



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 8-18-16

Planning Board Meeting Minutes July 19, 2016

Member in attendance: Theresa Capobianco, Chair; George Pember; Michelle Gillespie; Leslie Harrison

Members excused: Amy Poretsky

Others in attendance: Kathy Joubert, Town Planner; Dan Nason, DPW Director; Scott Carpenter, Asst. DPW Director; Elaine Rowe, Board Secretary;

Chair Theresa Capobianco called the meeting to order at 7:02PM.

Discussion with Dan Nason, DPW Director, regarding subdivision rules and regulations update – Ms. Capobianco referenced email correspondence from Scott Charpentier received earlier today (copy attached) outlining the DPW's suggestions for revisions to the subdivision rules and regulations. Mr. Nason reviewed them as follows:

1. Consider adding criterial for roadway sub drains when high groundwater is present

Mr. Nason noted that, in some parts of town with high groundwater, there is constant runoff under the surface of the roadway or over the pavement. The DPW is suggesting that drain lines be installed to alleviate runoff issues and help maintain the base of the roadway. Mr. Charpentier explained that there is a process for determining if sub drains are needed.

2. Street design should reference AASHTO (American Association of State of Highway Transportation Officials)

Mr. Nason expressed a desire to include the AASHTO reference, which we currently do not have.

3. Storm Sewer section may be amended to clarify requirements for current standards, i.e. DEP and DOT

Mr. Nason stated that there is currently nothing in the regulations that requires quality or quantity, which he would like to see addressed. Mr. Charpentier agreed that it would be better to define the standards more clearly. Ms. Gillespie asked if this will apply to both public and private roads. Mr. Nason confirmed that it will, and noted that stormwater quality should be designed for any roadway. Mr. Nason commented that, many times, there is a closed drainage system designed for a 25 year storm event but the town would like to be sure that there is sufficient area to accommodate the 100 year storm event.

4. Sanitary sewer should require service to property line for each frontage passed

Mr. Pember asked how this would be done, specifically when someone owns frontage for multiple lots. Mr. Nason suggested that at least one service should be supplied for each lot. Ms. Capobianco suggested that a waiver could be sought for that situation. Ms. Joubert explained that the purpose of tonight's discussion is for the DPW to express their initial thoughts, with more detailed discussion and proposed language to be addressed at a subsequent meeting.

5. Street lighting section can be deleted as they are no longer allowed

Ms. Gillespie noted that an advocate for green communities had recently come before the board to discuss the concept, and asked if the regulation can somehow provide an option for a larger subdivision

to included solar-powered street lights. Mr. Nason commented that there may not be funding in the town budget to maintain that on an ongoing basis. Ms. Gillespie commented that, given the changes in technology, it might be something that the town could start considering.

6. Only one residential curb cut should be allowed per lot

Mr. Nason explained that reducing curb cuts will help to reduce costs when resurfacing roadways.

7. Common driveway can state that all utilities outside of the Right of Way are privately owned, operated, and maintained

Mr. Nason noted that residents mistakenly believe that ownership and maintenance is the town's responsibility. Ms. Gillespie stated that common driveways are going to be more prevalent, and voiced her opinion that it would be beneficial to let residents know what they are getting into.

8. Water can be combined into a single section and better reference Town standards Mr. Nason expressed a desire to have specifications itemized in the regulations so that there is no question about it. Ms. Joubert asked if cut sheets will not to be part of the subdivision rules and regulations but will be referenced in them. Mr. Nason confirmed that to be correct.

9. Add bituminous concrete curbing allowed at the discretion of the DPW

Mr. Nason noted that, in the past, the town has accepted "granite curbing", which is really sloped granite. He explained that, in these cases, a good seal does not exist between the pavement and the curbing so there is always room for water infiltration and deterioration of the base. He expressed a desire to use a modified asphalt berm instead, which will be considerably less expensive in the long term. He noted that the Assabet Circle roadway is falling apart everywhere, whereas roads like Catherine Street and Joseph Street that were built with the asphalt curbing in the late 1970s and early 1980s are still in great condition. Ms. Capobianco suggested site visits to look at the various types of curbing and road conditions. Mr. Nason also indicated that when the town has to replace the granite curbing it takes a great deal of time and is somewhat dangerous to do. Mr. Charpentier agreed to provide the DOT guidelines for use of asphalt berm vs. granite curbing.

