



TOWN OF NORTHBOROUGH

Town Offices

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Approved 4/3/07

Planning Board Meeting Minutes February 20, 2007

Members Present: Rick Leif, Michelle Gillespie, George Pember, Don Hewey, Robert Rosenberg

Others Present: Kathy Joubert, Town Planner; Bill Farnsworth, Inspector of Buildings/Zoning Enforcement Officer; Jean Langlely, Library Director; Sue Brackett, John Stoddard, Michelle Rehill, Mary Crowley, Jane Clark, Andrew Baum, Places Site Consultants, Inc.; Richard Kane, Michael Durkin, Gerry Benson, Dick Rand, Dan Ginsberg, Barbara Durkin

Chairman Rick Leif opened the meeting at 6:00 pm.

Discussion with Steve Venincasa RE: Maynard Woods Well Agreement & Lot Releases

Planning Board member Don Hewey recused himself from this discussion. Mr. Venincasa presented a Maynard Woods Well Agreement signed by Gordon Kelly and Donald Hewey.

Don Hewey

- The agreement has all parts requested by the Planning Board.

Steve Venincasa

- Wells will be retested in May 2007
- If results are more than 10% of 2003 baseline a number of options available, including refracting or drilling a new well

Don Hewey

- Last item as failsafe
- Neither of us think it will happen
- If ok, will sign a release
- Agreed it was right thing to test at same time of year as original testing

Rick Leif

- If May 2007 test shows there is a problem – action will be taken
- Subsequent testing to show problem has been corrected
- When will time come when bond will be use to reimburse the Heweys and Kellys?

Kathy Joubert

- Would be a cash bond and matter of paperwork with developer and two homeowners

Don Hewey

- Was an amicable discussion
- We both want to get to the same place
- Both want it done by the spring

Michelle Gillespie moved to release lots with street addresses of 26 and 30 Beechwood Circle in the Maynard Woods subdivision. Bob Rosenberg seconded the motion and the vote was unanimous.

Mr. Hewey returned to the meeting as a board member.

6:10 pm - Site Plan Review RE: Addition & Renovations for the Northborough Free Library at 34 Main Street, Assessors Map 63, Parcel 141

Jean Langley, Library Director, as well as Andrew Baum, engineer from PLACES and Stewart Roberts, architect representing the Northborough Free Library, were present. Mr. Baum presented the plans for the library project.

Andrew Baum

- Special Permits required for expansion of a pre-existing, non-conforming use and reduction in required amount of parking
- Includes ability to expand parking if facility needs it after a year
- Proposing to remove entire 1970s addition
- Put on new 2-story addition with 100-person meeting room in rear
- Parking expanded by utilizing existing access off Patty Lane
- 65 space parking lot
- 24 -foot fire lane
- One-way loop around parking area
- Drive-up book drop on easterly side of planted island
- Pedestrian access same as it is today
- Allows for a walk off existing walk on Patty Lane leading to main entrance
- Continuous walkway for all
- Proposing fencing to buffer apartment complex
- Variety of areas for planting beds
- Site served by electric, water and gas coming off Main Street
- Utilizing existing sewer
- Collecting roof drain runoff from new part
- No runoff will accumulate on side of building
- Dumpster enclosure on southerly end of parking
- No impediment to fire vehicles – can pull up to front of building
- Met with Groundwater Advisory Committee – served by natural gas, no oil storage
- Not commercial use – no need to store or handle large quantities of chemicals
- Before ZBA next week – would appreciate Planning Board input

Rick Leif

- Existing addition is going to be demolished and replaced? Existing Gale Library is not going to have anything done to it? How much bigger is the new building compared to the existing building?

Andrew Baum

- Increase of about 10,000 square feet
- From 14,900 square feet to a gross floor area of 25,100 square feet

Rick Leif

If additional parking deemed necessary, it would be located by War Memorial off of Pierce Street?

Andrew Baum

- Yes – only place municipally-owned

Jean Langley

- Parking adequate
- If we anticipate a large turn-out we contact Trinity Church
- Town will be putting in new light at Hudson Street which will help people cross Main Street
- People come and go, so parking is usually not a problem.

Rick Leif

- Meeting room is a good idea
- Something specific about accommodating 100 people?

Jean Langley

- Would be hard-pressed to fit 50 people in existing meeting room
- Existing meeting room also used for storage
- Children's programs need more room to make it less dangerous
- Need room for audience without being so scrunched that we don't have proper egress

Rick Leif

- Concerned about parking
- If meeting room becomes popular, people attending meeting plus library patrons could require more than 65 spaces

Jean Langley

- We encourage people now to car pool and make arrangements with Trinity Church.
- Give them directions to lot on Hudson Street
- Meeting room not just for library use – not the way policy is written right now

Rick Leif

- Could you charge a fee for out-of-towners?

Jean Langley

- No, policy doesn't allow for that right now.

Rick Leif

- Pad for transformer in front of building – does one currently exist?

Andrew Baum

- No – proposed is sizeable transformer
- Pad is 7' x 7' – don't know height

Rick Leif

- An historic building
- Concerned about what transformer will look like
- Can't it be located anywhere else?

Andrew Baum

- Wanted to bring electricity down the street, but very expensive
- Stuck with using existing pole in front, going to transformer and down to building

Rick Leif

- When going to ZBA – make sure there is some kind of graphic showing the transformer
- Aesthetic issue that needs to be considered

Don Hewey

- Agree – why couldn't it be done on the other side of the building
- Have condenser unit there already

Andrew Baum

- No – National Grid has requirements
- Also, grading on side of building is steep and need to match those existing grades

Rick Leif

- Take whatever steps you can to make it meld in
- Existing parking is 32 spaces and will become 65 spaces?

