



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 10.1.19

**Planning Board
Meeting Minutes
September 5, 2019**

Members in attendance: Kerri Martinek, Chair; Amy Poretzky, Vice Chair; Millie Milton; Michelle Gillespie

Members excused: Anthony Ziton

Others in attendance: Kathy Joubert, Town Planner; Jason Perreault, 27 Treetop Circle; Norman Lindsay, 151 Rice Avenue; Rick Keene, 159 Rice Avenue; Belal Homaidan, 15 Edmunds Way; Reem Waez, 15 Edmunds Way; Justin Teal, 154 Rice Avenue; Lisa Maselli, 13 Maple Street; Kathy Shackelford, 159 Rice Avenue; Mitchell Cook, 67 Cherry Street; Ziad Ramadan, 85 Newton Street; Gina Babcock, 54 Coolidge Circle

Chair Kerri Martinek called the meeting to order at 7:05PM.

Review of ZBA Application for 125 Rice Avenue (Chris & Kasey Oestreicher)

Ms. Martinek explained that this is simply a technical review and not a public hearing. She stated that the board is seeking details of the site plan prior to the public hearing with the Zoning Board of Appeals (ZBA) at the end of the month.

Michelle Gillespie arrived.

Mr. Oestreicher explained that he had purchased the property with the hope that he could establish his dog walking business at the site. He explained that the parcel is part of the Edmunds Hill Conservation area and is surrounded on three sides by conservation land and the aqueduct.

Mr. Oestreicher noted that he has been operating a business offering dog walking adventure hikes since March 2014. He mentioned that he previously would allow dogs to be off leash when appropriate but recent changes in the state regulations require dogs to be leashed in any state wildlife areas. He emphasized that his business is not a kennel or a dog day care. He indicated that he currently has one employee and hopes to grow to 3 or 4, with 5 vans running. He explained that he picks up dogs from their homes, takes them on a one hour hike, cleans them up, and returns them to their homes.

In response to a question from Ms. Milton about hours of operation, Mr. Oestreicher stated that he typically operates from 8:30AM to 4:30PM. He also stated that the property will not be open for public

use. He mentioned that dog walks will be staggered throughout the day, depending on how many other staff members he employs. Ms. Milton also asked about the maximum number of dogs on site at any time. Mr. Oestreicher stated that he does not anticipate the number to be large, and he has no interest in becoming a kennel. He reiterated that, since he handles pickup and drop off of dogs, there will not be customers coming and going throughout the day.

Ms. Gillespie noted that the applicant's documentation indicates that he frequently allows one or two dogs to stay overnight and suggested that the Planning Board may ask to limit the number of overnight stays. Mr. Oestreicher confirmed a willingness to abide by such a condition. In response to a question from Ms. Gillespie about the size of the property, Mr. Oestreicher stated that the site is 17.9 acres, with 4 to 8 acres to be used for the dogs. Ms. Gillespie asked how much of the parcel buffers residential homes. Mr. Oestreicher stated that the area is not in close proximity to any residences, and the homes that abut the aqueduct have woods in their back yards as does he. Ms. Gillespie asked about daily operations in the event of poor weather. Mr. Oestreicher stated that dogs will be walked in all types of weather, as long as it is safe to do so.

In response to questions from Ms. Poretsky about the anticipated number of employees, Mr. Oestreicher voiced plans to employ 6 to 8 employees with a maximum of 5 transport vans. Ms. Poretsky asked how many dogs each employee will typically walk. Mr. Oestreicher stated that he strives for 5 dogs, but has taken as many as 12 at a time. Ms. Poretsky asked Mr. Oestreicher if he has a Commercial Dog Walking License. Mr. Oestreicher indicated he does not. Ms. Poretsky mentioned that, with 5 transport vans, there could be as many as 25 dogs on site at one time. Mr. Oestreicher stated that it would be more like 15 to 18 at most since the walks are staggered.