10. Allow Planning Board to have Applicant pay for engineering oversight by a Town procured consultant

Mr. Nason explained that work that is not done properly becomes costly to the town and suggested that oversight and a checklist of inspections would be beneficial. Ms. Joubert asked if someone will be required to be on the jobsite at all times. Mr. Nason noted that it will be on an as-needed basis, and will also provide a better means for determining bond reductions. He also suggested that some visits to the jobsite should be unannounced.

Ms. Gillespie asked if this type of oversight would apply to small condominium developments. Ms. Joubert indicated that further discussion would be needed about private developments where the roadway does not end up being a town street.

Ms. Capobianco asked Mr. Nason which of these requests are highest priority. Mr. Nason stated that all are equally important. Mr. Charpentier voiced his opinion that #10 is the most important to the town, but Mr. Nason reiterated that all of the other requirements are also necessary.

Mr. Pember asked when the Planning Board and DPW will reconvene to further address these updates. Ms. Joubert indicated that town staff needs some time to develop language and present drafts to the board. She also noted that there are other things in the subdivision rules and regulations that need to be addressed that do not involve the DPW. Ms. Capobianco suggested that this matter be further discussed at the board's meeting on September 20, 2016.

Ms. Gillespie suggested that the board obtain feedback from stakeholders. Ms. Joubert noted that this would be part of the public hearing process. Ms. Gillespie expressed her desire to notify those people who do a lot of work in town about the proposed changes. Ms. Joubert agreed. Mr. Ramadan asked if he could provide

comments. Ms. Capobianco explained that this discussion is not a public hearing, the agenda is quite lengthy, and the board had agreed to allow the DPW 30 minutes for the discussion.

Public Hearing for Definitive Subdivision “Clark Woods” at 172 & 172A Howard Street

- **Applicant:** Daniel Benway
- **Engineer:** Connorstone Engineering, Inc.
- **Date Filed:** June 22, 2016
- **Decision Due:** Within 90 days of close of hearing

Mike Sullivan appeared on behalf of developer, Dan Benway, and property owner, Craig Callahan, and explained that they had previously submitted preliminary plans for this proposed subdivision. He noted that there are two existing dwellings on the property, with the topography running down from Howard Street to Washburn Street, and indicated that zoning requires 40,000 square feet of area and 150 feet of frontage. Mr. Sullivan discussed the developer’s proposal to add three homes served by a 500-foot cul-de-sac with a 22-foot width that will require a waiver. He also indicated that the proposal includes sidewalk along only one side of the roadway, which will also require a waiver.

Mr. Sullivan noted that the issue of drainage for the road has been a moving target and there are several issues in flux that will require guidance from the board. He discussed the direction of flow, and proposed a grass swale where the flow will be diverted to a pipe to carry runoff to a detention basin. Mr. Sullivan indicated that the direction of the flow will be the same as currently exists.

Mr. Sullivan stated that, at the preliminary hearings, it was noted that there is a subsurface pipe that will be changed, and plans call for the installation of stormceptors to reduce the total suspended solids and capture some of the grease and oil. He indicated that there will be an 8” water main with 2 hydrants. Mr. Litchfield explained the he has suggested creating a low point in the subdivision roadway prior to the intersection with Washburn Street in order to prevent runoff from the subdivision roadway from entering the public road and he anticipates this will be implemented in the next round of revisions. He also confirmed that the applicant has done the necessary testing, witnessed by the Board of Health, and they were all acceptable.

Mr. Sullivan commented that town regulations require 40,000 square feet of open space, and the applicant has satisfied that requirement. He noted that waivers the applicant is requesting are as follows:

- Waiver to allow roadway width of 22 feet
- Waiver to allow sidewalk on only one side of the roadway
- Waiver of the requirement for a Phase 1 study for hazardous waste as there has been no history of hazardous materials for this site
- Waver to allow plastic pipe instead of the required concrete pipe.
- Waiver of the requirement for street lighting, given that this is a small roadway with only a few houses

Mr. Sullivan explained that, in order to finalize drainage plans, he will need to resolve the following:

1. Will a 22 foot road width be acceptable to the board?
2. The Conservation Commission would like the retaining wall to be moved closer to the road to preserve the bank and minimize wetland impacts. When previously proposed, the Town Engineer had wanted the wall to be located outside of the right-of-way, so this will require further discussion.
3. The applicant has been asked not to increase the pipe sizing of the culvert, which will have a major impact on the drainage calculations.

Mr. Litchfield voiced his opinion that another plan revision is necessary, given the following issues:

1. The 12” pipe that currently exists will need to be maintained, so the plans and drainage calculations will need to be modified. He expressed concern about downstream flooding and reiterated the need to maintain the same carrying capacity.

