



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 07.28.20

Zoning Board of Appeals Meeting Minutes November 26, 2019

Members in attendance: Brad Blanchett, Chairman; Richard Rand, Mark Rutan, Paul Tagliaferri, Fran Bakstran, Leslie Harrison

Others in attendance: Kathy Joubert, Town Planner; Robert Frederico, Inspector Building/Zoning Enforcement Officer; Fred Litchfield, Town Engineer; Mitch Cook, Lexus of Northborough; Eric Dubrule, Bohler Engineering; Dan Allen, Bohler Engineering

Chairman Brad Blanchett opened the meeting at 7:00pm.

To consider the petition of Lexus of Northborough for Variances/Special Permits/ and Site Plan Approval for 2,740 square-feet of building additions and associated improvements to the existing parking area; and for an Amendment to a Special Permit and Variances, per ZBA Case No. 02-06, for an upgrade to the existing wall sign package to reflect current Lexus brand standards, for the Lexus Dealership located at 14 Belmont Street, Map 109, Parcel 28, in the Highway District

Applicant Mitch Cook, Owner of the Lexus Dealer on the subject at 14 Belmont Street; Eric Dubrule, Engineer, Bohler Engineer, and Dan Allen, Engineer, Bohler Engineer, presented the Application.

Mr. Dubrule presented revised plans that reflects comments from the Design Review Committee. He explained that, to modernize their existing dealership, Lexus was originally proposing approximately 2,740 square-feet of building additions and associated improvements to the parking areas. A proposed second service bay of $\pm 1,170$ square feet had to be omitted in order to reroute the drainage system. Also, a new wall sign package is proposed to match the previously approved quantity of 3 signs, but reduces the relief granted by reducing the area of the third sign from 174 square-feet to 71 square feet. The sign package was approved by the Zoning Board of Appeals on April 2, 2002 Case No. 02-06.

Mr. Dubrule noted that, in order to accommodate the building additions, there will be a reduction of 1 parking space from 191 spaces to 190. Minor modifications to the existing drainage system, water service and gas service are proposed as needed to reroute the utilities around the corner of the proposed building additions. Mr. Dubrule also noted that, in conjunction with the proposed project, Lexus respectfully requests the granting of Amended Special Permits and Variances per the decision for ZBA Case No.02-06.

Mr. Cook explained he purchased 6.5 acres of land on 166 Otis Street that is used for employee parking and inventory. He noted most of the parking on the Belmont Street site is for customers having their cars serviced.

Mr. Cook also noted that a new pylon sign was added on the site in 2017-2018.

Bob Frederico, Inspector of Buildings/Zoning Enforcement Officer, confirmed with Ms. Harrison that a Variance is required for adding a third sign for the amended wall sign package per ZBA Case No. 02-06.

Ms. Bakstran confirmed with Mr. Dubrule that there are 191 parking spaces currently and they will be reduced to a total of 190 spaces; and 55 current customer spaces and 136 inventory spaces, will be reduced to 54 customer spaces and 136 inventory spaces.

The subject property at 14 Belmont Street is in the Highway Business District and is the home of the Lexus of Northborough car dealership.

Mr. Cook stated he plans to modernize their existing dealership by proposing approximately 2,740 square-feet of building additions and associated improvements to the parking areas.

A proposed second service bay of ±1,170 square feet had to be omitted in order to reroute the drainage system.

A new wall sign is proposed to match the approved quantity of 3 signs, but reduces the relief granted by reducing the area of the third sign from 174 square-feet to 71 square feet.

The previously approved sign package consisted of:

- A ±35 square -foot Lexus Symbol (allowed by right)
- A ± 25 square-foot "SERVICE" sign (allowed by right)
- A±71 square foot "Lexus of Northborough" sign (Variance amendment requested)

The 71 square-foot sign requires amending the existing Variance which currently allows for a third wall sign up to 174 square-feet. This application seeks to amend the Variance by reducing the area of the third wall sign by roughly 103 square-feet, while maintaining the quantity of approved signs. They believe they will meet the intent of the existing Variance and, as such, Lexus requests the granting of Amended Special Permits and Variances of ZBA Case No. 02-06, from the Zoning Board of Appeals to allow for the amended wall sign package.