Ms. Poretsky asked about fencing, which Mr. Oestreicher indicated will be kept on his property. He noted that town staff has been helpful in advising him about what he can and cannot do, and he understands that he cannot use conservation land to access a commercial property. Ms. Poretsky asked if the use will be limited to Mr. Oestreicher's business or if other dog walkers will be allowed to use it as well. Mr. Oestreicher stated that he had asked to be permitted to open use up to others, with the understanding that they would be subject to the same rules. He also stated that he has not completely determined how he will handle doing that.

Ms. Poretsky voiced concern about the number of dogs if other walkers are also using the property. Mr. Oestreicher stated that he would limit the number of dogs and vans.

In response to a question from Ms. Poretsky about any plans for retail sales, Mr. Oestreicher confirmed that retail sales are not part of his plan. Ms. Poretsky asked if the project will be required to go before the Groundwater Advisory Committee (GAC), Conservation Commission, and Board of Health. Ms. Joubert explained that the project will not go before the Board of Health since the business is not a kennel. Ms. Milton asked if there will be any type of animal control oversight and Ms. Joubert stated that there will not be. Mr. Oestreicher voiced his intention to provide both Animal Control and the Police Department with keys to the backyard.

Ms. Poretsky asked about waste disposal. Mr. Oestreicher explained that he currently leaves waste in town trash cans but has contacted Republic who is looking into the possibility of recycling dog waste. If they are not able to do so, he will continue to place it in the trash.

Ms. Martinek asked about traffic impacts. Mr. Oestreicher stated that there will be 34 to 42 trips per day. Ms. Martinek asked about traffic exiting the parking lot and impacts from headlights. Mr. Oestreicher stated that there is a home across from the parking lot exit, but he does not believe lights will impact that home. He also suggested that vehicles leaving that late in the day will likely only be those of his employees. Ms. Martinek asked about landscaping buffers for the parking area. Mr. Oestreicher indicated that the parking area can be seen from the driveway but there is a fair amount of vegetation. Ms. Martinek asked about the existence of a visual buffer during the winter months as well as sight distance for safe access and egress. Mr. Oestreicher confirmed that drivers do have clear visibility when leaving the driveway.

Ms. Martinek questioned impacts on municipal resources, and suggested that the amount of waste generated will be more impactful than that of a residential home. Mr. Oestreicher confirmed that it will be. Ms. Martinek also asked about traffic and street conditions since the property is in a residential area. Mr. Oestreicher explained that traffic is somewhat heavy during typical commuting hours since many drivers use the road as a cut-through, but is fairly light during the hours when he will be operating.

Ms. Gillespie noted that the hours indicated in the application are sunrise to sunset, which results in a fairly lengthy day during the summer months. Mr. Oestreicher stated that he will be more definitive when he appears before the ZBA, and reiterated that he expects to operate from 8:30AM to 4:30PM, Monday through Friday.

Ms. Joubert asked Mr. Oestreicher to clarify that the area where he will be walking dogs is to be in the fenced area. Mr. Oestreicher reiterated that he only plans to use 6 to 8 acres. Ms. Joubert asked if the dogs are allowed to roam free when within the fenced area. Mr. Oestreicher stated yes, the dogs will be off their leashes in the fenced in area but on their leashes as they are walked from the vans to the fenced in area.

Ziad Ramadan, 85 Newton Street, noted that he has neighbors who do not leash their dogs and they are often in his back yard. He questioned the legal ramifications if dogs get loose. Ms. Martinek stated that regular town law will apply. Ms. Joubert stated that, if a dog trespasses, property owners can call the Police or Animal Control Officer. Mr. Ramadan voiced concerns about the number of dogs.

Justin Teal, 154 Rice Avenue, voiced displeasure with the proposal. He noted that this property is the gateway to the Edmunds Hill woods, and the van traffic will disrupt the quiet, natural environment. He mentioned that he frequently walks the area and can see both the property and the parking area. He noted that this area is his least favorite portion of the run because of poor sight distances and he disagreed with Mr. Oestreicher's comments about heavy traffic on the roadway during commuting hours. He also expressed concerns about impacts to wildlife in the area. He voiced his opinion that additional traffic generated from the business will be detrimental and requested that, if approved, any

additional traffic generated by allowing use by other dog walkers should be considered. Ms. Martinek recommended that Mr. Teal attend the September 24th ZBA meeting since they are the approving authority for this application.

