



# TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved by the Planning Board  
October 21, 2008

## Planning Board & Zoning Board of Appeals Joint Meeting Minutes September 30, 2008

Planning Board Members Present: Rick Leif, Bob Rosenberg, George Pember, Michelle Gillespie, Daniel Lewis

ZBA Members Present: Dick Rand, Dick Kane, Mark Rutan

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

Chairman Richard Rand opened the ZBA meeting at 7:00 pm.

Chairman Rick Leif opened the Planning Board meeting at 7:00 pm.

### Draft Interim Report on Southwest Cutoff Land Use Study

Ms. Joubert noted she had received comments/questions on the draft report from one Planning Board member, Mr. Leif.

Mr. Leif reiterated issues discussed at the last meeting, including the impact of sewer service and retail use in this area. What do they want to do with the sensitive area in the north, (Area 1), with its open space and conservation land? How would roadways impact that area? Could the town get some benefit from it without altering the sensitive areas? The Master Plan suggested the possibility of doing nothing more in the area than increasing single-family and multi-family use if the town was comfortable with the amount of commercial use already there. However, since the most recent Master Plan, The Loop/AvalonBay project is under construction and a plan has been filed for a retail use on the property on which East Coast Golf is currently located. Is this enough retail/commercial for the area? Should the town continue to allow these projects through variances? Should they compress Area 2 and keep the rest open space with some residential? Should they go with what's on the map and keep the boundaries as defined? Mr. Leif stated he would like to hold the line at what they have and move the green line for Area 1 down to encroach into Area 2.

At the request of Mr. Pember, Ms. Joubert identified The Loop/AvalonBay project on the map. In addition she pointed out the 350 acres owned by Robert and Mary Borgatti and the 125 acres owned by Kevin Giblin. She also noted Mr. Giblin has the right of first refusal on the Kimball Sand property and the used car lot next to it.

Mr. Pember stated the green line of Area 1 didn't look as though it could come down very far into Area 2 without hitting The Loop/AvalonBay property.

Mr. Rutan stated the residents of Hitching Post Lane are very sensitive to what's going on around them.

Angela Meehan, Consultant, Community Opportunities Group, stated the boundaries are not hard and fast, but that would be an area to exercise judgment because it's a tricky spot.

Mr. Lewis stated there will be residents at the junction of residential and commercial uses.

Mr. Leif stated that, with the exception of the east or south sides of Route 20, where there might be potential for retail development, The Loop/AvalonBay project, and the anticipated development of the Kimball Sand, car dealership and East Coast Golf properties are about all that can happen there. He suggested Area 1 could extend into Area 2 toward the access road, and stated he would not like to see Area 1 get any smaller. He stated he would not like to see commercial and retail use closing in on the West Main Street residential areas. He would not like to see the remainder of the Borgatti property purchased and turned into commercial uses. The roads being used as cut-throughs right now were not designed for the current amount of traffic never mind increased traffic volume. Expanding Area 2 beyond what is planned is counter productive. He suggested they work with the DPW Director, and Police and Fire Chiefs, as to what could be done about traffic before finalizing any proposal for this area.

Mr. Kane questioned why Mr. Leif would want to do that when retail/commercial development could relieve the town's tax burden.

Mr. Leif stated residents and natural resources need to be protected.

Mr. Rosenberg stated the Town could be approaching several million square feet of retail space - basically the size of a Natick Mall - with no roads to handle the traffic.

Mr. Farnsworth stated if retail is not permitted in the area the developers will go to Shrewsbury or Westborough and Northborough will still get the traffic with none of the financial benefit.

Mr. Rand stated they don't know if someone is going to build a road into the Area 1 land. To think they'll have a big parcel of land developed without roads doesn't make sense.

Mr. Leif stated if they limit commercial development to Area 2 they are still going to be dealing with cut-through traffic down Davis Street on both sides of Route 20.

Mr. Lewis stated it would be unlikely to have huge retail proposed without access to Route 9 and Route 20. It wouldn't get financed.

Mr. Rand stated if Area 1 is open space, conservation land and residential, how will the residents get into the property? The developer will have to build roads.

Ms. Joubert stated part of Area 1 is SUASCO land, but in the other part they'd foresee subdivisions and a roadway would have to come through by West Main Street. It would not necessarily have to be a public road, and might possibly tie into the commercial development to have a roadway network. A private developer would build the roads.

Mr. Pember stated he agrees with Mr. Farnsworth that if it's appropriate to put commercial in Area 1, developers should be able to do it. He stated he likes the idea of an overlay, that

could be more strict than the bylaws, and would require a comprehensive study be submitted by an applicant. A road put in for this could possibly take the pressure off Davis Street and the retail/commercial use would be better for the town than putting in a subdivision.

Mr. Leif stated if the area had developed as industrial, the traffic issue would never have come up. The question is does it make sense to permit the front as retail and continue with the back as industrial. His concern is there would have to be roads through the retail to the industrial. He stated he thinks commercial development would have a negative impact in the back.

A board member stated if sewer service became available on Route 9 it would drastically change the area.

