



# TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 12.16.20

**Planning Board  
Zoom Meeting Minutes  
December 1, 2020**

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

**Members Absent:** None

**Others (Remotely):** Kathy Joubert (Town Planner); Robert Frederico (Building Inspector); Fred Litchfield (Town Engineer)

Chair Martinek called the Zoom meeting to order at 6:00 p.m. and made the announcement that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 20A, S18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, that the meeting of the Northborough Planning Board is being conducted via remote participation to the greatest extent possible. Public comment will be taken. The process was explained.

Member and Staff roll call was taken: Mille Milton, Amy Poretsky, Anthony Ziton, Michelle Gillespie, Kerry Martinek, Kathy Joubert (Town Planner); Robert Frederico (Building Inspector); Fred Litchfield (Town Engineer).

Continued Public Hearing for 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

Rich Whitehouse (VHB) and Attorney Stephen Madaus (Mirick O'Connell) attended. Environmental Partners was selected as the peer reviewer; the contract has been signed. The subcontractor for the radiation component is C.N. Associates. A 53G consulting account for peer review is being established after which Environmental Partners will start their process. Peer review is anticipated to take approximately a month; they will then make their presentation to the board. Attorney Madaus commented that they are available should additional information be needed and look forward to getting the report.

Ms. Martinek asked for public comment. Hearing none, Ms. Milton made a motion to continue the Public Hearing for 425 Whitney Street Special Permit Site Plan Approval and Special Permit per Groundwater Protection Overlay District to January 5, 2021 at 6:30 p.m.; Mr. Ziton seconded; roll call vote: Ziton-aye; Milton-aye; Poretsky-aye; Gillespie-aye; Martinek-aye; motion approved.

**Old/New Business:**

Consideration of Minutes (10.06.20, 10.20.20, 11.04.20, 11.17.20) – Numerous corrections were made by Ms. Poretsky to the 10.06.20 Meeting Minutes; Ms. Gillespie did not agree with some of her comments. Ms. Poretsky said she did not cut and paste from Design Review as Ms. Gillespie indicated. Ms. Joubert said Ms. Rich was directed to provide more of a summary of the meetings and hearings going forward as opposed to including direct comments and quotes and some of Ms. Poretsky's corrections were explicit quotes for the minutes. Ms. Gillespie thought Ms. Rich did a good job as a narrative/summarization; Ms. Poretsky disagreed and said the minutes were slanted towards being favorable to the applicant. Ms. Joubert wanted it known for the record that Ms. Rich is not slanting or favoring the minutes towards the applicants. She went on to explain how the minutes are put together; it is a summary of what transpired at the meeting. Other board members' edits were incorporated. Ms. Milton made a motion to approve the 10.06.20 Meeting Minutes as amended; Mr. Ziton seconded; roll call vote: Ziton-aye; Poretsky-aye; Milton-aye; Gillespie-aye; Martinek-aye; motion approved.

10.20.20, 11.04.20 and 11.17.20 Meeting Minutes were continued to the next meeting.

Review of 0 Bartlett Street Special Permit and Site Plan Decision – Ms. Martinek asked what would be helpful for the members to know to do their review. Ms. Joubert explained what the Decision consists of – application, exhibits, hearing summary, findings of facts, conditions, and decision. Ms. Milton asked about the appeal period. Ms. Joubert said when it involves a Special Permit, state law allows the board 90 days from the close of the public hearing to make and file the Decision with the Town Clerk; the 20-day appeal period then begins. There will be more discussion on December 16<sup>th</sup> in order to finalize the decision.

Discussion RE: Traffic Concerns – Ms. Martinek has not contacted CMRPC about discussing (for educational purposes) traffic and trends for what are other towns in our region are facing with parcel distribution. Ms. Joubert will follow up with Sujatha Mohanakrishnan to see if CMRPC is active in helping towns navigate through it; provide some insight, ideas or grant opportunities.

Master Plan Implementation – The BOS Interview Committee is interviewing tonight for the at-large seats and will be interviewing one more time at a later date.

Town Meeting/Zoning Bylaw Amendments – Ms. Milton has not found any towns with bylaws that specifically address sober houses. Some towns address them under an umbrella of rooming houses, lodging houses, and boarding houses, and do have some limitations on the number of non-family members that can be put in the residences. Mr. Frederico said it is a concern all across the state. They have pigeon-holed themselves in a gray area in terms of building and zoning. If they are a protected class, the only thing that can be done is Site Plan Review as far as zoning; they may fall under the exemptions. It will take time for building and zoning to figure out what to do. A sober house can be put anywhere; any house can be converted to a sober house. There are no regulations or licensing, no goals or educational factors. Ms. Martinek asked if something could be put together by February; Mr. Frederico said it will take longer and does not see a pathway by February. He said the overwhelming concern is for the safety of the occupants. Ms. Milton said to be aware that it is starting to crop up and we should be proactive rather than reactive. If it cannot be done this year, she would like to continue looking into it.

