



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 11/23/2015

Joint Meeting of the Planning Board & Board of Health Meeting Minutes September 8, 2015

Planning Board members in attendance: Theresa Capobianco, Chair; Leslie Harrison; Amy Poretsky; George Pember; Michelle Gillespie

Board of Health members in attendance: Glen French, Chair; Deirdre O'Connor; Dilip Jain

Others in attendance: Kathy Joubert, Town Planner; Elaine Rowe, Board Secretary; Fred Litchfield, Town Engineer; Judi Barrett, RKG Associates, consultant for the Planning Board; Chris Swiniarski, Verizon Wireless; Dave Tivnan, Verizon Wireless; Paul Gallagher, 386 West Main Street; Martin Lavin, C2 Systems, Janice Brown, 18 Franklin Circle; Jon Trister M.D., 255 Crawford Street; Philip Gaudette, 105 Ball Street; Jeanette Morgan, 25 Maynard Street; Kathy DeGraaf, 23 Edmunds Way; Michael Leonard, 9 Juniper Brook Road; Karl Eisenhofer, 377 Howard Street; Robert Dien, 77 Howard Street; David Hunt, 76 Maple Street; Sarah Oberg, 2 Brindle Path Drive; Kevin Carroll, 45 Auger Avenue; Sean Carens, 14 Juniper Brook Road; Brian Carens, 14 Juniper Brook Road; Chris Leonard, 9 Juniper Brook Road; Cynthia Moore, 30 Alcott Drive; Barbara O'Brien, 6 Juniper Brook Road; Elizabeth Bryant, 5 Juniper Brook Road; Chris Patel, 18 Juniper Brook Road; Deb & Brad Swartz, 11 Juniper Brook Road; David Mailly, 404 Howard Street; Jan Gillerin, 90 Maynard Street

Discussion regarding the regulating of farm animals in residential neighborhoods:

Ms. Joubert noted that she had provided all board members with a variety of information, including Zoning and Board of Health regulations from the city of Somerville, information from the Massachusetts Department of Agriculture, and various articles pertaining to farming and urban agriculture.

Ms. Capobianco explained that the purpose of this public meeting is to discuss potential bylaw regulations pertaining to the keeping of certain animals on private residential property. She noted that the subject was brought to the board's attention by a group of residents in the Juniper Hill area who are requesting adoption of a bylaw to help ease a situation in that neighborhood. She noted that, since any new bylaw will not ease an existing condition, the members of the Planning Board are discussing the issue with the Board of Health in the event that it is something that can be addressed within their jurisdiction.

Mr. French stated that this situation does not fall under the stable regulations, but appears to be more of a nuisance issue. He noted that there are nuisance bylaws that can be enforced if there is a need to do so. He also stated that, unless there are numerous other complaints that the Board of Health is not aware of, he does not see how this is a major issue facing the town.

He noted that this is not a public hearing, but is simply a discussion between two boards to determine how best to address the issue. He indicated that the Board of Health members would have liked to see the original information that the residents had put together.

Mr. French explained that, were the Board of Health to be involved, this particular issue would not be heavily regulated. He noted that the Board of Health regulations come into play for species segregation, manure management, and food storage. He also commented that property owners have the right to do what they want with their property so long as it is not a nuisance or trespass situation. He expressed a willingness to hear the opinions of the consultant and the members of the Planning Board.

Ms. Harrison asked if there is a current Board of Health regulation that can be enforced that might address the situation. Mr. French stated that a cease and desist order can be issued in the case of a nuisance, but noted that the Health Agent had visited the neighborhood and was unable to prove the existence of a nuisance. He stated that there appear to be no serious problems in the area other than reports of roosters crowing and chickens finding their way onto other properties. He also voiced his understanding that the roosters are now gone and the chickens have been contained.

Ms. Joubert explained that the Planning Board had hired Judy Barrett to provide expert advice with regards to the town's existing regulations and backyard agriculture and provide some suggestions as to what the town may or may not want to do with regards to the subject.

Ms. Barrett noted that the zoning bylaw has a definition for agriculture non-exempt, which at the time of enactment would have been a farm on less than five acres. She stated that, while the term is there, no one had an appetite in 2009 when the zoning bylaw was revised for trying to impose more regulations on a small farm so they were treated the same as a larger farm. Ms. Barrett also noted that, at one point or another in the last 10 years, a farm/residential conflict has come up in almost every suburban community that she has worked with, so the issue is not unique to Northborough. She commented that people don't typically want to interfere unless there is an issue with noise, odors, etc.

