



TOWN OF NORTHBOROUGH

Town Offices

63 Main Street

Northborough, Massachusetts 01532

508-393-5019 ~ 508-393-6996 Fax

Approved 4/3/07

Planning Board Meeting Minutes February 28, 2007

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

Others Present: Kathy Joubert, Town Planner; Bill Farnsworth, Inspector of Buildings/Zoning Enforcement Officer; Judi Barrett, Community Opportunities Group

Chairman Leif opened the meeting at 7:00 pm.

Continued Discussion with Judi Barrett RE: Comprehensive Zoning Bylaw Project

Rick Leif

- Gave overview of what happened in Subcommittee meeting
- Discussed warrant article for Town Meeting
- Subcommittee concerned about short-term reactionary basis to prevent things from happening in IB zone
- Mark Donahue concerned about spot zoning
- Tom Reardon concerned about making existing buildings non-conforming
- Subcommittee members especially concerned with Part 2 – Floor Area Ratio (FAR) of .1
- Explained Planning Board's attempt to manage size of development for a year
- But concerned because not best kind of zoning
- Part 1 in line with direction proposed Neighborhood Transitional District (NTD)
- Provides some level of management
- But anyone can file an Approval Not Required plan (ANR) and grandfather themselves with current regulations.
- Going forth with zoning amendment Part 1 was supported by subcommittee
- If Planning Board didn't want to go with amendment at all, Subcommittee would support that
- No one on Subcommittee comfortable with Part 2
- As discussion proceeded, my perception about Part 2 shifted
- Will it accomplish anything or cause more problems?
- Is it just another version of doing something short-term?

Bob Rosenberg

- Concerns of subcommittee are similar to what we voiced
- Difference is we were approaching it as not bringing site plan approval and some other areas, but could we do this instead?
- Subcommittee trying to do comprehensive plan and bring it together
- Discomforting for them to do it piece-meal

- Fran Bakstran said she was surprised a complete proposal was coming from the Planning Board to Subcommittee
- Think she's a little uncomfortable as to who is in the lead
- Stated it with a vote – Part 1 might have a benefit that outweighs its drawback, but very uncomfortable with Part 2

Rick Leif

- Mark (Donahue) and Tom (Reardon), who work in field, were flabbergasted at the low FAR
- Mark said we shouldn't be doing zoning in response to one particular parcel

Kathy Joubert

- Concerned that Attorney General (AG) would deny this amendment if passed at Town Meeting
- Asked Assistant AG, Bob Ritchie, to look at it
- At its face it looks ok and they would probably approve it, but would be afraid of the very low FAR.
- Does FAR force people into a special permitting process?
- He believes it opens the town up to challenge because it's making a part of town uneconomical to develop

Rick Leif

- Have option of leaving as is, or changing it
- Does anyone have an alternative?
- Subcommittee said at least Part 1 is similar to wording we're going to be proposing for the NTD
- Not damaging to anyone, because they can file an ANR and be grandfathered

George Pember

- Think minutes from the last meeting would say no one to our knowledge has filed an ANR plan
- Do they have to file prior to Town Meeting?
-

Kathy Joubert

- In a review of our files, I did not see a plan.
- I did not check with the Town Clerk or Registry of Deeds
- Recollection that Paul Gallagher filed an ANR before Stop and Shop filed their site plan application
- Landowners may also file a subdivision plan to grandfather their land from zoning changes.

George Pember

- Part 1 is going to impact several areas of town
- No problem deleting Part 2

Michelle Gillespie

- Had a problem with Part 2 at last meeting
- Would like to see it deleted
- Not comfortable because Judi Barrett said it would negatively affect property owners

Judi Barrett

- You'd be solving one problem at the expense of others who are currently conforming.
- Don't think that's what you want to do

Bob Rosenberg

- I think Part 2 is problematic
- Part 1 is a little more neutral and worthwhile going forward without Part 2

Don Hewey

- Agree – go with Part 1, even though I brought up Part 2
- This would be a good year to do something with zoning
- Part 1 does address the direction in which the zone will be heading for with NTD

Rick Leif

- Meaningful to present something to set the stage for next year

Don Hewey moved to amend the article for Town Meeting by omitting Part 2. Michelle Gillespie seconded the motion and the vote was unanimous.

George Pember

- Where do we stand time-wise for submitting articles for warrant?

Kathy Joubert

- Original article has been submitted to Town Administrator
- Will notify him tomorrow and submit a revised amendment
- Warrant closes March 12th

George Pember

- Public hearing will just be part of a regular meeting?

Kathy Joubert

- Yes, in April

Rick Leif

- Subcommittee talked about how we would manage going forward
- Set up deadlines and get to Planning Board for review
- Judi said most important thing would be to clarify proposed table of contents
- Judi's point is if we can get agreement on table of contents, she and Kathy will put together a schedule.
- Judi has said everything in current zoning exists in this new table of contents, but possibly under a different heading.
- Subcommittee agreed to accept this table as a start – may have amendments
- Kathy and Judi will give direction
- Major changes, site plan review, development regulations, use regulations and dimensional regulations
- Subcommittee has agreed to a two-meeting approach for each section – first reading & discussion, at second reading, review and vote – then on to Planning Board
- Judi has said she would prefer to wait until Subcommittee has submitted all sections to put together a whole document to give to Planning Board.

