

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

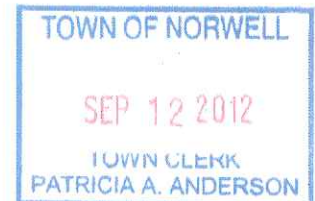
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Michael E. Kiernan, Clerk  
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## FINDINGS AND DECISION OF THE NORWELL BOARD OF APPEALS

File No. 12-5



A **PUBLIC HEARING** was opened on May 2, 2012, continued to June 13, 2011, and July 11, 2012, and closed on August 8, 2012, by the Norwell Zoning Board of Appeals under Massachusetts General Laws, Chapter 40A, Sections 6 and 9, at the Norwell Town offices, 345 Main Street Norwell, MA on the application of:

**Thomas McDonald**  
152 Centre Street  
Holbrook, MA 02343

For **Special Permit** (§ 2421-Lot Size) and **Section 6 Finding** under G.L. 40A § 6, and **Site Plan Review** under § 1500 of the Norwell Zoning Bylaw to demolish an existing building and build a 4500 sq. ft. single story retail building for assorted sales on a lot size of 25,265 sq. ft., where one acre is required. Property is located at **495 Washington Street** in Business District B and the Aquifer Protection District, as shown on Assessors' Map 18B, Block 27, Lot 6, and recorded at the Plymouth County Registry of Deeds Book 32229, Page 35.

Subsequently, the applicant further applied for a **Variance** from the requirements of the **Aquifer Protection District** under § 4300 of the Norwell Zoning Bylaw, the public hearing for which opened on June 13, 2012.

The Board of Appeals has consolidated both applications, hereinafter called the application, into this decision. The board also defines both requests as the "Project".

The Public Hearing for the Site Plan Review and Special Permit/Sec. 6 Finding application was duly noticed in *The Norwell Mariner* on April 12, 2012 and April 19, 2012, and posted by the Norwell Town Clerk at the Norwell Town Hall and in accordance with the Open Meeting Law. The Public Hearing for a Variance to the Aquifer Protection District requirements was advertised in the *Patriot Ledger* on 5/25/12 and 6/1/12.

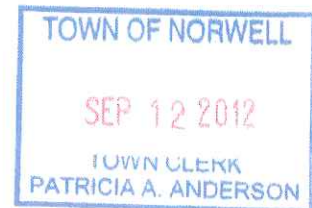
The Applicant, Thomas McDonald, attended the opening of the public hearing with the project engineer, John C. Cavanaro, P.E., of Cavanaro Consulting, Inc., who presented the application to the Board. Mr. Cavanaro was in attendance at all subsequent meetings, except on July 11, 2012, which was continued by mutual agreement to allow time for the peer review engineer to submit a report on plan revisions and supplemental information and for the Planning Board to provide further comments. The applicant's attorney, Richard A. Henderson, Esq., was also in attendance at the meetings on June 13, 2012, and August 8, 2012, on behalf of the applicant.

No members of the public were present during any of the public meetings to speak in support of or in opposition to the original Site Plan Review or the supplemental Variance application.

**FILE INVENTORY:** The Board received the following information into its files:

1. Copy of the legal notice
2. Abutters List, dated 4/9/12
3. Assessors Card print-out for the lot, dated 10/19/11
4. A septic system for a 4,500 sq foot retail building was approved by the Board of Health on, 3/21/12, according to Brian Flynn, agent for the Board of Health, as confirmed in his email to the Board of Appeals on 8/13/12.
5. Conservation Commission Approval for Building Permit memorandum, signed by the Norwell Conservation Agent, dated 4/25/12, stating "Agent & Commissioner did not walk entire 100' buffer off property lines—heavy commercial use precludes likelihood of wetlands in other areas," date-stamped 6/16/12 by the Board of Appeals.
6. Original Application for Site Plan Review & Special Permit, prepared by Cavanaro Consulting, Inc. of 687 Main Street, Norwell, MA; date-stamped as received by the Norwell Town Clerk on 3/23/12, and consisting of the following documents:
  - a. Application for Public Hearing (Form ZBA-1)
  - b. Site Plan Review Supplemental Information (Form ZBA-1A)
  - c. Project Narrative
  - d. Stormwater Report
  - e. Operation & Maintenance Plan
  - f. Figures
  - g. Figure 1 – USGS Locus Map
  - h. Figure 2 – FIRM Flood Map
  - i. Figure 3 – DEP 21e Map
  - j. Additional Information
  - k. Deed
  - l. Soil Logs
  - m. NRCS Soil Information
  - n. Copy of checks
  - o. Architectural renderings
7. Project Plans, entitled "Proposed Redevelopment/495 Washington Street/Norwell, MA 02061," consisting of the following 6 drawings, prepared by Cavanaro Consulting of 687 Main Street, Norwell, MA, dated 3/21/12, stamped and signed by Brendan P. Sullivan, Registered Professional Land Surveyor and Registered Professional Engineer; date-stamped as received by the Norwell Town Clerk on March 23, 2012

