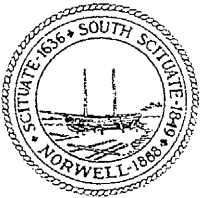


TOWN OF NORWELL
TOWN CLERK

2018 JUN 29 AM 11:44

RECEIVED



OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

345 MAIN STREET, P.O. BOX 295
NORWELL, MASSACHUSETTS 02061
(781) 659-8018 • Fax (781) 659-1892

Members

Lois S. Barbour, Chair
Philip Y. Brown, Vice Chair
David Lee Turner, Clerk

Associate Members

Thomas P. Harrison
Ralph J. Rivkind

MINUTES, FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No. 18-12

A Public Hearing before the Norwell Zoning Board of Appeals was scheduled June 20, 2018, and continued to June 27, 2018, under M.G.L. c. 40A, Sections 10 and 15, at the Norwell Town offices, 345 Main Street, Norwell, MA on the application of:

**Federal Realty Investment Trust
450 Artisan Way, Suite 320
Somerville, MA 02145**

For **Site Plan Review** under Norwell Zoning Bylaw Section 1510 and **Variance** under Sections 4400 (Accessory Uses) and 4500 (Trailers) for up to ten (10) 8' x 40' modular freight farm structures to be located in the rear parking area on property located at **10 Washington Street**, consisting of 17.27 acres, in Business District C-1, as shown on Assessor's Maps 5D and 11B, Block 7, Lot 15, as recorded at the Plymouth Country Registry of Deeds at Book 13338, Page 48.

Notice of the public hearing was posted at Town Hall and duly advertised in the *Patriot Ledger* on May 31, 2018, and June 7, 2018, in accordance with the Open Meeting Law.

David Webster, representing the Applicant, was in attendance both evenings and presented the application to the Board and responded to questions during the public hearing. However, as the Planning Board recommendations were not available to Board members on June 20, 2018, the Board continued the public hearing to a special meeting date on Wednesday, June 27, 2018, to provide time for members to review those recommendations.

During the opening of the public hearing on June 20, 2018, two residents at Damon Farm were concerned about the visibility of the proposed structures from that residential location. However, they were satisfied once they determined the location could not be seen from that corner, as the proposed structures would be located at the back of the shopping center. No other member of the public spoke either in support of or in opposition to this application. There was limited discussion centered on the Planning Board recommendations and no member of the public was present during the June 27, 2018, continued public hearing.

FILE DOCUMENTATION (includes without limitation): The following documents, plans and reports were received into evidence:

1. Copy of the legal notice
2. Abutters List
3. Assessor's card for 10 Washington Street, Norwell.
4. Documents from the application for Site Plan Review and Variance, signed by Federal Realty Investment Trust on 5/14/18, and date-stamped by the Town Clerk on May 15, 2018, consisting of the following:
 - a. Completed Form ZBA-1: Site Plan Review and Variance application
 - b. Completed Form ZBA-1A: Site Plan Review: Supplemental Information
 - c. Sheet 2: Plot Plan, prepared by Bohler Engineering, 45 Franklin Street 5th Floor, Boston, MA 02110, dated 5/1/18, as revised through June 8, 2018, signed and sealed by Stephen P. Mortorano, R.P.E.
 - d. Sheet 1: Overall Site Plan, prepared by Bohler Engineering, 45 Franklin Street 5th Floor, Boston, MA 02110, dated 5/1/18, prepared by Stephen P. Mortorano, R.P.E. (not sealed or signed)
5. Memo from Federal Realty date-stamped on June 12, 2018, by the Norwell Planning Department, detailing license agreements and proposed use as "self-contained, climate-controlled 'greenhouses'".
6. Norwell Planning Board recommendation memorandum dated June 14, 2018, relating to review and vote with the following recommended condition: *The Applicant shall incorporate any comment, suggestion, or notation as deemed pertinent by the Planning Board prior to the opening of the public hearing before the Zoning Board of Appeals.*
7. Memorandum from Brian Flynn, Health Agent, dated June 12, 2018, stating the Board of Health finds there "would be no liquid waste water discharge outside the freight containers". Further, no Board of Health permits will be required for the proposed agricultural operation.
8. Conservation Commission Review form, dated, 6/27/18, signed by Conservation Agent Nancy Hemingway, stating the proposed project is not within 100' of a jurisdictional wetland or within 200' of a perennial river or stream.

2018 JUN 29 AM 11:14
RECEIVED
TOWN CLERK
NORWELL

FINDINGS OF THE BOARD: Based upon the evidence received, the Board finds:

1. The Property (the Property) is known and numbered as 10 Washington Street and is shown on Assessor's Maps 5D and 11B, Block 7, Lot 15, as recorded at the Plymouth Country Registry of Deeds at Book 13338, Page 48, in Business District C-1, containing 17.27 acres according to the Assessors' card.
2. The Property is located entirely within the Business C-1 zoning district.
3. The proposed structures and the site in general have been and will continue to be used for allowed commercial purposes and related features.
4. There is adequate parking, traffic circulation, and infrastructure for the relief applied for by the Applicant in accordance with the recommendations of the Norwell Planning Board.
5. The use proposed by the Applicant is in keeping with the character of the zoning district, which is commercial. Further, the use is of an agricultural nature and the product will be a food supply source of obvious benefit to the general public.
6. The proposed up-to-ten (10) freight farm units will not increase the impervious surface, as units would be sited over a total of twenty-four (24) existing paved parking spaces.
7. **Norwell Planning Board Recommendations:** The Norwell Planning Board recommendation memorandum dated June 14, 2018, relating to the proposed freight farm units, provides a positive recommendation for the requested relief.
8. Under NZBL Section 1322, the Board of Appeals may grant a Variance, if it finds the following:
 - a) *A literal enforcement of the provisions of this Bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.*

The Board finds a literal enforcement of this bylaw would involve a financial hardship in that the Applicant would be unable to conduct the proposed business on a section of the property that is currently unused with the siting of the units next to a power source.

