



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 2.18.2020

Planning Board
Town Hall, Selectmen's Meeting Room
Meeting Minutes
February 4, 2020

Members in Attendance: Kerri Martinek, Chair; Amy Poretsky, Vice Chair; Michelle Gillespie; Anthony Ziton; Mille Milton

Members Absent: None

Others Present: Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Robert Frederico, Building Inspector (audience attendees - see attached sign in sheet)

Chair Martinek called the meeting to order at 7:00 p.m.

Continued Discussion with Sarah Adams, CMRPC RE: Zoning Bylaws for Solar Energy Systems and Hazardous Waste Facilities:

Hazardous Waste Facilities – Ms. Adams provided a revised draft for review based on the last meeting. Ms. Joubert suggested removing #7 and #8 of the draft and let the DEP handle the decommissioning rather than have the town do studies the DEP had already done. Mr. Frederico had no concerns. Ms. Poretsky said they previously talked about amending the groundwater bylaw and removed Ms. Adams' recommendations because reference to hazardous materials was in the town's bylaw already but, after reviewing the town's bylaws, in her opinion did not feel it was similar with to #2-Disposalale Hazardous Waste. Mr. Litchfield felt it was covered under the prohibitive section. Ms. Adams agreed that it should be left as is since they are updating sections to the existing Zoning Bylaw, not implementing a new Hazardous Material Bylaw. Ms. Joubert commented that for anything being proposed in the Groundwater District, staff receives the MSDS (Material Safety Data Sheets). Ms. Martinek asked if #7 peer review was covered by the bylaw and is #8 covered by the state. Ms. Adams said it had been addressed previously; the state's requirement is extensive; DEP has people reviewing it. Ms. Joubert pointed out that general peer review is separate from the Zoning Bylaw; it is a companion piece (Planning Board Rules & Regulations) which lists the requirements to be submitted as part of the site plan review; peer review is included in that section. Ms. Poretsky had a question on the definition of Hazardous Waste Facilities where it says "any new or substantially improved structure". Mass General Laws defines it as "any site which will be used". She was concerned about a possible loophole. Ms. Adams will revise it to include "any site or substantially improved site".

Mr. Frederico asked who is the zoning enforcing authority as described in the "Hazardous Materials" definition. It was agreed that it will be the Zoning Enforcement Officer to be consistent with the Zoning Bylaws.

Solar Energy Systems – Mr. Frederico explained that commercial scale ground mount solar systems have a large battery or energy storage system so the facility can continue pumping electricity into the grid when the panels are not operating at night. The NFP (National Fire Prevention Association) has a regulation on how to deal with the battery consoles in case of a fire. It is an NFPA Regulation. It has not been officially codified as an enforceable code through the Building and Fire Regulations in Massachusetts; however, NFPA Fire Code 855 can be put into the conditions of the Decision as part of the Site Plan Approval; he recommended it be included; the board agreed; Ms. Adams will make the change.

Ms. Poretsky asked if each side of a residential duplex had a ground mount or was it one per lot; Mr. Frederico and Mr. Litchfield agreed they would each have one.

Additional comments were addressed. In the Site Plan Approval, “previously developed sites” was left as is; “materially” was left as is; fencing was updated to a minimum of 6-feet in height. Ms. Gillespie commented that there are several types of fencing. Ms. Adams said the only requirement is site impervious. Ms. Joubert said the Site Design Standards include fencing, but there are no specifics as to the types and felt it should remain consistent throughout the Zoning Bylaws. The members felt the type of fence should be considered. Ms. Joubert asked if they wanted to make the change throughout all zoning since fencing is referenced throughout the Site Standards and Cell Tower Bylaw. Ms. Gillespie suggested including it; should it become an issue it can be amended; the board agreed; the change will be incorporated.

Ms. Martinek said they will speak with the Assessors about the PILOT program. Ms. Joubert thought it may have to go to town meeting; there are many steps before it could be considered. Ms. Adams said the applicant would have to submit their interest at the time of the application.

