



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 8/19/14

Planning Board Meeting Minutes July 1, 2014

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

Others Present: Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Ziad Ramadan, Sue Brackett, Mark Johnson, David and Kathleen Temlak, Sean Litchfield

Chairman Capobianco opened the meeting at 7pm.

333 Southwest Cutoff ZBA Application: Ms. Joubert informed the Board that New England Baseball Enterprises has submitted an application to allow the indoor commercial recreational use of a health club in a portion of a building to be constructed on the property. The building will include a medical office, and was originally going to be an administration building for the Ruffnecks. The Applicant will have to file with the Planning Board for site plan approval.

Next Meeting: The next Planning Board meeting will be on August 19th. To date, no applications have been filed for that meeting.

7:15 Public Hearing RE: Newton Street Scenic Road

Applicant: Noor Construction LLC

Engineer: Connorstone

Date Filed: May 20, 2014

Decision Due: Within 21 days from close of hearing

Ms. Capobianco read the public hearing notice for this hearing.

Applicant Ziad Ramadan presented the Application. He stated he applied for a scenic road permit in 2007. He worked with Kara Buzanoski, the DPW Director at that time, and the public hearing was heard over two meetings. He agreed he would have to supply a plan of improvement for Newton Street. The plan he supplied was for an 18-foot to 20-foot road. He stated the Planning Board's scenic road permit decision did not reflect what was said at the Planning Board meetings. Town staff are now requiring him to make the road 26 feet wide, which will be too expensive for him to do. He explained the end of Newton Street, before the Berlin line, is very narrow at only 14 feet wide, and Ms. Buzanoski told him to make it 20 feet wide. He interpreted the decision to mean he only had to submit the plan. Two weeks prior to selling the last house, the building inspector, Fred Lonardo, told him he would have to do the street work before he could get a certificate of occupancy. Mr. Ramadan stated the neighbors don't want the road to be 26-feet wide, as it will destroy the scenic value of the street, and it will cost him a lot of money. Mr. Ramadan stated that, after talking with Mr. Lonardo, he talked with Fred Litchfield, Town Engineer, and John Coderre, Town Administrator. They suggested he provide the plan and file with the Planning Board.

Mr. Ramadan reviewed the plan with all those present. He explained he wanted to do a solar farm, but decided to change that so he wouldn't upset the neighbors. He said the state requires 18-20 foot wide streets for emergency vehicles. He showed the areas where the road would be widened and the area where he would have to cut back for visibility. The areas to be widened are wider than the whole of Newton Street is now. Steep areas will be cut down and work will be done around the cul-de-sac where the land drops badly; and a guard rail will have to be installed for safety. He stated he wants to

construct a new subdivision on Newton Street and will do the road work if he is allowed to do the subdivision. The sale of the new lots will off-set his costs of doing the road work.

Ms. Capobianco asked Mr. Ramadan if he has a time line for submittal of the plans for subdivision he wants to propose; and if he would be willing to post a bond to ensure his obligation for the work that has to be done to Newton Street. She stated the documents Mr. Ramadan presented indicated he was going to do the work and now, 7 years later, he is asking for an amendment. The submittal of a bond would mean he would do the work and would get the bond money back when the work is done.

Mr. Ramadan replied the decision does not have a time frame and there are 7 poles that have to be removed. He stated it will take him 30-days to submit the plan. He noted his lawyer told him the Scenic Road bylaw only has to do with stone walls and trees, and the Planning Board cannot require him to do the street improvements. Ms. Joubert disagreed, stating the Planning Board has the ability to require a road be brought up to town standards any time an ANR development comes before them. They can place conditions on what a developer is going to do with the road.

Mr. Ramadan stated he is just requesting access to the house. Ms. Joubert stated under the Scenic Bylaw, public safety is a criteria. If three lots are developed, the developer would be able to take down the stone wall to create access to the house and then would be required to use the removed stones to repair places on the wall.

In response to a question from Ms. Harrison, Ms. Joubert stated Town Counsel has not looked at this. The common driveway regulations require a developer to bring a street up to minimum town standards if it does not already meet them.

Mr. Litchfield explained they are requesting the road to be 22-feet wide with a 2-foot shoulder. It would require a survey and an analysis of which trees would have to be removed. There is no specific location as to where the pavement has to be. The road could slide a little to the east or west, provided it is done with a reasonably smooth transition.

