



# TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved by Planning Board & ZBA on 5/14/08

Planning Board and Zoning Board of Appeals  
Joint Meeting  
April 1, 2008

Planning Board Members Present: Rick Leif, Chairman; Don Hewey, Bob Rosenberg, Michelle Gillespie, George Pember

ZBA Members Present: Dick rand, Chairman; Sandra Landau, Dan Ginsberg, Gerry Benson, Dick Kane

Others Present: Kathy Joubert, Town Planner; Bill Farnsworth, Inspector of Buildings/Zoning Enforcement Officer; Fred Litchfield, Town Engineer; Tom Reardon, Zoning Subcommittee Member; Judi Barrett, Community Opportunities Group; Michael Durkin, Lorraine Leland, Roger Leland, Wayne Belec, Waterman Design Associates

Dick Rand called the ZBA meeting to order @ 7:10 pm.

Rick Leif called the Planning Board meeting to order @ 7:10 pm.

7:00 pm Joint Meeting with Zoning Board of Appeals and Ms. Barrett Barrett,  
Community Opportunities Group, Inc.  
RE: Continued Discussion of Proposed Zoning Bylaw

## **Multi-Family Housing in Neighborhood Transition District - Discussion with Mr. Reardon**

Mr. Leif stated new maps, distributed by Ms. Joubert, address questions brought up at the last meeting. He noted Mr. Reardon was present to discuss multi-family housing in the proposed Neighborhood Transition District (NTD).

Ms. Joubert pointed out the area that will encompass the NTD on the multi-colored map. She explained none of the districts have been definitively set yet. On the multi-colored map, the colors correspond to different kinds of uses, and it demonstrates how many different uses are currently in the downtown area. One of the big differences on the proposed map is the zoning line follows the property lines and does not split lots.

Mr. Reardon stated at the last meeting the boards approved multi-family housing in the Neighborhood Transition, Downtown, BB East and BB West districts and excluded them from the General Residential (GR) district. In an email message he sent to Kathy Joubert, he explained he did not think it wise to split the GR district down Main Street because it would threaten the character of the area. The GR district should remain and should offer more protection to maintain the character of the buildings. It is not in the historic district, but it's

a distinctive historic area and he would like to see some way of offering incentives for restorations and renovations. Mr. Reardon stated he would try to offer flexibility in the zoning to give protection to the historic homes.

Ms. Barrett stated she does not agree with Mr. Reardon because historic homes become obsolete. They will not be protected by being included in the NTD. It's a policy call on having the same zoning on both sides and there are a lot of reasons why they don't have to be the same. She stated it's not zoning that will protect historic buildings. Other tools are needed to do that.

Mr. Reardon stated there are only four single-family homes out of twenty-five homes. They have been preserved going through time, but have made some kind of transition. He stated most of the homes are non-conforming.

Don asked if they will be creating non-conforming uses if they go back to GR. Over half of the buildings in both sections don't comply with current zoning. The NTD seems to be better long-term because it will make the majority of those lots conforming and there would be more chances to preserve them by finding other uses for them.

Ms. Barrett stated if the boards are concerned about accelerating the conversion of those properties, they could make more uses in the NTD subject to special permit. If they did that, they would be able to impose design requirements on uses involving old buildings. It still wouldn't stop demolition, and they would have to be careful of the uniformity clause.

Mr. Leif pointed out the NTD and GR lines on the multi-colored map and how they would change if both sides of Main Street were GR. He asked the members if they thought both sides of Main Street should be zoned NTD to give the area time to develop into mixed uses or if NTD should be closed-off north of Main Street and Main Street kept as GR.

Dick Rand stated he would like to see the NTD on the south side of Main Street.

Ms. Barrett asked how they felt about use flexibility by special permit.

Mr. Rosenberg stated he thinks Mr. Reardon had the right idea at the last meeting. He agrees with Mr. Reardon's memo and the impact of that change. Ownership-wise the neighborhood has been stable. Making it into an NTD and following it to increase density would bring about significant changes. He explained he went to a 2-hour presentation and discussion on the neighborhood at the Historical Society last Friday and was surprised to see the community support and interest in that area. Over one hundred people were there. He advised the boards to tread lightly.

Mr. Leif asked if there would be more protection for the historic homes if they were in the NTD.

