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By Karen Wilber at 11:11 am, Sep 26, 2022

TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 5.17.22

Planning Board Zoom Meeting Minutes April 19, 2022

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

Members Absent: None

Others (Remotely): Laurie Connors (Town Planner), Fred Litchfield (Town Engineer), Bob Frederico (Building Inspector)

The Chair opened the remote meeting at 5:19 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 feature public comment. The process was explained.

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

The first item on the agenda is an Executive Session relating to litigation. The Chair declared under M.G.L., Chapter 30A, Section 21, A3 that the purpose of the Executive Session will be to discuss strategy regarding pending litigation for The Guttierrez Company v. Northborough Planning Board, Land Court Case No. 21 MISC 000046 and The Guttierrez Company v. Northborough Planning Board, Land Court Case No. 21 MISC 000380 due to the Chair's determination that an open meeting may have a detrimental effect on the litigating position of the Planning Board and/or the Town.

Ms. Poretsky made a motion to enter into Executive Session under M.G.L., Chapter 30A, Section 21, A3 for the purpose and reason just declared and return to Open Session at the conclusion of the Executive Session; Ms. Gillespie seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved.

The board returned to Open Session at 7:25 p.m.

Public Hearing for 200 Bartlett Street Special Permit per Groundwater Protection Overlay District Bylaw and Special Permit Site Plan Approval:

Applicant: The Robert J. Devereaux Company

Engineer: Connorstone Engineering Inc.

Application Filed: 1.14.2022, Special Permit with Site Plan Approval
3.25.22, Special Permit per Groundwater Protection
Overlay District Bylaw

Decision Due: 90 days from close of hearing

The hearing notice was read into record. Revisions have not been received in response to Ms. Connors' March 28, 2022 comment letter. Mr. Litchfield submitted a summary letter dated April 19, 2022 from the Groundwater Advisory Committee (GAC). The only addition was the recommendation that the mock street be relocated outside the Groundwater 1 area. Ms. Poretsky asked if the analysis by a technically qualified expert was received by the GAC and was told it has not.

Attorney Paula Devereaux, Rick Gates, Dario DiMare, and Corrine Tobias were in attendance. Attorney Devereaux said they had not submitted revised plans in the event the Town Planner or the board had additional changes/recommendations. Regarding condition #7 in the GAC October 25, 2020 letter, she said it didn't apply and wasn't addressed because they are not proposing any underground storage; there will be no industrial waste treatment over 15,000 gallons per day capacity; and no storage of underground toxic hazardous materials. Mr. Litchfield said the engineer should include a letter even if they don't apply because he is certifying that the drainage is designed to impact the groundwater quality. Attorney Devereaux said based on the GAC discussion, they are moving the hands-on training area into the Groundwater 3 District.

Ms. Poretsky asked if there could be a condition that there is no underground storage of toxic or hazardous materials. Mr. Litchfield explained that the goal of the statement that went to the ZBA was to have the applicant provide documentation stating there was no underground storage or provide a statement from a qualified expert verifying that it was appropriate. Should they want to install underground storage or hazardous materials, it would trigger a new special permit application. Mr. DiMare will note it on the plan. Ms. Martinek questioned Ms. Connors comment, included within her March 28th review letter, regarding the plan scale. Ms. Connors said if there are any variances from the Zoning Bylaw or the Rules and Regulations, the applicant should ask for a waiver in writing so it would be captured in the decision. Attorney Devereaux said the contamination issue will be addressed prior to the issuance of a building permit. Regarding bumper stops, they are all existing parking spaces. Concrete foundations will be put on the two light posts. The eastern driveway entrance will have lighting. The dumpster will be enclosed by a fence. A monument sign with the address and company name will be installed in the front. Calculations will be provided showing the 10% green space within the parking area. The size of the plantings will be shown on the landscape plan. A bike rack will be added. The asphalt thickness will be verified to show compliance to the pavement section. The location of the vertical concrete curb will be clarified. Sand will be used for the snow. Stop bars and stripes will be added for compliance with MUTCO standards.