Rick Keene, 159 Rice Avenue, noted that Rice Avenue is a narrow roadway and asked how many shuttles will be operated from the property. He stated that he moved to the area to get away from commercial businesses, only to now have one proposed near his home in an area that is not zoned for it. He also voiced concerns about noise impacts from the business as well as traffic entering and exiting along this challenging section of the roadway.

Kathy Shackelford, 159 Rice Avenue, asked if the neighboring residents were supposed to have been notified about tonight's meeting. Ms. Gillespie explained that abutters would be notified about the ZBA hearing, and explained that this is simply a review of the project to allow the Planning Board to provide feedback to the ZBA.

Bonds

Newton Street Update, Consider bond reduction of \$35,000 – Ms. Joubert explained that the board had been provided with a copy of a letter from Mr. Ramadan's attorney about the matter.

Mr. Ramadan explained that he owns a 55 acre parcel, with approximately ½ mile of frontage on Newton Street. He noted that, several years ago, the Planning Board required him to make improvements to Newton Street in conjunction with some development work he was doing. He explained that the project was broken down into 2 phases, and phase 1 was completed. He recalled that, when proceeding with phase 2, there was a second developer interested in working in the area who Mr. Ramadan felt should share some of the burden. At the time, Mr. Ramadan noted that he had 8 lots and the other developer had 3 lots, and they agreed to split the costs accordingly. Mr. Ramadan explained that he proceeded with completion of the bulk of the work, with only the topcoat and guardrail work remaining, but the other party has not yet paid him any of the \$50,000 he is owed. He expressed fears that, once the work is completed, the other developer has no motivation to pay him.

Mr. Ramadan discussed some personal financial issues that have left him with a cash flow problem and stated that he is asking the board to return \$35,000 to provide him with the funds to pay the paving contractor for the topcoat work.

Mr. Litchfield noted that town staff had previously approached the board to recall the bond. He also indicated that the agreement between Mr. Ramadan and the other party did not involve the town, and the town is simply seeking to get the work completed. He stated that, after legal conversations, town staff met with Mr. Ramadan and his contractor and it appears that they are ready to do the work but are apprehensive about doing so unless they are sure that the \$35,000 will be returned to them once the town approves the work. Mr. Litchfield indicated that, though this is not the typical process, he is on board with complying with the request and he believes it is the only way the work will get done.

In response to questions from Ms. Martinek, Mr. Litchfield explained that if the work is not completed by September 20th, the money will not be returned and the town will have the ability to take the bond (\$50,000) to complete the work ourselves. He reiterated that Mr. Ramadan and his contractor both assured him that they are ready to do the work.

Ms. Joubert explained that the other developer has a decision from the Planning Board, as does Mr. Ramadan, which includes a condition that Occupancy Permits will not be released until the roadway improvements are completed according to the improvement plan and the town is upholding that. Mr. Litchfield reiterated that the return of the \$35,000 will be contingent upon satisfactory completion of the work.

Amy Poretsky made a motion to release \$35,000, contingent upon satisfactory completion of the work. Michelle Gillespie seconded; motion carries by unanimous vote.

Consideration of Minutes

Minutes of the Joint Meeting with the Board of Selectmen of June 17, 2019 – Ms. Joubert explained that the minutes, if approved tonight as modified, will be sent to the Town Clerk as the Planning Board’s minutes from the Joint Meeting with the Board of Selectmen. She also noted that, based on prior conversations, the Board of Selectmen is potentially modifying their own minutes, so there will be two sets of minutes from that meeting. She reminded the board that they had asked only for the deliberation portion of the discussion to be amended.

Amy Poretsky made a motion to approve the Minutes of the June 17, 2019 Joint Meeting with the Board of Selectmen as amended. Millie Milton seconded; motion carries by unanimous vote.