Andy Baum

- Yes – increasing gross floor area by 40%

Don Hewey

- Pleased to see parking conforms to current zoning

George Pember

- Went through all of it at Groundwater Advisory Committee (GAC)
- GAC very pleased
- Have no comments

Rick Leif

- If meeting room starts to become popular, needs to be plan to make sure normal library uses don't have a hard time parking

Kathy Joubert

- Reserved parking spaces up to ZBA
- Planning Board needs to authorize decrease in parking spaces
- Put a one-year or two-year time frame on it
- Kicks off to Building Inspector to look at it
- Make sure parking provided is adequate or that reserve parking needs to be built

- A few spaces could be provided on Patty Lane which would require additional pavement on Patty Lane
- War Memorial has 15 spaces – a highly underutilized parking lot
- Board needs to make comment to ZBA regarding reserved parking
- Agree as shown, but not necessary right now to build reserve parking

Rick Leif

- Don't have a problem
- Will include in letter to ZBA

Kathy Joubert

- Project goes before ZBA next Tuesday evening (2/27/07) for public hearing
- If satisfied, you could put comments in a memo
- Based on comments made by Board members tonight, will email memo to Planning Board for your review. Comments are as follows: 1.) minimize appearance of transformer by adequate screening and 2.) Board authorizes a decrease in the number of parking spaces by allowing for off-site parking at the municipal lot on Pierce Street and the addition of spaces on Patty Lane if needed.
- Board will review email, provide corrections to me, then memo will be sent to ZBA.

Dick Kane

- Have you looked at putting in a buried transformer?

Andrew Baum

- No – will check on that with National Grid

End of library site plan review discussion.

Approval of Minutes:

Mr. Hewey moved to approve the minutes of January 16, 2007 as amended. Mr. Pember seconded the motion and the vote was unanimous.

Mr. Pember moved to approve the minutes of January 29, 2006 as amended. Mr. Hewey seconded the motion and the vote was unanimous.

Community Preservation Committee Meeting Update: At their meeting last night, the committee voted on articles for Town Meeting for distribution of CPC funds, as follows:

- Open Space Bank \$372,500
- Housing Reserve \$ 68,000
- Historical Commission \$ 30,000 (for phase 2 of inventory)
- Historical Commission \$ 80,000 (to start bank for historic resources)
- Trails Committee \$200,000
- Recreation Dept. \$ 52,000 (replacement of gym floor)
- Baseball Association \$ 35,000 (irrigation and improvements to Middle School fields)
- CPC \$ 15,000 (administrative purposes)

6:50 pm - Kathy left the meeting at this time to participate in interview with Board of Selectmen for Open Space Committee member.

Bob Rosenberg

- CPC administrative funds is primarily for secretarial services

- One thing discussed was to acquire land and meetings to get appraisals
- If \$16,000 was appropriated, would give them \$25,000 accumulated from last year
- No way to acquire except at Town Meeting

Don Hewey

- Thought that if next year you didn't use it, you wouldn't get it

Bob Rosenberg

- Yes, my expectation is that, but we didn't discuss it.

Michelle Gillespie

- Is money allocated for Open Space enough for Haitsma property?

Rick Leif

- Haitsma property not on top of Open Space list
- Part has to do with idea of how to develop buildable part in front and leave open space in back
- Wasn't working as well as we thought
- Other areas in town more attractive and things breaking down in other parts of town
- Open Space Committee withdrew Haitsma application
- Right now a lot still going on in the background

Michelle Gillespie

- Enough going on to bring to Town Meeting this year?

Don Hewey

- Presentation was that we have a lot of money compared to what we had last year.
- A lot of power with negotiations
- Will have serious discussions if you have a million dollars in the bank for that purpose
- A lot of parcels potentially for this purpose

Rick Leif

- Sudbury Valley Trustees (SVT) has expertise working with landowners
- Have a vision for a protected strip of land
- Potential for a lot of properties along that corridor that may become available

7:00 pm - Public Hearing RE: Scenic Road Application of Ziad Ramadan for 325, 331 & 337 Newton Street, Assessors Map 7, Parcels 35, 36 & 37

The applicant, Ziad Ramadan, was present.

Ziad Ramadan

- Have 3 lots that have 200 feet of frontage each – ready to build – have been approved
- Can't break up more than 15 feet of the stone wall
- Some trees very close to road
- Trying to clean area and make it look nicer
- A lot of dead wood
- Worry about safety of kids
- Want to clean small trees and one big tree
- Hill dives down – really blind spot
- People need room to maneuver when they go down the hill

- Also opening stone wall to get access to the lot

Rick Leif

- Opening the stone wall for driveways?

Ziad Ramadan

- Yes.

George Pember

- Plans for stones being used?
- Specifically thinking of stones from the wall

Ziad Ramadan

- Have 55 acres and lots of stones
- Haven't thought about using stones from the wall

Rick Leif

- Normally we ask applicants to use stones to repair other parts of the wall

Ziad Ramadan

- Have no problem doing that
- Without the Planning Board he can get 15 feet within the bylaw

George Pember

- Road is so narrow, it will be better if you do this

Michelle Gillespie

- Since John Schunder is gone, do we actually have a tree warden?