Ms. Joubert stated the town is not able to bring sewer down Route 9. The DPW Director, Kara Buzanoski, has tried to negotiate with Shrewsbury and Westborough. Ms. Joubert stated she will ask Ms. Buzanoski to come to the next joint meeting to explain the situation, as well as the issue of sewer capacity.

Mr. Rutan asked Ms. Joubert to explain the situation with Kevin Giblin and the homeowners who were illegally discharging water into town drains.

Ms. Joubert stated its part of the infiltration and inflow study for his project. There is an on-going problem in Northborough that during storms there was an exorbitant amount of water going to the sewer plant. The Department of Environmental Protection, DEP, told Mr. Giblin to determine where the water was coming from. After ruling out possible illicit discharge from the Bearfoot Road area, Mr. Giblin tested every pipe in town and discovered two areas where people have illegally connected their sump pumps to the town sewer.

Ms. Barrett stated this is an economic gain for Mr. Giblin's project and some of that profit will mean a benefit for the town.

Ms. Barrett reviewed the study's proposal for Area 1, stating it suggests single-family residential land with some cluster development and open space land protected as much as possible. There is very sensitive land there, so the issue is whether zoning in the area makes sense at all. The zoning there right now makes no sense. A planned way to think about land use in the area would be to lighten impact in the north property and memorialize and recognize what's already there. The real issue is Area 1 because the line could be brought down. She stated once the boards make decisions on what they want for these areas they will have to stand behind it.

Ms. Gillespie stated traffic is an issue. She noted Mr. Giblin had said his vision for Area 1 was to be residential, and when he said it all the abutters from the area who were present, they were glad it was going to be residential because they didn't want The Loop in their back yards. The question is how to manage traffic.

Ms. Joubert stated they need to give Ms. Barrett and Ms. Meehan direction as to how to go forward with the Southwest Cutoff area in conjunction with the rest of the zoning bylaw they will present at 2009 Town Meeting in order for them to write zoning bylaws for it. If this is not done soon, the opportunity to include it in the proposed zoning document will be missed and then would have to wait until 2010 Town Meeting. In the meantime, the area will continue to develop through variances and the Town will miss out on an opportunity to zone it the way it should be zoned.

Mr. Rosenberg asked Ms. Barrett how she would define the mixed use proposal for Area 3.

Ms. Barrett stated the proposal is now for a commercial/industrial mix, allowing a fairly broad use of industrial and commercial development to evolve on the site, and bringing the RC district down along an area of existing residential uses. Lawrence Street is fine the way it is.

Mr. Rosenberg stated that he expects it's the town's strategy to keep that area for adult uses. If that peninsula is eliminated they have to come up with a zoning strategy to allow and control adult uses. Area 4 is the area that will allow adult uses as required, but it may not be possible to have another adult use because of the measurements - or there would be one at the most. He doesn't want to eliminate Lawrence Street as a residential area.

Mr. Rand stated he does not think they can get the whole Southwest Cutoff proposal into the zoning document for 2009 Town Meeting because there are too many differing opinions on it.

Mr. Rutan stated he would tend to go with residential in Area 1 and keep the rest the same as proposed.

Mr. Rand, Mr. Kane and Mr. Pember stated they would not be in favor of Area 1 being residential. Mr. Farnsworth agreed.

Mr. Lewis, Ms. Gillespie and Mr. Rosenberg were in favor of residential in Area 1.

Mr. Rutan stated he agrees with the boundaries as proposed.

Mr. Lewis stated there should be more of a barrier between Areas 1 and 2, but the wetland stops between them.

Mr. Leif stated he was leaning towards trying to do something with this in 2009. He would like to see what it would look like from Ms. Barrett and Ms. Meehan and have them come back to another meeting.

Mr. Lewis asked if it would make sense to divide the area along the property lines.

A joint meeting was scheduled for October 21<sup>st</sup>, at which Angela Meehan will present draft zoning bylaws for Areas 1, 2 and 3.

### **Performance Standards - Noise and Staff information**

Ms. Joubert had distributed a memo regarding performance standards from town staff including Jamie Terry, BOH Agent; Bill Farnsworth, Inspector of Buildings/Zoning Enforcement Officer; DPW Director, Kara Buzanoski and Fred Litchfield, Town Engineer. She explained their collective recommendation is that performance standards don't need to be in the bylaw because these are not zoning issues and it will not be detrimental to the bylaw to take them out. Based on the zoning proposal, all the standards are covered by existing state and federal regulations. If the Boards want to go forward with the proposed regulations, there was not much left after the staff edited them. Ms. Joubert reviewed them as follows:

#### **Chapter 7-04-040**

##### **C. Noise - Covered in DEP regulations**

- D. **Recombinant DNA** - Covered in state and federal regulations, per BOH Agent
- E. **Stormwater Management and Erosion Control** - Illicit discharge bylaw passed at town meeting and erosion control covered in another section of the town bylaws per the Town Engineer and DPW Director
- F. **Solid Waste Storage** - In existing BOH regulations on solid waste disposal and in proposed zoning bylaw, also solid waste screening covered under visual protection in other part of bylaw and in BOH regulations in solid waste contract
- G. **Lighting** - Section references site design standards which cover lighting - already covered in proposed
- H. **Miscellaneous Standards** - Almost all reference state and federal regulations - to state again won't provide town with anything that is not already in existence today and could cause confusion if they were in the bylaw and state and federal regulations changed but bylaw was not changed.

