



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved by Zoning Board of Appeals on 10-7-08

## Planning Board & Zoning Board of Appeals Joint Meeting Minutes September 16, 2008

**Planning Board Members Present:** Rick Leif, Bob Rosenberg, George Pember, Michelle Gillespie

**Zoning Board of Appeals Members Present:** Dick Rand, Gerry Benson, Dan Ginsberg, Sandra Landau

**Others Present:** Kathy Joubert, Town Planner; Brian Smith

Chairman Rick Leif called the Planning Board meeting to order at 7:00 pm.

Chairman Richard Rand called the ZBA meeting to order at 7:00 pm and appointed Sandra Landau and Gerry Benson as voting members for the meeting.

### **Continued discussion RE: draft zoning bylaws**

Mr. Leif stated the purpose of the meeting was to review performance standards and rezoning of the general residential district.

### **General Residential Overlay District**

Kathy Joubert, Town Planner, noted that at their last joint meeting, July 22, 2008, all agreed with the boundaries for the proposed General Residential 2 district, as shown on a draft map entitled "Proposed GR2 District". (Will probably be called GR-B)

Ms. Joubert reviewed the map and noted the following:

- ❖ The old town hall building, 4 West Main Street, is the biggest building in the district
- ❖ The front portion of 77 Main Street is included in the district
- ❖ The zone extends one lot deep on Main Street and does not include the library
- ❖ The zone extends two lots back on each side of School Street to include the Grange and the Telephone Company
- ❖ The zone will also include the lot on Summer Street identified as Map 64, Parcel 24
- ❖ The Trinity Church is part of the downtown district
- ❖ The library can be included in either district

All members present voted in favor of the boundaries for the proposed GR2 district.

## Proposed Chapter 7-06, General Residential 2 Overlay District

Ms. Joubert reviewed the draft of the proposed general residence overlay district, which will now be known as GR2 and not considered an overlay district and the following were noted:

- ❖ On page 2, C. (b)[3] - (Use Regulations, Uses Allowed by Special Permit) - the number of residential units will be changed from six to four.
- ❖ On page 2, D. (2)(a) - (Use Regulations, Density and Dimensional Regulations) - the minimum lot area will change from 3500 square feet to 3750 square feet, and the last sentence, beginning with the words “For example”, will be deleted.
- ❖ The dimensional requirements for the proposed district will be the same as those for the current general residence district.
- ❖ The draft will be changed to reflect the name change to General Residential 2 (or B) District.
- ❖ This will be part of Appendix A in the zoning bylaw.
- ❖ Chapters 7-03, 7-05 and the Schedule of Use Regulations will be changed to reflect the new GR2 district.
- ❖ The owner of the property identified on the map as Map 64, Parcel 25, (5 Summer Street), will be notified of any future downtown area meetings.

All members present voted in favor of the definition of the proposed new general residential district.

## Chapter 7-04, Use Regulations, Section 7-04-040 Environmental Performance Standards

Ms. Joubert reviewed the draft performance standards with the members and stated a lot of towns she reviewed refer to state and federal statutes. She noted she was not at the meeting at which this was discussed and hopes it addresses what the boards wanted. She explained towns can be more restrictive than state and federal statutes, but not less restrictive, and stated the proposed use regulations are not more restrictive. The reason for the change is to address the area of enforcement and investigation. This reflects what the boards wanted Judi Barrett to address.

Ms. Joubert noted the following while reviewing the draft:

Page 1, B. Applicability - This will apply to every activity in town. The existing performance standards only apply to industrial uses.

Pages 1 & 2, C. Noise - This references the state statute on noise which is what the building inspector uses. He also brings in DEP to help him when needed.

Page 2

D. Recombinant DNA - This uses the same wording as in current zoning.

E. Stormwater Management and Erosion Control - This is new and will be enforced by the Conservation Commission.

F. Solid Waste Storage - This is a new performance standard. Staff has not reviewed it yet in terms of how it will affect their departments. Mr. Rand asked if this applied to someone using a temporary dumpster while doing an addition, renovations or cleaning

out their home. Ms. Joubert stated it addresses people who have dumpsters in their yard all the time. She will check with Judi Barrett on it.

