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# TOWN OF NORTHBOROUGH PLANNING BOARD

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**APPROVED 11/16/2021**

## Planning Board Zoom Meeting Minutes October 5, 2021

**Members (Remotely):** Kerri Martinek, Chair; Amy Poretsky, Vice Chair; Anthony Ziton; Mille Milton; Michelle Gillespie

**Members Absent:** None

**Others (Remotely):** Kathy Joubert (Town Planner)

The Chair opened the remote meeting at 6:05 p.m. and made the announcement that the open meeting of the Northborough Planning Board is being conducted remotely consistent with Governor Baker's Executive Order of June 16, 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency. All members of the Planning Board are allowed and encouraged to participate remotely. This Order allows the Planning Board to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along 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 can 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 not feature public comment. The process was explained.

Member and Staff roll call was taken: Anthony Ziton, Amy Poretsky, Michelle Gillespie, Millie Milton, Kerri Martinek, Kathy Joubert (Town Planner)

### Old/New Business

Consideration of Minutes (09.07.21, 09.21.21) – Ms. Milton made a motion to approve the 09.07.2021 Meeting Minutes; Ms. Poretsky seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved. Ms. Milton made a motion to approve the 09.21.2021 Meeting Minutes; Ms. Poretsky seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved.

Planning Board Rules and Regs Review and Update (requiring the amount of days materials need to be received before a meeting) – Ms. Joubert received input from several Planners about their process and how it works. Most towns have a verbal understanding, making the applicants aware of the board's preference; no one required more than one week ahead of a meeting. One town has it in their Rules & Regulations; one town has it written on the application. The ZBA and Planning Board have an instruction sheet that goes with every applicant when filing an application; a note could be included on that. Ms. Joubert also asked the communities if there was anything punitive to the applicant; there was not. If material is not received, a determination could be made (depending on the significance of the material) whether to continue the hearing.

The Board agreed that a note will be added to the instruction sheet of the application that materials need to be provided seven days in advance of the hearing.

Master Plan Implementation Committee – The Committee met last Thursday and will meet again on October 21<sup>st</sup>. Ms. Joubert could not participate due to network connections. Recommendations were discussed as well as a mission statement. Ms. Poretsky suggested reviewing the checklist containing the Planning Board recommendations. Ms. Gillespie explained the way the Master Plan was written and let those that were not familiar with it know that it is all scheduled out in years. Prior to the next meeting, Ms. Joubert will provide the members with the implementation chapter and what is associated with the Planning Board.

ANR for 31-35 Lincoln Street – Ms. Joubert explained it is an oversize lot to be subdivided into two lots; it meets all the setbacks. Ms. Poretsky made a motion to approve the ANR Plan for 31-35 Lincoln Street; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved.

Subcommittee Updates: None tonight

**Annual Town Meeting Zoning Bylaws Discussion:**

Breweries – Ms. Poretsky discussed the definitions from different towns, some with a limit of 15,000 barrels per year. There are questions about water usage and traffic. Ms. Joubert assumed that the 15,000 barrels/year is a state regulation because just about every town uses that number. She asked if they are looking at a small scale to possibly have it in the downtown area because last year they also talked about including it in the industrial district on a much larger scale where it would primarily be more of a facility that's manufacturing and not so much having a pub associated with it. She will contact the communities that have a bylaw and a brewery in their town. The Selectmen would also be involved with the licensing aspect.

Commercial Development Overlay District – Ms. Poretsky said there were discussions about possible uses that could be allowed in the industrial area for a better selection because the list is so small. She used the current overlay and tried to change it to make it into a commercial overlay for the other zones. A possibility could be to add certain uses to the use table instead of an overlay; and perhaps hold a meeting for public input. Ms. Gillespie thought we should find out the financial impact since industrial brings in more revenue than commercial. She also thought other boards and committees should be involved with overlays. Ms. Milton would rather it be added as uses rather than an overlay. Mr. Ziton would like to understand the differences in what square footage in industrial brings in for tax revenue as opposed to a restaurant or hotel. Ms. Martinek asked if the purpose of the overlay was to get something in return. Where would an overlay bring some type of benefit that adding to the use table would not. Ms. Joubert said that sometimes you want to use an overlay to maintain the original zoning. Several years ago there was a decision made that a certain scale would be allowed by right and if something was larger than that it would need to be looked at with a special permit and conditions because of the impact it would have on the area. She asked as a community does the board want to encourage other uses, whether it's more industrial type, or do they want to introduce some type of commercial into the industrial district. Ms. Joubert felt it needs more discussion; her opinion was that the board should wait until the MPIC gets off the ground.

