



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 8/24/17

Planning Board Meeting Minutes March 21, 2017

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

Others in attendance: Kathy Joubert, Town Planner; Joe Atchue, Building Inspector; Doug Stone; Fran Bakstran;

Chair Theresa Capobianco called the meeting to order shortly after 7:00PM.

Public Hearing to consider the Special Permit Common Driveway Application for 223 South Street, Map 83 Parcel 144

Applicant: Damon Amato

Engineer: Waterman Design Associates, Inc.

Date Submitted: February 21, 2017

Decision Due: 90 days from close of hearing

George Pember recused himself from the hearing, citing a conflict of interest. Ms. Capobianco explained that the board received a request from the applicant for a continuance of the hearing. Members of the board agreed to continue the hearing to April 11, 2017 at 7:00PM.

Ms. Joubert informed the board that the public hearing for the zoning changes cannot begin until 7:30PM as that was the time it was advertised.

Consideration of Minutes

Minutes of the Meeting of January 3, 2017 – Board members discussed minor edits for clarification:

Page 3, 2nd paragraph – Ms. Gillespie requested that the sentence be revised to read “.....her opinion that 6 units on an acre of land that would be allowable may still be too dense”

Members of the board discussed their recollection that the maximum number of multifamily units allowed in the Downtown Business District would remain at 8.

Page 1, 2nd sentence (Recreational Marijuana) – Mr. Pember suggested that the language be modified to clarify Ms. Poretsky' s comments about the town being at risk in the absence of a medical marijuana bylaw, which would leave it open to recreational marijuana.

Ms. Gillespie made a motion to approve the Minutes of the Meeting of January 3, 2017 as amended. George Pember seconded; motion carries by unanimous vote.

Minutes of the Meeting of February 7, 2017 – Leslie Harrison made a motion to approve the Minutes of the Meeting of February 7, 2017 as submitted. George Pember seconded; motion carries by unanimous vote.

Zoning Map – Ms. Joubert provided members of the board with a copy of the zoning map, as was requested at the last meeting.

Ms. Joubert also explained that the board needs to determine who will present each warrant article at the upcoming Town Meeting. After discussion, it was agreed that Mr. Pember will present the first two articles, with Ms. Joubert presenting the remaining articles.

Ms. Joubert agreed to draft language for the motions to be made.

Former Lowe's Market, 25 West Main Street – Ms. Gillespie asked for a status update on the project at the old Lowe's Building, and voiced her assumption that the digging in the back is for the addition to the rear of the building. Mr. Atchue explained that the back portion of the building was removed, and the applicant will construct an addition with a full basement. He noted that further building and renovations will begin once the addition is complete. In response to a question from Ms. Gillespie, Mr. Atchue noted that the addition will be a single story. Ms. Joubert indicated that the existing second floor on the front portion of the structure will remain.

Public Hearing to consider 2017 Annual Town Meeting Proposed Zoning Amendments:

- **Section 2-18 Stretch Energy Code**
- **Section 7-05-020 Classification of Uses – revised definition of “research and development”**
- **Section 7-05-030 Table of Uses – revisions to “auto repair shop” and “auto body shop”**
- **Section 7-05-030 Table of Uses, Footnote 9 and Section 7-06-030 J. – changes to multifamily formula**
- **Section 7-10-020 Common Driveways – inserting reference to Section 10-36-130 Subdivision Rules and Regulations**
- **Section 7-10-060 – Temporary Moratorium on Recreational Marijuana Establishments**
- **Section 7-10-070 – Temporary Moratorium on Duplexes**

• **Section 7-03-050 Site Plans A. – adding “two-family” to site plan approval process**

Stretch Energy Code – Ms. Joubert noted that the first article is not a zoning article, but is included since the Planning Board is prompting the Green Community initiative and has expressed a desire to take the lead on it. She explained that Mr. Atchue is very familiar with the stretch energy code. Mr. Atchue explained that the stretch code came out with the 2009 Building Code, and has been revised several times, resulting in content being reduced from a pamphlet to a single page. He also noted that, when the state first adopted stretch code, the objective was to see improved energy efficiency in new construction.

