



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 1/19/16

Planning Board Meeting Minutes November 23, 2015

Members Present: Theresa Capobianco, Leslie Harrison, Amy Poretsky, George Pember, Michelle Gillespie (arrived @ 7:10pm)

Others Present: Kathy Joubert, Town Planner; Attorney David Doneski, Kopelman & Paige; Attorney Katie Laughman, Kopelman & Paige; Laura Ziton, David Gillespie

Meeting Schedule: Ms. Joubert reminded the board the next meeting could be held on December 1st or 8th however there haven't been any new filings for the agenda as of today. The Zoning Board of Appeals will meet on December 15th.

Approval of Minutes: Ms. Gillespie motioned to approve the minutes of the September 8, 2015 joint meeting of the Planning Board and Board of Health. Ms. Harrison seconded the motion and the vote was unanimously in favor of the motion.

ZBA Applications: Ms. Joubert stated applications scheduled to be heard at the ZBA meeting tomorrow night are for a special permit for proposed adult day care use on the first floor of the building at 155 Otis Street; a variance for a pre-existing, nonconforming deck at 15 Patriot Drive; and a special permit for the use of an accessory dwelling unit at 259 Crawford Street. She noted there will also be a meeting of the ZBA on December 15th for a special permit to allow the use of indoor commercial recreation in the building at 38 Southwest Cutoff.

In response to questions from board members, Ms. Joubert stated U-Haul has not applied for site plan approval for their facility proposed at 40 Bearfoot Road; nothing has been submitted regarding a sign for 1C Belmont Street; developer Jim Vogel is in the process of getting an additional partner for his project at 61-65 West Main Street, and no one has heard anything from Sean Citro regarding his approved project at 16 East Main Street.

Executive Session – Pursuant to MGL 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 motioned to move into executive session, Ms. Gillespie seconded the motion and a roll-call vote of the members was as follows:

Amy Poretsky "aye" Theresa Capobianco "aye" Michelle Gillespie "aye"
George Pember "aye" Leslie Harrison "aye"

The board moved into Executive Session at 7:20 pm.

Ms. Harrison motioned to return to regular session, Ms. Gillespie seconded the motion and a roll-call vote of the members was as follows:

Amy Poretsky	“aye”
George Pember	“aye”
Theresa Capobianco	“aye”
Leslie Harrison	“aye”
Michelle Gillespie	“aye”

Attorney David Doneski and Attorney Kate Laughman, Kopelman & Paige, were present.

The members reviewed the decision for the proposed Wireless Communications Facility at 386 West Main Street, which they voted on at their meeting on dated November 19, 2015. Ms. Poretsky had questions with the wording in some portions of the decision and went through with the other members, directing questions and comments to Mr. Doneski and Ms. Laughman. She asked why meeting minutes were not included in the decision, as a case from the Supreme Court (T-Mobile vs. Roswell) stated minutes could be used as the decision as long as they were submitted with a letter stating the vote. Both Mr. Doneski and Ms. Laughman explained minutes are not considered exhibits and do not belong in a decision. Ms. Laughman stated that Massachusetts has their own requirements as to how decisions are handled and addressed, and it is more appropriate to follow local and state requirements. Mr. Doneski stated the minutes would not be an exhibit and the practice in Massachusetts is not to include them in a decision.

Ms. Poretsky also asked why the Applicant did not need a variance instead of a waiver for the proposed location of the tower that is less than 1000 feet from any school property line. She stated that in 2011 when there was an application for a cell tower near the police station it was closer than 1000 feet to Peaslee school (around 995 feet) and the applicant needed a variance. Mr. Maxson also stated in his memo (dated October 18, 2015) that a variance is needed from a school. Ms. Joubert responded Section 7-10-040 (Special Regulations, Wireless Communications Facilities) of the zoning bylaw allows the board to waive these requirements if it is in the public interest to do so and if it is not inconsistent with the purpose and intent of the zoning bylaw.

Ms. Poretsky stated there are comments in the decision from Northborough residents and wondered why there were no comments listed in the decision regarding comments made by Bob Mihalek, Chairman of the Trails Committee, at the October 20, 2015 meeting (at the bottom of page 5 of the subject decision). Ms. Poretsky stated that, at that meeting, Mr. Mihalek had concerns about the proposed tower and he didn't realize that there could be other feasible alternatives when the trails committee was approached by the Town. Ms. Capobianco stated she didn't recollect that Mr. Mihalek thought there were other feasible locations. She stated Mr. Mihalek attended the meeting and had concerns that were addressed by the Applicant. Ms. Gillespie agreed, stating Mr. Mihalek talked about the parking issue, the gate and the feasibility of the proposed tower being located on the other side of the street. Ms. Harrison agreed with Ms. Gillespie and Ms. Capobianco.

Ms. Poretsky returned to the subject of minutes in a decision, stating she didn't understand why the board's discussions during a public hearing and about their decision, would not be in the decision. Ms. Capobianco reiterated the points made earlier by legal counsel.

Ms. Poretsky suggested she should write a letter to get her comments into the decision. Ms. Capobianco responded she could not send a letter as a resident when she is a Planning Board member. Mr. Doneski stated that, unless there's something significant, minutes do not belong in the decision.

Ms. Poretsky stated that she felt the decision was rushed and that the board members didn't take her seriously. Ms. Capobianco responded, stating the board went through every single element of the project and the decision, and there was nothing rushed about it. She told Ms. Poretsky she has the right to disagree with the other board members and the board members did take her seriously.

Ms. Poretsky continued to review the decision and revisions were agreed upon. Ms. Joubert made the changes to the decision and the board members signed the decision.

The meeting adjourned at 9:30pm.

Respectfully submitted,

Debbie Grampietro
Administrative Assistant
Planning Board/ZBA/Conservation