The existing business utilizes 55 customer spaces and 136 inventory spaces, where the proposal provides 54 customer spaces with 136 inventory spaces.

A 1,600 square-foot addition is proposed for the showroom area.

The location of handicapped-accessible spaces will be re-arranged.

A service lane will be added.

In order to accommodate the building additions, there will be a reduction of 1 parking space, from 191 spaces to 190.

Minor modifications to the existing drainage system, water service and gas service are proposed as needed to reroute the utilities around the corner of the proposed building additions.

The Applicant is seeking a Variance for a maximum parking requirement increase from 165 spaces to 190 spaces, per Section 7-09-030 B(2)(b) Off-Street Parking and Loading, of the Northborough Zoning Bylaw.

The Applicant is also seeking a Variance to allow three wall signs that will exceed the allowed 100 square-feet (132 square-feet) per Section 7-09-040G(c)[b] Signs, Signs in the Highway District, Wall Signs; on the property located at 14 Belmont Street, Map 109, Parcel 28.

The Applicant purchased the parcel at 166 Otis Street for the use of parking for the employees and for storage.

In a letter to the Town of Northborough Zoning Board of Appeals, from David Parenti, Fire Chief, dated October 24, 2019, Re: Special Permit and Special Permit with Site Plan Review for 14-24 Belmont Street, Fire Chief Parenti stated he has completed his review for the Variances and Special Applications for the Special Permit and Special Permit with Site Plan Review for 14-24 Belmont Street and has no concerns with the plans as submitted.

In an email from Diane Wackell, Executive Assistant, for the Town of Northborough, sent Tuesday, November 19, 2019, to Kathy Joubert, Town Planner, RE: Lexus Dealership, Ms. Wackell states "Their Class 1 license allows for up to 198 vehicles to be parked on the property at one time. The Police Department goes out to inspect the lots at this time of year in preparation of the annual license renewal process. They have not had any violations since they opened in January of 2003".

In a two-page letter to Brad Blanchette, Chairman, Zoning Board of Appeals, from Fred Litchfield, Town Engineer, dated November 19, 2019, re: 14 Belmont Street, Map 109, Parcel 28, Mr. Litchfield stated the following:

- 1) *The applicant will be required to obtain a permit from the Earthwork Board prior to any site work.*
- 2) *The property owner was required to provide annual reports on the Operation and Maintenance of the drainage system but no information has been submitted since the drainage system was repaired and the as-built plan dated December 18, 2008 was submitted and approved.*
- 3) *A complete analysis of the drainage system verifying all maintenance has been completed to date along with an engineer's certification the system is working properly and in accordance with the original design should be submitted prior to the issuance of a building permit. The property owner shall be responsible for following the Stormwater Operation and Management Plan as submitted with the original application in 2002.*
- 4) *The Public Works Department would also like to add a condition indicating the applicant will be required to pay a Water Privilege fee in the amount of \$1,400 prior to obtaining the building permit.*
- 5) *All changes to the property 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 a list of any discrepancies between the as-built conditions and the approved plan. The as-built plan shall also include certification the drainage system was built in accordance with the approved plan and will function as designed. 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). A letter to Brad Blanchett, Chairman, Northborough Zoning Board of Appeals, dated November 26, 2019, Re: 14 Belmont Street, Map 109 Parcel 28;

In a letter to Brad Blanchette, Chairman, Zoning Board of Appeals, from Fred Litchfield, Town Engineer, dated November 26, 2019, re: 14 Belmont Street, Map 109, Parcel 28; Mr. Litchfield stated the following:

"I have reviewed the revised information submitted for the Application regarding a Variance, a Special Permit and a Special Permit with Site Plan Approval and the plans which have a revision date of 11-22-19 prepared by Bohler Engineering and stamped by J.A. Kucich, P.E. for the above referenced property. The revised plans indicate the project scope has been reduced and Lexus Dealership located at 14 Belmont Street is now proposing to modernize their existing dealership by proposing one small building addition of 1,570 s.f. along with some associated improvements to the parking area. Minor modifications are now limited to the existing water service and gas service in order to accommodate the building addition. At this time, I am not amending my previous letter dated November 19, 2019 and all of my previous comments should be addressed as originally submitted".

