



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved July 12, 2018

Planning Board Meeting Minutes March 6, 2018

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

Others in attendance: Kathy Joubert, Town Planner; Attorney James Tashjian, Tashjian & Simsarian; Tony Abu; Kerri Martinek, 16 Hemlock Drive; Jason Perreault, 27 Treetop Circle; Anthony Ziton, 17 Franklin Circle; Melanie Petrucci, Community Advocate Reporter

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

Public Hearing to consider proposed zoning amendments for 2018 Annual Town Meeting

- Section 7-05-010 General Provisions G. Prohibited Uses by adding (3) Marijuana Establishments to be a prohibited use.
- Section 7-05-030, Table of Uses, Table 1, Parts A and B, by adding Marijuana Establishment and Medical Marijuana Treatment Center to be prohibited in all zoning districts and add footnote 9 to Part A and footnote 13 to Part B which prohibits use variances for marijuana establishment, medical marijuana treatment center, or sale of marijuana accessories.
- Section 7-05-020 adding G(7)(g) definition of Marijuana Establishments.
- Section 7-05-030, Table of Uses, Table 1, Part B, by adding Marijuana Establishments to be allowed in HB zoning district and prohibited in DB, BE, BW, BS and I zoning districts and Marijuana Social Consumption Operations to be prohibited in DB, BE, BW, BS, HB and I zoning districts.
- Section 7-10-080 adding new section for Marijuana Establishments.

- Section 7-05-030, Table of Uses, Table 1, Part A, by adding Two-family dwelling to be prohibited use in the RA and RB zoning districts and an allowed use by Special Permit from Planning Board in RC, GR, MSR and DN zoning districts.
- Section 7-05-030, Table of Uses, Table 1, Part A, Two-family dwelling, by deleting existing language of footnote 3 and replacing with new language for footnote 3.
- Section 7-03-060, Design Review, add B(e) to read In the RC, GR, MSR and DN districts, any special permit application to the Planning Board for a two-family dwelling.
- Section 7-06, Density and Dimensional Regulations, Table 2, amend table by inserting 35 in the column labeled Maximum Height, Feet, for the RA, RB, RC, GR, MSR and DN districts.
- Section 7-06, Density and Dimensional Regulations, Table 2, add reference to new footnote 3 next to each of the following district abbreviations: RC, GR, MSR and DN and add new footnote 3 below the table to read See Sec. 7-06-030(J)(5) for lot regulations that apply to two-family dwellings.
- Section 7-06-030(J), add new subsection 5 pertaining to new minimum lot areas, minimum lot frontages, minimum lot widths, and minimum yard setbacks for two-family dwellings in the RC, GR, MSR and DN districts.
- Section 7-03-050 Site Plans C. Site Plan Approval (4) by deleting reference to (B)(2) and replacing it with C(2)(b).

Ms. Capobianco noted that the first five items on the agenda pertain to the with marijuana bylaws. Ms. Joubert stated that the agenda contains every section affected in the bylaw, but it will be condensed into two articles on the warrant; one to prohibit the use and a second to allow the use should the first article fail at Town Meeting. She also indicated that, earlier today, she received additional language from Town Counsel to be added to both the prohibition article and the general bylaw. Ms. Joubert explained that the public hearing for the general bylaw will be held at the Board of Selectmen's meeting scheduled for March 12th.

Ms. Capobianco voiced her understanding that the additional language addresses the case of someone bringing their own marijuana onto a commercial site for social consumption and it would prohibit that, and would extend to social clubs and other venues that allow social consumption.

Michelle Gillespie arrived.

Recreational Marijuana – Ms. Joubert explained that the Cannabis Control Commission (CCC) has recently been reacting to issues raised during public hearings and is modifying regulations to address those concerns. Given the situation, it will also be important to keep the public hearing open.

Kerri Martinek, 16 Hemlock Drive, commented that there was a lot of thought and research that went into the proposed bylaw, and expressed appreciation for that effort.

Ms. Capobianco explained that the next 6 bullet points on the agenda address duplexes and she asked Ms. Joubert to summarize. Ms. Joubert stated in part one of the article underneath the two row table, new footnote “8” should read “3”, so that has been corrected. In addition, under subsection B, there should be a “1” in from of the letter “e”, and that has been changed and reflected in the warrant. She agreed to provide the board members with a revised copy.

