



TOWN OF NORTHBOROUGH PLANNING BOARD

Town Hall Offices • 63 Main Street • Northborough, MA 01532 • 508-393-5019 • 508-393-6996 Fax

Approved 01.05.2021

**Planning Board
Zoom Meeting Minutes
December 16, 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 6:30 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 not be taken. The process was explained.

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

Old/New Business:

Consideration of Minutes (10.20.20, 11.04.20, 11.17.20; 12.01.20) – Feedback/direction was discussed concerning the length of the minutes. It was decided that while a summary is sufficient for non-public hearings, public hearings will include more detail.

October 20, 2020 minutes were tabled to the next meeting. Ms. Milton made a motion to approve the November 4, 2020 minutes; Mr. Ziton seconded; roll call vote: Milton-aye; Ziton-aye; Poretsky-aye; Gillespie-aye; Martinek-aye; motion approved.

Ms. Milton made a motion to approve the November 17, 2020 minutes as amended; Ms. Poretsky seconded; roll call vote: Milton-aye; Ziton-aye; Poretsky-aye; Gillespie-aye; Martinek-aye; motion approved.

Ms. Milton made a motion to approve the December 1, 2020 minutes as amended; Mr. Ziton seconded; roll call vote: Milton-aye; Ziton-aye; Poretsky-aye; Gillespie-aye; Martinek-aye; motion approved.

Review of 0 Bartlett Street Special Permit and Site Plan Decision – Ms. Martinek explained the changes she made. She pointed out to the board that it was recommended including the applicable law and decision criteria when writing a defensible decision, capturing the thought process of the board as to why they came to the conclusion that was made. Ms. Poretsky

thought it was good and incorporated her edits into Ms. Martinek's edits. Mr. Zitton thought it was well done and didn't see anywhere he would make changes. Ms. Poretsky explained her edits. Ms. Joubert noted the board has 90 days to file the decision from the close of the public hearing and it needs to be filed by January 18th. Upcoming Planning Board meetings are January 5th and January 19th. Ms. Martinek asked if the members had any questions that were not clear. Ms. Milton thought the decision was very detailed and needs to review the changes made by Ms. Martinek. Ms. Gillespie said since staff initially wrote the decision does Ms. Joubert have any feedback. Ms. Joubert said the time frame is most important and suggested the board should have Town Counsel review these edits as Town Counsel reviewed the initial decision. Ms. Martinek said the board can review it now or take it to the January 5th meeting. Ms. Joubert said if they discuss it more and make final edits on January 5th, they need to factor in if Town Counsel comes back with suggestions; the board will want to discuss them before signing. Ms. Gillespie asked if Town Counsel could look at it in a two-phased approach. Ms. Joubert said they could present to Town Counsel that these are the changes the Planning Board wants to make. Ms. Martinek said at the January 5th meeting it could be ready to sign. Ms. Poretsky thought the board should have two meetings prior to the decision being signed. Mr. Zitton asked if Town Counsel could review and the changes to the board could be filtered through Ms. Joubert to keep the ball rolling. Ms. Gillespie would like Town Counsel to review it and get back to the board for the next meeting. The board members will also re-read and make notes if needed for the next meeting. The need for an additional meeting will be determined at the January 5th meeting, but the goal is to finalize it that night. Ms. Joubert will send the revised decision based on tonight's edits to town counsel for his review.

425 Whitney Street Peer Review Update – Peer review has not yet started. The town is awaiting the funding from Steris; when received, peer review will begin. The hearing was continued to January 5th; no information will be ready for that meeting. Ms. Joubert will inform the applicant.

Discussion RE: Traffic Concerns – Ms. Joubert will be speaking with Sujatha Krishnan (CMRPC Traffic Engineer) tomorrow to discuss the traffic concerns of the board and plan for her to attend a future meeting. Previously she talked with her about the concerns being locally (what can the board do or should do, e.g., how to work with applicants on traffic mitigation and how it fits in with staff and other boards), and regionally related (what is she aware of, what are other communities doing). Ms. Martinek suggested the possibility of including other boards/departments in the discussion. It will be scheduled for February 16th. Ms. Martinek noted the board has been included on recent communication received from the Bartlett Street residents regarding their concerns about traffic being generated from the warehouses; trucks using the neighborhoods as a turnaround; the decision condition of trucks not using local roads and turning movements only to I-495 are not working. Ms. Joubert said there has been a lot of discussion in-house; it will be discussed at the December 21st BOS meeting. The Town Administrator has recently spoken with some of the managers of various businesses; the Police Chief and DPW Director have had conversations with them as well. Signs will be put up on town property; some businesses will put signs at the end of their driveways; letters will go out to the person in charge of the companies located in town. Ms. Martinek asked about the noise study for 330 and 350 Bartlett Street. Mr. Frederico said he should be receiving it soon. He explained that a noise study consists of two parts: the first phase is prior to the site being occupied and operational, and the second phase is when the facility is operational.

Master Plan Implementation – No action currently.

