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TOWN OF NORTHBOROUGH PLANNING BOARD

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

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Planning Board Zoom Meeting Minutes July 6, 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), Attorney Doneski, Attorney Doug Radigan (Bowditch & Dewey), Michael & Brittany Grenon

Chair Martinek called the Zoom meeting to order at 6:00 p.m. and made the announcement that pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency, signed into law on June 16, 2021, this meeting will be conducted via remote participation. No in-person attendance by members of the public will be permitted. Public comment will not be taken. The process was explained.

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

Green Street Common Driveway (request for approval of temporary occupancy certificate for dwelling at 218 Green Street, with provision of financial performance security for completion of driveway construction) – Present were Attorney Doug Radigan, Michael and Brittany Grenon. Attorney Doneski explained that the issue came about from a common driveway special permit issued several years ago which included conditions regarding the completion of construction of the driveway in the issuance of an Occupancy Certificate for the last home (which is the home the Grenon's purchased). Attorney Doneski discussed with Kathy Joubert and Fred Litchfield a possible proposal on behalf of the Grenon's to have the board accept some type of security in exchange for authorization to allow a temporary Occupancy Certificate. There is no agreement with all the parties involved (the homeowners for the lots on the common driveway) and the developer (Mr. Silver).

Attorney Radigan was asking for a modification to the special permit to allow the temporary occupancy of 218 Green Street until the dispute between the developer and the neighbors is settled. The Grenon's bought the lot on Green Street Extension in 2017, 16 years after the permit decision was issued (2001). They contacted the town about possibly moving the existing turnaround; that didn't happen because the neighbors did not agree. It was then they became aware that there was an underlying issue with the topcoat being finished. In April 2001 when the special permit was issued, the 5-lot subdivision was configured in such a way as to avoid Northborough's subdivision control law because everyone had frontage on Green Street. In lieu of taking an appropriate bond for the completion of the road, the 2001 Planning Board put in conditions that had to be met prior to the issuance of the various Certificates of Occupancy. The developer was supposed to form a Homeowners Association (HOA) before the first Occupancy Permit was issued; it was never done. The Planning Board and town required the developer to submit a final as-built plan showing everything except for the final topcoat of asphalt being complete on the on the base coat of the road (it was to be done prior to the occupancy of the second home); it was

not done. The town wants to enforce the special permit decision now after not having done so for any of the other homes. The developer has now taken the position that his only responsibility is to pay for the topcoat of the private road. It is not disputed among the parties, for purposes of submitting to the board, that the allocation that the developer has proposed is one-third of the cost. The developer's position and the town's position has been that the base coat has eroded in such a manner that it needs to be replaced before the topcoat can be put on. Because there is no HOA, some of the homeowners refuse to give their consent to move forward with doing the construction that the town is obligating his clients to do. The Grenon's have gotten multiple quotes ranging from \$105K to \$150K that were submitted to the board. The developer is responsible for 1/3 of the cost, leaving an approximate \$100K cost (the Grenon's would be responsible for 1/5 of the cost pursuant to the access and easement agreement). He said the Grenon's had contacted Mr. Litchfield on multiple occasions. Attorney Radigan read an October 2, 2020 email to which Mr. Litchfield responded that he was working with Andrew Silver's engineer and contractor to get a schedule for the paving work and will let them know once confirmed. Attorney Radigan said it could have been addressed over the last 20 years; there is no part of the decision that required that final coat be done at the time that the last house was completed. The Grenon's would like relief from the board and move into their house. They are willing to put up a cash deposit of \$20K for a temporary Certificate of Occupancy. They do intend to pursue the developer to finish the road, but it is a legal matter. Mr. Litchfield provided an estimate of \$300K. Attorney Radigan commented that Mr. Litchfield has been working on this project since 2001 and could have enforced the obligation on anyone, but only supplied the estimate tonight. He also said it is flawed because Mass Highway specs were applied which are not appropriate to a private road that will never be accepted by the town; it will be maintained by the residents. For the Grenon's to get a performance bond, they would have to hire a contractor.

