



TOWN OF NORTHBOROUGH

Town Offices

63 Main Street

Northborough, Massachusetts 01532

508-393-5019 ~ 508-393-6996 Fax Planning Board

Approved 9/19/07

Planning Board Meeting Minutes September 4, 2007

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

Others Present: Kathy Joubert, Town Planner; Bill Farnsworth, Inspector of Buildings/Zoning Enforcement Officer

Chairman Leif opened the meeting at 7:00 pm

**Review of Proposed Zoning Bylaw Sections 7-02, 7-03, 7-04 and 7-07
(7-05 and groundwater will briefly be discussed)**

Rick Leif

- 7-02 and 7-03, fairly straight-forward
- Any questions from anyone?

George Pember

- When was last master plan done?

Kathy Joubert

- In 1988 and update in 1997 – both approved by Planning Board but not taken to Town Meeting
- To update would require capital funding approved at Town Meeting
- Would cost approximately \$100,000 - \$150,000

Rick Leif

- Before taking on another major project, Board members need to familiarize themselves with the existing master plan, does it still serve the town's purposes?

Kathy Joubert

- Massachusetts does not require master plans to be done or linked to zoning regulations
- Some communities have them and some don't
- A lot of discussion held by the subcommittee about referencing master plan in the zoning rewrite.
- A 30-member Master Plan Committee worked on last update

Section 7-03

Rick Leif

- Section A1 residential district –Neighborhood Transition District listed as residential
- Questions came up in meeting with ZBA as to where it fell
- Judi Barrett had referenced 7-03
- In A4 – public land district, discussion with subcommittee held on public land
- Berlin and Shrewsbury each own property in Northborough
- Then issue with 10% affordable housing or 1.5% of all unprotected land
- Public land district will probably disappear from the proposed new zoning bylaw

Don Hewey

- Not pertinent to say whether we agree or not
- Would agree deleting public land district is a good thing

Bob Rosenberg

- Don't think we need public land district right now

Rick Leif

- Mark Donahue wanted to do something with groundwater
- Judi said there's a different way of doing it
- Would have discussion on groundwater change to follow state regulations
- Subcommittee has spent very little time on it
- Judi will make presentation over next 3 meetings

Bob Rosenberg

- Agreed in August that before subcommittee and consultant spent time on things not within scope, maybe it needs to pass a "yeah or nay" by the Planning Board
- Number and use of meetings continues to evolve
- Planning Board needs to address scope of meetings

Rick Leif

- Before we conclude tonight, need to get a consensus on it
- Rest of 7-03 all set – outlines general rules

Bob Rosenberg

- 7-03-020 – Said "districts herein before referred to" – a little ambiguous
- Would suggest it says use districts

George Pember

- Are we going to get a new map?

Kathy Joubert

- Base map is 1975, but will be a new zoning map with this
- Changing definitions of zoning districts
- Couple of districts where district itself will be modified
- Map will be presented as part of whole zoning reorganization
- Will add the words “said use districts”

Bob Rosenberg

- Raises issues of how overlay delineated
- Floodplain district map changed over years
- Senior Residential Community overlay map
- Would need something that references those maps
- Have districts here but zoning needs to reference – maybe after 7-03-020
- Needs to reference those maps
- 7-030-040 – lots divided by district boundaries
- Particular parcel in two districts – 77 Main St an example
- Happens a lot in BA and BB districts
- When split, what happens?
- Think that the more than 50% approach could create some unintended consequences

Bill Farnsworth

- For instance, a case between East Main Street and Main Street
- Some lots are split residential and business
- People who want business off East Main Street, may lap into residential
- If you go into 50 feet it's allowed but must follow the more restrictive regulations

Fran Bakstran

- Part of rationale was because some of it's going to be rezoned – BE and BW
- Trying to eliminate as many split lots as possible
- Refers to looking at individual properties and changing the boundaries of districts so lots won't be split, instead of taking 200 feet off center line
- Judi's proposed to try to eliminate as many of split lots as possible
- Not a concern because split lots are few and further between

Bob Rosenberg

- Someone will be reviewing each of the parcels to see what the end result is of all the split parcels?

Kathy Joubert

- Every parcel that comes in now is reviewed

Bill Farnsworth

- Judi has all of our GIS data and is going through every parcel

Bob Rosenberg

- Can see there may be parcels where you're not going to make the district line go all around it

Kathy Joubert

- Hoping to eliminate all split lots by redrawing of the districts going into town meeting

Fran Bakstran

- Will eliminate as many as possible, but for discussion purposes, that's what subcommittee went for

Bob Rosenberg

- Other approach was to use the most restrictive regulations
- If you're creating very few split lots, leave 50% out and go with most restrictive
- Limiting split lots is an improvement

Fran Bakstran

- One is mathematical and one is subjective

Michelle Gillespie

- Taking off public land district?

