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TOWN OF NORTHBOROUGH PLANNING BOARD

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APPROVED 1/4/2022

Planning Board Zoom Meeting Minutes December 7, 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), Fred Litchfield (Town Engineer), Bob Frederico (Building Inspector), David Kane MIS/GIS Director)

The Chair opened the remote meeting at 6:03 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 may feature public comment. The process was explained. This meeting will include Executive Session.

Member and Staff roll call was taken: Michelle Gillespie, Anthony Ziton, Amy Poretsky, Millie Milton, Kerri Martinek, Kathy Joubert (Town Planner), Fred Litchfield (Town Engineer), Bob Frederico (Building Inspector), David Kane MIS/GIS Director)

Old/New Business:

Annual Town Meeting Zoning Bylaws Discussion:

Presentation by David Kane, MIS/GIS Director RE: RC Zoning District: David Kane gave a presentation on different analysis regarding the parcels in the RC zoning district. He explained the three criteria that he used: (1) residential parcels within the RC zoning district; (2) lot size in excess of 40,000 square feet; and (3) frontage greater than 100-feet. He briefly described the methodology and explained the visual representations of the parcels. 417 parcels were found in the RC zone that were larger than 40,000 square feet and had the minimum frontage; of those 280 were single-family. Mr. Kane will provide the members with an excel format of the analysis. Ms. Gillespie said there is potentially another 137 lots that qualify under residential but could be more than a single family.

Aaron Hutchins (91 Brigham Street) said his initial prospect was for the possible development of the acreage behind him. He has 4.71 acres and wanted to know in the RC district how many properties had that kind of acreage. He said the majority of the properties on these maps are not really the subject of what he was trying to address with his own property. He would like to potentially modify Section 7-06-

030, Supplemental Regulations, and Table 2, Table of Density and Dimensional Regulation. Currently developing the back acreage would cause him to lose 3± acres. He was looking to have a discussion and analysis to talk about what properties have substantial acreage and the bylaw changes that could be made to make more friendly the development of single-family homes in the RC district without overwhelming the town.

Ms. Gillespie commented that it's not only RC, but also for RA and RB. If you're going to allow reduced frontage in RC, there are quite a few long narrow lots throughout the town that don't have the frontage and wanted to clarify that if they are going to consider that they need to consider it in all the districts; it doesn't seem like fair planning otherwise. Because it's been a while since we saw a proposal and only received the data before the meeting, Ms. Martinek said it would be helpful for the board review all the information/data and have a follow up discussion at another meeting. In response to Ms. Gillespie's comment, Mr. Hutchins said he wasn't clear whether they could designate a change just for RC or if Town Counsel would need to weigh in. Ms. Joubert said when the board talked about doing this exercise, they decided on taking a look at doubling the lot size which is significant; they wanted to look at what the impact would be of potentially changing the density in the RC zone; it is the most dense zone in town; it's not right or wrong if you can change the lot size, but the board wanted to look at if doubled the lot size and just had slightly more frontage, who could it possibly affect. She said there are two ways of developing property in Massachusetts. One way is to develop it as an approval not required (ANR). Massachusetts is one of about three or four states in the entire United States that allows single lots to be developed the way that we allow them to be developed in Massachusetts, and that is by having enough frontage and enough square footage, you have a building lot. The other way to develop a house lot is through the subdivision process. She said you can't randomly reduce the frontage; there must be some reason behind it because lot sizes are historically based on the availability of either septic systems or sewers. These are some things to take into consideration when you think about whether you want to increase the density and how you want to increase the density. Mr. Ziton said it is a very complex situation and something we would want to understand the ramifications because of it. Ms. Martinek asked if we really wanted to take time to look at the data and original thought process and come back with thoughts after we've had a chance to look at it more closely. Ms. Gillespie thought it would be fair to bring back feedback to Mr. Hutchins. Mr. Kane was thanked for his research.