Kathy Joubert

- Kara Buzanoski, DPW Director, is the tree warden.

Michelle Gillespie

- What is process?
- How do we know the status of these trees?

Ziad Ramadan

- If someone can go out there and walk it with me, that would be good.

Michelle Gillespie

- Doesn't the tree warden do that?

Bill Farnsworth

- I think so.

Ziad Ramadan

- Just some small things too close to the road
- Unless someone is physically there, it's hard to visualize.

Bob Rosenberg

- Are there currently openings in stone wall?

Ziad Ramadan

- Yes (he pointed out the locations on the plan)
- Opened up – allowable without the Planning Board approval

Bob Rosenberg

- Don't know how the location of driveway fits into our discussions of scenic road
- The road there has an amazingly sharp angle.

Ziad Ramadan

- Yes – want to clear for visibility

Bob Rosenberg

- The onus is going to be on the person leaving the driveway – the lower one proposed
- The vertical crown on the road makes it impossible to see what's before you.

Ziad Ramadan

- Not the lot we're talking about

Kathy Joubert

- Met with DPW Director, Kara Buzanoski
- In-house have been talking about improvements to Newton Street in general
- Specifically, at this time, DPW Director has agreed to the filling of the holes, removing trees along the edge of the road and widening the road where possible in relation to frontage of ANR lots.
- Will improve safety and site distance
- Also discussed widening of Newton Street wherever possible
- Obviously pieces of ledge will be too costly to move, but if areas can be widened - do it.
- Overlaying Cheryl Drive to Newton Street with top pavement (See letter)
- Not recommending they be included as conditions – these are long term items
- In short terms – filling in holes that exist, removing trees along the edge and widening road where possible in relation to frontage of ANR lots.
- Could add condition about using the stones from the wall to repair wall

Bob Rosenberg

- Sounds like DPW is considering doing work on that stretch of road where crown is.
- Could create a conflict with the driveway.

Kathy Joubert

- Kara is fine with driveway locations per my discussion with her today.

Ziad Ramadan

- Will be coming to Planning Board with an ANR and subdivision plans
- At that time, those items talked about with DPW will be appropriate

Mike Durkin, 48 Moore Lane

- Under impression that Scenic Road Bylaw sought before work began
- A number of neighbors wanted input on process
- My understanding of it is to preserve rural character of roads as they exist
- First any of neighbors have heard about this
- Know there's an overlay and something is going to happen here

- If you clean it up piece meal, down the road you have a super highway
- Asking for a continuance of hearing and an overview of what was proposed for DPW

Ziad Ramadan

- Didn't do anything that is against the law
- Have rights to cut trees on own property
- All trees cut he was allowed to do
- Didn't disturb anything that legally can't be disturbed.
- Don't need any approval to build the 3 houses.
- Could leave trees and not make changes, but opted for safety

Kathy Joubert

- Allowed to remove 15 feet of stone wall

Barbara Durkin, 48 Moore Lane

- The French's, who are not here tonight, had objections to altering the stone wall
- This scenic road plan appears to be a new plan, lots changing number, question of septic
- Don't want to lose ability to control what's happening.

Michelle Gillespie

- When Andrew Silver came before us, he took pictures and showed visuals
- Took a whole set of pictures along the street
- Suggest applicant provides Board members with some photographs of the area
- Would like to continue hearing to next meeting and have applicant bring in photos and elaborate on stonewalls to be removed.
-

George Pember

- Concerned about stones being sold

Ziad Ramadan

- That never happened

Rick Leif

- Would like photographs of areas where wall will be opened and trees removed and areas of wall that need repair

Don Hewey

- Also ask Kara to put her items in form of a memo

Michelle Gillespie moved to continue the hearing to March 19, 2007 at 7:00 pm. Bob Rosenberg seconded the motion and the vote was unanimous.

7:30 pm - Joint Meeting with ZBA to Review Site Plan Bylaw

Rick Leif

- Not going forward at Town Meeting with changes to zoning bylaw
- Bylaw changes too intertwined with other areas of zoning bylaw, will present complete package at 2008 town meeting
- Consultant, Judi Barrett, wants to know how Special Permit Granting Authority should work in Northborough

- Makes sense for Planning Board and Zoning Board of Appeals to jointly work on this
- Start with review of what we do today and why we do it
- Does existing site plan review bylaw make sense, does anything need to change?

Kathy Joubert

- Site Plan Review information from Citizen Planner Training Collaborative
- Have Power Point slide show prepared but projector not working
- Presented overview of process in general across Massachusetts, reviewing topics as follows:

Definition of Site Plan Review

- An attempt to fit larger projects into community
- No state statute that allows community to do site plan
- Mass General Law contains no specific or general reference to site plan
- Has evolved over the years and been supported by courts
- Courts have never refused to allow a community to do site plans

Comparison to Special Permits

- Special Permit regulates use – regulates type of use
- Site Plan Review can only be used to shape a project
- Can't be used to deny except in very rare circumstances
- Look at, review and condition

Site Plan Review Board

- Each town is different
- Most common board is Planning Board
- Sometimes Board of Selectmen
- In Westborough and Sudbury it's Selectmen
- Also Zoning Board of Appeals
- In Northborough, a combination of both ZBA and Planning Board
- In some towns it is Building Inspector – doesn't go before any board (Barnstable)
- Some towns have created a hybrid board

