



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 12.5.17

Planning Board Meeting Minutes September 13, 2017

Members in attendance: Theresa Capobianco, Chair; Michelle Gillespie; Leslie Harrison; George Pember (arrived at 7:05PM); Amy Poretsky

Others in attendance: Kathy Joubert, Town Planner

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

Zoning Discussion – Ms. Joubert discussed potential meeting dates for the board to meet with Judi Barrett to discuss the duplex study and noted that Ms. Barrett is available on November 8th, 14th, or 15th. Ms. Joubert explained that Ms. Barrett would like to meet individually with each board member for 30 minutes each immediately prior to the meeting.

George Pember arrived.

Members of the board agreed to a revised meeting schedule for the month of November, with a single meeting to be held on November 15th that will include a discussion with Judi Barrett.

The schedule for individual meetings with Ms. Barrett that evening, to be held at Town Hall, will be as follows:

4:00PM	Michelle Gillespie
4:30PM	Theresa Capobianco
5:00PM	Amy Poretsky
5:30PM	George Pember
6:00PM	Leslie Harrison

Due to some conflicts, the board also agreed to revise the meeting schedule for the month of October, with meetings to be held on October 4th and 17th..

Ms. Poretsky indicated that she has information about duplexes to present, and has condensed her previous notes into a single page. Ms. Capobianco suggested that the information first be addressed with Ms. Barrett. Ms. Poretsky agreed to email the information to Ms. Joubert for dissemination.

Recreational Marijuana – Ms. Joubert noted that the town currently has a moratorium in effect, and provided a copy of Town Counsel’s latest summary. She noted that it appears that, if the town voted

against ballot question #4 (legalization of recreational marijuana) in the last state election, which Northborough did, then the town simply needs to go through one process to prohibit recreational marijuana. She explained that Town Counsel has recommended that the town propose both a zoning bylaw and a general bylaw prohibiting the use.

Ms. Joubert noted that those towns that voted in favor of question #4 have a different process, and any town that has not taken action by December 2019 and seeks to prohibit it will need to do both an ordinance and a ballot question.

Ms. Joubert stated that the Cannabis Control Commission (CCC) is supposed to have guidelines and regulations in place by mid-March 2018 and start accepting license applications beginning April 1, 2018. In response to a question from Ms. Harrison about the previous use of the term "opting out", Ms. Joubert indicated that opting out is the same as prohibiting the use. Ms. Poretsky stated that the town can always opt in at a later date, once we see what happens with the new legislation. She emphasized the need to opt out and commented that once these facilities start getting established in town, they would be grandfathered and able to remain if the town decided to prohibit this use at a later date.

Ms. Joubert voiced her understanding that, so far, 30 communities have banned recreational marijuana and, as of last spring, about 80 communities have imposed moratoriums. She indicated that the next step is for the board to decide what to put forward as far as local regulations and whether to prohibit it or allow it. If we choose to allow it, the board needs to start thinking about where to allow it. Once that decision is made, the next course would be to make a recommendation to the Board of Selectmen.

In response to a question from Ms. Harrison, Ms. Joubert voiced her understanding that the Board of Selectmen has not yet discussed the issue. Ms. Harrison asked about the possibility of extending the moratorium. Ms. Joubert indicated that she does not know if this is an option but agreed to investigate.

Ms. Capobianco asked if there is a distinction between manufacturing and retail sales, and asked if the board can allow one and not the other. Ms. Poretsky voiced her belief that medical marijuana and recreational marijuana uses can be allowed in the same facility, and expects that the initial license applications will go to established medical marijuana facilities.

Ms. Poretsky expressed a preference for the town to opt out in the beginning, since we can always go back and opt in at a later date. She noted that we are one of 9 area communities where residents voted no on ballot question #4, and many surrounding towns have already voted to prohibit recreational marijuana. Ms. Capobianco asked about the specifics of Northborough's vote on ballot question #4. Ms. Joubert agreed to provide the numbers.

Ms. Poretsky voiced her understanding that the Town of Westborough voted to prohibit recreational marijuana because they felt that having marijuana facilities was not in keeping with the character of the town, and questioned why Northborough would choose to be the only community in the area to opt in. Ms. Harrison voiced her opinion that this should not be the basis for our decision, and the board should not be influenced by the actions of other communities. She also indicated that she would not support a prohibition, and questioned the legality of the town overriding a state law. Ms. Poretsky commented

that the state gave us the right to do so when it ruled that towns who voted no on ballot question #4 have the option to opt out.