Revisions remaining: add NFPA Fire Code 855 to the Site Plan Approval Decision and add “energy storage systems” to 7-10-060 D.2.a.&b.; the board agreed; changes will be incorporated. Ms. Adams will revise the draft and send it to Ms. Joubert.

Michael Cramer (One Buckhill Road) asked for a synopsis on the hazardous waste facility which is close to his property. Ms. Martinek explained what the town is doing and the process to protect the town.

Zoning Bylaw Articles regarding Funeral Home, Kennel, Commercial Recreation Indoor, Light Manufacturing/Warehouse/Contractor’s Yard or Lumber Yard, Home Occupation, and Two-Family Dwellings were discussed. Ms. Joubert incorporated the edits and revised the Bylaw and Use Table.

With regard to Home Occupation, Ms. Poretsky asked if one commercial motor vehicle includes heavy construction equipment; she thought heavy construction equipment is unregistered. Mr. Frederico said that as long as it has a license plate, it is a registered vehicle. She would like it to be more specific since she found different definitions online. Ms. Gillespie said it should be two if trailers are being defined and suggested changing it to no more than two commercial motor vehicles on the property. Ms. Martinek made a motion to read “no more than two commercial motor vehicles on the property”; Ms. Milton seconded; all voted in favor; motion approved. Ms. Joubert will make the revisions. The public hearing will be March 3rd; a continued public hearing will be March 17th if needed.

Continued Public Hearing (425 Whitney Street) Special Permit Site Plan Approval and Special Permit per Groundwater Protection Overlay District:

Applicant: Steris A.S.T.
Engineer: VHB
Date Filed: September 17, 2019
Decision Due: 90 Days from Close of Hearing

Attorney Stephen Madaus (Mirick O’Connell), Rich Whitehouse (VHB, Site Engineer), Keith Burnett, (Project and Facilities Engineer, Steris), and Mike Carelli, (Plant Manager, Steris) were present. A memorandum was submitted in response to a letter received by the applicant from the Planning Board dated November 15, 2019 requesting additional information to assist the board in its review of the applications for Site Plan Approval and for a Special Permit pursuant to the Groundwater Protection Overlay District. The acoustic study is still outstanding. Attorney Madaus briefly reviewed the responses to each item in the Memorandum entitled “RE: Response to Request for Additional Information” dated January 28, 2020.

Ms. Martinek said the board would determine what peer reviewed is needed and/or additional information clarified. Ms. Poretsky asked the type of gas that will be emitted. Attorney Madaus was unsure; he will provide the information. Ms. Gillespie asked about the traffic study and how they determined the data. Mr. Whitehouse said the numbers were based on the existing building (based on basic traffic study methodologies by ITE). She asked if there would be 98 vehicles on a Saturday and Sunday or just Saturday. Mr. Whitehouse said trips on Saturday will be fewer than the prior use; it would be only employee traffic on Saturday with trucking traffic during the week. Ms. Gillespie asked if traffic is based on an industry standard and not on real baseline numbers. Mr. Whitehouse said the site is currently vacant. She asked about traffic during the build-out of the property (15-20 trucks per day but not on weekends); Attorney Madaus clarified that would be during operations. She asked when will the acoustic study be completed; approximately one month.

Mr. Ziton asked about decommissioning. His concern is what is going to be left over with the 12-foot walls and ceilings and what is the effort and cost to remove the material should Steris leave, go bankrupt, etc. Attorney Madaus said their \$6 million dollar investment is long-term. Should that happen, he felt there would still be value in the parcel. Mr. Ziton said the size of the walls and ceilings are extraordinary. Attorney Madaus felt a buyer would factor that into the cost. Mr. Ziton also had a concern about a temporary concrete plant being close to residential properties and concerned about the neighborhoods e.g., noise, dust, etc. and felt peer review would be important for that. He asked if they knew what direction the beam would be facing and was told possibly the railroad tracks but regardless, it would be fully contained.

