



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 2/16/17

Planning Board Meeting Minutes November 15, 2016

Members in attendance: Michelle Gillespie; Leslie Harrison; George Pember; Amy Poretsky

Members excused: Theresa Capobianco, Chair

Others in attendance: Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Ziad Ramadan

Michelle Gillespie called the meeting to order at 7:08PM.

Bond reduction, Newton Street – Ms. Joubert explained that Mr. Ramadan had submitted a request for a bond reduction for the first phase of the Newton Street widening project seeking the return of the \$175,000 balance remaining of the bond. She noted that the base coat of pavement is down, but town staff has some concerns about the project that remain to be resolved.

Ms. Joubert stated that the decision stipulates that the top coat of pavement would be applied during phase 2 of the project when Mr. Ramadan would be working on the common driveway and applying for occupancy permits for the houses to be built. She commented that she is not sure of the mechanism if the project were not to proceed, though there has been no indication from Mr. Ramadan that it will not. She noted that, were the board to release the remainder of the bond, there would be no way to ensure that the top coat of pavement would be done if nobody ever goes forward with developing the common driveway.

Mr. Litchfield indicated that Mr. Ramadan has done a great deal of work, some of which was for phase 2, but the concern is that there is no real timeline to do the common driveway. He reiterated that the base coat is down, but there were initially some concerns about the way it was put down that have now been addressed. In response to a question from Ms. Harrison, Mr. Litchfield explained that there are concerns about the roadway being wider in some sections, but nothing too serious that he would have Mr. Ramadan go to the trouble to reduce it in those areas.

Mr. Litchfield stated that, while Mr. Ramadan did do more work than was required of him in phase 1, he would recommend that the board not release the bond and would ask that all parties try to work out a way to get the top coat of pavement down before the onset of winter if at all possible. He also noted that the DPW has asked that Mr. Ramadan post a \$5,000 for 3 years to make sure that the extra pavement that was put in a few areas will hold up. He also indicated that any imperfections in the road surface over the winter months will need to be repaired.

Mr. Ramadan explained that he had actually wanted to put down the top coat this year but, as the board may recall, he was involved in a situation with another applicant (Mr. Wambolt) and since that applicant still owes him money for work done previously, he does not want to do any further work until he gets paid. Mr. Ramadan voiced his understanding that Mr. Wambolt has already installed a new driveway for his project and needs for the top coat to be done in order to get any occupancy permits. He reiterated that he is not in the position to do any further work until he gets paid. He also stated that

he has met his legal obligation for the bond to be released for phase 1 of his project. Ms. Gillespie asked Mr. Litchfield to clarify his request that the bond not be released at this time. Mr. Litchfield stated that the agreement between Mr. Ramadan and Mr. Wambolt does not involve the town, and he is simply advocating to wait a few weeks to see if a resolution can be reached and the top coat can be installed. He voiced his understanding that Mr. Ramadan had done some of the phase 2 work to help Mr. Wambolt with his project, and confirmed that the top coat is required in order for Mr. Wambolt to get an occupancy permit. Mr. Litchfield explained that Mr. Wambolt's decision allows him to settle and reoccupy the existing house but he cannot build any new driveways until the roadway improvements are done. He noted that Mr. Wambolt did install a new driveway to the existing house, but did so without discussing it with the town. He also commented that, while Mr. Wambolt has the right to do so, it is his opinion that he violated that terms of the scenic road permit and therefore cannot use the driveway without occupying the house and he cannot occupy the house until the road improvements are done. He expressed his hopes that the financial situation between Mr. Ramadan and Mr. Wambolt can be resolved so we can move ahead.

Ms. Joubert indicated that there is no time period imposed for the board to act on a bond reduction request, and town staff is simply seeking additional time to try to work out the situation. She reiterated that the town is not party to the agreement between Mr. Wambolt and Mr. Ramadan, but it appears that we are being held hostage by it. Ms. Gillespie asked Mr. Ramadan if the board can have until December 6th to see if the issues can be resolved. Mr. Ramadan emphasized that this project has already cost him a fortune and he cannot afford to lose \$50,000. He reiterated that he has met all of his obligations to get his bond released, but agreed to work with town staff to try to find some type of resolution.

Subdivision Rules & Regulations – Mr. Litchfield explained that the former DPW Director has left and Assistant DPW Director Scott Charpentier has been appointed as the new DPW Director. He indicated that town staff will be providing information for the board to consider in order to make the regulations more practical.