2. The Conservation Commission's request to move the wall is in direct conflict with the DPW's desire to eliminate future maintenance and repairs. Mr. Litchfield confirmed that the wall should be located outside the right-of-way so the responsibility does not lie with the town. He also noted that he had agreed to ask the developer to evaluate scenarios and prepare a couple of alternatives at the request of the Conservation Commission, and suggest a meeting with the applicant prior to the Conservation Committee meeting to try to arrive at a resolution.

Mr. Litchfield confirmed that the DPW approves of a 22 foot pavement road width in light of the number of houses to be served. Ms. Gillespie asked about the use of plastic pipe instead of concrete. Mr. Litchfield stated that he does not believe this to be a problem but would like to confirm with the DPW.

Ms. Capobianco recalled that the board has waived the requirement for a phase 1 report in the past. Mr. Litchfield voiced his opinion that it would be fine to do so, especially since there is no history of hazardous materials on this site. Ms. Joubert agreed, and noted that this requirement is included in the regulations to protect the town in the event the town takes ownership of the roadway and contamination is found in the future. Mr. Litchfield noted that Town Counsel will require the applicant to provide clear title, which does require environmental testing of the soil be done prior to the Town accepting the roadway as a public road.

Ms. Joubert stated that the developer has requested a waiver of the sidewalk on one side of the roadway. She explained that, historically, the town has recommended approval and has received compensation for that value to be used for other sidewalk construction in town. Given that the town is no longer able to maintain such an account, she recommended that the board require sidewalk along both sides of the roadway. Mr. Sullivan commented that, though the town cannot reap any monetary value for the sidewalk reduction, elimination of sidewalk along one side may be beneficial for the Conservation Commission.

Mr. Sullivan asked Mr. Litchfield if he is requesting that the pipe be replaced or merely cleaned out. Mr. Litchfield stated that he would like the pipe replaced, and for it to be maintained at the same size.

Mr. Pember commented that, if the wall is to be located on private property, the homeowners will be responsible for all maintenance and repairs. Mr. Sullivan voiced his assumption that a homeowners association will be formed consisting of the 5 homeowners. Mr. Pember commented that the owners/occupants of the two existing homes may balk at the idea.

Mr. Sullivan noted that access to the two existing homes will continue to be from Howard Street. An audience member asked why access to all five homes would not be from Washburn Street. Ms. Capobianco asked if the two existing homes must be part of the subdivision. Mr. Joubert confirmed that they do, and explained that the subdivision cannot exist if they are not.

Mr. Pember indicated that the main concern is about how the wall will be maintained if it is not on town property, to whose standards, and who will decide when repairs are necessary. Mr. Sullivan noted that the wall is located on lot 5.

Ms. Capobianco polled the board members to obtain a sense of where they all stand on the various waivers, and received the following feedback:

- **Phase 1 report** – members of the board indicated that they would agree to waive the requirement for a Phase 1 report, given the property's history.
- **22 foot roadway width** – members of the board indicated that they would have no issues with granting this waiver.
- **Sidewalk reduction to require on only one side of the roadway** – Members of the board voted 3 in favor and one opposed (Leslie Harrison opposed) to require sidewalk on both sides of the roadway.
- **Allow the use of plastic pipe instead of the required concrete pipe** – Ms. Capobianco indicated that the board would prefer to wait for the DPW to comment on this request.
- **Street lighting** – Ms. Capobianco explained that the town does not require street lighting any longer, but would not be averse to the installation of solar-powered lamp posts if the applicant wishes to do so.

Mr. Benway commented that the wall seems to be of most concern, and suggested that it might be possible to eliminate the wall entirely and get a 3-to-1 slope. Mr. Sullivan agreed to consider it. Mr. Litchfield indicated that the applicant will need to maintain the elevation of the grass plot to the edge of the right of way.

Mr. Benway asked about the drainage easement. Mr. Sullivan explained that it will be the responsibility of the homeowner's association to maintain the drainage system. Mr. Litchfield confirmed that the town will not maintain anything and will only act in the event of an emergency, so an easement is needed to allow access in the event of an emergency.

Ms. Gillespie asked if the homeowner's association remains in place when the street becomes a public road. Ms. Joubert confirmed that it does, and Mr. Litchfield clarified that this is the only way that it can become a public road.

Mr. Pember asked about street lights, and noted that some towns are requiring them only at intersections. Ms. Joubert noted that National Grid will not put up street lights without an agreement from the town indicating that they will assume responsibility. Ms. Capobianco indicated that the street lights should be removed from the list of requested waivers, as they will not be required. Ms. Joubert agreed to clarify with National Grid as to whether they do solar street lights. Mr. Litchfield suggested that it would be worthwhile to ask the Police Department if this is an area of concern for lighting.