Ms. Martinek said the board can't wait until industrial development comes to the top of the list because she doesn't think it will happen and doesn't want the Master Plan to be the be-all end-all. Ms. Joubert was not saying that the board shouldn't look at zoning but should consider what the Implementation

Committee brings forth that would require zoning modifications. Ms. Poretsky agreed that the overlay may be too major to do for 2022 town meeting, but thought the board stay open to use. The board will review the use table to see if there are any good uses for empty warehouses, space, or land for sale that would open it up. Mr. Zitton originally mentioned opening up commercial uses but didn't have anything specific in mind. Ms. Joubert said the board might want to, instead of creating a new bylaw, look at what the major commercial overlay district says. Perhaps that bylaw as it is written today is applicable for the other industrial areas. The availability of town services also needs to be factored in when looking to expand commercial development. Ms. Gillespie commented that one of the points of the MPIC is to look for extending water and sewer within the community; there may be the opportunity for a hotel in the future. The board will think about whether they want commercial uses and how do they want to move forward. Ms. Martinek will email Tom Spataro on the Financial Planning Committee to ask him about finances regarding industrial versus commercial.

The possible Historical District Bylaw was withdrawn.

Sober Homes – According to the Bob Frederico, there hasn't been any changes to the building code, electrical or plumbing regarding sober homes. A sober house use is protected under the Dover Amendment; towns cannot say that type of use can only go in one district, or not in any district. The courts have said that reasonable regulations can apply to them. Ms. Milton felt it was more of a bylaw regulation rather than zoning. Her concern is that sober houses often times have no oversight from any state or local body. Ms. Gillespie asked what the board would do for the zoning; will they do only new construction or for an existing home. Will it be rejected by the Attorney General's office (even if passed by the town) because the state has said it is a protected class? Ms. Milton said there are towns who have tried to put bylaws in place and ends up in the court system. Sober homes are happening in houses that are already built and there doesn't appear to be any oversight of this use. Ms. Joubert will ask Mr. Frederico to attend a future meeting. Ms. Milton will prepare a list of questions and email them to the members.

Signs – Mr. Zitton is still reviewing information.

Ridge Road Property – Ms. Joubert said the applicant and his engineer are working on proposing revisions to the existing Open Space Bylaw; she suggested they come to the next meeting to discuss it. When information is received, she will pass it along to the board.

Ms. Joubert said she received an email Aaron Hutchins regarding Brigham Street. It is an involved process; the parcels have been put together; how to extrapolate out the frontage is still being worked on by the MIS/GIS Department.

Home Occupation – Ms. Joubert needs to clarify the number of truck/vehicles.

Ms. Joubert said she met with Bob Frederico today; one item discussed was the outdoor restaurant seating that was put into place under COVID, which is going to expire. It was determined that there is nothing we need to do with zoning to address outdoor dining; it is being taken care of by other departments.

Moratorium – Ms. Joubert spoke with Attorney Mark Bobrowski (Land Use Handbook author) and asked what is or is there anything that a town needs to do in advance of preparing or proposing a moratorium; the work is afterwards. A moratorium can be proposed, but part of the presentation and discussion at town meeting is that if the moratorium is approved, you are committed to studying it within 12-18

months, though the courts encourage it be done within a year so the changes can be brought to the next town meeting.

Ms. Joubert stated there needs to be discussions about why it is that you want the moratorium, what you think the moratorium is going to accomplish, and what are you going to do during the moratorium period.