Function of Site Plan Review

- For use or structure that does or doesn't need a special permit
- Conditions imposed on building permit
- Can't deny an as-of-right use

Powers of Review Board

- Reject when not presented in proper form - adequate information not supplied
- Impose reasonable conditions
- Reject when site plan is very intrusive on needs of public

Procedures for Site Plan Review

- Applicant may request a hearing
- Before Planning Board, not a public hearing – a public meeting only
- If Planning Board went to extreme, could take no public comments as it is not a public hearing
- Reasonable time and place, etc.
- Need to advise applicant of all facts, etc.
- Maintain a record

Review of the Site Plan

What we talked about tonight

- Pedestrian and vehicular safety
- Parking & loading
- Landscaping, screening and buffers
- Lighting
- Signage
- Stormwater management
- Architectural style and scale
- Water and wastewater systems
- Refuse disposal

Decision

Conditions, which may include:

- Private disposal of solid waste
- Deadline to commence construction
- Possession or use of hazardous substances
- Limitations on signage;
- Alarm system
- Limits on vehicles
- Limit as to number of students or residents
- Noise limits
- Maintenance guarantees
- Landscaping requirements
- Parking space
- Dust control
- Sewer connection
- Bond or other performance guarantee
- Hours of operation
- Police details during periods of heavy traffic
- Adding in bonds
- Hours of operation

Voting

- For Planning Board (5-member board) - majority vote
- With ZBA (3-member board) – all 3 members
- Allowing board members to miss a meeting but still be able to vote – town would need to adopt state regulation allowing this but problem with providing information to board members as interpretation to date has been that meetings need to be recorded and not all meetings are recorded

Constructive Approval of Site Plan

- For plans not acted upon within required time period
- Haven't run into it in our town

Site Plan Review and Vested Rights - Grandfathering

- An approved site plan does not grandfather the project
- Other ways to grandfather plans via MGL Ch 40A sec 6

Appeal of Site Plan Decisions

- Appeal of site plan goes to court
- Appeal of issuance of building permit goes to ZBA

Bill Farnsworth

- Question to Appellate Court is: Did the building inspector make the right decision not to issue the permit?
- Does not have anything to do with Site Plan Review by Planning Board

Review of Site Plan Approval in Northborough Zoning Bylaw – Section 7-20-040

(A) Apartment Districts

- Has to be a minimum of 25 acres

- Maximum of 4 units per acre
- Site plan approval/review in an apartment district is through the ZBA - Special Permit Site Plan Review for multi-families
- Not aware of any apartment district in town
- Has to be on town water and sewer

Bob Rosenberg

- Paragraph A3 – seeing something that says Planning Board reviews site plan

Kathy Joubert

- Planning Board gets copies of all site plans
- Impact statement that Board may require – What is impact to schools, increase of vehicles, how many people anticipate moving into complex etc?
- While not a requirement, a provision that asks about provisions for affordable housing
- Planning Board given 30 days from the receipt of application to forward comments to ZBA

(B) Retirement Community Park

- Landowner and attorney had proposed bylaw over 25 years ago for Birchwood Adult Community (originally known as “Dingley Dell”)
- Overall requirements – 30 acre site
- Town water and town sewer
- Impact statements need to be submitted to review board as part of process
- Age restriction 55 years and older
- Proof of age had to be submitted to Building Inspector

Bill Farnsworth

- Nobody ever forwards that information
- Don’t have time or ability to track it down

(C) Business and Industrial Districts

- What we should be looking for in review:
 - Traffic channelization
 - control how it moves off-site and on-site
 - how they plan their entrance
 - employee parking
 - employee entrance
 - public parking
 - Adequate drainage of surface and subsurface water – town engineer
 - Protecting water supplies – under groundwater – an added layer
 - Overall protecting environment and property values
 - Making sure adequate fire and police protection
 - Visual amenities – buffering, screening, on the site,
 - Promoting historic preservation of structures and resources
 - Architectural considerations – design review

Three areas of Site Plan

- Site Plan Review by Planning Board
- Site Plan for Industrial districts by Planning Board with Planning Board serving as SPGA if groundwater special permit is applicable
- Special Permit with Site Plan Review by ZBA

(D) General Site Plan Approval

- Site Plan Approval is new buildings, alterations to existing buildings or significant changes of use – Section 7-20-040 D
- Uses of greater size – Site Plan Review by ZBA
- Site Plan Approval part of overall special permit process
- When working with consultant – attempt at stream-lining this process
- Planning Board Site Plan Review - when no special permits required
 - Six categories that Planning Board reviews
 - In BA district – downtown district – 600 square feet or less – for multi-family or non-residential
 - In BB or BC district – if project is 1200 square feet or less
 - All Industrial districts where the facility is 5000 square feet or more
 - All zoning districts when 10 or more parking spaces required for alterations, etc.
 - All districts – when change of use and 10 or more parking spaces necessary
 - In Industrial district – Planning Board becomes Earth Removal Board also – so applicant does not have to go to Earth Removal Board

(E) ZBA Special Permit with Site Plan Review – when special permit required

- New buildings, alterations, significant changes of use
- Review by Planning Board, provide comments to ZBA
- In BA district – Special Permit Site Plan Review for projects of more than 600 square feet
- In BB or BC district – for projects of more than 1200 square feet

Kathy Joubert

- Prior to 1986, no Site Plan Review process in place except for apartments and pre-manufactured housing
- Reason for split between two boards is that by our zoning bylaw majority of special permits are with ZBA
- Correct assumption made when proposing original site plan bylaw in 1986 that applicants for special permits and variances for bigger projects will be before ZBA anyway
- Streamlines process for town and applicant
- Previous Planning Board's input to ZBA has varied. Level of involvement has been from every applicant appearing before the Board, to Board reviewing plans themselves without applicant and providing comments to ZBA, to Board deciding which applicants to come before them.

