



# TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 4-21-09

## Planning Board Meeting Minutes February 3, 2009

**Members Present:** Rick Leif, Bob Rosenberg, Dan Lewis, Michelle Gillespie, George Pember

**Others Present:** Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Mike Venincasa; Chan Byun, Linda Byun, Dinesh Patel, Nils Patel, Jin Wuk Suug, Myungyi Kim, Reg Curee, Steve Boulay

Chairman Leif opened the meeting at 7 pm. George Pember was not present at the time.

### Public hearing to consider Special Permit Common Driveway Application for James Vogel at 496 West Main Street

Applicant:	James Vogel
Engineer:	Quinn Engineering
Date Filed:	December 29, 2008
Decision Due:	90 days from close of hearing

Mr. Leif read the legal notice for this hearing.

Jim Vogel was present and explained the project consists of a proposed common driveway off West Main Street to access two single-family house lots that would involve crossing of wetlands. Three alternative driveway plans were prepared with effort made to minimize wetland impacts, as requested by the Conservation Commission. Mr. Vogel stated if no wetland crossing was allowed by the Conservation Commission he would have no access to the two lots, which consists of approximately 15 acres of buildable upland. The plan submitted is what he believes is the best option.

Mr. Pember joined the meeting at 7:20 pm.

Mr. Vogel explained he was originally going to submit a subdivision plan, but decided against it. His second alternative was to file an ANR plan with a single driveway for a smaller parcel. In the end, he decided upon the plan submitted. Mr. Vogel explained the Fire Chief is comfortable with the access to both lots from a fire-fighting point of view. The Conservation Commission has asked him to present 3 alternatives to the project. He is presenting his best plan, but also has two others as well. The third alternative would include locating the access driveway through wetlands. The plan presented shows the driveway coming in from the right of 500 West Main Street at the top of knoll and accessing it from the rear. This proposed driveway is closer to a boundary line. He explained he had given land to New England Forestry because the previous owner had requested it. He went out of his way to create frontage and give them access all the way down to West Main Street. The proposed configuration is the one with the smallest impact on the wetlands and satisfied common driveway regulations, but will require relief from setback regulations. The side setback is 15 feet from the property line and their proposal will be closer than that because they moved further away from wetlands on the other side.

Mr. Leif read the letter from Mr. Vogel's engineering that had been submitted as part of his application.

Fred Litchfield, Town Engineer, stated Mr. Vogel did meet with the Conservation Commission on January 9<sup>th</sup> and they asked him to explore alternatives to the driveway wetland crossing he had proposed. Mr. Litchfield explained that, in his opinion, alternatives with less wetlands impact were not fully explored. Mr. Vogel presented information that the Town of Shrewsbury restricts the length of a common driveway to 300 feet. The proposed common driveway length is close to 1000 feet, which exceeds Shrewsbury's regulations. He talked to the Shrewsbury Engineering Department and it seems possible that a driveway through his property in Shrewsbury could be allowed. They have granted variances recently, but it would require work on Mr. Vogel's part. He would have to apply for a variance and would have to file with the Conservation Commission because he'll be within the buffer zone. If the Conservation Commission feels there is a less invasive way to go, they might deny this plan. Mr. Litchfield stated he gave Mr. Vogel an update earlier in the day. Mr. Vogel had said they may pursue a continuance and submit a letter asking for an extension. Most commissioners spoke in favor the project, but wanted him to explore all the alternatives. Mr. Litchfield stated his recommendation would be to continue the hearing, let the Conservation Commission get more facts together and the applicant could start the process with Shrewsbury if he wants to pursue that.

Ms. Joubert stated staff's suggestions would be for Mr. Vogel to take questions tonight and request a continuance to the next Planning Board meeting. At that point, they should have resolved it with Shrewsbury or Northborough.

Mr. Leif asked what the total length of the proposed common driveway is from the street where it would connect to the two lots. Mr. Vogel replied it is about 1600 feet. Mr. Leif stated dead-ends and cul-de-sacs are limited to 500 feet in Northborough.

Mr. Litchfield stated there is no maximum length on a common driveway.

Ms. Gillespie confirmed the applicant had met with the Fire Chief and this proposal met with his approval regarding not bringing town water to the lots. Mr. Vogel stated the Fire Chief was in agreement with that.

