



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 7.16.19

Planning Board Meeting Minutes June 18, 2019

Members in attendance: Kerri Martinek, Chair; Amy Poretsky; Michelle Gillespie; Anthony Ziton; Millie Milton

Others in attendance: Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Henry Squillante

Chair Kerri Martinek called the meeting to order at 7:05pm.

Introduction of New Member – Ms. Martinek introduced and welcomed the board’s newly appointed member, Millie Milton. She mentioned that Ms. Milton is a local small business owner, and the members of the board believe that she will be a valuable addition to the board.

Master Plan Steering Committee (MPSC) Update – Ms. Gillespie stated that the MPSC was able to finalize quite a bit at their last meeting, specifically in regards to economic development, land use and historic/cultural categories. She noted that everything was wrapped up and they committee expects that the consultant will come back with a final draft based on the input that they received. Ms. Joubert mentioned that, once the consultant provides a first draft, the MPSC will meet to discuss implementation and decide on short term, mid-term, and long-term activities. She explained that a date for the next meeting has not yet been set, but she anticipates that it will be some time in late August.

FY2020 Planning Board Goals – Ms. Martinek solicited board members for their input about things that they would like to accomplish in the coming year. Comments were offered as follows:

Michelle Gillespie

- **reconsideration of a solar bylaw.**

Ms. Joubert explained that the state has two model bylaws and the last time the town looked at this, the large-scale model was considered. She agreed to provide information about the model for the board’s next meeting.

- Ms. Gillespie also noted that additional matters are sure to come up during the course of the year.

Anthony Ziton

- **Industrial zone, and potentially the co-mingling of commercial and open space uses.**
- **West Main Street**
- **Hazardous Waste**
- **Senior Housing**

Amy Poretsky

- Agreed with Mr. Ziton and suggested that it would be beneficial to obtain some input from the consultant about these objectives while they are engaged with the town.
- **Downtown area**
- **Groundwater Bylaw**

Ms. Joubert explained that Mr. Litchfield and the DPW Director have had ongoing discussions for several years about the stormwater program for the town. She mentioned that, during a recent meeting, the Groundwater Bylaw was discussed and it was noted that it will need to remain in place since the town wells will not be taken offline. That said, she suggested that it may be possible to make some minor revisions.

Ms. Poretsky expressed a desire to strengthen the existing bylaw, and recalled that a few years ago an auto repair shop was allowed in a GW2 area and there was some question about how that was possible. She noted that many other towns do not allow the use in a GW2 area. Ms. Joubert explained that the GW2 areas in other towns are not the same as ours, as they likely use the DEP classifications where Northborough developed its own bylaw before the DEP had defined their zones. Mr. Litchfield agreed.

Ms. Joubert stated that the town would need to hire a hydrologist and an environmental engineer if we decide to make any significant changes to the groundwater bylaw.

- **Stormwater Management Plan**

Ms. Poretsky noted that the town includes a condition in decisions requiring submission of annual stormwater maintenance reports, but they are often not done. She mentioned that other towns require the posting of a bond, with a portion of it being returned each year upon submission of the annual report. She expressed a desire to find a way to encourage compliance with this requirement.

Millie Milton

- **Use of underutilized buildings in the downtown area**

Ms. Martinek suggested that many of these matters can be addressed as part of the Master Plan process. She also noted that the discussion about goals can always be revisited at future meetings should members have other suggestions. As newly elected Chair, she voiced a desire

to review how the board operates and what the board's place is in town. She emphasized that her role as Chair is to facilitate the will of the board and if there is majority, she should abide by that majority. She stated that all board members should feel comfortable disagreeing as long as everyone remains respectful of each other. Ms. Martinek also discussed the organizational chart that she obtained from the town and noted that this board is an independent board elected by the residents of the town and, as such, we work for them. She also noted that all town boards work separately and individually.

Ms. Martinek then discussed her goals as follows

- **Training**

Ms. Martinek indicated that she benefitted greatly from the CPTC training that she was afforded the opportunity to join and expressed a desire to see more of it offered. She suggested that joint trainings and joint meetings with other town entities and opportunities for collaboration would prove valuable. She also mentioned that any training that might help support the implementation of the Master Plan would be beneficial, as would opportunities to learn more about zoning.

- **Public Records**

Ms. Martinek discussed issues that have arisen with regard to public records (retention of emails or records, etc.) and questioned the feasibility of board members having town email accounts. She also voiced her opinion that additional training about these issues might be warranted.

Ms. Joubert stated that there can be opportunities to work with other boards, or even other towns, on training initiatives and agreed that public records and Open Meeting Law is always a critical need. She voiced her understanding that the Town Administrator is looking into the possibility of having someone from the Attorney General's office come out and provide some training on public records, Open Meeting Law, conflict of interest, etc. She agreed to provide more information when it becomes available. She also commented that the issue of town email accounts would need to be investigated further.