Ms. Milton had a concern since this is the first type of building for radiation sterilization they are constructing; no others exist in the U.S. She asked where they are getting their information regarding what will or will not be existing outside the walls or what is in the concrete because it talks about certain levels of “r” that would be measured in the concrete a year or so later; was it coming from another facility? Mr. Carelli explained that it is the mathematical function of power and area from inside the beam. She said it also talks about no potential for a dose exceeding .1 “r” in a year outside the shield, is that after it is no longer used? Mr. Carelli said that is basic exposure to the sun.

Ms. Martinek asked if a concrete plant was a temporary structure; Mr. Frederico said yes. She said then there are temporary structure bylaws. Mr. Frederico said if it was a large enough construction site, they would install a fence around the perimeter to keep out unauthorized personnel. He said temporary structures are good for six months, subject to extension by his authorization. Ms. Martinek asked Mr. Litchfield about letter regarding the chemicals on site list. Mr. Whitehouse pointed out that in the original letter, the applicant anticipated 110 gallons of transformer oil; that has since been removed; the full version of the revised memo was filed today for Groundwater. She asked about abutting land. There was a notation about an appeal that was filed by one of the neighboring properties but not listed here; she was told that it may be in the radius, but was not a direct abutter. She said she realizes that the materials are not radioactive, but there is some sort of radiation that comes from the beams so it appears there would be radiation inside the building. Mr. Burnett said the use of the beam in the sterilization process is not emitting electromagnetic radiation from the building. Ms. Martinek still there are still some areas of where they mention there is no radioactive emissions; she continues to go back and forth on it because it sounds like they are saying two opposite things.

She commented on Special Condition #46 of the Order of Conditions issued by the Conservation Commission and asked how it addresses dust control. Mr. Litchfield explained that at the time of the Conservation meeting, the process of the temporary concrete plant was not completely known to them. In order to close the hearing, the applicant was told they would meet with the Conservation Agent and the Town Engineer and review all aspects of the concrete plant prior to the start of construction; all the details will be reviewed by the Conservation Agent and himself prior to them starting any work. The Commission was concerned with the washing of the concrete tubs making sure nothing got into the drainage system or the wetlands. Mr. Litchfield said everything associated with the concrete plant will be reviewed. Mr. Burnett said they are in the process of preparing the plan that will address it for the Conservation Commission.

An audience member asked about moving materials. Mr. Carelli said the materials include medical devices, gauze, band-aids, plastics, cardboard, paper materials, etc.; all new, single use devices brought in by tractor-trailers; he explained the process. Jeff Summers (1 Scott Lane) asked what triggers an automatic shutdown. Mr. Burnett said anything that is out of spec. Mr. Summers also asked if there was an active x-ray radiation leakage detection area directly adjacent to the containment area; Mr. Carelli said both indoors and outdoors. Mr. Summers asked if it is incorporated into the system and was told yes. He is interested in what triggers it to shut down and how fast; Ms. Martinek said clarification is needed. Gina Babcock asked why there isn't an acoustic study available. Mr. Burnett said it is site specific; they are more concerned with the noises outside the building; the delay was the hiring of the consultant. The sound study was triggered by the proximity to the residential area. Ms. Babcock asked how long can an extension of the temporary use (concrete plant) be allowed by the Building Inspector; she feels it will go on for a long period of time. Ms. Martinek said the board could include a condition to have them come back to the board after a certain amount of time. Mr. Frederico said the definition is for twelve months and they can reapply after that. Ms. Martinek said at this time the board does not have the full insight of what they are able to restrict or regulate within the law and bylaws. A question was asked about construction hours of operation. Mr. Frederico said 7AM to 7PM Monday-Saturday, no Sundays or legal holidays unless they request written permission from him and he grants it. Mr. Burnett said they will not be pouring concrete every day. It was also asked if they could guarantee that the beams won't face the residential area and was told there is no layout at this time.

