



# TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 8/19/14

Planning Board  
Meeting Minutes  
April 1, 2014

**Members Present:** Rick Leif, Leslie Harrison, George Pember, Michelle Gillespie, Theresa Capobianco

**Others Present:** Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Fred Lonardo, Inspector of Buildings/Zoning Enforcement Officer; James Romeo, Anthony Migliozi, Jill Casali, Linda and Eugene Kim, Jonathan Hersh, Jo-Ann Sullivan, Mark Welsh

Mr. Leif opened the meeting at 7 pm.

### **Public Hearing for Proposed Zoning Amendments for 2014 Annual Town Meeting**

Ms. Joubert distributed to the board a document with detailed information on all the zoning articles for Town Meeting.

### **Article 43: Section 7-04-030 Floodplain Overlay District: Boundaries A**

Fred Litchfield, Town Engineer, stated the Federal Emergency Management Agency (FEMA) recently revised the floodplain maps for all of Worcester County. The flood maps dated 1979 were revised in 2011 and then recently revised again in 2013. Each community in Worcester County must revise their floodplain bylaw to reflect the latest revisions in order for landowners of their town to obtain flood insurance. The revised maps will go into effect on July 16, 2014.

Mr. Litchfield reviewed a map prepared by David Kane, GIS Director, entitled "Article 42 – Floodplain Overlay District", on which "areas added to flood zones", "areas removed from flood zones", and "2014 flood zones" are denoted. He stated the latest flood lines were superimposed over the 2011 flood maps. A study was done by FEMA and changes to the 2011 maps were made. As a result of those changes, the Worcester County Flood Insurance Rate Map (FIRM) issued by the National Flood Insurance Program indicates 71 structures have been added to the Northborough flood maps and 108 structures have been removed. Mr. Litchfield stated he and Kathy Joubert, Town Planner, sent a letter to owners and occupants of the 71 structures added to the Northborough flood maps informing them of the changes and the public hearing to be held by the Planning Board on April 1st.

Thirty of the seventy-one letters were sent to owners of Laurence Falls units. Mr. Litchfield noted upon further review, the 30 units of the Laurence Falls condominium complex on Country Candle Lane and Holbrook Lane, off Whitney Street, are not located in a floodplain, per a Letter of Map Revision (LOMR) dated 10/4/13. A second letter stating the LOMR revisions of 10/4/13 will be reflected in the revised Flood Insurance Rate Map was sent to the unit owners.

Ms. Joubert explained "structures" identified on the floodplain map could be a home, garage or shed. She stated it is not within the scope of the Town to determine if a homeowner needs flood insurance. In response to a question from Ms. Capobianco, she stated the latest flood maps are on the Town's website and have been since February 12, 2014.

Ms. Joubert explained Article 43 proposes a change to the panels on the Northborough floodplain maps by changing the E to an F on the numbers of the panels, along with the new adoption date.

Mr. Pember confirmed no one will be able to get flood insurance if Article 43 is not adopted. Mr. Litchfield responded that is correct.

Ms. Capobianco asked when the Town received the flood maps. Ms. Joubert stated she cannot recall the exact date but the maps have been on the Town's website since they were received.

Homeowners present had the following questions and comments:

James Romeo (on behalf of his father, Robert Romeo), 363 Crawford Street, doesn't think the Town has to adopt the maps.

Anthony Migliozi and Jill Casali, 202 Brewer Street, stated they have been in a floodplain since 2011. They have a split level and the bottom level could not be covered by flood insurance. They had a surveyor out and were told that without a survey of the road, they couldn't guarantee getting their home out of the flood zone. Prior to changes to the 2011 maps, the floodplain went around their house, but now it is shown closer to their house.

Linda and Eugene Kim, 127 Bartlett Street, were concerned about the value of their property now that they are located in a floodplain. Will the value of their property decrease? Will their taxes be decreased? Mr. Leif stated he doesn't know if property values would go down, but it's not a Planning Board issue.

