



# TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 2-7-08

## Planning Board Meeting Minutes January 8, 2008

**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; Fred Litchfield, Town Engineer; Mark Leahy, Police Chief; Kara Buzanoski, DPW Director; Barbara Saint Andre, Petrini Law Associates; Brian Smith, Janina Sadlowski

Chairman Leif opened the meeting at 7:00 pm.

7:00pm           Continued Review of Draft Site Plan Decision RE: Stop & Shop at 77 Main Street  
                          Applicant:                   Stop & Shop Supermarket Company  
                          Engineer:                    VHB Inc.

Rick Leif noted the board discussed and approved conditions #1-5, 9, 10, 12-19, 27, 31-47 and 48, beginning on page 7 of the Decision section of the draft site plan approval dated 12/03/07. Tonight they will review the remaining conditions, starting with #6 on page 7. Rick noted the board has received a staff memo regarding the Summer Street intersection. Kathy will present it later in the discussion. Rick explained he would like to complete their review of the document tonight and then have a final draft ready for the next meeting.

### Conditions in Decision section of site plan approval, were reviewed as follows:

(Beginning on Page 7)

Conditions #6, 7, 8, 20, 21, 27 and 30 - accepted as proposed

#11 - Hours of operation: The board agreed on Sunday, 7am - 9pm, Monday - Saturday, 6am - 11pm. Barbara Saint Andre stated she will need to be able to justify why the board is setting hours for this retail business, since they don't for other businesses. Kathy explained the applicant had offered these hours of operation, the board had not asked for them. Chief Leahy stated he was against a 24-hour store, but has no problem with the store staying open until 11 pm.

### Summer Street Memo

Rick explained the condition regarding design improvements to Summer Street (#17 in the 11/20/07 draft of the site plan approval) was removed by the board at the last meeting. A memo from staff regarding Summer Street improvements was distributed to members at the beginning of the meeting.

Kathy stated that at a recent meeting town department heads discussed the Summer Street intersection and put together a memo stating they were in agreement that Option 1, which includes narrowing of Summer Street at Route 20 and reconfiguration of the island, is what

they want to see happen, regardless of whether or not the Stop & Shop store is built. Kara Buzanoski, DPW Director, stated this intersection has been a traffic problem for a long time and the town has wanted to improve it for 7 years, but has been unable to fund the project. Police Chief Leahy stated the intersection is sloppy, especially with the telephone pole in the middle of it. The original Option 1 included prohibition of left-hand turns, but the Police Chief and other town staff were not in favor of this, so it will be removed as part of the condition. In addition, Route 20 is a state road and prohibition of turns would be under the jurisdiction of Mass Highway. Stop & Shop's mitigation sheet, presented two years ago during the site plan review, estimated the cost of this project would be between \$75,000 and \$150,000. At the time, Stop & Shop presented three options for improvements to the intersection as a result of conversations with the board during one of the site plan review meetings. The town now has an active participant, (Stop & Shop), who has offered to do these improvements, and staff is asking the Planning Board to reconsider adding the condition regarding Summer Street improvements, (Option 1), back into the site plan approval decision.

Don Hewey questioned Ms. Saint Andre why the applicant received a copy of the memo. Ms. Saint Andre stated the memo was a public document the minute it was created and anybody could ask for it and receive it as well as staff could distribute their memo to whomever they wanted.

Don stated the intersection does need to be improved, but the board doesn't have any jurisdiction over it.

George stated this has always made sense to him to improve this intersection and to have the applicant do it and believes Option 1 is a safer way to approach it. He stated if someone's going to pay for it other than the town, he's in favor of it.

Michelle stated she was originally opposed to it, but is leaning towards it because the town doesn't have the money to do it and it needs to be done.

Bob stated it is unnecessary to make it a condition and thinks it addresses a need of Stop & Shop. He stated that this is going to help Stop & Shop and not the town.

Rick stated this is a sensible thing to do and those opposed to it would have to prove why they believe it isn't. He stated a majority of the board is in favor of adding Option 1 for the design and reconfiguration of Summer Street as a condition. It will be placed at the end of the traffic mitigation section and will read as follows: "The Applicant shall design, permit, and construct the improvements to the Summer Street/Route 20 intersection in accordance with the Option 1 conceptual plan (attached to this decision) with the following changes: left turns shall be allowed and the island shall be constructed with cobble stones in a similar manner to the island located at the Summer Street/Route 135 intersection. These improvements shall be reviewed and approved by the DPW Director and Town Engineer prior to submission to the Massachusetts Highway Department for its approval."

## **Parking Areas**

Don read out loud section 7-20-060B5b regarding parking lot landscaping in an industrial area. He stated the parking field as designed does not conform to this standard. He agrees this is an industrial zone and believes parking standards should conform to parking standards as required in 7-20-060B5b.

Kathy stated she needs to check if the site plan standard is in conflict with another section. In the site plan it talks about 10 spaces between islands. She doesn't know if that's the standard the applicant went by VS the performance standard.