Ms. Poretzky voiced her understanding that the Selectmen and members of the School Committee have town email accounts. Mr. Ziton suggested that members may wish to set up a separate personal email account for board business.

Henry Squillante, 72 Crestwood Drive, mentioned that, based on discussions during the interviews for the new Planning Board member at last night's Selectmen's meeting, it appears that the board needs to communicate better with the ZBA. He noted that both boards seem to be operating on their own and stressed the importance of each knowing what the other is doing. He also agreed with Mr. Ziton about the need to further explore the senior housing issue.

Ms. Gillespie recalled that, when the zoning revisions were done in 2009, Judi Barrett discussed a need for the town to have fewer variances. She suggested that it would be beneficial to look back over the past ten years to reflect on the effects of that change and determine if further adjustments are needed.

Consideration of Minutes –

Minutes of the Meeting of April 9, 2019 - Amy Poretsky made a motion to approve the Minutes of the Meeting of April 9, 2019 as amended. Anthony Ziton seconded; motion carries by a vote of 4 in favor and one abstaining (Millie Milton).

Minutes of the Meeting of May 21, 2019 – Michelle Gillespie made a motion to approve the Minutes of the Meeting of May 21, 2019 as amended. Anthony Ziton seconded; motion carries by a vote of 4 in favor and one abstaining (Millie Milton).

ANRs – Ms. Joubert explained ANRs and the town’s process for the benefit of the board’s newest member and presented an ANR for 175 Bearfoot Road for signature. She explained that the applicant, Iron Mountain, currently has two buildings on the property and is simply seeking to divide the lots so that each building is on its own lot. Ms. Poretsky stated that, in a class she attended earlier this year, she was advised that the Planning Board needs to vote on ANRs. Ms. Joubert indicated that a vote is not needed per state statute. She also noted that, with the CPTC training sessions, much of their program is geared towards board members that do not have any town staff to support them.

Bonds – Ms. Joubert discussed the situation on Newton Street. She explained that she and Mr. Litchfield had provided the board with an information packet containing a copy of the letter to the developer prepared by Town Counsel and copies of the two decisions related to the roadway improvements and the bond.

Mr. Litchfield noted that Town Counsel’s letter reflects the action that the town would like to take. He explained that there was a decision issued in 2006 that required some roadway improvements and included a condition that a lot release would not be granted until these improvements were completed. He noted that the house was sold, at which time the developer stated that he was not aware of this condition. In an effort to relieve the developer from that condition, the board made an amendment in 2014 that stipulated things that would need to be done, required a bond and also placed restrictions on some other lots that had been approved for a common driveway. He stated that a roadway improvement plan was drafted and ultimately approved, the roadway improvements commenced and a significant amount of work was completed resulting in multiple bond reductions over time. Mr. Litchfield recalled that the original bond was \$246,000 and was reduced over time to the \$50,000 currently being held by the town. He mentioned that things came to a halt and the work was never fully completed despite several attempts to get the developer to finish the work.

Mr. Litchfield indicated that he and the DPW Director have evaluated the situation and are confident that the \$50,000 is sufficient to cover the work that is needed provided it gets done during this construction season. He noted that, should the situation continue through another winter season, there is concern that the base pavement will no longer be viable and the \$50,000 will be nowhere near enough.

Mr. Litchfield reiterated the importance of getting this work completed before the onset of winter. He explained that Town Counsel has indicated that the town has the ability to put the developer on notice and if the developer does not take any action, the town can then move to take the bond. He emphasized the need for the board to sign the letter. He also noted that the town does have a contractor in place to do other work in town who can do this work quickly.

In response to a question from Ms. Martinek about a hearing being required, Ms. Joubert confirmed that town counsel opined one is not.

Ms. Milton mentioned that the letter stipulates that work is to commence by July 1 but does not impose a completion date, and voiced concern that the developer may start and then work will stall again. Mr. Litchfield voiced his understanding that the letter is worded to give the town the discretion to determine whether they can move forward with taking the bond if work is not being done appropriately toward completion.

Ms. Poretsky noted that the monetary figure in the letter is different than the amount being held by the town. Ms. Joubert explained that the town is not allowed to retain any accrued interest, so that will be returned to the applicant. Mr. Litchfield voiced his understanding that the town can hold the developer responsible for all costs to complete the work, and he believes that this is detailed in the letter. He also mentioned that town staff will not allow any further bond reductions until all work is completed.

Anthony Ziton made a motion to sign the letter of Notice of Intent to use and expend the performance security of \$50,000 for Noor Construction at 85 Newton Street. Amy Poretsky seconded; motion carries by unanimous vote.