Ms. Harrison voiced her opinion that recreational marijuana is not something to fear. Ms. Capobianco commented that there are two perspectives on the issue; concerns about so many youth who are in crisis and concerns about making recreational marijuana available, and adults who do not want their freedoms restricted. She reiterated her curiosity about the results of the town vote on question #4, and emphasized the need to know how the residents feel about the issue. Ms. Harrison stated that having marijuana legally available recreationally, where it will be controlled and available to those 21 years and over, makes it comparable to alcohol, which we do not prohibit. She voiced her opinion that the legally available marijuana will be more controlled, will be less apt to be laced with other things, and will be a different kind of product. Ms. Capobianco agreed that there are benefits to being able to control it, but there are also concerns that this is a community where people come to raise their children and it will take some real convincing of the people who only see the fear caused by the heroin epidemic because many still view marijuana as a gateway drug. Ms. Harrison stated that this is an irrational fear, and she feels it is her duty not to reinforce irrational fears.

Ms. Harrison asked if it is possible to get facts and information to use as support materials for any arguments, and voiced a desire to be objective. She also recommended that the board hold an open hearing with town residents.

Ms. Joubert asked if the board members would want to meet with the Board of Selectmen to discuss the issue. In response to a question from Ms. Harrison, Ms. Joubert reiterated that the original conversation was that if a town voted no on ballot question 4, the Board of Selectmen could pass an ordinance to prohibit recreational marijuana in town but Town Counsel has since recommended that the town propose a general bylaw and a zoning bylaw, both of which will require a vote at Town Meeting. Ms. Capobianco asked if it is possible to poll the audience at the Board of Selectmen's meeting about whether they are for or against allowing recreational marijuana in town. Ms. Joubert agreed to ask, but voiced her expectation that the Board of Selectmen are likely in the same situation as this board where they don't yet have enough information to make a decision.

Ms. Poretsky noted that, when the subject of medical marijuana came up, the town held a joint meeting in the library and only she and a party interested in opening a facility showed up. She also indicated that the Central Massachusetts Regional Planning Committee (CMRPC) has had several meetings on the subject and they have a lot of information/data that is available on their website. She also commented that a prohibition of recreational marijuana in town will not affect personal use, which will still be allowed.

Ms. Poretsky noted that when people first hear marijuana, they picture buds and leaves, but stores will also be able to sell edibles and a product known as shatter. She explained that many towns are choosing to opt out initially so that they can wait and see what happens with regulations. She voiced concern because there are no regulations currently in place, which will open the town up to everything. Ms. Harrison suggested that adults are responsible to make sure that these products are not readily available to youth.

Ms. Capobianco commented that, at this point, we have not heard anything about regulations for the manufacturing process and questioned whether there is a labeling requirement. Ms. Joubert agreed to investigate. Ms. Poretsky mentioned that part of the zoning requirement will be related to signage for these facilities, and Ms. Harrison referenced the similarity to alcohol. Ms. Capobianco emphasized a need to arm ourselves with adequate information.

Mr. Pember stated that he is not opposed to medical marijuana, he is definitely in favor of allowing medical marijuana, and he would likely opt to allow recreational marijuana and restrict where it will be allowed in town. Ms. Gillespie stated that she would stay more in line with how the town voted on ballot question #4 and would opt out.

Ms. Gillespie commented that this industry is still in its infancy stage, and since we just don't know what to expect, she recommends that the town opt out until such time as we have more data. Ms. Harrison noted that this is why she had asked about extending the moratorium. She also voiced her opinion that, once we move forward with a prohibition it will be hard to go back. She reiterated her desire to explore the possibility of extending the moratorium.

Ms. Harrison stated that she found information about the town's vote on ballot question #4 online, and noted that there were 4513 "no" votes and 4413 "yes" votes.

Ms. Capobianco stated that she has not yet made a decision on the matter, and reiterated that her biggest concerns are with the labeling of the product for retail sales. She commented that if we can have some way to require labeling on the package, she would be more comfortable with allowing it.

Ms. Gillespie asked what would happen in April if the moratorium were to be extended another year. Ms. Joubert commented that recreational marijuana will be prohibited during the term of the moratorium. She speculated that the Attorney General's office may wonder why the town was not able to make a decision during the year it has been in place. Ms. Harrison noted that the state does not yet have any regulations in place, which makes it challenging for the town to establish our own. Ms. Joubert agreed to get some initial information about any restrictions that can be put in place if towns vote to allow this use. Ms. Joubert and Ms. Poretsky both stated that they believe that if you allow it, you must allow everything and cannot limit the types of products allowed.

Ms. Harrison asked if only people 21 years and older will be allowed to enter these retail establishments. Ms. Capobianco recalled that access to medical marijuana facilities was quite strictly controlled. Ms. Poretsky voiced her opinion that retail establishments would not be the same. Members of the board also questioned whether these recreational marijuana facilities would be "cash only" businesses, given that it is not legal federally. Ms. Joubert stated that this is a very complicated topic to get up to speed on, and agreed to research the subject and seek answers to all of these questions.