Mr. Litchfield said he prepared the estimate today based on conversations with Attorney Doneski late last week that was based upon someone providing an amount to cover the cost of completing the driveway. It is a driveway, not a roadway, and the town doesn't typically take a bond on a common driveway. The bond estimate he put together did include Mass Highway unit costs based upon what the town would incur if they ended up exercising the bond and making sure the driveway was completed. If the town was put in that position of bidding the project and hiring a contractor, those are the unit costs the town would have to pay the contractor. Ms. Martinek asked if there was a way to cover the town but also make it attainable for the Grenon's. Attorney Doneski said there are two issues: enforcing the conditions of the special permit would not be a short process. The administrative component would be whether the board would find a certain amount of security to be sufficient for the purpose of a temporary Occupancy Permit with the understanding that the issues are being pursued, meaning that the Grenon's are making efforts to get the work completed, that they wish to occupy their property, and are proposing to do it on what would be a limited basis because a temporary Occupancy would not get them permanent occupancy rights.

Ms. Poretsky commented that it is a common driveway, and it was up to the developer to finish; why would the town be pulled into finishing a private driveway. Attorney Doneski said it was similar to a performance security for a subdivision where it would be an actual roadway as opposed to a common driveway. The main purpose is to ensure there is adequate access and egress for emergency vehicles. This road is not proposed to be public or private way; it is for the five lots. Attorney Radigan thought it would be a private dispute that the town wouldn't have an interest in doing; their only interest would be in safety and making sure that emergency vehicles could traverse on the road. There is another lot subject to an Order of Conditions that is owned by the developer that is under contract for \$150,000; the town has a \$29,000 bond to address drainage issues. He felt that along with the amount the Grenon's are willing to put up, allowing them to move into their house with a temporary Occupancy Permit does not leave the town powerless; the town has issued Certificates of Occupancy in the past.

Ms. Joubert pointed out that the bond the town presently holds is specifically for earthwork purposes (stabilization of the site). It is not money that is readily available to be applied to fixing the base coat or applying the topcoat. According to Attorney Doneski, there are two options: enforcement, which could be a long process, or consideration of the board for a certain amount of the money sufficient for temporary occupancy with the understanding that there was a full faith effort to solve it possibly in a private dispute. Ms. Gillespie asked Attorney Doneski to explain the difference between a temporary occupancy and a full occupancy permit. He responded that a temporary Certificate of Occupancy would be authorized for a limited period of time. Ms. Gillespie asked Attorney Radigan if his clients at the time of purchase were told anything regarding the driveway and the HOA. Attorney Radigan said they were told nothing with regards to the HOA; about the driveway, they were told that the town was working with Andrew Silver's engineer and the contractor to get a schedule for the paving work. The Grenon's deferred construction due to medical reasons. They asked for a building permit; one was issued that had no restrictions or conditions on it for the Certificate of Occupancy. Ms. Gillespie commented that it is not uncommon for a subdivision or common driveway that the final coat is to be completed when the last lot has been fully built. If the town had to take it over for any reason, it would have to be at prevailing rate. It's much higher rate than then a private resident would get; they need to take that into consideration. Attorney Radigan said any costs associated with doing that would have to be apportioned amongst the five homeowners; currently the neighbors are not willing to do that.

Ms. Poretsky asked Mr. Litchfield what happened with the conversation with Andrew Silver in the fall where he was going to fix the road. Mr. Litchfield said he reached out to Mr. Silver's engineer who was working with Mr. Silver to get prices from contractors at that time. Mr. Litchfield was waiting for the prices and the schedule to assure that the work was done. During discussions with the contractors, Mr. Sliver contacted his attorney, changed their approach, and never provided the schedule or the estimates for the work necessary to be done. She asked if there might be a way to attach it to the 6th lot since the developer owns it. Mr. Litchfield explained that board has no way to control the 6th lot; it is part of the Order of Conditions with the Conservation Commission; they have not released the lot. Attorney Radigan said should a lawsuit be filed, it will include the 6th lot.

