



# TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 8.21.18

## Planning Board Meeting Minutes July 17, 2018

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

**Others in attendance:** Kathy Joubert, Town Planner; Elaine Rowe, Board Secretary; David Robinson, Allen & Major Associates; Scott Weiss, The Gutierrez Company; James Tetreault, Thompson & Liston; Ryan & Andrea Edmands, 155 Pleasant Street; Mark Cullen, 10 Chestnut Hill Road; Susan Torpey, 140 Pleasant Street; Eric Jacobson, 148 Pleasant Street; John & Nancy McKinley, 141 Pleasant Street; Karen & Michael Feeley, 136 Pleasant Street

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

### **Continued Public Hearing for 0 Bartlett Street Special Permit Site Plan Approval and Special Permit per Groundwater Protection Overlay District Application**

<b>Applicant:</b>	<b>The Gutierrez Company</b>
<b>Engineer:</b>	<b>Allen &amp; Major Associates</b>
<b>Date Filed:</b>	<b>April 5, 2018</b>
<b>Decision Due:</b>	<b>90 days from close of hearing</b>

Scott Weiss and David Robinson appeared before the board to discuss the project. They explained that they have been through a number of reviews with both the Design Review Committee (DRC) and the Conservation Commission, and obtained feedback from the Town Engineer and DPW. They also noted that the hearing had been continued due to some concerns about the existence of the sewer line for Algonquin High School, and since the last meeting a survey was done to determine the exact location of that line and plans were developed for rerouting it.

Mr. Weiss indicated that all other issues have been addressed. He explained that the Conservation Commission has not yet closed their hearing, but members have walked the site. He voiced his understanding that there are no outstanding issues with that board and they are simply waiting for their next meeting to render a decision. Ms. Capobianco noted that the board had received a comment letter from the Town Engineer and it appears that the forced main sewer plan has not yet been reviewed by town staff, so there may be some additional comments. In response to a question from Ms. Capobianco, Mr. Weiss confirmed that all other requirements are acceptable to the applicant.

Members of the board indicated that they have no further concerns and do not require any further information. Ms. Poretsky expressed a desire to hear from Mr. Litchfield's. Ms. Joubert explained that Mr. Litchfield was unable to attend tonight's meeting, but has provided a letter detailing all of his comments. In response to concerns voiced by Ms. Poretsky about the sewer

issue, Ms. Joubert indicated that this matter is under the jurisdiction of the DPW and the stipulation as to the location of the sewer line would not be made by this board.

Ms. Capobianco recalled that Mr. Litchfield had provided considerable feedback at the last meeting. Ms. Poretsky expressed concerns that closing the hearing could prohibit Mr. Litchfield from any further action. Ms. Capobianco stated that any decision issued by this board would be subject to the requirements in Mr. Litchfield's comment letter.

Ms. Gillespie noted that, at the last meeting, directional signage at the end of the driveway had been discussed and she asked if the applicant had spoken with the City of Marlborough about traffic flow. Mr. Weiss commented that egress onto Route 20 is most feasible, given the location. Ms. Gillespie mentioned that traffic for the new Apex Center may impact this and suggested a right turn out of the driveway might be preferable. She also expressed a desire to keep truck traffic off of Bartlett Street, but recognized that it is likely not possible to dictate traffic flow in Marlborough. Ms. Joubert agreed, and suggested that the situation is impacted by the fact that the tenant for the facility is not yet known. Mr. Ziton also stated that truck traffic heading to Route 290 will likely use Boundary Street, where there are no restrictions even though that road is not conducive to such traffic. He asked if it might be possible to explore options to impose some type of controls. Ms. Capobianco explained that the topic has been discussed by the board numerous times over the past few years, and explained that restrictions of any kind will require involving the Department of Transportation (DOT). Ms. Joubert explained that, in order to do so, a traffic study would be required and the town still may or may not be able to limit it. She indicated that, if we were able to impose truck exclusion or a weight limit, we are required to provide an alternate route that is not any longer, which is not always possible. She agreed to keep Boundary Street on the list of issues to consider. Ms. Capobianco commented that, at this point, the best we can do is to request voluntary participation in not utilizing the smaller roads in town. Ms. Poretsky noted that the matter is also being discussed by the Master Plan Steering Committee because truck traffic has been an ongoing concern.

