



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 2/7/17

**Planning Board
Meeting Minutes
December 6, 2016**

Members in attendance: Theresa Capobianco, Chair; Michelle Gillespie; Leslie Harrison; Amy Poretzky; George Pember

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

Chair Theresa Capobianco called the meeting to order at 7:10PM.

Subdivision Rules & Regulations – Mr. Litchfield indicated that he has been working with the DPW on proposed amendments to the Subdivision Rules & Regulations, but has nothing new to report at this time.

Bonds

Request for bond reduction, Newton Street – Mr. Litchfield explained that, as discussed at the last meeting, Mr. Ramadan has done a fair amount of work on the roadway, exceeding what was originally planned for phase 1 of the project. He indicated that, at this point, the DPW has some concerns about the base coat on a small portion of the roadway and is requesting a bond in the amount of \$50,000 to cover any issues that may arise over the next few years. Mr. Litchfield commented that there does not appear to be much activity at the present time and he is not sure how soon Mr. Ramadan intends to move forward with the proposed common driveway, so he is recommending that the board retain \$50,000 to ensure that the town has enough money to cover the topcoat of asphalt that is still needed.

Mr. Ramadan voiced his opinion that he has legally met all of the requirements and does not understand why there would be any money held by the town. He stated that he had posted the bond on the basis that he would do the work and the bond would be returned. In response to a question from Ms. Capobianco, Mr. Ramadan indicated that there is no work being done on the common driveways at this time. He also indicated that he had intended to finish the entire roadway, but since the neighbor that was supposed to share in some of the costs has not paid his portion, nothing further will be done until he has been paid for the work already completed. Mr. Ramadan noted that the decision specifically stipulates that the topcoat will be done as part of phase 2, and he has not yet moved forward with that phase of the project.

Mr. Litchfield commented that, while he appreciates Mr. Ramadan's position, he would like to remind the board that the requirement for the work goes back 10 years. He recalled that the plans were difficult to get to an approval stage and the bond was broken down into 2 phases in an attempt to work with Mr. Ramadan. He stated that there was some give and take on the town's part from the beginning, and he believes it is in the town's best interest to hold money to ensure that the topcoat is done. Ms. Poretzky asked if any part of the topcoat work was to be included in phase 1. Mr. Litchfield confirmed that it was not, but also noted that the original plan was to move directly into phase 2. He expressed concern about the road remaining with only a base coat for a number of years.

Ms. Joubert commented that, at the time the decision was written, the Gustafson project was not part of the equation and only recently became part of it when Mr. Gustafson came before the board to do further development on the road. She stated that the agreement about the financials is between two private parties but the town will end up suffering if the two parties cannot reach an agreement.

Ms. Capobianco noted that paragraphs 5 and 6 of the decision stipulate that “a bond for phase 2 of the project shall be posted by the applicant and no Certificates of Occupancy shall be issued for any land on Newton Street until such time as a bond for phase 2 is posted or the roadway improvements have been completed to the satisfaction of the Town Engineer or”. Ms. Capobianco indicated that her interpretation is that Mr. Ramadan is not entitled to get the entire bond back at this time. She emphasized that one of the things that was considered at the time the decision was granted was what might happen if the roadway was not finished, so the board sought to have a bond in place to cover the final coat of asphalt. Mr. Pember agreed, and noted that if a prolonged slump in the real estate market were to occur, the applicant may go 4 or 5 years or more before building houses and the base coat will not last that long. Mr. Ramadan indicated that the base coat could last 20 years. Ms. Capobianco commented that paragraph 5 in the decision is a mandate, requiring that a bond for phase 2 be posted upon completion of phase 1.

In response to a question from Ms. Capobianco, Mr. Litchfield confirmed that \$50,000 should be sufficient to cover the remaining work on the entire project. Ms. Harrison commented that the \$50,000 being retained by the town would technically become the bond for phase 2. Mr. Ramadan agreed to the retention of the \$50,000 with the understanding that it should be sufficient to cover the remainder of the work.

Leslie Harrison made a motion to release the phase 1 bond in its entirety and to create a phase 2 bond in the amount of \$50,000 to be taken out of the funds currently being held by the town for the phase 1 bond. George Pember seconded; motion carries by unanimous vote.

