



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

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PLANNING

DECISION
Major Project Site Plan Special Permit
Application No. 2020-02
July 7, 2020

Corben Properties LLC 330 Reservoir Street & Star Fencing Academy LLC

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts of 2020)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Corben Properties LLC, 22 Comeau Street, Wellesley MA 02481; and Star Fencing Academy LLC, 26 Park Road, Apartment 2, Belmont, MA, (hereinafter referred to as the Petitioner), for property located at 330 Reservoir Street, Needham, MA, shown on Assessor's Map No. 74 as Parcel 19 containing 1.3 acres in the Industrial Zoning District.

This Decision is in response to an application submitted to the Board on June 4, 2020, by the Petitioner for: (1) a Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) a Special Permit under Section 3.2.1 for a private school, nursery or kindergarten not otherwise classified under Section 3.2.5.1 in the Industrial Zoning District; and (3) a Special Permit under Section 3.2.1 for more than one non-residential use on a lot.

The requested Major Project Site Plan Review Special Permit, would, if granted, permit Star Fencing Academy LLC, to occupy 4,963 square feet of the commercial building. Star Fencing Academy LLC would operate a private school teaching fencing.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert, on Tuesday, July 7, 2020 at 7:30 p.m., via remote meeting using Zoom ID 826-5899-3198. Board members, Jeanne S. McKnight, Paul S. Alpert, Ted Owens, Martin Jacobs, and Adam Block were present throughout the proceedings. The record of the proceedings and the submission upon which this decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1 - Properly executed Application for Site Plan Review under Section 7.4 of the By-Law, and applications for Special Permits under Section 3.2.1 of the By-Law, said application submitted on June 4, 2020.
- Exhibit 2 - Letter from Scott T. Ravelson, Manager, Corben Properties, LLC, to Planning Board Members, dated June 3, 2020.
- Exhibit 3 - Certification of Tenant Occupancy, dated May 28, 2020.

- Exhibit 4 - Plan Sheet A100, prepared by Fine Associates, entitled "First Floor Reflected Ceiling Plan," showing outlines of tenant spaces and associated square footage.
- Exhibit 5 - Plan entitled "Certified Plot Plan for Ramp with Landing, 330 Reservoir Street," prepared by Field Resources, Inc., 281 Chestnut Street, Needham, MA, dated June 22, 2011, revised October 27, 2014 and November 7, 2014.
- Exhibit 6 - Interdepartmental Communication (IDC) to the Board from Anthony L. Del Gaizo, Town Engineer, Department of Public Works, dated June 30, 2020; IDC to the Board from Needham Police Department, Chief John Schlittler, dated June 29, 2020; IDC to the Needham Planning Board from the Needham Fire Department, Chief Dennis Condon, dated June 29, 2020; and IDC to the Board from the Building Commissioner, dated June 30, 2020.

Exhibits 1, 2, 3, 4 and 5 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

- 1.1 The subject property is identified as Parcel 19 on Town of Needham Assessor's Map No. 74. It is located in the Industrial Zoning District and contains a total of 1.3 acres of area.
- 1.2 The total space to be leased by Star Fencing Academy LLC contains a total of approximately 4,963 square feet on the first floor, which is presently leased to Advanced Auto Parts, a retail store whose lease terminates on 10/31/20. Star Fencing Academy LLC proposes to operate a private school teaching fencing. The tenants remaining other than Star Fencing Academy LLC, will be Rangine Corp, Belmont Landscaping and Gary Fialkosky Sprinklers.
- 1.3 Star Fencing Academy LLC will have a maximum number of students at any given time of 30, and a maximum number of coaches at any given time of 3.
- 1.4 Star Fencing Academy LLC proposes to be open for business between the hours of 3:00 pm and 9:00 pm on weekdays and from 10am and 6pm on Saturday and Sunday. Specifically, 3pm to 4:30pm weekdays will be limited to private classes (one coach per one student) with a maximum of three (3) coaches teaching three (3) students at any one time. Starting at 4:30pm weekdays and all-day Saturday and Sunday, the maximum number of students allowed at one time will be thirty (30) with three (3) coaches (one coach per ten students).
- 1.5 The parking requirement for a private school is one-half of the design or expected enrollment. Therefore, the total parking demand for the Star Fencing Academy LLC will be 15 spaces, calculated as follows: 30 maximum students for fencing instruction @ ½ design or maximum expected enrollment = 15 spaces.

