



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 8.21.18

Planning Board Meeting Minutes June 5, 2018

Members in attendance: Theresa Capobianco, Chair; Amy Poretsky; Michelle Gillespie; Kerri Martinek; Anthony Ziton

Others in attendance: Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Robert Federico, Building Inspector; Robert Weidknecht, Beals and Thomas; Scott Weiss, The Gutierrez Company; Dave Robinson, Allen & Major; Wayne Keefner, Allen & Major; Eugene & Linda Kim, 127 Bartlett Street

Public Hearing for 301 Bartlett Street Special Permit Site Plan Approval and Special Permit per Groundwater Protection Overlay District Application

Applicant:	The Gutierrez Company
Engineer:	Beals and Thomas, Inc.
Date Filed:	April 20, 2018
Decision Due:	90 days from close of hearing

Robert Weidknecht and Scott Weiss appeared before the board to discuss the proposal to construct a 220,106 square foot warehouse/distribution facility on the parcel. They noted approval was originally granted by this board in 2008 but they were required to resubmit at the request of the applicant's banking partner. They also noted that the lot area has since been reduced to 24.65 acres.

Mr. Weiss indicated that he does not believe that there are any direct residential abutters, and suggested that they can address noise concerns by prohibiting idling trucks. He stated that he is uncertain if anything can be done about the back-up beepers, and Ms. Joubert voiced her understanding that they are required under federal law and cannot be limited or eliminated. Mr. Weiss reiterated his intent to limit idling of trucks on the site. Ms. Martinek expressed her desire to see limits on the hours when truck traffic is permitted, as she would not want to see such activity in the early morning or late evening hours.

Ms. Capobianco asked if the applicant has information about the hours of operation for the proposed business. Mr. Weiss indicated he does not, as a tenant has not yet been identified. Ms. Gillespie asked if the board can include a condition in the decision requiring the applicant to come back to the board if the tenant they secure will be a 24-hour operation. Ms. Capobianco indicated that she would prefer to address the matter by way of imposing a limitation on hours of operation. Ms. Joubert stated that there are performance standards that must be met in the industrial zones. She also indicated that some of the questions being raised were addressed in

the original decision, a copy of which was provided to the board for reference. She explained that there are conditions that require the applicant to perform a pre-development noise study, which gives the town the ability to measure against post-development conditions should there be any complaints about noise. Ms. Joubert also commented that, since the town allows 24-hour operation, the board does not have the ability to prohibit or restrict that. She also indicated that the applicant had met multiple times with the DRC, where landscaping and building colors were discussed extensively. She confirmed that all of the comments from the DRC have been incorporated into the plan.

In response to comments from Mr. Ziton, Ms. Joubert explained that when an applicant needs a special permit or is seeking a variance, the board has the ability to impose reasonable conditions on the hours of operation, illumination of signs, etc. In addition, she noted that the earthwork permit affords the town the ability to impose conditions on the hours of construction activities during development. In response to a question from Ms. Martinek about whether the earthwork process has transpired, Mr. Litchfield confirmed that it has. He explained that, for the original case, the typical earthwork permit conditions were added to the special permit issued by the Planning Board. He stated that, subsequent to that, the two functions were separated at Town Meeting.

Mr. Litchfield mentioned that, even though the town felt that the original permit and earthwork bond were still valid, the applicant had recently gone to the Earthwork Board and obtained approval again. He stated that the bond that was estimated in 2005 was recalculated and increased significantly to cover additional work. He also noted that the condition on work hours during construction was included as a standard condition.

Linda Kim, 127 Bartlett Street, voiced concern about noise and water runoff impacting her well. Mr. Litchfield clarified the location of the Kim residence, at the corner of Bartlett Street and Stirrup Brook Road, which Mr. Weiss noted is quite a distance from the site.

Mr. Weidknecht explained that there are thresholds in the bylaw as far as noise. He also discussed stormwater flow and treatment, and the requirement for stormwater controls and basins to ensure that the applicant does not pollute the water. He indicated that the Groundwater Advisory Committee (GAC) regulates what can be done since the site is located in a groundwater zone. He also explained that the DEP has a mechanism in place requiring the owner of the property to regularly maintain the stormwater structures. Mr. Litchfield indicated that the applicant is required to provide annual reports on the operation and maintenance of the stormwater system as a result of the Order of Conditions issued by the Conservation Commission.