Subcommittee Updates -

Central Massachusetts Regional Planning Committee (CMRPC) – Ms. Martinek noted that the CMRPC had held their annual meeting last week. She mentioned that she has had a great experience on the CMRPC and is looking forward to the upcoming year. She also noted that she was elected to the CMRPC Executive Committee to represent the northeast region (Northborough, Westborough, Shrewsbury, Boylston, and Berlin) and is excited about bringing Northborough to the table. She stated that she had previously attended a session on housing offered by the CMRPC and will be discussing that in more depth with this board at a future meeting.

Community Preservation Committee (CPC) – Ms. Gillespie stated that she had previously agreed to serve as the Planning Board’s delegate to the CPC, but the board wanted to see if the new member had any interest in doing so. Ms. Milton indicated that she does. Ms. Joubert explained that the CPC will start meeting in the fall, in preparation for Town Meeting in April.

Design Review Committee (DRC) – Ms. Gillespie noted that the DRC has not met recently, but is hoping to do so during the summer months. She stated that the board needs to work on the multi-family design to get it back on track. Ms. Joubert mentioned that the town’s consultant, Judi Barrett, has recently hired additional staff, which should provide additional support for the effort. She also voiced her understanding that the design review standards are done and only need a few minor tweaks. Ms. Gillespie explained that the consultant had a staff shortage that has delayed completion.

Ms. Poretsky asked if we have looked into getting a list of invasive trees as discussed at a previous meeting. Ms. Joubert indicated that she is planning to ask the landscape expert on the DRC for this information at their next meeting.

Preparation for 2020 Annual Mown Meeting – Ms. Martinek discussed the board’s list of goals and asked if there are things on the list that require a longer lead time that the board should start working on now and questioned the best way to start mapping this out. Ms. Joubert suggested that the board start working on the solar bylaw, and noted that the state has been very proactive and has model language that the board can review. She also noted that many of the issues mentioned tonight will be addressed through the Master Plan. In addition, she agreed to speak with the Board of Health about the Hazardous Waste Bylaw. She emphasized that the solar and hazardous waste bylaws are both significant bylaws that will require a great deal of work and recommended that the board focus on those initially.

Ms. Poretsky discussed the popularity of microbreweries, mentioned that we do not allow them in town and expressed a desire to do so. Ms. Joubert explained that there are general categories in the bylaw and such businesses could easily fit into a commercial use that would allow them. She mentioned that nobody has ever approached the town about establishing this type of business and agreed to discuss the use further with the Building Inspector. Ms. Poretsky voiced her opinion that this would be a great thing to have in town and she would like to ensure that the town is open to it. Mr. Litchfield stated that the bylaw is purposely vague to allow the Building Inspector to interpret what is appropriate based on the use and the area of town in which it is proposed.

Ms. Gillespie mentioned the major rezoning work done by the town several years ago, during which there was much discussion about the land near Bigelow’s that is a combination of both commercial and residential zones and discussed the possibility of creating an overlay district to the Industrial zone. Ms. Joubert mentioned that there is a lot that can be done with overlay districts, which are usually created by Special Permit. She explained that the creation of an overlay district does not change the underlying use but does allow for an additional use provided that certain criteria are met. Ms. Gillespie suggested that creation of an overlay

district is a good option if the board wants to consider adding more commercial uses to the Industrial zone.

Ms. Joubert explained that she had raised some of the questions that Ms. Poretsky had about the hazardous waste bylaw with the consultants but they indicated that they were not familiar with such a bylaw. She noted that the consultants have offered to ask some of the other people in their office and asked to clarify if the bylaw is for siting the facility. Ms. Poretsky stated that it is not for the specific siting. She explained that she had read online that these facilities are allowed in the Industrial district and cannot be denied per the state but the town can impose conditions. She stated that some surrounding towns have extra regulations that may deter such facilities and she would like Northborough to have the same.

Ms. Joubert indicated that she had contacted town staff in Hudson and Shrewsbury and they were not able to provide her with any input because their bylaws have been in place for some time. Mr. Litchfield mentioned that he had worked in Shrewsbury many years ago when a company came into town and wanted to establish a facility that would burn contaminated soil for re-use as road-based fill and other similar uses. He recalled that they were looking at a site in an industrial area on Route 140 and, at the time, the Board of Health did create some regulations to impose conditions and restrictions on what could be done on that property.

Ms. Poretsky reiterated her opinion that establishing regulations may act as a deterrent to these facilities, and noted that much of the town's industrial land is near the high school or residential areas that she would like to ensure are protected.

In response to questions from Ms. Martinek, Ms. Joubert mentioned that she needs to do further research on the hazardous waste bylaw. She explained that when she had raised the issue last year, the Board of Health had no time to work on it. She agreed to touch base with the Board of Health and Town Counsel for input.