Dwg. TS	Title Sheet
Dwg. EX	Existing Conditions
Dwg. SL	Site Layout
Dwg. DT	Detail Sheet
Dwg. LP	Landscape Plan
Dwg. PP	Photometrics Plan
8. Variance supplemental application submitted by Cavanaro Consulting, Inc., with its Letter of Transmittal, dated 5/23/12, for a Variance from NZBL § 4300, Aquifer Protection District, which requires greater than 50% open space, where 33% is proposed, date-stamped as received by the Town Clerk and Board of Appeals on May 23, 2012.
9. Norwell Historical Commission letter from Chair Wendy Bawabe, dated 12/8/11, indicating the structure at 495 Washing Street "is not historically significant," date-stamped as received by the Norwell Division of Inspections on 12/13/11.
10. Chessia Consulting Services review letter, consisting of 17 pages and dated 4/18/12, to the Norwell Planning Board, received with the Planning Board's recommendation letter of 5/24/12
11. Planning Board recommendation letter of 5/24/12, date-stamped as received by the Board of Appeals on 6/6/12.
12. Plan, undated and unsigned, showing the zoning district boundary line in relation to the existing building





13. Response to Review Engineer Comments, prepared by Cavanaro Consulting, and date-stamped as received by the Board of Appeals on July 3, 2012, consisting of the following documents:
  - a. Response Letter to Review Comments
  - b. Revised Application for Public Hearing/Special Permit and Site Plan Review
  - c. Application for Public Hearing Variance
  - d. Application letter from Attorney Richard Henderson, dated 5/3/12
  - e. Other Board and Department Recommendations
  - f. Construction Period Operation and Maintenance Plan and Sample Log Form
  - g. 21E Database Research
  - h. Soil Test Pit Log Information
  - i. Revised Existing and Proposed HydroCAD Report and Subcatchment Area Plans
  - j. Signed Architectural Front Elevation
14. Revised Project Plans, addressing Chessia Consulting Services comment letter of 3/23/12, and Planning Board concerns, consisting of the following 8 drawings, prepared by Cavanaro Consulting of 687 Main Street, Norwell, MA, dated 3/21/12 with revisions to 6/29/12, stamped and signed 7/3/12 by Brendan P. Sullivan, Registered Professional Land Surveyor and Registered Professional Engineer; except as noted; date-stamped as received by the Board of Appeals on 7/3/12.
 

Dwg. TS	Title Sheet
Dwg. EX	Existing Conditions
Dwg. SL	Site Layout
Dwg. DT1	Detail Sheet
Dwg. DT2	Detail Sheet
Dwg. LP	Landscape Plan (not stamped or signed)
Dwg. PP	Photometrics Plan (not stamped or signed)
Dwg. EC	Erosion Control
15. John Cavanaro email to Judy Ockerbloom, dated 6/13/12 at 4:58 PM, forwarding a copy of the Water Commissioners' draft minutes, indicating that the development's "onsite stormwater management plan for the site (onsite recharge) . . . will [have] negligible impact to the Town's drinking water sources, should the [requested APD] variance be granted."
16. Attorney Richard A. Henderson letter of July 11, 2012, to the Board of Appeals, requesting continuation of the public hearing to August 8, 2012, and extending the time in which the Board has to file its decision to September 12, 2012. Note: Letter was emailed to Judy Ockerbloom on July 11, 2012, at 2:58 P.M. and copied to John Cavanaro; date-stamped as received by the Board of Appeals on 7/11/12.
17. Chessia Consulting Services Supplemental Site Plan Review report, consisting of 21 pages and dated 7/23/12, based upon Cavanaro Consulting's Response to Review Engineer Comments
18. Planning Board Supplemental Site Plan Report, dated August 1, 2012, to the ZBA; date-stamped as received by the Board of Appeals on 8/1/12.
19. Although drainage calculations were submitted to the peer review engineer, Chessia Consulting Services, a copy was not found in the office files. Further, the drainage calculations were not stamped, as required under NZBL § 1520(k)(1).



**FINDINGS:** In its review of the information submitted and representations by the applicant, peer review comments by Chessia Consulting Services, and recommendations of the Norwell Planning Board, the Board of Appeals (Board) has made the following findings and determinations.