Mr. Ziton postponed the sign bylaw this year; it is important and he would like to do more research and revisit it again next year. Ms. Joubert commented that when the Master Plan Implementation Committee starts, and the Downtown will probably be one of the first topics to explore, items such as design, streetscape, facade and signs will be part of that project.

Regarding duplexes, Mr. Ziton thought it was important to prohibit duplexes in RC; he wants to protect the heartland of the town and would like some protection in RC. Conversions on the same footprint should be allowed; combined multiple lots should have some restrictions; no new duplexes in RC. As with any new bylaw or amendment, Ms. Joubert stated it is important to know what is the issue or problem that needs to be addressed. Regarding duplexes, what is the issue with duplexes? Is it an outright prohibition of duplexes in RC? Is it a design issue? Mr. Ziton said his concern is that older houses are being torn down and lots are being combined; there are smaller homes in older neighborhoods and then two lots could be purchased, the two older homes demolished and then a 6K square foot duplex would be built in a neighborhood that doesn't have those types of houses at that scale. He didn't think RC had a lot of room for accessory dwellings. Mr. Frederico said with an ADU, the footprint of the house can be expanded to create an accessory dwelling. Regarding the comment about people buying houses side by side and combining lots to build something bigger, Mr. Frederico has found the opposite in the past few years.

Ms. Martinek researched the Accessory Dwelling Bylaw and the state Bill regarding disabled adults. The Bill has not been approved yet but it is seeking protected status for disabled adults and the elderly regarding housing. There is an issue of affordability for seniors. For the disabled it is to have their own space and allow for a caregiver if needed. She added to the current bylaw what the purpose is and what we are trying to do. She is trying to accomplish making the opportunity for a bigger space, trying to put in a way that we could ensure that it is not abused for other reasons, and had some outstanding questions. Mr. Frederico asked if she was trying to echo the state Bill which has not yet been approved. The state Bill talks about 900 square feet for those two types of situations only. Mr. Frederico was unsure of what she was trying to protect. Ms. Martinek wants seniors who can't afford to live here to have an option to have an in-law type space or affordable type space so they don't have to find somewhere else to go; an affordable housing option for people, maybe not just seniors. The purpose for people who are disabled is to open up the ADU use to make it a little bigger for them so they can be more independent and live there and have that space for a caretaker. Mr. Frederico said we currently have specifications for an accessory dwelling unit which provides for all that. If the applicant were to apply for an ADU and ask for more space because they have someone in their family who is handicapped or elderly and they need the extra space, it could be accomplished through a variance. Ms. Joubert said if space is the issue, instead of a variance they could look at adding a waiver given the circumstances; 700 square feet is what is in a great deal of bylaws. It is meant to be secondary to the primary home; 900 square feet could be considered a single-family house. If the issue is trying to get a larger unit so a second bedroom could be added, there might be a way to do that within the existing bylaw by adding in a waiver. Currently the bylaw doesn't require all the extra information so that the building inspector has to become the enforcer to find out who's living there, did someone pass away, etc. Proof of age and residency used to be in the bylaw and was removed in 2009 as it was too onerous to enforce and ultimately it didn't matter who was living in the ADU.

Regarding the Groundwater Special Permit Section 7-07-010 D(3)(c)(4), the problem is the special permit criteria language. Ms. Martinek stated it is not as explicit as it could be and

causes confusion for the board and applicant. Ms. Martinek matched the language to what the other Special Permits say. She thought to include it in the beginning as a #1 number change. Ms. Martinek also wanted to fix the language for Special Permit Granting Authority for duplexes which now requires two different boards for the same plan to be approved. Mr. Frederico thought the requirement for Special Permit Site Plan Approval in the Groundwater Bylaws was from both boards; not only under a duplex situation. It needs to be looked into further. Ms. Joubert said the goal is for an applicant going for a Special Permit that also has to go to Groundwater and then Site Plan, that they only have to go to one board; they will not have to do duplications.

Ms. Poretsky talked about Commercial Storage. She recommended a change to the Use Table to remove Commercial Storage facility from BW as recommended in the CDP (Community Development Plan) and leave them in BS and Industrial.

She wanted to update the definition of a Contractor's Yard to add premises used by a building contractor or subcontractor for storage of their vehicles, equipment and supplies, and fabrication of sub-assemblies; and All outside storage shall be screened from view from the street and abutting properties. Storage of salvage materials is prohibited. The intent was to clean up the contractor's yard and take out uses that are listed elsewhere. Mr. Frederico commented that there is a lot of interest in landscapers; where will they park and keep their equipment? He asked if a landscaper would fall under a contractor's yard under the proposed new definition. Ms. Poretsky said it could be added, we could talk about it as a board, they aren't even in the definitions now. Mr. Frederico said if it is the intent to take the landscapers and lawn maintenance out of the contractor's yard, where do we fit them. Ms. Joubert asked Ms. Poretsky if she is taking out the sales in the definition and it would be only for storage, they can't conduct their business out of the contractor's yard and they can't do retail sales or wholesale sales. Ms. Poretsky said yes. Ms. Joubert asked what the issue was allowing people to run their business and to have sales. Ms. Poretsky said the contractors she knows don't sell anything at their business. Ms. Joubert said the contractor's yards in town do and gave examples with Delgreco which was a contractor's yard that sold masonry supplies retail and wholesale, and Zecco Bros. that sells mulch and stone retail and wholesale. Mr. Litchfield said Delgreco falls under a contractor's yard just as much as any lumber yard would because it was materials they sold the same as a lumber yard. He said Ms. Poretsky didn't know if the other towns (in looking at them) have another definition that is their catch-all that covers the things that she is not covering in a contractor's yard. Ms. Martinek asked Mr. Frederico how he makes a distinction. Mr. Frederico said it goes back to a contractor's yard and whether sales actually occur there and would suggest that it does. The ability of a contractor's yard to sell services in addition to the wholesale and retail materials goes hand in hand. Ms. Poretsky said the current definition is a catch-all, vague and should be tightened up.