Ms. Martinek referred to the discussions at last night's meeting and noted that, from the ZBA's perspective, there are certain bylaws that are difficult for them to interpret and/or implement. She expressed her desire to see joint collaboration to address the challenges so that the Planning Board is not developing bylaws that could result in more issues. Ms. Joubert explained that criteria for special permits and variances came out of state regulations. Ms. Martinek mentioned a class she attended, where they indicated that if the town wants to impose conditions or some level of mitigation, it is helpful to have special permit criteria to support it. Ms. Joubert offered to discuss the matter with the ZBA at their upcoming meeting, inquire about any issues they might be having, and ask if they have any interest in participating in a joint meeting. Mr. Ziton suggested that the board conduct a historical analysis of applications and ask the ZBA members what they have found to be problematic. Ms. Joubert offered to review the past ten years of decisions to see if there are any consistent themes. She suggested that if she finds that there is a certain type of variance that is consistently being granted, then it makes sense to simply make it part of the bylaw. Ms. Gillespie voiced her opinion that an analysis of potential redevelopment in the downtown area and the constraints of doing so would be valuable.

Ms. Martinek reiterated that Ms. Joubert is going to discuss the possibility of a joint meeting with members of the ZBA, initiate work on a solar bylaw and modeling, and look further into the hazardous waste bylaw through discussions with Town Counsel and the Board of Health.

In response to a question from Ms. Gillespie about whether he is considering reactivating the senior residential bylaw, Mr. Ziton stated that he envisions holding a public meeting at the Senior Center to learn about what is important to the senior community as far as housing. Mr. Squillante voiced his understanding that seniors would like to stay in town but houses are too large and taxes are high. He noted that downsizing is not feasible, even with the affordable housing efforts. He stated that Rick Leif had discussed a property on Boundary Street where the town could develop a cottage community with restrictions on resale. He also mentioned that many seniors are moving further out where they can find more affordable homes.

Ms. Martinek asked about the ability to host a meeting at the Senior Center. Ms. Joubert indicated that doing so might be challenging because the Senior Center is not open at night. Mr. Squillante mentioned that the senior community does not typically come out to such meetings. Ms. Joubert suggested that the Master Plan may adequately address the matter and noted that there is a housing section in the plan and one of the recommendations is about reactivating the Housing Partnership and this would be a perfect task for them to tackle. She also voiced her opinion that the board needs to flush the issue out a bit more.

Town Planner Update – Ms. Joubert discussed the situation with SA Farm at 429 Whitney Street. She explained that an extensive conversation is not possible as that would require an Executive Session because it pertains to ongoing litigation but she is able to provide a brief status update. She explained that the property owner appears to have become active again with accepting material onto the site, and is trucking more material onto the site. She indicated that the town and DEP are fully engaged on this issue and working with the Attorney General's office. She also noted that the material being brought onto the site appears to be primarily food product but it is not being used to feed the animals, so he is merely dumping solid waste. She voiced her understanding that the DEP is putting together another Enforcement Order and the town will be back in court in July on this ongoing situation.

Ms. Milton mentioned that she has heard that there has been activity on the site at odd hours. Ms. Joubert stated that she has not heard this but the town does have photographs of work that is being done during the day.

Ms. Poretsky noted that the fence at the R&T property has been removed and asked about the site. Ms. Joubert stated that the Building Inspector will be going out in the next day or so to check on holes that were present on the site. She explained that if the holes are no longer there, the fence may no longer be needed.

Registry of Deeds form – Ms. Joubert explained that the form identifying board members is done annually following the spring elections and requested that each board member sign the form accordingly.

Zoning Board of Appeals – Ms. Joubert informed the board that the next meeting will include a hearing for a deck around an above-ground pool on a residential property. She explained that the agenda also includes a continued hearing for a new sign at Central One Credit Union, but the applicant has withdrawn their application.

Upcoming Planning Board meetings – Ms. Martinek noted that the board is scheduled to meet on July 16 and August 6. She requested that the agenda for the next meeting include a discussion about the Planning Board appointment policy, for which we already have a draft. Ms. Joubert agreed to circulate a copy of the draft again.

Ms. Martinek mentioned she would like to discuss the reappointment process and that she would like to tighten it up and asked about the process for modifying the town charter. Ms. Joubert explained that state law regulates how a Planning Board vacancy is filled and their regulations are simply mirrored in our town code. Ms. Martinek voiced interest in learning what other members thought about the appointment process and requested that the board discuss it further.

Mr. Ziton indicated that he will not be able to attend the board's next meeting. Ms. Joubert noted that there are no public hearings scheduled for that meeting.

Meeting adjourned at 8:30pm.

Respectfully submitted,

Elaine Rowe
Board Secretary