Judi Barrett

- Issue is not to keep Planning Board out of loop but to have everyone do their job and keep Planning Board in the loop.

Rick Leif

- Would give Planning Board sections as they finish.
- Planning Board will get exposed to new document
- Subcommittee knows Planning Board could significantly modify, but don't anticipate it will
- Will help Subcommittee move forward and give Planning Board final ability to craft zoning, but not from scratch
- For better or worse, if the last few months accomplished anything its for us to realize what it takes to get this done

Judi Barrett

- Think conversations needed to happen
- Comes to a point when necessary to have volunteers see the light at the end of the tunnel
- Mark (Donahue) is correct, that Subcommittee should vote on third version, which would be final, showing changes from original
- By July 28th should be done with third reading

Rick Leif

- Will start to see blocks of new document along the way
- Judi will resist us trying to micromanage to avoid confusion
- Asking questions for clarification - OK

Judi Barrett

- Have to move sections along until project is done

Kathy Joubert

- Original schedule was to have Judi come in once a month
- Keep on table – but may be necessary to have her more as the end nears

George Pember

- Next Planning Board meeting on March 19th

Kathy Joubert

- Don't have Judi on that agenda
- Subcommittee won't have enough done
- April 3rd Planning Board with Judi
- April 12th will look at site plan approval process

Judi Barrett

- Prefer having administrative rules for procedural aspect of zoning bylaw – don't need to put all that in zoning bylaw
- That can be done by regulations
- Makes for more readable document because it's not so long

Kathy Joubert

- It now will give us opportunity to put Planning Board regulations in place
- If people not OK with it, can put it back where it was

Rick Leif

- Regarding schedule of meetings and contract moving forward, Planning Board received donation from developer
- We were going to use half for this zoning project

- If we're going to use more, we need to check and see what we've used.

Judi Barrett

- Just don't want to run into a problem at the end of the process with not having enough meetings scheduled in the contract to finish the project
- Wouldn't be asking for amendment now anyway
- Will evaluate meeting schedule to date and get back to Board and Kathy with a memo of status of contract
- If Subcommittee gets their draft to Planning Board in August, that should be fine for their time frame.

Rick Leif

- Need to feel like we're done with this by the end of September in order to take it to the public
Can't lose track of that
- You'll want the proposed bylaw annotated for the public so people can see what's being changed and what's not.

Don Hewey

- Re: parking – we had good discussions and tied up a whole meeting with it.
- Never finished with it
- Am I supposed to be comfortable that parking will be OK?

Judi Barrett

- Will send Kathy a schedule and you will see when sections are coming to you
- Per the revised schedule of the order of the sections being submitted to the subcommittee, parking is not the first thing but it will be addressed

Special Permit Areas – Library Project and CVS Project

Rick Leif

- At the last Planning Board meeting, the Board had agreed to send comments to ZBA for the library project
- Prior to sending those comments, Bob Rosenberg emailed members and Kathy with some additional questions/concerns
- I felt it was appropriate not to send those comments to ZBA for the hearing
- Will get those comments to ZBA at their next meeting
- Abutting resident on Patty lane had concern about the lighting from the parking lot
- Experiences a lot of light pollution from the area now and is concerned about more.
- To expand parking lot south of existing lot a line of trees will be removed
- Concerned about reduction of green space
- ZBA asked applicant to work with abutter on those two issues
- Concerned with transformer in front of building
- Dick Kane asked about putting it underground
- Engineer for project checked with electric company and was told it can't be put underground
- Applicant will put screening around transformer
- For March 19th meeting – decide if we want to add any more comments
- Not possible to bury transformer
- May want to think about proposing landscaping
- Propose to have library come back to Planning Board March 19th meeting for additional review, then finalize our comments to ZBA

- Told Mark Rutan our intention would be to conclude our discussion with the applicant at our March 19th meeting
- ZBA meeting on March 27th

Bob Rosenberg

- In regard to transformer issue: an obvious issue in front of building and fairly large – 5 feet tall
- Saying that Mass Electric declined to do it – don't expect it's a technical restraint
- Putting in front of street because they had to get a truck to it
- Then have to put some material on the grass for the truck
- Maybe discuss moving transformer a little further back
- Grading issues – but at what point do we get to grading issues
- Do surface treatment and move the transformer back
- Try to mitigate impact on historic building and considering landscaping to some degree is not funded
- Good opportunity to address with engineer/applicant

Michelle Gillespie

- Don't have to come before design review
- Also said at meeting that comments brought forth from us were strictly advisory, not mandatory

Rick Leif

- What we send to ZBA – is it advisory or mandatory?