Board Feedback RE: Proposed Revisions to Open Space Residential Design Bylaw: Ms. Poretsky said the purpose of the Open Space Residential Design Bylaw is to protect large parcels of open space and felt it was put into RA and RB because those are the larger parcels in town; RC is the denser section in town and didn't think it was the right location for this design. She also thought there could be unintended consequences and was not in favor of it. Ms. Milton said the reason this is a problem for them is because of the cost of the property and the cleanup and felt that shouldn't fall under the board's decision-making process to enable them to pay a higher cost for it and accommodate this type of zoning application. She further said if they were getting the property at a reduced cost, she didn't think they'd be as concerned about how many houses they could put on it. Ms. Gillespie said the goal of cluster housing was specifically to be in RA and RB and so the town could have open space and it could connect to trails or other open space; it was never designed to be in RC; there was much discussion about why it should not be in RC. She would find it very difficult to go back and historically look at how this came about in the bylaws and look at the discussions on it. She thinks they would have a very hard time to pass it at town meeting whether he decides to go through a board or on his own; this was never intended for RC. Mr. Ziton also didn't think it was intended for RC. He would not want to see an entire district changed for one project without knowing what could happen because of it. **Damon Amato and Ben Legare were present RE: 75 Ridge Road:** Mr. Amato thought it was a simple oversimplification to him and said the bylaw isn't changing for his project, it's for the rest of the town to improve development. Based on what the board is thinking,

they may have to go back to the drawing board and look at other uses of the of the property. Mr. Legare explained the differences with the Newburyport project. Ms. Martinek asked if the board wanted to move forward with it. Ms. Poretsky didn't think it was the right approach. The purpose of the OSRD is to protect the wetlands and this project seems to do the opposite. Ms. Martinek thought there's something that needs to be done in some capacity but doesn't want to rush it. Ms. Gillespie said the applicant is giving the board examples from a different region within Massachusetts. It's not unusual for people who have large parcels of land wanting to develop it. It's about what the residents want to see and how much they want to see in a densely populated area which is RC. She thought if it's rushed, it won't be done properly and is something for the Master Plan to look at over time. There are potentials for this property under current zoning that they could easily develop this property.

Ms. Joubert said two parcels were brought to the board simultaneously but it's not a common occurrence. She said that part of the reason why Zoning Boards of Appeals exist is to consider dimensional variances; it's not only use variances. If somebody has a piece of property that doesn't quite fit into the zoning and they want to propose to do something different on it, there's an avenue that neither one of these landowners have pursued. Also available to both landowners is the subdivision process. Landowners are not without any recourse, but historically ZBAs, including Northborough, have not in the past looked favorably upon the only reason why a dimensional variance is needed is for their economic gain. Dimensional variances are supposed to be based on the three standards: soil type topography, or shape.

Ms. Martinek left the meeting at 7PM.

George Pember RE: Rezoning 37 South Street: Mr. Pember is back because the board wanted additional feedback from the neighbors. He spoke with Ken Hunt (abutter) yesterday and was told he had no problem with what they are trying to and was comfortable with it. Ms. Poretsky said the first agenda item of the Master Plan Implementation Committee (MPIC) is to define the downtown this year. She thought that this site may be able to be added to the zoning map as part of that without having to go to town meeting this year and it being spot zoning. She doesn't want to set a precedent for spot zoning. Ms. Joubert wanted to clarify that this would not be considered spot zoning. Spot zoning doesn't mix in with the existing land uses and it's just one parcel that is being singled out surrounded by a completely different zone. This is a property that has been zoned downtown business, then it was a split zone, and for whatever reason went into the residential zone as opposed to business zone when in fact this property has been used as a business for years. There are many facets involved in what we will be doing as a community for a downtown study and bringing in a consultant; there will be several elements to that plan and part of that discussion will be to find out what people want to expand, contract; whatever it is about the physical limits of downtown. She would anticipate that changes from that downtown plan may be available for the next town meeting or the 2023 town meeting, but they don't have the scope yet of what the downtown study would be. Ms. Poretsky said the board would like to see a letter in writing from both abutters, the Hunts and the Leland's, that they have no issues. Mr. Ziton said it's been operating this way for many years, but thought it was specifically carved out and wondered if there was some reason or something we're just not considering. He thought we should let the MPIC consider it rather than do it now. Mr. Pember said he is trying to correct an error; not add to the downtown. The building has been used commercially since 1955; it was an oversight to not include that in the business district. When the rezoning took place, it should have been included. He is asking the board to take a positive stance on it. Ms. Gillespie thought it was a reasonable request and there was a lot of rezoning done back then. Ms. Joubert reiterated that she thought it was a mistake or an overlook when it was done in 2009 and didn't see anything negative resulting from proposing a rezoning. Ms. Milton will not have a problem seeing this being done as a rezone if we get a letter from Mr. Hunt in writing. Mr. Ziton would agree if a letter was received from the abutters. It will be on the January 4, 2022 agenda.

Warrant Articles Due February 3, 2022:

Breweries: Ms. Poretsky said there are three types of breweries: nanobrewery, microbrewery and brewery; nanobreweries allow up to 6,000 barrels sold per year (a barrel is 31 gallons); microbreweries allow 15,000 barrels; the brewery has no specific set amount and would go in more of an industrial area. The board needs to decide where in town we would want breweries and how many gallons to allow. Ms. Joubert will check with several breweries about the gallons for a downtown area. It is not known if liquor licenses are part of the existing liquor licenses or a separate category; Ms. Joubert will check with the BOS.