Jim Shore (34 Coolidge Circle) said he filed the appeal based on the ZBA ruling. His property is within 90-feet of 435 Whitney Street. He asked if it was correct that no activities can take place while it is in place; Ms. Martinek said that was correct. He said he has seen activity on the site and was told there is no activity regarding the concrete facility. He said safety concerns are unknown. After further comments, he formally requested in writing from the town's legal department giving the precedent of why the continuations of the hearings should continue based on his appeal not being resolved in court. The board received an email from the Town Planner summarizing what town counsel stated which is the appeal was filed; the filing of an appeal does not stop other boards from reviewing and issuing their decisions. Ms. Joubert said if an applicant is before other boards, it doesn't stop the process. Ms. Martinek said we can get further clarification. Attorney Madaus said the appeal stays the issue of the Building Department for the construction of the addition, it doesn't stop anything else; they can still use the property.

Ms. Gillespie asked if they could address some of Mr. Shores comments. The applicant plans to open other facilities in the U.S. (California and Illinois). Mr. Burnett said they are in the design and permit phase of all three. She asked that said since they currently have only one facility and it is abroad, are there similar regulations that will be used in Massachusetts. Mr. Burnett said the x-ray technology is not new technology; it is regulated by the state; the size of the machines is bigger than normal. Mr. Carelli explained the validation process; it is proven technology in Switzerland; it has been operating for ten years. Lisa Maselli (13 Maple Street) asked about truck sounds and if it was included in the sound study? Mr. Burnett said it would not be included in the sound study because it is a federal law, but they only plan to ship Monday-Friday. A gentleman asked if there were any studies for background ENR; does it impact any radio frequencies? The answer was not known; it will be added to the peer review.

Items to be part of the peer review were discussed and will include: peer review of the application including the site plan; review of the response to the Planning Board memo (incorporated in that response are all of the studies, including the acoustic study); what regulates temporary structures (Mr. Frederico suggested reaching out to a concrete plant for their specifications); and Town Counsel advice, in writing, regarding how the appeal process works with respect to other boards. Ms. Joubert explained the process for peer review that was used for Northborough Crossing. She will have the proposal ready for the next meeting. Ms. Poretsky made a motion to continue the public hearing to February 18th at 7:00 p.m.; Ms. Milton seconded; all voted in favor; motion approved.

Old/New Business:

Consideration of Minutes – Ms. Gillespie made a motion to approve the Meeting Minutes of 12/3/19; Ms. Poretsky seconded; all voted in favor; motion approved.

Master Plan – Ms. Martinek said the Master Plan Steering Committee met and invited people to submit written comments to the Planning Board for the February 18th meeting; comments need to be received by February 13th.

Ms. Gillespie talked briefly about the need for an Inclusionary Zoning Bylaw. Currently with the town not having one in place, by right, the town cannot ask for affordable units from builders

for any type of multiple units being built. She suggested reading the letter received and, moving forward, take into consideration the Master Plan and think about future building.

Grants – Ms. Martinek provided info she received information regarding the DLTA grant from the CMRPC meeting she attended; there are many grants and types of resources available. She thought it might be a good idea for Trish Settles to come to a meeting and explain the different grant opportunities.

ANRs – Ms. Joubert said there are two ANR plans in the office to be signed (West Street and Increase Ward Drive).

Subcommittee Updates – Ms. Milton said the CPC met and approved all applications except those that were withdrawn.

Upcoming Planning Board Meetings are scheduled for February 18th, March 3rd & 17th and April 7th and 21st.

The next ZBA Meeting is scheduled for February 25th.

Ms. Gillespie made a motion to adjourn; Ms. Milton seconded; all voted in favor; motion approved. The meeting was adjourned at 9:37 p.m.

Respectfully submitted,

Melanie Rich
Board Secretary