Bond for Clark Woods – Mr. Litchfield explained that he does not have the write up that he typically provides because he was still working up the numbers until about an hour ago. He noted that there is a condition in the subdivision regulations that allows the board to hold 20 to 30% of the bond until the roadway is completely accepted, and the amount is based on the original bond estimate. He explained that most builders want to do as much of the work as possible in order to get a reduced bond, but in this case, Mr. Callahan needs to sell one lot with frontage on Howard Street in order to keep the project going and this will require him to post a bond on the entire cost to build the roadway. Mr. Litchfield stated that his calculation for the bond, based on Mass Highway costs, is \$415,000. He also noted that he has never done a subdivision bond this early in the project. Mr. Pember voiced his opinion that Mr. Callahan will not agree to the bond amount. Mr. Litchfield emphasized that Mr. Callahan can do some of the project and reduce the amount of work to be done before posting a bond, but he would not be able to sell any of the existing houses.

Michelle Gillespie made a motion to approve the subdivision bond for Clark Woods in the amount of \$415,000. Leslie Harrison seconded; motion carries by unanimous vote.

Holiday Gathering – Members of the board agreed to hold their annual holiday gathering on January 19, 2017 at 6:30PM at a location to be determined.

Master Plan – Ms. Capobianco noted that she was unable to attend the last meeting but was briefed on the discussion that took place regarding the Master Plan Committee. She also voiced her understanding that, based on a conversation that Ms. Joubert had with Town Counsel, having a majority of this board sitting on the Master Plan Committee would not constitute a Planning Board meeting but people that do master planning do not think it is a good idea to be top heavy with Planning Board members and she

agrees. Ms. Joubert noted that the committee composition as previously discussed included 2 Planning Board members plus one each from the Board of Selectmen, Zoning Board of Appeals, Conservation Commission, School Committee, Historic District Commission, Open Space, Design Review Committee, Recreation Commission and 3 residents. Ms. Poretsky voiced her opinion that 3 Planning Board members on a 13 member committee is not top heavy. Ms. Joubert stated that the three firms she consulted with all agreed that having a majority of the Planning Board participate would make the committee top heavy and if the board intends to do so, they suggested increasing the number of residents on the committee. In response to a question from Ms. Harrison about the likelihood of resident interest, Ms. Joubert recalled that there was considerable interest the last time the town did a Master Plan. Ms. Harrison stated that a Master Plan Committee of 13 members should only have two Planning Board members but if the committee is increased to 16 members or more, then she would be agreeable to 3 Planning Board members. Ms. Harrison asked about the use of alternates, and Mr. Pember suggested letting the Town Administrator make the final decision on which Planning Board members to appoint. Ms. Poretsky commented that the Planning Board needs to make a recommendation about which members to appoint, and asked if the board would be interested in soliciting more residents to participate in order to have 3 Planning Board members serve on the committee. Ms. Harrison indicated that she is in favor of finding a way for 3 members to serve by using one as an alternate. Ms. Capobianco voiced a preference for only 2 members to sit on the committee. Ms. Joubert emphasized a need to bring closure to the matter so she can advertise for volunteers.

Ms. Harrison stated that she would like to see more residents included in the committee composition, given that it is so board heavy. Ms. Capobianco commented that she would like to increase the number of residents to 5, while maintaining only 2 Planning Board members. In response to Ms. Poretsky's suggestion that 3 Planning Board members be allowed since there were three on the committee in 1997, Ms. Capobianco indicated that she would like to see 7 or 9 residents if the board opts to do so.

Michelle Gillespie made a motion that the Master Plan Committee consist of 15 members to include 2 Planning Board members plus one each from the Board of Selectmen, Zoning Board of Appeals, Conservation Commission, School Committee, Historic District Commission, Open Space, Design Review Committee, Recreation Commission and 5 town residents who do not serve on any town boards or commissions. George Pember seconded; motion carries by a vote of 4 in favor and 1 opposed (Amy Poretsky opposed).

Ms. Harrison indicated that she would be uncomfortable with taking a vote on which two members to appoint. Ms. Poretsky agreed, unless it can be done by secret ballot.

Consideration of Minutes – Ms. Joubert explained that she had provided a copy of the Minutes of the Meeting of October 18, 2016 with revisions suggested by Ms. Poretsky.

Leslie Harrison made a motion to approve the Minutes of the Meeting of October 18, 2016 as amended. George Pember seconded; motion carries by unanimous vote.