Commercial Uses in Industrial: The MPIC hopes to do a market analysis of what could be done downtown. Currently there is no Economic Development Committee. Ms. Poretsky (if the board would agree) thought about sending an email to the MPIC and ask for a market analysis to be done on the industrial districts at the same time. Ms. Gillespie asked if Ms. Poretsky was suggesting that the town hire a consultant to do a marketing analysis for potential commercial uses in an industrial area for this year's town meeting. She didn't think it would be simple to get it done by the end of January for this year's town meeting. Ms. Poretsky said the MPIC will be talking about the scope of what we're going to ask for from consultants at the next meeting and one of the things on the list is a market analysis for downtown. When they hire a consultant to do a market analysis for downtown, she thought we could include a market analysis for the industrial zones. It would not be for this year's town meeting but it would give us the information we would need for next year's town meeting. Tabled to the January meeting.

Warehouse and Trucking Moratorium or Use Variances: Ms. Martinek sent out a of memo that included examples of definitions and moratoriums. Ms. Poretsky suggested the members review the information and be ready for discussion on January 4th. Ms. Gillespie commented that Ms. Poretsky drafted the bylaw specific to warehouses and trucking and said if the argument is to be made about why there should be a moratorium, she needs to make the argument about what the problem is. What the problem is, was not drafted. Secondly, when Ms. Poretsky talked about an increase in tractor traffic, she asked what study was done and where's the data on it. Ms. Poretsky said she drafted these bylaws as examples for the board as we have been talking about them for many meetings, she drafted moratoriums and only changes to the definitions; Sutton's definitions were used for trucking and warehousing because they had worked with CMRPC on theirs. For the bylaw and moratorium for warehouses she used the moratoriums that were used in the past. Ms. Gillespie asked where her data was. Ms. Poretsky said with 0 Bartlett Street, it was in the traffic study. Ms. Gillespie said first you must identify the problem, must support it with data, and then find out any business implications to it. You want to make sure you're not giving the public misinformation. She also thought when drafting a moratorium, it's good to look around your neighboring communities. Ms. Poretsky said the data is what you get when you do the moratorium like when we did the duplex bylaw and duplex moratorium. Ms. Milton asked if there was a post-occupancy traffic study done from 0 Bartlett. Ms. Joubert said there will be one done; it is part of the whole process that CMRPC is doing now with the DPW. The safety report was recently completed and that information will become part of the post-occupancy report that Amazon will be doing. Use variances will be reviewed on January 4th.

Enforcement: Mr. Frederico has not discussed it with Town Counsel yet. He told Ms. Poretsky to provide him with the question and criteria she needs answers for. He said they just did an enforcement bylaw at the last town meeting which is modeled by most of the other towns that have an enforcement bylaw. She will resend the information to Mr. Frederico. Ms. Joubert wanted clarification and asked did they propose a bylaw at the last meeting and was told yes. It's adding to what Mr. Frederico had, it's not changing what was added there last year, it was giving more specific language. She will forward the language to Ms. Joubert.

Staff Bylaw Requests: (1) Home Occupation-There is currently an allowance for 2 commercial vehicles on a property but nothing in the zoning code for taking a commercial vehicle home at night. If allowed, discussion is needed for whether they want to put regulations on it such as putting a weight or size limit on the vehicle or possibly allow only one vehicle. (2) Fence Height (to allow 7-feet). (3) Floodplain Language-Mr. Litchfield did not have language tonight but will have it prepared for town meeting.

Groundwater Advisory Committee: On hold until the GAC meets.

Signs: Mr. Zitton researched many other towns and they all have prohibited internally lit signs on the downtowns and main streets. He would like to propose doing the same on Business East, Main Street Residential, Downtown Business, and Business East for either new businesses or sign replacements. He will have the language for the next meeting. Mr. Frederico said there is a clause in the current sign bylaw that if you are replacing damaged or faded signs, no permits are required. If you want to switch from an internally illuminated and it's required to be externally illuminated, a lot more is needed to the sign bylaw. Ms. Joubert said that the existing signs would be grandfathered because our sign bylaw is in the zoning bylaw.

Consideration of Minutes (11.16.21) – Tabled to the next meeting.

