



# TOWN OF NORTHBOROUGH PLANNING BOARD

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## Planning Board

### Zoom Meeting Minutes

September 20, 2022

Approved November 1, 2022

**Members (Remotely):** Kerri Martinek, Chair; Amy Poretsky, Vice Chair; Bill Pierce, Millie Milton, Anthony Ziton

**Members Absent:** None

**Staff Present:** Laurie Connors (Planning Director); Fred Litchfield (Town Engineer)

**Others (Remotely):** Vito Colonna, Damon Amato, Scott Cameron, Ben Legere, Josh Vitullo, Bob Allen, Rachael Weiskind, Ashley Clark, George Gould, Brett Pelletier

The Chair opened the remote meeting at 6:00 p.m. and made the announcement that this open meeting of the Northborough Planning Board is being conducted remotely pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency, signed into law on July 16, 2022. All members of the Planning Board are allowed and encouraged to participate remotely. The Act allows the Planning Board to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting. The public is encouraged to follow along using the posted agenda unless the Chair notes otherwise. Members of the public who wish to view the live stream of this meeting may do so by going to Northborough Remote Meetings on YouTube via the link listed on the agenda. Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will feature public comment.

Member and Staff roll call was taken: Bill Pierce, Amy Poretsky, Millie Milton, Anthony Ziton, Kerri Martinek; Laurie Connors, Fred Litchfield

The first item on the agenda is an Executive Session. Ms. Poretsky made a motion to go into Executive Session pursuant to M.G.L., Chapter 30A, Section 21, Subsection 3 (Litigation) regarding pending land use litigation: Abu Construction, Inc. and KA Realty, Inc. v. Town of Northborough and Northborough Planning Board, Worcester Superior Court Civil Action No. 1985CV00178, due to the Chair's determination that a discussion regarding this matter in an open meeting may have a detrimental effect on the litigating position of the Board and the Town. When the Executive Session is over, the Planning Board will return to Open Session. Mr. Ziton seconded; roll call vote: Pierce-yes; Poretsky-yes; Milton-yes; Ziton-yes; Martinek-yes; motion approved.

The Board returned to Open Session at 6:18 p.m.

### **Continued Public Hearing for 100 Bearfoot Road Special Permit and Special Permit Site Plan Approval**

**Applicant:** Monocled Tycoon Real Estate Trust

**Engineer:** Connorstone Engineering Inc.

**Date Filed:** March 21, 2022

**Decision Due:** 90 days from close of hearing

Vito Colonna (Connorstone Engineering) requested a continuance via email. Mr. Ziton made a motion to continue the public hearing for 100 Bearfoot Road Special Permit and Special Permit Site Plan Approval to October 4, 2022 at 6:10 p.m.; Mr. Pierce seconded; roll call vote: Poretsky-yes; Ziton-yes; Pierce-yes; Martinek-yes; Milton-recused; motion approved.

**Continued Public Hearing for 75 Ridge Road Special Permit Common Driveway and Special Permit with Site Plan Review**

Applicant: Downeast Residential, LLC  
Engineer: The Morin-Cameron Group, Inc.  
Date Filed: May 23, 2022  
Decision Due: 90 days from close of hearing

Scott Cameron (The Morin-Cameron Group), Damon Amato, and Ben Legere were present. Mr. Cameron gave a brief update. Since the last meeting they have worked on addressing comments from the Conservation Commission and the public as well as working with staff. The review process was very thorough by all. They will not go into the 25-foot setback except to remove debris. The homes were pulled back, the impervious footprint was reduced, the stormwater management systems were adapted, the easement areas were modified, snow storage was included, a hydrant was added as well as a light, and the building lot sizes and setbacks meet zoning requirements. There are two main stormwater management systems which were explained. The grading plan was discussed; plants will be in the bioretention areas. Some trees in the middle of the property will need to be removed in order to meet Title 5 requirements for the septic systems as well as the stormwater management systems.