Town Meeting/Zoning Bylaw Amendments – Ms. Joubert discussed the December 16, 2020 memo from herself, Mr. Frederico and Mr. Litchfield regarding the board’s zoning proposals for the 2021 ATM as follows:

Section 7-05-030 Table of Uses (Table 1. Table of Uses. Part B. Commercial and Industrial Districts) – They agreed with the proposed change to the Table of Uses to prohibit “commercial storage facility” in the Business West zoning district.

Chapter 7-08 Nonconforming Uses and Structures (Section 7-08-010 Applicability, Section 7-08-020 Special permit required, Section 7-08-030 Variance required) – Before the Board considers any changes to these sections and to prevent unintended consequences, a joint meeting of the Planning Board and Zoning Board of Appeals was recommended to discuss these proposals.

Section 7-05-020 Classification of uses, Section 7-05-020 I (6)(c) Contractor’s yard – Before the Board considers any changes to these sections and to prevent unintended consequences, a joint meeting of the Planning Board and Zoning Board of Appeals was recommended to discuss these proposals.

Section 7-05-010 G – add (4) to include a list of prohibited uses – Before the Board considers any changes to these sections and to prevent unintended consequences, a joint meeting of the Planning Board and Zoning Board of Appeals was recommended to discuss these proposals.

Craft Brewery - Board members and staff had questions at the last Planning Board meeting pertaining to should this bylaw be limited to craft breweries or expanded to include additional artisanal food products. The intent will determine if existing bylaws may be expanded to include one or all new uses. More discussion is needed.

Section 7-05-020 Classification of uses, Section 7-05-020 C(4) Accessory dwelling unit – The suggested additions to the existing bylaw are covered by the existing bylaw. The bill being proposed in the State Legislature has not been approved and the proposed legislation may address moving some of the concerns into G.L. Chapter 40A Section 3. We are not aware of any issues with the existing size of an ADU. Approximately 6-8 ADUs are created annually and when the bylaw was added in 2009 it was not to encumber the Zoning Enforcement Officer with having to verify the age and relationship of the occupant to the owner. A dimensional variance may be sought if the size exceeds the limit in the bylaw.

Section 7-07-010 Groundwater Protection Overlay District, Section 7-07-010 D(3)(c)(4) (Procedures for issuance of special permit) – Applying the special permit criteria found in Section 7-03-040 C to a special permit per the groundwater protection overlay district is not an “apples to apples” application of the special permit criteria. The groundwater protection overlay district bylaw specifically contains its own special permit criteria in Section 7-07-010 D(4)(e)[1-3]. For example, the Groundwater Advisory Committee and Special Permit Granting Authority cannot make a determination that a use in a groundwater area 1, 2, or 3 is not a nuisance or serious hazard to vehicles or pedestrians; or in substantial harmony with the Northborough Master Plan; or compatible with historic development patterns of the town. That is part of the reason specific criteria is included in the Groundwater Protection Overlay District bylaw specifically relating to the protection of the aquifer. Before the Board considers any changes to this section and to prevent unintended consequences, we recommend a joint meeting of the Planning Board and Groundwater Advisory Committee to discuss these proposals.

Section 7-07-010 C(5) – The proposed addition to this section to address the duplication of efforts which is an unintended consequence of a prior amendment regarding the review of two-family dwelling units is an appropriate amendment. An additional change in this section needs to be made to the sentence “Within twenty-one days following the public hearing, the Groundwater Advisory Committee shall report its findings and recommendations to the special permit granting authority.”. It should read “Prior to the public hearing, the Groundwater Advisory Committee shall report its findings and recommendations to the special permit granting authority.”

Staff believes before any of these major changes are proposed, the Master Plan Implementation Committee should be underway and the zoning changes should be part of a larger effort to include stakeholders including residents, businesses, other boards and departments, and the Chamber. This process was followed with the 2005 Community Development Plan which resulted in a zoning subcommittee and subsequent adoption of bylaw changes in 2009.

Regarding duplexes, the suggested change was that they be removed from Residential C District and become a prohibited use. Staff saw some concerns but did not recommend it happening or not. At the last PB meeting there was focus on whether conversions be allowed or not allowed; and teardowns be allowed or not allowed and limited to the same size footprint of the building being demolished; more clarification was needed.