Rick stated they could agree to include a condition that would state the parking lot landscaping shall conform to parking standards as required in 7-20-060B5b. It would be numbered as a new #22.

## Noise Control

#22 - hours for Stop & Shop truck deliveries 7 am - 9 pm: Kathy Joubert stated hours in a letter from Stop & Shop from April 2006 were 6 am - 11 pm. The condition is limited to Stop & Shop tractor-trailer truck deliveries because Stop & Shop can't control trucks from other companies. The condition also states: Stop & Shop tractor-trailer trucks shall be prohibited from using Hudson Street and adjacent residential streets. Stop & Shop deliveries will be routed from Route 495 to Route 20.

Ms. Saint Andre asked what the reasoning was for limiting the hours of deliveries. She reminded the board that Stop & Shop may have agreed to certain things at one point, but the board can't hold them to those things. She stated the board can't impose a ban on a public road. Bob said they would be banning the driveway, not the road. Barbara suggested the applicant could put up signs saying trucks can't exit the Hudson Street driveway.

Rick suggested changing the condition to say that Stop & Shop will post signage at each end of the Hudson Street driveway indicating no trucks would exit through the Hudson Street driveway. Kathy questioned how this would affect customers of the store who may be driving a truck, such as a UPS truck or a pick-up truck. The condition will be changed to read "no delivery trucks".

#23 - A solid fence shall be constructed along property line abutting 34 Hudson Street: After discussion with Bill Farnsworth and Fred Litchfield, the wording will be changed to indicate the solid fence will be six feet in height.

#24 - Refrigerator condenser: The words "not to exceed" will be put within the parenthesis before rpm number as follows: (not to exceed 540 rpm)

#25 - HVAC units: The words "not to exceed" will be put within the parenthesis before rpm number as follows: (not to exceed 850 rpm)

#26 - Acoustical screen around HVAC rooftop unit: This will be changed to read "An acoustical screen wall equal to or higher than the top of the HVAC rooftop unit will be constructed on all unprotected sides of the unit.

## Landscaping

#28 - Landscaping installed and maintained as shown on site plan: Ms. Saint Andre noted this is a duplicate of condition #5. Condition #5 will be removed.

#29 - Existing tree buffer along main driveway shall be as shown on site plan: Don stated there is no indication on the site plan which trees are going to come down and it doesn't show plantings. Kathy stated this is talking about existing trees. The applicant stated several times the trees would remain from Main Street to the store along the driveway. The site plan

reflects new trees to be planted. Bob stated there are trees encroaching along the main driveway and it would be hard to work around them, but he believes "existing shall remain in place" is closer to what they want. Rick stated the wording shall be as Kathy originally proposed in #29, which reads as follows: "The existing buffer of trees along the main driveway shall be as shown on the Site Plan." Fred noted trimming trees is not the same as removing them. In addition, he stated the applicant can't cut trees in the wetlands without permission from the Conservation Commission.

#43 - Regarding loam and topsoil stockpiled on site: The board received revised language from Fred Litchfield for this condition. Rick read the proposed new condition aloud as follows: "All existing loam and top soil shall be stockpiled or kept on site until the project is completed or until the Town Engineer approves the removal of any material determined to be in excess of the amount required to complete the project."

Bill stated the Building Inspector does not need to be included in the condition.

The note after condition #48, which references the obligation note in condition #46, was accepted as proposed.

Re: Last paragraph on page 11, Conditions subject to issuance of required approvals and issuance of permits:

Fred stated a bond needs to be posted before the applicant can do any earth work, not because of a building permit. The building permit is irrelevant. They could apply for a building permit before doing any work. The bond is used to keep erosion/runoff from going into neighbors property.

Rick divided the conditions as follows: #s 8, 9, 14, 16, 23, 26, 28, 30 - need to be completed prior to occupancy; #s 12, 13, 15, 19 & Summer Street condition - need to be completed prior to occupancy, but applicant could post bonds

Referring to condition #41, Fred stated they needed to take out the beginning phrase "Upon completion of the work covered by this Decision" and add at the end of the first sentence "no later than 6 months of issuance of occupancy permit". He stated it is in the applicant's best interest to submit the as-built plan. The town tries to keep records of all drawings of all buildings in town because owners and buildings change. The Conservation Commission requires it as part of the Certificate of Compliance. It is also required by the Earth Removal Board. The town has some leverage, but not through the Planning Board.

Fred stated he wouldn't recommend having the Summer Street project hold up a Certificate of Compliance, since Summer Street does overlap Route 20 and Mass Highway would have input on the project.

Barbara suggested to say a bond or other surety would be as approved by the Town Engineer and in a form acceptable to Town Counsel.

Referring to condition #3, Don stated "unless zoning relief is obtained" should be removed after 7-20-030. The other board members agreed.

Rick stated Kathy will send the board the revised draft and they'll continue the discussion to the next meeting for final review.