Ms. Joubert stated it doesn't matter what the zoning district is as zoning does not protect an historic structure. Regulations including an historic district protect buildings.

Mr. Reardon stated homeowners would have to consent to creating an historic district.

Dick Kane stated he supports Mr. Reardon's original proposal to make both sides of Main Street GR because it would mean a better chance of protecting the architecture.

Mr. Rosenberg stated he thinks there would be more incentive to do traditional things with the lots.

Ms. Joubert stated she has spoken with property owners on Main Street from the book store to Summer Street. Several property owners have expressed interest in rezoning their properties so they could run businesses out of their homes, which they feel are no longer viable for them as single-family homes. There is definitely an interest from people along Main Street to have options for their property other than single family use.

Ms. Barrett suggested the boards might like to meet with the property owners. Ms. Joubert stated the intent is to have a meeting with the Planning Board, ZBA and the Comprehensive Zoning Reorganization Subcommittee for the Downtown and Neighborhood Transition districts.

Ms. Barrett suggested looking at the whole area. She stated there are planning considerations here and they don't know how people are going to respond. They have plenty of time to do public consultation, which is different from a public hearing. People may feel the same way as the board does, and if they don't, board members will have to decide how strongly they feel about their positions.

Mr. Leif asked when something like that could be done. Ms. Joubert stated it could be done after Town Meeting. Looking at May to hold the first meeting and could do the Downtown district first. Invite everyone in the BA district. Ms. Barrett stated it would be any owner of property that would be affected. Ms. Joubert stated the area of Main Street would include Westbrook Road to River Street and Mill Street to Gale Street.

Mr. Hewey stated almost fifty-percent of the private property is already being used for other uses than residential purposes. Ms. Joubert stated the area pre-dates zoning and some have been granted variances for multi-families.

Mr. Leif stated the proposal for multi-family housing in the Downtown, BB East and BB West districts is to allow 8 units by right and 16 units by special permit. In the Neighborhood Transition district, the proposal is to allow 4 units by right and 8 units by special permit. Mr. Leif asked if all members are in agreement with proposing 4 units by right and 8 units by special permit in the Neighborhood Transition District. By a show of hands, all members voted "yes" on this.

### **Multi-family Units in Mixed-use Development**

Per Ms. Barrett's memo of January 27, 2008, multi-family uses would also be allowed in a mixed-use development as follows:

- ❖ In the Downtown, Business East and Business West Districts, vertical mixed-use by right and horizontal mixed-use by special permit;
- ❖ Maximum density would be up to two units within each district's minimum lot area, and an additional 2,500, 3,500 or 5,000 square feet per unit for the third unit and each unit over three.

Mr. Leif asked if there are a maximum number of units.

Ms. Barrett stated three stories and 45 feet in height would be the restrictions. Maximum density is two units and the lot size increases after two units. The density applies either way. Horizontal units will have more impact. Vertical units are smaller in scale and require less space. Developers prefer the horizontal projects and boards want special permit control on horizontal projects. A pedestrian environment is more likely with vertical units.

Mr. Rosenberg raised questions about the different figures for multi family and mixed use.

Ms. Barrett stated they have different uses. It's easier in the scheme of things to do mixed use with residential units in the Business East and Downtown districts rather than in Business West because the idea is to get housing in the downtown area.

Mr. Rosenberg was concerned that this would cause developers to build larger units. Ms. Barrett responded they won't build what they can't sell.

Ms. Barrett stated a better way to do mixed-use development is not by density but by floor-area ratio (FAR). In most communities mixed use would be by FAR and a limit on how much space is residential. The first floor has to be retail and there are parking requirements. Her recommendation has been all along to go with the FAR but subcommittee wanted to introduce the FAR concept slowly to the town.

Ms. Joubert stated the subcommittee has been discussing maximum density for 18 months. Mr. Leif stated the subcommittee is concerned that Northborough hasn't allowed multi-family housing then questioned to what extent they wanted to have them. If the concern is that they don't have to be controlled so closely, the requirements could be dropped. The subcommittee wanted to introduce multi-families slowly, and allow them by special permit.

Mr. Rosenberg stated it's a new generation of complexity and he's not sure there would have been a better solution. He doesn't think they can analyze the FAR and decide if they want to change it.