The tenant mix and parking analysis is as follows:

Tenant No. 1 – Proposed Star Fencing Academy, LLC:

30 maximum students @ ½ design or expected enrollment = 15 spaces

Tenant No. 2 - Rangine Corp:

2,803 square feet office @ 1 space/300 square feet = 9.34 parking spaces

9,749 square feet warehouse @ 1 space/850 square feet = 11.47 parking spaces

4,149 square feet Manufacturing/Industrial @ 1 space/400 square feet = 10.37 parking spaces

Total 31.18 spaces

Tenant No. 3 – Gary Fialkosky and Belmont Landscaping:

1,140 square feet office @ 1 space/300 square feet = 3.8 parking spaces

3,820 square feet warehouse @ 1 space/850 square feet = 4.49 parking spaces

Total 8.29 spaces

Parking Spaces deeded to uses at 322 Reservoir Street (See Special Permit No. 2003-02 as amended)

Total deeded spaces: 8 spaces

Total Parking Requirement: 62.47 parking spaces = 63 parking spaces

The Premises contains a total of 102 parking spaces; therefore, there will be a surplus of 39 parking spaces if the proposed tenant occupies the space.

- 1.6 Adjoining premises will be protected against seriously detrimental uses on the site by provision of surface water drainage, sound and sight buffers, and preservation of views, light and air. The site is presently fully developed and nothing further is required in the areas of sound and sight buffers, preservation of views, light and air. No change to the footprint of the building is proposed.
- 1.7 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets have been assured. Adequate parking exists for the proposed uses. There is presently an off-street parking area that is striped for 102 off-street parking spaces, including four handicap parking spaces. The parking and traffic needs of the building are low, and the use proposed by the Petitioner is a "by-appointment only" operation (all clients are expected) that is not anticipated to significantly increase the parking demand at the site. The parking supply is more than sufficient to handle the new use. In addition, the busiest times for the proposed use are in the after working hours and on weekends, which do not correspond to the busiest hours for the balance of the property.
- 1.8 Adequate methods for disposal of refuse and waste will be provided. The property's waste system is connected to the municipal sanitary sewer system. The site is already fully developed with infrastructure in place and the proposed use will not generate any significant additional waste greater than prior operations. All waste and refuse will be disposed of in conformance with all applicable federal, state and local regulations. The project's wastewater system is presently connected to the municipal sewer system and will continue in that capacity.
- 1.9 Since no change to the footprint of the building is proposed, the relationship of structures and open spaces to the natural landscaping, existing buildings, and other community assets will remain unchanged, and in compliance with other requirements of the By-Law. No exterior improvements to the facade of the building are anticipated.
- 1.10 Mitigation of adverse impact on the Town's resources including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection, and streets will be met as there will be no adverse impact on the Town's resources. The project is limited to the reuse of an existing leased space in the building.
- 1.11 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Industrial Zoning District provided the Board finds that the proposed development

will be in compliance with the goals and objectives of the Master Plan, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.

- 1.12 Under Section 3.2.1 of the By-Law, a Special Permit may be granted to allow for more than one nonresidential use on the lot, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.13 Under Section 3.2.1 of the By-Law, a Special Permit may be granted to allow fencing academy in the Industrial Zoning District as a "Private School". On the basis of the above findings and criteria, the Board finds that the proposed use, as conditioned and limited herein, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements and to not increase the detriment to the Town's and neighborhood's inherent use.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law; (2) the requested Special Permit under Section 3.2.1 for a private school, nursery or kindergarten not otherwise classified under Section 3.2.5.1 in the Industrial Zoning District; and (3) the requested Special Permit under Section 3.2.1 for more than one non-residential use on a lot, subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Inspector shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Inspector to the Board prior to the issuance of a Building Permit.

- 2.1 A revised application shall be submitted for this project which includes Star Fencing Academy LLC as a co-applicant.

CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.12 hereof.

The Board approves the use of the Premises as a fencing “private school”, by Star Fencing Academy LLC, as conditioned herein.