Ms. Martinek asked if the septic had been approved yet. Mr. Cameron said they filed the application for soil testing; they typically go through the public hearing process with other boards before going to the Board of Health. Ms. Connors said they have addressed all her questions/concerns. Ms. Poretsky commented on the trees being cut and the area being built up and asked how many feet it was. Mr. Cameron said the biggest fill is 4-5-feet; they would like to keep the fill on site. She also commented on the trucks coming on/off the site and asked if the Board could condition it to have them go out Ridge Road to Lyman Street. Ms. Cameron suggested that the contractor submit a truck route to staff and emphasize that they don't want them to go past the schools and residential areas if possible. Ms. Connors said wording will be added to Condition #3. Ms. Milton asked if there was an easement for Lot 2 and how big it was. Mr. Cameron said there are two easements on Lot 2. The first is for the common driveway; all three lots will have rights to access that easement. Lot 2 will also have a shoreline easement. Lot 3 is larger because of the groundwater overlay district; it's all protected. The easement grants Lot 2 the right to utilize the water frontage over Lot 3. Ms. Milton asked if the common drive is expected to be built before the first house is occupied. Mr. Cameron said the site clean-up will be done first, followed by the construction of the common driveway, and lastly the house construction. The common driveway does have to be constructed first, but it won't be paved during lot construction. The developer will have to submit a performance guarantee to cover the cost of completing the common driveway prior to issuance of a Certificate of Occupancy as a condition in the draft decision. There is also a condition that specifies that the work is to be completed within 4 years unless an extension is granted for good cause by the Planning Board. Mr. Ziton asked if the area within the setback from the water will remain untouched. Mr. Cameron explained that the Conservation Commission has a 25-foot setback no disturb buffer from any

wetland area; it is already disturbed; they have permission to clean up the buffer and restore it to a natural condition.

Ms. Martinek said the Subdivision Rules and Regulations note that approval is needed from the Board of Health for the septic system; Ms. Connors said it's a condition in the decision. Mr. Litchfield commented that technically it is not a subdivision and doesn't require Board of Health sign-off for approval; what Ms. Connors has in the decision is appropriate.

The Chair asked for public comment; there was none.

Ms. Milton made a motion to close the public hearing; Mr. Pierce seconded; roll call vote: Milton-yes; Poretsky-yes; Pierce-yes; Ziton-yes; Martinek-yes; motion approved.

There were two waivers to be considered. The first was the partial waiver regarding the minimum width for the common driveway. Mr. Pierce made a motion to grant a partial waiver from Section 10-36-130(A) of Northborough Rules and Regulations Governing the Subdivision of Land: requirement that common driveways serving 3 or more homes have a paved surface of 22 feet wide. The proposed common driveway shall have a paved surface of 20 feet with 2-foot compacted gravel shoulders. Mr. Ziton seconded; roll call vote: Milton-yes; Poretsky-yes; Pierce-yes; Ziton-yes; Martinek-yes; motion approved.

The second waiver was regarding locating trees over 10" in diameter. Ms. Milton made a motion to grant a waiver from Section 7.2(C)(9) of the Northborough Planning Board Rules and Regulations: requirement to locate trees over 10 inches in diameter at breast height. Mr. Pierce seconded; roll call vote: Milton-yes; Poretsky-yes; Pierce-yes; Ziton-yes; Martinek-yes; motion approved.

Discussion for Site Plan Approval. Ms. Martinek noted that two waivers were granted for the common driveway and were covered in conditions or by Mr. Litchfield's review. A(1-7) were adequately met; B(1)-(5) C.D.E.F. were adequately met. The proposed development satisfies criteria 1-9 as specified in Zoning Bylaw Section 7-03-050 C subsection (2) (b)[1-9]. Ms. Milton made a motion to GRANT the Common Driveway Special Permit and Site Plan Approval for the property located at 75 Ridge Road in accordance with Findings of Fact 1 through 10 and subject to Conditions 1-24. Mr. Pierce seconded; roll call vote: Milton-yes; Poretsky-yes; Pierce-yes; Ziton-yes; Martinek-yes; motion approved.