Ms. Joubert reiterated that there are no weight restrictions on Boundary. She agreed to get a list of roads with restrictions from the Town Engineer to provide to the board.

Ms. Joubert reiterated that town staff has no outstanding issues with this project. She explained that the only issue, which should not delay the Planning Board's decision, is the completion of the review and issuance of a comment letter to the Conservation Commission by Natural Heritage. Mr. Weiss stated that, as part of this project, there is a conservation restriction that was part of prior development that will be extended with Natural Heritage.

In response to a question from Ms. Gillespie about a request for street lights on Bartlett Street, Ms. Joubert indicated that a memo to the Board of Selectmen has been prepared for Ms. Capobianco's signature. She also voiced her opinion that there is no reason to keep this hearing open.

Anthony Ziton made a motion to close the hearing. Michelle Gillespie seconded; motion carries by unanimous vote.

Amy Poretsky made a motion to approve the application for 0 Bartlett Street with the conditions as noted in Mr. Litchfield's review letters dated July 5, 2018 and July 17, 2018 (copies attached). Michelle Gillespie seconded; motion carries by unanimous vote.

Ms. Capobianco noted that the board is ahead of schedule on the agenda and is required to wait until the publicized time for the next hearing. Ms. Joubert confirmed that the applicant for the next hearing has requested a continuance. She also noted that the Conservation Commission typically schedules all hearings for 7:00PM to enable them to move ahead in the event of a continuance. She commented that, though this has never been an issue for this board, it may be something to consider.

**Registry Form** – Ms. Joubert circulated the Registry form and cover letter for signatures. She explained that, following each town election, the Registry of Deeds requires this form confirming the members of the Planning Board, the duration of their terms, and their signatures. She noted that there are two locations for each member to sign; one signature as a member of the board and a second signature for the ANR (Approval Not Required). She commented that the Registry is very diligent about verifying signatures. Ms. Joubert also explained that, historically, the town has allowed for just one member of Planning Board to sign an ANR. Ms. Poretsky asked if it would be an issue in the event of a lawsuit. Ms. Joubert noted that, when acting as a member of the Planning Board, members have liability insurance through the town, and the town would always defend a board member in the event of a lawsuit. She indicated that a signature on an ANR simply means that the lot has enough area and frontage and does not need to go through the subdivision process, so she cannot imagine where there would ever be an issue.

**Sterling Court** – Ms. Joubert noted a street acceptance plan for Sterling Court, which was adopted as a town road at Town Meeting, needs to be signed by the Board. She explained that these are typically signed by a majority of the Planning Board members and are recorded at the Registry of Deeds.

Ms. Poretsky asked about ANRs for duplexes, and noted that the Residential C district would require a minimum of 30,000 square feet of land and 150 feet of frontage for a duplex development. Ms. Joubert explained that an ANR does not consider use and is also not a certification that the lot is buildable. She stated that if someone creates an ANR lot and later wants to put a duplex on it, they would be required to pursue a variance or acquire additional land if the lot does not meet the minimum requirements. She reiterated that an ANR lot is simply a lot that meets the minimum lot size and frontage. She emphasized that if creation of frontage and/or a road is needed, then it would move into the subdivision process.

**Public Hearing for 222 West Main Street Site Plan Approval, Special Permit Common Driveway and Special Permits Two-Family Dwelling Units**

<b>Applicant:</b>	<b>Abu Construction Inc.</b>
<b>Engineer:</b>	<b>Connorstone Engineering Inc.</b>
<b>Date Filed:</b>	<b>June 15, 2018</b>
<b>Decision Due:</b>	<b>90 days from close of hearing</b>

Ms. Capobianco indicated that the board had received an email from Mike Sullivan requesting a continuance to the board's next meeting.

Kerri Martinek made a motion to continue the hearing to August 21, 2018 at 7:15PM. Michelle Gillespie seconded; motion carries by unanimous vote.

Ms. Joubert advised the board that Mr. Abu is scheduled to appear before the Design Review Committee (DRC) on July 27<sup>th</sup> at 8:00AM. She also noted that Dr. Moheban is working with the

DRC for a proposed dental facility, after which he will be before the Planning Board for site plan review.