Ms. Joubert reiterated that the town bylaw includes a section about performance standards that address noise, specifically pertaining to industrial uses having an impact on residential uses. She explained that the applicant will be required to do an ambient level noise study, and the bylaw stipulates that noise generated from the site cannot increase by more than 5 decibels above the ambient level.

Ms. Joubert stated that the acreage referenced in the draft decision provided is incorrect. Mr. Weidknecht confirmed that the size of the parcel is 24.65 acres. In response to concerns expressed by Mrs. Kim about noise, Ms. Joubert explained that residents can call the town if they have issues with excessive noise during construction, and the town bylaw will govern the occupant on the site after construction is completed. Mr. Litchfield explained that construction activity is not permitted to begin before 7:00AM. Mr. Ziton reiterated that baseline noise level testing must be done per the bylaw and if levels exceed the 5 decibel increase allowed, the town can require it to be addressed.

Ms. Capobianco commented that, since this project was previously approved and extended multiple times, the board was provided with a draft decision for consideration. She recommended that the board discuss any modifications to the draft and put forth a vote. Members of the board reviewed the language in the draft decision.

Mr. Ziton asked about a reference in the decision about water discharging to Bartlett Street. Ms. Joubert noted that condition #3 will be removed as it no longer applies since that section of the parcel was taken out and combined with another lot.

Ms. Capobianco asked if the decision incorporates the prior findings of the Groundwater Advisory Committee that were made back in 2005. Ms. Joubert and Mr. Litchfield confirmed that it does. Ms. Joubert discussed the following changes from the original decision:

- Acreage to be changed to reflect 24.65 acres
- Page 3, suggest #3 be deleted since the revised lot is not in GW1 area
- Condition # 6 – Ms. Joubert noted that this is a standard condition that is included in all decisions requiring an as-built. She explained that the language has been revised since 2005 so this will be updated to reflect the new language
- Earthwork language removed – Ms. Joubert indicated that all of the conditions that relate to earth removal have been removed since it is now addressed by the Earthwork Board.
- Condition #17 – Ms. Joubert explained that this condition requires some work to be done offsite on Bartlett and Cedar Hill Streets. She explained that the decision needs to include a reference to the traffic memo that was provided by the applicant's traffic consultant, and bullet items a through f are the result of the traffic memo.

In regards to the traffic memo, Mr. Litchfield noted that there was a recommendation for traffic striping and other work to address concerns about the intersection being wide open. He indicated that he has reviewed the memo and is in basic agreement but wants to be sure that the DPW and Police Chief are also in agreement. In response to a question from Ms. Capobianco, Ms. Joubert confirmed that everything in the traffic memo has been incorporated into condition #17.

Ms. Joubert explained that she typically does not prepare a draft decision in advance of the hearing, but this is an unusual case.

Ms. Poretsky noted that condition #5 references toxic or hazardous materials and asked if the board can impose a condition to require the applicant to come back to the board if the tenant they secure will be storing any of these materials onsite. Ms. Joubert explained that, per the bylaw, if it is determined that the use is not more detrimental than what already exists, the matter can be handled by staff review but if it is, then the applicant must come back to the board. Mr. Litchfield noted that the project went to the Groundwater Advisory Committee without a known tenant, so there was no expectation that there would be any toxic or hazardous materials on the site.

Ms. Gillespie asked about the stockpile of soil shown on the plans, and recalled that the Iron Mountain site on Bearfoot Road has an unsightly mound resulting from their stockpiling. Ms. Capobianco asked if the Earthwork Board would require the mound to be removed. Mr. Litchfield indicated that they would not, but they do require that it be stabilized to prevent anything from washing into the roadway. He explained that the Earthwork Board's purview is to ensure that the site is stabilized during construction, and a bond is required to provide the town with the means to do so should an applicant devastate a site and walk away. Ms. Gillespie voiced concerns about the size of the stockpile. Mr. Weidknecht noted that the original requirement from the Earthwork Board prohibited the applicant from removing any soils from the property but the recent permit relaxes that obligation. He indicated a desire to remove some of the excess material to avoid a large stockpile remaining onsite.

