

Zoning Board of Appeals Meeting Minutes
February 28, 2007 7:00 p.m.
Northfield Town Hall

Members Present: Ed Shearer, Chair, Marguerite Lentz, Clerk, Mary King, William Forrest, Samuel Richardson, Robert Barnes (alternate), Erin Jaworski (alternate) and Vivien Venskowski (Assistant to the ZBA).

Others present: Northfield Town Attorney Joel Bard; Rice Representative Jeffrey Pechulis

Chair Ed Shearer opened the continuation of the Rice Public Hearing from December 18, 2006, January 8, 2007 and January 22, 2007, January 31, 007 and February 7, 2007 meeting at 7:23 pm.

The members reviewed the minutes of January 22, 2007, January 31, 007 and February 7, 2007. It was noted that a correction to the spelling of Phyllis Derigon's last name needed to be made to the minutes of January 22, 2007.

The board discussed the original footprint of the convenience store and the grandfathering of 24 Main Street.

Attorney Bard noted that the use as a gas station, to sell gasoline, was grandfathered as it predated zoning being adopted in Northfield. A special permit was requested to add the convenience store. He discussed the special permit and variance for the lot. He noted that the footprint was not frozen, that the footprint was the starting point of the discussion.

The board discussed municipal sewer relative to the size of a non-conforming lot.

On a motion by Shearer, seconded by Lentz, it was unanimously voted to approve the minutes of January 22, 2007(as amended), January 31, 007 and February 7, 2007 as written.

The Chair noted that a vote needed to be taken to make a correction to the recent Rice Limited Family Partnership Notice of Decision regarding the change of use. A clerical error had been made that included the wording for the entire request rather than just the change of use.

Bard noted that incorrect wording occurred only on the first page of the Notice of Decision from which it could be stricken.

On a motion by Shearer seconded by Lentz on a roll call vote it was unanimously voted (Shearer/yes, Lentz/yes, Forrest/yes, King/yes, Richardson/yes) to change the wording on the Notice of Decision dated February 18, 2007 to "Referring to the above application for a special

permit to increase the commercial lot acreage at Premises Affected Address including 24 Main Street, Northfield, MA 01360 and abutting parcels Assessors Map 30 Parcel F2 and F2.1.

The Chair noted that there was some confusion regarding the motions on the floor. He stated he wished to withdraw all motions from the floor.

Lentz noted that as the second she agreed to withdraw the motions from the floor to reword and clarify the motions.

Attorney Bard noted that nothing would be lost by withdrawing the motions and starting fresh.

The members discussed the tabled motions and agreed to the withdrawal of the motions on the floor.

On a motion by Shearer seconded by Lentz it was unanimously voted (Shearer/yes, Lentz/yes, Forrest/yes, King/yes, Richardson/yes) to withdraw previous motions that were on the table.

Shearer noted that a vote taken on January 31, 2007 needed to be discussed and clarified.

Bard noted that the convenience store and canopy could be discussed separately. He noted that the 1994 variance allowed a setback for the canopy requirement. As there is now no need for a dimensional variance for the canopy, he noted that it did make sense to have one motion (a vote on the project including the store and canopy).

The Board discussed the original withdrawn-tabled motion and change of wording.

The following motion was made by Shearer seconded by Lentz to grant a special permit to the Rice Family Limited Partnership to modify the existing special permit to allow construction of a new store (size 55 x 40 feet) and canopy (size 24 x 72 feet) at 24 Main Street, Northfield, MA 01360 Assessors Map 30 and abutting Parcels F2 and F2.1, subject to conditions.

The list of possible conditions previously discussed was read by Venskowski.

The Board discussed information supplied by Richardson regarding the Massachusetts Historical Commission, including an architectural survey and contractors approved to do digs.

Shearer noted he had contacted the Franklin County Council of Governments (COG) in Greenfield regarding architectural services and the work involved. He also spoke with Mitchell Mulholland, Director UMASS Archaeological Services from the University of Massachusetts Amherst.