### **Public Hearing for 30 Forbes Road, Building B, Modification to a Special Permit for Use in the Groundwater Protection Overlay District Area 3**

Applicant: Aspen Aerogels  
Engineer: Highpoint Engineering, Inc.  
Date Filed: August 22, 2022  
Decision Due: 90 days from close of hearing

The public hearing notice was read into the record. Josh Vitullo, Bob Allen, Rachael Weiskind, Ashley Clark, and George Gould were in attendance. Mr. Vitullo gave a brief presentation. It's a 20-year-old aerogel company that has been in town for most of its existence that produces critical safety components for electric vehicle battery systems. There has been no manufacturing at the facility since 2010; it is strictly an R&D facility with headquarters and office space. They are asking for a modification to the 2002 special permit for groundwater overlay district, which was originally granted for a manufacturing facility as well as the R&D and office space. Modifications include an updated contingency manual to 2022 practices; an updated list of chemicals and

quantities (chemical use has been reduced by 90%); update to reflect transition from manufacturing to R&D/office use. They had a hearing with the Board of Selectmen in June 2022, and met with the Groundwater Advisory Committee (GAC) on 9/15/2022. There is a comparison list of chemicals from 2002 and present. The list has been reviewed by the GAC and the Fire Department; they don't present a hazard to the groundwater. The contingency plan has also been reviewed by the GAC and the Fire Department.

Ms. Milton asked if they expect any traffic changes or increase in personnel. Mr. Gould said they have expanded their personnel but it's about the same number as in the past ten years or so. She asked if there were any changes with the loading docks and was told it would be less. Mr. Pierce commented that one of the abutters is in an agricultural area that has animals and asked if there was any concern about chemical runoff for animals. Mr. Litchfield said not specifically for the animals, but the GAC did review the processes in place and felt that if there were to be a spill inside the building it would be contained adequately. He explained that safeguards and deliveries are significantly reduced with regards to the volume of chemicals. Mr. Pierce had a concern because that permit was prior to the SA Farm permit. Mr. Litchfield did not believe the farm is a direct abutter and said it didn't play into the decision making process.

Mr. Litchfield said the applicant has the GAC letter; the application was discussed extremely thoroughly and agreed upon at the GAC meeting. Ms. Connors did not have any new conditions in the decision, but modified Conditions #3 & #10 in the original special permit decision. She also added a statement saying that "except as modified herein, the terms of the Zoning Board of Appeals Decision, Case No. 01-19 dated January 25, 2002 shall continue in full force and effect". Ms. Poretsky asked if the locker rooms were used and was told they were; they do have to maintain bathrooms. Mr. Gould said they will be looking for a solution to prevent a spill from getting into the floor drains in the bathroom. She asked if the front of the building that is office space is potential R&D. Mr. Vitullo said the way it's set up today doesn't mean that's the way it will be set up in the future, it could be converted to R & D. Ms. Weiskind commented that the R&D group doesn't use chemicals constantly; they need office space for data analysis, etc. Ms. Poretsky asked if it would be fair to leave those as office spaces in the decision. Mr. Gould explained the floor plan diagram. Ms. Poretsky had a concern because this has considerably more chemicals than the companies that came before the GAC when she was on it. This decision modification could open the office area to R&D, the locker room could be used for storage. With floor drains being in there, she would like a section blocked off so there is nothing in the area with the floor drains used for chemical storage. Mr. Vitullo felt a condition specifying that any areas with floor drains could not be used as R&D or chemical storage would be more than reasonable.