1. **Demolition Delay:** The existing building is not subject to Demolition Delay under NZBL § 3400, as the Norwell Historical Commission has determined the building "is not historically significant" in its letter of 12/8/11.
2. **Lot:** The property is a pre-existing, nonconforming lot, created by an "Approval Not Required" plan, prepared by Loring H. Jacobs, dated 8/17/1963, signed by the Norwell Planning Board on 8/22/1963, and recorded at the Plymouth Registry of Deeds on 9/11/1963, as referenced in the current deed, and consists of .58 acres with an existing structure built in 1900, according to Assessors' Office records, where one acre is required under the current NZBL § 2421. The Board finds the subject lot met existing zoning requirements of ½ acre in Business District B at the time it was created in 1963.
3. **Wetlands:** The Existing Conditions plan, Drawing No. EX, certifies no jurisdictional wetlands are located on the parcel, and the Board further received a copy of a *Conservation Commission Approval for Building Permit* memorandum, signed by the Norwell Conservation Agent, dated 4/25/12, indicating no jurisdictional wetlands on sight or visible off-site.
4. **Septic:** The Board of Health approved a septic system for a retail building of 4,500 sq. ft. on March 21, 2012, according to an email received from the Health Agent, Brian Flynn, on 8/13/12, although final plans are not approved by the Board of Health at the time of the close of the public hearing for this application.
5. **Lot Frontage:** Under NZBL § 2431, the minimum lot frontage is met with approximately 159.6 feet shown on the submitted plans.
6. **Lot Width:** Under NZBL § 2432, the minimum lot width of 150 feet at the setback line is met with approximately 160 feet shown on the submitted plans.
7. **Lot Dimensions:** Under NZBL § 2433, although not applicable as the lot was created prior to this requirement, it is in fact met since no lot lines are less than 80 feet apart.
8. **Building Coverage:** Under NZBL § 2470, building coverage up to 18% is allowed in Business District B. The proposed construction shows a building footprint of 4,500 square feet on a 25,206 square foot lot determined to be 17.8% coverage, or 0.2% below that allowed.
9. **Lot Coverage:** Although the overall lot coverage allowed under NZBL § 2472 requires not less than 1/3 open space, which the submitted plans show as 35%, the proposal does not meet the 50% open space requirement under NZBL § 4300, Aquifer Protection District (APD), for which a variance has been requested. (See further comments relating to APD findings at Paragraphs 29 and 30.)
10. **Front Yard Setback:** The existing building setback on the lot is approximately 8.8 feet from the street frontage, where a 50-foot front yard setback is required under NZBL § 2441.
11. The proposed building setback from the street frontage is approximately 89.4 feet, exceeding the business district minimum of 50 feet.
12. **District Boundary Buffers:** Under NZBL § 3210, required district boundary buffers separating business and residential districts are to be "the lesser of 50 feet or 10% of the distance between the district boundary and the street line of the lot (80 feet)," which in this instance is 50 feet, being less than the 80-foot calculation.
13. **Side Yard Setbacks:** The existing structure is shown on the plan in close proximity to the district boundary line between Residential District B and Business District B-8, or about 1.9 feet from the northerly side yard lot line, bounded by an existing stone wall. The Board notes the stone wall is a boundary marker, according to the 1963 ANR plan filed with the Registry of Deeds, as referenced in the property deed, and, as such, care should be taken not to disturb that site feature. As the existing structure was built in 1900 or earlier, any modifications to the existing building would be subject to the 10-foot side yard setback requirements under NZBL § 2442.
14. The proposed building is shown on the submitted plan at approximately 25.2 feet from the northerly side lot line and 32.7 feet from the district line (located off of the property), reducing the nonconformity of the District Boundary Buffers (NZBL § 3210)





relative to the existing building, and meeting the side yard setback requirement of 10 feet under NZBL § 2442.

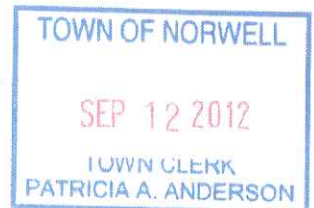
15. The southerly boundary line of the subject property abuts a Business District B-8 lot, where the proposed building side yard setback is shown as 31.5 feet at its shortest distance, exceeding the required 10-foot side yard setback under NZBL § 2442.
16. Findings 13-15 above address relevant Planning Board "Side Yard Setback" comments contained in its memorandum of August 1, 2012.
17. **Rear Yard Setback:** Under NZBL § 2442, the required rear yard setback is 20 feet with the proposed building shown to be located approximately 22.8 feet from the rear lot line at its closest point.
18. **MassHighway:** The Board finds the applicant will be required to seek approval from MassHighway for any changes in curb-cut design and/or location under NZBL § 1520(n), which partially addresses the Planning Board's 8/1/12 recommended conditions 2 and 3, relative to curb cuts and sidewalks on Route 53. (See Paragraphs 19-22 below for additional related findings.)
19. **Site Access and Curb Cuts:** The Board finds the existing curb cuts are pre-existing nonconforming access points and will be subject to MassHighway approval for any proposed changes.
20. The existing curb cuts do not provide the 5-foot minimum radius at the street line nor meet the 100-foot separation required under NZBL § 3155, according to the peer review reports from Chessia Consulting Services (CCS), dated 4/18/12 and 7/23/12. Such requirements would fall within the Route 53 layout and/or right-of-way of the Commonwealth of Massachusetts, and not be located on the subject lot as shown on the submitted plans.
21. The recommended plan notations regarding "clear sight triangles" and a 5-foot minimum turn radius at the street line are required under NZBL § 3155. The Board, therefore, finds that construction plans for the project must conform to these requirements for safety reasons.
22. The Board finds the existing sidewalk along Route 53 lies within the street layout and/or right-of-way of the Commonwealth of Massachusetts and, as such, will provide adequate pedestrian access to the site.
23. **Service Driveway:** The submitted plans show a driveway on the southerly side of the proposed building, following that property line, turning 90° at the rear corner of the building, and continuing parallel with the rear of the building away from the street.
  - a. This driveway will be used to access the rear of the building for a variety of purposes, including delivery, service, trash removal, and emergency vehicles for which clear and safe passage must be provided.
  - b. Although the driveway provides a necessary path to the rear of the proposed retail space, the Board finds it unclear whether the proposed driveway access works as described on the plans submitted.
  - c. Specifically, the Board finds insufficient documentation has been submitted to demonstrate that delivery, service, trash removal, and emergency vehicles will be able to maneuver the service driveway, especially at the sharp turn at the southeasterly corner.
  - d. The Board finds the proposed driveway-to-building access at the rear of the building to be unclear, although the project engineer has stated "stepping stones" will be installed.
  - e. The "stepping stones," as described, are to run from the service driveway pavement to the building basement doors but are not shown on the submitted plans. It is unclear whether impervious coverage for "stepping stones" has been considered in the drainage calculations provided.
  - f. The Board finds the NZBL § 3170 loading area requirements to be satisfied, except for 3170(e), if service driveway concerns detailed in Sections 23-26 are otherwise met. As the proposed occupancy is for retail use in three relatively small units, only two of which will have basement space available with a need for access, the Board finds such a