Minutes of the Meeting of July 16, 2019 – Ms. Joubert discussed edits requested by Ms. Martinek and Ms. Poretsky.

Michelle Gillespie made a motion to approve the Minutes of the Meeting of July 16, 2019 as amended. Amy Poretsky seconded; motion carries by unanimous vote.

Master Plan Steering Committee (MPSC) – Ms. Joubert discussed upcoming meetings as follows:

- September 19th at the library, where the focus will be on the implementation plan, which will be emailed to the members of the MPSC tomorrow.
- October 24th at the library, when the Master Plan will be presented to the community. Ms. Joubert also noted that this meeting will include the Planning Board’s public hearing. She also noted that the MPSC has provided updates to the Board of Selectmen, who will be reviewing them during their September 23rd meeting.

Master Plan Steering Committee (MPSC), Review of Goals and Recommendations (copy attached)

Housing – Ms. Gillespie mentioned that, throughout the process, affordable housing was consistently a top priority, with the MPSC talking about the possibility of bringing back the inclusionary bylaw. Ms. Joubert recalled that there was also discussion about reinstating the Housing Partnership. In response to questions about why the inclusionary bylaw was removed from the zoning bylaw, Ms. Joubert voiced her opinion that there was no incentive for an applicant to use it.

In addition to affordable housing, Ms. Gillespie noted that there were also conversations about offering more diversity in housing, though there was no concrete decision about what the different types of housing would be.

Ms. Poretsky expressed a desire to have more definition about what is meant by “the missing middle”. Ms. Joubert indicated that it will be defined. Ms. Poretsky voiced concern about the possibility that the board may not think favorably about the definition. Ms. Joubert stated that it is fairly standard definition with the housing community.

Ms. Poretsky also addressed price points, as noted in recommendation H2-1 and asked about any other towns that may have done work on price points. She stated that the average home price in January was \$438,000, with the state average at \$435,000, and mentioned that 2836 of the homes in town are under \$500,000. She also voiced her understanding that Rick Leif believes we should have homes priced at \$200,000, which she thinks is a lofty goal. She noted that, once it is in the Master Plan, residents will be looking to achieve it. Ms. Martinek questioned who would do a price point survey and Ms. Gillespie asked who will pay for it. Ms. Joubert indicated that the MPSC discussed the topic and has voted to include it as a goal, and there are various methodologies as far as finding a price point. She also noted that when the town goes into the implementation phase, she expects that the Housing Partnership will spearhead this effort.

In response to a question from Ms. Martinek, Ms. Joubert explained that the implementation plan will include ratings of the costliness of the various recommendations. She also noted that the majority of the goals will need to be worked into the town’s capital plan.

Ms. Joubert recalled that the missing middle was discussed at multiple meetings, and definitions were provided. Ms. Martinek mentioned that she did attend some meetings and it appeared that many MPSC members did not understand many of the terms and she voiced her desire to ensure that they are understood before we put anything in place.

Ms. Martinek asked if there were conversations about the senior population seeking to downsize and find a less expensive place to live. Ms. Gillespie noted that aging at home was not part of the discussion but it was more about finding a smaller home that we do not seem to have in town. She also indicated that recommendation H1-1 sought to look at existing buildings that could be used for affordable housing. She voiced her opinion that inclusionary zoning will

not work if residents are opposed to density. Ms. Martinek questioned how to address the issue of providing affordable housing if residents are opposed to density. Ms. Gillespie emphasized that the community's opposition to density runs against an affordability goal. She also noted that most developers prefer not to include affordable units within their projects but would rather provide them elsewhere or give money to the town.

Ms. Martinek suggested establishing a focus group or exploratory committee to determine exactly what seniors want as it would be nice to know how they really feel and where they actually would go. Ms. Gillespie mentioned that many people are starting to congregate towards the center of town for the walkability. She suggested that the board work to determine exactly what level of density the community can accept so that an inclusionary bylaw can be considered that would enable the board to provide better guidance to developers. She also stressed a desire to encourage developers to make affordable units part of their project and not put the burden on the town. She agreed that the matter does get complicated and it would make sense to have another committee that could do some brainstorming about it.

