



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 8/19/14

July 9, 2014
Planning Board Minutes

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

Others Present: Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Ziad Ramadan, Dave and Kathleen Temlak

Meeting began at 7:00pm

Continued Public Hearing to Consider Amendment to Newton Street Scenic Road Decision Issued in April 2007

Mr. Ziad Ramadan summarized his July 8, 2014 meeting with Town staff and discussed phasing the roadway improvements to Newton Street. According to his engineer, Phase I would cost him approximately \$85,000 and phase II would be approximately \$210,000. Mr. Ramadan proposes to either post a bond for phase I or do the work and in return, the occupancy permit for 325 Newton Street would be issued. He proposes once he brings forth development plans, including a common driveway, for his additional land along Newton Street, he will then make the phase II roadway improvements. He proposes a condition be made on this future development requiring a bond be posted for phase II. Without an approved development, he believes a bank would not provide him with a bond.

Chairman Capobianco stated the roadway improvements need to be done and should have been done in 2007 when the original decision was rendered. The applicant states it is uneconomical and not feasible to do these improvements now but that is not an issue for the Town. The work should have been done in 2007 or shortly thereafter.

Mr. Fred Litchfield, Town Engineer, reviewed the roadway improvement process from 2007 through today. It has always been the interpretation of staff that the 2007 decision requires a roadway improvement plan and the improvements be done prior to the issuance of the occupancy permit for 325 Newton Street. Planning Board also agrees with this interpretation.

Per the 2007 decision either: 1.) do the work and obtain the occupancy permit, or 2.) post a bond and obtain the occupancy permit.

Ms. Kathy Joubert, Town Planner, reviewed draft conditions she prepared for the Planning Board to consider:

1. Prior to the Town issuing the Certificate of Occupancy for 325 Newton Street, the Applicant shall complete Phase I of the Newton Street roadway improvements from stations 16+0 to 22+72 (approximately 650 feet of roadway). Refer to Roadway Improvements Plan submitted on May 20, 2014 prepared by Connorstone Engineering dated March 12, 2014 and revised on May 5, 2014. The road shall meet minimum town road standards. Improvements include widening of the roadway to twenty-two feet of pavement with two foot shoulders; relocation of the utility poles; tree removal; grade changes; and the installation of the base course of pavement.
2. Prior to the Town issuing the Certificate of Occupancy for 325 Newton Street, a bond may be posted by the Applicant, in an amount to be determined by the Town Engineer and Department of Public Works Director to be sufficient for the Town to complete the Phase I work in the event the work is not completed prior to any request for the Certificate of Occupancy for 325 Newton Street.
3. Phase II work shall include the remainder of the roadway improvements from stations 0+0 to 16+0 (approximately 1600 feet of roadway). Refer to Roadway Improvements Plan submitted on May 20, 2014 prepared by Connorstone Engineering dated March 12, 2014 and revised on May 5, 2014. The road shall meet minimum town road standards and include the widening of the road; relocation of the utility poles; tree removal; grade changes; the installation of the base course of pavement; and the final course of asphalt for the entire project.
4. A separate bond shall be posted by the Applicant for the Phase II work prior to the issuance of the Certificate of Occupancy for 325 Newton Street. The amount shall be determined by the Town Engineer and Department of Public Works Director and shall be sufficient for the Town to complete the Phase II work in the event the work is not completed by the Applicant.
5. Upon completion of all roadway improvements, an as-built site plan shall be submitted to the Town Engineer for review and approval. The as-built plan shall include, at a minimum, and as applicable to the project, a permanent benchmark, elevation of all utilities, pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. Upon approval by the Town Engineer one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system and the Town's vertical datum (U.S.G.S. Datum of 1988).

Comments/Questions from Residents:

Mr. Dave Temlak, 331 Newton Street – Road work should be **done** now instead of posting a bond. Mr. Ramadan has promised for many years that he is going to do the road improvements and they haven't been done yet.

Mrs. Kathleen Temlak, 331 Newton Street – Time frame should be established to complete the work. Traffic has steadily increased since she moved into her house. With all the new

development in Berlin, traffic volume will continue to increase. On July 7, 2014, she witnessed an 18-wheeler traveling Newton Street for the first time since she has lived on the street.

Staff and Board Member Comments/Questions:

Mr. Litchfield – Mr. Ramadan has an obligation to complete the work and a time frame should be added to the decision if the Board votes to amend the decision.

Mr. Ramadan, 85 Newton Street – Understand the Board’s position but his only choice at this point is to appeal any decision the Board will make. States he cannot afford to post a bond for phase II.

Ms. Joubert – Board does have the option to not approve this amendment request and the developer must do the roadwork in accordance with the 2007 decision.

Ms. Harrison – Phase I should be done immediately. At the July 1, 2014 Planning Board meeting, Mr. Ramadan stated he would have the work done by the August 19, 2014 meeting. Now saying he is not sure when he can do the work.

Mr. Pember – Sympathetic to the cost of the roadwork but decision needs to protect the residents and provide a time frame for the work to be completed. Work should be done before September 2014. Phase I work should be completed now and no bond posted in lieu of doing the work.

Ms. Capobianco - Due to Mr. Ramadan now discussing potential litigation this evening, Board is skeptical that phase II will be done by the applicant. Possible to add a time frame to the bond stipulating when work is to be completed by? Appreciate the applicant’s financial difficulties but expectation of previous buyers that the road would be done by now. Most likely solution is to do the phase I work and post a bond for the phase II work.

Mr. Litchfield – DPW Director has committed to contacting both Verizon and National Grid to determine their willingness to work with the Town on an expedited schedule to relocate the affected poles on Newton Street and to determine if the two companies will do the work free of charge for the town.

Mr. Pember – If easements are needed for the road work does not anticipate the poles will be relocated in such a time short time this summer. Perhaps phase I will be completed by 2015 summer. Possibility for Board to allow for a bond for phase I for work to be completed by end of 2015 summer.

Ms. Capobianco – Ten months have passed since Mr. Ramadan was reminded by the Building Inspector of the work that needed to be completed in order to obtain the occupancy permit for 325 Newton Street. No work has been done during that time frame. Applicant could have used that time to obtain the necessary easements. Perhaps the hearings are continued to August 19, 2014 and see what work the applicant accomplishes from now to then? If easements cannot be obtained from property owners, applicant could apply for waivers from the minimum town road standards. At a minimum the applicant should pursue these easements.

Mr. Ramadan – Willing to do any work that is under his control but if Board requires posting a bond for phase II, litigation against the town will be pursued.

Ms. Capobianco – Applicant states he will be filing a Special Permit Application for a Common Driveway on Newton Street for additional ANR lots he plans to develop. If filed soon, public hearing could be scheduled for August 19, 2014 meeting. Continue the scenic road hearing to August 19th and discuss both developments at that time. May be possible to add condition to Special Permit Common Driveway decision pertaining to phase II for scenic roadway improvements. Mr. Ramadan should work with DPW regarding which trees he needs to remove.

Ms. Harrison made motion to continue the public hearing to August 19, 2014 at 7:05pm; second by Mr. Pember; all in favor.

Old/New Business

- Amendment to Special Permit Common Driveway for 494, 496 & 498 West Main Street signed
- Next meeting is August 19, 2014

Meeting Adjourned at 9:00pm

Submitted by,
Kathy Joubert, Town Planner