Kathy Joubert

- Question from ZBA has gone to town counsel: Is what they receive from Planning Board advisory or mandatory as it pertains to the ZBA when they are the site plan review authority?

Rick Leif

- When we are the SPGA the applicant has to follow our decision with conditions when doing their project.
- So if they're not before us the question is are the comments we send to ZBA mandatory or advisory?
- If mandatory, then in effect we're sending them conditions.

George Pember

- So what your saying is we recommend you include the following as conditions or you must include the following as conditions.

Don Hewey

- What I thought I understood from the last meeting, was that it is a package deal
- If we're going to perform the site plan review, then it seemed to me that we should perform the review and then condition it and then forward it with ZBA
- Would agree we should get that package
- Would they do the site plan all over again?
- ZBA could add to our conditions, based on the special permit

Bill Farnsworth

- It's the same thing as Groundwater Advisory Committee – a review committee (advisory)
- Under site plan review by whoever – whoever is doing site plan review

- This particular case in question says site plan review and Planning Board is advisory to ZBA
- Planning Board sends comments to the ZBA and any condition written by the ZBA on any special permit is enforceable
- I must enforce all conditions of a special permit

Bob Rosenberg

- Site plan review or site plan approval seems to be an artificial distinction

Kathy Joubert

- Question has been asked by ZBA and answer will be coming from Town Counsel

Rick Leif

- Need to go through with library and then will get direction from Town Counsel
- Will put library on next agenda
- Continued public hearing for scenic road filing for 85 Newton Street on next agenda also
- CVS re-opening: basically ZBA member asked if Planning Board had any additional input and he would like to know what the input is
- Mark Donahue was aggressive in his comments about what was going on – said he was dismayed ZBA reopened hearing. Commented that ZBA and Planning Board members had had conversations in violation of open meeting law as his client’s project had been discussed and he wasn’t privy to these conversations
- ZBA indicated they wanted any comments from the Planning Board asap and they would then close the hearing and reach decision at the March 27th ZBA meeting
- Kathy has provided us with updated plans and updated traffic information from Judith Nitsch.
- Understand what ZBA is trying to do - move process along, get our input and conclude on March 27th
- But suppose we can’t complete our review on March 19th?
- A lot of discussion to do with the 90-day deadline still in effect
- What happens if this constructively approved?
- ZBA needs to make decision by April 23rd.
- I was a culprit for sending my comments out by email to everyone.
- Everyone needs to review this material and any additional material we have received
- Will invite Mark Donahue and his client to attend our March 19th meeting
- Need to be individually ready to ask questions and position ourselves to send comments to ZBA.
- They wanted input from us, which I appreciated
- Can’t discuss amongst ourselves so need to discuss at next meeting

Kathy Joubert

- For future comment memos to ZBA and any other board, recommend Board dictating comments to Debbie at meeting, she will print a draft memo, Board will review and finalize and chairman will sign that same evening.

Rick Leif

- CVS: traffic was major the thing
- Now we have Nitsch letter

Michelle Gillespie

- Can we have Planning Board letter of August 22nd, Town Engineer’s letter, etc.?

Rick Leif

- Not sure about contract, but could we ask Nitsch engineer to come to 3/19 meeting?
- Revised plans reflect Nitch's and everybody else's input
- Assuming that any other thing we have in our original submissions still stands?

Kathy Joubert

- Everyone will get a packet

Michelle Gillespie

- On March 19th, regardless of the vote, we send comments/conditions to ZBA and we're done with it.

Rick Leif

- Think the library will be OK
- CVS is a big project – not sure we can do that in one meeting
- Thought about the hearing being reopened and now realize we have a lot of work to do.

George Pember

- What about time frame for the library and ZBA on our next agenda?

Kathy Joubert

- 15-20 minutes for the Newton Street scenic road
- Re: tree warden – DPW Director (Kara Buzanoski) is tree warden
- She has put her email into a memo, which says the same thing as her email
- Library would be at 7:20 pm and CVS at 8 pm on March 19th

George Pember

- Plenty of time for CVS

Don Hewey

- Is there a draft decision for CVS?
- Can you share so we can understand their thought process?

Rick Leif

- When will we get the information from Town Counsel?

Kathy Joubert

- Town counsel will provide opinion letter to ZBA prior to their next meeting, I will ask that she move up date so Planning Board will have access to the letter for the March 19th meeting

Member Availability for Meetings

- Don Hewey - away this Friday through March 10th
- Rick Leif – away March 20-24, April 11-16 and April 26 to May 6
- Kathy Joubert – attending conference week of April 16th

Rick Leif

- If people ok with this, I'll come up with an outline for Town Meeting presentation for the warrant article.
- Any issues must be discussed at a public hearing?

Kathy Joubert

- Yes.

Old/New Business

Approval of Minutes: Don Hewey moved to approve the minutes of February 12, 2007 with amendments. Michelle Gillespie seconded the motion and the vote was unanimous.

The meeting adjourned at 9:00 pm.

Respectfully submitted,

Debbie Grampietro
Planning, Engineering & ZBA