Ms. Joubert said as far as the 6th lot is concerned, it is not part of the special permit; the Planning Board has no control over that lot. It is an individual lot that has frontage on Green Street; it is a single-family lot and will never come before the board. The Conservation Commission has jurisdiction because of the drainage. She said they are here tonight to try and help the Grenon's. The issue remains that there is an active developer who is responsible for the completion of the common driveway. She asked Attorney Doneski if there was a bond, wouldn't there need to be an agreement or binding documents that ties it altogether. Attorney Doneski said if the board approves the concept being proposed, yes; he would recommend something writing to include the date up to which a temporary certificate would be authorized. If the situation was not resolved at that point, the board would want to revisit it. Attorney Radigan suggested considering issuing this a temporary Certificate of Occupancy tonight, making it subject to coming back to another meeting with a written decision worked out with Attorney Doneski with respect to memorializing the fact that his clients are willing to put up a \$25K bond, which is what they think is a fair amount.

Ms. Martinek asked Attorney Doneski should the board decide that a different amount is acceptable, was he able to create such an agreement that will protect the town. Attorney Doneski responded yes; the document could be created, but to be clear, the 6th lot is not directly within the purview of this driveway special permit. The basic elements of the agreement would be a time for which a temporary certificate would be authorized, the amount of the security, and any other conditions that the board may want to

establish for oversight of this situation. Ms. Martinek asked if there were any conditions he would recommend. Attorney Doneski said the board would be authorizing occupancy of this particular dwelling prior to completion of work that by terms of the special permit was to have first taken place. The issue would be setting a time period for the temporary occupancy so that the board is retaining jurisdiction over the situation and monitoring secondary action or primary action looking to get in some way the entire situation resolved so the work can take place. Ms. Martinek asked Ms. Joubert and Mr. Litchfield if they would be comfortable allowing a temporary Occupancy Permit with a lower amount. Mr. Litchfield said if the bond is in return for the Occupancy Permit, the number is the \$300,000 which is what he believes is the cost to the town to get bids and do it; any remaining funds would be returned whoever posted the bond.

Ms. Joubert said any time the town must step in, which is extremely rare, it needs to be the full amount; it's part of what the Town Engineer estimates for all boards (what it would cost the town to complete the driveway, roadway, etc.). She also talked with the Building Inspector and asked his thoughts on the process for issuing a temporary Occupancy Permit. He is willing to do that provided there is adequate coverage for the town and for his department because the expectation is not that the town is going to go in and remove someone from their house. We would be calling it a temporary Occupancy Permit but realistically it's their Occupancy Permit. Ms. Joubert noted that the Grenon's are in an unfortunate position, but the board must look at the decision, not the people who purchased it, what they did or did not know, etc. HOAs are required on every common driveway; the town does not enforce whether an HOA was put in place; it's always part of the board's decision and up to the responsible parties to make sure that that happens.

Attorney Radigan proposed issuing a temporary Occupancy Permit to the Grenon's; they will post a \$25,000 cash bond; within 120 days of moving into their home they will be back in front of this board with either a resolution agreed to by all the neighbors and Mr. Silver to address the road, or they will file lawsuit seeking a declaratory relief to address the controversy as to whose responsibility and portion of the expenses are and let the court decide; the Town of Northborough can be kept out of any of the litigation. Attorney Doneski said the board would be authorizing the temporary certificate for less than what it would cost to do all the work with the notion being that it's temporary and an agreement could provide that if some form of resolution has not happened by a certain date, the Grenon's would have to vacate and if they didn't, any costs associated with enforcing that requirement they'd be responsible for. It's not being treated as a usual situation because it's not; it's a temporary certificate as opposed to a permanent one.

Ms. Gillespie disagreed with the amount saying it was too low. If the argument is that all five homeowners should participate, 1/5th of the cost (using Mr. Litchfield's estimate) would be \$60,000. Regarding the temporary Occupancy Permit, she thought they should come back within 90 days since it has gone on for so long. Ms. Milton asked if the road needed to be repaired now. Mr. Litchfield said it needs to be done before the house can be occupied; it is not suitable for the topcoat.

Ms. Joubert pointed out that she went through 20 years of common driveway decisions. This is the first time the town has heard from homeowners that they refuse to do an HOA. It has worked in every other common driveway that's been granted by the board. In talking to various people on common driveways, people have had to rebuild their common driveways just based on the amount of time. Driveways have long been a method in Northborough for people to access their "porkchop" lots. It is not a new concept and has not failed in the past. It is unfortunate that it did fail on this one, but she did not see given that these have worked in the past, why the board would take on a different method in the future to get more involved with an HOA.