"loading area bay" to be unnecessary and such requirement can, therefore, be waived.

- g. The project engineer represented that site deliveries by larger vehicles, such as trailer trucks will be made during non-business hours, which is acceptable. The Board finds that any deliveries made at the rear of the building via the service driveway can be allowed during both business and non-business hours.
24. Although the Planning Board recommends removal of the service driveway, the ZBA finds the driveway in concept to be a critical safety feature, providing safe and unhindered offloading of retail deliveries to the basement storage areas and necessary access for trash removal, as well as for fire and emergency vehicles, which the Norwell Fire Chief customarily requires on at least three sides of the building for all commercial construction.
25. As the service driveway has been determined to be a critical safety feature, the ZBA also finds that the two existing site curb cuts, as pre-existing, nonconforming site features, should also remain, subject to filing of the appropriate application to MassHighway and, in fact, are necessary in preventing potential vehicle backup onto Route 53, which could create a clear traffic safety concern whenever a delivery vehicle enters or leaves the service driveway and/or the subject property.
26. Findings 18-25 above respond to the Planning Board's "Delivery/Loading Areas" and "Washington Street Access" comments and recommended conditions 2 and 3, contained in its memorandum of August 1, 2012.
27. **Stormwater and Drainage:** The Board finds the submitted drainage calculations are not stamped by a licensed Professional Engineer, as required by NZBL § 1520(I).
  - a. The project engineer represented that the site soils likely consist of sand and gravel, Series A, but based site drainage calculations on Series B characteristics. In order to confirm that the site drainage and stormwater management requirements are met, the project engineer requested that further soils evaluation be a condition of approval.
  - b. Although the proposed development substantially meets Stormwater Standards, as determined by the 7/23/12 revised report by Chessia Consulting Services, some areas of concern remain, as conditioned.
  - c. It is unclear whether roof drainage is proposed through downspouts or internal drains. Plans, including architectural drawings, should be provided or revised to indicate the roof drainage system type for the proposed building in order to determine whether it works.
  - d. Chessia Consulting's comments, dated 7/23/12, on *DEP Stormwater Standard 1, Untreated Stormwater*, note that the ASCE design criteria call for 3:1 rip rap side and end slopes in the area of the collection outlet, located at the northeasterly end of the proposed building, where a 1:1 slope is proposed on the submitted plans. The Board finds the project design should be amended to comply with ASCE design criteria of 3:1.
28. **Erosion Control:** The project engineer indicated that all references to haybales shown on the project plans for sedimentation and erosion control shall be removed and an appropriate substitute, such as strawbales, be substituted to meet requirements of NZBL § 3160.
29. **Aquifer Protection District:** The purpose of the Aquifer Protection District bylaw in § 4320, is: (a) to preserve and maintain the quality of surface and groundwater, as well as present and potential water supplies, and (b) to protect groundwater from accidental spills and discharge of petroleum products, toxic and hazardous materials, and sewage discharge.
30. The Norwell Water Commissioners in its draft minutes of 6/7/12, provided in an email from John Cavanaro, ". . . concurred there will be negligible impact to the Town's drinking water sources, should the variance be granted."

