

November 19, 2019

Zoning Board of Appeals
8 West Common Street
Topsfield, MA 01983

Planning Board
8 West Common Street
Topsfield, MA 01983

Re: 371 Boston Street and 130 Ipswich Road

Dear Board Members:

We have been retained by Maureen & Randy Sabino, owners of the above referenced property, to assist them in preparing a plan to re-develop the above referenced property. The Sabino's purchased the property back in 2007; in 2008 the property was re-zoned as Business District Highway North. The rear portion of the property is located within the Inner Residential and Agricultural District (IRA). Currently on the site exists a pre-existing non-conforming two-family dwelling, pre-existing non-conforming detached garage and an existing storage building. The existing dwelling is non-conforming with regards to the required front setback and the two-family use, and the detached garage is non-conforming with regards to the front and side setback.

Over the years the Sabino's have acquired 377 Boston Street, 130 Ipswich Road and 136 Ipswich Road. The additional land gained by acquiring these parcels will allow the development of 371 Boston Street as an economically viable mixed-use development. Enclosed are site development plans, including a drainage report, showing the proposed re-development of 371 Boston Street.

The property is located within the Groundwater Protection Overlay District which is also mapped as a Zone II Wellhead Protection Area by the State. Because of this the design of a sewage disposal system is limited to receive no more than 110 gallons per day of sewage per quarter acre of land under one ownership, except for repair and replacement with a system of equal capacity. This condition limits the development potential of this parcel for any type of commercial use. As part of a master planning effort for this property the Sabino's, over the years, have been slowly acquiring abutting properties in the hopes of someday developing this property in the manner as intended by the creation of the Business District Highway North zoning district. The acquisition of these additional properties will allow the Sabino's to meet the 110 gallons per day of sewage per quarter acre of land through the use of aggregate flows as allowed in the State Sanitary Code, Title 5, 310 CMR 15.216.

The proposed re-development of the property consists of the following:

- The construction of a single story Specialty Foods Market. The existing detached garage would be razed, and the market would be located in the vicinity of the existing detached garage structure.

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- The continued use of the two-family dwelling, however, the structure is proposed to be re-located to the rear of the property along the left or northerly lot line. The new building location would be within both the Business District Highway North and Inner Residential and Agricultural District, but the majority of the structure is located within the Business District Highway North zoning district.
- The construction of a new two-story mixed-use retail building with residential units above in the front of the property. The structure would be set back from the front lot line the same distance as the existing two-family dwelling and would be shifted to the right, or south, to allow room for an entrance driveway from Newburyport Turnpike designed in compliance with MA DOT standards.
- The conversion of the existing storage building into a one bedroom single family dwelling in the same location and footprint.
- The construction of a one bedroom dwelling unit, that will resemble a clock tower, located off the main entrance into the site.

The proposed design requires a lot line change with the property located at 130 Ipswich Road in order to provide enough land area so that a septic system could be designed to meet the proposed uses. Both proposed new lots comply with zoning. An Approval Not Required (ANR) plan will be prepared and submitted to the Planning Board for review and approval once all other applicable permits are obtained. We met with the Zoning Board of Appeals back in October 2015 as a discussion item and a question was raised if the septic system for a mixed-use development could be located in a residential district (ie: the IRA District). At that time, we explained that the septic system resembles a utility and is neither a residential or commercial use; it is neutral. The Board recommended that we receive an opinion from the Board of Health Agent. Attached to this letter you will find a letter from John Coulon, dated January 11, 2019, to the Zoning Board of Appeals in which he also states that the septic system is a utility and that he would not have any issues approving a septic system located within a residential district for a commercial use.

Based on our review of the Zoning Bylaw the Specialty Market and the proposed Retail Building would require Special Permits for the uses proposed. The Specialty Market building would also require a Finding to maintain the same front and side setbacks as the existing non-conforming detached garage. The proposed Retail Building would also require a Finding to maintain the same front setback as the existing two-family dwelling. The relocated two-family dwelling structure would require a Finding to maintain the same side setback as the existing non-conforming detached garage structure. Since the project is located within the Groundwater Protection Overlay District and proposes to render impervious more than 2,500 sf of the lot a Special Permit under section 6.3.5 of the Zoning Bylaw is also be required. This project also requires site plan review.

The proposed re-development project is subject to the Town of Topsfield Stormwater Management and Erosion Control By-Law; therefore, a Stormwater Management Permit is required. The proposed project does not entirely fall within the jurisdiction of the Conservation Commission; therefore, the Planning Board shall be the approving authority for this permit.

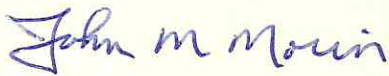
An isolated wetland resource area exists on the property; work is proposed within 100 feet of this wetland; therefore, a Notice of Intent application has been filed with the Topsfield Conservation Commission.

We look forward to meeting with the Zoning Board of Appeals and Planning Board to discuss this project.

If you have any questions prior to the meeting, please do not hesitate to contact me.

Sincerely,

THE MORIN-CAMERON GROUP, INC.



John M. Morin, PE
Principal

JMM/kmm

Enclosures

cc: Maureen & Randy Sabino



TOWN OF TOPSFIELD

Board of Health

8 West Common Street, Topsfield, Massachusetts 01983

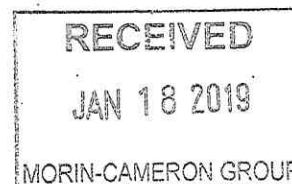
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January 11, 2019

Zoning Board of Appeals
8 West Common Street
Topsfield, MA 01983



Re: 371 Boston Street – Septic System Use

Dear Board Members:

As you may recall Maureen and Randy Sabino are looking at the possibility of re-developing the above referenced property. They mentioned that in the fall of 2015 they met with your Board, with their engineer John Morin, to discuss their proposed plans to re-develop the site. During the meeting several questions were raised by the Board and one of them was with regards to the proposed septic system location.

The property is located within Business District Highway North (BHN) and the Inner Residential and Agricultural District (IRA). The property is also located within the Groundwater Protection Overlay District. The proposed project is a commercial development with a residential component as allowed in the BHN district. Based on my review of the site plan that was presented to the Board of Appeals the proposed septic system would be located within the IRA zoning district. Mr. Morin informed me that the Board had the following question: Since the septic system serves a commercial development is the septic system considered a "commercial use"? The Board posited "If it is a commercial use then it cannot be located within a residential zone." Mr. Morin informed me that he presented his explanation that the septic system is not considered a commercial or residential use; it is neutral. It is my understanding that the Board asked for my input as well.

The State Environmental Code, Title 5 (310 CMR 15.203), provides standards for determining the design flow for sizing of components of on-site sewage disposal systems. The Town of Topsfield also has its own supplemental regulation to Title 5 (i.e.: R:1-2). Both these regulations provide design criteria for septic systems servicing residential and commercial uses however they do not describe a septic system as a residential or commercial use. The design criteria for a commercial septic system may be different than a residential system but I would not consider the actual septic system itself a commercial use or a residential use; it has no use designation. The septic system is a utility servicing a facility whether it be residential or commercial.

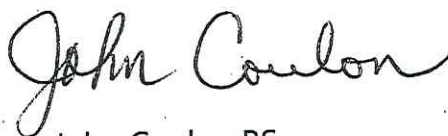
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I would have no issue approving a septic system located within a residential district for a commercial building.

I hope this information is helpful.

If you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "John Coulon". The signature is written in a cursive style with a large, stylized "J" and "C".

John Coulon RS
Board of Health Agent

cc: Maureen & Randy Sabino
John Morin, Morin Cameron