Mr. Vogel stated if he has to go through a filing with Shrewsbury, he might as well go through with a subdivision plan. He said he is trying to do the right thing for the neighborhood by trying to do two lots. He is looking for Planning Board support.

Ms. Gillespie asked if there would be more impact on the wetlands if he extended his driveway. Mr. Vogel said it would be a bigger impact. There are wetlands that run two feet off the driveway up until the turn. Ms. Gillespie asked if the Conservation Commission knows this. Mr. Litchfield stated they did not know it and they had asked the applicant to explore it. It would have to be built to the common driveway standards for Shrewsbury. The wetland impact has not been determined and that's what the Conservation Commission asked for at the last meeting. Mr. Vogel said he will be preparing that.

Ms. Joubert stated in Shrewsbury the wetland runs along the driveway. In Northborough, the driveway goes through the wetland.

Mr. Litchfield stated that in Northborough wetlands can be filled if that's the only access to upland area. The Conservation Commission is only asking if it's the only access. They agreed with Mr. Vogel that 2 houses on 17-acre lots is not very intrusive, but they are charged with protecting the wetlands.

Mr. Vogel stated if the Northborough Conservation Commission denies his plan then he will file a subdivision plan. Ms. Joubert stated Mr. Vogel would still have the same issues with a subdivision plan. Mr. Litchfield stated Mr. Vogel will have the same issue regarding the wetlands crossing and fill with a subdivision road as with the common driveway plan.

Mr. Pember stated the Planning Board is enthusiastic about conserving open space and this project looks like it has a lot of open space. He believes it makes sense to limit the project to two houses, but it would be inappropriate for the board to approve it without the consent of the Conservation Commission.

Mr. Vogel stated if he has to file with Shrewsbury, he'll do a subdivision.

Mark Johnson 536 West Main Street stated he grew up in Northborough in the general area. His preference is two houses, which would have a minimal impact. He likes to spend time on the trails on the forestry land and the more open space they can conserve up there the better it would be for his family and the town. He is in support of the plan.

Ms. Vogel stated he would create two unpaved spots off of the common driveway for parking for the trail on the New England Forestry land.

Patricia Zecco, West Main Street, agreed with Mr. Johnson in that she prefers two houses to a subdivision.

Reggie Cure, 490 West Main Street, asked about the situation with the septic system. Mr. Vogel stated the septic system is behind the house, not next to it. The engineering will put it on the plan. Mr. Cure stated the septic system is not in the back of the house. Mr. Litchfield stated he received a letter from Quinn Engineering stating they had reviewed information from the Board of Health and their letter indicated where it was. Mr. Litchfield asked Mr. Vogel to show the septic system on the plan for the Conservation Committee meeting to be held next Monday night.

Ms. Gillespie motioned to continue the hearing to March 3, 2008 at 7:00 pm. Mr. Rosenberg seconded the motion and the vote was unanimous to continue the hearing.

Mr. Pember noted he will not be able to attend the March 3<sup>rd</sup> meeting.

#### **Discussion with Jim Venincasa, Signature Homes**

#### **RE: Assabet Farms subdivision**

Mike Venincasa, father of Jim Venincasa is representing his son this evening as his son lives out of state and due to the snowstorm, he could not make it to the meeting this evening.

Mr. Leif stated there are a number of issues with the Assabet Farms subdivision that need to be completed. He stated he would go through the 6 items on Mr. Litchfield's list and asked Mr. Venincasa for a status report on each item. Mr. Leif stated they hope to have an agreement that these items would be completed in a manner acceptable to everyone. The items are:

I	Sidewalk repair, seeding and street trees	\$ 5,000
II	Final paving and curbing	\$31,000
III	Miscellaneous cleanup and adjustments	\$ 3,000
IV	Final drawings, bounds and engineering	\$19,000
V	Offsite work in Hudson Street	\$35,000
VI	Sidewalk Contribution	<u>\$ 4,000</u>
	Grand total	<u>\$97,000</u>

Mr. Venincasa stated final curbing can't be done until spring.

Mr. Litchfield said miscellaneous cleanup and adjustments are preparations that need to be done prior to paving.

Mr. Venincasa said Jim is working on final drawings and setting bounds but he doesn't know the date for that completion.