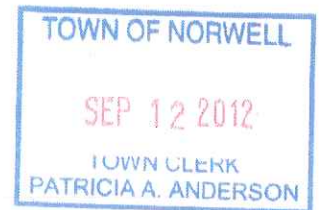




31. **Open Space:** Based upon the favorable report of the Norwell Water Commissioners, the Board determined a reduction in open space requirements of 50% to the 35% proposed, as shown on the submitted construction plans, can, therefore, be allowed.
32. **Landscaping:** The applicant's engineer represented that, prior to issuance of a building permit, a Landscape Plan will be submitted to be signed and sealed by the Registered Landscape Architect that prepared the plan, and will include a plant list comprised solely of native plants to be installed, and will further indicate the sizes and numbers of specific plant materials to be used.
33. **Retaining Wall Design and Landscaping:** The Planning Board indicated retaining wall design concerns in its memorandum of August 1, 2012. However, the Board of Appeals has no authority to impose aesthetic design requirements for construction of a "natural stone veneer . . . along the full length of the retaining wall." Further, it finds the landscaping requirement of "[a]rborvitae and/or other evergreen trees . . . along the full length of the retaining wall on the south side of the lot to fully screen the retaining wall" would obviate the visual improvements suggested by the Planning Board's retaining wall design recommended condition 4. See Landscape Plan findings in Paragraph 32 above.
34. **Parking:** The proposed parking meets requirements of NZBL § 3120, providing a total of eighteen (18) spaces for the ground level retail space. This finding is based upon the applicant's representation that the basement area will be deed restricted and only used for storage purposes and not utilized for habitation of any kind and is, therefore, not included in the overall parking calculations. All other parking requirements are deemed to be met, as shown on the submitted plans.
35. **Lighting:** The applicant represented that the proposed photometric plan will be revised to comply with Dark Sky Lighting guidelines, allowing no lighting spillover, especially onto the residential property on the northerly side of the proposed project, in accordance with Planning Board recommended condition 5.
36. **Dumpster:** The applicant's engineer agreed to provide a dumpster in accordance with Planning Board recommended condition 6, contained in its memorandum of 8/1/12. The project plans shall be revised to provide a dumpster with appropriate wood fencing at the end of the service driveway in the rear of the building.
37. **Signage:** The Board finds the signage shown on the submitted plans complies with the NZBL. Any change in sign dimensions or height, other than as shown on the submitted plans, will require filing and approval of a variance application.
38. **Architecturals:** The Board finds no evidence in its files that the required stamped and signed architectural plans have been submitted, as required by NZBL § 1520 (a) and *Section 1, Documentation Required, under Article H, Projects Subject to Site Plan Review* of the Board's Rules, adopted 7/22/08.
39. **Building Design Criteria:** The Planning Board's recommended condition 7, relating to building design aesthetics, is outside of the scope of authority of the Board of Appeals and, therefore, cannot be imposed.
40. **Nonconformity:** NZBL § 2411 states that *All buildings in any district shall meet the minimum requirements set forth in Section 2400 unless otherwise expressly provided by this Bylaw or by G.L. c. 40A, s.6.*
41. Although the proposed project is located on a pre-existing nonconforming lot, the Board finds the building will meet all current yard setback requirements, except for the District Boundary buffers. In that regard, the new construction has been moved some twenty feet farther away from that line, thereby reducing such nonconformity.
42. **Criteria for Approval, § 1540:** As required, the Board has considered that the proposed Project constitutes a reasonable use of the site for the purposes permitted by the regulations for the district in which it is located; specifically, the proposed retail stores are a business use allowed by right under NZBL § 2333.
43. **Site Plan Review Considerations:** The following sections of the NZBL require the Board of Appeals to consider:



- a. NZBL § 1541: *The protection of the district in which the site is located and adjoining district against detrimental, offensive, or incompatible uses or structures on the site.*
  - b. NZBL § 1542: *The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and land.*
  - c. NZBL § 1543: *The adequacy of the methods of disposal for sewage, refuse, and other wastes resulting from the uses permitted on the site, and the methods of drainage for surface water from its parking spaces and driveways.*
44. **Site Plan Review Determinations:** The Board, therefore, has made the following determinations for Site Plan Review:
- a. Protection of District and Adjoining District: See Paragraphs 40-42.
  - b. Vehicular and Pedestrian Traffic: See Paragraphs 18-22.
  - c. Sewage: The Board finds the Applicant is required by State Law to submit the appropriate applications to the Norwell Board of Health for disposal of sewage.
  - d. Refuse and Waste: The applicant's engineer represented that a fenced dumpster will be added to the plan for disposal of refuse and other wastes.
  - e. Stormwater Management: The Town's consulting engineer has reviewed the stormwater management plan submitted and finds the submitted plans substantially meet state and local requirements, except as conditioned.
  - f. The Board, therefore, finds the requirements of NZBL §§ 1541-1543 have been met.
45. **Special Permit Considerations:** Although the Board is well aware that the proposed structure will be larger than the existing structure, any determination relating to a Special Permit under NZBL § 1420 must consider the following in order to grant a Section 6 Finding under G.L. 40A:
- a. *The conduct of the proposed use will not be detrimental to the neighborhood and zoning district*
  - b. *The conduct of the proposed use will not significantly alter the character of the zoning district, and*
  - c. *The conduct of the proposed use will not be injurious, noxious, or offensive to the neighborhood by reason of the emission of odors, fumes, dust, smoke noise or other cause, nor hazardous to the community on account of fire, explosion or other cause.*
  - d. *If the proposed use will be located within the Aquifer Protection District, the conduct of such use will not cause any significant degradation of the quantity or quality of ground water supplies . . . ."*
46. **Special Permit Determinations:** The Board, therefore, has made the following Special Permit determinations:
- a. The proposed use is for three retail stores, an allowed use in Business District B.
  - b. The proposed retail use is in conformity with the district, which is zoned for business use in which retail use is allowed by right.
  - c. The proposed use of the structure is for three retail stores and related storage, which is similar to many other businesses located along Route 53 and allowed by right under NZBL § 2333 in Business District B in which the property is located.
  - d. The Norwell Water Commissioners in draft minutes for its 6/7/12 meeting stated, ". . . there will be negligible impact to the Town's drinking water sources, should the variance be granted."





