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OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

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NORWELL, MASSACHUSETTS 02061
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FINDINGS AND DECISION *of* The Norwell Board of Appeals

File No. 19-02

A Public Hearing was opened on March 6, 2019, continued to March 20, 2019, and closed on May 1, 2019, by the Norwell Zoning Board of Appeals (the Board), at the Norwell Town Offices, 345 Main Street, Norwell, MA, on the revised Application (the Application) of:

Hajjar Management Co., Inc. (Applicant)
30 Adams Street
Milton, MA 02186

For **Site Plan Review** (Sections 1500, 1510) to construct a 3,500 sq. ft. addition with associated parking on property located at **111, 113, and 119 Washington Street** in Business District B and the Aquifer Protection District as shown on Assessor's Map 11B Block 20 Lots 11, 12, and 13, as recorded at the Plymouth County Registry of Deeds in BK 33854 PG 83 and BK 18316 PG 80. The lots consist of 2.29 acres.

The original Application and plans were filed with the Board of Appeals and Town Clerk on January 22, 2019. The Public Hearing was duly noticed in the Norwell Mariner on

February 14, 2019, and February 21, 2019, and posted by the Town Clerk, as required by the Open Meeting Law. The Application and plans were reviewed by the Planning Board, as well as distributed to all other interested and requisite boards, committees and offices for their review and comment.

Scott Faria, RPLS, and Josh White, BSCE of J.K. Holmgren Engineering of 1024 Pearl Street, Brockton, MA, presented the Application to the Board and provided testimony about the Application and exhibits. The Applicant, Charles C. Hajjar, was also in attendance.

Ramona Caruso and Richard Richardi of 30 Grove Street expressed concern about visual impact to their property, which is located in excess of 300 feet from the site of the proposed project. They have previously expressed concern relating to what they felt was intended occupancy by a doggie day care facility already occupying a portion of an existing building owned by Mr. Hajjar at public hearings on multiple prior applications for construction of a new commercial building on other close by property and now this addition to an existing building, owned by Mr. Hajjar.

FILE DOCUMENTATION (includes without limitation): The following documents, plans and reports were received into evidence and marked as Exhibits, in accordance with the numbering below:

1. Copy of the legal notice
2. Abutters List
3. Assessor's cards for 111-113-119 Washington Street, Norwell
4. Documents from the Application for a Site Plan, signed by Charles C. Hajjar, and date-stamped by the Town Clerk on January 22, 2019, consisting of the following:
 - a. Completed Form ZBA-1: Site Plan Review application
 - b. Completed Form ZBA-1A: Site Plan Review: Supplemental Information
 - c. Engineer of Record Letter
 - d. Project Narrative
 - e. Property cards and deeds
5. Drainage Calculations and Stormwater Management Plan for Hajjar Management Co. Inc., dated January 17, 2019, as date-stamped by the ZBA, Planning Department, and Town Clerk's Office. Plan was prepared by John K. Holmgren, R.P.E., registered with the Commonwealth of Massachusetts, No. 30848.
6. Letter from J.K. Holmgren Engineering, dated January 17, 2019, signed by John K. Holmgren, P.E. and Josh White, B.S.C.E., prepared in response to comments by Chessia Consulting's letter of September 4, 2018, date-stamped by the ZBA and Planning Board on January 22, 2019.
7. Construction Phase Pollution Prevention and Erosion and Sedimentation Plan, prepared by Josh White, B.S.C.E. and John K. Holmgren, P.E. of J. K. Holmgren Engineering, dated January 17, 2019, and date-stamped by the ZBA on April 26, 2019 (not stamped).
8. Planning Board review and recommendation report, dated April 11, 2019, signed by Kenneth R. Kirkland, Norwell Town Planner.
9. Plan set, entitled "Proposed Retail Addition/ 111, 113, & 119 Washington Street, Norwell/ Plymouth County, Massachusetts for: Hajjar Management Co. Inc., dated 5/4/2018, as prepared, signed, and stamped by John K. Holmgren, R.P.E. and Scott

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M. Faria, R.P.L.S., revised 4/23/19 and date-stamped by the Norwell Zoning Board of Appeals on April 26, 2019, consisting of sixteen (16) drawings, as follows:

- DWG C-1 Cover-General Notes-Legend Sheet
- DWG C-2 Existing Conditions Plan
- DWG C-3 Demolition Plan
- DWG C-4 Layout & Materials Plan
- DWG C-5 Grading & Drainage Plan
- DWG C-6 Utility Plan
- DWG C-7 Landscape Development Plan
- DWG C-8 Sediment & Erosion Control Plan
- DWG C-9 Operation & Maintenance Plan
- DWG C-10 Details
- DWG C-11 Details
- DWG S-1 Septic Design Plan
- DWG S-2 Septic Design Plan
- DWG S-3 Septic Design Plan

Plan showing Lighting Proposal, rev. 6/14/18, from LSI of Cincinnati, OH

DWG A-100 Proposed Plan and Elevation for Retail Addition, prepared by BKP Architects of Brockton, MA, dated 5/14/18 and rev. 8/15/18

10. Commonwealth of Massachusetts Application for Disposal System Construction for "Rehab/Restaurant/Kennel", stamped as received by the Norwell Health Dept. on Nov 21 2018.
11. Email response from Ben Margro to Josh White, relating to permit approval for the 119 Washington Street proposed septic design, requiring:
 - a. No increase in sewage flow to the proposed subsurface sewage disposal system and no increase in square footage to the existing and proposed addition structures that results in an increase in sewage flow to the sewage disposal system.
 - b. Such sewage disposal system has been designed for not more than 1443 GPD.
 - c. Prior to the Board of Health's issuance of a Certificate of Compliance, the system owner shall obtain an Operation & Maintenance agreement per 310 CMR 15

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

1. The Property is known and numbered as 111 113 119 Washington Street and is shown on the Assessors Map 11, Bock 20, Lot 57, Lots 11, 12, and 13, as recorded at the Plymouth County Registry of Deeds in Bk 33854 PG 83 and BK 18316 PG 80, consisting of 2.29 acres.
2. The Property is located within the Business B Zoning District and the Aquifer Protection District.
3. This building, constructed in 1989, and the site in general have been and will continue to be used for business purposes.
4. The Applicant proposes to expand the existing building by constructing a 3,500 sq. ft. addition and adding parking to meet bylaw requirements.
5. The Applicant proposes to increase the impervious surface by paving a section of the property.
6. **Norwell Planning Board Recommendations:** The Applicant has met with the Planning Board, which made the following recommendations in a vote on April 10, 2019, to which no objection was raised in the public hearing

before the Board of Appeals:

- a. *Prior to starting any activity authorized by this endorsement [Authorized Activity], the Applicant shall submit to the Board of Appeals and Planning Board proof that the proposal has been evaluated by a Licensed Site Professional on a Soil Management Plan and a Health & Safety Plan pursuant to the Notice of Activity and Use Limitation, as amended, and by whose opinion states that such Authorized Activity is consistent with maintaining a condition of No Significant Risk.*
- b. *Prior to starting any Authorized Activity, the Applicant shall submit to the Board of Appeals and Planning Board proof that the ANR Plan entitled "Plan of Land – 111-119 Washington Street" and endorsed by the Planning Board on April 10, 2019 has been recorded at the Plymouth County Registry of Deeds or Land Court, as applicable.*
- c. *Prior to the start of any Authorized Activity, the Applicant shall obtain and provide the Board of Appeals and Inspector of Buildings a Stormwater Pollution Prevention Plan (SWPPP) with the NPDES Construction Works Permit.*
- d. *The Applicant shall work with the Town Planner to establish a reasonable replacement buffer.*

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12. Site Plan Review Requirements and Determinations (based upon Chessia Consulting Services peer review report, dated March 6, 2019, and Planning Board recommendations report, dated April 11, 2019): The Board of Appeals finds the requirements of NZBL §§ 1541-1543 have been met, as follows:

- a. **Section 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."*

ZBA Findings: The Board finds that the uses or structures would not be detrimental, offensive, or incompatible, as the proposed business uses of "Retail stores, salesrooms or service establishments . . . and [r]estaurants" are allowed by right under Section 2333, Permitted Business Uses. However, it should be noted that such uses that require a Special Permit under the Zoning Bylaw are not included in this decision, unless otherwise currently existing by right or grandfathered.