Ms. Gillespie asked if any other town boards have discussed this issue. Ms. Joubert stated that she is not aware of any that have. Ms. Poretsky noted that the Westborough Police Chief was at a meeting she attended recently and he was opposed to allowing recreational marijuana and had stated that the minimal (3%) tax revenue generated from these sales will not cover the costs for the town.

Ms. Gillespie recalled that, at the June 6th meeting, Ms. Capobianco had suggested that Ms. Poretsky look into having the Westborough group come and speak to the Board of Selectmen. Ms. Poretsky stated that she had not done so because the board had decided to wait and see what the law was going to be. She commented that the issue appears to be falling in the laps of the Board of Selectmen since we are a town that voted no on question #4. Ms. Joubert indicated that she needs to get clarification about the process. She explained that, prior to Town Counsel's memo, it was believed that the issue rested entirely with the Board of Selectmen but there is now some question given Town Counsel's recommendation that the town have both a general bylaw and a zoning bylaw to prohibit recreational marijuana. Ms. Capobianco stressed the importance of aligning with the Board of Selectmen, and asked if it is possible to get this issue on their agenda. Ms. Joubert agreed to draft a letter from the Planning Board to the Board of Selectmen and discuss the matter with the Town Administrator. Ms. Harrison expressed a desire to get clarity about the process.

Special Permits – Ms. Joubert commented that Ms. Poretsky had previously spoken to a member of the Zoning Board of Appeals (ZBA) about the special permit process in town. She noted that Town Counsel has advised that if the town wants special permits to run with the applicant, it must be so stipulated in the bylaw. Ms. Capobianco questioned whether a party could manipulate this in their favor by simply changing ownership, and suggested that if we are going to look at a special permit running with the applicant then we need to ensure that a change in ownership would trigger a need for a new application.

In response to a question from Ms. Gillespie about whether staff is seeking any additional zoning changes, Ms. Joubert indicated that they are not. She mentioned that staff has been discussing individual driveways as there seems to be a proliferation of people wanting multiple driveways for a single family home. She commented that this would not be a change in the zoning bylaw but would more likely be addressed by the DPW. Ms. Gillespie stated that she is seeing a lot of people expand the size of their driveways because of the popularity of RVs.

Master Plan – Ms. Joubert advised the board that the Master Plan RFP is out and the town has received requests from 12 firms for a copy of the RFP. She commented that one of the reasons that town staff is not putting together a whole zoning packet is that they want to wait for the Master Plan. She noted that the deadline for submission of proposals is September 28th, after which a review panel will be formed to review and make a recommendation to the Town Administrator.

Whitney Street – Ms. Capobianco asked for an update on the issue with the composting operation on Whitney Street. Ms. Joubert noted that town staff will be attending an upcoming public hearing about changing the state law about composting. She explained that the town is working with Senator Harriet Chandler to try to change the state regulations for agricultural composting, with proposed legislation to change it from being under the jurisdiction of the Department of Agriculture to being controlled by the Department of Environmental Protection.

Ms. Joubert discussed the ongoing issue with the property on Whitney Street, and noted that it is difficult to monitor because town staff is not allowed on the property. She stated that the landowner

has not fulfilled the requirements imposed by the Conservation Commission, so possible next steps are being discussed with Town Counsel.

Ms. Joubert explained that there is an ongoing issue of material being brought onto the property that is not suitable fill or road material but is being used to create a path to the rear of the parcel. She noted that there is an existing old cart path, and the issue comes down to its usability and whether the landowner is agriculturally exempt and therefore has the ability to use the cart path without approval from the Conservation Commission. She emphasized that the landowner has been told numerous times that he needs to appear before the Conservation Commission but has not yet done so. She stated that, since the town is not allowed on the property, we do not have a good record of when material is being brought in. Members of the board voiced frustration about the ongoing issue.

Consideration of Minutes – George Pember made a motion to approve the Minutes of the Meeting on June 6, 2017 as amended. Amy Poretsky seconded; motion carries by unanimous vote.

Next ZBA Meeting – Ms. Joubert noted that the next ZBA meeting is scheduled for September 26th and will include the following:

- Continued hearing for 442 West Main Street, where the applicant is proposing a second building on the parcel
- Two hearings for sign requests; one for Northborough Fitness (formerly Boost Fitness) and one for Anytime Fitness at Northborough Crossing
- A hearing for an expanded parking lot at 137 West Main Street

Meeting adjourned at 8:30PM.

Respectfully submitted,

Elaine Rowe
Board Secretary