement, which will collect most of the roof runoff and will keep infiltration volumes at what it is today in pre-existing conditions. The pavement will be treated through a water quality structure prior to discharge, which will remove sediment and oil and separate out prior to discharge to the rear of the site.

There is an existing sidewalk on either side of the property.

Parking will be adjacent to the building. Twelve spots will be shared between the residential and commercial units. Handicap access will be on a flat area leading to the main entrance. Ms. Joubert stated the zoning bylaw allows for a reduction of spaces in the Downtown Business District.

A loading area and a dumpster will be located at the rear of the property. The dumpster will be screened from view from the street. Only daily mail and deliveries from UPS are anticipated and not large, material deliveries. There will be no outside storage.

Town water and sewer are both available. Fred Litchfield, Town Engineer, in his memo dated April 21, 2021, reviewed the Groundwater Advisory Committee's position on the application and stated the Committee recommends approval of the 90 West Main Street Application, with the following comments:

1. This project appears to meet the requirements of sections 7-07-010 D (3) (C) [3], 7-07-010 D (3) (C) [6], 7-07-010 D (3) (b) [2] and section 7-07-010 D (4) (a) [1- 5] of the Zoning Bylaw as it contains more than 20,000 sf and will be served by town water and town sewer.
2. The project narrative indicates all impervious areas were constructed prior to May of 1986 but some evidence to confirm that fact should be submitted.
3. Slopes greater than 3:1 in fill areas must be properly reinforced and properly stabilized.
4. A minimum of two permeability tests should be performed within the area to be utilized for the roof drain dry well to verify all assumptions made in the design of the drainage system. The permeability tests shall be performed and submitted to the Town Engineer prior to the issuance of the building permit.
5. The applicant must confirm the roof drain dry well is a minimum of 2 feet above any signs of groundwater.
6. The application indicates 1390 square feet of impervious cover is to be recharged from the roof top but the architectural drawings do not show any gutters or downspouts or indicate how much of the roof top area is to be collected.
7. 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.
8. This project will require an access permit from MassDOT.

9. The Stormwater Operations and Maintenance Plan and Long-Term Pollution Prevention Plan should include a sample inspection report and be made part of any approval. The Town Engineer and the Groundwater Advisory Committee shall be provided copies of the contract and invoices for all work and inspections performed. All material removed from the drainage system shall be properly disposed of off-site.
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 the drainage system was built in accordance with the approved plan and will function as designed. 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).

Mr. Colonna noted that the DPW's comments regarding the material and lay out and stated the plans will be updated to meet those requirements. Mr. Litchfield, on behalf of the DPW Director and himself, requested the following comments be added as conditions of approval:

1. The applicant will be required to pay a Water Privilege fee in the amount of \$11,200 and a Sewer Privilege fee of \$27,300 prior to obtaining a building permit.
2. The applicant will be required to obtain a permit from the Earthwork Board prior to any site work.
3. The applicant will be required to obtain road opening permits for both the water and sewer connections prior to any site work.
4. Water service size and material (copper or CLDI) must be called out on the plan.
5. Property shall be served by a single domestic water service and one municipal meter.
6. If a sprinkler system is proposed, then a second dedicated fire line shall be installed.
7. Curb stop shall be located within the state layout and not on private property.
8. Existing water service abandonment shall have stainless steel strap saddle installed.
9. Sewer service shall be a cut-in wye.
10. Sewer service crossing of water main shall have full pipe segment centered on water main as well as concrete encasement.

Mr. Colonna next shared the landscaping plan, which had also been before the Design Review Committee. Landscaping will help differentiate between on-site parking and the abutters' parking. A sign will be placed in the front with landscaping around it. Site lighting will just be wall-pack, the porches will have downlights, recessed lighting.

Chair Tagliaferri referred to the memo from the Fire Chief, dated March 29, 2021, where the Chief noted that 'the turn from West Main Street heading into the proposed driveway appeared to be very tight'. Mr. Colonna said it wouldn't be a problem to meet that turn radius.

Chair Tagliaferri asked Mr. Litchfield about a comment in his April 21st Groundwater memo to the ZBA, in which he'd written that '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'. Mr. Litchfield explained if the residential units on the second floor were changed to condos, they would have separate owners, and some responsibility for the overall drainage system. However, he believed, after discussion with Mr. Colonna at the Groundwater Advisory Committee meeting, the Applicant will be the Owner and the Owner will be responsible for maintaining the drainage system going forward, and the Groundwater Advisory Committee wanted that addressed in the Stormwater Operation Maintenance Plan.

Ms. Joubert stated the Design Review Committee met with the Applicant on January 28, 2021 and February 11, 2021. Requests made by members at the first meeting were addressed by the Applicant and the site plan was revised for the February 11th meeting. The members voted four in favor, one opposed, to recommend approval of this project per the site plans dated February 29, 2021 prepared by Connorstone Engineering Inc. and the exterior elevations drawing A.4 prepared by Reardon & Co.

Ms. Joubert stated that the Applicant had gone before the Planning Board as part of the review process, and that board had three comments for the board's consideration: consider placing a condition that landscaping shall be maintained in perpetuity; prohibit parking of heavy construction equipment at the site once the commercial and residential spaces are occupied; and if the March 29, 2021 Fire Chief's letter been addressed by the Applicant.

Ms. Joubert addressed those concerns. First, regarding the landscaping, Ms. Joubert stated that in recent years, the boards have requested (and usually add as a condition) that the landscaping be maintained in perpetuity. Secondly, one of the Planning Board members had a concern about construction equipment being parked on the site, but the Owner assured the Planning Board that they had no intention of doing so; at the most, a snow plow might be there when needed. Lastly, the Planning Board's last comment regarding whether the Fire Chief's questions in his memo were addressed were answered earlier in the hearing.