Jonathan Hersh, 402 Davis Street, asked Mr. Litchfield how staff determined a structure was inside the flood line. Mr. Litchfield explained staff cannot make that determination but he and Mr. Kane did the best they could to determine where the lines were for the properties now considered to be in the floodplain.

Jo-Ann Sullivan, 103 Church Street, asked Mr. Litchfield if either the existing and/or proposed maps were based on contours, not calculations. Mr. Litchfield replied some portions of the town had a detailed study performed and flood elevation is available in those areas. In other areas, the study was done but the elevations were not determined and are shown as estimated flood plain limits. Ms. Sullivan stated the Laurence Falls condominiums were near the flood line on the last maps. Mr. Litchfield explained the units were built above the flood elevation and that's why they were removed.

Mark Welsh, 246 Brewer Street, requested a copy of the list of the homeowners who were sent the informational letters.

Mr. Romeo reiterated the town and the Planning Board can do something about this. Mr. Litchfield stated again the Town was told by the Federal government that if it did not adopt Article 43, no one in the floodplain would be able to get flood insurance.

Ms. Capobianco asked if the town has a contact on the Federal level to give to people. Ms. Joubert responded she will contact FEMA and the DCR for a contact person.

#### **Approval of February 12, 2014 draft minutes**

Ms. Capobianco stated the draft of the 2/12/14 minutes are accurate, but she would like to see more detail in the minutes.

Ms. Joubert explained she took the minutes at the meeting because the Board Secretary was not present due to illness. She suggested the Board could make any changes this evening to these minutes if they so desire.

Ms. Harrison stated she attended a Citizen Planner Training Collaborative (CPTC) Conference at which the attendees were told that minutes should not be a narrative of all that was said and who said it, but rather should indicate the date, those present at the meeting, the topics discussed and the votes taken. She also mentioned residents can see them on the town's cable station since the Planning Board meetings have been recorded.

Ms. Capobianco noted the need for transparency by the board through more comprehensive minutes.

Mr. Leif stated he likes the shorter version of the minutes because the longer versions are very time-consuming to read.

Ms. Harrison asked how a resident would find the minutes and videos of meetings on the town's website. David Gillespie, recording tonight's meeting, stated they could contact Kathy Dalglish, Cable Access Director, to find out when the meetings will be shown. Ms. Harrison asked if it is possible to have a link on the website page for the minutes and the videos of the meeting. Ms. Joubert will check into this.

There was a short discussion on the written minutes serving as the official public record of the meetings.

None of the members had any additions or other changes to the minutes

Ms. Gillespie motioned to approve the minutes of February 12, 2014. Ms. Harrison seconded the motion and the vote was unanimously in favor of approving the minutes.

### **Article 38: Registered Marijuana Dispensaries Bylaw**

Mr. Leif explained the warrant article for the proposed Registered Marijuana Dispensary Bylaw includes Section 7-05-020 Classification of Uses by adding G.(7)(g) Registered Marijuana Dispensary definition; Section 7-05-030 Table 1. Table of Uses. Part B. Commercial and Industrial Districts by adding Registered Marijuana Dispensary as a use allowed in the Highway Business district and not allowed in the Downtown Business district, Business East district, Business West district, Business South district, and Industrial district; Creation of a new Section 7-10-070 Registered Marijuana Dispensary and accompanying text; and Creation of a new Section 7-10-070 Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries and accompanying text.

Mr. Leif prepared a PowerPoint presentation for Article 38 for Town Meeting and for tonight's meeting and reviewed the slides of the presentation as follows:

## **Zoning Updates For Registered Marijuana Dispensaries (RMD)**

### **Article 38 – Draft**

#### **Background**

- Medical use of marijuana approved by state-wide ballot question in November 2012
- 61% of Northborough voters approved
- State Department of Public Health (DPH) developed regulations
- Regulations cover all aspects of RMD operation
- DPH grants licenses to RMD applications
- No more than 35 in the state or 5 in 1 county (Mr. Leif suggested to change "1" to "one")
- None granted for Northborough for 2014 (Ms. Joubert noted no applications have been submitted.)
- Closest RMD granted is in Worcester
- An individual requires certification from a doctor that medical marijuana is needed
- An individual who demonstrates hardship in reaching RMD can acquire a permit to cultivate medical marijuana at home

