

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

December 11, 2024

Notice of Decision of an Application for a Special Permit Modification

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, 118-120 Turnpike Road, Southborough, MA 01772
Application Filed: November 1, 2023
Public Hearing Dates: December 13, 2023, McAuliffe Hearing Room, 17 Common Street
February 6, 2024, Public Safety Training Room, 32 Cordaville Road
March 27, 2024, Virtual Meeting, Zoom
April 24, 2024, McAuliffe Hearing Room, 17 Common Street
May 8, 2024, McAuliffe Hearing Room, 17 Common Street
June 12, 2024, McAuliffe Hearing Room, 17 Common Street
July 31, 2024, McAuliffe Hearing Room, 17 Common Street
August 21, 2024, McAuliffe Hearing Room, 17 Common Street
September 4, 2024, Public Safety Training Room, 32 Cordaville Road
October 8, 2024, Public Safety Training Room, 32 Cordaville Road
October 29, 2024, McAuliffe Hearing Room, 17 Common Street
November 13, 2024, McAuliffe Hearing Room, 17 Common Street

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

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

Procedural History:

1. An application for a Special Permit was filed in the Office of the Southborough Town Clerk and the office of the Southborough Building Department on November 1, 2023.

2. The application for the Special Permit is to modify a Notice of Decision for a Special Permit dated July 27, 2005 to allow driveway access to serve a proposed Comprehensive Permit project on the southern parcel of the lot. Such project contemplates a single multi-story building containing 60 housing units.
3. Relief was requested under Section 174-9 of the Southborough Zoning Bylaw. The application also contemplates that a portion of the original development locus will be subdivided off and used for the Comprehensive Permit Project.
4. The record owner of the subject property is FD 120 Turnpike, LLC.
5. A public hearing before the Zoning Board of Appeals was duly noticed in the MetroWest Daily News on November 29, 2024, and December 6, 2024.
6. The applicant was heard at the Zoning Board of Appeals meeting on the following dates: December 13, 2023; February 6, 2024; March 27, 2024; April 24, 2024; May 8, 2024; June 12, 2024; July 31, 2024; August 21, 2024; September 4, 2024; October 8, 2024; October 29, 2024; November 13, 2024.
7. The public hearing opened on December 13, 2023, and closed November 13, 2024.
8. The public hearing was combined with the hearing for the Comprehensive Permit project and this decision is to be issued contemporaneously with the Comprehensive Permit.

Plans/Documents:

1. Application Form – Special Permit Modification, submitted November 1, 2023
2. Project Narrative, prepared by Attorney Brian Charville, dated October 31, 2023
3. Quitclaim Deed, Book 63088, Page 248
4. Photographs of subject property & driveway
5. Existing Conditions Plan, titled “Site Plan of Land at 120 Turnpike Road”, prepared by Azimuth Land Design, LLC, stamped by Gerry L. Holbright, PLS no. 49211, dated October 25, 2023
6. Site Layout Plan, titled “Site Plan of Land at 120 Turnpike Road”, prepared by Azimuth Land Design, LLC, stamped by James Tetreault, PE no 38548, dated October 25, 2023
7. Certified Abutters List – 120 Turnpike Road, dated October 24, 2023
8. Legal Ad Billing Agreement, signed by Attorney Brian Charville, dated October 31, 2023
9. Notice of Decision on Special Permits and Variances, dated July 27, 2005, and filed with the Southborough Town Clerk on August 15, 2005

Findings:

1. The proposal requires a modification to the July 27, 2005 Special Permit.
2. The property is located in the Residence A Zoning District.
3. The applicant is seeking to allow shared access to the proposed 60-unit apartment building via the existing driveway which currently serves the two existing office buildings.
4. The Board finds that the proposed modification which will allow the shared access to serve the proposed housing project will increase the traffic emanating from the site and will cause increased traffic conflicts. However, the Board finds that the project design mitigates most adverse conditions to an acceptable degree.
5. The Board finds the proposal and evidence presented meet the criteria to grant the Special Permit:
 - a. The use sought and its characteristics are in harmony with the intent and purpose of Chapter 174 of the Southborough Zoning Bylaw, is not in conflict with public health, safety, convenience, and welfare, and will not be substantially more detrimental or

offensive to the neighborhood or destructive of property values therein. The amendment does not involve a change and use and, accordingly, the underlying commercial use will continue to satisfy this requirement.

- b. Location
 - i. The nearby uses will benefit from the proposal as it will allow access to and from the proposed apartment building.
 - ii. Providing adequate water and drainage for this location will pose no special public problems.
 - iii. The site is able to accommodate the proposal without substantial environmental damage due to wetland loss, habitat disturbance or damage to valuable trees or other natural assets, and the applicant has applied for a Notice of Intent through the Southborough Conservation Commission. This standard is additionally satisfied by complying with the conditions imposed under the Comprehensive Permit.
 - c. Activity Type & Mix
 - i. The proposal will increase activity at the site, but the additional activity relates to an affordable housing project that will serve the housing needs of local residents
 - d. Visual Consequences
 - i. Visibility of existing and proposed parking and service areas from public streets will be minimized through site arrangement, and such areas will be screened from abutting premises.
 - e. Access
 - i. Access to the location will not substantially increase existing traffic on Route 9 as outlined in the Traffic Study submitted as part of the Comprehensive Permit Application and peer reviewed by Vanasse & Associates, Inc. The volume of traffic will not materially impact volume on Rte 9, a large thoroughfare. The site itself will experience additional and more complex traffic, but the design adequately impacts any adverse conditions
 - ii. Pedestrian and vehicular movement to, from and within the site will increase but will continue to be safe and convenient and arranged so as not to disturb abutting properties.
6. There are no objections from the public regarding this application, which is in harmony with the intent of the bylaw.

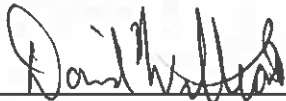
Decision and Vote of the Board:

At its meeting on December 11, 2024, the Zoning Board of Appeals voted unanimously (4-0-0) to modify the July 27, 2005 Special Permit decision to allow for the existing shared driveway to serve the proposed multi-family building with the following conditions:

1. This modification hereby ratifies any previous conditions of approval, excepting such conditions as may have been rendered void by the comprehensive permit.
2. The modification shall be subject to any and all of the conditions of the accompanying Comprehensive Permit to the extent that such conditions relate: to the construction adjacent to the remaining office use; or conditions relating to traffic related matters.
3. Nothing herein operates to modify any conditions of approval of the Board's 2019 modification of the underlying Special Permit.

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. Williams and seconded by Ms. Cahill with members voting by roll call as follows to grant the requested Special Permit:

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



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 174-9, if the rights authorized by a special permit are not exercised within two years 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