Anthony Ziton made a motion to approve a special permit with the discussed amendments for the property located at 301 Bartlett Street. Michelle Gillespie seconded; motion carries by unanimous vote.

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Applicant:	The Gutierrez Company
Engineer:	Allen & Major Associates
Date Filed:	April 5, 2018
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Scott Weiss explained that construction of this 167,000 square foot warehouse will follow construction of the one at 301 Bartlett Street previously discussed. He noted that this site is located off of Hayes Memorial Drive in Marlborough, with the driveway coming in from there and crossing the town line. He indicated that the design of this building is basically the same as the one at 301 Bartlett, though slightly smaller.

Mr. Robinson discussed the plans, which include parking, a reserve parking area, a truck and trailer storage area, and an additional area for long term truck storage. He noted that all drainage on the site will be handled by catch basins, deep sumps and hoods, and will discharge

to two large surface detention basins with sediment fore bays. He also discussed plans to install proprietary stormwater separators to treat the water prior to discharge. He noted that sewer will be discharged to Marlborough, and all utilities are to be derived from Hayes Memorial Drive.

Mr. Robinson also discussed landscaping plans, which include plantings along the length of the driveway. He explained that the existing forced main that handles sewer flows from Algonquin Regional High School will likely need to be relocated to accommodate the applicant's own forced main that will likely parallel the existing.

Mr. Litchfield referenced a review memo from the GAC in which they recommend approval with similar conditions to the other project. He noted that, as was the case for the other project, there is no known tenant at this time and no known toxic materials, so the memo contains the same conditions requiring the applicant to come back to the board as well. He explained that, though the GAC does not anticipate that this applicant will need to come back to them, he would request that the board continue the hearing to allow him the opportunity to work out details of the sewer line. He noted that, at the time of submission, the sewer line was not shown on the plan and the estimated location put it in conflict with a couple of retaining walls and had some cuts that would compromise the cover over the existing pipe. He indicated that he had asked the applicant to locate it and show it on the plans so that the town can address how to enable the project to move forward and also keep our sewer line intact. Mr. Litchfield also mentioned that this project has not yet been to the Earthwork Board.

Ms. Capobianco asked which Fire Department would service the building, given that the entrance emanates from Marlborough. Mr. Litchfield indicated that this would be a mutual aid situation, so both will be called. Mr. Weiss voiced his understanding that, since the entire building is within Northborough, the Fire Chief believes it to be his jurisdiction. In response to a question from Ms. Capobianco, Ms. Joubert confirmed that the Fire Chief has reviewed the plans and provided a comment letter indicating he has no concerns at this time. Mr. Litchfield indicated that the applicant has been to the Conservation Commission and that hearing has been continued. He also stated that he believes the applicant is working with the Marlborough Conservation Commission because there are some wetlands near the entrance to Hayes Memorial Drive. He reiterated his request that the board continue this hearing.

Mr. Weiss indicated that hydrants are proposed at each corner of the building, and appropriate access for fire apparatus has been provided.

Ms. Gillespie stated that the project had been before the Design Review Committee (DRC), and noted similarity to the project at 301 Bartlett Street. She indicated that the DRC has asked the applicant to remove a number of trees out back to provide adequate access and allow for snow removal and storage. She also noted that the DRC had addressed traffic flow, and assumes that traffic will likely go toward I-495 from Hayes Memorial Drive. Ms. Joubert mentioned the proximity of the site to the new Apex Center, and suggested that truck traffic will quickly learn to avoid the traffic associated with that development. Ms. Gillespie commented that this project

was not conducive to requiring any type of signage for traffic flow. Ms. Poretsky asked if the board can include a condition in the decision to require traffic to go out through Marlborough to keep trucks off of Route 20. Ms. Joubert indicated that the town does not have the authority to do so. In response to a question from Ms. Poretsky, Mr. Weiss indicated that the building will have 38 bays at most.

Ms. Gillespie noted that, given the size of the roofs, the DRC felt that both buildings would be suitable for solar. She voiced her understanding that the roofs will be solar-ready but there are no guarantees that there will be solar panels installed.