In a letter to Brad Blanchette, Chairman, Zoning Board of Appeals, from Michelle Gillespie, Chairman, Design Review Committee, re: 14 Belmont Street, dated November 26, 2019; the Design Review Committee stated they met with the Applicant and his engineer on October 25, 2019. At their November meeting, the board requested the following information be included with the revised plans for the Zoning Board of Appeals:

1. *Markings be added to the pavement to direct customers to the drop-off service area; and*
2. *Directional signs be installed on the property.*

The Design Review Committee also requested clarification on some truck turning movements and to advise the ZBA on the results.

No negative impacts to the Business neighborhoods surrounding the site from such modernization efforts are anticipated; and they believe the proposal meets the intent of the original Special Permit. Additionally, while a groundwater district is present on the property, no work is proposed within the district, and based on a conversation with the Town Engineer, they believe they will not require additional permitting.

The Lexus dealership has been operating under a prior Special Permit from 2002. The proposed improvements will not change the existing use and merely seek to improve an existing business located within a Highway Business zone.

The proposed site improvements will have negligible differences as it relates to on-site circulation, as compared to the originally approved Site Plan. It is noted that the accessible parking spaces will be located closer to the main building entrance, which will be a benefit of the project.

Adequate and appropriate facilities are currently available to the existing business and will continue to be available if the Special Permits are granted.

The Applicant agrees that the proposed use will conform to any special requirements of the special permit granting authority as stated in its written decision.

The proposed site improvements will not result in changes to the surrounding environment. There are no historically significant buildings on the site that could be impacted.

The relief sought 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.

Lexus has a prior Special Permit Approval and is improving upon an existing non-conformance.

The proposed site improvements will be in harmony with the general purpose and intent of the zoning bylaw and as it relates to the Special Permit and Variance Criteria.

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

On November 26, 2019, after due consideration of the Application, the Board voted unanimously to **Grant a Variance** from Section 7-09-040G(c)[b] Signs, Signs in the Highway District, Wall Signs, of the Northborough Zoning Bylaw, to allow three wall signs that will exceed the allowed 100 square-feet (132 square-feet) on the Lexus car dealership building located on 14 Belmont Street, Map 109, Parcel 28, in the Highway Business District.

On November 26, 2019, after due consideration of the Application, the Board voted unanimously to **Grant a Variance** from **Section 7-09-030 B(2)(b)Off-Street Parking and Loading**, of the Northborough Zoning Bylaw, to allow a maximum parking requirement increase from 165 spaces to 190 spaces on the Lexus car dealership building located at 14 Belmont Street, Map 109, Parcel 28, in the Highway Business District.

On November 26, 2019, after due consideration of the Application, the Board voted unanimously to **Grant** the requested **Amended Special Permits** and **Variance** per the ZBA decision for **Case No. 02-06**, for the Lexus car dealership, located at 14 Belmont Street, Map 109, Parcel 28, in the Highway Business District, as follows:

1. *A Special Permit for Commercial Activities which involves an accessory use;*
2. *A Special Permit with Site Plan Approval;*
3. *A Special Permit for the use and expansion of an existing use for an Automobile Sales Yard;*

4. *A Special Permit for the Expansion of a Pre-Existing Use; and*
5. *A Variance for two other wall signs, both being under 32 square-feet, one of which is allowed by right.*

19-14, 125 Rice Avenue - Request to Withdraw without Prejudice

Applicants Chris and Kasey Oestreicher, of Wiggles & Tails, LLC, submitted a letter to the Northborough Zoning Board of Appeals, c/o Kathy Joubert, Town Planner, that was stamped by the office of the Town Clerk on November 14, 2019, regarding their request to withdraw their Application without prejudice. The letter read as follows:

Kathy Joubert;

Regarding our application for a Special Permit with Site Plan Approval to operate Wiggles & Tails, LLC, at 125 Rice Avenue Northborough, MA, please advise the ZBA members of our request our following of our following request.

We respectfully request you withdraw our application for Special Permit without prejudice. We understand that because the Zoning Board of Appeals' decision has not been filed by the Town Clerk that you have the ability to withdraw our application under Section 5.19.1 Reconsideration Before the Final Decision is Filed with the Municipal Clerk.