Don Hewey

- Re: 7-20-040(E) – doesn't sound to me that it is optional, but that Planning Board is required to review

Kathy Joubert

- Each Planning Board has done it differently over the years.
- Some have chosen to have every applicant come before them and send written comments
- Some have chosen to have some come in and make comments from plans presented
- Some boards have not even commented on plans
- Can't be made to do something that someone's choosing not to do

(G) Review Process

- Different as far as time-frame with Planning Board and ZBA
- Planning Board – site plan review must be held within 90 days from date of submission

- ZBA – statutorily required by MGL Chapter 40A, Section 9 – Board has 65 days to hold hearing and once hearing closed, board has 90 days to make a decision
- Typically, unless a large application, seems to take one to two meetings with ZBA
- Same with Planning Board

(J) Approval Process

- Planning Board – either approve as presented or approve with conditions
- May deny if application does not contain specific information as required by the bylaw– used with Stop & Shop
- ZBA – shall approve or deny if contrary to zoning bylaw

(M) Design Review Committee

- Planning Board appoints members
- Planning Board member serves as chairman of the DRC
- 5-member board with members as close as they can get to:
 - 1 degreed architect
 - 1 degreed landscaper
 - 1 representative appointed by Chamber of Commerce
 - 1 town resident
 - 1 Planning Board member
- An advisory board – nothing statutorily that regulates committee
- Part of site plan and special permit site plan
- Applicant meets with Design Review Committee (DRC)
- With CVS, committee had 3 or 4 meetings with applicant
- DRC goes over proposal
- Puts together comment memo
- Outlines what they have agreed to with the applicant
- Sent to whatever board has ultimate jurisdiction over the project
- Always been my experience to have the board incorporate their comments into their decisions
- Most efficient manner to work with DRC has been to have them meet with applicant before site plan filed and then at least once again after they file.
- Historically, whoever is the governing board receives information from DRC and incorporates into decision
- Typically by the time it gets to the SPGA, the applicant has made changes to reflect review by DRC

Dan Ginsberg

- Are there areas that you know of that we don't perform?
- Are we following these rules?

Kathy Joubert

- Yes

Bill Farnsworth

- Kathy and I confer
- We both refer to the bylaw and direct applicant to appropriate board for review

Rick Leif

- Some things need to be changed
- Section E – Site plan review required by Planning Board
- Haven't done consistently – talked about ways to do it

- Need to tighten up the process
- From now on, I propose Planning Board reviews each site plan before the ZBA
- Suggest to ZBA that if you haven't heard from us on project before you, ask us about it
- Don't assume if you haven't heard from us, there's no comment

Dick Rand

- Happy to get your comments. This Board hasn't always heard from you on some previous site plans.

Rick Leif

- Onus is on us
- Going forward, we're going to pay more attention to what comes before us

Dick Rand

- If you say so
- Will expect it on everything we do

Don Hewey

- Bylaws say it is required
- We should do it and you should expect it

Bill Farnsworth

- Review is required, but it is not required that you send comments to the ZBA

Rick Leif

- Will try to correct by acting on all plans
- Will send memo even if it's only a one-liner

Dick Kane

- 7-20-040(E) clearly says we need something from the Planning Board

Kathy Joubert/Dick Rand

- Just says a review by the Planning Board is required

Don Hewey

- If it's required, how do you know we reviewed it?

Dan Ginsberg

- Has to be something that says after Planning Board reviews it, a written document must be submitted to ZBA and ZBA will not go further until it hears from Planning Board

Kathy Joubert

- Board of Health has 45 days to review an application
- No authority or requirement that they have to report back to Planning Board
- Interpreted that if nothing comes from Board of Health, it's deemed approved

Rick Leif

- Last week, decided to take a more active role in site plan review
- Trying to avoid situations where we want to comment and, for some reason, ZBA doesn't get our input

Dan Ginsberg

- Is there a check-list for approval/review?

Kathy Joubert

- There's a distribution list and all of those people sign off on it
- They're all aware and all receive copies of Planning Board and ZBA agendas

Dick Kane

- At every meeting Kathy or Bill points out everything that has deadline

Dan Ginsberg

- Should we have something in writing?

Dick Kane

- We know that now and will ask for it

Rick Leif

- Re: Design Review Committee 7-20-040(M) Site plan approval and special permit site plan review
- What are we doing today?
- Does it make sense to have 2 boards involved?
- What value does Planning Board add on way to ZBA?
- Are there certain processes that don't need to go to ZBA?

Michelle Gillespie

- 5 members on DRC
- Sometimes we'd have informal meetings before filing
- Applicants have vision and Design Review has vision – skilled members on board
- Informal meeting good way to get everyone on same page
- During Planning Board meeting, I would give updates
- When completed, we would present to Planning Board or ZBA
- That's how we did it
- Discrepancy recently raised by Planning Board member – Should it be DRC reporting to ZBA or Planning Board, or Planning Board first and then information funneled to ZBA?

