



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 6/1/10

Planning Board Meeting Minutes March 30, 2010

Members Present: Rick Leif, George Pember, Daniel Lewis, Michelle Gillespie, Leslie Harrison

Others Present: Kathy Joubert, Town Planner; Bill Farnsworth, Inspector of Buildings/Zoning Enforcement Officer; Fran Bakstran, Chairman, Board of Selectmen; Tom & Deb Blasko, Tel Knepper, Dr. Lyna Watson, Patti Stackhouse, Kim Henderson-Lee, Janet Sandstrom, Laura & Anthony Ziton, Brian Smith, Robert Rosenberg

Chairman Leif opened the meeting at 7:00 pm.

Public Hearing to consider WCF Special Permit Application for T-Mobile @ 265 Main Street

Applicant:	T-Mobile Northeast
Engineer:	EBI Consulting
Date Filed:	December 11, 2009
Decision Due:	Within 90 days of hearing date

Chairman Leif read the legal ad for this public hearing into the record.

Kathy Joubert, Town Planner, explained Peter Fales, Centerline Communications LLC, submitted a letter on March 24, 2010 on behalf of the Applicant, T-Mobile Northeast, requesting the Planning Board allow them to withdraw their application for a WCF Special Permit without prejudice.

Mr. Pember moved to allow T-Mobile Northeast to withdraw without prejudice their application for a Special Permit before the Planning Board. Mr. Lewis seconded the motion and the vote was unanimously in favor.

Public Hearing to consider Zoning Bylaw amendments for 2010 Annual Town Meeting

Chairman Leif read the legal ads for this public hearing and the cell tower moratorium petition into the record.

Citizen's Petition for a moratorium on wireless facilities excluding a wireless facility at the Police Station, 211 Main Street

Tom Blasko, 18 Pond View Way, presented information on the petition. He stated he came before the Planning Board in November 2009 requesting a change to the cell tower setback bylaws for the town. At that meeting, the Planning Board stated they would not have enough time to research the WCF bylaw and prepare a presentation on any changes they may have in time for this year's Town Meeting, but would research it for 2011 Town Meeting. Mr. Blasko stated he decided to move forward and present the petition at 2010 Town Meeting without the support of the Planning Board. He explained the Board cautioned him that it might not be a good thing to do or it might be held up by the Attorney General. Mr. Blasko stated Town Counsel's letter stated the wording of his petition is not right for a zoning amendment and that he was not prepared to discuss Town Counsel's letter at this time. He did give suggestions as to changes to the bylaw. He submitted information to the board from the FCC stating that the board does have the ability to change bylaws. He would like to have a moratorium in place and then put together a committee including a Planning Board member to put together changes to the bylaw and a grid as to where WCFs could be placed in town. He stated he has enough to go forward with a moratorium alone. He explained Framingham has already had Selectmen vote for a moratorium and Acton also in 2007. The Ashland BOH agent said they are moving forward with a moratorium also. He stated this is not an isolated case in the Commonwealth.

Mr. Leif stated his understanding from Town Counsel is that the moratorium is not being considered a zoning issue but rather a general town issue. Town Counsel recommended the Planning Board not take an official position on Town Meeting Floor because it is not a change to zoning.

Ms. Joubert stated Town Counsel points out that the petition does not include a reference to a section of the bylaw, a period of time for the moratorium or a process for changing the bylaw during the time of the moratorium. She explained she informed Town Counsel a public hearing for the citizen's petition had already been legally advertised. He advised the board to go forward with the public hearing but no vote would be taken by the Planning Board on the petition.

Mr. Leif clarified that the petition can be presented at Town Meeting, but the Planning Board would not act on it because it is not a zoning amendment. He noted that at their meetings the Planning Board had committed to researching the WCF bylaw for 2011 Town Meeting and it is still the board's plan to do that. He believes that is how the board should proceed.

Mr. Blasko asked what weight it would carry when the moratorium goes to the Attorney General for review.

Ms. Joubert stated the petition is not written as a zoning bylaw so it will not go to the Attorney General. It will be a resolution if it is approved at Town Meeting. Regardless of adoption of the article, cell tower applications would still be accepted by the Town and the process would go forward.

Laura Ziton asked if there was a way they could amend their petition for this Town Meeting.

Ms. Joubert stated the Town Meeting warrant closed a month ago.

Fran Bakstran, Chairman, Board of Selectman, stated their warrant article will show the will of the people, which is a strong thing in our democracy. It does not have the authority to enact a moratorium but it will demonstrate the will of the people.

Ms. Harrison moved to close the public hearing. Mr. Lewis seconded the motion and the vote was unanimously in favor of closing the hearing.