Mr. Litchfield said the condition says that the applicant will take every appropriate and necessary action to make sure that a spill in the lab area doesn't leave the lab area. That would hold true if the lab area were to be expanded into the office area now. The condition would still be appropriate; the floor drain would still be protected from any spill as long as they adhere to that condition. They would also need a building permit from the Building Inspector in order to modify the configuration inside the building beyond what's on the plan now, and he would be checking the special permit to make sure that the floor drains are protected or the lab area is isolated from the floor drains; he didn't think a condition was necessary. The GAC wanted to focus on the fact that the manufacturing operation, which was more of a significant hazard to the groundwater than the R&D lab, is gone away; it was a huge benefit along with the 90% reduction in the volume

of chemicals being stored on site. Mr. Gould said R&D handles chemicals in much smaller containers than the manufacturing operation.

There was more discussion on a possible condition. Ms. Connors said there are two conditions in the 2002 decision that speak to this, Condition #4 can be modified to specify that there shall be no floor drains within the material storage or R&D areas. Condition #5 addresses Ms. Poretsky's concern; no modification needed.

The Chair asked for public comment; there was none. Ms. Milton made a motion to close the public hearing; Mr. Pierce seconded; roll call vote: Milton-yes; Poretsky-yes; Pierce-yes; Ziton-yes; Martinek-yes; motion approved. Ms. Milton made a motion to GRANT the Modification of Special Permit for Change of Use and Special Permit Per Groundwater Protection Overlay District Bylaw for the property located at 30 Forbes Road in accordance with Findings of Fact 1 through 9 and subject to revised Conditions #3, #4 and #10. Mr. Ziton seconded; roll call vote: Milton-yes; Poretsky-yes; Pierce-yes; Ziton-yes; Martinek-yes; motion approved.

### **Old/New Business:**

Brett Pelletier of Kirk & Company – Discussion of Priorities for White Cliffs Mansion Disposition – Ms. Connors said there are a number of challenges with returning the White Cliffs to active use, particularly costs. The White Cliffs Committee, in association with staff, thought it would be wise to put out an RFP to see if we could find a private or non-profit partner to take the property off the town's hands subject to a preservation restriction, or partner with the town to return it to active use. They went through procurement process to identify a consultant to assist with the disposition process, ultimately hiring Kirk & Company. One of Mr. Pelletier's tasks is to find out what the townspeople would like to do with White Cliffs mansion. Mr. Pelletier wants to make himself available to the boards/committees to bring everyone in the process. They have developed an outreach program and contacted 50+ industry professionals. The goal is to let people know it's coming down the pike; he has gotten some good feedback. They will be drafting an RFP with the hopes of releasing it by October.

Mr. Pierce asked what the Board could do to help the process, e.g., change zoning, frontage, etc. Mr. Pelletier said seriousness of intent is important. Being flexible and understanding or proactive and willing to work with someone. It overlaps two zones: Business East and Residential C which is an issue. There has been discussion about possibly rezoning the entire parcel. He said only one person has shown interest in converting the property into a single family or primary residence. He thought the solution is more for a commercial or mixed use. He also suggested mentioning it to people you know, even if you don't think they'd be in the running; they may know someone. Ms. Martinek told him to keep in mind that the Town Meeting is in April and the Board will start reviewing the zoning bylaws soon. Mr. Pelletier suggested rezoning the parcel to Business East; Ms. Connors has completed the zoning article for this. Mr. Pelletier said it's a generational asset and a challenge.

Continued Discussion of potential Zoning Bylaw amendments for 2023 Town Meeting including Update on Final Guidelines on Multi-family Zoning Requirements for MBTA Communities – The updated MBTA final guidelines came out August 10, 2022. Ms. Connors gave a presentation to the Board of Selectmen and the Board in April based on draft guidelines. There were a number of changes to the guidelines but those changes don't impact what is required of the Town of Northborough. As far as the town is concerned, there is still a requirement to zone an area consisting of at least 50 acres; the smallest area can be no smaller than 5 acres and the largest can be the 50 acres; it can be done in different ways. The density must be at least 15 units per acre. The overall number of units that needs to be accommodated

within the new overlay district is 750 units. We are required to submit an updated document on January 31, 2023; we need to comply by December 31, 2024. The majority of the changes to the guidance pertain to adjacent communities that have smaller populations and don't have public utilities. They no longer have the requirement for a 50-acre district; it can be smaller; and they don't have the requirement for 15 units per acre. She has reached out to CMRPC and told them we are interested in picking up the conversation again. Many grants will be tied to compliance. One of her concerns is that if we don't comply, we will not be eligible for a MassWorks Grant, which she hopes will fund downtown improvements. More in-depth discussion is needed. It will be scheduled for October 18<sup>th</sup>.