Ms. Barrett explained that with FAR, a portion of the lot size is what you can build. She stated it takes density to make apartments work.

Mr. Benson stated that tends to create a larger population. He questioned which one is better for our community now and if there is any advantage either way.

Ms. Joubert responded that everything the subcommittee has done has been reviewed with DPW Director, Kara Buzanoski, to get her input as to our infrastructure. So far the town has the capacity for everything they've talked about.

Mr. Leif stated the board members need to make a decision. He suggested they could defer their decision and get FAR information.

Ms. Barrett explained that in a district where the minimum lot size is 20,000 square feet and the FAR is .5, a building of 10,000 square feet could be built, but 3000 square feet cannot be residential. If there isn't a land-area-per-unit requirement, the developer will put in as many units as possible - maybe 7 condo units and 10 apartments on a 20,000 square-foot lot. But because of parking requirements, the units may be less. If there was an economic incentive to not do parking, the density could be maximized.

Mr. Leif stated it describes how many units can and can't be built. It's fairly straight-forward and was done because of a hesitancy. If members agree with the thought process then that will get it done. If it's too prescriptive we should have another presentation on FAR.

Dick Kane asked what developers would prefer. Ms. Barrett stated it would be a straight FAR and Bill Farnsworth agreed. It gives the developer the flexibility to build what he can sell.

Ms. Joubert stated the subcommittee asked what level of density people would be comfortable with in this town. It is their first attempt at introducing other types of housing and when discussions of FAR came about, people weren't entirely comfortable. They didn't know what they would end up with, so the subcommittee went with more constraints. She stated she and Ms. Barrett can provide FAR information at the next meeting if it will be helpful. She suggested meeting dates of either April 15<sup>th</sup> or May 6<sup>th</sup> for a presentation and discussion on FAR.

Mr. Leif stated they will defer decisions on the first two items and postpone their discussion on the two items on the second page.

#### **Update on Ms. Barrett Contract/ Proposal for Southwest Cutoff**

Ms. Joubert stated \$100,000 was received from a developer as part of a mitigation package and the board discussed and decided to use those funds for the reorganization and revisions to the zoning bylaw. The contracted amount for Ms. Barrett's services (through Community Opportunities Group), including amendments, is \$54,000, which leaves a balance of \$46,000 in that account.

Ms. Joubert explained that, at their January joint meeting, the board talked about Southwest Cutoff and had a discussion about whether or not it should be studied and included in the reorganization and revised zoning bylaws. She stated she talked with Kara Buzanoski in detail about what the town can accommodate in that area. Kara stated that area of town (IA) is now open to public sewer. Ms. Barrett has done a scope of services as to what it would cost to do an analysis of the Southwest Cutoff area.

Ms. Barrett stated she will do a physical land use analysis, looking at traffic, and will use existing data to come up with alternatives based on what's happening around this part of town. It will offer some choices to help the boards make decisions as to how they might want to focus zoning in that part of town. If they decide to go with a change, it will be added to the proposed zoning.

Mr. Pember stated when Dick Rand first presented looking at the area, he was not in favor of adding these tasks to the bylaw rewrite. At the same time, he now admits that the area is coming on-line and an update to the Master Plan may be down the line. It will force the development of that area through variances from ZBA, which is a poor way to do it. He supports adding these tasks to the contract now.

Gerry Benson stated he agrees with that. There will be tremendous development pressure in the area and with foresight, they will be better off.

Dick Kane stated they will be faced with both The Loop and AvalonBay, and sewage from the golf course all the way up to Main Street, developing at a rapid rate.

Ms. Joubert stated Continental Auto will be relocating to Hemlock Drive and Main Street in the near future as there are proposed plans for that area also in the works.

Mr. Leif stated he is concerned this may cause their zoning proposal for 2009 Town Meeting to be pushed back, while they haven't agreed yet on what has already been proposed. Two options for this would be to spend the money for the study of Southwest Cutoff and present it at 2009 Town Meeting or if it is not ready in time for 2009, proposed it separately in 2010.

Ms. Barrett stated this could be taken out of the zoning and done after the rest of the zoning.

Mr. Leif asked if Ms. Barrett thinks, if they spend \$21,000 and decide one of the alternatives makes sense, there will be additional costs to then change the zoning bylaw and include the changes. Ms. Barrett replied that, for the \$21,000, she will produce changes to the bylaw that would need to be done. She stated she will be doing this with a colleague she will supervise, who will do most of the work, and will be able to get it done before 2009 Town Meeting. She stated they need to give her their drop-dead date - the point at which they say they're going forward or not.

