

*AmB*RECEIVED
SOUTHBOROUGH TOWN CLERK

2024 OCT 16 P 1:54



Town of Southborough
BOARD OF APPEALS

SOUTHBOROUGH, MASSACHUSETTS 01772

9 CORDAVILLE ROAD
SOUTHBOROUGH, MASSACHUSETTS 01772-1662
508-485-0717 ext. 1

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

October 15, 2024

Notice of Decision of an Application for a Variance

Property Address: 120 Turnpike Road, Southborough, MA 01772

Map/Lot: Map 37, Lot 120-4

Book/Page: Book 63088, Page 248

Petitioner: FD 120 Turnpike, LLC

Application Filed: August 20, 2024

Public Hearing: October 8, 2024 at 7:00 P.M.
Public Safety Training Room
32 Cordaville Road
Southborough, MA 01772

Sitting as a Board: David Williams, Chair
Michael Robbins, Clerk
Doris Cahill
Jamie Mieth
Doug Manz

For the Petitioner(s): Brian Charville, Esq
George Bahnan, Esq

Procedural History:

1. An application for a variance was filed in the Office of the Southborough Town Clerk and the Office of the Southborough Building Department on August 20, 2024.
2. The application for the variance is to allow 344 parking spaces, a reduction from the 532 which are currently required. Relief was requested from the Town of Southborough Zoning Bylaw Section 174-12(E)(13) pursuant to the Board's authority under G.L. c. 40A, § 10.

3. The record owner of the subject property is FD 120 Turnpike, LLC, 118 Turnpike Road, Ste 300, Southborough, MA 01772
4. A public hearing before the Zoning Board of Appeals was duly noticed in the Metrowest Daily News on September 24, 2024, and October 1, 2024.
5. The applicant was heard at the October 8, 2024 Zoning Board of Appeals meeting after describing that they were looking for a reduction in required parking spaces to serve the existing office buildings located at 118 and 120 Turnpike Road.
6. The public hearing was opened on October 8, 2024 and closed the same evening.

Plans/Documents:

1. Letter from Building Commissioner/Zoning Enforcement Officer Chris Lund, re: 120 Turnpike Road variance application.
2. Variance Application Form – 120 Turnpike Road, signed August 8, 2024
3. Project Narrative for Parking Variance – 120 Turnpike Road, prepared by George Bahnan, dated August 16, 2024
4. Deed – 120 Turnpike Road, Book 63088, Page 248
5. Plan Set titled “Parking Plan of Lot 4A at 120 Turnpike Road”, prepared for FD 120 Turnpike, LLC by James Tetreault, P.E. of Expedited Engineering, LLC, dated August 7, 2024
6. Color-coded version of sheets S1, S2, and S3 of the plan set titled “Parking Plan of Lot 4A at 120 Turnpike Road”, prepared for FD 120 Turnpike, LLC by James Tetreault, P.E. of Expedited Engineering, LLC, dated August 7, 2024
7. Certified Abutters List – 120 Turnpike Road
8. Legal Ad Billing Agreement

Findings:

1. The proposal requires a variance under the Town of Southborough Zoning Bylaw.
2. The property is located in the Business Highway Zoning District.
3. The applicant is seeking to reduce the required number of parking spaces to 344 spaces from 532 in anticipation of a proposed division of the site into three lots.
4. Southborough Zoning Bylaw Section 174-12(E)(13) requires 3.5 parking spaces per 1000 sq ft of gross floor area for office use. The applicant is requesting a reduction in the number of spaces which would amount to 2.11 parking spaces per 1000 sq ft of gross floor area for office use.
5. The applicant states they conducted thirteen (13) internal parking counts during June and September, Monday through Friday, representing to the Board that, even accounting for 100% building occupancy, the need for parking will not exceed 344 parking spaces; the Board credits uncontested testimony by the applicant that the actual need for office building parking remains less than it was prior to the COVID-19 pandemic and that parking needs for office buildings, in general and in particular this office building, appear unlikely to return to pre-pandemic levels.
6. The proposal and evidence presented meet the criteria to grant a variance under G.L. c. 40A, § 10 for the following reasons:
 - a. The topography to the south of the lot has grading and elevation that prevents the applicant from adding additional parking spaces in that location to meet the 3.5 parking spaces per 1000 sq ft of office space required by the Southborough Zoning Bylaws.

- b. The shape of the lot and the presence of wetlands on the lot to the east similarly prevents the applicant from adding additional parking spaces to meet the 3.5 parking spaces per 1000 sq ft of office space required by Section 174-12(E)(13)
- c. Literal enforcement of Chapter 174 of the Southborough Town Code would result in a hardship to the petitioner on account of the lot shape, soil conditions, and topography of the subject property, as is described above.
- d. The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of Chapter 174 of the Southborough Town Bylaw.

7. There are no objections from the public regarding this application, which requests relief that the Board finds is in harmony with the intent of the bylaw.

Decision and Vote of the Board:

At its meeting on October 8, 2024, the Zoning Board of Appeals voted unanimously (5-0-0) to close the public hearing on the applicant's request for a variance. Mr. Robbins then made a motion, which was seconded by Ms. Cahill, to grant the applicant a Variance from Section 174-12(E)(13) to allow for 344 parking spaces at the subject property, subject to the following conditions which the applicant agreed to:

1. The granting of this variance is expressly contingent upon the approval of Lots 4A and 4B as shown on the plans which were presented at the October 8, 2024 Zoning Board of Appeals meeting, more specifically:
 - a. Plan set titled "Parking Plan of Lot 4A at 120 Turnpike Road", prepared for FD 120 Turnpike, LLC by James Tetreault, P.E. of Expedited Engineering, LLC, dated August 7, 2024; and
 - b. Color-coded versions of sheets S1, S2, and S3 of the plan set titled "Parking Plan of Lot 4A at 120 Turnpike Road", prepared for FD 120 Turnpike, LLC by James Tetreault, P.E. of Expedited Engineering, LLC, dated August 7, 2024
2. Should the anticipated division of Lots 4A and 4B fail to occur, then the variance granted to the applicant hereunder shall be deemed null and void, in which case the applicant will have to continue to maintain the currently required 532 parking spots unless the applicant successfully re-applies to the Board for a variance.

After review of all evidence and facts presented at this hearing, and after deliberation of the same, the Board voted unanimously (5-0-0) on a motion made by Mr. Robbins and seconded by Ms. Cahill, with members voting by roll call as follows to grant the requested Special Permit:

Jamie Mieth	Aye
Doris Cahill	Aye
Michael Robbins	Aye
Doug Manz	Aye
David Williams	Aye

Pursuant to the vote taken by the Zoning Board of Appeals on September 20, 2023, the following signatures are made in accordance with M.G.L. c.110G and pursuant to said Board's electronic signature authorization vote recorded on November 6, 2023, with the Worcester Registry of Deeds, Book 69850, Page 154.

David Williams, Chair

Signing on behalf of the Zoning Board of Appeals

Notice: Appeals, if any, shall be made pursuant to MGL c. 40A, Section 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Southborough Town Clerk. Further, no special permit, variance, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, or that if it is a special permit or variance which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the petition for the special permit or variance accompanied by the certification of the city or town clerk stating the fact that the permit granting authority failed to act within the time prescribed, and no appeal has been filed, and that the grant of the petition resulting from such failure to act has become final, 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.

Pursuant to the Town of Southborough Zoning Bylaws, Section 174-25 A (3), if the rights authorized by a variance are not exercised within one year from the date of grant thereof, they shall lapse, and a new petition, notice and hearing will be required for their reestablishment.

**** 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
1775196.1 09569.001