Ms. Martinek said the board is leaning towards issuing a temporary certificate with an amount that is reasonable. Mr. Litchfield's opinion was \$300,000; \$25,000 doesn't do anything. Attorney Radigan suggested \$25,000 based on their estimates and felt it should be less because they will incur legal expenses that no one has been willing to contribute to. Ms. Joubert said the Grenon's need to contact the treasurer tomorrow to resolve the tax matter, regardless of what the board votes on tonight; it must be resolved before a temporary Occupancy Permit can be issued. After deliberating the appropriate bond, the board decided that \$30,000 is fair based on the estimates given and number of parties ultimately responsible. Attorney Doneski said the motion would be to authorize the issuance of a temporary Certificate of Occupancy for the Grenon property in exchange for the Grenon's providing \$30,000 of security towards the completion of the common driveway. The temporary Occupancy Certificate is to be issued for no longer than six months, and the matter will be reviewed by the Planning Board 120 days from today's date for a report on whether there has been an agreement among all property owners or if the Grenon's had to file litigation to seek contribution towards the cost; there will be a written agreement to reflect these conditions as approved by Counsel in communication with Counsel for the Grenon's. Ms. Poretsky adopted the motion that Attorney Doneski read; Ms. Milton seconded; roll call vote: Poretsky-aye; Ziton-aye; Milton-aye; Gillespie-aye; Martinek-aye; motion approved.

Interviews for Earthwork Board Candidates:

William Pierce (367 Whitney Street) has been on the Northborough Extended Day Program (NEDP) since 2017; helps with the soccer team, wants to get more involved with how the town works. He was a senior member of an HOA in Marlborough; is familiar with and knows board processes and how it works. He has a master's degree in cybersecurity (risk management) and thinks that will be good for the board. Ms. Milton asked what interested him for this particular board. He said as part of the HOA they were very involved with leveling roads, adding/removing earth; project management interests him. He has worked through the property management company. He has reviewed site plans; he has been to some meetings; he has never served on a board. He does understand the role. The Chair of Earthwork Board was unable to attend but did not have any specific questions. He was asked how he would describe his approach to working with a team. Mr. Pierce said he manages the server team at the MBTA and said as long as people are heard, they're generally fine with some type of vote. Mr. Litchfield explained the process of the Earthwork Board as well as when they meet; Mr. Pierce said he could commit. He did apply for multiple positions and has been accepted on the Rules and Bylaw Committee.

Christopher Deacetis is a registered PE in the Commonwealth. He works on roadway layout, civil site design, etc. and has been involved in many projects from preliminary design through construction. He is interested in being on the board and wants to continue to make Northborough a great place to live. Working with the city engineer and now a private consultant, he feels his skill sets match well with the Earthworks Board. He has never served on a board or committee, but his experience meshes well with what he does for a living. Teamwork is one of his biggest strengths. Mr. Deacetis would have no issues with attending meetings.

Interviews for Design Review Committee candidates:

Tom Reardon would like to be reappointed. He is a 36-year resident. He was one of the first appointments to the DRC; has been working with Ms. Joubert and Mr. Litchfield for a long time. He most enjoys the fact that the town has a set of design guidelines that provide a basis to evaluate applicant's designs, both for the building and landscaping which gives them the opportunity to guide, coach, offer encouragement and give the applicants reasons why their

presentations either meets the guidelines or not which he feels is very helpful for the applicants. He has been involved in writing those guidelines and is currently writing guidelines for duplexes; he is interested in continuing with that. He looks forward to working towards some of the goals itemized in the Master Plan that was recently completed. He believes his background, education and experience are well matched to helping with the Master Plan. Ms. Poretsky asked if he previously or does he foresee himself bringing clients before the board. He said often it does occur, but he recuses himself as per Mass General Laws. He has done 15 buildings in the commercial district over the years.