Ms. Joubert stated that, as of January 2017, there have been 189 communities that have adopted the stretch code in the state, only 4 of which are not yet green communities. She indicated that adopting the stretch code does not commit the town to having to become a green community but doing so is of interest to town staff, the Board of Selectmen, and this board. She commented that, if the town were to become a green community, we would have assistance from Central Massachusetts Regional Planning Committee (CMRPC) to conduct an energy audit of all town buildings, which is a bit lengthy. She also explained that, should we become a green community, we will immediately have access to approximately \$145,000 in grant money from the state. After that, the town would need to apply for additional grant funds, with millions of dollars available. Ms. Joubert noted that the School Department and Town Administration are discussing adding solar to school roofs, which would be paid for by the program and not have to be a capital cost.

Mr. Atchue explained that the 9th edition of the Building Code is due to go into effect as of July 1st, and it stipulates that all new buildings are required to have a solar-ready roof. In addition, all new homes must have a designation in their electrical panel that allows for an upgrade to provide an outlet for electric vehicles.

Ms. Poretsky requested that the board members be provided with a copy of the one page stretch code. Ms. Joubert indicated that it was provided in the packet. Ms. Poretsky asked if the code affects additions and renovations. Mr. Atchue stated that the stretch code applies to new construction only, but additions will still need to comply with the new building code.

Classification of Uses – revised definition of “research and development” – Ms. Joubert explained that there are 5 qualifying criteria for becoming a green community, one of which is that the zoning bylaw reflects that the town is open and available to R&D for renewable or alternative energy technologies. She stated that she has worked with Town Counsel and staff to ensure that this revision meets that criteria.

Joe Atchue left the meeting.

Table of Uses – revisions to “auto repair shop” and “auto body shop” – Ms. Joubert explained that auto repair use is currently allowed by special permit in the Business East,

Business West, Business South and a couple of other districts, and the revision proposes to make it a prohibited use in the 3 Business districts. She also noted that auto body repair shops are allowed by special permit in the Business West district and the revision aims to make it a prohibited use. She explained that any of these uses that exist today are considered a pre-existing, nonconforming use and would not be shut down. Ms. Gillespie suggested sharing the data about the number of these uses that currently exist at Town Meeting, as that was critical to the board when making their decision about this revision.

Ms. Harrison noted that the board previously discussed commercial parking, and whether it is appropriate to be included under vehicle sales and service. Ms. Joubert stated that it is appropriate since commercial parking as defined makes sense to be in with the auto-related businesses, so comes under general heading of vehicle sales and services.

Fran Bakstran questioned why the board would choose to reduce the ability to have these automotive uses in the Business South district since it abuts the Highway Business and Industrial zones. Ms. Poretsky recalled a discussion with Mr. Pember, and thought that the board had decided to consider allowing this use by special permit in the Business South district. Ms. Joubert agreed to make the change, if this is the board's desire.

George Pember made a motion to amend the warrant article to remove the proposed change for removing auto repair shops in the Business South district and to continue to allow them by special permit, Leslie Harrison seconded; motion carries by unanimous vote.

An audience member noted that preexisting uses are allowed but not stated in the warrant article. Ms. Joubert explained that the preexisting uses are covered by state statute (Chapter 40A). Ms. Harrison suggested that this issue can be part of the presentation at Town Meeting but does not need to be included in the warrant article.

Changes to multifamily formula – Ms. Joubert noted that, currently, the bylaw allows a maximum of 8 units and the revision proposes to reduce it to a maximum of 6 units in the Business West and Downtown Business districts.