Mr. Litchfield would like to see snow storage area calculations, Board of Health approval for the septic system, and a parking table for each of the buildings since there are multiple users. Ms. Gillespie said the applicant did a great job addressing the board's comment. Ms. Connors and Mr. Litchfield were thanked for their thorough review of the application. Mr. Frederico suggested including Lamy's Automotive on the free-standing sign.

The Chair asked for public comment; there was none. Ms. Poretsky made a motion to continue the hearing for 200 Bartlett Street to May 3, 2022 at 6:10 p.m.; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved.

Public Hearing for 87 Hudson Street Special Permit per Groundwater Protection Overlay District Bylaw and Special Permit Site Plan Approval:

Applicant: KCB Development LLC
Engineer: WDA Design Group
Application Filed: 2.1.2022
Decision Due: 90 days from close of hearing

The hearing notice was read into record. The Groundwater Advisory Committee (GAC) met last week; plans were revised to address Mr. Litchfield's comments; they were received Friday; they need to be verified. Ms. Connors expressed her comments when meeting with the design engineer and they were addressed to her satisfaction. She did suggest putting the utilities underground.

Barry Yaceshyn and Tom Reardon were in attendance. It is currently a single-family home with a detached garage. They filed for a demolition permit which will need to be reviewed by the Historic District Commission. A duplex is proposed with a two-car garage. Design Review recommended a 6-foot-high privacy fence, pea stone sidewalk, and plantings on the embankment. The walkway was discussed. Mr. Litchfield clarified that from the GAC standpoint, pea stone is impervious. Each unit is 2,700 square feet living space, plus the garages. Ms. Poretsky stated the design review committee asked for the fence to block the headlights from shining on the neighbor's house. She stated the agreement was that the fence should start more towards the road, near the yews, to satisfy that purpose. Mr. Yaceshyn said they will increase the length of the fence, and test pits will be conducted at the infiltration basins to confirm the assumptions within the stormwater management report. Ms. Martinek asked to see the size dimensions of the proposed duplex for comparison to the original footprint and the surrounding area. Ms. Gillespie commented that Hudson Street is a diverse street with both one-story and two-story homes. Ms. Connors showed the area on google maps for a visual of the area.

The Chair asked for public comment; there was none. Ms. Milton made a motion to continue the hearing for 87 Hudson Street to May 17, 2020 at 6:00 p.m.; Ms. Poretsky seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved.

Public Hearing for Proposed Zoning Amendments for 2022 Annual Town Meeting: The hearing notice was read into record. Ms. Martinek expressed her disappointment that members of the Board used social media to bring people to tonight's meeting to fight against the Board's articles. She also said that Ms. Gillespie had not disclosed that she has a sign that would be impacted by the bylaw amendment. Ms. Gillespie commented that she followed the sign bylaw, submitted an application, and it was approved many years ago. Ms. Martinek stated that comments will be accepted from Northborough residents only.

ARTICLE 33 Section 7-09-040 Signs – Regarding internally lit signs, Mr. Ziton said surrounding towns (except for Berlin) have banned them. It will bring this town up to the standards of other towns and applies to the downtown area only. Public Comment: Scott Rogers (26 Tomahawk Drive), speaking for himself and not on behalf of any board or committee, asked should the panel on an internally lit sign break, would the entire sign have to be replaced or could only the panel be replaced? Mr. Frederico would allow it to be replaced.

ARTICLE 34 Section 7-05-020 Classification of Uses G.(2) Hospitality and Food Service, I.(5) Distribution and Transportation Uses, and I.(7) Brewery, Distillery, or Winery with Tasting Room – Ms. Poretsky provided a brief summary of the article. No public comment.

ARTICLE 35 Section 7-03-080 Enforcement – Ms. Poretzky provided a brief summary of the article. Public Comment: Lisa Maselli (13 Maple Street) questioned “A. General.” and asked if the Building Inspector and Zoning Enforcement Officer should be different people and was told that the proposed amendment had been reviewed by Town Counsel.

