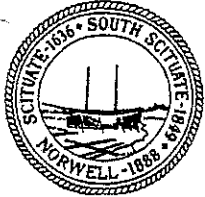


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OFFICE OF
BOARD OF APPEALS

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

AMENDED

FINDINGS AND DECISION

of

The Norwell Board Of Appeals

File No. 17-04

A Public Hearing before the Norwell Zoning Board of Appeals was scheduled for and held on May 3, 2017. The hearing was closed on and voted on that date under M.G.L. c. 40A, at the Norwell Town offices, 345 Main Street, Norwell, MA on the application of:

**Foxrock Longwater II Realty, LLC
(f/k/a Foxrock Norwell Campus, LLC)
100 Newport Avenue Extension
Quincy, MA 02171**

For a **Special Permit** under the Town of Norwell Zoning Bylaws Section 2341(e) for professional office space in excess of 5,000 square feet, and **Site Plan Modification**, pursuant to Section 1500 for a proposed addition of 2,400 square feet to the building at **141 Longwater Drive** in Business District C-2 and the Aquifer Protection District, at the existing office/warehouse building, a portion of this property.

The application, plans and attachments were date-stamped by the Board of Appeals and the Office of the Town Clerk on March 20, 2017. Notice of the public hearing was posted at Town Hall and duly advertised in the *Norwell Mariner* on April 13 and 20, 2017, and was sent to abutters and others in accordance with statutory requirements. The application and plans were distributed

to all requisite boards, committees, and offices of the Town of Norwell (including the Planning Board) for review and comment.

Howard M. Kelman, Esq., of Winokur, Serkey & Rosenberg, P. C., representing the Applicant, presented the application to the Board and responded to questions during the course of the public hearing. Rick Alfonso, the applicant's Engineer, was also in attendance and provided testimony on behalf of the proponent. John Cummings, a representative of the Applicant was also in attendance during the hearing.

Abutter Michael Bernstein of 237 High Street was in attendance and spoke in opposition to this application, stating he had moved to the neighborhood some ten years ago and that, as an abutter, he was disturbed by the many public hearings he was forced to attend to express his opposition over that time. (N.B. The Board notes the proposed construction will not face the abutter's property, as it is on the opposite side of the building from that location.)

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 141 Longwater Drive, Norwell.
4. Original Application for Site Plan Review with transmittal letter, dated 3/15/17, signed by the Applicant's attorney, Howard M. Kelman, consisting of the following:
 - a. Completed Form ZBA-1A Site Plan Review: Supplemental Information
 - b. Certificate of Organization copy, dated Marcy 6, 2017, for Foxrock Longwater II Realty, LLC, signed by William Francis Galvin, Secretary of the Commonwealth.
 - c. Norwell Planning Board recommendation memorandum dated January 25, 2012, relating to construction of an office building to be occupied by South Shore Medical Center. The Site Plan application that was subsequently approved by the Board of Appeals and decision filed with the Town Clerk on March 9, 2012.
 - d. The Norwell Board of Appeals approved a subsequent application for a Special Permit for research offices to be occupied by Battelle Memorial Institute, in its decision filed with the Town Clerk on May 14, 2013.
 - e. Memorandum to Application, prepared by Winokur, Serkey & Rosenberg, PC, date-stamped by the Town Clerk on March 20, 2017
 - f. Development Plan set consisting of three (3) drawings, entitled "Site Development Plans/ 141 Longwater Drive/ Norwell, Massachusetts", dated August 19, 2011, prepared by Tetra Tech, 100 Nickerson Road, Marlborough, MA 01753, signed and sealed by Glenn K. Dougherty, Professional Engineer, as revised through February 10, 2017, to show a 2,400 S.F. Building Addition, as follows:
 - Cover Sheet
 - Dwg 3 "Site Layout Plan" showing the southerly portion of the site
 - Dwg 4 "Site Layout Plan" showing the northerly portion of the site
 - g. Architectural Plans, consisting of four (4) drawings, entitled "Premises Expansion/ Shell Modifications/ 148 Longwater Drive/Norwell, MA, as prepared by Roth & Seelen, Inc. of Hingham, MA, signed and sealed by Jerry K. Seelen, Registered Architect, as revised on October 7, 2016, as follows:
 - A-0 Cover
 - D-1 Demolition Plan
 - A-1 Floor Plan
 - A-2 Exterior Elevations & Wall Section
5. As-Built Plan set, consisting of two drawings, entitled "143 Longwater Drive/ Norwell, Massachusetts/ As-Built Plan/ SSMC" and "141 Longwater Drive/ Norwell, Massachusetts/ Corporate Center As-Built", dated October 15, 2013, signed and sealed by Geoffrey P. Signorelli, Professional Engineer.