Rick Leif

- Yes

Bob Rosenberg

- 7-020 – eliminating a couple of bullet points from purpose of old chapter

Kathy Joubert

- Not an enforceable section but rather a "feel good" section
- Old wording changed around and generalized in new purposes
- Has nothing to do with smart growth
- Was more a "can you regulate the prevention of overcrowding of land?"
- Regulate by what your zoning says
- A very general change
- A lot of what Judi has used in some very general sections is what you see from town to town

Rick Leif

- Point Judi made that what you want to encourage or discourage is what you find in the sections that follow

Bob Rosenberg

- If we're going to have regulations in floodplain districts, one of other things we're eliminating is to secure safety from flood
- Keeping fire and taking out floods
- Not acknowledging hazards from floods
- Addressed by floodplain regulations

- Could put provisions to address flood plain in purpose
- If not, can understand eliminating flood from purpose

Rick Leif

- Wouldn't have an issue adding "or flood" back in there
- Leave 2 as is but add words "or flood" to Purposes after fire
- In 7-03, pg 1 overlay districts including references to maps
- Pg 2, 7-03-020 insert USE in said use districts – first line
- District boundaries – more restrictive or 50% – whichever

Bob Rosenberg

- 50% more problematic than whichever is more restrictive

Rick Leif

- If we have lots that still end up being split after town meeting, there could be situations where a lot split commercial/residential could be limited as to what could be done with it.
- If less than half the lot is residential, a person could develop the business part of the lot

Bob Rosenberg

- More restrictive doesn't work either

Rick Leif

- Trying to encourage along Main Street ability to develop retail and commercial uses
- If lot mainly commercial with some residential then ought to be able to follow commercial rules
- Trying to encourage commercial development in BB East and BB West
- Knew some lots would be split

Bill Farnsworth

- Need to take fictitious site and see how regulations apply
- Could come up with different scenarios

George Pember

- Second line 7-03-040 – change "shall" to "may"
- Intent is to allow their zoning into another 50 feet

Kathy Joubert

- Doesn't go into effect until you have a use you want to establish
- If residential use and you want to expand – residential will apply

George Pember

- Business uses have to be cut back 50 feet

Rick Leif

- Would only happen if someone in advance of you had a split lot and went into the other zoning district

- Doesn't require that both uses have to extend, just timing

Bob Rosenberg

- Concerned that it's the things that are disallowed that will get you
- When we say the use regulations – we're saying the allowed and disallowed will apply
- Share George's discomfort
- Feels like disallowances of both shall apply

Kathy Joubert

- If use isn't allowed, it's not allowed
- You don't get regulations applied to use that's not allowed

Bill Farnsworth

- Means your industrial use that's allowed will not be allowed in a residential zone

George Pember

- But use regulations say you can't have residential uses in industrial

Rick Leif

- Purposes of paragraph is not to have it interpreted that way

Bob Rosenberg

- On chart use regulations have NOs in it

Kathy Joubert

- That's to show the use that is allowed in one district and not in another
- Verbatim language since 1954 and no one has never interpreted it any differently
- Goes into effect when you have a use
- Regulations don't apply until you put a use on the property
-

Rick Leif

- Judi would say this is standard language
- Concern is 50%
- If you don't like it, need to come up with alternative language
- Could just take out "regulations" and just have uses

Kathy Joubert

- New section is use regulations

Rick Leif

- Don't see it as an issue

George Pember

- May not be if they draw the new property lines
- May be silly exercise we don't have to go through

Rick Leif

- Feed back to Judi about changing wording
- Deleting “regulations” would or would not solve problems?

George Pember

- Take more restrictive regulations from residential into industrial
- Could be interpreted that way

Rick Leif

- After meeting, propose and send an email with different wording
- Agree with Bob, we will probably have some split lots left
- Want intent to stay the same

Bob Rosenberg

- Should existing language be used instead of 50%?
- Split lot thing is messy

Bill Farnsworth

- Will apply to the entire use when meeting more restrictive regulations

Kathy Joubert

- Always been used for protection for residential property owners
- Has never been situation where a residential use went into business or industrial use
- Purpose has been protection for residential abutters
- Residential always more restrictive as far as setbacks
- Can expand, but still have to go with more restrictive

Rick Leif

- Redrawing boundaries to make more sense
- Encourage commercial development
- Once new zoning map drawn, and we see what we have for true split lots – could be a moot point
- Need feedback from Judi and numbers on split lots
- Don't ask about 50% - hold that
- 7-03-020 – Bob wanted to change

Section 7-04

Kathy Joubert

- Have sent Michelle's question on home occupation, accessory apartments and education use to Judi

Bob Rosenberg

- Exempt uses page 2 – Delineates two exempt uses and is also mentioned on page 1 as item b

- Is it redundant or is there some reason why?