Ms. Martinek recalled discussions about a senior overlay at a previous Central Massachusetts Regional Planning Commission (CMRPC) meeting. Ms. Gillespie explained that the town previously had an over-55 bylaw that has since been eliminated. She also noted that there is an overlay district in the area of Bigelow's Nursery and voiced her opinion that cluster housing would make sense in areas where there are larger parcels of land.

Ms. Martinek explained that Mr. Zitton had expressed concern about unintentional consequences of an inclusionary bylaw that could result in the town not getting what we want. Ms. Poretsky suggested that the bylaw would need to be carefully worded. Ms. Joubert advised that, at this point, these are simply recommendations and may not become an actual bylaw. Ms. Martinek stated that Mr. Zitton also voiced concerns about unintended consequences with the missing middle price point study. She noted that he wondered if the missing middle would apply in a more urban setting where taller buildings are possible and expressed a desire to better understand the goal with regards to the Housing Partnership.

Ms. Poretsky expressed her opinion that recommendation H3-1 should be the first priority. She also indicated that she would like to see an impact study on density to determine how much our town can absorb. Ms. Joubert explained that part of the Master Plan will include the provision of a modified build out analysis to look at zoning and how many acres are remaining. She noted that the town is close to build out but there are still some large parcels of land.

Ms. Gillespie asked if a member of the Planning Board was on the Housing Partnership that existed in the past. Ms. Joubert stated that she could not recall the composition of the board. Ms. Gillespie suggested that it might be worthwhile to have a Planning Board member on the Housing Partnership.

Land Use – Review of the recommendations for the Land Use portion of the Master Plan were deferred to a future meeting.

In response to a question from Ms. Martinek about whether the survey results are posted on the Master Plan website, Ms. Joubert stated she will check with the consultant and also, the results will be summarized as part of the executive summary.

Jason Perreault, 27 Treetop Circle and member of the Master Plan Steering Committee, explained that the recommendations are not listed in terms of priority. Ms. Martinek mentioned that a priority will be assigned during the implementation plan.

Gina Babcock, Coolidge Circle, noted that a discussion of use was not permitted during the ZBA hearing for the Steris project on Whitney Street. She voiced her understanding that the town's bylaw does not allow the use of electro-magnetic radiation and asked the board why this would be allowed. Ms. Martinek informed Ms. Babcock that the board cannot legally speak to the specific application. Ms. Joubert mentioned that the Building Inspector requires applicants to file a Zoning Interpretation Form that he reviews in order to determine if the use is allowed or not, or will require a variance. She offered to send Ms. Babcock a copy of the Zoning Interpretation Form that was filed for the project.

Ms. Babcock reiterated her opinion that the use should not be allowed. Ms. Martinek asked about the process in the event that someone questions a zoning determination. Ms. Joubert noted that there is a process outlined in Massachusetts General Law (MGL) if an applicant disagrees with a zoning determination that allows the applicant to go to the ZBA and pursue it further in the courts if they are dissatisfied with the ZBA's response.

Ms. Babcock recalled that a previous Zoning Enforcement Officer had determined that the use at 429 Whitney Street was agricultural, and 10 years and many dollars later it continues to be a source of embarrassment for the town. She noted that the town is again relying on the Zoning Enforcement Officer and Town Planner with no other checks and balances. Ms. Gillespie asked how residents' questions can be addressed if the ZBA has indicated that the issue of use cannot be discussed. Ms. Joubert explained that the Planning Board does not have any authority over a zoning determination as this authority is given to the Zoning Enforcement Officer under state law. In response to Ms. Gillespie's inquiry about how residents can question if they do not agree with a zoning determination, Ms. Joubert suggested that they could contact the Zoning Enforcement Officer to get input about his rationale. Ms. Poretsky asked if the ZBA has the ability to question or appeal a determination by the Zoning Enforcement Officer. Ms. Joubert reiterated that the applicant can take the matter to the ZBA but she was unaware of any process for residents to appeal. Ms. Gillespie suggested that residents could take the matter to the Board of Selectmen. Ms. Babcock voiced displeasure that the town has decided to allow this use in town. Ms. Joubert confirmed that the ZBA voted to approve the setback variance for the Steris project. Ms. Martinek noted that residents do have the ability to appeal the decision.