Mr. Leif suggested they would do it with the condition that they could pull it if it compromises what they've been doing for 2 years. He asked Ms. Barrett if they could get the proposal by July 1<sup>st</sup> to discuss alternatives. They need it ready to present to them on July 1<sup>st</sup>. Ms. Barrett stated she will give them alternatives as they work on them.

A majority of the members of the Planning Board and ZBA voted in favor of the study of the Southwest Cutoff area by Ms. Barrett. Mr. Rosenberg abstained from the vote. The vote was 9 in favor of adding the work to the contract and one opposed.

Ms. Barrett stated she will submit a more detailed letter of proposal to Ms. Joubert.

A joint meeting will be held on April 15, 2008.

Dick Kane moved to adjourn the ZBA meeting, Gerry Benson seconded and the vote was unanimous to adjourn.

9:00 pm      Continued Public Hearing for Special Permit Common Driveway  
Application at 231 South Street Map 83 Parcel 88

Applicant:	Leland Law Associates, P.C.
Engineer:	Waterman Design Associates, Inc.
Date Submitted:	February 1, 2008
Decision Due:	90 days from close of hearing

Attorney Roger Leland and Wayne Belec, Engineer, Waterman Design, were present. Mr. Leif stated the board will be reviewing the draft decision for this project. Ms. Joubert stated outstanding issues were going to be worked out with Brett Bouillianne, the abutter at 215 South Street, Mr. Leland and Mr. Bellec, regarding headlights and a tree buffer.

Mr. Leland submitted a letter to the Board, stating they have tried to respond to Mr. Bouillianne's request and have decided to come to the board with a presentation because what Mr. Bouillianne has suggested, a 200-foot long buffer and \$10,000 worth of trees, is too

broad. He would like to have the Town Engineer's suggestion on what he thinks is appropriate.

Ms. Joubert stated she appreciates they haven't been able to come to a perfect solution, but believes it is not the responsibility of the Town Engineer to determine what is appropriate for the abutter and applicant. Ms. Joubert explained the board does have the authority to manage concerns of abutting residents and developers through conditions on the project. There have been incidences in the past when the board has conditioned sizes and types of trees. The board has included landscape buffers in conditions, but they haven't been written up with staff determining if the buffer is adequate enough. It could be something as simple as a landscape buffer could be placed along the property line of 215 and 231 South Street. She questioned if it would have to be a buffer along the entire property line.

Brett Bouillianne, 215 South Street, stated he is asking, more or less, for a 25-foot no-cut zone to maintain privacy in his yard, from the driveway to the corner the turn makes. If there is a no-cut zone, the driveway could come so close there would be no room for a buffer. In maintaining a 25-foot zone, there is a place to plant a buffer if they need it. They could keep the trees that are there and maintain what little privacy they will have. It may not need to be 200 feet contiguous with trees. He stated a landscaper advised him to ask for rows of different trees, at least covering the driveway. He could be flexible and have the buffer at the points where the driveway comes around and the headlights from the cars would be actually pointing at his house. He explained his house is approximately 35 - 40 feet from the property line.

Mr. Pember asked if the common driveway is within 25 feet of the boundary line in any spot and if Mr. Bouillianne's request requires the common driveway to be moved. Also, he asked if construction work is proposed within 25 feet.

Wayne Bellec suggested going out to the site, with no town mediation, and driving a vehicle there, during construction, after the gravel base is down. He would be there with Mr. Bouillianne and they will see how the light hits his property. The stone wall there is nice and he would not want to block the view. Construction is proposed with 25 feet, which is a no-cut zone. Mr. Leland stated they're talking close to 40 feet. He stated the problem they're having is the request from the abutter is quite heavy and restrictive. They've spent time and energy to design the plan as the Fire Chief wanted it. Mr. Bellec stated he thinks they can make it the way the abutter wants it.

Mr. Rosenberg stated that, when they approve the plan they're only approving up to the point where it becomes the common driveway and the access driveway really isn't part of what they're making their decision on.