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6. Revised Plan Drawings reflecting Planning Board/Chessia Consulting recommendations, consisting of:
 - a. Cover Sheet, entitled "Site Development Plans 2,400 S.F. Building Addition/ 141 Longwater Drive/ Norwell, Massachusetts", dated August 19, 2011, prepared by Tetra Tech, 100 Nickerson Road, Marlborough, MA 01753, signed and sealed by Glenn K. Dougherty, Professional Engineer, as revised through April 14, 2017
 - b. Drawings 3 and 4, both entitled "Layout Plan (Current 2,400 S.F. Building Addition)", detailing the southerly (DWG 3) and northerly (DWG 4) portions of the property, dated August 19, 2011, prepared by Tetra Tech, 100 Nickerson Road, Marlborough, MA 01753, signed and sealed by Glenn K. Dougherty, Professional Engineer, as revised through April 14, 2017
7. Letter from Norwell Planning Board to Board of Appeals dated April 14, 2017, including Chessia Consulting Services LLC's review, dated April 4, 2017.
8. Letter from Norwell Planning Board to Board of Appeals dated April 17, 2017, including addendum to Chessia Consulting Services LLC's review, dated April 4, 2017.
9. *Site Plan dated April 14, 2017, revised in accordance with the requirements of the Norwell Planning Board and its Consultant John Chessia showing location of the proposed additional 2,400 square feet of space at the building.*
10. The Conservation Agent confirmed the project is not located within the Conservation Commission's jurisdictional buffer zones. Chessia Consulting Services indicated the proposed construction will have no impact on stormwater systems.
11. Two 8½ x 11" color photocopies, entitled "141 Longwater Bump Out" and "141 Bump Out"

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

1. The Property (the Property) is known and numbered as 141 Longwater Drive and is shown on the Assessors' Map as 17B, Block 18, Lot 53 in Business District C-2, containing 25.44 acres according to the Assessors' card.
2. The Property is entirely within the Business C-2 Zone. The Property presently contains two office buildings with parking areas for the use of the tenants and guests.
3. The subject of this Decision is an existing warehouse building formerly owned and occupied by Wearguard at 141 Longwater Drive in Norwell.
4. This building and the site in general have been and continue to be used as professional office space with related facilities.
5. There is adequate parking, traffic circulation and infrastructure for the relief applied for by the Applicant.
6. The use proposed by the Applicant is in keeping with the character of the zoning district as this Application represents the addition of professional office space to a professional office park.
7. The proposed addition of 2,400 square feet represents a *de minimus* increase to the site and the subject building and its facilities, as it simply encloses the first-floor level.
8. **Norwell Planning Board Recommendations:** The following are the recommendations from Chessia Consulting Services (numbered per the Site Plan Review comments to the Planning Board, dated April 4, 2017, as reported by the Norwell Planning Board in its letter of April 14, 2017, as further adopted by the Board of Appeals, and represented by the Applicant's representatives at the public hearing to have been met in the revised plans submitted at that hearing on May 3, 2017:
 1. The Cover Sheet Zoning Summary and drawing list should be revised to reflect the currently proposed project; it appears to indicate the prior project.
 2. The Engineers Certification should be updated for the current project and signed and stamped.
 3. The Board may want a copy of the As-Built included with this filing.

4. The Board may want a copy of the existing O&M plan attached to this filing. It may also be requested that any reports on the O&M be submitted to identify if there are any issues with the existing system,
5. The Board may want to consider a condition that landscaping be inspected and any issues such as dead plants, etc. be addressed as part of this project.
6. The Board may want to include a condition that catch basins proximate to the work zone, including those along any trucking route or down-gradient of any stockpile area(s) as applicable be protected with silt sacks during construction and that sediment deposits on the pavement, if any, be swept up at the end of the work day.