Ms. Gillespie said she has worked with Mr. Reardon for many years; he has extensive knowledge of Mass Law regarding building as well as commercial and industrial; he is a huge asset to the town. Mr. Reardon noted the projects he worked on. His design work is based in the regional traditional vocabulary of New England; he does not do modern buildings. He is a licensed part-time Building Inspector for Westborough; very familiar with the process and methods. He has enjoyed his 40 years in architecture because he is a generalist and able to take clients from inception to completion. He said the methods they developed in Design Review is to offer encouragement to the applicants to pay attention to the context, not just the site and to use it in the development of their schemes. He was asked if there would be any changes or modifications he would like to see. In terms of design guidelines, he said the current design guidelines for a two-family are rather burdensome because they are highly technical and a lot of specifics to track. There are some good points that need to be studied and modified; it tends to get a little too detailed. Mr. Reardon is on White Cliffs Reuse Committee and is being considered as an alternate for the Historic District Commission. He was asked what his approach is to get through different opinions. Mr. Reardon said in the last 19 years in Design Review the members have worked to reach a consensus so they could give a strong vote of approval to the ZBA and Planning Board. He thinks that they are a professional board, who suspends their personal preference to try to give fair and objective reasoning for what they are looking for; which has worked well for the past 19 years. He said that the modification of the makeup of the Design Review Committee, at this time with changes at the head of it, as well as bringing in new members, reduces the experience and knowledge of the board at a time where we need to finish the design guidelines for the duplexes; we need to be ready to work with the Master Plan Implementation Committee. He thinks that it is an unusual time to restock the Design Review Committee and that the town would suffer with the lack of experience and knowledge they could be heading towards.

Dario DiMare – He is a licensed architect; been a resident since 2006; wants to give back to the community. He helps at the high school with theatre designing sets. He knows the codes; has been before numerous Design Review Committees in various states. He thinks it will be more fun than work. He is on the Master Plan Implementation Committee. His company does complex buildings for newspapers and media around the world and has been recognized as the best in the world; they range in diverse building types. He was selected to design their building for the eastern district headquarters in New Jersey. He said when working with people/committees it really doesn't matter whose design it is, if it is good, you accept it. You listen to people and help guide them; and help them understand what you are doing. He was asked if he had looked at the Design Review guidelines; very briefly he said. He was asked his favorite style of work and answered that it is craftsman, while contextualism is a big deal. If the town wants it, they should promote it. He was asked what his role would be on Design Review and said helping improve the quality and architecture of the landscape. He was asked what he would offer for improvements. He wasn't sure; he would want to know what the town wants. Ms. Gillespie said the board would

be looking for his expertise advice. He was asked if he did any work in town and said he did a craftsman style garage on Stirrup Brook Lane for the Wixted's. He was asked if there were any buildings designs in town he liked. He thinks there was a lot being done and understands the effort but some of the implementation seems awkward. He addressed the importance of sidewalks and front porch entries versus some of the back facing buildings he noted in town and gave examples of what he thought could be approved upon. He was asked if he saw himself bringing clients before the board. He said possibly but will recuse himself. He was also asked if he would like to see a more regional traditional design or more modern look. He believes traditional is what the town is and doesn't have a reason to go contemporary. He has no issues attending 8AM meetings. He was asked if he was familiar and comfortable understanding the guidelines. He said he reads the guidelines before they draw the building. He agreed with Mr. Reardon with respect to not telling people exactly how to design their buildings; we need to guide them.

Board Discussion RE: Design Review Committee member Lisa Maselli – Ms. Martinek explained that letters were received about a social media post made by Ms. Maselli regarding a developer who frequently comes before the Design Review Committee. A Facebook post sparked conversations about whether it's appropriate for board or committee members to express personal opinions on social media. Input was received from members of the Design Review Committee (DRC), residents, as well as from Ms. Maselli. The board discussed the merits of the letters that were both in support and against the Planning Board taking action on this matter.

After a lengthy discussion on whether any violations had occurred, the Board determined that there was no evidence presented that would prompt Ms. Maselli's removal from the Design Review Committee and further determined that outside of Ms. Maselli recusing herself if Mr. Shay asks, there is no additional action required.