Ms. Harrison asked if Town Counsel has looked at this situation; if the land could be taken by eminent domain; and if it is safe to have the street at varying widths. Ms. Joubert replied Town Counsel has not looked at this; it could not be taken by eminent domain because the property belongs to Mr. Ramadan, and it is alright to have the road at varying widths.

Ms. Joubert explained Mr. Lonardo and other town staff have been to the site. Prior to the 3rd certificate of occupancy, the plan has to be submitted and the work has to be done. Mr. Ramadan is requesting not to do the work prior to an occupancy permit.

Mr. Pember was concerned that widening the road could mean more traffic coming from Berlin and asked if there will be easements involved if the width is required to be 26 feet wide. Ms. Joubert stated they are just talking about the area in the front of Mr. Ramadan's lot. Mr. Ramadan replied the 2 lots in question are wide enough not to need an easement.

Mr. Litchfield stated 325 Newton Street is the area of the substandard road. The other lots are in a more flat and gentler-sloped area. An easement may be needed from the people across the street, and there is some flexibility as to where an easement would be necessary.

Ms. Joubert noted she, the Town Engineer and the DPW Director have met with other DPW staff to review the street and have stated the plan as required is keeping with minimum town standards.

Ms. Capobianco asked if site plan review is required and how much roadway will be involved. Mr. Litchfield said it does not require site plan review and the amount of road work will be about a half-mile.

Ms. Harrison asked if the additional pavement would change drainage. Mr. Litchfield stated he and the DPW Director reviewed the plans and it doesn't completely meet the requirements of the decision. However, it will work and the work needs to be done before an occupancy permit can be issued.

Ms. Capobianco confirmed that when the town delineated the street, it was all owned by Mr. Ramadan and his entities. Mr. Ramadan replied that is true.

Ms. Harrison stated the decision was agreed upon and the Applicant should have taken care of any issues he had with it at that time. She supported requiring a bond and stated the reasons for the street improvements in 2007 have not changed.

Ms. Capobianco stated the decision addresses significant safety issues and an ability to address public concerns, and the time for the Applicant to do anything about the decision has come and gone.

Mr. Ramadan stated public safety doesn't require the street to be 26 feet wide. Ms. Capobianco stated the town requires the road to be up to town minimum standards.

Dave and Kathleen Tendlak, 331 Newton Street, were present. Mr. Tendlak stated the width is a safety issue. In Berlin, the street is wider. Traffic is increasing on a consistent basis and Berlin is building a mall. His daughter was involved in an accident on the street, so he is all for having the road work done as soon as possible. Ms. Tendlak explained they do not have a driveway because they do not know how high the road is going to be. Mr. Tendlak stated Mr. Ramadan is trying to sell the house next door and maybe will develop another subdivision, and 325 Newton Street is the most dangerous area of all. Maybe he could do what he needs to do now and then the remainder of the half-mile afterwards. The hill has to be shaved down and widened. Right now, driving in that area is like Russian roulette. Ms. Tendlak stated the only reason they bought the house was because Mr. Ramadan said he would use the proceeds of the sale of the house to take down the blind spot and widen the street. He said it was the first thing he would do and they would not have been in the house if they knew he wasn't going to do it. They have been in the house for 7 years. Ms. Tendlak stated the bond, and a time frame in which to do it, is a good idea, and she would feel badly if she passed this problem on to others who might buy her house. She noted there is a daycare on the Berlin rotary and there will be a road from Berlin going to the mall, so the traffic is only going to get worse.

The prospective buyer of the property at 325 Newton Street stated he has been waiting since September to close on the house. He sold his other house and moved his family here, and he needs to close on the Newton Street house at the end of this month. He wants to go back to a house not a motel.

Mr. Ramadan stated perhaps he would commit to the work and submit a bond to cover the dangerous area. It needs to be improved, no matter what happens with the bottom of the road. He stated when he gets approval for the subdivision and knows he can do the other portion, he will submit another bond.

Ms. Capobianco asked Mr. Ramadan if he is saying he will not submit a bond unless he gets approval of the subdivision.

Ms. Joubert asked Mr. Ramadan what he will propose. Mr. Ramadan stated he would propose ANR lots with a shared driveway to service 5 homes. If the board would give him permission for that, he will commit to the whole thing. He stated he cannot spend more money than its worth.

Mr. Tendlak stated there are 2 bad blind spots and he has petitioned for signage for them. Mr. Ramadan stated the biggest safety issue is blind spots. It is no problem to remove both the hills. If the board agrees on the shared driveway, he will do the whole thing.

Mr. Pember confirmed with Mr. Ramadan that his proposal is to do part of the work in conjunction with the sale of 325 Newton Street, and then he will do the rest of the road work.