Ms. Joubert stated that the July 23<sup>rd</sup> meeting of the DRC will be an evening meeting, during which the board will review draft guidelines for duplexes. She indicated a desire to receive a draft of those guidelines in advance of the meeting and agreed to provide board members with a copy.

**Zoning Board of Appeals (ZBA)** – Ms. Joubert noted that there were no applications submitted, so the ZBA will not meet in July. She advised that the next ZBA meeting will be on August 28, 2018.

**Minutes of the Meeting of March 6, 2018** - Ms. Joubert noted that there was a minor change to the minutes requested by Ms. Capobianco.

Michelle Gillespie made a motion to approve the Minutes of the Meeting of March 6, 2018 as amended. Ms. Poretsky seconded; motion carries by unanimous vote with Mr. Zitton and Ms. Martinek abstaining.

**Master Plan** – Ms. Capobianco explained that she has asked George Pember to attend meetings of this board to provide an update of the Master Plan process from his perspective. She requested that the Master Plan update be first on the agenda.

Ms. Joubert indicated that the Master Plan Steering Committee had met last Thursday and started to review the first draft of the basic elements of the Master Plan. She stated that the Committee members have until Friday to review the draft and respond with comments. She also noted that, because of the volume of material, the Committee decided to schedule an additional meeting on August 2<sup>nd</sup>, with the main focus to be reviewing the draft of those elements. She explained that there has been further discussion about how else to publicize and get residents involved, and posters are being printed that will be posted throughout town. She also indicated that the Chair of the Master Plan Steering Committee is creating a schedule for various committee members to go out and talk to the community, with additional outreach and education to be done during Applefest weekend. Ms. Capobianco suggested looking into the possibility of posting information on the bulletin board at Wegmans. Ms. Joubert mentioned that Ms. Gillespie is donating a half page ad in the Applefest brochure for the Master Plan Committee to publicize some information and the Recreation Department has offered space in their fall and winter brochure. She explained that the Committee is trying to arrange for use of the schools for their meetings, and has asked to use Algonquin for the next public forum scheduled for October 4<sup>th</sup>. Ms. Capobianco noted that members of the public are welcome to attend any meeting of the Master Plan Steering Committee.

Ms. Gillespie noted that, when looking at how things are changing as far as large lots of land and traffic flow, a logical spinoff is to address truck traffic and future traffic. She suggested that, if the section of town off of Bartlett Street near the Marlborough line is going to be developed as distribution centers, we need to think about traffic flow. She also commented that the members of the Master Plan Steering Committee had focused quite a bit on the downtown area and how to make it look and feel like a downtown, and felt strongly about keeping buildings forward on the lots. Ms. Joubert also noted that there had been a suggestion to look at the downtown area as more of a neighborhood, with a desire to have it function day and evening, which will require a combination of retail and residential.

## Public Hearing for 156 Pleasant Street for Land Clearing and Grading Site Plan Approval

<b>Applicant:</b>	<b>156 Pleasant Street LLC</b>
<b>Engineer:</b>	<b>Thompson-Liston Associates Inc.</b>
<b>Date Filed:</b>	<b>June 15, 2018</b>
<b>Decision Due:</b>	<b>September 12, 2018</b>

Mr. Tetreault explained that he had misinformed the applicant, and admitted fault for the failure to appear before the Planning Board on this matter, for which he apologized.

Mr. Tetreault indicated that the parcel includes an existing house, listed as 156 Pleasant Street, and the applicant is before the board for lots A & B, with lots C & D currently before the Conservation Commission. He explained that the matter before the board is land clearing and alteration of 25,000 square feet, which exceeds the 20,000 square foot threshold in the bylaw. He noted that the land area is flat with fantastic soils. He stated that the proposed septic system will be located at the back of the parcel, and the Board of Health has approved both plans. He indicated that access will be off of Pleasant Street, where the site distance is quite good, there are no trees or shrubs to block the view, and traffic impacts will be minimal. He also noted that there are no significant slopes so there is almost no chance of erodibility. He explained that a Notice of Intent has been filed with the Conservation Committee for the land immediately to the north.