- b. **Section 1542:** *"The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and land."*

ZBA Findings: The Board finds that the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and land meet in accordance with the Planning Board's report. The Board of Appeals makes particular note that the proposed traffic circulation around the entire existing and proposed addition are accommodated by one exit to Washington Street, a/k/a Route 53. The proposed driveway circulation meets the Fire Department's requirement for emergency vehicle access. Further, parking spaces proposed exceed that required under the NZBL by one with sixty-seven (67) spaces required and sixty-eight (68) proposed. Although only one handicapped space is noted on

the site layout plan, the Applicant is required to comply with ADA and state regulations, outside of the NZBL.

- c. **Section 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."*

ZBA Findings: The Town's consulting engineer has reviewed the stormwater management plan submitted and finds the submitted plans substantially meet state and local requirements. In his email of 12/21/18, Health Agent Ben Margro confirmed approval of the septic design with conditions. Trash removal will be by the Applicant's private contractor.

DECISION OF THE BOARD: On May 1, 2019, based upon the application and information submitted and representations by the Applicant's representatives as detailed in the Findings of the Board of Appeals above and the written recommendations of the Norwell Planning Board, dated April 11, 2019, incorporated into and made a part of this decision, upon a motion duly made and seconded, Members Brown, Rivkind, and Barbour **VOTED** unanimously to grant Site Plan Approval under Norwell Zoning Bylaw Section 1500 and 1510 for the proposed project, subject to the following:

SPECIAL CONDITIONS:

1. **Property Development:** The proposed project shall be developed in accordance with the approved plans. However, such plans are subject to review by the Board's consultant for compliance with the approved plan any and all conditions contained herein. **Note:** A copy of the complete set of the Plans, endorsed by the Board for identification, 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. **Project Escrow Account:** In accordance with the Board's Rules in Article H (Projects Subject to Site Plan Requirements) under Sections 2 (Technical Review) and 3 (Performance Guarantees, As-Built Plans, Certificates of Occupancy), the Applicant shall provide escrow deposit, payable to the Town of Norwell, to meet the Scope of Services contract for the Town's consultant.
3. **Planning Board Recommendations:**
 - a. *Prior to starting any activity authorized by this endorsement [Authorized Activity], the Applicant shall submit to the Board of Appeals and Planning Board proof that the proposal has been evaluated by a Licensed Site Professional on a Soil Management Plan and a Health & Safety Plan pursuant to the Notice of Activity and Use Limitation, as amended, and by whose opinion states that such Authorized Activity is consistent with maintaining a condition of No Significant Risk.*

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- b. *Prior to starting any Authorized Activity, the Applicant shall submit to the Board of Appeals and Planning Board proof that the ANR Plan entitled "Plan of Land – 111-119 Washington Street" and endorsed by the Planning Board on April 10, 2019 has been recorded at the Plymouth County Registry of Deeds or Land Court, as applicable.*
- c. *Prior to the start of any Authorized Activity, the Applicant shall obtain and provide the Board of Appeals and Inspector of Buildings a Stormwater Pollution Prevention Plan (SWPPP) with the NPDES Construction Works Permit.*
- d. *The Applicant shall work with the Town Planner to establish a reasonable replacement buffer.*

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CONDITIONS APPLYING TO ALL DECISIONS:

1. **RECORDING OF THE DECISION:** A certified copy of this Decision with all documents referenced 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. **LAPSE OF SITE PLAN APPROVAL:** The Applicant shall complete any work described in the site plan approved by the Board of Appeals within one (1) year of the date this Decision is filed with the Office of the Town Clerk or approval granted herein shall lapse.
3. **PLAN TO BE FILED WITH THIS DECISION:** The following drawing shall be filed as part of this decision:
DWG 4 of the plan set described in the File Documentation in Paragraph 9: Layout and Materials Plan, prepared by J.K. Holmgren Engineering, Inc. of 1024 Pearl Street, Brockton, MA, dated 6/15/18, as revised through 4/23/19, signed and sealed by John K. Holmgren R.P.E., and Scott M. Faria, R.P.L.S. with any revisions necessary to meet the terms and conditions of this decision.
4. **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 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 in Paragraph 3 above shall be provided to the Board of Appeals, as well as the Building Inspector, prior to issuance of any building permit.**
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(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.

Lois S. Barbour

Lois S. Barbour

Philip Y. Brown

Philip Y. Brown

Ralph J. Rivkind

Ralph J. Rivkind

Date Filed with Office of the Town Clerk

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NOTICE OF APPELLATE RIGHTS: The decision of the Board of Appeals granting Site Plan Approval when independent of a Special Permit may be appealed in accordance with Massachusetts General Laws, Chapter 249 Section 4.