Bill Farnsworth

- Page 1 is requirements
- Page 2 is classifications
- May be in both places so it doesn't get missed
- A lot of things exempt by state law – instead of listing, she references that

Bob Rosenberg

- Good way to approach it
- Page 1 b is redundant
- December 19th meeting, in my notes, decided obnoxious uses should be prohibited as letter G – Hasn't been reflected in any draft since then and not in final draft
- Would be in basic requirements – where it was when we discussed it
- Was F1 and decided it would be G

Kathy Joubert

- Not everyone agreed as to how to reword
- Was going to ask Judi

Bob Rosenberg

- Judi had it in initial draft to Subcommittee
- A month later it was edited out
- A continuation of H that would've said something like trucking terminal, etc.

Kathy Joubert

- Subcommittee meeting had lengthy discussion about this
- Issue is that if you list one and accidentally don't include another, someone could catch it – ends up an allowed use
- To avoid that, if it's not listed it can't happen and applicant would need to seek a variance

Rick Leif

- Question is does it open up problems by not listing things
- Can't think of everything you don't want
- At some point wording said “not specifically permitted or expressly prohibited shall be deemed prohibitive”

Bob Rosenberg

- Asking for it to come back to us at this point
- We raised issue and haven't had feedback

Kathy Joubert

- That specific phrase was discussed with this board and with subcommittee and Judi recommended deleting “or expressly prohibited”

Bill Farnsworth

- It's standard legal language
- Not specifically listed – deemed prohibited

Rick Leif

- Is that position now being taken, does it hold water with Planning Board?
- A better option than trying to list them??

Bob Rosenberg

- Agree

Bill Farnsworth

- Denied crematory use in industrial zone – not specifically listed
- Applicant needs a variance

Rick Leif

- Need feedback
- Should leave the way it is

George Pember

- Comfortable as is

Michelle Gillespie

Agree

Bob Rosenberg

- Remembering Judi's statement last fall saying we should have a list of obnoxious uses we won't allow

Michelle Gillespie

- Casinos and gambling – anything in bylaw to protect us from having that?
- If we put something in there does local law supercede state law?
- How are towns thinking about this?

Kathy Joubert

- Going to a zoning workshop regarding the zoning of gambling at the end of the month. Will provide info to Board.

George Pember

- Page 15, Assisted living facility – in highway business not allowed
- What's the problem with putting assisted living on Route 9?

Kathy Joubert

- Rationale was they wanted to be able to have it in areas where people could have access to other services and could walk to other services
- Route 9 - conveniences weren't there

George Pember

- Raising issue because when you get deeper in there and reference to nursing homes,
- Page 17 – permitted in highway business district by special permit

Kathy Joubert

- Because they looked at assisted living residents as being mobile
- In nursing home residents confined to bed

George Pember

- Facilities themselves are combinations – assisted and nursing home
- Has to be a pure nursing home
- Why not let Planning Board put assisted living in there also?

Rick Leif

- As simple as changing N to PB

George Pember

- In NTD, asst living permitted with BA and nursing homes not allowed
- Should also be a BA on Page 17 for nursing homes

Rick Leif

- Nursing homes more hospital-like and assisted living more retirement-like

George Pember

- Newer units are a combination of both

Rick Leif

- Could change nursing home in NTD
- Page 15 – change asst living from N to SP by PB in Highway
- Page 17 – change nursing homes in NTD to be allowed by special permit

Michelle Gillespie

- Why would you allow in NTD restaurant excluding and including alcoholic
- Why N for including alcoholic?

Kathy Joubert

- Distinction related to types of restaurant and alcohol use
- In transitional zone commercial establishment limited
- A restaurant there more like coffee shop and not a traffic generator

Rick Leif

- Hours of operation also a factor

Bob Rosenberg

- Page 13, definition of contractors yard or storage yard
- Table references contractor's yard

- Concern over storage yard – not any benefit to the community
- End up with no tax base from it

Bill Farnsworth

- Providing services to small contractor
- Have one now on Otis Street
- Concept is small business people can use it when can't use out of their home
- Two definitions needed
- Storage yard potentially is going to be a facility similar to Talbot Road – Eagle Leasing
- Thing is there isn't any tax-base generated by it and no jobs or services
- Dead use of industrial land
- Careful about having pieces of industrial districts used up that way

Kathy Joubert

- Instead of two definitions, should storage yard be eliminated?