Mr. Litchfield recalled that the issue of curbing was of concern to the DPW in the past, and it appears that the new DPW Director's thinking is more in line with that of the Planning Board's, with a preference for vertical granite curbing. Mr. Litchfield indicated that he feels it adds a nice look to a subdivision, and town staff will be presenting pros and cons for the board's consideration.

Ms. Gillespie asked if the revisions to the subdivision rules and regulations will also include the improved inspectional services as have been previously discussed. Mr. Litchfield confirmed that they will, and noted that he expects this to be a lengthy process. He also noted that Mr. Charpentier would like to speak with the board about getting money from developers to hire a third party to be on the project site more often to provide these inspectional services.

Mr. Pember recalled that the former DPW Director was not in favor of granite curbing because it allows for water infiltration that results in cracking from winter weather, whereas an asphalt berm does not. Mr. Litchfield commented that the use of vertical granite curbing should not pose as much of a risk as occurs with sloped granite curbing. Ms. Joubert noted that the subdivision rules and regulations call for vertical granite curbing but in the past waivers have been granted to allow for sloped granite curbing. Ms. Harrison questioned the need to impose a requirement for vertical granite curbing if it is always being waived. Mr. Litchfield explained that many of these issues came to light when the town was redoing Woodstone Road, which ended up being a tremendously expensive project to rip up and repair.

Duplexes – Ms. Joubert explained that town staff has discussed the issue of duplexes at length and presented the results of those discussions to the board. She noted that there are two areas that staff is seeking to change:

1. Lot size for duplexes – Ms. Joubert explained that duplexes are currently allowed by right in the General Residential zone (minimum lot size 15,000 square feet) and by special permit in the Residential C zone (minimum lot size 20,000 square feet) and are prohibited in the Residential A & B zones.

Ms. Joubert indicated that she has asked Debbie Grampietro to provide the board with statistics on how many applications for duplexes have been submitted and how many special permits have been issued over the last ten years. She mentioned that the duplexes being built in recent years are the size of 2 single family homes, resulting in a 5,000 to 7,000 square foot home being placed on a single lot that creates a host of problems. Ms. Joubert stated that town staff proposes doubling the lot size required for a duplex (30,000 square feet in General Residential; 40,000 square feet in Residential C). She indicated that the issue of setbacks was also considered, but no changes to those are being proposed. Ms. Gillespie noted that the Town of Shrewsbury had made similar changes last year, and suggested that Ms. Joubert research what changes they made. Ms. Joubert voiced her understanding that the lot size was increased to 1.5 times that of a single family home. In response to a comment from Ms. Gillespie about changes to setbacks, Ms. Joubert agreed to do further research. Ms. Gillespie expressed concern that increasing the lot size will result in even larger units.

Ms. Joubert explained that the town is hearing many concerns from neighbors about grade changes, drainage patterns, and driveway locations. She also indicated that maximizing the footprint on the lot has resulted in those homeowners having difficulty backing out of their own garage and being forced to back out onto the street. Based on that, town staff is also recommending that two-family dwellings be added to the Site Plan review process.

Mr. Pember indicated that, while he sees benefit to a small bump in lot size, he would not support doubling the lot size. He noted that, in a housing survey done several years ago, residents voiced a desire to see different styles of homes. He also commented that buyers of duplexes go in knowing that the yard size is minimal and this is something that they want. Ms. Harrison asked if there is a way to impose a proportional formula for these types of developments to tie the lot size to the size of the building. Mr. Poretsky noted that the duplexes proposed on Whitney Street are huge, with two 4-bedroom, 3.5 bath homes to be built on each lot. She agreed that duplexes in recent years have been too large. Ms. Gillespie indicated that the feedback she has heard from the community is that the density is too much. Ms. Poretsky also voiced her understanding that the abutters to the duplexes on South Street had significant drainage problems.

Ms. Joubert agreed to ask the building department to provide information about the sizes of duplexes built in the past 5 years along with the lot sizes. Ms. Gillespie commented that the recent move by Shrewsbury speaks volumes about the problem. Mr. Pember noted that a large section of Shrewsbury is zoned for 15,000 square foot lots. Ms. Gillespie indicated that Shrewsbury also modified setbacks, which will limit the size of the building allowed on a lot. Ms. Poretsky noted that part of the Planning Board's job is to protect the neighbors that are already living near these project sites. Mr. Litchfield reiterated that town staff thinks that increasing the minimum required lot size will be beneficial.