Ms. Joubert explained that, in addition to reducing the maximum number of units allowed, the revision also proposes changes to the calculation formula for these developments in the Business West District. She explained that the formula requires 20,000 square feet for 2 units and 3500 additional square feet for each additional unit, to a maximum of 8 units and the proposal is to require 7,000 square feet for each additional unit in the Business West District. She also noted that there are no changes proposed for the calculation in the Downtown Business District.

Doug Stone asked about mixed use developments. Ms. Joubert explained that the proposed revision applies only to multifamily projects. Mr. Stone asked if this would restrict apartment buildings to a single floor. Chair Capobianco noted that it would depend on how many units would be on the first floor and the amount of land area. Ms. Joubert explained that the revision

requires more land area to allow 6 units in a project, but the manner in which a developer can configure the project is not changing.

Common driveways – Ms. Joubert noted that this is a housekeeping issue. She explained both the Zoning Bylaw and the Subdivision Rules and Regulations contain regulations for common driveways, so the proposal is to remove the language from the Zoning Bylaw and reference the Subdivision Rules and Regulations to avoid confusion.

Temporary Moratorium on Recreational Marijuana - Ms. Joubert noted that the warrant article contains language that was requested of Town Counsel, which is standard language that most towns are using and relates to the ballot question that was approved during the last state election. She noted that the town is proposing a one year halt on any recreational marijuana establishments coming in to town, in order to provide the Planning Board sufficient time to work out regulations to be included in the zoning bylaw. She explained that the state has not yet developed any regulations specific to these facilities, so it is necessary to know what those will be before determining what the town regulations will be.

In response to a question from Fran Bakstran, Ms. Joubert explained that the town will work through the Planning Board and Town Counsel to devise regulations, similar to how the medical marijuana issue was addressed. She noted that, currently, a medical marijuana facility could locate anywhere in town, though the Board of Selectmen has publicly stated that they will not issue a letter of non-opposition to anyone seeking to locate along Main Street or in the downtown area. She indicated that there is a cultivation facility that has been through the state process and she anticipates they will be filing for site plan review in the coming months. Ms. Joubert also discussed the following timeline imposed by the state

- Recreational Marijuana law became effective Dec 15 2016
- Deadline for state Cannabis Control Commission to adopt initial regulations March 15, 2018
- Deadline for the Cannabis Control Commission to begin accepting specific licenses April 1, 2018

Ms. Joubert stated that the moratorium does not affect personal use and noted that individuals can grow up to 6 plants with a maximum of 12 per household.

Ms. Bakstran commented that the bylaws should be addressed at the 2018 Town Meeting in order for the town to have them in place when the first license becomes available. Chair Capobianco confirmed that this is the goal. Ms. Poretsky explained that recreational marijuana has two phases, Town Meeting as well as a ballot initiative, and suggested that the ballot initiative may need to occur this year to prevent people from having the ability to apply for licenses. Ms. Joubert indicated that interested parties could apply to the state, but would be required to wait until the moratorium is lifted before applying to the town. She also explained that the law requires towns that want to prohibit this use to include it as a ballot question in their annual election. She noted that the Town of Westborough has already done so, and though

staff has discussed the possibility of moving forward with it, Town Administration had a preference to proceed initially with a moratorium. She indicated that further discussion will be needed if the town wishes for pursue a ballot question for 2018. Ms. Poretsky commented that a ballot question is not only necessary for prohibition, but is also needed if the town simply wishes to impose limits.

Temporary moratorium on duplexes – Ms. Joubert noted that the language follows the manner in which the town has written moratoriums in the past, and Town Counsel is currently reviewing the warrant to ensure all language is appropriate. She explained that a one year temporary moratorium on 2-family dwellings is being proposed, which will prohibit any new duplexes from being approved by the Zoning Board of Appeals. She noted that the moratorium will give the Planning Board time to look at these projects relative to scale, zoning districts, and other details and formulate regulations. She mentioned that there were concerns with the proliferation of duplexes and the increase in their size in recent years.