Ms. Joubert informed that board that they were also provided with a single page reflecting a proposal being made by a gentleman who is here tonight and will speak to that.

Attorney James Tashjian, representing Tony Abu, explained that he has looked at the bylaw at the request of Mr. Abu who has concerns about changes proposed in the RC district. He mentioned that he is aware of the amount of work and effort expended by the board on this matter, and acknowledged the input from town residents who voiced concerns. He noted that the RC district is a significant district in size and the characteristics of the zone are varied. He commented that, as often is the case, when it comes to areas where different zones meet, concerns often come up. He noted that Mr. Abu is opposed to the changes proposed for minimum frontage and lot width, and is suggesting that the Planning Board be given the opportunity, through a waiver in the special permit process, to consider reductions in the frontage and lot width requirements based on neighborhood locations and what is appropriate.

Mr. Abu commented that instituting the new bylaw will result in every lot being treated the same when, in fact, everything isn't the same. He voiced his opinion that the only way to discern whether a location is appropriate is through human input, and a special permit would allow the board to do that. He suggested that it appears as though this board does not trust the Zoning Board of Appeals (ZBA) to oversee that, and placing it in the Planning Board's purview should provide some degree of comfort. He indicated that there should be some “wobble room” to allow duplexes in places where they make sense.

Mr. Abu stated that increasing the minimum required lot size to 30,000 square feet will eliminate a lot of possibilities and, coupled with an increase of the minimum frontage to 150 feet, the result will be a prohibition of duplexes. He emphasized that there is a need for duplexes, and believes that the RC district is a very good location for them. He also indicated that restricting planning this far does not make sense. He suggested that it appears that the board does not want to allow duplexes in town. Ms. Capobianco disagreed, and stated that if this were the case, the proposed bylaw would read differently. She also took issue with Mr. Abu's comment that the board does not trust the ZBA to do their job. She stated that she has never felt that way and is not aware of any board member who has ever indicated that anything the ZBA has done has been incorrect or inconsistent with the bylaws.

Ms. Capobianco asked if Mr. Abu is seeking this change in just the RC district or in all of the districts. Attorney Tashjian noted that the current concern relates to the RC zone, but suggested that the board should apply a similar adjustment to the other districts to maintain consistency.

Ms. Capobianco explained that, at the board's request, Ms. Joubert has reviewed data about the lots in the district and has determined that there are many lots that exceed 30,000 square feet.

Ms. Harrison agreed with Ms. Capobianco's comments. Mr. Pember stated that he is the only board member opposed to increasing the minimum required frontage and lot width, and expressed support for the amendment proposed by Mr. Abu. He voiced his opinion that not doing so would make it appear that the board does not want duplexes, and indicated that he would be disappointed if that is the attitude of the board.

Ms. Harrison commented that the board had gone to great lengths to do its due diligence to be sure this is not the case. She stated that her concern about accepting this amendment is the subjectivity of a project being deemed detrimental to a neighborhood. She questioned how the board can evaluate and quantitatively determine whether something is detrimental or not, and noted that the board has encountered this issue in the past.

Ms. Joubert commented that the review of the lots in the General Residential (GR) and Residential C (RC) zones that was done by staff was of lot size only. She explained that there is not a method for reviewing frontage because it is never a straight line, with the majority of the lots having some degree of irregularity.

Ms. Joubert noted that the language that is being proposed is from the existing bylaw as far as what the Planning Board's authority is for the special permit and it is very subjective. She

stated that the special permit allows conditions to be imposed, and there are seven factors that must be considered including that the project must not be more detrimental to the neighborhood and cannot be inappropriate based on surrounding properties.

Ms. Gillespie stated that she shares the concerns voiced by Ms. Harrison about how the board determines what is detrimental to the neighborhood. She recalled when changes to the commercial zoning regulations pertaining to pulling the buildings forward and putting the parking in the rear were proposed, where some residents were in favor and some were not, and the board was tasked with deciding which direction to take. She emphasized that the board had put a great deal of thought into the subject of duplexes, and she does not agree with Mr. Pember's comment that the board is attempting to prohibit them in town. She voiced her opinion that the board is actually trying to find some sort of balance and has opted to propose an increase in minimum required frontage based on the data provided by Ms. Joubert. She expressed uncertainty about how to deny these projects.