In response to a question from Mr. Ziton about weight restrictions on Boundary Street and Solomon Pond Road, Mr. Litchfield indicated that he is not aware of any.

Ms. Martinek noted that many residents use the Stirrup Brook trails nearby and asked if there will be any impact on those trails. Mr. Weiss stated that the high school trails are on the other side of the parcel so should not be impacted. Ms. Capobianco asked about the distance from the nearest residential property. Mr. Robinson commented that there are dense woods, Stirrup Brook, and the High School abutting the parcel. Mr. Litchfield indicated that Mr. & Mrs. Kim's property is likely the nearest. Mr. Weiss stated that this site is further to the east than 301 Bartlett.

In response to a question from Mr. Kim about who received notice of tonight's hearing, Ms. Joubert explained that notifications was sent to everyone within 300 feet of the site. Mrs. Kim asked about development on the adjacent parcel. Mr. Weiss noted that, though they do own that land, there is currently nothing planned. Ms. Kim asked if the trees on that parcel will remain, and Mr. Weiss confirmed that they will. Mr. Litchfield commented that the vacant parcel will likely be developed at some future time. Ms. Capobianco confirmed that 15 abutters had received notice of tonight's hearing.

In response to comments made by Mr. Kim, Ms. Capobianco noted that the decision for the project at 301 Bartlett Street will require the developer to do some improvements at the intersection of Bartlett and Cedar Hill Street. She noted that they will not be required to pave the entirety of Cedar Hill Street, but the potholes at the intersection should be addressed. Ms. Kim commented that the intersection is dangerous and asked if there is any plan to install lights. Mr. Litchfield noted that there are traffic improvements planned, which include striping, signage, widening of the roadway, and installation of a guardrail near the intersection but there are no traffic lights proposed.

Ms. Capobianco asked when the applicant expects to complete hearings with the other town boards. Following discussion about timelines and availability, members of the board agreed to meet on July 17, 2018.

Amy Poretsky made a motion to continue the hearing to July 17, 2018 at 7:00PM. Michelle Gillespie seconded; motion carries by unanimous vote.

Ms. Gillespie requested that the board consider writing a letter to the Board of Selectmen to start thinking about the installation of street lights. She noted that the Bartlett Street area is very attractive for warehouses, but is very dark. She commented that that it should be possible to get solar-powered lights, and reiterated her desire to encourage the Board of Selectmen to address the matter. Ms. Joubert agreed to draft a letter as suggested.

Consideration of Minutes:

Minutes of the Meeting of January 30, 2018 – Michelle Gillespie made a motion to approve the Minutes of the Meeting of January 30, 2018 as submitted. Amy Poretsky seconded; motion carries by unanimous vote with two abstaining (Kerri Martinek & Anthony Ziton).

Minutes of the Meeting of February 6, 2018 – Amy Poretsky made a motion to approve the Minutes of the Meeting of February 6, 2018 as submitted. Michelle Gillespie seconded; motion carries by unanimous vote with two abstaining (Kerri Martinek & Anthony Ziton).

Zoning bylaw amendments – Ms. Joubert noted that the town is currently in the middle of the process to revise the zoning bylaw. She indicated that the proposed amendments have been sent to the Attorney General's office and they have 90 days to review and comment. She explained that, once approved at Town Meeting, the changes become effective immediately and if the Attorney General disagrees, the town will revert to the old bylaw.

Subcommittee updates and appointments –

Earthwork Board - Kerri Martinek made a motion to reappoint Fred Philcox to the Earthwork Board. Michelle Gillespie seconded; motion carries by unanimous vote.

Community Preservation Committee (CPC) – Anthony Ziton expressed an interest in serving on the CPC.

Open Space Committee – Amy Poretsky voiced a desire to continue serving as the Planning Board's designee.

Groundwater Advisory Committee – Theresa Capobianco expressed her desire to serve on this committee.

Design Review Committee (DRC) – Michelle Gillespie indicated that she would like to remain on this committee.

Central Massachusetts Regional Planning Committee (CMRPC) – Kerri Martinek agreed to serve as the Planning Board's designee to the CMRPC.