Bob Rosenberg

- Would be inclined not to want to see it happen

Kathy Joubert

- Delete storage yard?

Rick Leif

- As defined would allow in industrial zone
- If dropped, have to take out things that define nothing more than open air storage

Michelle Gillespie

- How do you define storage?
- Talking about a vacant lot with anything stored there for an extended period of time?

Rick Leif

- Yes

Bill Farnsworth

- Covered storage is a structure that's taxable and tends to have employees
- Definition has to be re-worked

Bob Rosenberg

- Contractor's yard is a non-issue
- Dead storage, no building, no employment
- Potentially building wouldn't be required

Kathy Joubert

- Will ask Judi if by eliminating storage yards, are we avoiding the undesirables – no taxes, no employment, no structures?

Bob Rosenberg

- 7-04, Industrial uses page 12 – manufacturing – should finish with “and further provided that such operations shall be conducted entirely within an enclosed building or structure” – after finished goods

Rick Leif

- Page 2, last sentence: 7-03-040 ZBA may grant a special permit – change to say SPGA may grant
- Mark Donahue frustrated with groundwater overlay
- Judi says it will be very simple to adopt DEP model

Kathy Joubert

- Originally subcommittee was not going to tackle groundwater
- Thought we would have to do in-depth geological analysis and not enough funding for that particular type of additional study
- Judi reviewed our present overlay district and discussed with staff
- She thinks it would be far easier solution to adopt DEP model – has become the norm for other communities
- When Northborough adopted, state wasn't dealing with groundwater
- Since that time DEP has come up with zone 1 and 2 and how to protect them
- If we were to look at DEP regulations, our zone 3 would drop out entirely
- We allow all uses in area 3
- Judi will present proposal for groundwater at September 10th subcommittee meeting

George Pember

- Talked to Judi about crematory going to GAC
- Judi asked why we have a GAC?

Rick Leif

- Would it manage itself more effectively under DEP model?

Bill Farnsworth

- With DEP model, 84-85 came across state
- In current bylaw – anybody coming into industrial with groundwater issues automatically has to get a variance or special permit

Kathy Joubert

- Don't know enough about DEP regulations
- Fred Litchfield and Kara Buzanoski work with DEP on a regular basis and are more familiar with state regulations

Rick Leif

- Maybe shifting who develops rules and how enforced

- Could be that no matter what SPGA says, it may be they have to conform to things beyond scope of SPGA

Kathy Joubert

- Will ask Fred to come to next meeting and also check with Kara regarding review of groundwater by Water & Sewer Commissioners

Rick Leif

- Is this stand-alone enough that it won't effect anything else?
- Not to say that any of these things, standing on their own, might make sense
- Tough to manage – answer not completely known yet
- Subcommittee will meet on September 10th

Don Hewey

- Is it subcommittee's charge?

Kathy Joubert

- Charge of the subcommittee was to rewrite entire zoning bylaw and groundwater is a part of the zoning bylaw
- A couple of proposed sections (7-09) still need to be discussed which pertain to open space residential overlay and an industrial/office park overlay

Bob Rosenberg

- 7-09, Special Regulations
- Each is a concept where if subcommittee interested in doing it, should talk to Planning Board about it

Rick Leif

- Mark Donahue wanted to talk about groundwater

Michelle Gillespie

- Bob asked question if Fred should come meet with us
- Should we hold on that?
- Should Fred discuss groundwater at a joint planning board and zba meeting?

Rick Leif

- Subcommittee has to decide if they want to pursue DEP groundwater regulations
- Next step to have Fred come back to us
- If Subcommittee is saying yes to do it, then has to come back to Planning Board
- For most of zoning, ZBA will get final package
- Going to figure out how to get ZBA and Planning Board to bless all of it
- 7-10, 7-05 and 7-04 important sections
- Groundwater may be another one
- Not necessarily a topic for a separate joint meeting

Bob Rosenberg

- Groundwater issue is obvious
- Has been on table – on short list

- Think that at this point in process it's going to make a bigger challenge to making this thing succeed
- Town's drinking water supply
- Something we can't deal with in course of 3 weeks and make responsible recommendations

Bill Farnsworth

- That's why Judi is saying use the DEP model
- Town pushing we're open for business and then groundwater makes it different

Bob Rosenberg

- DEP doesn't recognize Lyman Street well as being a zone 2
- Not even a protected area
- Not sure of resolution

Kathy Joubert

- Judi is preparing maps for subcommittee meeting comparing Northboro groundwater zones and DEP zones. Lyman Street interim wellhead zone will be shown on map.

The meeting adjourned at 10:00 pm.

Respectfully submitted,

Debbie Grampietro
Planning & Engineering