Don Hewey

- Have read it as independent meetings have a lot of value
- When it comes time to pass it on, it says together the DRC and Planning Board hash it out

Rick Leif

- Have design review output go to Planning Board and from Planning Board to ZBA
- Another way to ensure that the Planning Board input is put together in a coordinated manner

Kathy Joubert

- Historically, process has been adapted by Planning Board due to Planning Board questioning why they would be involved with design review if there's a committee to do it
- Planning Board talked with DRC and said process that makes sense for DCR to do the review and provide comments to the boards
- Past Planning Boards didn't want to make it a 10-member board reviewing a process

- The historical interpretation is different from how the bylaw reads and given that all bylaws open to interpretation, past boards interpreted design review section. That process has been followed ever since.
- Giving you 20 years worth of experience and discussions with planning boards

Bill Farnsworth

- You have Earth Removal and Groundwater Advisory Committee meetings – you don't sit in on them. You accept what they send to the Board
- If one of projects goes to one committee and then has to go through it all over again – very cumbersome and confusing

Rick Leif

- Design review should continue to do their work
- Question is where does that work go after?
- Should go to Planning Board
- Maybe review in zoning reorganization

Dick Kane

- Had asked question - should ZBA or Planning Board be doing it?
- We are the ZBA – what are they bringing to us?

Rick Leif

- Basic question
- Every town uses Planning Board and ZBA differently
- Going forward, need to think about what makes sense
- Requiring multiple boards to be involved
- A lot of reasons why things have fallen through cracks is confusion comes up when we expect things to go one way and they go a different way
- Everybody thinks they're doing the right thing and we say – what the hell happened?

Bill Farnsworth

- I run into all the time from developers and designers
- You have to look at regulations
- Have to look at the context that it's in
- Have to look at whole section, not just one small part
- Sometimes when people criticize me, they may be looking at one paragraph or one sentence. Need to look at the whole picture

Rick Leif

- Not being said in context of someone doing a bad job

Dick Rand

- Have always taken what DRC gives us as an arm of the Planning Board
- When I read the memos, I think they're an appointed board by the Planning Board and that you agree with their comments.

Michelle Gillespie

- They have.
- DRC has provided comments on the Post Road Marketplace, 290 West Main Street and CVS
- Situation with CVS is how much input should the board give you

Dick Rand

- We did get recommendation from Design Review

George Pember

- Is there any dispute here that the Planning Board should do all site plan reviews?
- A year down the road with zoning reorganization project, should ZBA get comments from DRC when they are SPGA?

Rick Leif

- Currently, DRC makes recommendation to Planning Board through Michelle and in memo form
- Planning Board could incorporate DRC recommendations into PB comments or let DRC send comments separately as has been in the done in the past

Dick Kane

- Worked with CVS

Rick Leif

- Request that in all cases DRC goes to Planning Board and then to ZBA

George Pember

- Earth Removal Board and Groundwater Advisory Committee – not arms of any other board
- Can independently go to you

Kathy Joubert

- Are you asking that Planning Board hold a meeting with DRC or you receive input from DRC, then your comments go to ZBA?

Don Hewey

- Should be a complimentary process
- Are things other than design of structure and landscaping that do come under site plan review
- DRC input and Planning Board input should come as a package to ZBA

Bill Farnsworth

- Must be careful of some projects – like CVS

Rick Leif

- This is what we're going to talk about for the future

Bill Farnsworth

- Going to several boards for the same thing makes process unnecessarily lengthy

Rick Leif

- Some confusion as to how the process works
- Trying to minimize this going under current zoning
- In new zoning, we can do anything we want
- Is the process we follow today what we want to follow going forward?
- Would we want to further streamline it?
- Could decide some situations where Planning Board does review are eliminated
- A discussion for the future

Dick Rand

- Process has worked fine over the years
- Don't know what the situation is now with CVS
- System has worked fine until now
- If Planning Board wants to review a project, they can review it
- Welcome comments from anyone in town, particularly from Planning Board
- Surprised no comments from Planning Board on The Loop
- If Planning Board wants to hear everything that ZBA hears, it will be over processing for the applicant.
- Don't think process should be changed so that project is kicked around by 3 different boards

Don Hewey

- Design review would do design review, we'd be doing the special permit and you'd be doing site plan review

Rick Leif

- Where else in zoning does ZBA issue special permits?

Bill Farnsworth

- Under use regulations
- Also, the 50% increase on a non-conforming structure and expansion in Groundwater Overlay districts

Kathy Joubert

- In many communities, ZBA is the SPGA
- Planning Board can also be SPGA
- When we changed site plan for industrial use to be by planning board, board became SPGA for groundwater as part of that process

Rick Leif

- Do you see special permits and variances together?

Gerry Benson

- Yes, then the 40Bs are a completely separate process

Kathy Joubert

- Often times variances and special permits are together in the more complicated and/or larger projects
- Most of the larger projects need multiple permits

Bill Farnsworth

- Site plans, variances and special permits – rare to have a large project come through with just one of them
- Planning Board wanted all special permits in Industrial zone to streamline process – so applicant would come to one board. Change made in 2002.

Dick Rand

- Seems like increasing the work load instead of streamlining the process

Gerry Benson

- Time-frame restrictions are involved

Don Hewey

- Not really
- One of reasons we schedule this meeting is because in some of her initial drafts (Judi Barrett's), every place there was a site plan reference she left the SPGA blank.
- Was strongly suggesting that site plan should be Planning Board and special permits and variances should be ZBA.
- How should we do this?