Informal Discussion with Damon Amato (RE: 75 Ridge Road) – Damon Amato, Ben Legary (Architect) and Scott Cameron (Engineer) attended. Ms. Martinek noted that discussions tonight are intended for general information only; there will be no decision or vote and any comments made by the board should not be construed as either an official approval or denial. It is a unique property; they had it under agreement two years ago and tried to work through different zoning regulations to see what the highest and best use would be for the property. There are currently 8 (possibly 9) structures; the site will need tremendous clean up before anything can be done. Mr. Cameron delineated the wetlands; test pits were done. The purchase price and what they thought they could do did not coincide; they took it out of contract. They now have it under contract again and have some ideas of what can be done. They have done development projects that require a change to the zoning amendments to make something work that would be good for the surrounding area. They held an informal zoom meeting with abutters to let the neighbors know what they are trying to accomplish. They did a development in Newburyport (15 houses on a total of approximately two acres); they had to donate about 80% of the total acres back to the town as open space which gave them density bonuses; it ended up being good for the community. They are considering doing the same thing in Northborough.

Mr. Cameron said the property is shaped like a peninsula that comes out into the pond; water is around all sides; an ORAD was done; a full survey of the property was done; soil testing was done a few years ago; the wetlands were delineated; buffer zones were established. The single-family dwellings are accessed from a single driveway; there is about 600 feet of frontage; the property is 3-3/4 of an acre. It is shown as two parcels with a line that separates it (3/4- acre parcel and 3-acre parcel). There is an existing dock on the pond; each home has its own cesspool. Mr. Cameron said they met informally a few years ago with

Ms. Joubert and staff for feedback for possible duplexes; ultimately the duplexes were not the right fit. Looking at more of a single-family development with possibly 8 dwellings seems like a reasonable development footprint for this property; a lot of the vegetation can be preserved; especially along the frontage of the property; the driveway would be close to the current location. The area needs extensive clean-up. They are trying to figure out what the path is to move forward. They are considering a public benefit with parking and access to a new dock that a Condominium Association would maintain.

Mr. Legary showed the type of homes (in Newburyport) they are considering. He explained how they worked with the city to create an overlay district which allowed them to cluster homes in one location; they preserved 85% of open space; the field was preserved. The existing neighborhood that was once plagued by shipping containers and Mack trucks ended up being a neighborhood with a small playground, green space, walking paths and access to trails. They see Ridge Road as being similar. They like having public access; having detached houses allows a single road coming in; the public benefit allows some of the neighbors to access site; they like to work through the buffer and create; it's not a huge impact on the neighborhood. That is not typically found in the zoning code but can potentially somehow get there if working hand in hand with the town and with what they desire, what the developer wants to accomplish, and what the neighborhood would like to see. They are trying to make it so it's not too much more intense than what the structures are now while also creating a use for the site that never was there before. Public access would be in a larger parking area with the green space around it so people feel comfortable coming into it.

Ms. Milton asked if it would be a subdivision. Ms. Gillespie said it could be a subdivision or lots served by a common driveway. Mr. Cameron said a full subdivision would be far bigger than this; it diminishes from the intent of it, preserving open space and providing some of the public benefits. He said Mr. Amato Mr. Legary are looking towards and have worked with other communities in the past on, creating new tools in the zoning or subdivision control law to allow for the conversion of properties like this. The path forward under the conventional means was a little tricky on this particular property. Ms. Gillespie said it is either 3 duplexes or 6 standalones creating common driveway and asked if they did not want to adhere to the subdivision rules and wanted to create new ones. Mr. Legary said for properties that are a little smaller and if it was open space (or whatever avenue they chose to go with the town), there are some waivers where some of the roads are 23 feet instead of 24-25 feet because of the private road; they would probably not be looking to get those adopted in the town; they are not shared driveways, but a lot of the smaller ones they do have waivers that could potentially shrink down some dimensions seeing it's not a full subdivision road. It all comes to the tool they are developing together and what criteria would be in that. Ms. Milton asked if developing tools together meant special permits, waivers, getting creative with the utilization of the land based on those elements and was told yes.