Ms. Babcock asked how to go about changing the process as she believes it is ludicrous that one individual has all of the authority to decide what use is acceptable. She emphasized that in her opinion

the Steris project does not meet the criteria of an acceptable use. Ms. Gillespie reiterated that the board is not allowed to discuss it. Ms. Martinek mentioned that the site plan review should come to the Planning Board. Ms. Joubert stated that it would only if the addition triggers the threshold; otherwise it will not be required. Ms. Babcock noted that the proposed addition is three times the size of the existing building. She expressed disgust that the project does not meet any of the bylaws and questioned who determined that the x-rays to be used within 25 foot walls are allowable. Ms. Martinek reiterated that the board cannot discuss specifics of an application that is not before them but agreed that Ms. Babcock's questions about the process do have merit. She suggested that the board discuss the matter in an effort to figure out how to resolve such frustrations.

Ms. Poretsky stated that she had reviewed the Building Department's website and it appears that there may be an appeal process. She expressed her opinion that a member of the Planning Board could appeal a decision to the ZBA. She also mentioned that she had emailed the Zoning Enforcement Officer a couple of times about the use determination but did not get a response. She noted that she was also concerned about this use and feels that there should be a means to appeal a decision by the Building Inspector. Ms. Martinek asked if Town Counsel can advise the board on this matter. Ms. Joubert suggested that, since the discussion pertains to the actions of the Building Inspector, he should be here for the discussion. Members of the board agreed to ask the Building Inspector to attend their next meeting to discuss their concerns and to contact Town Counsel for advice on the matter so that we do not miss the window of opportunity for the Steris project.

In response to questions from Ms. Milton about a process to appeal a decision by the Zoning Enforcement Officer, Ms. Joubert stated that her understanding of an appeal of a zoning determination differs from that of Ms. Poretsky so clarification is needed. Ms. Poretsky reiterated her desire to seek Town Counsel input; other members of the board agreed. Ms. Joubert explained that any request for input from Town Counsel requires approval of the Town Administrator.

Ms. Poretsky made a motion to ask Town Counsel for guidance on a procedure for appealing the Building Inspector's zoning determination by either a town resident or board member. Michelle Gillespie seconded; motion carries by unanimous vote.

Lot Releases and ANRs – Ms. Joubert noted that there are no lot releases or ANRs for consideration.

Subcommittee Updates

Central Massachusetts Regional Planning Commission (CMRPC) – Ms. Martinek noted that the CMRPC has the following upcoming meetings”

- September 12th, 7PM at the Northborough Library - CMRPC Quarterly Meeting “Prepare to Plan, Plan to Prepare”
- October 8th – 21st Century Municipalities Challenges and Opportunities

Open Space Committee – Ms. Poretsky noted that Mr. Ziton is now the Planning Board’s designee, but mentioned that she did walk the Howard Street property. Ms. Joubert explained that the Conservation Commission, Open Space Committee, and Trails Committee had met jointly and voted to move forward with making an offer to purchase nearly 19 acres on the back portion of property at 615 Howard Street.

In response to questions from Ms. Poretsky about the Auger Avenue parcel, Ms. Joubert noted that there are 4 lots available off of Auger Avenue and Lincoln Street that the Open Space Committee and Conservation Commission had agreed to pursue only if all 4 lots are available, but it appears that the Auger Avenue parcels are now under a P&S agreement with a private party. She also noted that the Recreation Commission had looked at the Lincoln Street parcel and has determined that it is not large enough or adequate for their needs.

Ms. Poretsky voiced her understanding that the dog park received funding from a resident. Ms. Joubert confirmed that the required matching funds have been raised, which gives the town the ability to move forward with the design. She noted that the dog park will be located off of Hudson Street on state-owned land.