Ms. Poretsky wants to add a bylaw to allow Breweries in town. Mr. Ziton thought it would make sense to make it inviting for businesses to come into town. Mr. Frederico said it could be opened up to coffee roasters, craft style products that are consumable, breweries, distilleries and wineries. Definitions will need to be made first and the zoning districts determined next. Ms. Joubert said staff will review it and see where it may exist in the bylaw and if it only needs to be amended. The BOH, BOS, and DPW would need to be involved in discussions if it is considered.

Ms. Poretsky suggested removing Use Variance and Prohibited Uses, or at least have a list of prohibited uses to further protect the town and included a sample list. Ms. Joubert believes trying to prohibit use variances has gone twice to town meeting and failed both times.

Ms. Poretsky wanted to add the intent and purpose to Non-Conforming Use to update the non-conforming bylaw to read: Purpose and Intent: It is the intent of this By-Law to ensure that nonconforming uses will ultimately comply with the use requirements of the Zoning By-Law. She also considered updating the bylaw so if it changes or expands it triggers the non-conforming use bylaw, or consider not allowing changes or expansions. She would like to clarify with Town Counsel if an extension triggers a Special Permit. She wants to tighten up the non-conforming to non-conforming use. Ms. Joubert commented that if it is the intent of the board to go down a path for the non-conforming section, we need figure out what it is the board wants to do and then have Town Counsel involved; not random questions; something needs to be proposed for their input.

The board needs to figure out what zoning amendments will be proposed for town meeting and have Town Counsel attend or answer questions. Ms. Joubert will be meeting with Mr. Frederico to review the articles and will provide the board with their thoughts before the board decides which ones they will move forward with. Ms. Gillespie said the board should talk with the stakeholders before making zoning changes to ask how it will affect them. Action on both the sign bylaw and sober houses are withdrawn for this year.

The next Planning Board Meeting is scheduled for December 16, 2020 and will begin at 6:30 p.m.

The next ZBA Meeting is scheduled for January 26, 2021.

The 2021 Meeting Schedule – January 5<sup>th</sup> and 19<sup>th</sup>; February 2<sup>nd</sup> and 16<sup>th</sup>; March 2<sup>nd</sup> and 16<sup>th</sup> were confirmed as the next upcoming meeting dates.

Before the meeting ended for the night, Mr. Litchfield commented on the minutes and said he works with Ms. Rich on other boards and the boards like the way she does the minutes and thinks that she could use some direction from this board on whether this board wants them more detailed or less detailed. A great deal of time was spent tonight discussing 50 Southwest Cutoff which wasn't even a public hearing between the board and the decision that needed to be made. It's frustrating taking things out and putting them back in. Ms. Joubert said two meetings ago the board talked about providing more summary in the minutes and less statements and quotes from board members and applicants and as a result of that direction the October 20<sup>th</sup> and November meetings are more compact. Ms. Poretsky said some discussions are easier to sum up than others. She said the October 20<sup>th</sup> meeting was a decision of Bartlett Street and there may be some key facts they want included; she foresees adding to those minutes. Ms. Joubert stated Melanie works for the Planning Department during the day in addition to doing minutes for four boards; she also works for two other communities and does their board minutes. Ms. Gillespie said the minutes are not a transcript and if you think someone is being more represented than you, Ms. Joubert will review them to make sure there is equal time for everyone. Ms. Gillespie said if you were, for example, concerned about an appeal, it can be summarized in a few sentences without all the detail behind it. There is a video and it is on YouTube. It should be a small narrative or summarization of what someone is saying. Ms. Poretsky said some of them do have an impact when you go back in history or try to figure something out. Ms. Gillespie again said it can be done in a sentence, not a paragraph. Ms. Martinek said they will use the last three sets of minutes as an indicator and have more direction on December 16<sup>th</sup>. Mr. Litchfield thanked Ms. Martinek for considering that because he doesn't want to lose someone who does a good job in his opinion with all the boards and

because she is frustrated with the direction she is getting from the Planning Board, she may reconsider her position here.

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

The meeting was adjourned at 9:08 p.m.

Respectfully submitted,

Melanie Rich  
Board Secretary