Mr. Ramadan explained that solar street lights are not connected to the grid. He indicated that he is purchasing units from China for approximately \$800. Ms. Capobianco stated that this will be of interest when the green community exploratory group is formed.

Resident at 73 Washburn Street – A gentleman who identified himself as a resident at 73 Washburn Street asked if the Conservation Commission has to approve if the wall is moved. Mr. Sullivan confirmed that they do. Ms. Joubert noted that the hearing with the Conservation Commission was continued to August 8, 2016, at which time it may be further continued.

Ms. Capobianco questioned the drainage calculations and specifications, given that a 12 inch pipe will be required. Mr. Sullivan stated that the calculations will need to be redone to model the 12 inch pipe, but noted that no increase in the rate of runoff is allowed. Ms. Capobianco asked if there is any opportunity to decrease the rate of runoff. Mr. Sullivan indicated that he will need to reconsider the matter, given the requirement for the 12 inch pipe.

Stephen Lee, 174 Howard Street– Mr. Lee noted that he has seen proposals for grading of the roadways into the subdivision and voiced concern about grading changes on the lots. Mr. Sullivan stated that there will be additional grading on the lots, but they are far enough away that they should not impact any neighboring properties. He also noted that any changes will only affect the new lots, and not the existing homes or common driveway. Mr. Lee asked about the property behind 174 Howard Street, shown as Parcel A on the plans. Mr. Callahan explained that Parcel A was created to provide a buffer for the abutter to lot 5, and is not buildable. Mr. Capobianco voiced her understanding that Parcel A was not included in the open space calculation.

Mr. Sullivan requested a continuance. Following a brief discussion, members of the board agreed to meet on August 18, 2016 at 7:00pm.

George Pember made a motion to continue the hearing to August 18, 2016 at 7:00PM. Michelle Gillespie seconded; motion carries by unanimous vote.

Discussion with Applicant & Engineer RE: 280 Newton Street Scenic Road Decision

Mr. Bemis indicated that he had filed an appeal of this board's decision with the Zoning Board of Appeals and is before the board to discuss changes to the situation stemming from an email he received from Mr. Ramadan on June 23rd. Ms. Joubert indicated that Ms. Gillespie is able to participate because this is an informal discussion.

Mr. Bemis explained that he has put a great deal of effort into this project. He noted that Mr. Wambolt has purchased the property and wants to build on his lots. He stated that 10 years have passed since Mr. Ramadan's

Scenic Road decision and nothing has really been done to improve the roadway. He indicated that he had received an email from Mr. Ramadan on June 23rd that has left him “flabbergasted and disappointed” and he is not willing to participate in the project any further under the circumstances. He explained that he had participated in the scenic road application in good faith, but after the recent turn of events is not going to work with Mr. Ramadan to construct the roadway.

Ms. Capobianco noted that the decision was issued to Mr. Ramadan in 2007 and modified in 2015, and the decision rendered last month affects those prior decisions. She emphasized that the board cannot act as referee in whatever the dispute is between Mr. Wambolt, Mr. Bemis, and Mr. Ramadan. Mr. Bemis explained that he had tried to be the referee, and noted that the decision rendered by the board requires that the work be done in order for Mr. Wambolt to build on his lots. He voiced displeasure that the “rug has now been pulled out from under his feet”, after he worked to get Mr. Ramadan’s bond released and made assurances on his behalf. He reiterated that he will not work with Mr. Ramadan. He indicated that the applicant can accommodate the conditions about lowering the road on their side of the street and the roadway shoulder, but requested that the board remove the following conditions from the decision:

1. No occupancy permit will be granted until the road work is completed and
2. Requirement for the provision of an as-built plan. Mr. Bemis stated that the applicant has no control over this and therefore cannot accept this condition.

Mr. Bemis suggested that the lots are no longer marketable. Ms. Capobianco noted that Mr. Ramadan was required to do road work as part of his Scenic Road application and not for the common driveway.

Mr. Bemis reiterated his request for the board to amend the decision to remove the two conditions as previously discussed, or he will take the matter to the Zoning Board of Appeals.

Ms. Joubert explained that, as was required of Mr. Ramadan when he came forward with an ANR on a road that did not meet minimum town standards, this applicant also needs to abide by the same requirements. Mr. Wambolt stated that the road has already been through the process, and noted that he had purchased property on a bonded road. He voiced frustration with the town, which already has bond money for the road improvements. Ms. Joubert explained that this would be true if this were a subdivision, but where the project was divided into 2 phases the circumstances are different. She reiterated that Mr. Ramadan was told he would be required to complete roadway improvements before developing on his land, and the same is true for Mr. Wambolt.

