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# TOWN OF NORTHBOROUGH PLANNING BOARD

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**APPROVED 3/15/2022**

**Planning Board  
Zoom Meeting Minutes  
January 18, 2022**

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

**Members Absent:** None

**Others (Remotely):** Fred Litchfield (Town Engineer), Bob Frederico (Building Inspector)

The Chair opened the remote meeting at 6:02 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 may feature public comment. The process was explained.

Member and Staff roll call was taken: Millie Milton, Amy Poretsky, Anthony Ziton, Michelle Gillespie, Kerri Martinek, Robert Frederico (Building Inspector), Fred Litchfield (Town Engineer)

**Joint Discussion with Zoning Board of Appeals RE: Proposed Zoning Proposals for 2022 Annual Town Meeting:** Chairman Richard Rand opened the remote joint meeting at 6:05 p.m. and made the announcement that the open meeting of the Northborough Zoning Board of Appeals 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 ZBA are allowed and encouraged to participate remotely. This Order allows the ZBA 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 may feature public comment. The process was explained.

Member and Staff roll call was taken: Fran Bakstran, Mark Rutan, Paul Tagliaferri, Brad Blanchette, Jeff Leland, Suzy Cieslica.

The intent of the joint meeting is to review bylaws that the Planning Board has been discussing and considering to take to town meeting. The board is looking for feedback from the ZBA.

**Breweries:** Ms. Poretsky gave a slide show presentation. She discussed licensing (federal, state and local) as well as definitions for craft breweries, microbreweries, nanobreweries, and brew pubs. They can be added through agricultural, adding to the Use Table, or by classification. She proposed using definitions used by Westborough, Grafton & Shrewsbury.

Mr. Rand asked for ZBA comments. Ms. Bakstran thought it was a good idea and was in favor of zoning similar to the town's restaurants that include alcoholic beverages. She asked if variances are needed for restaurants with alcoholic beverages by Wegmans in the industrial area; it should be consistent. Growing is important; if they wanted offsite growing and have a smaller area, can that happen? Ms. Poretsky said Holden had done that. It would be similar to another company that wanted to expand. They move into a bigger facility in the appropriate district. Mr. Frederico said Shoppes Way has a large use variance and had certain conditions and allowances placed on it. It also falls under the Commercial Overlay District and has some allowances; he will do some research. Mr. Tagliaferri asked what the purpose of the craft brewery was and did it impact any farm parts of town. Ms. Poretsky said no one has asked to do a brewery at a farm in Northborough yet, that she knows of. Mr. Rutan asked if we were defining it too finely between a nanobrewery and microbrewery; do we want to condense them? Ms. Poretsky said Shrewsbury included both in downtown. He asked if the state or federal differentiated between the two. Ms. Poretsky thought it was a local definition as some towns allow barrel limits and some don't.

**Staff Bylaws:** (1) Section 7-03-50 Site Plan A.4 Exceptions (correction); and (2) to amend the zoning map to remove 37 South Street from General Residential District and place it in Downtown Business District. Mr. Leland, as an abutter, is in support of it. Mr. Litchfield continues to work on the language for the Floodplain Bylaw and plans to have it ready for the public hearing.

**Enforcement:** There are three sections to the current bylaw: General, Enforcement Requests, and Penalty for Violation. Ms. Poretsky explained the revisions she would like to make. Mr. Frederico said what she is proposing is completely redundant; the timeline is set by the state; any special conditions issued on the special permit or on a variance are covered under the bylaws; they are maintained in perpetuity. Mr. Frederico also said this section was reviewed by Town Counsel to more accurately reflect what is accepted in the courts and by the other attorneys around the state and was approved at town meeting last year. Making the changes could lead to problems because there are so many issues that are overstated or could be construed to be incorrect. Ms. Poretsky stated only one part of the bylaw was updated last year. She was curious about the other sections as they are included in surrounding towns. She wanted Town Counsels input.

Chairman Rand said the original definition is adequate, very succinct. The revised definition it too broad. Ms. Bakstran said if it was just revamped last year, maybe it's not something we should be doing this year, but if it did move forward, she strongly recommended "after a written request to the building inspector or if he has reason to believe there is a zoning there's an issue" which puts the building inspector in a difficult position, not be included. Mr. Rutan was concerned about the word "immediately" and not sure what the liability would be. He also had a concern with any small infraction getting the permit thrown out; again, not sure of the liability. Mr. Frederico commented that the proposed changes will not help him do his job. Ms. Cieslica asked if neighboring towns and other towns in Massachusetts had something similar to this. Ms. Poretsky said she did take it from different towns. Mr. Frederico was asked how long do property owners have to rectify an issue or is it on a case-by-case basis. Mr. Frederico said it depends on the situation and explained the process he follows.

