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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

Approved 09.07.2021

Planning Board Zoom Meeting Minutes August 3, 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); Attorney Doneski

The Chair opened the remote meeting at 5:37 p.m. and made the announcement that the open meeting of the Northborough Planning Board is being conducted remotely consistent with Governor Baker's Executive Order of June 16, 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency. All members of the Planning Board are allowed and encouraged to participate remotely. This Order allows the Planning Board to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along the deliberations of the meeting. The public is encouraged to follow along using the posted agenda unless the Chair notes otherwise. Members of the public who wish to view the live stream of this meeting can do so by going to Northborough remote meetings on YouTube via the link listed on the agenda. Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will not feature public comment. The process was explained.

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

The Chair declared under Massachusetts General Laws Chapter 30A, Section 21A3 that the purpose of the executive session will be to discuss strategy regarding pending litigation concerning property at 0 and 301 Bartlett Street known as the Gutierrez Company vs. Northborough Planning Board, Land Court Case No. 21 MISC 000046 and the discussion of the foregoing could have a detrimental on litigating and/or negotiation position of the town.

Ms. Milton made a motion under 30A Section 2183 for the purposes and reasons declared by the Chair and to return to open session at the conclusion of the executive session; Mr. Ziton seconded; roll call vote: Milton-aye; Ziton-aye; Gillespie-aye; Poretsky-aye; Martinek-aye; motion approved.

The board returned to open session at 6:35 p.m.

Review of 425 Whitney Street Decision and 1 Lyman Street Decision – The decisions were reviewed and finalized. Ms. Poretsky made a motion to authorize the Chair to sign the decisions on behalf of the board on the condition that the board members receive a final copy of the decision documents; Mr. Ziton seconded; roll call vote: Milton-aye; Ziton-aye; Gillespie-aye; Poretsky-aye; Martinek-aye; motion approved.

Appointment to Earthwork Board – After deliberating and agreeing that both applicants were great candidates, Ms. Gillespie made a motion to appoint Christopher Deacetis to the Earthwork Board; Ms. Milton seconded; roll call vote: Milton-aye; Ziton-aye; Gillespie-aye; Poretsky-aye; Martinek-aye; motion approved. The term will expire April 2024.

Appointment to Design Review Committee – As with the Earthwork Board appointment, the board agreed that both applicants were great candidates. After deliberations, Ms. Poretsky made a motion to appoint Dario DiMare to the Design Review Committee; Mr. Ziton seconded; roll call vote: Milton-aye; Ziton-aye; Gillespie-aye; Poretsky-aye; Martinek-aye; motion approved. The term will expire April 2024. Ms. Gillespie suggested that the Chair send a note to Mr. Reardon thanking him for his service throughout the years.

Ms. Martinek brought to the attention of the board a related matter regarding a member of the Design Review Committee contacting her to express her believe that if Mr. Reardon were not appointed to DRC, then other members would leave the committee. Ms. Martinek expressed disappointment with that attitude and commented that the Design Review Committee has an important advisory responsibility to the Planning Board and she hopes that everyone can move forward with a positive mindset and attitude in working together.

Ms. Joubert confirmed that Ms. Martinek will remain as the delegate for Central Mass Regional Planning Commission (CMRPC).

Ms. Gillespie commented that an appointee for the Open Space Committee had not been decided, yet Mr. Ziton has been attending meetings and voting on behalf of the planning board; something that has never happened, and she felt was inappropriate. Mr. Ziton said with an upcoming meeting he felt someone should attend on behalf of the Planning Board and so he did since he had been on the Committee. Ms. Poretsky and Ms. Martinek thanked Mr. Ziton for covering the position while Ms. Gillespie had taken time to consider the role. Ms. Martinek clarified that it's her understanding that until someone else is appointed to the role, it is the correct procedure for the current appointee to continue to serve. Mr. Ziton commented that if Ms. Gillespie wanted the position on Open Space, she is welcome to serve on it. Ms. Milton could not commit to the meeting night. Ms. Gillespie was interested. Ms. Milton made a motion to appoint Ms. Gillespie to the Open Space Committee; Mr. Ziton seconded; roll call vote: Milton-aye; Poretsky-aye; Gillespie-aye; Ziton-aye; Martinek-aye; motion approved.

ANR Plans:

Three plans had been submitted for endorsement. All three were reviewed by staff and are in proper form for the Boards' signature.

