

Town of Southborough
BOARD OF APPEALS
SOUTHBOROUGH, MASSACHUSETTS 01772

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James F. Hegarty
Town Clerk
Town House
17 Common Street
Southborough, Massachusetts 01772

May 23, 2023

Notice of Decision of an Application for a Special Permit

Property Address: 16 East Main Street (Map 55, Lots 14 and 14A)

Appellants: Mike Hartnett on behalf of NSVPI Realty, LLC

Application Filed: March 31, 2023

Public Hearing: May 17, 2023 at 7:00 P.M.
Virtual meeting through Zoom

Sitting as a Board: David Williams, Chair
Craig Nicholson
Michael Robbins
Doris Cahill
Jamie Mieth

For the Appellants: Mike Hartnett (owner)
Gretchen Hartnett (owner/director)
Laura Eppen (owner/director)
Ronald Eppen (owner)

Procedural History:

1. An application for a Special Permit was filed in the Office of the Southborough Building Department and Office of the Southborough Town Clerk on March 31, 2023.
2. The application for the Special Permit is for a change of use to a private school, nursery, or kindergarten on a lot that does not conform to Residence B dimensional requirements. Relief was requested under Section 174-8.3 B, Section 174-8.2 B(4) and Section 174-8.3 D.
3. The record owner of the subject property is NSVPI Realty, LLC.

4. A public hearing before the Zoning Board of Appeals was duly noticed in the Community Advocate on May 3, 2023, and May 10, 2023.
5. The applicant was heard at the May 17, 2023 Zoning Board of Appeals meeting after describing that they are looking to convert the first floor of the existing structure to a preschool classroom.
6. The public hearing opened on May 17, 2023 and closed the same evening.

Plans/Documents:

1. Special Permit Application Form – 16 East Main Street
2. Project Narrative – 16 East Main Street
3. Plot Plan – 16 East Main Street
4. Property Card from Assessor's Office – 16 East Main Street
5. Assessors Maps – 16 East Main Street
6. Photographs of subject property – 16 East Main Street
7. Architectural Plans – 16 East Main Street
8. Deed – 16 East Main Street
9. Business Entity Summary – NSVPI Realty, LLC
10. Certified Abutters List – 16 East Main Street
11. Legal Ad Billing Agreement
12. Letter from Dan Segarra, 17 East Main Street, dated May 13, 2023

Findings:

1. The proposal constitutes a Special Permit under the Town of Southborough Zoning Bylaw.
2. The property is located in the Residence B (formerly Residence C) zoning district.
3. The applicant is seeking to convert the first floor of the existing structure to a preschool classroom, a use only allowed by Special Permit in a Residence B district and is not proposing any exterior changes to the existing structure, except for maintenance-related work, the installation of a ramp so as to comply with ADA requirements, and landscaping to further maintain a residential aesthetic.
4. Ms. Cahill voiced her opposition to the Special Permit, citing concerns for safety due to increased traffic.
5. The Board determined the proposal and evidence presented meet the criteria to grant the Special Permit:
 - a. A private school, nursery, or kindergarten is a use allowed by Special Permit in a Residence B district.

- b. The proposed use would be one classroom space on the first floor only, with a maximum of nine (9) students and two (2) teachers at any one time.
 - c. The use is similar to an existing use on an abutting property, 14 East Main Street, which currently serves 94 students, and is owned and operated by the applicants.
 - d. The building will retain the same architectural characteristics, which will allow it to maintain a residential aesthetic.
 - e. There are no additional impacts to the public utilities.
 - f. The Board found that proposed use will not substantially derogate from the neighborhood, stating the traffic and noise concerns discussed by abutters are due to the existing school located at 14 East Main Street, finding that 9 students is not a significant addition.
6. The Board, with Ms. Cahill opposing, found the proposed use with a condition limiting the number of sessions and class size is in harmony with the intent of the bylaw.

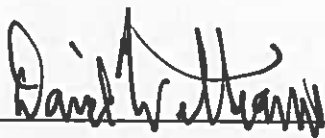
Decision and Vote of the Board:

At its meeting on May 17, 2023, the Zoning Board of Appeals voted (4-1-0) to grant the Special Permit pursuant to Section 174-8.3 B, Section 174-8.2 B(4) and Section 174-8.3 D. to allow the change of use from residential to a private school, nursery, or kindergarten as allowed by Special Permit with the following condition:

1. The use as a preschool shall be limited to one (1) session per day, with no more than nine (9) students.

After review of all evidence and facts presented at this hearing, and after deliberation of the same, the Board voted (4-1-0) on a motion made by Mr. Nicholson and seconded by Ms. Mieth, with members voting by roll call as follows to grant the requested Special Permit:

Doris Cahill	Nay
Michael Robbins	Aye
Craig Nicholson	Aye
Jamie Mieth	Aye
David Williams	Aye



David Williams, Chair

Signing on behalf of the Zoning Board of Appeals

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor

*index under the name of the owner of record or is recorded and noted on the owner's certificate of title.
The fee for such recording or registering shall be paid by the owner or applicant.*

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

In accordance with Sec. 11 of Ch. 40A of Massachusetts General Law, 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: _____

Date: _____

James F. Hegarty, Town Clerk
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