Ms. Capobianco referenced a comment letter provided by Mr. Litchfield earlier today, which Mr. Tetreault indicated he had not yet seen. After reviewing the letter, Mr. Tetreault agreed to work to address the issues raised by Mr. Litchfield, to include:

- plan showing adequate sight distance
- provision of a street widening easement
- applicant to apply for a road opening permit, if he has not already done so
- as-built plan

Ms. Capobianco noted that the DPW is requesting a condition to require repair of a portion Pleasant Street. Mr. Tetreault voiced his understanding that the applicant is aware of this request. Ms. Capobianco emphasized the need for the applicant to ensure strict compliance with all stipulations. Mr. Tetreault expressed his understanding and requested a continuance to allow him to supply the board with plans showing that adequate sight distance is achieved.

In response to a question from Ms. Poretsky about the ability to move the leach field forward so that less land clearing would be necessary, Mr. Tetreault explained that it is not possible to do so due to the well setbacks that must be met.

### **Mr. Litchfield arrived.**

Ms. Gillespie asked about increasing the sight distance. Mr. Tetreault noted that, though there is a relatively sharp bend in the road, it is actually fairly wide open so providing adequate sight distance should be possible.

In response to a question from Ms. Poretsky about the actual lot clearing on each of the lots A & B, Mr. Tetreault indicated that he does not have specifics, but did recall that they were quite

similar with only slightly more clearing planned on lot A. Ms. Joubert asked Mr. Tetreault to calculate and provide the information.

Mr. Litchfield indicated that he had nothing further to add.

**Nancy McKinley, 141 Pleasant Street**, explained that her property is directly across from lot A. She noted that there has already been a considerable amount of clearing done on the parcel, and voiced concerns that the rock wall is a mess and aesthetically unpleasant. She asked if the applicant intends to have it put back in a manner that will be attractive, and voiced her opinion that it will not be easy to repair. Ms. Capobianco explained that this matter on that lot does not fall under the scenic road bylaw since the rock wall is located entirely on private property so therefore does not require a scenic road permit. Mr. Tetreault agreed to inform the applicant that the abutters would like to see the wall repaired.

**Mike Feeley, 136 Pleasant Street**, asked for clarification about sight distance determination. Mr. Litchfield explained the definition of sight distance and how it is calculated.

Mr. Feeley suggested that the bend in the roadway is quite sharp, and voiced his opinion that this is a traffic accident just waiting to happen.

**Ryan Edmands, 155 Pleasant Street**, explained that he works from home and was at home when the clearing started. He stated that the clearing was done on Friday and Saturday, and suggested that the timing of the work is suspicious. He stated that there has been a substantial change to the property that has caused the majority of the frustrations from the neighbors. He emphasized that there was nothing filed with the town for the clearing of the lot, and he feels the town is being taken advantage of. Ms. Capobianco indicated that the members of the board share the frustration with the way this was done, but noted that it is outside of the board's control. Mr. Edmands expressed his hope that the board will take into account the manner in which this was handled.

**Karen Feeley, 136 Pleasant Street**, commented that, for years, the property was a single buildable lot and now, suddenly, it appears that there are two houses to be built there. She reiterated that the site was clear cut over a weekend, including the berm that is not on the applicant's land. She voiced her opinion that there is something sneaky being done with the entire development and it will completely change the feel of the entire area. She questioned the hours of the work, which is in total disregard for the people in and around the property, and agreed that the activity is highly suspicious.

Ms. Joubert empathized with the concerns and frustrations expressed by the abutters. She explained that, for ANR lots, there is generally no notification required to build a single family home on an existing lot but there is a requirement for a land clearing permit if it exceeds the threshold, which this project does and which is why they are before this evening.

Mr. Edmands asked Ms. Joubert to explain how this lot was rezoned to two lots and questioned why that would not get re-evaluated. Ms. Joubert explained that the ANR process in MA gives a landowner the right to create lots on a street provided the lot has frontage and lot area in accordance with local zoning, though an ANR does not necessarily signify that it is a buildable lot so the landowner is still required to go through conservation, groundwater, and other applicable boards. She stated that, in this case, the two additional lots were created as ANR (Approval Not Required) lots. She also explained that, if development requires creation of a road, the project would be required to go through the subdivision process.