Ms. Joubert explained she has talked with Fred Litchfield, Town Engineer, about low-impact development, green building - sustainable development. She also talked with him about waste reduction and recycling. The town has clear standards for these in regard to residents but no regulations for companies, so it cannot get reflected in the bylaw.

Pages 2 - 3

G. Lighting - This is new. Lighting is addressed under landscaping in the current bylaw.

Page 3

G. Lighting, (2)(b) - Ms. Joubert questioned why they would want to issue a special permit for this. Ms. Joubert will check with Judi Barrett about it.

H. Miscellaneous Standards

(1) No vibration - means vibration from large trucks or street grinding, etc. Ms. Joubert will ask Judi Barrett if this includes work being performed by the Department of Public Works or other town offices.

(3) Change the word "with" to "within".

Ms. Joubert stated the majority of others items under H. Miscellaneous Standards refer to state and federal regulations or will remain the same as those that are part of the current bylaw.

Ms. Landau suggested adding a time frame of 7:00 am - 7:00 pm to H. (1). Regarding references to state and federal regulations, she noted that the advantage of referring to state and federal regulations in this way is that they're always changing and, therefore, the bylaw will always be current.

A discussion was held on the meaning of "subsequent violation" under I.(3) and it was suggested to remove the word "subsequent" because it doesn't need to be included and is confusing. Ms. Joubert will check with Ms. Barrett about it.

Regarding G. (2)(a), Mr. Ginsberg stated the words "watts" and "lumens" are confusing and people need to understand the wording. Everyone agreed.

Ms. Joubert stated she will be setting up a staff meeting to review this with the Board of Health Agent, Fire Chief, Town Engineer, DPW Direction and Building Inspector next week and then will get back to Judi Barrett in time for her to address comments/questions at the September 30<sup>th</sup> meeting.

Mr. Rosenberg stated the performance standards under the Wireless Communication Facility bylaw will stay the same. He also stated there are Department of Environmental Protection (DEP) regulations on noise and suggested the boards be careful they don't give up ground going from the current regulations to DEP regulations. He noted the building inspector works with DEP, but their regulations cover very few situations. In his opinion, there are no meaningful state regulations that apply to noise.

Ms. Landau asked if the state building code addresses noise.

Ms. Joubert responded it's an environmental issue and other towns rely on state and federal regulations. Ms. Joubert stated they need to find out what the building inspector goes by.

Mr. Leif stated they will follow up on this at the September 30<sup>th</sup> meeting.

Review of remaining issue from Mr. Rosenberg's list of concerns:

**Planning Board Rules and Regulations:** Mr. Rosenberg stated these would have to be ready to be implemented with the adoption of the proposed new zoning at Town Meeting 2009. Is there a specific state statute that enables a town to adopt regulations?

Mr. Leif stated this was raised at subcommittee meetings because some administrative issues that have been removed from the zoning bylaw are more appropriate to have in a rules and regulations document.

Ms. Joubert stated Ms. Barrett didn't want to start writing rules and regulations that reflect zoning when she wasn't sure what the zoning will be. Ms. Barrett has a rough outline of rules and regulations that she wants to write for this town. Ms. Joubert stated plenty of boards operate under rules and regulations. Once the bylaw is finished and ready to go to town meeting, they will move on to the rules and regulations. She explained they have nothing to do with zoning issues. They are used as an administrative tool to outline how a board goes about doing its job.

Mr. Rosenberg referred to site plan approval, asking what would happen if the applicant doesn't want to do what's required when filing an application for a site plan approval.

Ms. Joubert stated that, as site plan is not governed by state statute all towns have developed site plan bylaws. The same is true for administrative regulations in communities.

Mr. Leif stated zoning will continue to include a requirement for completeness of an application, but the contents of the application aren't included in the zoning.