ARTICLE 36 Sections 7-30-030 and 7-05-010 Use Variances – Ms. Martinek said if the Board wanted to change the use allowed in a district, it would go to town meeting for consideration rather than the ZBA. She explained that planning professionals have spoken about the difficulty of complying with an approved zoning scheme if use variances are an option. Public Comment: Fran Bakstran (76 Cedar Hill Road) commented that out of 152 applications the ZBA heard over the past 9 years, 25 were for use variances with 3 being for one property (U-Haul, Bearfoot Road). She asked what data there was to support the statement that many communities are going away from use variances. Ms. Martinek said it came from the different classes they’ve taken over the years with zoning experts. Public Comment: Scott Rogers commented that having the use variance would have allowed the brew pub coming in sooner than waiting for the zoning bylaw change. What is the strategy for White Cliffs being in a residential district? Ms. Martinek said there are other tools available. The goal is to bring zoning changes to town meeting and let the voters decide. Public Comment: Lisa Maselli said town meeting asked to preserve White Cliffs. She found it discouraging that nothing has been done to take care of it and there was talk about a use variance to change it to a development area.

ARTICLE 37 Rezoning of 37 South Street – The intent is to make the property conforming. No public comment.

ARTICLE 38 Section 7-03-050 Site Plan A.(4) Exceptions – The intent is to eliminate conflicting pieces of information within the bylaws. No public comment.

ARTICLE 39 Section Add Section 7-10-060, Temporary Moratorium on Distribution and Transportation Uses – The purpose is to address the issues over the past few years with increased warehouse and distribution uses in the industrial district; the board is taking two different approaches: (1) impose a moratorium, or (2) revise the definitions. The intent is for the bylaws to protect the residents and for the Board to better understand the impacts when reviewing applications. The moratorium would be for 12 months; the committee would have staff input. The definitions would be clarified if the moratorium does not pass. Public Comment: Scott Rogers suggested that the proposed committee include the Municipal Code and Bylaw Committee since they have expertise in bylaws and could help in the analysis. The committee being proposed, as part of the moratorium, is small and may not have all the expertise the Board wants; leveraging an additional committee may be helpful. Karen Chapmen, President of the Corridor 9/495 Regional Chamber of Commerce was not allowed to comment since the Chair stated this hearing allows Northborough resident comments only.

ARTICLE 40 Section 7-05-20, Classification of Uses. I, Industrial Uses, (5) Distribution and Transportation Uses, Section 7-05-030 Table of Uses, Table of Uses, Part B Commercial and Industrial Districts – Discussed in conjunction with Article 39. No public comment.

ARTICLE 41 Section 7-07-020 Floodplain Overlay District – Mr. Litchfield was asked to address a resident comment asking why the purpose was changing. Mr. Litchfield explained that the bylaw was a requirement from the State Floodplain Coordinator who manages the regulations required by FEMA. The guidelines included the stated purpose as directed to keep the Town’s Floodplain Overlay District in compliance with state and federal regulations. If adopted, it allows the residents to obtain flood insurance should they need to. Public Comment: Lisa Maselli had a concern about some of the language being

removed. She thought we could use the state’s language and keep some of town’s language. She also asked why the Zoning Enforcement Officer would be the contact if there was a flood and not the Town Engineer. Mr. Litchfield said people contact the Zoning Enforcement Officer with questions about the Floodplain Overlay District Bylaw and therefore he felt that would be the most appropriate person. Mr. Frederico commented that in the event of an emergency, and because the town has an Emergency Response Department headed by the Fire Chief, there is not one person they would contact aside from the Fire Chief who would assemble a team for the issue. Regarding the purpose of the bylaw, Mr. Litchfield felt that the omitted portions of the purpose subsection were covered by other sections of the bylaws. The bylaw as presented has been approved by the State Floodplain Coordinator.