Mr. Litchfield explained that the phase that was bonded for is from station 15 to the end and not the portion in front of Mr. Wambolt’s lots. In response to a question from a woman in the audience about the bond for phase 1, Mr. Litchfield noted that phase 2 of Mr. Ramadan’s project was bonded first and included money to do the pole work.

Mr. Ramadan voiced disagreement with Mr. Bemis. He noted that there was discussion that Mr. Ramadan would be responsible for 8/11 of the work, with the remaining 3/11 to be the responsibility of Mr. Wambolt, but when the budget called for Mr. Bemis to be paid \$150,000 up front, Mr. Ramadan decided that he could save money by doing the work himself. He questioned why the person responsible for a smaller percentage of the project should get to do all the work. He indicated that he is working to get the work done himself and had simply asked the applicant to pay 3/11 of the cost and they are now trying to walk away from it.

Members of the board expressed frustration. Mr. Bemis indicated that he had previously tried to contact Ms. Capobianco, who explained that she cannot return such phone calls and is required to defer to town staff. She reiterated that it is not within the board’s purview to referee such situations. She stated that, while she understands that both parties are in a difficult position, she is not sure what the board can do. Members of the board agreed. Mr. Bemis commented that he believed he had a gentleman’s agreement but it now appears he did not. Mr. Wambolt reiterated his frustration.

Ms. Capobianco explained that the board does not have the authority to do anything to resolve this matter. Mr. Pember asked Mr. Ramadan if he has the ability to do the work at a lower cost. Mr. Ramadan stated that he can

do it for \$50,000 less, and suggested that Mr. Bemis wanted payment for management of the project. Mr. Wambolt voiced his opinion that occupancy permits won't get released based on what Mr. Ramadan gets done.

Ms. Capobianco emphasized that the Planning Board meeting is not going to be used as a courtroom, and the board would like to see the parties work this out. Mr. Bemis commented that he had interjected in an attempt to move the project forward, given that it was stalled for 10 years. Ms. Capobianco suggested that Mr. Ramadan's project was moving along. An audience member noted that it is at least a year behind schedule. Ms. Capobianco stated that Mr. Bemis had no obligation to come to the board, and suggested that both sides would be better served to find a representative to work this out and find a resolution. Mr. Wambolt indicated that he had already moved equipment onto the site before receiving the email from Mr. Ramadan.

Mr. Ramadan agreed to meet with Mr. Bemis at any time. Mr. Wambolt suggested meeting before the end of the week.

Consideration of Minutes was deferred to the next meeting.

Zoning Board of Appeals

- Ms. Joubert noted that the ZBA had approved the Comprehensive Permit for the Habitat for Humanity project at 33-35 & 37-39 Main Street, and revised plans were provided to the Planning Board members for their reference.
- The next ZBA Meeting is scheduled for July 26, 2016. Ms. Joubert stated that the agenda includes:
 - UHaul project on Bearfoot Road, which will be continued to the August meeting
 - Proposed multi-family development on King Street. Ms. Joubert noted that the developer had originally proposed 2 lots with 8 units per lot, but the DRC suggested that the project be done as 1 parcel with 16 units to allow the buildings to be situated differently on the site.
 - 313 Brigham Street – request for a variance to allow a proposed single-family dwelling on a lot of at least 80,000 square feet; and to allow a proposed single-family dwelling on a lot of 56,000 square feet, with both lots to be created by the division of the property.
- The August 23rd ZBA Meeting will include:
 - Appeal from Peter Bemis on the scenic road decision. Ms. Harrison commented that the appeal would not go to the ZBA. Staff will be contacting town counsel regarding this appeal application as to correct procedure for an appeal.
 - 173 West Main Street - application to convert a single family home to a duplex

Ms. Joubert voiced her assumption that the Planning Board will resume their regular meeting schedule of two meetings per month in September.

Ms. Gillespie asked if it is possible to require applicants submitting scenic road applications to pay for an engineer. Mr. Litchfield suggested that the Newton Street situation is unique.

Ms. Capobianco asked if the board will be receiving new plans for the project at 172 & 172A Howard Street. Ms. Joubert indicated that the applicant should come in with some alternatives, based on discussions to date.

Meeting adjourned at 8:47PM.

Respectfully submitted,

Elaine Rowe
Board Secretary