Rick Leif

- What really does streamline process and who lends value and who doesn't?
- If variances and special permits combined, makes sense that they would go to ZBA
- To what extent does Planning Board lend value?
- In situations where little need for variance, could be just Planning Board.
- Obviously Planning Board involved with residential uses
- Right now Planning Board involved in Industrial uses
- Could make changes – need to think what makes the most sense
- Follow zoning as written

Bob Rosenberg

- Discussed site plan approval and review
- Seems to be two different processes
- What I'm hearing is that site plan review results in comments and site plan approval results in conditions.

Kathy Joubert

- Bylaw is written that site plan approval before Planning Board and ZBA is special permit with site plan review
- Planning Board may place conditions in the decision when they are the governing board and ZBA would place conditions in decision when they are the governing board. Planning Board usually provides comments to the ZBA when the ZBA is making the decision and ZBA may incorporate these comments into their decision

Bob Rosenberg

- If Planning Board is performing a review, which we then forward to ZBA because they are performing the special permit function, I guess I'm uncomfortable with the label of comments rather than conditions.
- Comments are suggestions and conditions are requirements.

Rick Leif

- Have to be careful about using review and approval interchangeably in the field
- Dangerous to say that if something says review it has one set of characteristics and approval has another set
- It's not like suggestions with a review and conditions with an approval
- If you have responsibility – review/approval, if not, review and comments
- Don't think we can split hairs on this

Kathy Joubert

- When Planning Board has commented on ZBA applications, it has been to provide comments to the ZBA and them to consider these comments when making your decision.

- Based on my experience, I cannot recall a single time when the Planning Board's comments were not incorporated into the ZBA's decision.

Gerry Benson

- The applicants have always agreed.

Michelle Gillespie

- That did happen with Fiske property
- We put it forward and ZBA used best judgment

Dick Rand

- Not always going to agree

Bill Farnsworth

- In Northboro zoning you have site plan approval and special permit site plan review
- I review site plan according to the state building code – not attached to an approval or special permit

Rick Leif

- More you can minimize process, easier it will go and clearer decisions will be
- Want to think about going forward as to how it should be done
- Where SPGA is now is probably where it will end up anyway
- Need input from subcommittee – Mark Donahue and Tom Reardon
- Nothing screaming that something needs to be changed right now.

Kathy Joubert

- Subcommittee meets on February 28th and are meeting on an every-other-week basis
- Will be talking about site plan on February 28th
- Let's get through that and finalize a draft
- Let's have two boards get together again
- If it makes sense, finalize it and go forward with the rest of the zoning project

Rick Leif

- Anybody can feed back to Dan Ginsberg, Kathy or I
- Input that Subcommittee should be considering

ZBA members left the meeting at this time.

George Pember

- CVS was example of chaos between boards
- Too much input coming from two different boards on same thing

Rick Leif

- What does it take to add value as decision is reached?
- Look at new bylaw
- Need to make sure that whatever we do tries to balance so a good decision is made but keeps it moving.

Review of Proposed Zoning Amendment

The Board reviewed the draft of the proposed zoning amendment for 2007 Town Meeting. Part I limits the size of a retail establishment in the IB district to 5000 square feet per retailer and pertains to Section 7-12-010 Schedule of Use Regulations. Part II pertains to Section 7-16-020 Modifications to Dimensional Regulations and would limit by right development in the IB district to a maximum gross floor area ratio of .10 and .40 FAR by special permit from the Planning Board. Part II also stipulates the FAR is calculated by dividing the total gross floor area of the building by the upland area of the lot.

Rick Leif

- To the Planning Board members - does this draft of the proposed amendment accurately reflect what we previously discussed?

Don Hewey

- Yes.

Michelle Gillespie

- Concerns about what Judi said to you
- Don't want to make a precedent that effects other property owners.

Rick Leif

- Not what we want long-term
- Can protect our interest in the zone for a year
- If something happens to zoning we're working on next year, will have to go back and revisit what we've done here.
- Gives us flexibility if something comes up we're not expecting

Kathy Joubert

- Not in favor of .1 floor area ratio, based on comments from Judi at last meeting
- Had opportunity at a meeting to talk with Assistant Attorney General
- Had copy of our proposed amendment
- Asked him if you would get all the way through Town Meeting and then have it rejected by Attorney General
- He said, on it's face, he would not disapprove, but first time someone tries to use it, they will probably find it uneconomical to develop without needing a special permit and they will end up appealing.

Rick Leif

- That's if we chose to deny their application based on the lower limit of the size

Don Hewey

- Comment helpful if we don't get things going forward next year

Rick Leif

- Way to present is to explain zoning changes and our vision
- Also explain why we're not ready
- Sets stage with town that there are rationales as to why we're doing this
- Shows we are a step towards the final project

Kathy Joubert

- Need to set meeting schedule for April
- 1st Tuesday is April 3rd, propose public hearing for zoning amendment to be held on April 3rd
- I will be away April 17th

Old/New Business

Michelle Gillespie

To Bob Rosenberg:

- Received your email and embarrassed that you would send out to the Planning Board, never mind the public
- Will tell anyone the truth about it
- No board member should send out emails like that
- You know this is SPAM
- Not legal for you to do

Bob Rosenberg

To Michelle Gillespie:

- How is it not legal?
- Where is that information from?
- You probably don't know, which is typical of you.