Ms. Barrett provided board members with a packet of informational materials. She voiced her opinion that although the metrics used in Somerville may not translate exactly to the more rural setting of Northborough, there are different ways to think about farming:

- Backyard garden – growing vegetables for personal use/pleasure
- Urban agriculture – goats and/or poultry, with some being for sale
- Farm – being done as a business.
- Community Farm – generally nonprofit to allow neighborhoods to have their own plots.

She explained that, in the Somerville zoning ordinance, all options are defined and separately regulated. She noted that a garden is an accessory use allowed in all districts whereas urban agriculture is allowed in all districts but subject to Board of Health and state regulations. She voiced her understanding that Somerville wanted to encourage urban agriculture in a way that would not promote neighborhood issues. She suggested that an urban agriculture enterprise can be allowed, with limitations on size and requirements to provide an appropriate yard area for animals, though a more intensive use may require a special permit from the Planning Board.

Ms. Barrett commented that the raising of poultry is much more complicated than simply buying chicks and people need to think about the impacts when bringing animals onto their property.

Ms. Barrett asked if Northborough has adopted the Right to Farm bylaw. She noted that, by doing so, potential home buyers are put on notice that the town is a "Right to Farm" community. She explained that adopting this bylaw would require the town to have an Agricultural Commission to deal with any issues and provide expert advice to other town boards. She encouraged the town to consider adopting this bylaw.

Ms. O'Connor commented that the town has had very few issues, and voiced her opinion that this is an extreme approach to a simple neighbor issue/complaint. Ms. Capobianco stated that these types of issues do not typically come before the Planning Board, but given the growing interest in urban farming it would be prudent to have open discussions about what to anticipate in the future and how to prevent issues from arising. Ms. O'Connor asked if Ms. Barrett was hired to draft a regulation. Ms. Joubert indicated that she can do so if that is the direction that the town decides to go. She noted that the Planning Board members have had some discussions about the matter, but have made no conclusions about whether or not to adopt a new bylaw.

Ms. Barrett stated that, in 2009, the Zoning Bylaw subcommittee was of the opinion that they did not want to limit urban agriculture. Ms. Harrison voiced her opinion that, while she does not feel it is necessary to draft a bylaw based on a single complaint, she would like to hear more about the Right to Farm bylaw.

Ms. Barrett explained that the Right to Farm Act, once adopted by the town, provides for notification about the town's preference for farming and desire to promote it. She reiterated that an Agricultural Commission would be formed to advocate for farms, promote farming in the community, and also have an arbitration function should a conflict arise. In response to a question from Ms. O'Connor, Ms. Barrett stated that the Agricultural Commission would be comprised of people who are actively involved in farming. She noted that one community's commission has a member who came from a neighborhood that had similar tensions as the one in Northborough. She reiterated that the commission's role is to advocate and promote farming as well as help to resolve disputes.

Ms. Capobianco asked about creating an agricultural commission in conjunction with a right-to-farm bylaw. Ms. Barrett explained that the right-to-farm bylaw is a general bylaw and would be placed in the general code, not the zoning bylaw. She noted that state law originally provided an exemption for farms of 5 acres or more, but the regulation was changed to exempt farms of at least 2 acres with sales of \$1,000 per acre, per year.

Ms. Gillespie asked about other communities that have adopted the Right to Farm bylaw. Ms. Barrett stated that Berlin is a Right to Farm community. She commented that there are not many others in the area, but they are more prevalent as you get closer to the city.

Ms. O'Connor asked if the Right to Farm bylaw would be considered at Town Meeting. Ms. Barrett confirmed that it would, and it requires a majority vote. She also noted that the Board of Health has the authority to adopt regulations without a Town Meeting vote.

Ms. Capobianco asked about any drawbacks to being a Right to Farm Community. Ms. Barrett stated that it would depend on the culture of the community and its heritage around farming. In response to a question from Ms. O'Connor, Ms. Barrett noted that the Agricultural Commission would not override the Board of Health.