In response to a question from Ms. Gillespie, Ms. Joubert indicated that the board needs to conclude this process by February in order for this matter to be considered at Town Meeting.

Automotive Uses – Ms. Joubert discussed the issue of automotive uses that was brought up at the last meeting by Ms. Poretsky, who provided details of what the revised use table would look like if the board opts to remove automotive uses from the Business district. She noted that Ms. Poretsky has suggested keeping automotive in highway business and in the Industrial district while prohibiting them in Downtown Business, Business East, Business West, and Business South zones. Ms. Poretsky noted that the consultant who helped the town with the Community Development Plan recommended keeping these uses off of Main Street and putting them in the Industrial and Highway areas where they fit better. She also noted that we already have 26 such uses in town, and she would like to limit them in the future.

Ms. Harrison discussed the business that is seeking to move from Bartlett Street onto Main Street. Ms. Gillespie indicated that the project will be before the Design Review Committee (DRC) on Friday morning. Mr. Pember stated that the project is already on the agenda for the Zoning Board of Appeals (ZBA). Ms. Poretsky voiced concerns about the project, and indicated that if an applicant goes before the DRC and does all of the work to comply with their requests, it is then harder for the Planning Board or ZBA to deny it. Ms. Gillespie emphasized that the project must be approved by the DRC before it goes to the ZBA.

Ms. Gillespie suggested that the board wait to vote on this matter until Chair Capobianco is in attendance, but encouraged board members to voice any questions, concerns, or requests for additional research. Mr. Pember stated that he would likely support this change. Ms. Harrison agreed. Ms. Joubert explained that town staff considers this more of a commercial use, which is why it is in the commercial zones. Ms. Harrison commented that, since we already have 26 of these businesses in town, she would be in favor of trying to prevent a further proliferation of them. Ms. Gillespie stated that she believes there are better uses for the town's industrial land. Ms. Joubert noted that the consultant that was hired to help with the zoning revision recommended limiting gas stations, so the use was eliminated while other automotive uses were maintained.

Recreational Marijuana – Ms. Joubert noted that she has no new information to present other than the fact that recreational use passed at the recent election and town staff is working with various organizations. She indicated that they are currently waiting for guidelines on ways to approach this, with both the Attorney General's office and Town Counsel expected to produce guidance documents in the very near future. She agreed to provide additional information as it becomes available.

Green Communities – Ms. Gillespie asked about next steps for the Green Community initiative. Mr. Pember recalled that the Town Administrator had indicated that he was too busy, so it would be up to Ms. Joubert to tackle this. He emphasized his desire to get the issue on the agenda for Town Meeting. Ms. Gillespie suggested that the board discuss the issue at the December meeting. In response to a request from Ms. Poretsky, Ms. Joubert agreed to speak with the Town Administrator and, if permissible, will invite the consultant back to discuss specifics of the stretch code.

Subcommittee updates

Groundwater Advisory Committee (GAC) - In response to a question from Ms. Poretsky, Mr. Pember confirmed that the application before the ZBA for an auto repair shop on Main Street has been before the GAC. Ms. Poretsky voiced her opinion that, per her interpretation of the bylaw, it should not be allowable because the lot does not meet the 40,000 square feet that is required if the building is not connected to municipal sewer. Mr. Pember explained that the zoning determination is made by the Building Inspector, who has indicated that this use is allowed by special permit. He also reiterated that the project has been before the GAC (he recused himself from that discussion) and they have

recommended approval. Ms. Poretsky questioned why it would be allowed, since it does not meet the minimum required lot size. Mr. Litchfield suggested that Ms. Poretsky contact him for further discussion and clarification.

Ms. Gillespie asked if the Whitney Street project was approved. Ms. Pember indicated that the GAC was troubled by the lack of square footage. Mr. Litchfield stated that the GAC recommended approval of the special permits for both lots but did not recommend approval of the variances.

Community Preservation Committee (CPC) – Ms. Harrison noted that the CPC will start reviewing applications for funding at their next meeting. In response to a question from Mr. Pember, Ms. Joubert explained the funding mechanism that is in place for projects that get approved.

White Cliffs – Ms. Joubert noted that, once all of the remediation is completed and the reports are provided and reviewed by the town's LSP, the closing will be scheduled.