Ms. Bakstran asked for clarification about the dates for the two moratoriums (recreational marijuana and duplexes) as they are not consistent. Ms. Joubert noted that this was simply an error, agreed that they should both be the same, and suggested May 1 since Northborough's Town Meeting is held in late April.

Ms. Bakstran stated that the Zoning Board has heard that residents in town have issues with this article, and suggested that the board be prepared to modify the article on the floor at Town Meeting should it appear that it may fail.

Doug Stone, 33 Birch Hill Road, questioned the one year term for the moratorium. Ms. Joubert reiterated that the purpose of the moratorium is to allow time for the town to specifically study the subject. Mr. Stone expressed mixed feelings about the moratorium, and questioned the difference between allowing a duplex or allowing a large addition on a single family home. Chair Capobianco commented that the one year moratorium allows the Master Plan Planning Committee to better determine where they would like to see these types of developments, and she encouraged Mr. Stone to participate in that part of the Master Plan planning process. She reiterated her opinion that one year is necessary to understand the wants of the town's residents and to shape a bylaw to meet the needs and requests of those citizens.

Ms. Gillespie noted that the Town of Shrewsbury recently changed their bylaw as it pertains to duplex housing. Ms. Poretsky indicated that she had looked at regulations for surrounding towns, including Shrewsbury, and there are numerous factors that go into drafting these regulations. She also noted that the last four units built in Northborough (on Route 135) were priced at \$500,000 each. She explained that only ten of the 130 houses there were valued in this range, so the affordability argument used to justify duplex developments no longer applies.

In response to a question from Fran Bakstran about why changing the setbacks would not solve the problem, Chair Capobianco indicated that this will be part of the solution but more restrictions will also be needed.

Addition of “two-family” to Site Plan Approval Process – Ms. Joubert discussed plans to add 2-family developments to the Site Plan review process. She noted that the ZBA is limited in what they can review and require when granting a special permit, so she is suggesting that these projects be added to the Site Plan review process. She noted that, if the temporary moratorium on duplexes is approved, she will move that have this article passed over for this year and revisit it next year.

In response to a request by Doug Stone for clarification, Ms. Joubert explained that 2-family projects do not currently go through the Site Plan Review process, which would allow the town to review drainage, grade changes, driveway locations, sight distances, and other pertinent details. She noted that there have recently been issues with the projects on South Street and Cedar Hill Road, and town staff is trying to prevent them in future projects.

In response to a question from Ms. Bakstran about the project at 223 South Street and how the moratorium would affect it, Ms. Joubert indicated that those duplexes were previously approved and she has suggested to the applicant and his engineer that they seek legal counsel as to whether their special permit is still valid if the moratorium is approved. She also clarified that a special permit goes with the land and not the owner unless the town has specific language in their zoning bylaw limiting them to the owner/applicant, which we do not. Ms. Bakstran commented that the ZBA has made decisions based on the assumption that it would apply only to the owner. Ms. Poretsky suggested that this should be a revision proposed at next year’s Town Meeting.

Ms. Poretsky reiterated that a back-up modification to the moratorium on duplexes must be less restrictive than the proposed article, and expressed her desire to draft language for review by Ms. Joubert and Town Counsel before a motion is made at Town Meeting. Ms. Bakstran volunteered to make such motion to amend the article should it appear that the article is going to fail. She agreed to come back to the board’s April 11 meeting to further discuss the issue.

Michelle Gillespie made a motion to continue the hearing to April 11, 2017 at 7:05PM. George Pember seconded; motion carries by unanimous vote.

Next ZBA Meeting, March 28, 2017 – Ms. Joubert noted that there is only one hearing on the agenda for the next ZBA meeting, which is the request for a special permit to allow change in use of a warehouse to a children’s recreational facility at 100 Otis Street (corner of Otis and Lawrence Streets).

Meeting adjourned 8:30PM.

Respectfully submitted,

Elaine Rowe
Board Secretary