Michelle Gillespie

- Not going to debate it with you

Kathy Joubert

I have a statement to make regarding the email message from Bob Rosenberg and I would like to read it into the minutes:

TO: Planning Board
FROM: Kathy Joubert, Town Planner
RE: Email From Bob Rosenberg Dated 2/19/07
DATE: February 20, 2007

I am in receipt of an email written and distributed by Bob Rosenberg on 2/19/07. I would like to take this opportunity to respond to the false statements and inaccuracies contained in the email.

The following are the facts relating to the submission of the Application, review and comments to the ZBA by staff and other boards, history of staff meetings with consultants and Applicant, history of memos provided to the ZBA, and history of ZBA public hearing dates:

- 1.) Northboro Center Plaza LLC filed an application for a special permit with site plan approval on May 22, 2006.
- 2.) Copies of site plan were provided to the Planning Board on June 6, 2006.
- 3.) Design Review Committee met with the Applicant on February 16, 2006; March 24, 2006; and June 23, 2006 and provided written comments to the ZBA on June 27, 2006.
- 4.) Staff members including myself, Town Engineer, Fire Chief, Police Chief, Inspector of Buildings, and DPW Director along with traffic engineer from Nitsch Engineering hired by the Town to assist with the review met with the Applicant on February 1, 2006, July

- 21, 2006, July 28, 2006, August 11, 2006, October 11, 2006, January 5, 2007, January 19, 2007, and January 22, 2007.
- 5.) ZBA began public hearing on June 27, 2006. Hearing was continued to July 25, 2006, August 22, 2006, October 24, 2006, November 28, 2006 and January 23, 2007.
 - 6.) The following written comments were provided by staff and other boards to the ZBA:
 - a. June 27, 2006 memo from DPW Director, Police Chief, Fire Chief, and Town Engineer;
 - b. June 27, 2006 memo from the Design Review Committee;
 - c. July 21, 2006 review letter from Nitsch Engineering;
 - d. August 21, 2006 memo from Planning Board;
 - e. October 24, 2006 review letter from Town Engineer;
 - f. December 20, 2006 review letter from Nitsch Engineering;
 - g. January 12, 2007 review letter from Town Engineer; and
 - h. January 22, 2007 review letter from Town Planner, Town Engineer, and DPW Director.
 - 7.) At the August 15, 2006 Planning Board meeting, the Board provided comments for inclusion in a memo to be sent to the ZBA. Town Planner was instructed to draft memo and email to Board members for their review and comment. No comments were received from Board and memo was provided to ZBA on August 21, 2006.
 - 8.) At the August 15, 2006 Planning Board meeting, Chairman advised Board members to attend August 22, 2006 ZBA meeting as the ZBA may close the hearing that evening.
 - 9.) At the September 5, 2006 Planning Board meeting, Town Planner reported no new information has been provided by Applicant to Town. Suggested Board continue their review to September 19, 2006 meeting.
 - 10.) No additional review occurred at the September 19, 2006 meeting.
 - 11.) Revised site plans were submitted by Applicant on January 17, 2007.
 - 12.) Copies were distributed to Planning Board at the January 22, 2007 Zoning Subcommittee meeting.
 - 13.) ZBA closed the public hearing on January 23, 2007.
 - 14.) It is anticipated the ZBA will issue a decision at the February 27, 2007 meeting.

This review process has been a lengthy and comprehensive process with the final outcome meeting the satisfaction of the Fire Chief, Police Chief, DPW Director, Town Engineer, Town Planner, and consulting engineer Nitsch Engineering. All of the meetings and hearings were properly posted and as with any review of an application before the boards, it is a transparent process and the public is involved at all times.

To reach the conclusion that Mr. Rosenberg reached, “CVS end runs the Planning Board”, is an inaccurate statement and falsely accuses staff and the Applicant of not following proper procedure. As detailed in this memo, proper procedure was followed.

Bob Rosenberg:

- What are the false statements and inaccuracies?

Michelle Gillespie

- We received the CVS memo and sent it on to ZBA

Bob Rosenberg

- Have raised issue many times since August and got no response
- Yes, a draft was sent to members by Kathy
- What happened in terms of comments?

- Was there any response by Planning Board members to the draft?

Don Hewey

- Wanted to have discussion on it

Bob Rosenberg

- What I said is not inaccurate and not false. Tell me what you think is inaccurate.

Kathy Joubert

- Am not going to debate my memo.
- Do not have CVS file in front of me. Not prepared to discuss CVS

Rick Leif

- Talked to Bob and agree that method of sending out his email was not the proper thing to do.
- Thought that once the final information from the applicant came in, we were going to send final comments to the ZBA before they closed the hearing
- In terms of why ZBA closed hearing before all the comments came in, everyone had a part to play in this.
- That's why I was so adamant about this going forward.
- Not a whole lot more to say – need to go forward.
- Concerned about how the information by Bob was distributed to the public.

Bob Rosenberg

To Kathy Joubert:

- False statements must be revealed
- Your statement is just facts - does not point out what's false and what's inaccurate.
- Declare what inaccuracies and false statements are or I'll take this to a higher level.

Michelle Gillespie

- Kathy pointed it out.

Kathy Joubert

- Are you threatening me Bob?

Bob Rosenberg

- What I said was true and I stand by it.

Kathy Joubert

- That's your prerogative.

Adjournment: Michelle Gillespie moved to adjourn the meeting. George Pember seconded the motion and the vote was unanimous. The meeting adjourned at 10:15 pm.

Respectfully submitted,

Debbie Grampietro
Planning, Engineering
Zoning Board of Appeals