Ms. Joubert discussed the following seven criteria per Section 7-03-040C imposed on the special permit granting authority:

1. Proposal is in substantial harmony with the Master Plan and other plans approved by the Planning Board
2. Proposed site is an appropriate location for such use
3. Use, as developed, will not adversely affect the neighborhood
4. Use will not result in any nuisance or serious hazard vehicles or pedestrians
5. Adequate and appropriate facilities will be provided for proper operation or the proposed use
6. Proposed use will conform to any special requirements imposed by the special permit granting authority
7. Proposal could not be reasonably altered to reduce adverse impacts on the natural environment

Ms. Poretsky commented that she thinks some surrounding towns might require a minimum frontage of 250 feet, so she believes that the 150 feet proposed is a good compromise. Ms. Capobianco stated that the board does not necessarily compare ourselves to other towns and that we should concentrate on what works best for this town.

Ms. Capobianco stated that she is not yet inclined to adopt an amendment such as the one proposed by Mr. Abu because the board has not yet seen how the proposed bylaw will work, so it is premature to start making changes to something that members and town staff have put a lot of time and thought into. She emphasized that she is not saying that the concerns are not

well-founded, and recognizes that the board may find itself reconsidering if they find any issues with the proposed changes. She noted that the board had included public participation in the process, which included input from both residents and developers, and reiterated that she is not inclined to start making changes at this time.

Attorney Tashjian commented that the proposed amendment does not change the density of any developments but does enable the board to be a bit flexible about the minimum frontage and lot width. He stated that the requested amendment simply addresses frontage and lot width and does not materially change what the board is doing, as these projects will be required to go through the special permit process that will allow the board to address the seven criteria previously discussed. Mr. Abu voiced his opinion that the proposed amendment will increase the level of human decision, which he feels is important. He stated that not doing so is a risk, and commented that it is a shame for the board not to embrace that. He agreed with the proposal for these projects to go to the DRC.

Tom Reardon, 7 Sunset Drive, agreed with Mr. Abu about retaining some flexibility to deal with some of the older, oddly configured, challenging lots. He commented that the proposed bylaw revisions will make it more onerous to develop duplexes in some of the transitional areas. He noted that adding more restrictions in terms of frontage, in addition to those already in place relative to groundwater zones, wetlands, odd geometry, topography, etc., will eliminate the ability to develop duplexes in those areas where they are appropriate. He indicated that requiring site plan review, special permit, and design review should be sufficient to provide the ability to control some of the scale issues that the town has recently experienced.

In response to a question from Ms. Capobianco about whether he has information about how many lots have only 100 feet of frontage versus 150 feet, Mr. Abu commented that there are many more factors involved than simply that. He reiterated that he is asking the board to reconsider the changes proposed for minimum lot frontage and width. He voiced his opinion that it will be rare for the town to come across a situation where it all works once the proposed changes are put in place. He explained that both he and Mr. Reardon sit on the DRC, where these projects will be reviewed, and neither of them wants to put duplexes where they do not belong. He emphasized that the proposal is overkill. Ms. Harrison voiced respect for Mr. Abu's opinion, as well as the quality of work that both he and Mr. Reardon have done in town over the years.

Ms. Gillespie noted that the board did not have a lot of discussion about the minimum lot width. Ms. Capobianco explained that the board is trying to carry the width all the way to the rear of the lot to avoid triangular shaped lots.

Ms. Joubert suggested that the board keep the public hearing open so that the conversation can be continued up until Town Meeting.

Ms. Joubert commented that, though not scientific, she can review the majority of lots in the RC district and provide data about which lots exceed the proposed minimum lot size and minimum frontage/width. She discussed the Pinehaven and Northgate neighborhoods, where lots are not large enough for tear-down and construction of a duplex, and suggested that a developer would need to purchase two lots in order to do so. She noted, however, that some of the other areas in the RC district may provide larger lots making it possible to do so. She agreed to look at the existing lots and provide the board with more detail for their next meeting. Ms. Capobianco suggested that the only relative data would be the information about frontage.