Ms. Joubert asked Ms. Barrett to confirm that, absent a zoning bylaw prohibiting gardens or animals, residents are allowed to have animals on their property. Ms. Barrett confirmed that to be the case, and noted that the state definition of agriculture is very broad but, in the absence of a more limiting definition, that is what we have to work with. Ms. Harrison asked if promotion of farming and the Right to Farm bylaw is the way to go. Ms. Barrett indicated that it will help.

Mr. French commented that what is currently under consideration is whether or not to adopt a bylaw similar to Somerville's. Ms. Barrett noted that that is not necessarily her recommendation; she simply wanted to provide options.

Ms. Gillespie asked who would campaign for the Right to Farm bylaw, and what would be the best way to proceed. Ms. Barrett suggested inviting the farming community and other interested parties to have conversations with the various town boards. Ms. Harrison suggested that a potential downside to adopting the Right to Farm bylaw is that people who might have otherwise resolved conflicts on their own will bring their complaints to the Agricultural Commission. Ms. Capobianco voiced her opinion that, while it may be the first, the situation in the Juniper Hill neighborhood will certainly not be the only such problem that the town will face. She explained that the members of the Planning Board came to this meeting with open minds and with no preconceived notion about what they want to do.

Ms. Gillespie asked if the Health Agent had heard the rooster during any of her visits to the Juniper Hill neighborhood. Mr. French stated that Ms. Terry had been out several times and may have heard the rooster, but did not find sufficient substance for a nuisance complaint. He also voiced his understanding that other communities have bylaws in their health regulations prohibiting roosters and requiring hens to be fertilized offsite. Ms. Joubert suggested that there would likely be enforcement issues with such a bylaw. Ms. Barrett agreed, and commented that enforcement typically happens when someone complains. Mr. French commented that it is not necessary to go overboard when adopting bylaws, and suggested that tightening the nuisance regulations may suffice.

Ms. Joubert suggested that each board consider whether they do want to address the matter any further and, if so, how they would prefer to do so. Mr. Pember commented that the Board of Health did an excellent job in resolving the recent dispute. He also expressed a desire to give consideration to the Right to Farm bylaw but, given the fact that there have not been excessive complaints in the past, he is not interested in regulating any further. Ms. Harrison agreed.

Mr. French stated that, in the past, the board has looked at regulations in other towns and will continue to do so. He expressed a desire to find some other towns in the rural setting who

have adopted some type of agricultural regulation. Ms. Barrett stated that she had consulted with Bob Richie, former attorney for the MA Department of Agriculture, and he indicated that Somerville's bylaw is state of the art. Ms. Joubert asked Ms. Barrett to provide additional examples. Ms. Gillespie asked Ms. Barrett to provide details on the Right to Farm Act and her recommendations. Ms. Barrett reiterated the importance of taking the time to meet with the farming community.

Ms. Capobianco expressed her appreciation to the members of the Board of Health for agreeing to meet, since the Planning Board had made a commitment to the residents to do so.

Bradley Swartz, 11 Juniper Brook Road, noted that the lots in the Juniper Brook neighborhood are less than ½ acre, and having 1 or 2 goats on such a small lot would be a nuisance. He stated that he had recommended regulations on lot size, distance from lot lines for animal housing, and other limitations. He also emphasized the need for a setback for animal waste. Mr. French commented that both boards have agreed to further investigate the matter.

Ms. O'Connor questioned why small livestock like chickens and goats are not an asset to the neighborhood. An audience member commented that the problem arises with the improper handling of the animals, which has resulted in dirty and hazardous conditions in the Juniper Brook neighborhood. She also discussed a huge stagnant pool of water with debris on the property and voiced displeasure that nothing has been done to resolve the situation. Mr. French reiterated that the matter is being investigated, but the audience member stated that she had raised the issue with the health department several times and the problem persists.

Cynthia Moore, 30 Alcott Drive, noted that she spends a great deal of time at her boyfriend's house in New Hampshire where chickens wander freely, and wondered why there is such an issue in her community and not his. She explained that she has an interest in self-sustainability and grows a considerable amount of produce, some of which she donates to the food pantry and local senior citizens. She voiced concern about a bylaw that could restrict her ability to do so, and encouraged the board members to find a practical and healthy way to come together for the good of the entire community.

Mr. French reiterated his intention to further investigate and explore options to address the matter.

The joint meeting of the Planning Board and Board of Health adjourned at 8:30PM, at which time the Planning Board meeting resumed.

Respectfully submitted,

Elaine Rowe
Board Secretary