**Grandfathering:** Will grandfathering be handled in the rules and regulations?

**Site Plan Review:** Mr. Rosenberg asked if the town would have multiple sets of administrative regulations for the site plan review.

Ms. Joubert stated the goal would be to have one consistent set of regulations for filing for site plan review.

Mr. Rosenberg stated both boards would have to adopt them. In addition, there are rules and regulations for design review which, right now, are part of zoning. If they are done separately they would need to be checked so they don't conflict. He stated they will end up with four documents rather than one.

Mr. Leif stated the goal would be to end up with two similar documents for both sides to use.

Mr. Rosenberg asked if the staff review committee would also have rules and regulations.

Ms. Joubert stated she talked with Town Counsel about an appointing authority for the Design Review Committee. At this point she hasn't heard back, but Ms. Barrett told her she does not think planning boards have appointing authority.

As far as rules and regulations for the staff review committee, Ms. Joubert stated she always thought the filing process would be outlined in the same document - as one document for all the boards. And regarding the regulations, there will be one set that both boards will go by. There will not be multiple sets of regulations and different regulations for each board.

Ms. Joubert stated she will ask Judi Barrett who has the authority to write and approve the rules and regulations.

Discussion re: including zoning district description in the new bylaw. Consensus was if the zoning map can be adopted without a verbal description, this would be the preferred method.

Mr. Pember asked what happens to the metes and bounds if the lot lines are changed.

Mr. Ginsberg stated the Worcester District Registry of Deeds hasn't accepted the location using aerial photograph. They want the description.

Ms. Joubert stated when the groundwater bylaw was adapted there was no description. It just refers to the map.

Issues to finalize at September 30<sup>th</sup> and October 7<sup>th</sup> meeting:

- ❖ Southwest area
- ❖ Various questions about Rules and Regulations
- ❖ Appointee for Design Review
- ❖ Can we remove zoning description?

Mr. Leif asked if the wording changes suggested by the building inspector and others have been received and changed by Judi Barrett.

Ms. Joubert confirmed Ms. Barrett has received them and has made the changes.

### **Windmills**

Referring to the analysis of the Southwest Cutoff area, Mr. Benson stated he had been thinking about the renewable energy and windmills in this area.

Ms. Joubert stated the question has come up and she has talked with Bill Farnsworth about it. Town Counsel has told her it would be considered an accessory use when the applicant is a home owner. She explained a small group in town is working with the Town Engineer about having the town put up a windmill on town-owned property on Mt. Pisgah. She stated it is time to consider it and she will talk with Ms. Barrett about it.

Mr. Benson stated that, depending on the size, an applicant would have to meet a lot of state regulations. The state is funding them and there are a lot of good reasons why they would be wanted, but not one on every house.

### **High-definition signage**

Mr. Benson noted bill boards are being replaced by high-definition signs that are very bright but don't use a lot of electricity. He has heard they can be very distracting.

Mr. Leif asked if they would be allowed under their zoning for signage.

Ms. Joubert referred to the bylaw and responded they would not be allowed if they were flashing, moving or animated, but internally lit signs are not prohibited. A steady image would be allowed.

**Joint Meeting in October:** Joint meetings were planned for September 30<sup>th</sup> and October 7th, 2008 at 7:00 pm.

Mr. Leif noted he sent out an email on the Southwest Cutoff Analysis and asked members to send their comments by email to Judi Barrett and Kathy Joubert by Tuesday of next week.

**Citizen Planner Training Collaborative Fall 2008 Course Schedule:** Information for this event was distributed to all members, both at the meeting and by email. They were asked to contact the Planning office with course registration information if they want to attend. Ms. Joubert reminded board members of the extra credit for planning hours they will get if members attend which will be used for the open space plan update.

The joint portion of the meeting ended and the ZBA adjourned at 8:45 pm.

**Birchwood Adult Community ANR Plan:** An ANR plan was signed for 12 Elizabeth Drive.

The Planning Board meeting adjourned at 9:00 pm.

Respectfully submitted,

Debbie Grampietro