- RMD may deliver to an individual with proper certification
- DPH regulations prohibit RMD from locating in a residential district, but allow any commercial or industrial district, town may develop different local provisions
- DPH regulations prohibit RMD from locating within 500 feet of a place where children routinely congregate (school, daycare, park/playground, library, etc.), town may develop a different setback
- Town cannot effectively prohibit siting of RMD if approved by DPH

#### **Current Situation Slide**

- In the absence of any town zoning regulation, RMD can locate in any commercial or industrial district maintaining a 500 foot set back from any location where children routinely congregate
- Attorney General had allowed towns to implement a moratorium on RMD's until DPH regulations were made available and towns could decide how to proceed. All moratoriums must end on 12/31/14. (Mr. Leif noted if this article fails, Article 39 is for a moratorium.)

#### **Planning Board Review**

- Planning Board feels DPH regulation provide the proper levels of oversight, safety, and security
- Chief of Police provided input at a Planning Board meeting
- Concern over cash nature of the business
- Differing opinions on placement of RMD in Town of Northborough

#### **Recommended Approach**

- Allow RMD in Highway Business District by right, prohibit in all other districts
- Require 300 foot setback from places where children routinely congregate
- Map of Highway Business (HB) Zone entitled "Article 38, Registered Marijuana Dispensary Bylaw", showing the area in which an RMD could be located
- Article 38, Registered Marijuana Dispensary Bylaw Map

Mr. Leif stated he will mention the short-term moratorium (Article 39) if Article 38 fails and a Special Town Meeting would need to be held before the end of 2014.

Mr. Leif reminded the members of Police Chief Mark Leahy's discussion with the board at their January 7, 2014 meeting in which he said: RMDs and cultivation facilities will probably not locate in Northborough, based on the restricted number of permits and their need to attract the greatest number of patients; RMDs will probably be more financially viable in cities; there is more security provided around these facilities than he has ever seen before and he has no concerns about it; and there are other businesses presently in town that have a lot of cash dealings with much less security and no problems.

Mr. Leif noted medical marijuana cannot be purchased by credit cards because the credit cards companies do not allow it. There will be people buying 6-months supplies of the medical marijuana for thousands of dollars on a cash basis.

Ms. Harrison noted she attended a Citizens Planner Training Collaborative (CPTC) meeting recently at which they discussed medical marijuana and were told the banks are working on allowing credit card use for it.

Mr. Leif stated he will show the Highway Business zoning map for Article 38, which identifies areas where children congregate, and could congregate, in the future. Mr. Leif explained the Board looked at a 500-foot setback, but that would result in the elimination of most of the vacant area in the Highway Business District. Since 61% of the people in town voted to approve the use of medical marijuana, this will give it a place to locate in town. The board decided to place it in a small area to see how it works.

After a brief discussion, it was decided WalMart at 200 Otis Street, the vacant restaurant building (formerly known as Celtic Tavern) at 45 Belmont Street, and the proposed retail establishments at 333 Southwest Cutoff in front of the New England Baseball facility should not be considered places where children congregate. Ms. Harrison motioned to remove Walmart, the restaurant building on Route 9, and the retails establishments at 333 Southwest Cutoff from the Article 38 Highway District zoning map. Mr. Pember seconded the motion and the vote was unanimously in favor of the motion. The revised map will be available at the next meeting.

### **Article 39: Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries** (no slide for this Article)

Mr. Leif stated if Article 38 is not approved, they will end up with the DPH regulations of 500-foot setbacks from where children congregate. In addition, the board will recommend approval of **Article 39** for the moratorium and will come back with a Special Town Meeting for amendments to the originally proposed bylaw.