Bob Rosenberg moved to continue the discussion on the site plan approval decision for 77 Main Street to January 28, 2008 at 7 pm. Michelle Gillespie seconded the motion and the vote was unanimous.

Kathy will check on the site plan for the landscaping plan for 35 and 37 River Street for a resident who was present.

### **Approval of Minutes**

George Pember moved to approve the minutes of November 20, 2007 as amended. Don Hewey seconded the motion and the vote was unanimous to approve.

George Pember moved to approve the minutes of November 6 2007 as amended. Bob Rosenberg seconded the motion and the vote was unanimous to approve.

George Pember moved to approve the minutes of December 3, 2007 as amended. Don Hewey seconded the motion and the vote was unanimous to approve.

### **Next Meetings**

Planning Board - January 28<sup>th</sup> to discuss zoning bylaw

Joint Meeting of ZBA and Planning Board - January 16<sup>th</sup>

### **Discussion re: Zoning Bylaw - Special Permit Granting Authority**

Rick stated the situation regarding ZBA's special permit granting authority in the business zones has not changed. The board needs to come to some closure on this regardless of the rest of the changes proposed to the zoning bylaw by the subcommittee. Two reasonable options are 1) SPGA in business districts will stay with ZBA, but may change in the future when the board membership changes; and 2) keep SPGA as it currently exists in the zoning bylaw. There are a lot of changes and improvements to the bylaw that need to be moved forward. He's not in favor of bringing up the SPGA issue on town meeting floor. He's willing to keep SPGA as it currently exists, which would mean the Planning Board would be SPGA for the Industrial zones and the ZBA would be the SPGA for the business districts and the Neighborhood Transition District (NTD). The board can continue to review and send comments to the ZBA on site plans or they can hold joint meetings for any site plans in the business zones. The applicant would appear before both boards simultaneously. The three voting ZBA members would render the decisions. This would allow all members of both boards to be on the same table and hear each other's opinions.

George questioned if ZBA and the Planning Board would be setting special meetings to hold joint site plan reviews in addition to their regular two meetings a month. If he's not going to be part of the decision-making, he's not sure he wants to sit in on extra meetings. He also stated Dick Rand's comments regarding rezoning areas of town need to be done at a different time and are not right for the process they are working on now. Rezoning should come out of the Master Plan.

Don stated he agrees with George. He stated that if ZBA is going to be the SPGA for everything, Planning Board should handle the appeals.

Michelle stated she does not agree with Dick Rand's memo. The objective of ZBA is to own everything. She stated originally this was a cleaning-up of the zoning and now Dick's going out 20 - 30 years. The Planning Board didn't send the subcommittee off to do that. The ZBA

members are saying there will be no sharing of SPGA responsibilities because that's the way it is.

Kathy stated they need to move through this methodically. She reminded the board that they discussed a clean-up when the first talked about a zoning reorganization, but when the subcommittee got involved they realized how intertwined the zoning sections are and knew it couldn't be just a clean-up. The subcommittee went back to the Planning Board and explained they needed to change the focus. The Planning Board has been receiving these changes for the last year and a half.

Kathy explained the zoning subcommittee started off their work on the premise that the Planning Board should be doing all site plans. They used the Community Development Plan to come up with changes for zoning. Because the Planning Board was proposed to be the SPGA for the business districts, it was determined that the ZBA would keep the residential districts, which includes the Neighborhood Transition district (NTD).

Bob Rosenberg stated he has spoken to ZBA members and they do not seem to be engaged in the new bylaw. Some ZBA members do not think the town needs a new, updated bylaw.

Rick discussed other issues ZBA members brought up at the last joint meeting and in the recent emails from Dick Rand and Gerry Benson. Possible Planning Board may decide to bring zoning bylaw to 2009 town meeting instead of 2008 town meeting in order to properly spend time on the issues recently raised. Also need more time to do public education.

Kathy discussed if bylaw were brought to town meeting in 2009, it might be possible to conduct an analysis (fiscal, infrastructure and zoning) of the southwest IA area and incorporate changes from the analysis into the 2009 presentation of the bylaw.

Rick discussed what, at a minimum, needs to occur at the January 16<sup>th</sup> joint meeting:

- Any disagreements with concepts of the proposed bylaw?
- What needs to be done to complete the project?
- Address comments made by board members to date.
- Have the bylaw completed by May 1<sup>st</sup>? June 1<sup>st</sup>? and then move on to education and bring bylaw to 2009 ATM?
- Any reservations with present proposal?

Rick asked for a vote of the Board regarding bringing the bylaw to the 2008 or 2009 town meeting and the Board unanimously agreed to wait until 2009.

Board needs to come prepared on January 16<sup>th</sup> to discuss any questions, comments, issues, and/or reservations with the proposed bylaw.

Meeting adjourned 11:30pm.

Respectfully submitted by,

Debbie Grampietro  
Planning, Engineering & ZBA