- b) *The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.*

As the definition of *Trailers* in NZBL Section 4500 does not contemplate advances in technology relating to the proposed freight farm units or the energy saving benefits of reducing the carbon footprint in food production and delivery of fresh produce, the Board finds that global conditions warrant such a hardship finding at this location.

- c) *Desirable relief may be granted without either: (1) substantial detriment to the public good, or (2) nullifying or substantially derogating from the intent or purpose of this Bylaw.*

The Board finds that the explicit benefits of energy efficiency in the proposed food production operation with accompanying reduction in the carbon footprint are of substantial benefit to the public good and do not violate the spirit or intent of this bylaw.

TOWN OF NORWELL
TOWN CLERK

2018 JUN 29 AM 11:44

RECEIVED

DECISION OF THE BOARD: Based upon representations by the Applicant as delineated in the Findings of the Board above, the written recommendations of the Norwell Planning Board, dated June 14, 2018, and other evidence received into the public record and presented during the public hearing, referenced and incorporated herein, upon a motion duly made and seconded, Members Barbour, Brown, and Rivkind **VOTED** unanimously to approve the application for modification of **Site Plan Approval** and a **Variance** to site up to ten (10) self-contained freight farm units on the property, located at **10 Washington Street**, in accordance with the plans submitted, subject to the following:

CONDITIONS APPLYING TO ALL DECISIONS:

1. **RECORDING OF THE DECISION:** A certified copy of this Decision with all documents referenced in Paragraph 2 below shall be filed with the Registrar of Deeds or Recorder of the Land Court, as appropriate. The applicant shall return a copy of the recording fee receipt to the Board of Appeals for its files.
2. **PLAN TO BE FILED WITH THIS DECISION:** The following drawing shall be filed as part of this decision; specifically, as detailed in *File Documentation* Paragraph 4(c) above:
 - Sheet 2:** Plot Plan, prepared by Bohler Engineering, 45 Franklin Street 5th Floor, Boston, MA 02110, dated 5/1/18, as revised through June 8, 2018, signed and sealed by Stephen P. Mortorano, R.P.E.
3. **EFFECTIVE DATE OF APPROVAL:** The zoning approvals granted by the Board of Appeals shall take effect only at such time as this Decision and the supporting documents as referenced above are filed with the Office of the Town Clerk of the Town of Norwell, and recorded with the Registrar of Deeds or Recorder of the Land Court. **NOTE: Evidence of recording of the Board's Decision and documents specified above shall be provided to the Building Inspector, prior to issuance of any building permit.**
4. **LAPSE OF SITE PLAN APPROVAL:** The Applicant shall complete any work described in the site plan approved by the Board of Appeals within one year of the date this Decision is filed with the Office of the Town Clerk or approval granted herein shall lapse.
5. **LAPSE OF VARIANCE:** The Applicant must exercise any Variance granted by the Board of Appeals within one year of the date this Decision is filed with the Office of the Town Clerk or as provided in any extension thereof as detailed in the Board's Rules, or it shall lapse.
6. **EXTENSION OF APPROVALS:** The Board of Appeals may grant an extension of such time as it may deem necessary to carry the approved site plan into effect. However, the applicant must file an application for any such extension prior to expiration or a new Site Plan application shall be required. Any such extension shall be certified by the Board of Appeals to the Town Clerk and shall include the date on which any such extension is to lapse.
7. **CONSTRUCTION MONITORING:** This project is not subject to the construction monitoring and escrow requirements contained in Article H of the Rules and Regulations of the Board of Appeals, ratified 6/25/14, subject to any modifications as may be adopted from time to time.

TOWN OF NORWELL
TOWN CLERK

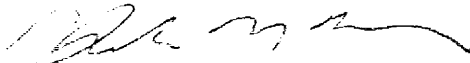
2018 JUN 29 AM 11:44

RECEIVED

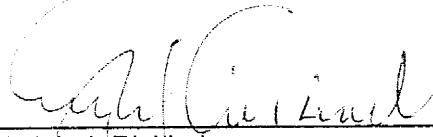
8. **CERTIFICATES OF OCCUPANCY:** A certificate of occupancy shall be issued upon completion of construction satisfying the requirements of the Norwell Inspector of Buildings and in compliance with this decision.



Lois S. Barbour



Philip Y. Brown



Ralph J. Rivkind

Date Filed with Office of the Town Clerk

This space reserved for
Date Stamp of Town Clerk

2018 JUN 29 AM 11:44

TOWN OF NORWELL
TOWN CLERK

NOTICE OF APPELLATE RIGHTS: Any decision of the Board of Appeals may be appealed to Superior Court within twenty (20) days after filing of the written decision with the Town Clerk. Any construction or pre-construction activity is undertaken at the applicant's risk during the appeal period.