### **Article 40: Large Scale Solar Arrays Bylaw**

Mr. Leif explained the warrant article for their proposed Large Scale Solar Arrays Bylaw includes Section 7-05-020 Classification of Uses by adding 1.(5) Large-Scale Ground-Mounted Solar Photovoltaic Installation definition and renumbering remainder of section; Section 7-05-030 Table 1. Table of Uses. Part B. Commercial and Industrial Districts by adding Large-Scale Ground-Mounted Solar Photovoltaic Installation as a use allowed in the Industrial district and not allowed in the Downtown Business district, Business East district, Business West district, Business South district, and Highway Business district; and Section 7-10-060 by deleting existing text and replacing it with Large-Scale Ground-Mounted Solar Photovoltaic Installation and accompanying text.

Ms. Harrison stated she attended a Citizen Planner Training Collaborative workshop recently on small to medium solar arrays and landscaping was discussed. It was discussed at the workshop that the landscaping requirements for a commercial or industrial solar array should not be more restrictive than landscaping requirements for other commercial or industrial uses.

Ms. Joubert noted the regulations regarding screening were taken from the state's model bylaw, as well as Concord's and Westborough, both of which were approved by the Attorney General's office.

Mr. Leif prepared a PowerPoint presentation for Article 40 for Town Meeting and for tonight's meeting and reviewed the slides of the presentation as follows:

## **Zoning Updates For Large Scale Solar Arrays Article 40 - Draft**

### **Definition**

- Large Scale Ground Mounted Solar Photovoltaic Installation
  - Installed on the ground and is not installed on an existing or planned structure's roof
  - Has a rated nameplate capacity of at least 250 kilowatts DC

## **Background**

- MA Department of Energy Resources promoting alternative energy sources
- Large scale solar arrays cannot be effectively prohibited by town zoning
- Model zoning bylaw developed by Department of Energy Resources (Ms. Joubert stated she looked at models for other towns and they included this.)
- Small residential solar installations are not regulated by zoning
- Temporary moratorium on large scale solar arrays approved at Special Town Meeting, October 2013 expiring on May 1, 2014
- Planning Board reviewed model bylaw
- Planning Board reviewed solar bylaws adopted by other towns
- Received good technical input from Dick Jones, town resident, electrical engineer and member of the Wind Committee

## **Recommendations**

- Develop a new section for the Zoning Bylaw regarding large scale solar arrays (Mr. Leif noted this was done by looking at the models from the state and other towns.)
- Require site plan approval for all proposed installations with additional technical documentation beyond what is normally required (Mr. Leif stated they have used information from Dick Jones.)
- Include specific security and signage provisions
- Include provisions for safety reviews and training with town police and fire departments (with owners of arrays)
- Allow large scale solar arrays by right in Industrial districts, prohibit in all other districts
- Current Industrial Setbacks
  - Front 40 feet, Side 20 feet, Rear 25 feet
- If proposed installation abuts a residential district or a residential use in the Industrial district, all setbacks are 100 feet

## **Article 40 Maps**

- Large-Scale Ground-Mounted Solar Photovoltaic Installations – Industrial Zoning Districts
- Large-Scale Ground-Mounted Solar Photovoltaic Installations – Industrial Zoning Districts; Parcels with Residential Setback (100’); Parcels with Standard Industrial Setbacks
- Large-Scale Ground-Mounted Solar Photovoltaic Installations – Industrial Zoning Districts; Parcels with Residential Setbacks (100’), Parcels with Standard Industrial Setbacks
- Large-Scale Ground-Mounted Solar Photovoltaic Installations – Industrial Zoning Districts; Parcels with Residential Setback (100’); Parcels with Standard Industrial Setbacks

### **Recommendations**

- Landscaping
  - Half of each setback to be landscaped in a way to reduce visual impact of solar array
  - If abutting residential, landscaping must be sight impervious, evergreen plantings at least eight feet in height or a combination of plantings and a sight impervious fence

### **Article 41: Sign Bylaw Amendments**

Mr. Leif explained the warrant article for the changes to the sign bylaw includes Section 7-09-040 Signs by modifying text in subsections D. Basic Requirements, G. Signs in Business Districts, H. Signs in Industrial District, K. Special Signs, and L. Permit Not Required.