Mr. Venincasa explained the drainage work fell through for the fall. He has a commitment for spring but no date and the roads can't be worked on now.

Mr. Litchfield stated the scenarios in his letter are to be completed by June 15<sup>th</sup>. They will need some time to reset the curbing and prepare a property asbuilt plan. There may be an issue with the paving company, so it may take through the end of May to wrap things up. If the board feels the time needs to be shortened, it's important the applicant has something in writing from the Planning Board.

Ms. Joubert stated nothing can be done until April at the earliest. The letter states he has until June 15<sup>th</sup> to complete the work or be found in default, as opposed to the board declaring him in default tonight. If he is found in default, the board will pull the bond.

Mr. Venincasa stated the drainage in Hudson Street is the most important issue.

Mr. Leif asked Mr. Venincasa if it is reasonable that all items in the letter can be done by June 15<sup>th</sup>. Mr. Venincasa stated he thinks it could be done. Mr. Leif asked Mr. Venincasa if he would not have an issue with the Planning Board if the work was not done by the deadline and they decided to pull the bond.

Mr. Venincasa replied he would not have an issue unless most of the work was done and something happened.

Mr. Leif stated the issue is that this has gone on for an extended period of time. They will grant an extension tonight to June 15<sup>th</sup>. There will be no extensions beyond June 15<sup>th</sup>. After that time, they will call the bond. Sufficient time has passed to finish the work. If the developer can't do it, the Planning Board will take the money and finish the subdivision.

Mr. Rosenberg asked Mr. Venincasa if he is a principal with Signature Homes and if he feels he can make an agreement with the board.

Mr. Venincasa stated yes to both questions.

Mr. Pember asked who the contractor is who will be doing the work in Hudson Street. Mr. Venincasa stated it will be Ferraro, and explained they pulled out before but will do it in the spring. Mr. Pember asked Mr. Venincasa why he believes Mr. Ferraro will show up. Mr.

Venincasa stated he has worked with Mr. Ferraro for 25 years and they feel comfortable he will do it. He had some issues in the fall that have been taken care of.

Ms. Gillespie asked how long after June 15<sup>th</sup> it would take for the town to complete the work if they were to pull the bond tonight and finish the work in the spring.

Ms. Joubert stated it would have to go to Town Counsel as to how much would have to go out to bid and that's assuming the bond company would not sue the town for taking the bond.

Mr. Litchfield stated the town can't work in the street because it's private property. The town has to secure the money and have it in hand. It has to accept Silas Drive as a public way and then they could use the money to make improvements to the public street. They would be looking at the town doing the work after 2010 town meeting.

Ms. Joubert said it's at least a year process if they don't go to court. The best way is to have the developer finish the project.

Mr. Pember noted the \$4000 contribution towards the sidewalk fund doesn't have to wait until June 15<sup>th</sup>. If it was submitted now, it would show good faith by the developer.

Mr. Venincasa stated money is short right now. He suggested it could be submitted by the next Planning Board meeting on March 3<sup>rd</sup>.

Mr. Leif confirmed the sidewalk contribution would be paid by March 3<sup>rd</sup> and the balance of the items in Mr. Litchfield's memo is to be completed by June 15<sup>th</sup>. In any event, both items have to be done by their required time.

Mr. Rosenberg stated he would like to have Mike and Jim Venincasa come to the Planning Board meeting on April 7<sup>th</sup> to tell them how they're going to do the work and who will be the contractor.

Ms. Gillespie suggested if Jim Venincasa can not make the meeting on April 7<sup>th</sup>, he should submit something in writing.

Chan Byun, 2 Silas Drive, stated the decision today will start the process of completing the street. The most difficult part of what's been happening is the lack of dates and commitments. This will bring structure to it.

Ms. Byun, 2 Silas Drive, stated the last people to move into the block did so in December 2005. In the three years since that time, they have been anything but the top priority. The developer repeatedly missed meetings, deadlines and promises he made. She stated she does not have confidence that this will not happen again. She thinks June 15<sup>th</sup> is another gift to the developer and would like to see the hard and fast penalties applied as have been discussed. She appreciates the deadlines stated and the board holding the developer to them.