Design Review Committee – Ms. Gillespie explained that she had interviewed Diana Nicklaus and recommended her for appointment to the DRC.

Leslie Harrison made a motion to appoint Diana Nicklaus to the Design Review Committee. George Pember seconded; motion carries by unanimous vote.

Consideration of Minutes was deferred to the next meeting.

Master Planning Committee – Ms. Gillespie noted that there are three members of the Planning Board who wish to serve on the Master Planning Committee, including herself who resigned from the CPC in order to do so. She noted that Chair Capobianco has suggested that all three be allowed to serve. Ms. Joubert stated that this would result in a quorum of the Planning Board, so she will need to speak to Town Counsel about doing so. Ms. Harrison indicated that she would not be comfortable with three members serving on the committee. Ms. Joubert emphasized that it is not desirable for any one board to be heavily represented on any committee. Ms. Poretsky stated that she had spoken with CMRPC, and they indicated that in some towns the Master Plan is done only by the Planning Board and a consultant. Ms. Gillespie noted that the Community Development Plan was done through the Planning Board and a consultant. Ms. Joubert stated that the Master Plan is far more wide reaching than just this board. Ms. Gillespie suggested that the board could vote on this matter at their next meeting. Ms. Poretsky stated that, since the Master Plan falls under the Planning Board's purview, it would not be detrimental to have three members of the Planning Board within the mix. She also noted that CMRPC had emphasized that a member of the School Committee should be included.

Auto Repair Shop on Main Street - Mr. Pember voiced his understanding that a lighting plan has not yet been done for the project. He recused himself from any further discussion, citing a conflict of interest.

Ms. Poretsky mentioned that she has been reading up on special permits. She noted that she is continually being told that the ZBA cannot deny them but she believes that they can if the potential benefits do not outweigh the detriments, which she believes is the case with the project on Main Street. She also stated that her interpretation of the Groundwater bylaw is that only residential use is allowed on the lot, but she agreed to discuss this with Mr. Litchfield for clarification. She reiterated that a project on a 32,000 square foot lot with onsite sewer should not be allowed. She emphasized that the Planning Board is supposed to encourage the most appropriate use of land throughout the town, and she does not believe that an auto repair use on this site is compatible with other uses in the area. Ms. Gillespie stated that this is an allowed use with a special permit. Ms. Joubert noted that special permit approval allows the board to impose conditions on the project. Ms. Poretsky reiterated that the information she obtained from the CMRPC class she took indicated that special permits can be denied if the benefits do not outweigh the detriments. She also cited a case in the Town of Framingham where

the decision to deny a project that would be detrimental to the “future” of area development (not just what was in the area currently) was upheld. Ms. Harrison asked Ms. Joubert to get clarification from Town Counsel. Ms. Poretsky stated that part of the Planning Board’s purview is to review applications and make recommendations to the ZBA, and she would like to recommend denial. Ms. Joubert explained that Section 7-03-040 of the zoning bylaw addresses the criteria that must be met in order for the ZBA to approve a special permit, one of which is a determination that the adverse effects will not outweigh the benefits. She noted that there are seven points that the ZBA considers and if the project cannot meet the test, it can be denied but stressed that we have never succeeded in court.

Ms. Gillespie noted that, historically, the Planning Board has invited applicants to come before them to present their project, after which the board would provide a comment letter to the ZBA. She stated that this applicant was never asked to do so, and it would be unfair to recommend denial at this stage. She suggested that the only recourse would be for the board to take a vote on whether to require the applicant to come before them and ask the ZBA to continue their hearing to allow the applicant to do so. Ms. Poretsky stated that she is simply trying to protect the town, which she believes to be the board’s purview. She commented that we are trying to attract businesses like Tavern in the Square and Trombetta’s, and will now have a garage in close proximity. Ms. Joubert reiterated that the GAC has reviewed the project and recommended approval. Ms. Harrison stated that, without having the applicant present the project to the board, it is not in the position to opine. Ms. Poretsky indicated that she will send a letter to the ZBA to voice her concerns as a town resident. She also suggested that, going forward, projects should not be put on the ZBA agenda until the Planning Board has a chance to review them. Ms. Gillespie requested that, should there be any continuation of the ZBA hearing, she would like to ask the applicant to come before this board.

Next Meeting - December 6, 2016.

Meeting adjourned at 8:50PM.

Respectfully submitted,

Elaine Rowe
Board Secretary