

Town of Southborough
BOARD OF APPEALS

James Hegarty
Town Clerk
Town House
Southborough, MA 01772

SOUTHBOROUGH, MASSACHUSETTS 01772

17 COMMON STREET
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SOUTHBOROUGH, MA

December 28, 2016

Notice of Decision for an Application for a Variance

Property Address: 255 Turnpike Rd.

Appellants: CommCan, Inc.

Application Filed: November 9, 2016

The Board opened the public hearing on December 14, 2016 at 7:30pm in the Public Meeting Room of Southborough Town Hall with regard to the petition for the appellants for the following:

Petition: Variance request(s) to allow the installation of an 8-foot fence along the east side of the property at 255 Turnpike Rd. The Variance is pursuant to Sec. 174-8.5E (3).

Sitting as a Board: Andrew R. Dennington, Chairman
Leo Bartolini
Paul Drepanos
Craig Nicholson
David Williams

For the Appellants: Marc Rosenfeld
730 Main St.
Millis, MA 02054

Procedural History:

1. An application for a Variance was filed in the Office of Southborough Building Department on November 9, 2016
2. The application for a Variance is to install an 8-foot fence along the east side of the property. Because the proposed fence exceeds 6 feet in height, the Building Commissioner determined that it was a structure that needed to comply with 50' minimum side setback requirement in Sec. 174-8.5E (3).
3. The applicant is seeking a Variance from Sec. 174-8.5E (3).
4. The Record Owner of the subject property is Unicorn Realty Trust, William Picardi, Trustee.
5. A public hearing before the Zoning Board of Appeals was duly noticed, opened on December 14, 2016, and closed in the same evening.

Plans/ Documents:

1. Six (6) page site plan from Merrikin Engineering, LLP dated through April 23, 2016.

2. Letter from the Building Commissioner/ Zoning Officer Mark Robidoux to Marc Rosenfeld, dated November 7, 2016.
3. One (1) page project summary from the applicant providing information pertaining to the Town of Southborough Zoning Bylaws.
4. An abutter, Marnie Hoolihan, appeared at the hearing and voiced support for the proposed variance.

Findings:

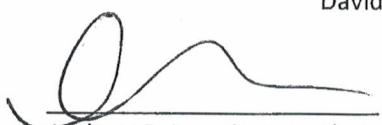
1. The proposal constitutes a Variance request under the Town of Southborough Zoning Bylaw.
2. The Property is located in the Highway Business zoning district.
3. The applicant is proposing an 8-foot fence along the eastern property boundary in order to address a direct request from the Chief of Police and a specific condition of Planning Board's approval of site plan review. The Board also noted that one of the conditions of its original March 28, 2016 decision granting the applicant a special permit to operate a medical marijuana dispensary was that Police Chief review and approve the applicant's proposed safety plan. The proposed 8' fence is part of that safety plan.
4. The Board confirmed that the adjacent property owner to the eastern side, a Volvo car dealership, had no issues with the proposed fence.
5. The Board determined that due to circumstances relating to topography and shape of the locus, and the location of the building and required fence in relation to adjacent property owner on the eastern side, literal enforcement of the setback requirement would involve substantial hardship to the appellant and that the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter.

Decision and Vote of the Board:

At its meeting on December 14, 2016, the Zoning Board of Appeals voted 5-0 to grant the Variance pursuant to Sec. 174-8.5E (3) for the installation of an 8-foot fence along the east side of the property at 255 Turnpike Rd.

After review of all evidence and facts presented at this hearing, and after deliberations on the same, voted 5-0 on a motion made by D. Williams, and seconded by C. Nicholson, with members voting as follows to grant the requested Special Permit:

Andrew R. Dennington,	Yes
Leo Bartolini	Yes
Paul Drepanos	Yes
Craig Nicholson	Yes
David Williams	Yes


Andrew R. Dennington, Chair
Signing on behalf of the Zoning Board of Appeals

****NOT VALID FOR RECORDING UNTIL CERTIFIED BY THE TOWN CLERK OF SOUTHBOROUGH****

In accordance with Sec. 11 of Ch. 40A of Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Southborough Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Attest: _____

James F. Hegarty, Town Clerk

Date

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