Community Preservation Committee (CPC) – Ms. Milton stated that there have been no recent meetings of the CPC. Ms. Joubert explained that applications are out and are due by November 1st, after which the public hearing will be scheduled. She anticipates the CPC will meet in December or January to start the process.

Design Review Committee (DRC) – Ms. Gillespie indicated that the DRC has not met recently but hopes to do so in the next month or so.

Groundwater Advisory Committee (GAC) – Mr. Litchfield explained that there is one application for which he has requested additional information that he hopes to receive next week. Assuming he does, he anticipates the GAC will meet September 18th.

Preparation for 2020 Annual Town Meeting – Ms. Joubert mentioned that a staff person from the CMRPC is scheduled to come to the board’s next meeting to discuss solar and hazardous waste bylaws.

Draft Board Appointment Policy – Ms. Joubert noted that the discussion at the last meeting was about determining how the three year term limits will be implemented. She stated that Town Counsel has suggested that, for existing members, the board should start by imposing a three year term limit on the member who has been on the board the longest and then stagger it among the remaining members. She agreed to provide information about when each member was appointed and the board can then decide how to stagger terms. Ms. Martinek indicated that board members do have the ability to serve multiple terms but the imposition of term limits affords both sides the ability to review and evaluate.

Ms. Milton asked about the interview subcommittee that was noted in the draft. Ms. Martinek explained that the draft was edited to delete the subcommittee and allow the entire board to participate in the interviews.

Ms. Joubert indicated that she needs to research if the new policy can simply be added to the rules and regulations or if a public hearing is required. She agreed to check with the Town Administrator.

Michelle Gillespie made a motion to adopt the Planning Board Appointment Policy as presented tonight. Mille Milton seconded; motion carries by unanimous vote.

Town Planner Update – Ms. Joubert stated that, since there is currently an appeal in process, the board cannot discuss 222 West Main Street but she did advise the board that Town Counsel has indicated that there has been no formal litigation activity.

Ms. Joubert discussed the next Planning Board meetings as follows:

- September 17th – staff from the CMRPC will attend to discuss the solar and hazardous waste bylaws
- October 1st – no public hearings scheduled
- October 15th – two applications are anticipated as follows
 - 41 Lyman Street – proposal for an addition to an existing industrial building
 - Hudson Street – filing for land clearing for a project proposed by Ron Aspero, who previously appeared informally before the board. Ms. Poretsky asked if the applicant must apply for an ANR before proceeding with land clearing. Ms. Joubert indicated that he will likely do so.

Ms. Poretsky suggested that the board discuss Town Meeting preparations at their October 1st meeting.

Members of the board discussed a joint meeting with the ZBA to address zoning proposals for Town Meeting and agreed to ask the ZBA if they are available to meet on October 1st.

Letter to ZBA regarding 125 Rice Avenue – Ms. Gillespie discussed concerns about granting access to the public, specifically given issues about the number of dogs and how to regulate it.

Ms. Gillespie expressed a desire to request the following conditions in the decision

- Vegetated buffer will never be cut.
- Limit overnight stays to no more than 2 dogs

Ms. Gillespie noted that noise is a very subjective thing and questioned how to measure to determine whether it is a nuisance. She also mentioned that, while she does not believe Mr. Oestreicher will be doing any clearing, it does appear that he plans to fence in the existing trail. Ms. Joubert noted that he

will be required to appear before the Conservation Commission on September 9th, at which time they will advise him about what he can and cannot cut.

Members of the board discussed the possibility that Mr. Oestreicher may allow other dog walkers to use his property and suggested that there should be a limit on the number of dogs onsite at any one time.

Ms. Milton expressed concerns about traffic and asked if the town should further evaluate sight distances. She also asked if it might be possible to do some type of animal permitting on this use.

