



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 1/20/15

Planning Board Executive Session Meeting Minutes December 15, 2014

Chairman Capobianco opened the meeting at 6pm.

Members Present: Theresa Capobianco, Amy Poretsky, Leslie Harrison, Michelle Gillespie, George Pember

Others Present: John Coderre, Town Administrator

Mr. Pember motioned to enter into Executive Session pursuant to Massachusetts General Laws, Chapter 30A, Section 21, Subsection 3 (litigation) due to the Chair's determination that a discussion regarding this matter in an open meeting may have a detrimental effect on the position of the Board; Ms. Harrison seconded the motion; the roll call vote was taken as follows:

<i>George Pember</i>	<i>"aye"</i>	<i>Theresa Capobianco</i>	<i>"aye"</i>	<i>Leslie Harrison</i>	<i>"aye"</i>
<i>Michelle Gillespie</i>	<i>"aye"</i>	<i>Amy Poretsky</i>	<i>"aye"</i>		

Ms. Capobianco explained that members of the board met on Friday, December 12th in Executive Session to discuss their possible appeal of the ZBA decision for 14 King Street, for which a special permit was granted for the use of pre-owned vehicle sales as an accessory use to Andrew DeWolfe's (the Applicant's) towing business on the site. Since the zoning bylaw only allows pre-owned vehicle sales as an accessory use to new car sales, the Planning Board members believe the granting of the special permit by the ZBA sets a precedent that might result in future ZBA applications for more used-car dealerships. The board requested Town Counsel's opinion on the matter and questioned if the applicant could withdraw his submission should Town Counsel's opinion agree with the Planning Board's interpretation.

Mr. Coderre explained that Town Counsel reviewed the matter and is of the opinion that a variance is in fact the appropriate process to be followed. Further, Town Counsel determined that there is no process for "withdrawing" the application at this stage of the process. Given this information the Board discussed possible options for how best to proceed.

Mr. Coderre suggested that one option is to meet with the applicant to explain the situation and see if he is willing to voluntarily "disclaim" the ZBA Special Permit once it is actually issued and recorded. If the applicant is willing to do that, the Planning Board appeal becomes moot and the applicant can then file for a variance without prejudice. It was discussed that if the ZBA should decide to issue a variance, they would be acting within their authority and a Planning Board appeal would not be appropriate.

After discussing the various options further, the Board agreed by consensus to hold off taking any further action in order to allow the Town Administrator and Town Planner a chance to meet with the applicant to see if he would be willing to disclaim the Special Permit and pursue the variance. Mr. Coderre indicated that since the ZBA decision has not been signed and recorded, the 20 day appeal period has not started, so there was no down side to seeing if the matter could be resolved amicably without litigation. If the approach works, the matter could be resolved within about a week.

Mr. Coderre thanked the Planning Board for their willingness to discuss the matter and said staff will be back in touch as soon as they have more information to share. He also indicated that he would inform the ZBA and Selectmen of the agreed upon approach to potentially resolve the matter.

Mr. Pember motioned to adjourn from Executive Session, Ms. Harrison seconded the motion and the roll call vote was taken as follows:

<i>George Pember</i>	<i>"aye"</i>	<i>Theresa Capobianco</i>	<i>"aye"</i>	<i>Leslie Harrison</i>	<i>"aye"</i>
<i>Michelle Gillespie</i>	<i>"aye"</i>	<i>Amy Poretsky</i>	<i>"aye"</i>		

Executive session adjourned to the public meeting at 6:45pm.

The public meeting adjourned at 6:45pm.

Respectfully submitted,

Debbie Grampietro
Board Secretary