Mr. Leif prepared a PowerPoint presentation for Article 41 for Town Meeting and for tonight's meeting and reviewed the slides of the presentation as follows:

### **Zoning Updates For Signs Article 41**

#### **Background**

- As business needs and technology have changed, so have the type and number of signs used in Northborough
- Proliferation of small, temporary signs along main roads has detracted from the appearance of the Town of Northborough
- Electronic signs that flash or stream messages are distracting and also detract from the appearance of the Town of Northborough
- Many smaller businesses are not in clear view from main roads
- Business owners need a way to advertise sales or special events
- Real estate sales are enhanced through open houses which need visible advertising
- Need to balance the needs of businesses and realtors to advertise with the desire to present an attractive view of Northborough on Route 20 and other main streets

#### **Recommended Actions**

- In Section D – Basic requirements
  - Add a provision prohibiting electronic streaming messages
  - Add a provision allowing changeable copy signs
- In Section G(1) – Signs in business districts
  - Add a provision to allow for a changeable copy message on permanent signs
- In Section H(3) – Signs in industrial districts

- Add a provision to allow for a changeable copy message on permanent signs
- In Section G(3) Temporary signs – Increase the allowable annual number of days from 46 to 56
- Add a provision allowing the Board of Selectmen to grant extensions to the allowable number of days
- Add a provision that a temporary sign could be placed on private property off the business premises with approval of the property owner and Board of Selectmen
- Maintain current provisions prohibiting signs on public property
- Combine Sections K and L into one section - Section K - to group together all signs not requiring a permit
- In Section K(1) – Real estate signs – Add provision that these signs will be removed within a week after completion of sale
- Add Section K(3) – Real estate open house signs

**Next meeting:** The next meeting will be held on April 15<sup>th</sup> at 7pm.

Ms. Harrison motioned to continue the hearing to April 15, 2014 at 7pm. Mr. Pember seconded the motion and the vote was unanimously in favor of the motion.

Mr. Leif noted the revised map for the Registered Marijuana Dispensaries (Article 38) will be reviewed at the next meeting and then they will close the hearing.

#### **Old/New Business**

**2013 Economic Development Summary:** Ms. Joubert distributed to the board an economic development memo she prepared for the Appropriations Committee listing the locations of projects approved in 2013.

**FedEx Trucks:** Ms. Gillespie asked if there was a truck exclusion or rerouting condition in the decision for FedEx at 300 Bartlett Street. Ms. Joubert stated she does not believe so but will check the decision.

**One Centre Drive:** Mr. Leif noted the Northborough Affordable Housing Corporation's senior affordable housing project at One Centre Drive is almost complete and the lottery for the 3 one-bedroom units and 1 affordable handicapped-accessible unit for eligible tenants 60 years or age or older will be held soon. Applications are available in the Library and in the Planning Department.

**The Natural Landscape LLC, 360 Southwest Cutoff:** Ms. Capobianco asked if developer of the landscaping business at 360 Southwest Cutoff was required in the decision to put up a fence around the property or along the front of the property. Ms. Joubert stated he was not required to have a fence and will verify that with the decision tomorrow.

**Indian Meadows Golf and 51 Southwest Cutoff ZBA hearings:** Ms. Joubert informed the board that the ZBA applicants for both the Wicked Good Golf project at the Indian Meadows Golf property at 275 Turnpike Road, Westborough, and property in Northborough; and 51 Southwest Cutoff, site of the former Richie Bus Company, withdrew their applications at the ZBA meeting on March 25, 2014. It is anticipated a new applicant will be filing an application for the 51 Southwest Cutoff location. There has been no news as to what is next for the Indian Meadows Golf property.

The meeting adjourned at 9:45pm.

Respectfully submitted by,

Debbie Grampietro  
Board Secretary