Citizen's Petition to rezone map/parcel 80/34, 80/35, 80/36, 80/40, 97/01, 97/02, 98/01, 98/02 from Residential B to Business South

Douglas Stone, 33 Birch Hill Road, presented information on this petition. He explained he seeks to rezone parcels on Southwest Cutoff and West Main Street - a large tract of land on Southwest Cutoff, West Main Street and Davis Street, owned by the Borgatti's and Bigelow's. Mr. Stone believes the town fathers zoned this area industrial more than 50 years ago and now, instead of providing jobs it will be providing housing. In 2002 the Town acquired the Fish and Game property at 119 Bearfoot Road to prevent construction of thirteen single-family homes. Residential construction will cost the town money. The proposed warrant article seeks to change this area back to Business South to provide jobs and tax revenue. Business South seems to fit better in this area than Industrial. If no action is taken, a residential development could occur any time.

Mr. Pember noted one of the reasons the area was rezoned was due to the impact of traffic on Davis Street and Crawford Street. He asked Mr. Stone what his plan for the increase in traffic would be.

Mr. Leif asked Mr. Stone if he thought there would be more traffic with residential use than commercial use. Mr. Stone stated he believes residential use will increase traffic more than commercial uses. There are businesses already in the area now and he does not see much traffic in those areas. Mr. Leif noted that on certain weekends Bigelow's Nursery hires police to direct traffic. Choosing to rezone the area to Business South will allow retail establishments up to 50,000 square feet, which is fairly large and would attract significant traffic. Mr. Stone replied he does not think the area is very attractive to large businesses. He stated he chose Business South because it allows for smaller businesses and a cleaner form of industrial use.

Mr. Lewis stated the rezoning committee wanted to project a certain character to that part of town and large commercial development did not seem right for it. In addition, the large landowners in the area had no problem with the zoning change.

Ms. Harrison stated the board is not going to prohibit residential development in town.

Mr. Farnsworth stated two of the parcels included in the citizen's petition are already residential parcels that would be changed to Business South. He identified those parcels as Map 80, Parcels 35 and 40. They were residentially zoned and broken out of the Bigelow property for family members. Mr. Farnsworth noted there are a lot of wetlands in the area also. He explained by changing the residential zoning, they would be creating two pre-existing non-conforming lots and that is not a good thing. Mr. Leif agreed with Mr. Farnsworth.

Ms. Joubert noted there is also an overlay district for the open space residential concept that was developed by the zoning subcommittee and approved by the ZBA and Planning Board for these parcels only. Houses developed would be clustered together.

There were no other comments or questions from those present.

Mr. Pember moved to close the hearing, Ms. Gillespie seconded the motion and the vote was unanimously in favor.

Mr. Leif stated there was a lot of discussion on the Southwest area of town last year by the zoning subcommittee, the Planning Board and the Zoning Board of Appeals. The discussions were centered around the tax on the town between rezoning it Business West or Residential B. The majority of those involved decided to go with residential because it would not close off the possibility of commercial in town with The Shops 9@20 underway and the rest of the area zoned for commercial use. There is a lot of available industrial land on the east side of town and the residential and open space residential overlay uses, blend in best with the rest of the landscape. This zoning made sense looking at it on a complete town basis.

Ms. Gillespie stated she agrees with Mr. Leif. There are five areas in town that allow commercial development. During the bylaw reorganization the boards heard from many residents and business owners who did not want over-development in that area. They wanted the land kept in its natural state and did not want commercial or industrial use. She stated she opposes the petition and wants to remain with what they studied for two - three years, which was supported overwhelmingly at town meeting in 2009.

Ms. Harrison stated she agrees with Mr. Leif and Ms. Gillespie.

All Planning Board members agreed they do not support this citizen petition.

Mr. Pember moved to not support the citizen's petition, Ms. Gillespie seconded the motion and the vote was unanimously in favor of not supporting the petition.

Public Hearing to consider Zoning Bylaw amendments for 2010 Annual Town Meeting

- Amend 7-02-040, 7-03-010, 7-03-020, 7-03-040, 7-03-050, 7-05-020, 7-06-030, 7-08-040, 7-10-020, 7-10-030

- Amend Part 2 General legislation of the Code of the Town of Northborough by adding Chapter 2-52 Scenic Roads
- Citizen's Petition to rezone map/parcel 80/34, 80/35, 80/36, 80/40, 97/01, 97/02, 98/01, 98/02 from Residential B to Business South
- Citizen's Petition for a moratorium on wireless facilities excluding a wireless facility at the Police Station, 211 Main Street
- Amend 7-02-040, 7-03-010, 7-03-020, 7-03-040, 7-03-050, 7-05-020, 7-06-030, 7-08-040, 7-10-020, 7-10-030
- Amend Part 2 General legislation of the Code of the Town of Northborough by adding Chapter 2-52 Scenic Roads
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Mr. Leif explained the list of proposed zoning amendments includes items that were either deleted in error or need to be corrected during the reorganization of the bylaw last year. Items below were briefly as follows:

- 7-02-040 - Add Floor Area Ratio (FAR) definition to the definition section.
- 7-03-010 - Add hours of operation for construction equipment - Had not been considered a zoning issue and was taken out during bylaw reorganization, but Mr. Farnsworth received many calls about it and recommended putting it back in the bylaw.
- 7-03-020 - Remove the words "zoning compliance" and replace with the word "certificate of occupancy" - Mr. Farnsworth stated people did not understand Certificate of Zoning Compliance and suggested changing it back to "Certificate of Occupancy".
- 7-03-040 - A change to wording and clarification of the time in which a decision shall be issued after a public hearing for a special permit has been opened.
- 7-03-050 - Correct a spelling error
- 7-05-020 - A change to wording of an accessory dwelling unit - makes it clearer
- 7-05-020 - Home occupation clarification of uses - deletes "high degree of training"
- 7-06-030 - Was in the prior bylaw and removed - now putting back in
- 7-08-040(A)(1),(3),(4) - Mistakenly included building height for residential uses - deletes building height in that part of bylaw
- 7-08-040(A)(6) - A change to non-conforming structures - in prior bylaw a change to a non-conforming structure could be no more than an 80% increase to the existing gross floor area (GFA) without ZBA review but consultant thought to bring it back to 50%. ZBA recommended changing it back to 80%

but change was not included in revised zoning bylaw approved at 2009 Town Meeting.

- 7-08-040(A)(7) - Remove the word “and” and replace it with “provided that”
- 7-10-020 - Common driveways serving 2 lots - text modification.
- 7-10-030 - Industrial/Office Campus Development - changing two reference errors

Ms. Joubert noted the zoning amendments are bundled together as article 28 and scenic road bylaw is article 29 on the Town Meeting warrant.

Bob Rosenberg, 74 Coolidge Circle, asked why building height was not proposed to be removed from 7-08-040(A) (2). Mr. Farnsworth stated it is subject to requirements of the groundwater overlay requirements, not for the residential district.

Referring to the proposed changes for 7-08-040(A) (1), (3), (4), Mr. Rosenberg noted there is a grammatical inconsistency in the items as they appear in the zoning bylaw. Ms. Joubert noted items 1, 2 and 3 are worded one way and four, five, and six are worded differently. She suggested a modification could be proposed so they would all be the same.

Board agreed to make that modification and it will be taken care of in the motion.

Amend Part 2 General legislation of the Code of the Town of Northborough by adding Chapter 2-52 Scenic Roads

Ms. Joubert explained this amendment will put the Scenic Road provisions into the Town’s General Code, Chapter 2. It is not a land-use issue and was removed from the zoning bylaw but was not put in the General Code last year.

Mr. Rosenberg asked if MGL Chapter 40 was still relevant. Ms. Joubert stated it was and that it allows towns to have a scenic road bylaw.

Mr. Rosenberg also asked about the reference to the amendment made at 1987 Town Meeting on the last page of the Scenic Road bylaw and stated he didn’t think it was necessary. Ms. Joubert stated it is the way the code company and the town tracks changes made to the bylaw. Mr. Leif stated it is there for historical purposes and he is fine with it. Mr. Lewis, Ms. Harrison and Ms. Gillespie stated they agree with Mr. Leif.

Ms. Harrison moved to close the hearing, Mr. Pember seconded the motion and the vote was unanimously in favor.

Mr. Pember moved that the Planning Board support Article 28, Zoning Amendments, Ms. Harrison seconded the motion and the vote was unanimously in favor.

Ms. Gillespie moved that the Planning Board support Article 29, Scenic Road Bylaw, Mr. Lewis seconded the motion and the vote was unanimously in favor.

Old/New Business

Street Acceptances: Ms. Joubert sent a memo to the Board of Selectmen stating the Planning Board supported the acceptance at 2010 Town Meeting of the following public ways: Silas Drive, Copley Drive, Dartmouth Drive, Beechwood Circle, Woodstone Road and Fawcett Orchard Road. Ms. Joubert noted each street has an article number.

Mr. Pember recused himself prior to the discussion on the Mill Street Discontinuance because he represents the landowners.

Mill Street Discontinuance: Ms. Joubert explained that at the end of Mill Street, there is a dam and on the other side of the dam, on some maps, Mill Street continues through the middle of the Laurence's property on Whitney Street. That portion of Mill Street is not on the accepted street list or on the official town map, and according to research done by the landowner's attorney, that portion of Mill Street has never been built upon. Discontinuing the road will allow the Assessors' office to clear up the ownership of the land at the end of the existing Mill Street located off Pierce Street.

ANR Plan for Cyrus Brook Estates: Ms. Joubert stated the plan shows the subdivision and the 290 West Main Street parcel. The ANR plan was signed by the Planning Board.

Approval of Minutes: The minutes of March 3, 2010 were approved as amended.

Ms. Harrison asked if an amendment could be made on Town Meeting floor to change the wording of the citizen's petition for a cell tower moratorium. Ms. Joubert replied it could not because the warrant article was not originally written as a zoning article.

Ms. Harrison also mentioned she had attended a course on writing defensible decisions at the May 2010 CPTC conference. She explained a discussion was held on the contents of meeting minutes and Ms. Harrison stated that, according to the discussion, our Planning Board minutes contain an over abundance of content. The information required by law to be in minutes is who was present, motions, and the outcome of the motions. It was discussed to begin simplifying the minutes and scale back on the number of pages.

The meeting adjourned at 8:45 pm.

Respectfully submitted,

Debbie Grampietro
Planning Board Secretary