- 3.1 Star Fencing Academy LLC may be open between the hours of 3:00 pm and 9:00 pm on weekdays and from 10am and 6pm on Saturday and Sunday. Specifically, 3pm to 4:30pm weekdays shall be limited to private classes (one coach per one student) with a maximum of three (3) coaches teaching three (3) students at any one time. Starting at 4:30pm weekdays and all-day Saturday and Sunday, the maximum number of students allowed at one time will be thirty (30) with three (3) coaches (one coach per ten students).
- 3.2 The operation of Star Fencing Academy LLC shall be as described in Sections 1.3 and 1.4 of this Decision and as further described under the support materials provided under Exhibits 1, 2, 3, 4 and 5 of this Decision.
- 3.3 The maximum number of students participating in classes or functions at any given time shall not exceed thirty (30). The maximum number of staff persons present at any given time shall not exceed three (3) coaches.
- 3.4 The special permits granted herein are specifically premised upon the special characteristics of Star Fencing Academy LLC. In the event of any change in the use permitted hereunder which would result in a greater parking demand, further site plan review will be required, and the Planning Board shall be entitled to evaluate the parking demand of the building as a whole.
- 3.5 This Special Permit to operate a fencing academy at 330 Reservoir Street, Needham, MA is issued to the Star Fencing Academy LLC, 26 Park Road, Apartment 2, Belmont, MA, and may not be transferred, set over, or assigned by the Star Fencing Academy LLC, 26 Park Road, Apartment 2, Belmont, MA, to any other person or entity other than an affiliated entity in which The Star Fencing Academy LLC has a controlling interest of greater than 50 percent, without the prior written approval of the Board following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient. For purposes of this section 3.5, a transfer or assignment of ownership interests or membership units of Star Fencing Academy LLC such that the current members of Star Fencing Academy LLC as of the date of this decision no longer own or control more than fifty (50%) percent of the equity interests or no longer own or control more than fifty (50%) percent of the voting power of Star Fencing Academy LLC shall be considered a prohibited transfer or assignment.
- 3.6 The proposed fencing academy use shall contain the dimensions and shall be located exactly as shown on the Plan, as modified by this Decision, and in accordance with applicable dimension requirements of the By-Law. Any changes, revisions or modifications to the Plan, as modified by this Decision, shall require approval by the Board. Notwithstanding the foregoing, changes in the size, shape or arrangement of rooms, the movement of interior walls and similar changes shall be permitted, provided the limitations at paragraph 3.4 shall be adhered to.
- 3.7 No building permit shall be issued in pursuance of the Special Permit and Site Plan Approval until:
 - a. The final plans shall be in conformity with those previously approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.

- b. The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.8 The approximately 4,963 square feet shall not be occupied by Star Fencing Academy LLC until:
- a. There shall be filed with the Board and Building Inspector a Final Affidavit signed by a registered architect upon completion of the building renovation certifying that the project was built according to the approved documents.
 - b. There shall be filed, with the Building Inspector, a statement by the Board approving the Final Affidavit, in accordance with said Decision.
- 3.9 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commission or other agencies, including, but not limited to the Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.10 The portion of the building that is authorized for construction by this Approval shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Inspector.
- 3.11 The Petitioner, by accepting this Approval, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.12 Violation of any of the conditions of this Approval shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of violation of any conditions of this Approval, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Inspector to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this Approval including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Approval if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site improvements, which are the subject of this petition. All

construction to be conducted on site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this Decision. There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law.

- 4.2 The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend or supplement, this Decision to clarify the terms and conditions of this Decision.
- 4.3 This Decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This Site Plan Special Permit amendment shall lapse on July 7, 2022 if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to July 7, 2022. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.
- 4.7 This decision shall be recorded in the Norfolk District Registry of Deeds and shall not become effective until the Petitioner has delivered a certified copy of the document to the Board. In accordance with G.L. Chapter 40A, Section 11, this Major Site Plan Special Permit shall not take effect until a copy of this decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time is recorded in the Norfolk District Registry of Deeds and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at the risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

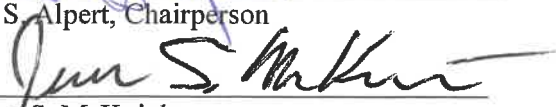
The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

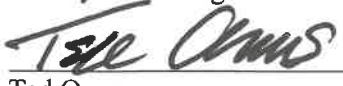
Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 7th day of July 2020.

NEEDHAM PLANNING BOARD


Paul S. Alpert, Chairperson


Jeanne S. McKnight


Ted Owens


Martin Jacobs


Adam Block

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

July 10, 2020

On this 20 day of July, 2020, before me, the undersigned notary public, personally appeared Paul Alpert, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.


Notary Public

My Commission Expires: March 18, 2022

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the Amendment to Decision of the project proposed Corben Properties LLC, 22 Comeau Street, Wellesley MA 02481 and the Star Fencing Academy LLC, 26 Park Road, Apartment 2, Belmont, MA, for property located at the 330 Reservoir Street, Needham, Massachusetts, has passed,

 and there have been no appeals filed in the Office of the Town Clerk or
 there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Design Review Board
Building Inspector
Conservation Commission
Scott Ravelson, Corben Properties, LLC

Select Board
Engineering
Fire Department
Police Department

Board of Health
Town Clerk
Director, PWD
Parties in Interest