Ms. Gillespie said two single families are allowed under current zoning. Mr. Amato said they tried for 3 but the problem was the cleanup not included in the cost of the purchase would be too much of a burden; there is no way to make it work. Ms. Gillespie said if it comes before the board, she would like to see the cleanup costs. She said they are proposing 6 standalone single families where the current zoning allows for two single family homes, and they would be tripling the density to that area. Mr. Legary said they are in a tough situation. They were hoping to be considered a pre-existing nonconforming use of the small summer camp houses all on one lot to potentially go from 8-9 smaller homes to 6 larger homes. Ms. Gillespie asked if it is two single families now, but they would be tripling it to six single families, or do they believe they can do three duplexes; she was told yes with a special permit. She said none of the members of the board have been part of an overlay with the exception of herself and asked why do they see this as an overlay. It appears it is an overlay just for them and not sure the board wants to get into doing overlays for just a specific developer for a specific project. Mr. Legary believes there are parcels of land surrounding

the pond even further from this that would apply to a very similar situation. They don't have the overall map yet but are trying to identify property surrounding it that would benefit from this type of overlay; they would have to work together to see what area would benefit from an overlay. Ms. Gillespie asked why not just build a subdivision. Mr. Cameron said it gets messy with variances and waivers, but if it is a suggestion, they could pursue it. He said it's a very unique property and thought an overlay is one tool. Ms. Gillespie said it would be helpful to the other board members and boards they need to go before what an overlay would look like, and why do they think it would benefit the community. She asked if they would consider one of the units to be affordable because the density is so much higher than what is allowed there now. Mr. Legary calculated a cost of purchase and cleanup; he didn't know if there was area to add an affordable unit. He said single family affordables tend not to make money but are open to considerations. Ms. Gillespie said because of the density they will have, most of the boards will want something to give back. She did think it was nice they made a dock to access the pond but thought other boards may be looking for something more substantial. Mr. Ziton did not like the idea of a public dock and thought there would be conflict with the neighbors and parking. He said Ridge Road is a cut-through between Lyman Street and Bartlett Street. His thought was to do away with the dock and spread out the houses.

Ms. Martinek asked if they fit in current bylaws. Mr. Legary said they have the special permit access for duplexes which creates density. The original plan was an expansion of a non-conforming use because there are 8 or 9 cottages and they tried locating the occupants. The use is there, the buildings are there, and they have been occupied. They planned to go from 8 to 6 and from cesspools to a central septic system. Ms. Martinek said we would be looking at some possible bylaw changes. Mr. Cameron said changes or new tools altogether. She asked Ms. Joubert if there was a path without zoning amendments. Ms. Joubert said unless they go the standard subdivision route where the road would create additional frontage to get the houses in, it would need some sort of zoning relief that doesn't exist right now. Part of the process for an overlay district is needing to show a standard subdivision plan, why that doesn't work, and why should the overlay be applied. Ms. Poretsky was willing to look at the OSRD. Mr. Ziton asked if there was a better price on the property would it make it easier to do different things. Mr. Amato said it would, but they have done as much negotiating as they can. Ms. Gillespie said they will have upfront costs but will make a profit in the end. They need to prove why it can't be a subdivision, which is part of the process when they are coming through with an overlay district; that would be the starting point. Ms. Martinek asked Ms. Gillespie if she would be open to pursuing different tools. Ms. Gillespie said she was but thinks the questions that most residents would ask is why they aren't doing a subdivision which is what it should be. Mr. Legary said there are some things the town can benefit from with an overlay district that can't be gotten from a traditional subdivision. Mr. Ziton likes the idea of the smaller reasonable homes, but it is a troublesome property. He agreed with Ms. Gillespie that if they stick to the rules it would be much better. Ms. Martinek thought it was a good idea to come forward with a troubled property in town. She is open to seeing if we can make something like this work assuming it fits into the bylaws; she does like the dock.

The developers will work on what a subdivision would look like potentially and come back before the board to review that.

Informal Discussion with Aaron Hutchins (RE: 91 Brigham Street) – Mr. Hutchins has 4.71 acres of land with a single-family house and an accessory structure rented as a dwelling unit. According to current bylaws he is in RC; properties in RC have to have a minimum of 100' of frontage and 20,000 square feet, or if they have 50' of frontage, they have to have 170,000 square feet. What that translates for his property is if he wanted to put one house in the woods behind his house, the house behind him would own everything in the back and his house would be limited to less

than ½ in the front which he thought was outrageous. His was trying to understand how the frontages were apportioned the way they are currently. In terms of the exiting bylaws and lot size, he believes it doesn't indicate any rationale. His purpose tonight was to ask whether the board would entertain some changes to bylaws relative to frontage requirements and lot size requirements in RC. He also did not understand why if he did a common driveway, he would still have to give up 100' of frontage. He would ideally like to put a shared driveway up the right side of his property and put 2-3 houses off the shared driveway.