In response to a question from Ms. Martinek, Ms. Capobianco explained that the applicant is seeking a retroactive approval for land clearing work that has already been done. Ms. Joubert confirmed that the developer had applied for a permit after the fact, and suggested that the board can impose conditions on the developer.

Ms. Gillespie opined that, had the process been done correctly, residents may have voiced concerns that might have resulted in the board asking for a buffer area along the rear property lines. Ms. Joubert stated that imposing a no cut area is not possible on an ANR lot (only on subdivision lots). She explained that the bylaw stipulates that clearing in excess of 20,000 square feet requires a land clearing permit but noted that, technically, the developer can clear up to 20,000 square feet on each lot without a permit from this board. She commented that, though the clearing does not exceed 20,000 square feet on either lot, since the developer is working on two lots simultaneously it exceeds the threshold. She reiterated that the board has the ability to impose a no cut area on a subdivision but is not able to do so on an ANR lot.

**Eric Jacobson, 148 Pleasant Street,** asked at what point a project becomes a subdivision.

Mr. Tetreault explained that a subdivision involves the creation of a road. He noted that, in this case, the road (Pleasant Street) exists and there is adequate frontage. He reiterated that the applicant has filed a Notice of Intent with the Conservation Commission for two lots to the north. Mr. Litchfield commented that the town had adopted the land clearing portion of the bylaw and, had the developer only disturbed 19,999 square feet, he would not have been required to file. He indicated that the bylaw states that if you don't have a permit for Earthwork or an Order of Conditions from the Conservation Commission and you clear in excess of 20,000 square feet, then you must obtain a land clearing permit. Since the other lots are subject to a Notice of Intent with the Conservation Commission, the developer will not be required to get a land clearing permit for work on them, but will not be able to do any work on those lots until an Order of Conditions has been issued.

**John McKinley, 141 Pleasant Street,** asked for clarification as to the Planning Board's scope and what the board could have asked for had this been considered before the clearing was done. He also agreed that this work appears to have been done in a manner that raises questions. He also asked what the incentive is for a developer to come in and ask for project approvals if they are able to do it in their own way and get approvals after the fact. He voiced his opinion that, had this been done correctly with some public input, there would have been some conditions put on it. Ms. Capobianco indicated that the board still has the ability to impose conditions and there is a strict standard that the developer can be required to adhere to, so it will be the developer's responsibility to figure out how to fix it. She emphasized that the board will make it clear that there will be no Certificate of Occupancy issued until the road is repaired. Ms. Capobianco also cited the provision in the bylaw, under review standards, that state that the developer has to "minimize site alteration and land clearing, and site and/or building design shall preserve natural topography outside the development footprint to reduce unnecessary land disturbance and to preserve natural drainage channels on the site." and asked if the board can utilize that provision to require as part of this decision the rebuilding of the stone wall once the development is done because had they come to us beforehand, that might have been a condition. She emphasized that board is required to stay within the confines of the bylaw, but noted that the standards are very clear and very stringent and the Town Engineer has asked the board to require strict compliance, which we will do.

Mr. McKinley voiced concerns about the potential for the historic home on the parcel being demolished, and suggested that there is an increased likelihood that this will happen based on

the location of the new construction. Ms. Joubert commented there is a demolition delay bylaw the applicant must follow with the Building Inspector and Historic District Commission.

**Sue Torpey, 140 Pleasant Street**, expressed concerns about the developer's expedited timeline for the project. She explained that she had spoken with the Planning Department when the trees started coming down and was told that it would be approximately 6 months before the Historical District Commission and Conservation Commission would get through their review process so the neighbors believed that they had time. She suggested that something is not right, and voiced concerns about removal of trees, and impacts to the pond and wildlife. She was saddened to see this beautiful property being destroyed and asked if more trees will be removed. She also questioned where the property lines are and who is watching the line. She expressed a desire for her legal rights to be respected.