Mr. Abu commented that there have only been 8 duplexes built in the last 3 years, and equated the board's proposal to be like "trying to kill a fly with a bazooka". Ms. Capobianco indicated that, while she understands Mr. Abu's position on the matter, the concerns are more with the location, size, and density of these projects. She commented that the thought of a duplex like those recently built on South Street popping up in the Riley Road neighborhood is terrifying to those residents. Mr. Abu suggested that continuity within neighborhoods is most important, and reiterated concerns that the new regulations may prohibit the ability to construct a duplex on a site where it would be appropriate. He noted that homes, including duplexes, have continued to get larger over the years. He voiced his opinion that, given the continuity aspect, he does not envision a developer putting a big building in an area where it does not belong. Ms. Gillespie expressed concern about the duplexes recently constructed in the Pinehaven area, which is a neighborhood of small ranch homes. She stated that the location between commercial space and the beginning of the residential area almost made sense, but the residents have concerns about future projects encroaching further into the neighborhood. Ms. Gillespie asked Mr. Abu if it might be possible to identify a lot in town that would be a perfect fit for a duplex but does not have 150 feet of frontage. Ms. Capobianco noted that she has concerns about neighborhoods with small, cookie-cutter lots that cannot tolerate a duplex without breaking the continuity. She voiced support of Ms. Gillespie's request of Mr. Abu.

Ms. Gillespie commented that the duplex project on the corner of South Street and Summer Street is likely the one that brought a lot of visibility to the issue. Mr. Abu agreed to the proposal to require duplex projects to go through the design review process. Ms. Poretsky discussed the project that was built on a 5,000 square foot lot behind Trinity Church, where the developer had originally proposed four units and the board limited them to two that are still too large for the site. Ms. Capobianco stated that, though she values the opinions of the

developers in the audience, she is also concerned that other developers may not be as committed to doing the right thing.

Kerri Martinek, 16 Hemlock Drive, noted that developers had been allowed to speak and expressed a desire to do so as well. She stated that she cares about maintaining the old-school feel and character of the town, and asked the board to keep in mind that there are a lot of residents who are concerned about duplex developments and have a desire not to see the trajectory continue. She emphasized that the decision should not be based solely on comments and input from developers. In response to a request from Ms. Harrison, Ms. Joubert explained that the DRC is composed of a member of the Planning Board, an architect, a landscape architect, a representative of a local business, and a resident at-large. Ms. Joubert explained that, as with any other town board, if a member of the DRC has a conflict of interest, they are required to recuse themselves from a discussion.

Ms. Capobianco commented that there is a further safeguard since the proposal will not pass unless the citizens vote for it at Town Meeting, so ultimately the residents will make the final decision.

Ms. Capobianco noted that there is an article on the warrant that addresses a typographical error in the bylaw, and indicated that it does not change the intent of the bylaw at all.

In response to a request from Ms. Gillespie to clarify comments she made about changes from the CCC, Ms. Joubert explained that she had provided board members with a copy of the memo highlighting the changes. She noted that the change addresses the issue of social consumption that was recently addressed by the City of Worcester and closes the loophole that could potentially allow for people to bring various forms of cannabis into social clubs.

Next meeting – After some discussion, members of the board agreed to meet on April 3, 2018.

George Pember made a motion to continue the hearing to April 3, 2018 at 7:00PM. Leslie Harrison seconded; motion carries by unanimous vote.

Public Hearing RE: Special Permit and Site Plan Approval for 172 Bearfoot Road

Applicant: Stephen Macdonald Construction Inc.

Engineer: Engineering Design Consultants, Inc.

Date Filed: January 11, 2018

Decision Due: 90 days from close of hearing

Ms. Joubert indicated that board members were provided with a comment memo from the Town Engineer, Fred Litchfield, as well as an email from the Fire Chief.