Mr. Ramadan stated he will do the house and widen the street in the two bad spots, and will do the rest of the work as well.

Mr. Temlak stated he is ok with that as long as there's a time frame. Mr. Ramadan said he will commit to the time frame.

Ms. Temlak stated she would like to see trees removed and not in 10 or 15 years. The road is very narrow below their house and there's no escape if a driver has to veer over.

Ms. Joubert stated there is no meeting scheduled until August 19th and all agree to try to work out details of how this would be worked out. Depending on schedules, perhaps she, Mr. Litchfield and the DPW Director, Dan Nason can meet over the next few days, present the information to the board in writing and see to what Mr. Ramadan is willing to commit, including a bond. All board members present said next week on Tuesday, July 9th, would be fine to meet.

Mr. Pember motioned to continue the public hearing to Tuesday, July 9, 2014. Ms. Poretzky seconded the motion and the vote was unanimously in favor of continuing the public hearing.

Ms. Joubert stated she will call Mr. Ramadan. Mr. Pember stated he wants more detailed plans from Mr. Ramadan.

Ms. Joubert suggested the board members drive the street if they haven't already.

Mr. Ramadan stated he will have to do the road work when the buses are not running.

Ms. Capobianco suggested if Mr. Ramadan works with staff, everything will work out.

Ms. Temlak suggested board members drive both ways on Newton Street.

Public Hearing RE: 494-496-498 West Main Street Common Driveway

Applicant: Jim Vogel

Engineer: Quinn Engineering, Inc.

Date Filed: June 11, 2014

Decision Due: Within 90 days from close of hearing

Ms. Capobianco read the legal ad for this hearing into the record.

Applicant Jim Vogel; Kevin Quinn, Engineer, Quinn Engineering; and Attorney Wendy Fiscus were present. Mr. Quinn reviewed the plan for the amended common driveway special permit, stating it is the same plan from 2009 and there are no changes proposed to the plan other than the addition of the 3rd lot. There was an adjustment in the location of haybales in relation to the retaining walls. Some grading has been done, and the wetland crossing and retaining walls are complete. The driveway, at 18-feet wide, is in compliance with common driveway standards. The first plan provided a textile fabric (Geogrid) that goes beyond the pavement for emergency apparatus - around the entire cul-de-sac and inside the common driveways. It allows less paved area and structural support of heavy vehicles, which is more desirable these days.

Ms. Harrison asked how emergency vehicle operators know where the fabric is. Mr. Quinn stated the Geogrid is staked and the operators are told where it is.

Ms. Capobianco asked if the Geogrid is pervious and how long will it last. Mr. Quinn replied it is pervious and it can be bombed and still stay new. It can support enormous weights. Mr. Vogel stated it is incredible how stable it is. Vehicles used it over the winter and he was very impressed. It's covered, so it won't be seen.

Ms. Poretzky asked if the new driveway meets all minimum road standards.

Ms. Fiscus stated it does not but the Planning Board can waive the requirement. It is the same layout as the 2009 plan and the land area is not changing.

Ms. Poretsky stated it is not the same layout because a lot was added.

Mr. Quinn stated the Fire Chief's concern was that the houses are off the road and recommended a fire suppression sprinkler system with fire suppression sprinklers installed in all closets and all bathrooms of each dwelling. Mr. Vogel felt it was the right thing to do and they have been installed.

Ms. Joubert noted the Fire Chief's most recent letter, dated June 23, 2014, is the same as for the filing in 2009, and asked the developer to include the 3rd lot in regard to his recommendations in the letter.

Ms. Joubert read the seven recommendations included in the Fire Chief's letter for the amended subdivision.

In response to questions from Ms. Poretsky, Mr. Vogel stated the homes will have wells and all will have generators and battery backup systems that are required. Each unit will have its own storage tank in the basement for the sprinklers.

Ms. Capobianco asked about a road maintenance plan and Mr. Vogel stated Ms. Fiscus will present a draft of it.

Mr. Pember asked about site distance going onto West Main Street. Mr. Quinn stated the site distance in both directions is in excess of 200 feet.

Ms. Poretsky asked if this is a subdivision. Ms. Joubert stated they are all ANR lots that were approved earlier. The Applicant can do pork-chop lots with reduced frontage but the requirements are lot areas with a minimum of 170,000 square feet.

Ms. Joubert noted a memo in the common driveway application lists the waivers the Applicant is requesting.