Ms. Martinek said there are two different components: moratorium and definitions. Ms. Milton thought it was worth looking into to find out what the process is regardless of whether we move forward. Mr. Ziton thought right now that we're just trying to slow things down to get our hands wrapped around the current trucking traffic issue. Ms. Gillespie asked if the board wants to put no growth in industrial because of warehouses or trucking issues. Ms. Martinek said it would be a moratorium on the use until we get a handle on what's happening there. It would be for warehousing distribution. Ms. Poretsky said we have had applications for warehouses and some of them ended up being distribution and trucking. A moratorium should be on both warehouse and trucking, rail or freight terminal and see how this board and other town boards want to go forward.

Ms. Joubert said if the concern is that there this is a trucking or traffic issue, the board needs to be very specific, what is it, and is there a way to address it within existing bylaws or adding bylaws. Her opinion was that it is a big jump to go to a moratorium. She also stated the Selectmen have been addressing the traffic concerns at their meetings and the DPW has provided updates at each BOS meeting. She thinks the board needs to define what they perceive the problem to be, and are there ways that it can be addressed, or does it need to be further addressed if they think what the Selectman and DPW are doing is not addressing it. Ms. Martinek said enforcement is a big issue. Do we need to evaluate enforcement; is there something we can do differently; do we bring up all the issues and figure out how to solve it. Ms. Joubert said it could be done in conjunction with the Selectmen. There has been a significant increase in compliance with the companies that people were having issues with that the Selectmen have worked with. Ms. Martinek said if the conditions are still not being enforced, does it make sense to continue to take them on or do we need a moratorium to solve the problem; do we need to level set it, particularly in the area that abuts the residential areas? The board will make a list of their concerns and include the continued email concerns. Ms. Poretsky will forward the definitions and information on enforcement to the board for the next meeting.

Groundwater – Ms. Poretsky said, based on her research, only the Town of Sherborne has a Groundwater Committee; their recommendations say the committee has no serious concerns. She commented that our Groundwater Advisory Committee (GAC) votes to recommend approval which is more of a legal liability for the town because they are an advisory board; she thinks it's very important that they do not vote. Ms. Martinek asked if it would need a bylaw change or discussion. Ms. Poretsky thought a memo or chair to chair discussion needs to take place. Ms. Joubert clarified it is made very clear that these are advisory boards, there is no question among staff or amongst the board members that they are not a permit granting authority, but they have to vote to advance the project. Both boards know they are making a recommendation; both boards know they are not granting any permits; they know what they provide is a recommendation to the special permit granting authority.

Ms. Poretsky said this should be discussed in an executive session because the example she has needs to be discussed in executive session. Ms. Joubert said executive session is to discuss something that public discussion of it could be detrimental to the board's position, but if she was talking about a decision that is a public document and she had a question about one of the conditions she could ask it now, but that's not an executive session. Ms. Poretsky it had to do with litigation. Ms. Joubert asked if they were litigating

that something that the Advisory Board said and was told no, but a discussion about it. She did not want to bring it up publicly and will contact Ms. Joubert tomorrow.

Dark Skies – Ms. Poretsky didn't feel the need to bring it to town meeting this year because it is new. Ms. Joubert said if there are items in the Dark Skies Bylaw, e.g., lumens, the Planning Board and ZBA can ask an applicant; no need to wait for a bylaw. Withdrawn.

Conversion Only in Downtown – Withdrawn.

Use Variances – It has been attempted in the past. Ms. Martinek has not yet reached out to the ZBA for feedback. Ms. Joubert said as part of reaching out to the ZBA, if the boards want to move forward with it, one of the things to look at is what kind of use variances have been approved in the past; have a lot of people applied for a specific use variance and, if those have been continuously granted, should the bylaw be changed.

Upcoming Planning Board Meetings are October 19, 2021 and November 16, 2021; the next ZBA Meeting is October 26, 2021.

Ms. Milton made a motion to adjourn; Mr. Ziton seconded; roll call vote:

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Melanie Rich