Zachary Bemis of Engineering Design Consultants appeared on behalf of the applicant to discuss the project proposed for the site, located on the north side of Bearfoot Road just south of I-290. He explained that development of the parcel consists of an access road off of Bearfoot Road servicing two, 4,000 square foot contractor facility units, with an extended access road going to the top of the hill for the future installation of a communications tower. He noted that the site features onsite septic along with onsite stormwater collection and infiltration. He stated that the project is currently before the DRC and the Earthworks Board.

Ms. Gillespie asked if there will still be sufficient space for a possible cell tower if the project is built as planned. Ms. Joubert indicated that the cell tower is not part of this application and, should one be proposed in the future, there will be a number of hurdles to overcome. She explained that the fall zone for a tower is 1½ times the tower height (168 feet +/-), so installation of these proposed buildings will impact the ability to locate a tower on the site. She also expressed concerns with the existence of a residence next door, which she understands may be demolished. She reiterated that the cell tower is not currently before the board and noted that the applicant is aware that he must come back to the board with an application if he wishes to move forward with that proposal.

In response to a question from Ms. Poretsky, Mr. MacDonald noted that the units will contain contractor bays for storage of equipment and vehicles. Ms. Poretsky suggested that, if trucks are to be stored in the units, drains will be required. Mr. MacDonald confirmed that drains, including oil/water separators, will be included. Ms. Joubert mentioned that there are no wetland or groundwater concerns on the site.

Ms. Poretsky asked if Mr. Litchfield had addressed the issue of hazardous material storage. Ms. Joubert explained that this is not required since the site is not in a groundwater district, but noted that for insurance purposes they do need to be appropriately stored. She also noted that Mr. Litchfield has indicated that gravel areas need to be removed or paved, and an earthwork permit will be required. In response to a question from Ms. Poretsky, Ms. Joubert voiced her understanding that the residential home next door has been vacant for some time. Ms. Poretsky mentioned that hours of operation for the proposed facility may be an issue if there is a residence next door. Ms. Joubert noted that the property is being marketed as an industrial property, not a residential property.

Ms. Joubert indicated that this project is before the DRC and the board has provided comments about adding natural light sources within the units. Mr. MacDonald confirmed that he has

addressed the request in his revised plans. In response to a question from Ms. Gillespie, Mr. MacDonald confirmed that the landscape design has been completed. Ms. Joubert noted that the Fire Chief has provided comments and his input was given to Peter Bemis.

George Pember made a motion to continue the hearing to April 3, 2018 at 7:15PM. Michelle Gillespie seconded, vote unanimous.

Master Plan – Ms. Joubert explained that the initial meeting of the Master Plan Steering Committee was postponed due to a winter storm, and has been rescheduled to March 22nd. She explained that the consultants will spend the day in Northborough to tour the town, meet with department heads and some residents, and will present to the Steering Committee that evening. During that meeting, she also expects the committee to decide on their meeting schedule.

In response to a question from Ms. Gillespie about how these parties were chosen, Ms. Joubert indicated that she had provided recommendations to the consultant, and the parties to be interviewed include:

- Business representatives:
 - Tom Lowe (small homegrown business, longtime resident, active in town)
 - Scott Weiss, The Gutierrez Company (largest landowner)
 - Tony Abu (resident, business owner, DRC member)

- Residents:
 - Diane Smith (Town Common Committee)
 - Terri Giannetto (Town Common Committee)
 - Liz Nolan (very involved in town)

- Various town departments
- Housing Authority
- Members of the Northborough Affordable Housing Committee (NAHC)

Ms. Gillespie asked if there was significant response from town residents interested in serving on the Master Plan Steering Committee. Ms. Joubert noted that there were 6 or 7 interested parties, though not all were interviewed. Ms. Capobianco voiced her expectation that there will be considerable participation in the meetings and suggested that residents may have been apprehensive about the long term commitment required to be a member of the committee.

Next ZBA Meeting – Ms. Joubert noted that the next ZBA meeting is scheduled for March 27th, and will include continued public hearings for projects at 89 West Main Street and King Street and a new hearing for a home business. Ms. Gillespie stated that the DRC is struggling with the density for the two projects that were continued from the last ZBA meeting.

Meeting adjourned at 8:15PM.

Respectfully submitted,

Elaine Rowe
Board Secretary