Zoning bylaw revisions – Ms. Joubert noted that she had provided the board members with information about proposed changes to the Zoning Bylaw and discussed them as follows:

Duplexes – Ms. Joubert explained that she is recommending that projects involving duplexes be added to the Site Plan Approval process. In addition, she is suggesting that the board consider making changes to the minimum required lot size and/or setbacks. She reminded the board that duplexes are allowed by right in the General Residential zone and by Special Permit in the Residential C zone.

Ms. Joubert discussed recent action by the Town of Shrewsbury on this matter and noted that, similar to our proposal, they also added duplexes to their Site Plan Review process and increased lot sizes and setbacks as follows:

- Increased minimum lot size from 16,000 square feet to 20,000 square feet
- Increased frontage from 125 feet to 150 feet
- Increased side yard setback from 10 feet to 30 feet
- Increased rear yard setback from 40 feet to 50 feet

Ms. Joubert also explained that she asked the Building Department to put together a table (copy attached) that shows duplexes built in the past 5 years along with the lot sizes and the square footage of each unit. She commented that the table clearly demonstrates that the size of duplexes have increased over the years while the lot size has not changed. She agreed to come up with some direction and numbers for the board's consideration at their next meeting.

In response to a question from Ms. Harrison, Ms. Joubert explained that the town cannot limit the size of a dwelling except through lot coverage and setbacks. Ms. Capobianco indicated that she would not be averse to increasing setbacks and lot sizes.

In response to a question from Ms. Gillespie, Ms. Joubert noted that the bylaw currently stipulates the following setbacks and lot sizes:

General Residential:

- 15,000 square foot lot size
- 100 feet of frontage
- 100 foot lot width
- 30 foot front setback
- 15 foot side setback
- 25 foot rear setback

Residential C:

- 20,000 square foot lot size
- Frontage, lot width, and setbacks are the same as in General Residential

Ms. Gillespie commented that the only way to minimize the building size is to address setbacks. She also indicated a desire to address height restrictions. Ms. Harrison asked if it is possible to develop a percentage-based formula to apply to these projects.

Mr. Pember recalled that when the board had previously looked at housing options in town, one of the things that were discussed was the provision of different types and styles of housing. He stated that he is not opposed to duplexes and feels that if people want to live side by side, he does not see a problem with it. He indicated that he is not in favor of this proposal. Ms. Capobianco commented that the members of the board do not have issues with duplexes, but do have concerns about the massing of large buildings on small, single family lots that makes the town look very congested. She noted that the town is growing in population exponentially and there are no controls in place to prevent these massive structures on small lots, one on top of another. She also noted that residents have expressed displeasure about the size of duplexes on small single family lots and would like to see them on larger lots.

Ms. Gillespie also expressed concern with the fact that duplexes typically do not have a condo association to ensure maintenance and upkeep, which results in problems when one owner is not maintaining their portion. Ms. Joubert noted that the zoning bylaws do not govern condominium ownership. She suggested that, if the town were able to add duplexes to the Site Plan Approval process, it may be possible to include this as a condition in the decision. Ms. Harrison stated that, in addition to large duplexes, she would also not want to see a massive single family home on these small lots either.

Ms. Joubert explained that the bylaw previously included a floor area ratio, but it was eliminated because it seemed to be too confusing. She commented that there are a variety of things that can limit what can be done on a parcel, with the Board of Health regulations being the most powerful. She stated that it is not possible to limit the number of bedrooms through zoning, but the board can address the size of the structures through lot coverage. She indicated that the maximum lot coverage in the General Residential zone is 30%, and voiced her understanding that the massive duplexes (4300 square feet) proposed on Whitney Street are well below that. She also stated that there is currently no maximum lot coverage in the Residential A, B, or C zones.

Ms. Gillespie stated that she is in favor of increasing the minimum required lot sizes, frontage, and setbacks for duplexes. Ms. Capobianco expressed agreement with Ms. Harrison's suggestion that the same should be applied to all residential, not just duplexes, though it may be harder to get passed. Ms. Poretsky commented that most of the complaints she hears are about duplexes.

Ms. Joubert explained that the ZBA had denied two Special Permits for the multifamily project (16 units) on King Street and she got the sense that the board felt the project was too dense. Given that, she asked the board if they might want to consider decreasing the maximum number of units allowed. She noted that she is not sure what number to suggest, but does recall that there was some concern with the multifamily units on Westbrook Road and the mixed use development near Rocky's Ace Hardware. She suggested that the board may also wish to consider changes to the multifamily requirements in town to address the density on the lot.