Ms. Capobianco explained that the public agenda is posted at the Town Clerk's office and on the town website, and encouraged audience members to check the website for agendas that will include any public hearings on this matter. She also noted that, as part of the process, notifications are sent to abutters. Mr. Litchfield encouraged those present to subscribe to town news to automatically get notified via email about upcoming board meetings.

**Nancy McKinley, 141 Pleasant Street**, put the developer on notice that no further mistakes will be tolerated and emphasized the importance of him following the requirements put forth by the board.

In response to a question from Ms. Gillespie about construction hours, Mr. Litchfield explained that the Building Department has regulations about hours of operation, though he is not certain what they are. Ms. Joubert agreed to verify what those hours are with the Building Department. Mr. Litchfield noted that the Earthwork Board limits operations to 7AM to 5PM, Monday through Friday with some reduced hours on Saturday, but an Earthwork permit is not required for a single family home. He suggested that abutters contact the Police Department if work is being done before 7AM.

Ms. Gillespie asked if the property was surveyed, and if the applicant had taken down trees on any abutter's property. She requested that the applicant provide this information at the next meeting. Mr. Tetreault agreed to look into the matter.

Ms. Joubert noted that she had received some complaints and had reached out to the developer, who indicated that he was working on his own property. She suggested that the board ask the developer to attend the next meeting to address these questions and concerns. Ms. Capobianco indicated that she would like to see the actual survey as well as specifics as to how close they got to the property lines and if they infringed on anyone else's land. In response to a question from Ms. Poretsky about whether the property is staked, Mr. Tetreault indicated that iron rods had been placed at any new property corners.

Mr. Capobianco asked Mr. Tetreault to ensure that the developer attends the next meeting. In response to a question from Mr. Edmands, Mr. Tetreault indicated that each lot is 20,000 square feet and that the project is before the Conservation Commission and, absent this process, there is not another process that requires a public hearing. Mr. Edmands emphasized that the property has been completely cleared, with not a single ounce of grass remaining.

**Karen Feeley, 136 Pleasant Street**, asked about the options remaining at this point, and wondered if the town has the ability to require replacement in like. Ms. Capobianco commented that the board is not in the position to provide legal advice, and asked if the town does have the



ability to require re-plantings. Mr. Litchfield indicated that anything done over the property line is considered a trespass, and it would be up to the abutters to pursue that through legal channels. He mentioned that, if the board felt it necessary, they could potentially require some trees to be re-planted but he is unclear as to the extent that might be possible. Ms. Capobianco asked Ms. Joubert to determine if the board has the ability to require revegetation. Ms. Joubert indicated that the board has the ability to do so through their permit and suggested that the board ask the developer to provide a landscape plan illustrating what he intends to do for these houses so that the board can determine if it is satisfactory. Ms. Capobianco expressed a desire to see a landscape plan that specifically provides for revegetation.

Ms. Martinek explained that the bylaws are public and on the Planning Board's website for reference. She also asked if the board has the ability to deny the permit if they so choose. Ms. Joubert explained that this falls under the site plan approval process, and voiced her opinion that the board cannot deny it but may impose conditions as part of the approval. Ms. Martinek voiced frustration that there is no consequence for not following the right process. Ms. Capobianco indicated that the board does not have the authority to impose fines. Ms. Gillespie asked if the town is sure that every portion of the stone wall is within private property. She also asked if the Planning Board has any ability to provide input about preservation of the historic home. Mr. Tetreault stated that he does not know what filings have been made with regards to a demolition permit. He also voiced his understanding that the developer had multiple inquiries but nobody was interested in purchasing the existing home because extensive renovations are needed. Ms. Joubert mentioned that the applicant is required to follow the demolition bylaw, which requires an appearance before the Historic District Commission. She agreed to look into whether a hearing with that board has been scheduled.

An audience member commented that, when it comes to imposing conditions, there should be some consequences for non-adherence. He asked the board to be stringent to the fullest extent since this developer chose not to comply with town bylaws.

Mr. Edmands encouraged the board to remember this experience, and noted that our regulations are somewhat lax so he expects we will continue to see situations such as this. Ms. Capobianco encouraged residents to attend the meetings of the Master Plan Steering Committee.