## DECISION OF THE BOARD:

Based upon the submitted evidence, presentations of the applicant by its engineer and attorney, peer review comments from the Town's consultant, Planning Board recommendations, and the findings and determinations delineated above, upon a motion duly made and seconded, members Harrison, Brown, and Barbour **VOTED** unanimously to grant approval of the application on property located at **495 Washington Street**, for

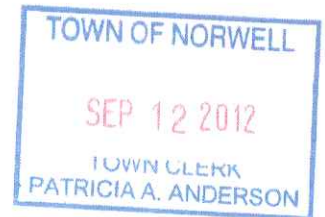
1. **Site Plan Review**,
2. **Special Permit/Section 6 Finding**, and
3. **Aquifer Protection District Variance** from lot coverage requirements

For the proposed construction project, as described in the submitted plans, subject to the Special Conditions and Conditions as further set forth below:

## SPECIAL CONDITIONS:

1. **Project Plans Submitted:** Revised Project Plans, addressing Chessia Consulting Services comment letter of 3/23/12, and Planning Board concerns, consisting of the following 8 drawings, prepared by Cavanaro Consulting of 687 Main Street, Norwell, MA, dated 3/21/12 with revisions to 6/29/12, stamped and signed 7/3/12 by Brendan P. Sullivan, Registered Professional Land Surveyor and Registered Professional Engineer; except as noted; date-stamped as received by the Board of Appeals on 7/3/12.

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Dwg. LP	Landscape Plan (not stamped or signed)
Dwg. PP	Photometrics Plan (not stamped or signed)
Dwg. EC	Erosion Control
2. **Project Plan Revisions: Prior to site disturbance**, the applicant shall submit Project Construction Plans revised to meet the conditions of this decision with an appropriate level of detail suitable for construction, providing additional detail plans for the subsurface systems and including standard trench detail. Such plans shall be signed and sealed by the professionals that prepared them and are further subject to:
  - a. **Peer review** for such compliance, and
  - b. **Board of Appeals Endorsement** of a Mylar® plan set by the Board of Appeals, prior to filing with the Plymouth County Registry of Deeds. (See the below Paragraph 1 of *Conditions Applying to All Site Plan Reviews* for filing requirements.)
  - c. **Required Registry of Deeds filings:** Both this decision and the approved revised Plan sheets, listed in Paragraph 3, *Effective Date of Approval, of Conditions Applying to All Site Plan Reviews*, below, shall then be filed with the Registry of Deeds. Plans required to be filed with the Registry of Deeds shall meet requirements suitable for such filing.
3. **Project Monitoring, As Built Plan Review, and Escrow Requirements:** A construction monitor/peer review engineer shall be engaged by the Board in accordance with its Rules under a scope of services contract at the sole expense of the applicant with all funds for that purpose held in escrow by the Town of Norwell and shall be reserved solely for the purpose of construction monitoring and for peer review of all required "As Built" plans.