Board Comments: Staff agreed with the change to commercial storage and Ms. Poretsky would like to bring it to town meeting. Regarding prohibited uses, she wants it to go to town meeting. Ms. Joubert commented that the zoning bylaw used to have a section of prohibited uses; many of the suggested prohibited uses were on it. After a two-year comprehensive process reviewing the zoning bylaw, it was determined that it was antiquated way of what can be allowed (or not allowed). It reads today that if it not listed in the use table, it is a prohibited use. Ms. Poretsky stated her opinion was that it hasn't worked. Ms. Joubert disagreed and said that if you ask the recipients they would think it does work. The town adopts the regulations and staff enforces and educates people on them. Northborough allows use variances along with dimensional variances. . Ms. Poretsky stated in our December meeting that Mr. Frederico said that when applicants come to him with an application he needs to find a place where it is allowed. She said if not permitted means it is prohibited, it is vague because many of the situations when residents think a use is prohibited that use seems to find a place. She gave an example of a car rental company not being listed in the zoning bylaws yet being determined to be a retail use. In her opinion that use would fall under the auto use section in the zoning bylaws and since it's not permitted there it should be prohibited. Mr. Ziton would be interested in pursuing it but wants be make sure the list is what we want; he feels it will save staff time and is a good direction for the town. Ms. Milton commented that having a use variance opens it up to issues with general definitions. Ms. Martinek said at some point the board can discuss use variances, but it will take more time. The board would need to be in agreement with the prohibited use list. Mr. Frederico said if they are going that route, they must pay close attention and put in well written definitions of what each of the uses are, limits, and how they are going to be enforced. Ms. Joubert will check to see what ZBA use variances have been issued and what they were for.

Regarding craft brewery, Ms. Poretsky was hoping to get it in this year. She sees warehouses in industrial zones that are not being used and could be used as the brewery/distillery/winery. Ms. Milton commented that those she has visited are in a warehouse area, conduct tours, offer food trucks and expand into artisanal food products as well; it is worth pursuing. Staff needed more direction as to what they want to include (keep it as brewery/distillery or make it broader). Ms.

Joubert said they will start with the brewery/distillery. Mr. Litchfield commented that some breweries attract a significant amount of traffic; it is complicated and should be a concern. Zoning will need to be determined and water and traffic are a concern; the brewery/distillery component will be pursued.

Regarding the accessory dwelling unit, Ms. Martinek said a dimensional variance could solve the problem if an applicant needed a unit larger than what is allowed by the current bylaw. She did ask why an ADU requires a Special Permit for RA & RB and should it be changed to be allowed as of right. Ms. Joubert thought it was part of the discussion in the Residential A and Residential B that given that they are larger lots and a lot of pork chop lots, that people felt at the time that with both duplexes and accessory dwelling units that it is not something people expected on the larger lots but can't remember that it was significantly compelling. It was more a way to introduce the concept in zoning and see if it did work and go back and look at other zoning. The ADU was to introduce it and see what works. Ms. Martinek asked the members how they felt about opening up RA & RB for ADUs by right, not having a special permit. Ms. Martinek was concerned that it is confusing; the full extent of the bylaw will be placed on hold, but making it by right in RA & RB will move forward.

Section 7-07-010 C(5) Groundwater – Ms. Martinek said the timing may not work out but said it is good to get feedback from groundwater. It is added language to say the Planning Board will issue the special permit if a duplex is involved.

Regarding duplexes, staff did not recommend a yes or no. Mr. Ziton said the intent is to allow homeowners the ability to do a conversion on the same footprint and prohibit duplexes in RC. Ms. Gillespie asked if the board is eliminating new construction in town; there is not much raw land left. Land values have increased because there is a shortage of new construction. When it was discussed before, the intent of duplexes was preservation; 150-feet of frontage was added and said it had to go along with the character of the neighborhood. She said it is attractive for a developer to do a duplex because of the land value. If the board considers it, they have to allow for conversions to preserve two-family houses. She would not vote for it if the board did not do the preservation of two-family houses. There are pockets of raw land in the community and did not understand why the board would not allow the ability for new construction. Frontage and complying with the neighborhood had been discussed and did not know why they would want to eliminate it almost throughout the town. Mr. Ziton said there will be a time when the dynamics will be attractive and we should get ahead of it so when the market does go in the other direction, we don't have to correct a problem. Ms. Gillespie does not want to the board to come out looking as being anti-new construction. Ms. Martinek asked if the special permits in place now to protect us are enough? Mr. Ziton felt if there is a problem is it several years away. Ms. Joubert asked if the issue was the kind of housing (a two-family in a predominately single-family neighborhood), or is it the scale. If it is the scale and the use is fine, it can be managed by setback and design guidelines. Mr. Ziton thought it was the scale. Ms. Joubert said conversions on the same footprint won't happen; the numbers and real estate market don't work; there is not a need to include language about conversions. Mr. Frederico made the board aware that a single-family home, provided it meets the height and setback requirements, can increase its size by 80% without needing a variance or special permit. Tabled to a later date.

Contractor's yard will be discussed at the next meeting. Ms. Gillespie thought contractor's yards should have more modernization because the scope is broad. The board needs to make a

determination on the definitions; it needs to be broken down so there are no unintended consequences for small business owners.

Non-conforming uses will also be discussed at the next meeting.

Ms. Martinek said the ZBA will be invited to a joint meeting with the board January 19th from 6PM-7PM. Ms. Joubert will email them for their availability.

The next Planning Board Meeting is scheduled for January 5, 2021; the next ZBA Meeting is scheduled for January 26, 2021.

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

The meeting was adjourned at 9:56 p.m.

Respectfully submitted,

Melanie Rich
Board Secretary