Members discussed aspects of a possible archaeological dig at 24 Main Street and abutting Parcels F2 and F2.1 including: the location of a historical sign, original fort location, cost of project (\$10,000 - \$20,000 possible), length of time (2 months or more), shape of the lot, "plow level", tree removal, tractor vs hand digging, difficulty of using a tractor on the lot, actual size of lot that hasn't been disturbed and can be explored, 21E survey, once the project has been started no one has any control over cost or scope of, does this set a precedent for any digging on Main Street - example for a septic system, and this type of archaeological dig is usually attached to a project with a State/Federal grant not something for a private citizen.

The Chair asked if any of the members wished to comment?

Comments made by members included: an archaeological study should be a condition for the property that has been disturbed, that this is a sensitive location, an expert should look the property and there were concerns that this would open a can of worms for example citizens digging on Main Street for a septic system.

The Chair asked Pechullis how much of the rear property has not been disturbed.

Pechullis responded that the rear of the property has not been disturbed. He noted it would not be developed past the retaining wall. Approximately 1/2 of an acre had been disturbed and possibly 1/10th of an acre is appropriate for a dig. He has filled out Appendix A Project Notification Form and it would be filed with the State. He noted that contractors are obligated to stop a project if they come across anything.

The Chair discussed the historical designation of Northfield and how it differed from Old Deerfield.

Bard noted the two types of historical designations and that filing the Project Notification Form does not guarantee that the State will come and view the site.

The Chair asked the members if they wished the applicant to file the Project Notification Form. They all agreed that it should be filed.

King noted that the drive-thru window should be removed from the plan and extra green space be added.

Pechullis noted that Rice had agreed to the removal of the drive-thru.

The Board members discussed aspects of the project: effect on the neighbors, property values, canopy size, drainage, the Engineering study, traffic, the number of times Rice has come to the ZBA, non-conforming lot, 2 businesses on this location, location of the new store on the lot, and it being a commercial business.

Bard noted that the size of the lot can support the project, grandfathering and a special permit can be granted legally. He stated there were three separate issues

1. Gas Station use is grandfathered, location of the store does not matter
2. Members can vote to allow use on entire parcel, allow expansion of grandfathered gas station, convenience store. That the Board is here to modify the Special Permit
3. Issue of size of lot, the undersized lot is grandfathered

The Chair asked for comments from the Board members.

Several members noted they felt the project was too big for Main Street. And they wanted the canopy to be reduced and a reduction in noise and traffic.

The Chair asked Pechulis if he had any comments regarding these issues.

Pechulis disagreed with the comments that the new station would decrease the value of neighboring property. He asked Attorney Bard if the Special Permit in place locked Rice into the size of the building and if Rice needed to modify the Special Permit as this point.

Bard stated that the original permit did not have a condition that limited the size of the new building.

Pechulis compared the existing use and previous use of the convenience store building. He noted Rice and Decarlo wanted everyone to be happy with the project and they were willing to make concessions. He reviewed the improvements that would be put into place with the new project and that all comments and concerns had been addressed. He reviewed the work he and Rice put into the project. That Rice has worked with the Planning Board and the neighbors. He asked respectfully that the Board take a vote tonight on the project. He stated that Rice was willing to make more concessions. Rice was willing to reduce the size of the canopy to 24 x 46 feet (this will reduce the number of lights on the canopy by 4), the number of dispensers from 3 to 2 dispensers and increase the green area so it is mirrored on the north and south sides of the building. In addition to the green area the change of turning radius would allow space for an additional handicapped van parking spot.

The Board discussed the tenant issue, limiting the type of signage for a tenant, lighting of the tenant signage and whether another meeting was necessary to allow time to consider the new concessions.

Bard noted Northfield Protective Bylaw 11.05 sign regulations and that the ZBA could specify only 1 tenant sign.

Pechulis noted that they were not proposing to exceed the sign bylaw. There would be a single freestanding sign, 20% of the building face and a single sign off the lower left side of the front of the building. There would be no signs on the canopy; only architectural molding. The tenant sign on the building would be a gooseneck light/sign flat mounted to the building, the sign would not be internally lighted.

There was discussion regarding the amendment of the motion to include the change of the canopy size.

On a motion by Forrest seconded by Shearer on a roll call vote (Ed Shearer/yes, Marguerite Lentz/yes, Mary King/yes, William Forrest/yes, Samuel Richardson/yes) it was unanimously voted to amend the original motion for this construction allowing the size of the canopy to be reduced to 24 x 46 feet.