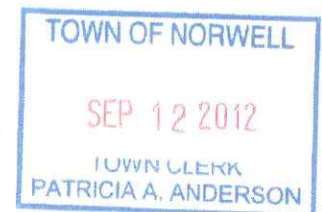


4. **Required Project Monitoring Construction Site Inspections:** The Applicant shall inform the Town in advance in order for the Town's construction monitor/peer review engineer at the Applicant's expense to inspect the following for compliance with the endorsed plans:
  - a. Test pits and soils evaluations
  - b. All underground infiltration systems, including (1) the base grade before such system components are in place and (2) prior to backfilling
  - c. During installation of erosion controls
  - d. After rain events to monitor erosion control features
5. **Intensity of Use and Parking:** No portion of the basement area of the premises shall be used for any active commercial or residential use; however, the applicant may use the basement area of the premises for necessary storage of inventory or similar goods, service and maintenance equipment, and utilities associated with the retail use of the main floor of the premises in accordance with NZBL § 3120 and § 3140. The applicant's project plans shall be amended to reflect this restriction on use of the basement area of the premises and shall include the language of this restriction in the notes on the face of the plan.
6. **Deed Restriction:** The applicant shall propose wording for a deed restriction limiting the basement use to storage purposes only and which shall not be utilized for habitation of any kind in accordance with NZBL § 3120 and § 3140. The final wording shall be subject to approval as to form only of Norwell's Town Counsel. A copy of the recorded deed restriction shall be provided to the Board of Appeals as evidence this condition has been met. **Further, the inspector of buildings shall not issue a certificate of occupancy until such condition has been otherwise satisfied.** **Construction Schedule:** Prior to issuance of a building permit, the applicant shall demonstrate that a construction schedule complying with this decision has been provided to and meets the requirements of the inspector of buildings. A copy of the schedule shall also be provided to the Board and its consultant at the same time.
7. **Grading and Erosion Control Plans:** As the Board notes the stone wall on the northerly lot line is a boundary marker, grading shall be modified, as a component of the plan revisions, to protect and not to disturb that site feature. The Erosion Control plan shall be revised to show placement of straw bales or such other required erosion controls along the inside of the stone wall.
9. **Site Access and Curb Cuts:** The applicant shall demonstrate that an application with approved project plan(s) compliant with this decision has been submitted to MassHighway for approval. Specifically, the applicant shall provide evidence that the final construction plans include the following:
  - a. A minimum 5-foot turn radii at the street line for the two existing curb cuts as required under NZBL § 3155.
  - b. Notations regarding "clear sight triangles" as required under NZBL § 3155.
  - c. The proposed path for truck access to the service driveway.
10. **Dumpster:** The applicant shall revise project plans to show the location of a dumpster with appropriate wood fencing at the end of the service driveway in the rear of the building.
11. **Service Driveway:** The applicant shall revise the final project plans, showing the service driveway meets the following requirements:
  - a. Adequate width and turning radius for delivery, service, trash removal, and emergency vehicles to safely utilize the service driveway.
  - b. The "stepping stones," stated by the project engineer, to connect the service driveway pavement to the building basement doors.
12. **Traffic and Deliveries:**
  - a. No deliveries shall be allowed to the front of the building during regular business hours, except small USPS, FedEx, or UPS-type trucks, which shall stop and park in marked spaces only.





- b. Larger vehicles shall deliver at the rear of the building via the service delivery driveway or shall be restricted to delivery during non-business hours.
  - c. No delivery vehicles shall be allowed to stop on Route 53, but must park on site.
  - d. **Service Driveway Signage:** The plans shall be revised, consistent with the *Manual on Uniform Traffic Control Devices (MUTCD) – FHWA*, to provide necessary signage to restrict access to the service delivery drive. Such signage shall make clear that access by unauthorized vehicles, use for customer parking, or for any other public use is strictly prohibited.
13. **Project Signage:** All proposed signs permitted under this decision shall meet the requirements of the Norwell Zoning Bylaw.
14. **Landscaping:** Prior to issuance of a building permit, the applicant shall provide a Landscape Plan, signed and sealed by the Registered Landscape Architect that prepared the plan; such plan shall include a list of all plants to be installed, showing sizes and numbers of each variety. Only native plants shall be used in the design. **NOTE:** Such plan shall be reviewed by the Town's peer review engineer for compliance with this decision only.
15. **Stormwater and Site Drainage:**
- a. The applicant shall demonstrate how the roof drainage is proposed to work.
  - b. The applicant shall provide drainage calculations stamped by a Professional Engineer, as required by NZBL § 1520(I).
  - c. Pervious pavers shall be used as "stepping stones" from the pavement of the service driveway to the basement entrances of the building.
  - d. The project design shall be amended to comply with ASCE design criteria under DEP *Stormwater Standard 1, Untreated Stormwater*, which calls for 3:1 rip rap side and end slopes in the area of the collection outlet, located at the northeasterly end of the proposed building, where a 1:1 slope is proposed.
16. **Additional Soils Testing:** Prior to issuance of a building permit, the Applicant shall perform additional soils testing to confirm soils conditions. All additional soils testing and/or evaluations shall be coordinated with and witnessed by the Town's consulting engineer.
17. **Soils Testing Results:** The results of all soils evaluation shall immediately be provided to the Board's consulting engineer.
- a. If the soils' testing finds site soils in system 2 are comprised solely of sand, as described in the Rawls Table with permeability of 8.27 inches/hour, no plan revision will be required.
  - b. However, if the soils series is determined not to sand, as anticipated, modification of the stormwater management and drainage systems design and/or calculations shall be required. Specifically the groundwater separation for system 2 shall be four feet or the design otherwise modified to meet DEP stormwater management regulations under Standard 2. The plan as presented describes a conservative design based on soils being more permeable than the value used in the calculations; however, if soils are less permeable than sand, the design would not be conservative.
18. **Cuts and Fill:** Any soil or earthwork material brought to the property shall be subject to approval of the Board's consulting engineer.
19. **Earth Removal:** Prior to any earth removal, the applicant shall demonstrate to the satisfaction of the Board that the project site is in compliance with all earth removal requirements of the Town of Norwell By-Laws and Rules and Regulations.
20. **Architectural Plans:** The applicant shall provide architectural drawings, signed and sealed by the professional that prepared them, including front, rear, and side elevations of the proposed building with relevant features, including those that could



- impact site preparation for stormwater management and drainage, such as roof drains, gutters, downspouts, etc., internal driveways and parking areas.
21. **Erosion Control Plan:** The Erosion Control Plan shall be revised to delete all references to haybales and an alternative, such as strawbales, substituted.