**Moratorium:** The board has been debating the merits of a possible moratorium; there are two options: revisiting the definitions, or a moratorium to take the time to look at the data and what we need to change

and how can we better protect the town. Ms. Martinek said the bylaws are not updated to include today's market, e-commerce and all of the trucking and distribution; we are not well protected. CMRPC did a study about the Impacts of E-Commerce in MA which talks about trends and where they are going. It includes what other towns are looking at to help protect them; it's not solely a matter of definitions, it's a matter of what should be in the site plan, e.g., what conditions there should be, placeholders for mitigation, etc., that would help protect the town if more applications are received for these types of centers. She has requested to get information on the most recent traffic study. Path 1 includes definitions for Warehouse with Distribution, Fulfillment Center, and Package/Freight Delivery Company. Path 2 is Transportation and Distribution Uses Moratorium (Warehouses, Trucking).

Ms. Cieslica commented that she would agree with a temporary moratorium after attending a CMRPC seminar on warehouses and hearing that members of various Planning & Zoning Boards from across MA had instituted a temporary moratorium. Chairman Rand asked what the traffic study had shown. Ms. Martinek said the post-Occupancy had been done but she hasn't received a copy yet; she did attend the presentation which supported traffic and intersection issues in the Bartlett Street area. She will share the report with the ZBA when it is received.

Mr. Rand asked why is it necessary to have a moratorium rather than study this and make decisions for the next town meeting. Ms. Martinek said there was a suggestion to put forward a moratorium and if it fails we could have the definitions as a backup plan. She was concerned with the interim if nothing is in place. Mr. Rand commented that the land is in the industrial zone and has been vacant since we've had zoning bylaws. The people that own it have the right to sell it and make it productive for them. Mr. Blanchette said as with the moratorium on duplexes, we take a time out to understand what's going on and how it's affecting the town; he agrees with a moratorium. Ms. Bakstran would not be in favor of moratorium preventing the landowner from selling it under the current bylaws. Mr. Leland did not think a moratorium would specifically help. He thought some of the information that people are starting to bring forward some of the directional changes seem to be working and thought that is a better way to go.

**Use Variance:** Ms. Martinek said we are one of the few communities that have use variances. According to a CPTC class on special permit and variance class, if you're still doing use variances, granting one likely conflicts with the community's comprehensive plan or the master plan. She said towns are moving away from it because it goes around the statutory procedure of bringing it to a legislative body to make changes in zoning. It circumvents allowing boards to grant something that hasn't necessarily been granted through the legislative body.

Ms. Bakstran said property owners have the right to develop if a use variance is going to allow something that would not otherwise be allowed. It is not something that's granted often; there is a history of that and felt we shouldn't be redoing our zoning bylaws when we're just starting a new master plan that may or may not be consistent with the master plan and direction it's taking us. You have to have exceptions to the rules and you have to have a process for property owners to access or develop with those exceptions. Chairman Rand said the Zoning Board in the last 20 years has been very discriminatory about who they gave use variances to. There are new business types that come up that are not named when making a master plan today to cover the next 10 or 15 years and felt the use variance has a very significant use in town and is used appropriately. Mr. Leland agreed that it is part of the role of the ZBA to have the flexibility to look at the circumstances to grant variances for use dimensional and density. Mr. Rutan commented that use variances have been used in situations to take care of what are very reasonable requests to give reasonable relief under the regulations that are outside the rules, and has been used sparingly. Mr. Blanchette, being on the board for 10 years, has not seen use variance being abused. He said the town has different uses and districts and thought the use variance could be helpful. It hasn't been

used much and not taken advantage of; it is something to hold onto for good development of the town. Mr. Tagliaferri asked how widespread are towns taking away a zoning board's ability to provide use variances to resident and businesses. Ms. Martinek did not have a list but said it is an antiquated tool; if we want a use allowed in an area, it should in the bylaws as an allowed use. Mr. Tagliaferri asked what is the impact on an accessory use variance. Mr. Frederico said a use variance is a use variance and did not believe there would be a distinction between the two. Ms. Bakstran commented that in recent past, Ashland, Holliston, Hopkinton, Southborough, Westborough, and Shrewsbury all had use variances. Ms. Cieslica commented that she could also see how the use variance in its existence could be used to disregard the master plan.

**Signs:** Mr. Ziton would like to prohibit internally lit signs in the Downtown District as well as Main Street Residential. The purpose is to add more consistency to the town. Electronic message centers are prohibited on Main Street.

Chair Rand asked why would the Design Review Committee would be looking at signs. Ms. Poretsky said they used to and it's part of the site plan. Mr. Rand thought it was an unnecessary extra step for an existing business to go through. Mr. Frederico said about 90% of the signs he permits have absolutely nothing to do with a site plan or site plan approval; applications that he receives adhere to the dimensions that are currently set forth in the zoning bylaws according to where they're located in the town. If they need to go to Design Review, he recommended they do that before coming to him since he only has 30 days to approve or deny an application once received. The Design Review Committee is an advisory board, they do not have the authority to approve or deny anything. Ms. Bakstran commented that any non-conforming sign which is removed or abandoned for longer than 30 days or destroyed by more than 35% shall not be replaced unless it complies with this bylaw would have a negative effect on the grandfathered signs. A final version of the bylaw is needed.