Ms. Connors also talked about adopting the Mullen Rule. If one meeting is missed, a member can watch the meeting and review the materials that were part of the meeting package. When voting on a decision, the member will read a statement saying they viewed the video, reviewed the materials from the meeting they missed, and sign it; it gets attached to the decision. Ms. Connors will talk with the Town Administrator to let him know the Board is interested in having the Town adopt it. Mr. Pierce asked if it was possible to find out how many parcels in town are in two different zones; Ms. Connors will add it to the list. Ms. Milton asked how do other communities mitigate the issue of industrial zones abutting residential zones. Ms. Connors said there should be some transitional uses, but there are some exceptions such as multi-family housing; single family homes are less tolerant. She said it's a good idea to have industry and residential uses separated by commercial uses.

Review of Draft Design Guidelines for Two Family Dwellings – Ms. Poretsky said they worked on them with Design Review Committee and was looking for input from the Board. Members will review them for the next meeting.

Consideration of Minutes from August 16, 2022 – Ms. Poretsky made a motion to approve the August 16, 2022 Minutes as amended; Mr. Pierce seconded; roll call vote: Milton-yes; Poretsky-yes; Pierce-yes; Zitton-yes; Martinek-yes; motion approved.

The Complete Streets Public Input Session is scheduled for October 3, 2022 at the Board of Selection meeting; 808 responses were received from the survey. Ms. Poretsky commented that the MPIC also discussed complete streets; there was list of 24 projects that was narrowed down to the top ten. One new project was added.

The next Master Plan Implementation Committee Meeting is scheduled for October 20, 2022. Ms. Poretsky said a survey was given out at AppleFest; it's online and available at the Town Hall and Library.

Ms. Martinek said many comments were received about how beautiful the planters were and thanked Ms. Connors and her team. Ms. Connors also thanked Ms. Poretsky, the other volunteers and the DPW for their cooperation and participation.

ANRs, Lot Releases, Bonds: Performance Guarantee Release for 454 and 469 Whitney Street – Tabled to the October 4<sup>th</sup> meeting.

Subcommittee Updates – None tonight.

Ms. Martinek drafted the letter to the Board of Selectmen regarding traffic; comments should be sent the Ms. Connors.

The next Planning Board Meeting is scheduled for October 4, 2022.

The next ZBA Meeting is scheduled for September 27, 2022. On their agenda is a joint meeting to discuss the bylaws. Ms. Connors discussed with the ZBA that the Board is starting on the zoning earlier with the intent to finalize zoning well in advance of March. Ms. Martinek is open to a joint meeting but would like to better manage expectations upfront making sure we know our respective roles. It is the Planning Board that has the authority to create and propose the bylaws to the town; it's not the role of the ZBA. She wants to be mindful of the way it's done at Town Meeting and thought Ms. Connors could help the Board set expectations and roles. Ms. Connors responded that it is appropriate for the ZBA to express their opinions as residents. She concurred that the Planning Board makes the recommendation before the Town Meeting on all proposed zoning-related articles. Any Board or resident or staff member can submit an article via petition, but the Planning Board is the only entity that can provide the formal recommendation on every warrant article that's zoning related.

Ms. Milton made a motion to adjourn; Mr. Pierce seconded; roll call vote: Milton-yes; Poretsky-yes; Pierce-yes; Zitton-yes; Martinek-yes; motion approved.

The meeting was adjourned at 9:18 p.m.

Respectfully submitted,  
Melanie Rich  
Board Secretary