Mr. Litchfield stated that the hearing with the Conservation Commission is scheduled for August 13<sup>th</sup> at 7PM and the applicant has requested a continuance of this hearing (copy of letter attached). He also mentioned that there were no abutters represented at the July meeting of the Conservation Commission. Residents stated that they had received no notifications of that meeting. Mr. Litchfield explained that the Conservation Commission requires that abutters be notified by registered mail, and residents are welcome to review the file and proof of mailing in the Engineering office.

Ms. Gillespie reiterated the board's request for the developer to be present at the next meeting. An audience member asked that no additional trees be removed. Mr. Ziton empathized with the frustration of the abutters and noted that the board will work to do whatever it can.

Michelle Gillespie made a motion to continue the hearing to August 21, 2018 at 7:30PM. Kerri Martinek seconded; motion carries by unanimous vote.

Ms. Joubert clarified that the board is requesting the following from the applicant prior to their next meeting:

- A copy of the survey plan, including where the edge of clearing is
- Developer is required to come to the next meeting
- A landscape plan for revegetation
- Information about where the project stands with both the Historical District Commission and the Conservation Commission
- Updated plan that includes sight distances

Ms. Poretsky asked if the threshold of 20,000 square feet applies to multiple lots under common ownership. Mr. Litchfield explained that the developer could have built a single house, stabilized that lot, and then proceeded with building on the second lot, but since he chose to do all clearing at once the 20,000 square foot maximum applies. Ms. Poretsky asked if the board can impose some sort of penalty. Ms. Joubert indicated that, under Massachusetts General Law, the board does not have the ability to do so. Mr. Tetreault reiterated that the developer was not aware of this particular process here in town. Ms. Capobianco noted that this bylaw was enacted in 2009, and anyone wanting to do business here has to follow the rules.

Ms. Poretsky asked what the board can do since people continue to break the law and we are unable to do anything. She voiced a desire to require the developer to replant the trees. Mr. Ziton asked if it is possible to go back and require him to do so. Ms. Joubert stated that getting additional information will give the board the opportunity to figure out what they can do.

Ms. Poretsky asked if the board has the right to set limits on the amount of land that can be cleared. Mr. Litchfield noted that doing so could be considered unreasonable and result in preventing the developer from being able to build. Ms. Capobianco raised the issue of requiring revegetation. Ms. Joubert emphasized that further discussion should be conducted in the context of the next meeting.

### **Subcommittee updates**

**Design Review Committee** – Ms. Gillespie noted that the Design Review Committee will be meeting with Judi Barrett to discuss design guidelines for duplexes.

**Minutes** - Ms. Martinek expressed concern that the board may be violating open meeting law by not approving meeting minutes within the required timeline.

**Master Plan Steering Committee** – Ms. Poretsky noted that the committee had discussed the issue of truck routes as well as mitigation measures when large projects come before us. She noted that Westborough has actually included requirements for mitigation in their bylaws. Ms. Gillespie noted that the largest mitigation was with the Northborough Crossing project, and voiced her opinion that this is a worthwhile discussion. Ms. Joubert explained that impact fees that are imposed in much of the country are not legal in Massachusetts. MGL Chapter 40A does not give municipalities the right to impose impact fees. She noted that, because of that, some individual towns have developed some sort of mitigation policy that has not yet been challenged in court. She mentioned that this has previously been discussed and is something that may come out of the Master Plan process.

Ms. Capobianco voiced support for the idea of mitigation, and mentioned that she would like to see more sidewalks in town. Ms. Joubert addressed the issue of sidewalks, and suggested that if the board wants to separately look at sidewalks in town and work with other boards about where we would like to see them, it can be put forward as a capital improvement project.

Ms. Gillespie noted that this was her reason for bringing up the issue of street lights and she is pleased to know that a letter is being sent to the Board of Selectmen. She emphasized that she does not wish to wait for the Master Plan process to address some of these issues as she fears that we may miss an opportunity. She also noted that members of the Master Plan Steering Committee have expressed a desire to put support behind some of the town boards to uphold the zoning and not grant variances to allow buildings to be located further back on the lot with parking in front. She stated that the consensus is that residents do not want to see any more strip malls on Route 20.

**Meeting adjourned at 9:20PM.**

Respectfully submitted,

Elaine Rowe  
Board Secretary