Regarding the waiver requested for the culvert, Mr. Litchfield stated it is already in place, was a condition of the first application, and has been inspected. Mr. Litchfield stated when there are two to three lots it is necessary to review the culvert due to roadway and fire apparatus.

Ms. Poretsky asked about oil trucks servicing the homes on the driveways. Ms. Joubert stated the road width is sufficient. It is not like a subdivision roadway where one would expect more traffic. Ms. Poretsky stated she doesn't want to see another Newton Street situation. Ms. Joubert stated the regulations are different for Town roads. The Fire Chief has reviewed it independently and is fine with the 3rd lot and with the width of the road. Ms. Poretsky asked if the residents can ask for the road to be brought up to Town standards. Mr. Litchfield stated the Planning Board requires the road to be up to subdivision standards because frontage for the lots is off the common driveway, which is over 900 feet. However, if that was done, more lots could be built.

Ms. Joubert stated usually it is the newest person moving in and they are getting hit with snow removal and road repair bills. There is a process to approve the street, which is very expensive and generally when the roadway is in excess of 500 feet.

Ms. Fiscus explained the waiver for the driveway is requested in order to keep it where it is because they do not want to disturb the wetlands. Ms. Poretsky asked if an analysis was done **on the impact on the wetlands to bring it to minimum road standard standards vs. common driveway standards**. Ms. Fiscus replied they went through a rigorous process and there is a New England Forestry Foundation issue.

Mr. Vogel stated Don Hunt lived in the home for over 30 years and when he bought the property, he followed his wife Dottie's wishes that the land be given to the New England Forestry Foundation.

Mark Johnson, an abutter on the Shrewsbury side of the project, stated he does not see a problem with the three homes as opposed to the two first proposed. He stated nothing will impact the neighbors in a negative way.

Mr. Vogel noted he and his wife had thought about constructing a 20-lot subdivision and, as residents of the Town, they decided they wanted to have a minimum impact and a lot of wooded area.

Mr. Quinn stated the bump-out was requested by the Fire Chief in 2009 and is on the plan, along with the textile fabric.

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

Mr. Pember stated the waivers are reasonable. Ms. Poretsky and Ms. Harrison agreed.

Mr. Pember motioned to grant the waivers requested for the amended application, including the items listed in the Fire Chief's letter dated June 23, 2014. Ms. Harrison seconded the motion and the vote was unanimously in favor of granting the requested relief.

Discussion with Scott Miller and Jesse Johnson

RE: Preliminary Sketch for Proposed 29 East Main Street Subdivision

Scott Miller, Developer; Jesse Johnson, Engineer; Gino DeFuedis; Developer and Sue Brackett, property owner, were present and Mr. Johnson presented a preliminary sketch plan for a subdivision to be proposed on the property at 29 East Main Street. He explained the site is next to Town fields and a cul-de-sac with frontage for 4 lots is proposed behind the existing home. Rather than doing 5 lots, they will keep the original home in order to keep in the character of the existing neighborhood.

Mr. Johnson stated they would like to discuss open space requirements; want to do screening around the perimeter; and want to decrease impervious surface. Rain gardens will be proposed between two of the properties and will be maintained by the homeowners. The zoning requires a 45-foot cul-de-sac and they would like to reduce that to 37 feet and have a sidewalk on one side only, which will reduce impervious surface. Two Verizon poles are located next to each other on East Main Street. One is old and everything from that pole will be transferred to the new pole next to it. They are asking to shift the road over to stay away from the new pole and eventually the old pole will be moved.

Mr. Miller stated they will be asking for a 15-foot landscape buffer for plantings to create privacy for abutters. Ms. Joubert asked if it would be the same thing he did on Weber Lane, and Mr. Miller responded it will be.

Mr. Miller stated the road will be 350 feet long and will be built to minimum town standards for the straight portion. It will be 26 feet wide in a 50-foot right of way. It will create a better look this way and the 15-foot strip will require no maintenance.

Ms. Capobianco stated she liked the plan and is in favor of more screening than open space. It makes more sense. She asked Mr. Litchfield if he is ok with the plans.

Mr. Litchfield responded he is not ok with the plans as he has not reviewed them. He is hesitant with the shift in the pavement; would support keeping it in the center of the right of way; and would recommend the board not grant the waiver. Town utilities located there will get jammed into a smaller area, not in the right of way and not under the Town's control. He noted only a definitive plan will be presented, which gives staff less time to review it.

The meeting adjourned at 9:15pm.

Respectfully submitted,
Debbie Grampietro, Board Secretary