Ms. Martinek thanked the ZBA. Ms. Bakstran made a motion to adjourn; Mr. Rutan seconded; roll call vote: Bakstran-aye; Rutan-aye; Tagliaferri-aye; Blanchette-aye; Leland-aye; Cieslica-aye; Rand-aye; motion approved. The joint meeting was adjourned at 7:32 p.m.

**The regular Planning Board meeting began with the Continued Discussion RE: Proposed Zoning Bylaw Amendments for 2022 Annual Town Meeting:**

**Breweries:** Ms. Milton asked about other regulations, e.g., Board of Health, or involvement with other management. Ms. Poretsky said in Hudson, the Fire Chief, Building Inspector and the Board of Health work together. Ms. Milton said some areas that are storing grain breweries and other large grain storage areas have significant problems with rodents; a rigorous rodent management system is needed; the people involved need to be informed before a bylaw is in place. Ms. Poretsky was told that Hudson hasn't had any issues and the Hudson Planner said to not overthink it. Ms. Gillespie commented that the definitions should be kept in the definition section. She also mentioned getting data from the Planners of the other communities in an email and thought it would be a good idea to share with board other towns' actual bylaws. Ms. Martinek did receive the emails from the Planners and will forward them to the board. Mr. Frederico asked, as an example, if there was a microbrewery in downtown and it does well and they want to rent a space or build a facility in one of the industrial districts that has sewer and water, but they want to maintain the downtown presence, can they build such a facility under the proposed guidelines? Ms. Poretsky said they could be a nanobrewery downtown and be a brewery, distillery, or winery in the industrial district, or a microbrewery in the industrial district depending on how much they want to brew. Ms. Milton asked if the parking stipulation was typical; is it applicable to industrial, downtown business, business west or would it change with any zoning areas and was told it is what is required for a restaurant.

Parking for industrial is per square footage of the building; parking can be addressed during the site plan and special permit process; water and sewer will need to be considered. The board needs to decide whether or not to include all four definitions. Ms. Poretsky finalize updates and forward to the board.

**Staff Bylaws:** No issues with the correction to Section 7-03-50 Site Plan A.4 Exceptions. Regards 37 South Street, Ms. Poretsky will abstain until Attorney Pember provides the final abutter letter; the rest of the board had no issues with it.

**Moratorium:** Ms. Milton said if a moratorium is proposed, what you want to accomplish during that time and the desired result is necessary; Mr. Ziton agreed. Ms. Gillespie commented on past moratoriums and said there were no moratoriums to amend; they were new. There is an action item on the multi-families; one is needed for this as well. She also said to check if “mitigation” language can be included in zoning; possibly use “conditions” or “regulations” as language. Ms. Martinek agreed it needs to be clarified. Action items: Town Counsel will be asked if specific action items are needed; should a sub-committee be created; and how to better communicate mitigation vs. conditions, etc.

**Use Variance:** The ZBA did not support this; they felt it was used properly over the years and it should continue. Ms. Poretsky felt it’s skipping the due process when making big decisions. Mr. Ziton would be in favor but felt it would be a battle. Ms. Gillespie was not in favor; the ZBA clearly showed an historical roadmap of how it’s been used to allow property owners to sell their property; they gave clear examples in the residential, commercial and industrial areas. Ms. Milton said people would be looking for examples of a benefit for the use variance being prohibited vs. keeping it; it would be a hard sell. Ms. Martinek felt if we want an allowed use, it should be in the bylaw; allowing the ZBA to decide circumvents statutory procedure. Ms. Milton sees the pros and cons and said maybe it depends on the size of the town as to who would benefit. Mr. Ziton said the prior approvals should to be reviewed. Tabled to the next meeting.

Ms. Poretsky asked if Town Counsel could attend a meeting to discuss the bylaws; Ms. Martinek will send an email with questions to him.

**Enforcement:** Ms. Poretsky’s edits were again discussed. Her questions/concerns will be sent to Town Counsel for review, input and clarification.

**Signs:** Ms. Poretsky’s numerous edits were reviewed in detail. Revisions will be sent to Mr. Frederico and Town Counsel for review and input.

Public Comment – Bill Pierce commented on removing the use variance and said use variance removes the voice of the residents. The residents should be allowed to vote on any changes to the zoning bylaws. Rachel Armstrong (10 Hemlock Drive) discussed the warehouse moratorium. She thought the town should take a pause to come up with solutions before opening up to other parts of town. Lisa Mascelli (13 Maple Street) commented that internally lit signs should also be prohibited in Business East and Business West. She also thought signs going before Design Review first would be a good idea. Janine Callaghan commented that she would be in favor of a warehouse moratorium and seeing the impact they have in town.

Ms. Gillespie commented that moving forward for the next two February meetings, in all fairness to the residents, if public comment is going to be allowed, it should be advertised as such so if people have concerns about other matters they can weigh in.

**Old/New Business:**

Consideration of Minutes (January 4, 2022) – Table to the next meeting.

Ms. Poretsky said Diana Nicklkaus resigned from the Design Review Committee.

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

The meeting was adjourned at 9:24 p.m.

Respectfully submitted,

Melanie Rich  
Board Secretary