Mr. Rutan noted that the Planning Board had no recommendations, just a concern.

Michelle Gillespie, 117 Howard Street, said she believes this mixed-use project is an excellent redevelopment for downtown. Ms. Gillespie is the Design Review Committee Chair and a member of the Planning Board; she stated the Applicant came before both of those boards and was great to work with, and as a resident of the community, she wanted to say that this is a great design for a building in our downtown area, she applauded the Applicant and hopes the board will vote in favor.

No other person from the public spoke and no other staff person spoke.

Mr. Rutan made motion to close the hearing, Mr. Rand seconded, all were in favor. The hearing was closed on April 27, 2021.

FINDINGS OF FACT

1. The subject property at 90 West Main Street is in the Downtown Business Zoning District and Groundwater Protection Overlay Districts 2 & 3.
2. The Applicant is seeking a Special Permit with Site Plan Approval, per Section 7-05-020F(1)(d) and a Special Permit in the Groundwater Protection Overlay District for a proposed vertical mixed use building located on 90 West Main Street, Map 62 and Parcel 59, in the Downtown Business Zoning District and Groundwater Protection Overlay Districts 2 & 3.
3. 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, per 7-030-050A(2). Land clearing and grading activities for a use requiring a special permit shall be incorporated within the special permit with site plan approval.
4. Mixed use buildings are allowed by right in the Downtown Business Zoning District, per 7-05-030, Table 1, Part B.
5. Per 7-06-030J(1)(a), Supplemental density and dimensional regulations for certain use classes, where vertical mixed-use developments or multifamily or townhouse developments are allowed as of right or by special permit in a business district, the minimum lot area shall be, in the Downtown Business District, for vertical or horizontal mixed-use developments, four thousand (4,000) square feet for the first two (2) units and two thousand five hundred (2,500) square feet per unit for each unit over two (2); and for multifamily or townhouse developments, ten thousand (10,000) square feet for the first two (2) units and three thousand five hundred (3,500) square feet per unit for each unit over two (2).
6. Per 7-07-010D(3)(b)[2], Two-family and multifamily residential development on lots of at least forty thousand (40,000) square feet in area, such that the increase in post-development net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%) and any on-site sewage disposal is less than or equal to one hundred ten (110) gallons per day per ten thousand (10,000) square feet of lot area.
7. In the Downtown Business District, one hundred percent (100%) of the minimum lot area shall be contiguous upland.
8. The proposed site is an appropriate location for such use.
9. The use as developed will not adversely affect the neighborhood.
10. The proposed use will conform to any special requirements of the special permit granting authority as stated in its written decision.

DECISION

1. **On April 27, 2021**, after due consideration of the Application, the Board unanimously voted to **Grant Site Plan Approval** for a proposed vertical mixed use building located on 90 West Main Street, Map 62 and Parcel 59, in the Downtown Business Zoning District and Groundwater Protection Overlay Districts 2 & 3 with the following conditions:
 - a. Slopes greater than 3:1 in fill areas shall be properly reinforced and properly stabilized.
 - b. Depending on the type of ownership of the units, adequate details to define the responsibility of maintaining the drainage system shall be provided to the Town Engineer prior to the issuance of the building permit.
 - c. The project will require an access permit from MassDOT.
 - d. The applicant will be required to pay a Water Privilege fee in the amount of \$11,200 and a Sewer Privilege fee of \$27,300 prior to obtaining a building permit.
 - e. The applicant will be required to obtain a permit from the Earthwork Board prior to any site work.
 - f. The applicant will be required to obtain road opening permits for both the water and sewer connections prior to any site work.
 - g. Water service size and material (copper or CLDI) must be called out on the plan.
 - h. Property shall be served by a single domestic water service and one municipal meter.
 - i. If a sprinkler system is proposed, then a second dedicated fire line shall be installed.
 - j. Curb stop shall be located within the state layout and not on private property.
 - k. Existing water service abandonment shall have stainless steel strap saddle installed.
 - l. Sewer service shall be a cut-in wye.
 - m. Sewer service crossing of water main shall have full pipe segment centered on water main as well as concrete encasement.
 - n. A final set of plans shall be submitted to the Town Engineer prior to the issuance of the building permit being issued that shows the reviews required in the review letters.
 - o. 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 the drainage system was built in accordance

with the approved plan and will function as designed. 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 April 27, 2021**, after due consideration of the Application, the Board unanimously voted to **Grant a Special Permit in the Groundwater Protection Overlay District** for a proposed vertical mixed use building located on 90 West Main Street, Map 62 and Parcel 59, in the Downtown Business Zoning District and Groundwater Protection Overlay Districts 2 & 3, with the following conditions:
 - a. A minimum of two permeability tests shall be performed within the area to be utilized for the roof drain dry well to verify all assumptions made in the design of the drainage system. The permeability tests shall be performed and submitted to the Town Engineer prior to the issuance of the building permit.
 - b. The applicant shall confirm the roof drain dry well is a minimum of 2 feet above any signs of groundwater.
 - c. The Stormwater Operations and Maintenance Plan and Long-Term Pollution Prevention Plan shall include a sample inspection report and be made part of any approval. The Town Engineer and the Groundwater Advisory Committee shall be provided copies of the contract and invoices for all work and inspections performed. All material removed from the drainage system shall be properly disposed of off-site.
3. The **SPECIAL PERMIT AND 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 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.
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



PAUL TAGLIAFERRI, CLERK