Ms. Joubert said zoning was adopted in 1954 and typically for any town in MA you look at where you want population concentrated, topography, and soil type; all that goes into determining what kind of lot sizes. Some towns that have no sewer capacity will have only one lot size for residential zones. In our town there are at least four strictly residential zones that all have different zoning regulations. We all need to live by rules and regulations, and it is fair that everyone is abiding by the same set of regulations. Most of the southern part of town is the RC district, which is the 100' of frontage and 20,000 square feet. Most of the RC district is on sewer (within the sewer district) and that's where there is the denser development. She understands Mr. Hutchins doesn't think it is dense development, but compared to the other zoning districts in town, it is dense. She explained that many years ago the town developed "pork chop" or "flag" lots to allow people, like in Mr. Hutchins situation where you have a lot of land but don't have the frontage and not able to acquire additional frontage to make 100' of frontage you can go to reduced frontage but have to sacrifice that you have to have more land available. There are a lot of the "pork chop" or "flag" lots in the northern part of town because there is no sewer and you have large tracts of land where people developed 50' of frontage and 170,000 square feet, which is approximately four acres. When you go to do a zoning change, which is something the board could consider, in this district you should consider doing a soil study to determine if lots can be reduced in size to support a septic system. You would also have to consider you would potentially be doubling the number of lots that could be created. For an example, if it was reduced to 50' and 10,000 square feet, everyone would have the ability to create another lot on their property. There are factors that need to be considered.

Mr. Hutchins said he would not be looking to reduce the lot requirements so people in RC could have the ability to put another house on their land. He thought in the RC district, lots with four acres or more are probably less than a dozen remaining; many of the existing lots are probably less than one acre. Ms. Martinek asked within our current bylaws would a common driveway work; he said not by right. Ms. Joubert said on this particular property the biggest issue Mr. Hutchins faces is the lack of frontage. She said there are many lots on this street that are oversized but have the required frontage. If he were to do a common driveway, it would be for two lots; the existing home which has a driveway, and if he wanted he could do a shared driveway for the existing house and the house that would conform to zoning on a flag lot; he would need to maintain 100' for his house and 50' for the flag lot. A common driveway does not give anyone frontage, only access. There is the possibility of a subdivision which creates frontage. He thought about it but is not looking to burden the neighborhood with five houses. He didn't know if there is a way to carve out a particular bylaw for certain properties that meet a minimum acreage. Mr. Ziton understands the frustration and said it is important to inventory but did not know what it would take to get there. Mr. Hutchins doesn't understand that if all they are doing is accessing a driveway why they need an additional 75' next to the driveway when the house is 4 acres back. Ms. Martinek said within the current bylaws, what he is trying to do is not possible without numerous approvals.

Ms. Martinek asked the board if they were interested in looking at how it impacts RC properties specifically the larger parcels remaining, and how the bylaws are backfiring for those properties. Ms. Gillespie stated that she has told the board many times it is all about frontage. Mr. Hutchins lacks it; he does have a large parcel; is in an RC district. Ms. Gillespie also stated that the board has talked several times about unintended consequences. The board went to town meeting to increase the frontage for duplexes and there was a sense in that district area wanting to keep density out. If the board finds there are about 2 or 3 properties of this size, she thought it is a worthwhile exercise to go through because the zoning is working against these two parcels. If there are significant parcels, then you are opening it up to everyone else in all fairness to do the same thing and want the same relief.

Ms. Martinek said if it was a bylaw change it would have to go to town meeting. Ms. Joubert will use the parameter of over an acre and contact David Kane (GIS) to get it on his schedule. In order to do due diligence, the board needs to look at what is oversized in that zoning district. Once the board has that information, they can have further discussions with Mr. Hutchins.

Review of Decisions:

0 Bartlett Street – The Decision was reviewed and revised.

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

The meeting was adjourned at 11:40 p.m.

Respectfully submitted,

Melanie Rich
Board Secretary