Crawford Street – Ms. Milton made a motion to endorse the ANR Plan for Crawford Street; Ms. Poretsky seconded; roll call vote: Milton-aye; Poretsky-aye; Gillespie-aye; Ziton-aye; Martinek-aye; motion approved.

121 Ball Street Lot 1 – Ms. Milton made a motion to accept the ANR Plan for 121 Ball Street Lot 1; Ms. Poretsky seconded; roll call vote: Milton-aye; Poretsky-aye; Gillespie-aye; Ziton-aye; Martinek-aye; motion approved.

121 Ball Street Lot 2 – Ms. Milton made a motion to accept the ANR Plan for 121 Ball Street Lot 2; Mr. Ziton seconded; roll call vote: Milton-aye; Poretsky-aye; Gillespie-aye; Ziton-aye; Martinek-aye; motion approved.

Housing Choice Bill

Ms. Joubert said the governor recently passed the Housing Choice Act, which in part affects MBTA communities. Northborough is considered a community because it abuts Westborough which does have a rail station. The state is requiring that for the town to be eligible for certain grant programs, they must comply with the Housing Choice bill; guidelines are being developed by the Department of Housing and Community Development. Ms. Joubert will forward information to the board for discussion at the next meeting.

Master Plan Implementation Committee

Ms. Joubert will be sending an email to the Master Plan Implementation Committee to see about scheduling a “meet and greet” for the members. Possible dates will be August 26th, September 8th, or September 9th. Ms. Poretsky asked why there was a consultant hired, who made that decision, where the money came from to pay them, and what their purview would be? Ms. Joubert stated that the Planning Department has a budget for consultants.

Old/New Business

Consideration of Minutes

Ms. Poretsky made a motion to approve the 05.18.21 minutes as amended; Mr. Ziton seconded; roll call vote: Milton-aye; Ziton-aye; Gillespie-aye; Poretsky-aye; Martinek-aye; motion approved.

Ms. Milton made a motion to approve the 06.01.21 minutes as amended; Ms. Gillespie seconded; roll call vote: Milton-aye; Ziton-aye; Gillespie-aye; Poretsky-aye; Martinek-aye; motion approved. The 06.15.21 minutes will be revised and reviewed again.

The 07.06.21 minutes were tabled.

172 Bearfoot Road

The extension request for 172 Bearfoot Road was discussed. It is a special permit and site plan the board approved a few years ago. There is now a new owner; nothing has been built on the site; the owner plans to do what was approved, but the special permit needs to be extended. The permit was initially approved in 2018 and would have expired in 2020 but was automatically extended due to COVID tolling. The permit expired July 28th. Because the applicants requested to be on an agenda, but the board didn't have a second meeting planned for July, Ms. Joubert asked Town Counsel if the board could retroactively extend the special permit. Town Counsel said Planning Boards and ZBAs are allowed to do that. Town Counsel further said if the board wanted to entertain that at the next meeting in August, they could also do so.

Ms. Martinek said the board was not going to meet beyond July 6th and asked if there was an application filed. Ms. Joubert explained that for an extension only a letter or email is required asking for an extension; the applicant had done that when they learned their permit would expire on July 28th. Ms. Poretsky was concerned about setting a precedence. Ms. Joubert said no board has any authority to set a precedent. She asked why the board would not consider a request to extend an applicant's permit; it's a matter of course that people ask for extensions. Ms. Martinek would like to hear from Town Counsel under what condition it would be allowed based on the case that she read where a Massachusetts land court ruled that a board could not lawfully extend a special permit that no longer existed. Ms. Gillespie did not think it was an unreasonable request given the circumstances. Ms. Joubert said regardless of whether the board was going to meet or not in July, the applicant sent in the request, this is the first meeting since their request, and the

board has another meeting coming up that Town Counsel said they could still consider the request. Ms. Poretsky had questions about the Special Permit. The use on the decision was Commercial Storage yet the owners want to operate a contractor's yard. She sent an email to Mr. Frederico (ZEO) and Ms. Joubert a couple of weeks ago and is still waiting for a reply. Ms. Martinek would like Town Counsel to review her information on retroactive decisions and provide feedback. Ms. Gillespie asked the chair to share her communication and any Town Counsel information with all board members. Ms. Martinek also commented on her concern with several red flags that she noted when it presented at Design Review, including her view that the original site plan is not the same as the site plan that was presented to the Committee.

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

The meeting was adjourned at 9:54 p.m.

Respectfully submitted,

Melanie Rich
Board Secretary