Ms. Poretsky commented that the state does have definitions for dog walkers and kennels. She also indicated that she does not agree that this is an owner occupation as the business operation does not take place inside the structure. She noted that the state regulations for home occupation intend for it to be within the home so that no neighboring residents would even know that it exists. She mentioned that the town has a definition in our bylaw for a personal service establishment that involves one person taking in clients. She stated that, when she read the application and listened to the applicant, she understood this to be a high intensity operation with as many as 5 vans, 6 to 8 employees, and even includes a bathroom for the business. She emphasized that the purpose behind a home occupation is for 25% of the existing gross floor area to be allocated to the business operation because it is supposed to be inside. Ms. Poretsky also took issue with Mr. Oestreicher's categorization of himself as a dog walker, since they typically go to the dog owner's home to walk the dog. She suggested that, if Mr. Oestreicher brings dogs back to his house, even though he says he walks them, the business is actually a dog day care. She recalled a similar situation in Natick earlier this year where the town ruled that the business was a kennel. She noted that Natick has now banned kennels in neighborhoods because of complaints from neighbors about dogs and other impacts. She stated that she does not see how this use qualifies as a home occupation since Mr. Oestreicher has more than one employee, is not operating inside the home, has a separate parking area and is seeking to have a separate bathroom. She expressed a desire to ask the Building Inspector how he came to this determination. She also mentioned that, should the ZBA allow this, she would like to enforce the requirements of a home occupation.

Ms. Gillespie indicated that she would like to discuss this use with the Zoning Enforcement Officer at the board's Sept. 17th meeting when he is here to talk about the zoning determination for the Steris project. In response to a request from Ms. Joubert for clarification, members of the board confirmed that they would like her to speak with Town Counsel about an appeal process of a zoning determination. In addition, the board is requesting that the Building Inspector come to the September 17th meeting to discuss the zoning determination for the Steris project as well as the proposed dog walking business at 125 Rice Avenue and whether the use should even be allowed.

Ms. Poretsky expressed a desire to provide input to the ZBA about numerous conditions to impose, but emphasized that the most important issue is the fact that the proposal does not fit the criteria for a home occupation. She voiced her opinion that the use is actually a dog day care business and suggested that allowing this use will change the definition of home occupation. She also indicated that she would

find it difficult to approve the site plan if she feels the use doesn't fit. She reiterated that the high intensity of this use does not fit into a neighborhood.

Ms. Martinek voiced concern about traffic and noted that a special permit for a home occupation stipulates that "no traffic shall be generated by a home occupation in greater volume than would normally be expected in a residential area and any need for parking generated by the home occupation shall be met off the street and other than in a required front yard". She noted that the plan shows a large parking area and it appears that the use will produce a greater volume than you would expect to see in a residential area.

Ms. Joubert suggested that the board's comment letter to the ZBA could focus on whether this use should be granted a special permit or not instead of addressing concerns raised by members of the board. She noted that the letter could simply state that the board does not feel it qualifies as a home occupation and request that the ZBA not approve the application. She mentioned that the board could also opt to include the suggested conditions. Ms. Gillespie commented that, when the zoning bylaw was revised and the subject of home occupations was discussed, she never envisioned use of it by a dog walker.

Ms. Martinek voiced concerns about the fact that the use is far from the intent of the bylaw. Ms. Gillespie noted that Mr. Oestreicher has discussed a desire for his business to grow to a much larger scale. Ms. Martinek insisted that this is a business, and expressed concerns about the town being responsible for trash and waste disposal. Ms. Poretsky noted that all signs are that this is a commercial use and emphasized that it is not fair to the neighbors to allow it in a residential area.

Ms. Martinek questioned whether an approval could include an imposed time limit, in the event it is a total disaster. Ms. Joubert explained that the special permit can be assigned to the applicant and not run with the property. She agreed to draft a comment letter to the ZBA for the board's review.

A gentleman in the audience recalled that a dog park at the Yellick Conservation area was just approved, which is about ¼ mile away from this property. He mentioned that it seems a bit odd that the town worked so hard for that and is opposing this. Ms. Poretsky noted that the dog park will be fenced in and that the dog park will be on DCR property and open to the public and is not a commercial business.

Meeting adjourned at 10:05PM.

Respectfully submitted,

Elaine Rowe
Board Secretary