Planning Board Rules and Regulations –Ms. Joubert said language will be added to the application form about when materials need to be received for their next meeting. Ms. Joubert also provided the 2022 meeting dates which include when applications are due to the town. Ms. Poretsky would like to consider adding another column for when materials are due to the board. Ms. Joubert explained that it's a very simple calendar that staff has found to be very successful about when people need to file by. She thought it would be more effective if it was added to the application form and reiterate it to all the applicants when meeting with them. Mr. Litchfield said the calendar put out was for the applicants to submit their application to get before the board in terms of advertising and that is when all the application information is due. The problem is the follow-up information that's required once the public hearing is opened. Ms. Poretsky said if it's laid out in black and white, it's easy to follow. Ms. Gillespie said the board needs to be somewhat flexible and reasonable because there's back and forth with staff to get everything to the board so that it can be presented; it's not all black and white.

Master Plan Implementation Committee – The Committee met last month; the Town Administrator went through a summary of the projects in process. The scope of the downtown was also talked about. They will meet again on December 16th at 7:00 p.m. Ms. Joubert will check with the DHCD regarding grants.

ANRs, Lot Releases, Bonds:

ANR for 223 South Street – Two existing lots, the foundation is partially on the other lot; the ANR is to correct that issue; new lot lines are being drawn. Ms. Milton made a motion to approve the ANR for 223 South Street; Ms. Gillespie seconded; roll call vote: Milton-aye; Gillespie-aye; Zitton-aye; Poretsky-aye; motion approved.

ANR for 95 West Street – Ms. Gillespie recused herself from this matter. The lots involve the common driveway the board approved; five lots in total. They all have frontage and exceed the minimum lot size. Ms. Milton made a motion to approve the ANR for 95 West Street; Mr. Zitton seconded; roll call vote: Milton-aye; Zitton-aye; Poretsky-aye; Gillespie-recused; motion approved.

Newton Street Roadway Improvements Update – Mr. Litchfield said about two years ago the road was resurfaced by Mr. Ramadan. There was some outstanding work to be done from that plan which included some guardrail installation which was done earlier this year. Mr. Litchfield did get an as-built plan from Engineering Design Consultants (EDC) and Peter Bemis. In reviewing the as built, the plan that was required for Mr. Ramadan's improvements was completed other than some drainage easements that were required to be deeded to the town, some permanent roadway widening, and some temporary roadway widening. Mr. Ramadan is working with his engineer and his attorney and will draft something to us in hopes that he can get what money is left in the account paid back to him. Mr. Bemis is looking for release of the lots on the former Gustafson property, however, the scenic road decision required some work that they would like to do in terms of building one of those homes changes a slope in the front of the property so that guardrail is not required, but there was a condition that the road would be lowered at station 8 plus 05 and that has not been done. Mr. Bemis said the scenic road plan was submitted in March 2016. They plan had the same driveway openings with 80-feet of wall affected area, no scenic trees were affected by the proposal; it suggested a lowering of the road could be achieved to 328.8. Mr. Ramadan took it upon himself to complete the work with the plans that he had prepared by Connorstone Engineering whose as-built showed 329.64; 9.6" higher than what EDC suggested the road could be lower to. They did not get to the grade that they had suggested they could nor did he see the ability to do that any longer. The road was built and EDC was not involved in it. Mr. Ramadan and Connorstone Engineering did the construction work; Engineering Design Consultants did not. Their lots were still tied up; on June 11th Mr. Bemis walked the road improvement limits with Mr. Litchfield. There were four project areas that required a guardrail. Mr. Bemis submitted a final as-built on November 10th. He is asking to be released of their responsibilities under the scenic road permit for that aspect of the project. They still must do the driveway openings and road improvements associated with the building of a lot. It didn't make sense to do the road shoulder widening without doing the lot construction. The road wasn't quite lowered to the grade that was suggested by his firm but we they were not involved in the construction process. To be held responsible for it didn't make sense from his perspective; he will see that the work is completed that is also contemplated in the decision about road shoulder widening, and then comply with the 80-feet of scenic road that has is affected by each driveway. He felt they have fulfilled their obligations under the plan and they got roped into this whole scenic road because Mr. Ramadan had never done his work in 2007. They just got looped into it because they're responsibilities would have been for the driveways.