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 April 14, 2017, and other evidence received into the public record and presented during the public hearing, upon a motion duly made and seconded, the Board **VOTED** unanimously to approve the application for modification of the Site Plan Review and Special Permit for the property (formerly Wearguard), located at **141 Longwater Drive**, subject to the following:

SPECIAL CONDITIONS:

1. The Property shall be developed in accordance with the file Plans, as revised, to be endorsed by the Board for identification and any subsequent revisions reviewed and approved by the Town's consulting engineer. The details and requirements in these Plans as finally revised, shall be observed and implemented; the Inspector of Buildings shall issue no Certificate of Occupancy until such compliance is completed. Note: A copy of the complete set of the Plans endorsed by the Board for identification purposes, shall be filed with the Town Clerk with this Decision or within fifteen (15) days thereafter, as provided in Section 1550 of the Norwell Zoning Bylaw.
2. **Planning Board Recommendations:** The recommendations of the Norwell Planning Board detailed in the Board's Findings in Paragraph 8, Chessia Consulting Services recommendations Nos. 1-8 inclusive, dated, 4/4/17, are incorporated by reference as Special Conditions of this decision, except as otherwise specifically modified in these Special Conditions.
3. **Plan Compliance:** Any deviation from the Plans as endorsed by the Board for identification, shall be subject to review by the Town's Peer Review Consultant at the expense of the Applicant and may require at the sole discretion of the Board, a Modification of this Decision.

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 SET AND DOCUMENTS TO BE RECORDED WITH THIS DECISION:** None required. This section deleted from the Decision filed with the Norwell Town Clerk on May 17, 2017. No plan filing with the Registry is required for this decision.
- 3 **EFFECTIVE DATE OF APPROVAL:** The zoning approvals granted by the Board of Appeals shall take effect only at such time as this Decision, supporting documents as referenced above, and the approved plan set 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 **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.
- 6 **CONSTRUCTION MONITORING:** This project is 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.
- 7 **DESIGN ENGINEER CERTIFICATION:** Prior to the issuance of any occupancy permit, the Applicant's registered professional engineer, landscape architect, and such other professionals that prepared the approved plans, shall certify to the Board or its agent that the location and elevation of all underground utilities, including drainage, water and sewer, and landscaping plan substantially conform to the plans approved by the Board of Appeals as reviewed by its consulting engineer.
- 8 **PEER REVIEW:** Further, the project design shall be checked against the filed *As Built* plans and reviewed by the Town's consulting engineer at the sole expense of the Applicant for compliance with the project plans as approved by the Board of Appeals and detailed in this decision or any modifications thereto, prior to issuance of any Certificate of Occupancy.
- 9 **AS-BUILT PLANS: Prior to Issuance of a Certificate of Occupancy,** the property owner or Applicant shall provide *As-built* plans, signed and stamped by a registered professional engineer, landscape architect, and/or professional land surveyor, as appropriate, in accordance with Section 1560 of the Norwell Zoning Bylaw. These plans shall show:
 - a. Pavement locations, building locations, lot lines, driveway locations, all utilities above and below ground such as water, gas, electric, septic, telecommunication, utility poles, manholes with rim elevations and inverts, catch basin rims and inverts, other drainage with pipe size and invert.
 - b. All utility easements; ties from building foundations to utility services.
 - c. Final site grading including all drainage structures and lot grading to demonstrate conformance to the approved drainage design, with a certification as to final grading that is.
- 10 **CERTIFICATES OF OCCUPANCY:** No certificate of occupancy shall be issued until such time as all conditions of the Board's decision are met.

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Lois S. Barbour

Lois S. Barbour

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David Lee Turner

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Date Stamp of Town Clerk**

Date Filed with Office of the Town Clerk

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NOTICE OF APPELLATE RIGHTS: Any decision of the Board of Appeals may be appealed pursuant to Massachusetts General Laws, Chapter 40A, Section 17, to the Land Court or Superior Court Department 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.