Jason Perreault (27 Treetop Circle) commenting on Article 40 as an individual and not as a member of the Board of Selectmen. Relating to the definitions, he said there are definitions for warehouse, trucking, rail or freight terminal, fulfillment center, package freight delivery facility, and delivery station. What he found problematic was that three of the five as part of their definitions describe that they are not one of the other things and gave examples. He was concerned that the definitions are not sufficiently descriptive to say what they are versus what they are not. He would have liked the definitions to be more self-standing, more descriptive and more precise. Ms. Martinek said they looked to CMRPC to see what they were using for other towns for best practices. They tried to replicate CMRPC’s intent to stay within a good practice that made sense. The benefit of the moratorium is that they could scope it out further but if they did have just the definitions, the Board wanted to at least protect the town as much as possible. Mr. Perreault said it seems this article is precisely what the outcome of the moratorium would have tried to provide and thinks there is imprecision in some of the definitions and questioned whether it’s fully formed enough to go forward on its own merits.

Fran Bakstran wanted to clarify her intentions. When she referenced the possibility of using a use variance for the White Cliffs property, it would be specifically for the reuse of that building. It’s a tool and opportunity, not a be-all end-all but would give the opportunity to reuse that building, which is currently in a residential zone, for things that may make more sense if it’s in a downtown or downtown environment. It’s not the only way to address it, but she did not want it misrepresented that somehow she was implying that the building had to be torn down and some other modern building put up in its place.

The Board mentioned that White Cliffs borders Business East and could be moved into that zone if that is what the residents’ thought was best, per Town Meeting. This would be similar to the rezoning of 37 South Street via Article 37 at this year’s Town Meeting.

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

Ms. Poretsky made a motion to recommend approval of ARTICLE 33 Section 7-09-040 Signs; Mr. Ziton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-no; Milton-aye; Martinek-aye; motion approved 4-1-0. Mr. Ziton will present.

Ms. Poretsky made a motion to recommend approval of ARTICLE 34 Section 7-05-020 Classification of Uses G. Business Uses, (2) Hospitality and Food Service Section 7-05-020 Classification of Uses, I. Industrial Uses 7-05-030 Table of Uses Table 1 Part B. and Section 7-09-030 Off Street Parking and Loading; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved. Ms. Poretsky will present.

Ms. Poretsky made a motion to recommend approval of ARTICLE 35 Section 7-03-080 Enforcement; Mr. Ziton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-no; Milton-aye; Martinek-aye; motion approved 4-1-0. Ms. Poretsky will present.

Ms. Poretsky made a motion to recommend approval of ARTICLE 36 Sections 7-30-030 and 7-05-010 Use Variances; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-no; Milton-aye; Martinek-aye; motion approved 4-1-0. Ms. Martinek will present.

Ms. Poretsky made a motion to recommend approval of ARTICLE 37 Rezoning of 37 South Street; Mr. Ziton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved. Ms. Milton will present.

Ms. Poretsky made a motion to recommend approval of ARTICLE 38 Section 7-03-050 Site Plan A.(4) Exceptions; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved. Ms. Gillespie will present.

Ms. Poretsky made a motion to recommend approval of ARTICLE 39 Section Add Section 7-10-060, Temporary Moratorium on Distribution and Transportation Uses; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-no; Milton-aye; Martinek-aye; motion approved 4-1-0. Ms. Martinek will present.

Ms. Poretsky made a motion to recommend approval of ARTICLE 40 Section 7-05-20, Classification of Uses, I, Industrial Uses, (5) Distribution and Transportation Uses, Section 7-05-030 Table of Uses, Table of Uses Part B Commercial and Industrial Districts; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved. Ms. Martinek will present.

Ms. Poretsky made a motion to recommend approval of ARTICLE 41 Section 7-07-020 Floodplain Overlay District; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Gillespie-aye; Milton-aye; Martinek-aye; motion approved. Ms. Gillespie will present.

Old/New Business

Consideration of Minutes (April 5, 2022) – Tabled.

The next Master Plan Implementation Committee will be held on May 19, 2022.

Upcoming Planning Board Meetings are May 3, 2022 and May 17, 2022; the next ZBA Meeting is May 24, 2022.

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

The meeting was adjourned at 10:11 p.m.

Respectfully submitted,

Melanie Rich
Board Secretary