Mr. Litchfield had a difference of opinion. Mr. Ramadan's scenic road permit was issued a few years before the Engineering Design Consultants' plan for the Gustafson property. At the time we were reviewing the Gustafson property scenic road permit, the applicants came to an agreement and said they would work together and one of the conditions of the scenic road permit for the Gustafson property was that the roadway would be lowered. His understanding of that was that the agreement fell apart at some point and the work was done in accordance with the plan that Mr. Ramadan had approved a couple of years prior. At the at the time there was some discussion about amending that plan and the applicants agreed to work together and so it wasn't required at that point, but the road was required to be lowered; the lowering of that road was not required on Mr. Ramadan's scenic road permit. Mr. Litchfield can agree that it's not an easy thing to do but it's not impossible to lower that roadway now because Mr. Ramadan is required to provide an easement. The reason the road wasn't lowered more at the time Mr. Ramadan's scenic road permit was put forward was because the Gustafson (the owner of the property that is the other individual lots and scenic road permit) refused to grant an easement so that the roadway could be graded and then a few years later they came along with a builder who wanted to build some lots on their property. At that point, rather than amending the plan, the condition was put in the scenic road permit for the Gustafson's. It is complicated but it doesn't seem fair that the Gustafson property should not be required to lower the road further as Mr. Ramadan was required to do a lot of work in Newton Street. Mr. Litchfield is not recommending that the board release anything from the Gustafson property but that it's

their call. The work is done, there does seem to be quite a bit of improvement with the new pavement and the various lowering, the guardrail has been done, the work was done in accordance with the plan that Mr. Ramadan was required to build it upon, but there is this section of road that wanted to be lowered further and has not been; not quite sure how the board wants to go about dividing the responsibilities.

Ms. Joubert said Mr. Ramadan had two different permits; the special permit for the common driveway is different than the scenic road permit. There were conditions for the special permit common driveway and there were conditions in the scenic road permits. She didn't think the developer was roped into anything; he wants to develop on a scenic road and there is a scenic road process. A public hearing was held and a decision was written by the board. She said it is important to remind everybody this has been well over 10 years that this argument continues to happen. As Mr. Litchfield stated, it may not be the easiest thing to accomplish at this point, but that's not our control, there are two developers out there constructing the road. It's very important for the board to uphold their decision in this instance. This has been a very long process and close to finally finishing both scenic road permits. She didn't think a case has been made as to why those conditions shouldn't be fulfilled. Mr. Bemis asked for their decision in writing because doing the guardrails he thought would have fulfilled his obligation; he is tied to a project that he doesn't want any involvement in. He will pass the decision along to their counsel and have them respond. Ms. Joubert reminded the board that Town Counsel has had several conversations with Mr. Wambolt's attorney and Mr. Wambolt's attorney understands what the conditions of the scenic road are. There have been ongoing discussions between Town Counsel and Mr. Wombat's attorney and they have concluded with the conclusion that this scenic road is a valid scenic road permit.

Ms. Poretsky wanted to clarify what they are asking for tonight Ms. Joubert said what he has is the scenic road decision and as staff we are suggesting to the board that the scenic road decision needs to be completed by the applicant. Mr. Litchfield said Mr. Ramadan has \$15,000± left in the bond and is not recommending a release of that until, at a minimum, the easements that he was required to provide are submitted and reviewed by our Town Counsel. Mr. Bemis is looking for a release from the obligations of the scenic road permit for Mark Wambolt and the 7th Group. Mr. Litchfield will put together a summary and outline for Ms. Poretsky because some of the members were not here when the scenic road permit was approved. He will include copies of both permits for the two properties, a summary, and a recommendation that the board can take up at the January 4th meeting.

Subcommittee Updates – Ms. Milton said CPC met; they went over some of the fiscal state of affairs for their application and a rundown of each applicant. She will prepare an overview for what they entail. They will hold their hearing on January 6th and January 20th. Applications are posted on the Planning Department website. Ms. Poretsky said Design Review will meet on either December 16th or 17th. Ms. Gillespie said Open Space met. Items going to town meeting are the disability trail behind the Senior Center, funding to start the process to look at the aqueduct bridge, and Conservation funding.

This is Ms. Joubert's last meeting with the board; she is retiring at the end of the month. She said it was a pleasure to work with all of them. She has enjoyed and loved her time in Northborough. Ms. Gillespie said Ms. Joubert has been working for the town for 36 years and she is truly admired throughout the State of Massachusetts as a Town Planner; it's a huge loss for the town of Northborough, but she's worked hard and certainly deserves this. She also said that she's on the same level as John Coderre for his fiscal responsibility throughout the state. People truly admire Ms. Joubert and what she has done and will be missed. The board thanked her and said it won't be the same.

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Ms. Gillespie made a motion to adjourn; Ms. Milton seconded; roll call vote: Milton-aye; Gillespie-aye; Ziton-aye; Poretsky-aye; motion approved.

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Melanie Rich
Board Secretary