Mr. Pember addressed Mike Durkin, in the audience, and asked about an elevated berm he had designed on another common driveway in town. Mr. Durkin stated they had designed an elevated berm and made it a variable width with staggered trees, which preserved the integrity of the house. Also on Whitney Street, they did a common driveway on a problem corner. They did a 3-foot berm and staggered trees.

Mr. Rosenberg stated the stone wall is valuable and wondered whether they could put some plantings on each side of the wall, so that Mr. Bouillianne would be able to enjoy both the plantings and the stonewall, which together would create a screening. He suggested planting 8-12 trees on both sides such that it would solve the problem.

Mr. Bouillianne suggested wording it somewhere that they can't place the driveway within a certain amount of space from the stone wall. He's looking for protection to say they will save the land on either side of the fence.

Ms. Joubert stated the common driveway has to be 15 feet from the property line.

Ms. Gillespie stated what they have planned now works with what the Fire Chief wants.

Mr. Belec stated they met with the Fire Chief on the common driveway and access driveway on the single-family homes and when they proposed the duplexes, and both plans met with the Fire Chief's approval. In some places the common driveway is greater than and less than 25 feet from the property line.

Mr. Leif stated they could require a vegetated buffer. He asked how far away they can stay from the stone wall.

Mr. Bellec replied they went with low impact development because they were sensitive to the limits of clearing. They are proposing a 3:1 slope and could tighten that up and check for ledge. If there's ledge, they could design a ledge face with plantings at the base instead of a retaining wall.

Mr. Leif stated it may be possible, but asked if they can commit to keeping the access driveway a certain amount of feet from Mr. Bouillianne's property line.

Mr. Bellec stated the distance of the access driveway from the property line varies from 12 feet to 60 feet. He suggested that if they go out there with a test vehicle, they may find the light spillage may be pretty minimal except in one area and they could look at a tree buffer on both sides of the retaining wall to fix the problem.

Mr. Hewey asked if the board could include a condition that the access driveway is built as presented on the plan. Ms. Joubert stated the common driveway is their jurisdiction and they could say a landscape buffer would be put in place. Mr. Leif stated the size of the buffer is important and they could say it shall be at least 12 feet in width. Ms. Joubert stated they could say that on the appropriate property line there has to be a minimum of 12 feet of landscaped buffer.

Mr. Leland stated he would like to stay with the 12-foot buffer to make sure they meet the requirements of the Fire Chief that emergency vehicles will be able to get up there. Sprinkler systems are not required and it's important to have pervious materials. He explained he isn't trying to cut corners but wants to do what Mr. Bellec has suggested. He wants it to be as attractive as possible and will do everything in his power to keep the abutter as comfortable as they can.

Mr. Leif suggested wording could be that a continuous buffer of not less than 12 feet in depth shall be maintained along the northerly property line.

Ms. Joubert made that change to the draft decision.

Ms. Gillespie moved to close the hearing. Don Hewey seconded the motion and the vote was unanimous.



Mr. Pember moved to approve the common driveway special permit with the wording changed to include the vegetated border along the property line of lot 2. Ms. Gillespie seconded the motion and the vote was unanimous.

**Approval of Minutes:** Mr. Rosenberg moved to approve the minutes of March 18, 2008 as amended. Ms. Gillespie seconded the motion and the vote was unanimous to approve.

8:00 pm          Public Hearing on Proposed Zoning Amendments for 2008 Annual  
Town Meeting

- 7-20-030(E) & (F) - Sign Bylaw
- 7-04-040(B)(4) - Non-Conforming Structures

Chairman Leif opened the hearing for the proposed zoning amendments.

After a brief discussion on the two proposed zoning amendments, brought forth by Bill Farnsworth, Inspector of Buildings/Zoning Enforcement Officer, Don Hewey moved to close the hearing, Mr. Rosenberg seconded the motion and the vote was unanimous to close the hearing.

Ms. Gillespie moved to accept the amendment to the sign bylaw, 7-20-030(E) & (F). Don Hewey seconded the motion and the vote was unanimous to accept.

Ms. Gillespie moved to accept the amendment to allow an expansion/alteration of up to 80% of the gross floor area of a non-conforming structure. Mr. Pember seconded the motion and the vote was unanimous to accept.

The meeting adjourned at 10:30 pm.

Respectfully submitted,

Debbie Grampietro  
Board Secretary