In response to a question from Ms. Capobianco, Ms. Joubert clarified that the Business West zone requires a half acre lot for 2 units and an additional 3500 square feet for each additional unit. Ms. Gillespie noted that much of the buildable land in town is not the greatest. She discussed topography and soil issues with the King Street lot that forced the development to be squeezed onto the front portion of the lot.

Ms. Joubert agreed to provide scenarios for the board to consider at their next meeting. In response to a question from Ms. Poretsky, Ms. Joubert clarified the difference between single family attached and multifamily housing. Ms. Poretsky thought that single family attached refers to a townhouse and each unit has their own ground level entrance; multifamily is where they have a shared entrance and halls like an apartment building. Ms. Poretsky stated that if they could be used interchangeably it simply gives a developer the ability to pick whichever of the two definitions suits their needs. Ms. Joubert stated that single family attached is only allowed in the Downtown Business zone. She also suggested that the board could opt to eliminate multifamily and/or expand single family attached. Ms. Poretsky reiterated that developers will simply find the definition that allows them to do what it is that they want to do

on a lot. She voiced her opinion that the project on King Street fits the definition of single family attached but the developer chose to apply as multifamily because single family attached is not allowed in the Business West zone. She expressed a desire to be sure that both definitions cannot be applied to the same development. She suggested that, if the board proposes to reduce multifamily to 6 units, it should do the same for single family attached. Ms. Gillespie reiterated that she would also like to address height restrictions.

Recreational Marijuana – Ms. Joubert provided board members with information from Town Counsel and agreed to provide any additional information that she receives from the Attorney General’s office. She suggested the board propose a one year moratorium to allow additional time for the state to figure things out and come up with regulations. Members of the board voiced support for the proposal.

Automotive uses – Ms. Joubert noted that Ms. Poretsky had previously provided details for the board’s consideration.

Green Communities – Ms. Joubert explained that town staff is planning to have a representative from the Department of Energy Resources come in and speak with them about the Green Communities initiative, specifically the adoption of the stretch code, in hopes of helping them figure out next steps and plot out a plan. Mr. Pember noted that this will need to go before Town Meeting for a vote, so it is important to move forward as quickly as possible. Ms. Joubert indicated that the Town Administrator would like to get input from the Building Inspector about what the adoption of the stretch code will mean for the town and any possible ramifications.

Right to Farm Bylaw - In response to a request from Ms. Harrison about pursuing the Right to Farm Bylaw, Ms. Joubert suggested that this might not be the right time to do so.

ZBA – Ms. Poretsky commented that she was surprised by the size of the large sign for the Auto Repair Shop adjacent to Trombetta’s, and voiced her understanding that the bottom section of the sign is not included in the sign calculation per our bylaw and wanted clarification on what sections of the sign are included in the sf calculation. Ms. Joubert indicated that the ZBA did not grant a variance to allow the larger sign.

Ms. Poretsky noted that the Planning Board only became aware of the Auto Repair Shop application a week before it went before the ZBA, which did not allow this board to review and comment on the project. If there is no comment from the Planning Board to the ZBA the project is considered acceptable by the Planning Board. This was not the case as we didn’t even review it. Ms. Capobianco stated the Board often reviews the ZBA applications and sometimes has the applicant come before the Planning Board prior to meeting with the ZBA but for this particular application the timing was such with meeting schedules that it did not happen. Ms. Poretsky stated that she recommends the Planning Board be allowed the time to review the ZBA applications going forward. Ms. Joubert stated the applicant did meet with the Design Review Committee and Groundwater Advisory Committee prior to meeting with the ZBA.

Next Meeting – January 3, 2017.

Ms. Joubert voiced her understanding that Ms. Poretsky had requested a copy of each zoning bylaw since 1986. Ms. Poretsky stated she only wanted a copy of the full version of an older copy that she currently has (this old bylaw included amendments).

Northborough Crossing – In response to a question from Ms. Gillespie, Ms. Joubert explained that the new traffic signal is in a flashing mode to alert drivers to the existence of the new signal and will eventually be fully functional and tied into the signals on Southwest Cutoff.

Church Street – Ms. Gillespie complimented town staff on the bridge work on Church Street.

Meeting adjourned at 9:25PM.

Respectfully submitted,

Elaine Rowe
Board Secretary