A question was asked about the 1984 conditions and the Planning Board's 9 conditions.

Bard noted that the 1984 conditions were no longer in place, and that the specific plans/designs for this project must be noted with specific dates for each plan listed as part of the conditions.

Pechulis said he was not sure if the current sign had been subject to a special permit. He asked if the new logo (an independent gasoline brand) and pricing of the gasoline was considered part of the sign. The old sign face would be removed and the new sign face put on.

The Chair noted a Site Plan wasn't mandatory and it wasn't requested by the ZBA for this project. The Planning Board Site Plan review does not apply to this project as presented tonight but to a previously project. He noted that the applicant did adopt some of the Site Plan Review points for this project.

There was discussion regarding the Planning Board's 9 points.

Regarding the plan, Pechulis noted the lighting plan reduced the number of fixtures, smaller canopy, more green space, the Town's sidewalk plan and that the intent is the same.

The Chair asked if the Board wanted any other additions.

The following motion made by Shearer seconded by Lentz was unanimously voted on a roll call vote (Shearer/yes, Lentz/yes, Forrest/yes,

King/yes, Richardson/yes) to grant a special permit to the Rice Family Limited Partnership to modify the existing special permit to allow construction of a new store (size 55 x 40 feet) and canopy (size 24 x 46 feet) at 24 Main Street, Northfield, MA 01360 Assessors Map 30 and abutting Parcels F2 and F2.1, subject to the following conditions

- 1. On the south boundary a split-rail fence for the first 8 feet, solid fencing 4 feet high increasing in height to 8 feet to the rear edge of Raymond Clark's garage (including a planting containing trees/arborvitae at the point the fence reaches 8 feet in height, to the rear edge of Mr. Clark's garage) and from that point 6 feet high to the rear of the property, across the rear/back boundary of the property split rail fence with wire backing, along the north boundary a 6 foot high fence to the front edge of the canopy, decreasing in height to 4 feet and from that point a split rail fence to match the split rail fence along the southern boundary. Gate to be of the same solid fencing 6 feet in height. The arborvitae are to grow unrestricted except at the request of an abutter or for maintenance.**
- 2. That the fence must be installed at mutual agreement with Rice and the abutters because the fence is being built to protect the abutters.**
- 3. The fence must be built no higher than specified.**
- 4. Gas pump speakers will not be used for playing music**
- 5. Relief from Protective Regulations Bylaw for the Town of Northfield Natural Materials XI.01**
- 6. The drive-thru window infrastructure is to be removed from the architectural plan and there will be no drive-thru window in the project.**
- 7. The plan will include an expanded grass area on the north, west and southern side of the building**
- 8. There will be traffic restriction behind the building Signage will indicate "Employees Only Parking" to the back of the building.**
- 9. There will be no more than one sign for the tenant**
- 10. No building sign shall be internally lighted.**
- 11. There will be 2 dispensers/4 fueling positions only (2 fueling positions per dispenser)**
- 12. There will be no fuel deliveries between 10:00 pm to 6:00 am**

13. Hours of operation will be 6:00 am to 10:00 pm/7 days per week
14. The free-standing sign will be no larger than the present existing sign
"44 square feet"
15. There will be no outside vending after business hours
16. The project is to be built per architectural plans/reports as proposed in the following documents
 - Architectural Site Plan - Date 5/23/06 (Sheet SP-1)
 - Proposed Elevations Plan - Revision Date 2/28/06 (Sheet Number A-1)
 - Grading and Drainage - Date 11/24/04 (Sheet SP-2) (Submitted 1/8/07)
 - Lighting Plan - Date 4/15/05 (LO-71136-2)
 - Stormwater Management Report (Exhibit #4 1/8/07 minutes)
 - Topographical Plan Dated 3/4/2004 (Job No. 03-68)
17. Applicant must file a Project Notification Form (PNF) with the
Massachusetts Historical Commission

On a motion by Lentz seconded by King it was unanimously voted to adjourn the meeting at 10:50 pm.

Respectfully submitted,

Vivien Venskowski
Assistant to the Zoning Board of Appeals