**CONDITIONS APPLYING TO ALL SITE PLAN REVIEWS:**

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:** Prior to site disturbance, the Applicant shall file with the Town Clerk, a signed copy of the complete approved Plan Set endorsed by the Board of Appeals as detailed in Special Condition Paragraphs 1 and 2 above. Further, the following plans and documents shall be recorded with this decision with the Plymouth County Registrar of Deeds and/or Recorder of the Land Court, specifically:
  - a. **Site Layout Plan**, entitled "Proposed Redevelopment/495 Washington Street/Norwell, MA 02061," prepared by Cavanaro Consulting of 687 Main Street, Norwell, MA, dated 3/21/12, with revisions through September 5, 2012, signed and sealed by Brendan P. Sullivan, Registered Professional Land Surveyor and Registered Professional Engineer
  - b. **Landscape Plan**, entitled "Proposed Redevelopment/495 Washington Street/Norwell, MA 02061," prepared by \_\_\_\_\_, dated \_\_\_\_\_, signed and sealed by \_\_\_\_\_, Registered Landscape Architect
  - c. **Project Documents:**
    - i. **Construction Stormwater Operations and Maintenance Plan** signed and sealed by Brendan P. Sullivan, Registered Professional Engineer
    - ii. **Post-Construction Stormwater Operations and Maintenance Plan** signed and sealed by Brendan P. Sullivan, Registered Professional Engineer
3. **EFFECTIVE DATE OF APPROVAL:** The approvals granted by the Board of Appeals shall take effect only at such time as (1) this Decision and supporting documents referenced in Site Plan Review Conditions Paragraph 2 above are recorded with the Registrar of Deeds or Recorder of the Land Court, and (2) the full Project Plan set described in Paragraph 2 above is filed with the Office of the Town Clerk of the Town of Norwell. **NOTE: Evidence of recording of the Board's Decision with supporting documents specified in Site Plan Review Conditions, Paragraph 2 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 SPECIAL PERMIT:** The applicant shall exercise any Special Permit granted by the Board of Appeals within two years of the date this Decision is filed with the Office of the Town Clerk or it shall lapse.
6. **EXPIRATION OF VARIANCE:** The applicant shall exercise any variance granted within one year from the date of this decision or it shall lapse.





7. **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 extensions prior to expiration of such approvals or a new Site Plan, Special Permit, and/or Variance application shall be required. Any such extension(s) 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. **NOTE:** This decision may be subject to provisions of Sections 74 and 75 of Chapter 238 of the *Acts of 2012 Act*, by which certain permits "in effect or existence" from August 15, 2008 through August 15, 2012, are automatically extended for four years beyond the otherwise applicable expiration date. Such determination shall be made by the Norwell Inspector of Buildings.
8. **SITE LIGHTING CERTIFICATIONS:** Prior to issuance of a *Certificate of Occupancy*, the property owner shall provide to the Inspector of Buildings, certifications by a competent professional that all proposed exterior site lighting conforms to International Dark Sky Lighting guidelines.
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 the professionals that prepared them, including a registered professional engineer, landscape architect, and/or professional land surveyor, as appropriate, in accordance with § 1560 of the Norwell Zoning Bylaw.
  - a. These plans shall show:
    - i. Pavement locations, building locations, lot lines, access roadways, ways, and driveways to service the project, 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, and such other infrastructure as may be required to service the project.
    - ii. All utility easements; ties from building foundations to utility services.
    - iii. Final site grading including all drainage structures; lot grading must conform to the approved drainage design.
    - iv. All "As-Built" Plans shall include certifications that the plans comply with the approved plans and shall be signed and sealed by the professionals that prepared them.
  - b. 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.
  - c. No Certificate of Occupancy shall issue until documentation of a clean review by the Town's consulting engineer, which complies with all relevant conditions of this decision, is submitted to the Board of Appeals and to the Building Inspector with such other documents and/or certifications, as may be required by the Building Inspector. Five (5) copies of each plan shall be submitted and distributed, as follows: the Building Inspector (1 copy), Board of Appeals (3 copies), Town's Consulting Engineer (1 copy).



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*Lois S. Barbour*

Lois S. Barbour

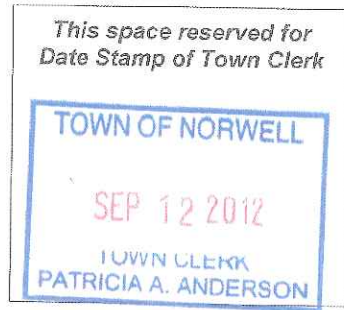
*Philip Y. Brown*

Philip Y. Brown

*Thomas P. Harrison*

Thomas P. Harrison

Date Filed with Office of the 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.