Dinesh Patel, 7 Silas Drive, asked if it will cost them more than the amount of the bond money to finish the subdivision. He asked if it was due to money that they haven't done the work.

Mr. Venincasa stated the bond money exceeds the cost of the work to be completed.

Mr. Rosenberg stated this kind of mechanism is a last resort. It is more cumbersome for the town to complete the street. They've tried to work with the developer and the developer

tries to keep good faith with the town so they can continue to develop in the area. If everyone stays to the agreement, the neighborhood should have a good outcome.

Jin Wuk Sung, 10 Silas Drive, stated the developer gave one excuse after another why the work wasn't getting done and it went from 2006 to the present. Hopefully the timeline will be followed and the work will be finished by June 15<sup>th</sup>.

Ms. Gillespie noted the best representative for the neighbors has been Fred Litchfield. He has spoken to the board many times about this situation. She believes the developer will follow through and finish by June.

### **Approval of Minutes**

January 6, 2009: The minutes of January 6, 2009 were approved with amendments.

### **Community Zoning Meetings Schedule**

Meetings to present the proposed zoning were scheduled as follows:

#### **Community Meetings**

February 25<sup>th</sup> Downtown @ Melican Middle School Library - 7:00 pm  
March 18<sup>th</sup> Southwest Area @ Zeh School Cafeteria - 7:00 pm  
March 26<sup>th</sup> Business B East & West @ Zeh School Cafeteria - 7:00 pm

#### **Civic Group Meetings**

February 17<sup>th</sup> Lion's Club @ AJ's Restaurant - 7:00 pm  
February 24<sup>th</sup> Jr. Women's Club (no location yet)  
February 26<sup>th</sup> Northborough Action Committee @ American Legion - 7:00 pm  
March 9<sup>th</sup> Senior Citizens @ Senior Center - 1:00 pm

#### **Presentation to Board of Selectmen**

February 23<sup>rd</sup> Executive Summary and announce cable TV show and community meetings

#### **All Board Meeting**

March 16<sup>th</sup> For all town boards and committees @ Gale Library - 7:00 pm

#### **Public Hearing for Zoning Amendments**

The public hearing will open at the April 7<sup>th</sup> meeting and continue to April 21<sup>st</sup>. Town Meeting will begin on April 27<sup>th</sup>.

#### **Cable TV Show Taping**

Ms. Joubert explained the cable TV show will be a roundtable discussion and anyone on the board can participate. Kathy Dalglish, Cable Access Director, will be interviewing them, following a partial script and using the executive summary as a guide. Ms. Joubert noted she has asked Mark Donahue, IDC, and Fran Bakstran, BOS, Zoning Subcommittee members, if they wanted to help out and both said they would. Also the ZBA members will be invited to participate.

#### **Old/New Business - Committee Reports**

**Open Space Committee:** Mr. Lewis reported the Schunder property is in limbo.

**Community Preservation Committee:** Mr. Rosenberg reported the CPC held their public hearing to hear and review the applications for Town Meeting approval on January 15<sup>th</sup> and January 29<sup>th</sup>.

**Housing Partnership:** Mr. Leif stated the Affordable Housing Development Corporation is interested in conversion of the old Senior Center. There will be no acquisition costs as the Housing Authority owns the building. DHCD sent an architect to the site about a week ago and a feasibility study will be developed.

Mr. Leif reported a duplex on Crestwood Drive will be auctioned this Thursday at 3:00 pm and the Housing Corp will be present at the auction.

Mr. Leif explained he had a tour of a Victorian mansion at 103 Bartlett Street today. There are 6 family members who inherited it, 4 want to preserve it and 2 aren't interested but will take a buy-out. There has been some interest from developers. It has frontage on both Bartlett Street and Stirrup Brook Lane. The Housing Corporation would like to get a reasonable price or make a smaller subdivision and use the money to preserve the house.

**Groundwater Advisory Committee:** Mr. Pember reported they did not meet since the last report.

**Design Review Committee:** Ms. Gillespie stated they will meet at end of February to work on design standards with Judi Barrett.

Ms. Gillespie noted the board appoints committee assignments after town meeting and reminded them they had recently discussed rotating committees.

The meeting adjourned at 9:00 pm.

Respectfully submitted,  
Debbie Grampietro, Board Secretary