Ms. Martinek asked if the Master Plan Steering Committee is one of the subcommittees that has Planning Board designees. Ms. Capobianco confirmed that it is, and noted that the positions on that committee are filled. She explained that there are three designees from the Planning Board, one of which is George Pember who was elected by this board. She indicated that she would not be in favor of reconsidering the appointments and suggested asking Town Counsel if Mr. Pember must be removed. Ms. Joubert agreed to check, but noted that she believes that he can remain as a designee of this board. Mr. Ziton asked if it is possible to add members to the committee so that the Planning Board can have three members and Mr. Pember can remain active as a resident. Ms. Joubert indicated that it is not possible to do so as the members have been selected months ago for the Steering Committee and the committee has met at least twice so far and are well into the master planning process with the consultants and staff.

Master Plan Steering Committee Update – Ms. Joubert noted that the Steering Committee is scheduled to meet on June 12th at the Middle School, with the Committee meeting at 5:45PM and the public input portion of the meeting to begin at 6:30PM. Ms. Gillespie asked about the process to replace an appointee if a board appointee is no longer able to serve. Ms. Joubert commented that Bill Pantazis was the appointee for the Board of Selectmen and she does not know if he will continue as the Selectmen’s representative or if they will appoint someone else. Ms. Martinek asked Ms. Joubert to check on the process. She voiced her opinion that, given the length of the process, she does not feel it is right to retain someone who is no longer on the board that appointed them, thus taking a spot from a serving board member. Ms. Capobianco stated that she does not have an issue with the Planning Board appointees because the board originally had wanted to limit them to one or two appointees but added a third to allow those interested to participate. She voiced her opinion that the Planning Board is more than adequately represented with the two members, and emphasized that she is not inclined to remove Mr. Pember because he does bring a certain point of view that other members do not. She indicated that she would still be in favor of investigating whether it is a requirement that the board remove him since he no longer serves on this board. She also requested that, should there be a need to do so, she would like to be afforded the opportunity to speak with Mr. Pember before we simply oust him. Ms. Joubert noted that the Steering Committee meetings are open to the public and anyone can attend.

Election of Officers – Ms. Gillespie nominated Theresa Capobianco for Chairperson and Ms. Capobianco nominated Michelle Gillespie for Vice Chair. Members of the board agreed to these appointments.

Zoning Board of Appeals (ZBA) Meeting – Ms. Joubert stated that there will be no June meeting of the ZBA since there were no filings.

August Planning Board Meeting – Members of the board agreed to meet on August 21, 2018.

Other Business – Ms. Poretsky discussed the upcoming Tradebe hearing scheduled with the Board of Health for July 10th, and explained that anyone wishing to speak must submit letters by July 3rd.

Mr. Zitton asked for clarification as to why this hearing for hazardous waste is before the Board of Health and not the Planning Board. Ms. Joubert explained that, if a new project is proposed and will be located in a groundwater zone and requires a special permit or variance, it falls under the purview of the special permit granting authority. However, since the Tradebe site has been operating since the mid-1970s, it falls under the purview of the Board of Health since the applicant is seeking a different type of license for its existing use as required by the DEP. She indicated that Tradebe is applying for a site assignment, and is not doing anything that would trigger anything that would require them to come back to the Planning Board.

Ms. Poretsky suggested that the proposed change from storage to trucking seems like a substantial extension of the use, and noted that they are increasing from 11 hazardous waste codes to 552. Ms. Joubert reiterated that there is nothing in the zoning that would bring an existing business back to this board, and emphasized that the DEP and the local Board of Health is the appropriate jurisdiction.

Ms. Poretsky stated that she has been reviewing letters from the past. She questioned whether the non-conforming use would be invalid if a use stops for 2 years. Ms. Joubert cautioned Ms. Poretsky not to discuss the topic in detail in a public forum without it being advertised on the agenda, and suggested that her questions are appropriate for the upcoming hearing. Ms. Poretsky asked if the board can write a letter indicating that the proposed use is not something that we would approve as a board. Ms. Capobianco stated that the board does not know enough about the matter to do anything at this time.

Meeting adjourned at 8:55PM.

Respectfully submitted,

Elaine Rowe
Board Secretary