"Before the board's decision is filed with the municipal clerk, the board retains jurisdiction to reconsider, revote, and remake it's decision in accordance with its governing procedures, subject to open meeting law requirements and to the time and other limitations of the Zoning Act."

Your consideration is greatly appreciated. Please let us know your decision at your earliest convenience.

Respectfully,

*Chris & Kasey Oestreicher
Wiggles & Tails, LLC*

Ms. Joubert explained that Town Counsel said it is allowable for an applicant to withdraw after the board has voted, and the request to withdraw will require a vote of the board.

Mr. Rutan asked Ms. Joubert if the Applicants could come back to the Board with a new application. Ms. Joubert replied they could.

Ms. Bakstran suggested that what they are doing may be to save money; or they may come back with a revised application, perhaps a smaller operation. She noted it would be wise for the Applicants to come back with the same application.

Ms. Harrison stated if they come back too soon, they may get the same result.

Ms. Joubert explained the Applicants would have to go to the Zoning Board and the Planning Board in order to file again within the two-year time frame.

Mr. Rutan noted there is a dog park around the corner that is having problems, too. He stated he would give the Applicants another shot. He suggested that they may have filed an appeal, or maybe they want to talk to the neighbors, who bear the burden.

Ms. Joubert explained “without prejudice” means an applicant could come back with an application in two years.

Mr. Tagliaferri expressed his initial opposition to the requested withdrawal without prejudice, stating the Board has no idea what the Applicants want to do and what impact it would make on the neighbors. He noted that the traffic was the main reason he voted against it, due to the neighbors. However, he said he would vote in favor of the withdrawal without prejudice.

Mr. Rand stated he did not like the noise from the dogs.

Mr. Rutan motioned to allow the request to withdraw the subject application without prejudice; Ms. Bakstran seconded the motion, and the vote was unanimously in favor of the motion.

OLD/NEW BUSINESS

Master Plan Update: Ms. Bakstran stated the Master Plan Public Presentation of the final Master Plan document will be held on December 10th and encouraged the board members to attend.

Approval of Minutes of October 1, 2019: Ms. Bakstran motioned to approve their minutes of the joint meeting of October 1, 2019; Mr. Rutan seconded the motion and the vote was unanimously in favor of the motion.

Attorney General, Article 32

Ms. Joubert explained that the Attorney General has approved Article 32 from last year’s Town Meeting, **Zoning Bylaw, 7-08-020, Special Permit Required regarding nonconforming uses.**

Planning Board Proposed Bylaws

Ms. Joubert noted the Planning Board is proposing a Solar Bylaw and a Hazardous Waste Facility and Solid Waste Disposal Facility Bylaw. She noted articles for Town Meeting have to be in by the 3rd of February. There was a brief discussion regarding where a solar panel would be, including the Industrial District, roof tops and vacant land; and what size they should be.

Ms. Joubert has advised both boards that the Master Plan should be approved before any zoning amendments are presented to Town Meeting and that articles should wait until 2021.

CPTC Workshops

Mr. Tagliaferri noted he went to a CPTC class entitled “Fair, Defensible Land Use Decisions” and that included an explanation of the Mullin Rule. He provided staff with the materials from the workshop for the board members.

Mr. Blanchette noted he went to a CPTC class regarding Overlay Districts.

CMRPC Meeting

Ms. Bakstran noted she attended a recent CMRPC legislative meeting and provided the board with a brief summary.

She also encouraged the ZBA members to attend to the Master Plan meeting on December 10th. She expressed her frustration with a member of the Master Plan Steering Committee, Amy Poretsky, who is also on the Planning Board and with Laura Ziton who is the spouse of a Planning Board member in that these individuals have misconstrued Fran's comments made about housing and density and have posted negative comments on social media about Fran and about the Master Plan's housing section.

Ms. Bakstran stated it's extremely disheartening for so many volunteers to participate in the Master Plan process, attend evening meetings for over eighteen months, reach consensus on every topic discussed and then to have a member of the MP Steering Committee with another resident speak negatively about the work.

Ms. Bakstran motioned to adjourn the meeting, Mr. Rutan seconded the motion and the vote was unanimously in favor of the motion.

The meeting adjourned at 8:20pm

Respectfully Submitted by,

Debbie Grampietro
ZBA Administrative Assistant