Mr. Farnsworth stated the town still has protection through DEP, which covers a lot of these issues. DEP has made it clear in the regulations who will enforce them and all these things are already in there. Some town regulations conflict with DEP regulations, like the Open Burning Law. Now they are trying to work together to make sure the regulations don't interfere with each other.

Ms. Joubert stated this is an opportunity to correct it.

Ms. Barrett stated if they decide to keep the performance standards, they should not be in zoning but rather in the general bylaws.

Mr. Pember stated the idea was to revamp the bylaw and make it simpler to use. If it makes it simpler, then take performance standards out.

Mr. Leif asked for comments from members in order to give Ms. Barrett guidance.

Mr. Rosenberg stated that the subcommittee has performance standards in 6 different places in the proposed bylaw and now a declaration is being made that performance standards shouldn't be in zoning.

Ms. Barrett stated performance standards are referenced for some uses.

Mr. Rosenberg stated it can't be both ways.

Ms. Barrett stated what they have right now is a section in the existing zoning bylaws called Performance Standards and elsewhere there are performance standards. What the proposed bylaw does is gets rid of the specific section and addresses performance standards where they belong - in use regulations, development review, and special permits.

Ms. Joubert stated every one of the existing performance regulations is covered by state and federal regulations and local Board of Health regulations.

Mr. Rosenberg stated there is impact review for what the developer presents but once the project starts, there's no other review.

Ms. Barrett stated after they've started it is not a zoning issue, but an enforcement issue.

Mr. Leif stated applicants need to conform with standards in zoning for design and once approved, if they decide not to do it or decide to do something different, it's no longer a zoning issue.

Ms. Barrett stated if something changes because they didn't follow through with the approved site plan then it's a zoning issue, but something to do with the operation of the use unrelated to the approval decision is not a zoning issue.

Mr. Kane stated the ZBA has asked applicants to get base noise measurements and conditioned decisions to say the noise level cannot be increased.

Mr. Farnsworth stated there have been conditions of site plans that required the applicant get a baseline. If a complaint is made, he has to go back and check them. However, those are DEP regulations and are not needed in the local bylaw. Regardless if the regulation is in the bylaw or not, he is still mandated to enforce it through DEP regulations.

Ms. Barrett stated they need to make a decision so she can make the final changes.

Mr. Leif asked Mr. Rosenberg if he concurs with the way the proposed zoning is presented without the performance standard section.

Mr. Rosenberg stated it's nonsensical - an open loop because there's no enforceable standard. He said that just because an applicant goes through a process it doesn't mean they will follow the rules afterwards.

Ms. Barrett responded that If an applicant does something on a property in violation of the design standards in the bylaw or a special permit or variance then the applicant would not be in conformance. However, if the project is built out in conformance but there is a problem afterwards with some aspect of the operation, there are other jurisdictions to deal with that and it is not a zoning issue. She suggested the boards have to decide what they are comfortable with in policy and stated she needs to know what they want so she can make sure the bylaw does not have inconsistencies.

Mr. Rosenberg stated he is also not comfortable with noise standards based on DEP regulations. He stated DEP regulations aren't always the right thing.

## **Rules and Regulations**

Ms. Barrett stated rules and regulations are items in the bylaw that are administrative in nature and not zoning-related, such as submission requirements. She explained she would not create these until issues with the proposed zoning bylaw get straightened out.

Mr. Leif stated he would like to have an outline submitted.

Ms. Barrett stated prior to rules and regulations being adopted there could be an interim submission process, following what's in the old zoning until the new regulations are done.

## **Future Meetings**

Oct 7<sup>th</sup> - Joint meeting with both boards to finish review of the proposed bylaw

Oct 21<sup>st</sup> - Joint meeting with Angela Meehan

## **Old/New Business**

Mr. Pember noted Brian Smith had a booth at the Applefest Streetfair at which he handed out information encouraging people not to support the proposed new zoning.

Ms. Joubert stated Arlene Marshall had called her to tell her the Historical Commission had a booth next to Brian Smith's booth and several people told her Mr. Smith was discussing the new zoning.

Mr. Rosenberg noted Mr. Smith had submitted two letters to the Planning Board and although they were discussed amongst board members, Mr. Smith had not been asked to explain his issues.

Ms. Joubert noted two petitions had been submitted to the Planning Board regarding the proposed zoning for the GR2 district and Mr. Smith had signed the petitions.

Mr. Leif asked if the boards should contact Mr. Smith directly.

Mr. Rand stated they can't please everyone.

It was decided to address these concerns as part of the public information sessions which will be held this December and January.

## **Approval of Minutes**

Both the Planning Board and Zoning Board of Appeals members approved the minutes of their joint meeting on September 2, 2008 as amended.

## **Adjournment**

The Planning Board meeting and the Zoning Board meeting adjourned at 9:30 pm.

Respectfully submitted,

Debbie Grampietro  
Board Secretary