



TOWN OF NORTHBOROUGH PLANNING BOARD

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Planning Board Zoom Meeting Minutes May 17, 2022

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

Members Absent: None

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

The Chair opened the remote meeting at 6:06 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: Amy Poretsky, Anthony Ziton, Millie Milton, Bill Pierce, Kerri Martinek, Bob Frederico (Building Inspector), Fred Litchfield (Town Engineer), Laurie Connors (Town Planner)

Bill Pierce was welcomed to the Planning Board.

Election of Officers – Ms. Poretsky made a motion to appoint Kerri Martinek as Planning Board Chair; Mr. Pierce seconded; roll call vote: Ziton-aye; Poretsky-aye; Milton-aye; Pierce-aye; Martinek-aye; motion approved. Ms. Milton made a motion to appoint Amy Poretsky as Vice Chair of the Planning Board; Mr. Pierce seconded; roll call vote: Ziton-aye; Poretsky-aye; Milton-aye; Pierce-aye; Martinek-aye; motion approved. Ms. Poretsky made a motion to appoint Ms. Milton to the Community Preservation Committee, Mr. Pierce to Open Space, Ms. Poretsky to Design Review, Mr. Ziton to the Groundwater Advisory Committee, and Ms. Martinek to CMRPC as Planning Board appointees; Ms. Milton seconded; roll call vote: Ziton-aye; Poretsky-aye; Milton-aye; Pierce-aye; Martinek-aye; motion approved.

Continued 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

Attorney Marshall Gould, Ken Bishop (KCB Development Site Manager & Property Owner), Tom Reardon (Architect, Reardon & Company), and Barry Yaceshyn (Waterman Design) were in attendance. Attorney Gould, not being at the last hearing, stated that he did watch the YouTube video of the prior hearing. With Mr. Pierce being a new board member, in order for him to participate and vote, he would have to sign the Mullen Rule Affidavit. Ms. Martinek said the Mullen Rule was not adopted by the Town of Northborough, therefore Mr. Pierce cannot participate. The Planning Board practice with every election is that if a member is not present for all of the hearings, they cannot vote. Attorney Gould stated that the applicant is prepared to move forward even if Mr. Pierce is not able to participate.

Attorney Gould said there were questions about the architecture the building. Mr. Reardon said the proposal is to replace an 1850s single-family residence with a new duplex. It conforms to all the requirements for a duplex in the bylaw for area of lot and frontage; frontage is 177 linear feet rather than 150 feet as required. They have been through Design Review and the Groundwater Advisory Committee (GAC), addressing all concerns. They are not requesting any variances or waivers. They are before the board for special permits because of Groundwater, and because it is a duplex in an RC zone. He explained the context of 87 Hudson Street. In several places in the bylaw there is reference about projects being beneficial to the town or neighborhood. "Neighborhood" is not defined in the bylaw; there are many different kinds of neighborhoods, e.g., traditional and contemporary subdivisions. Historical districts such as Hudson Street are distinguished by the variety of building types, uses and sizes. Within 1/8-1/4 mile there is a variety of uses (industrial, business, religious, multi-family, two-family, single-family); it is not a traditional, walkable, contained neighborhood; it is one of the five main gateways to Northborough; thousands of vehicles pass through daily; and there are no sidewalks past River Street on this side of the street. It is historic and traditional, but not typical. The design is an approximate 3,400 square foot footprint on a 30,000 square foot lot. It conforms in height; there are no restrictions on building size in the MA Building Code or in the town bylaws. Mr. Reardon gave examples of the ranges, uses, and sizes of other buildings on the street; the design is classical vernacular; the site is wide but shallow. The intent is to add an attractive, energy efficient, two-family within walking distance of downtown.

Mr. Yaceshyn said the applicant added 8,000 square feet to the back of the lot to conform to the duplex bylaws and explained the proposed plan. There will be a fence to block the neighbor's view. The existing hill will be cut back slightly; 6-feet of existing material will be removed; it will join back with the existing grade. Water runoff will go to the drywells; overflow will be directed around the outside of the property; no water will go onto Hudson Street. The landscape plan was explained. To better understand how the building would fit in the neighborhood, Mr. Yaceshyn showed different views of Hudson Street that included the duplex. Ms. Poretsky thought size-wise that 87 Hudson Street is larger than 75 Hudson Street. Mr. Reardon commented that the numbers they have are from the Assessor's cards which are not always accurate. She also asked if all the trees would be removed between 83 and 87 Hudson Street and was told most of trees between the houses will stay; some in the back will be removed. Each unit is 2,700 square feet. Mr. Bishop commented that he took the time and expense and hired Mr. Reardon to design what he believes is an aesthetically pleasing duplex and offers the amenities that today's home buyers will like. He could have picked something out of a catalog for a fraction of the cost but he is doing what he believes is a net positive for the town and would like the board to keep that in mind.

Attorney Gould said four garages facing Hudson Street would be unattractive; Design Review agreed. The design includes two bump-outs where the columns are; the rest of the house is recessed; landscaping will complement it; it will not look like a long structure.

Ms. Milton asked how much of the hill they would cut into. Attorney Gould commented on the email submitted by Design Review Committee member Lisa Maselli and stated that he thought that several things within the email were incorrect. The email mentioned a cut up to 30-feet into the hillside. Attorney Gould said that the cut is approximately 6.5-feet on the right; the garage is already there on the left. The hill in the back is an approximate elevation of 40-feet compared to the front of the property. The letter also listed the original building as 621 square feet. Attorney Gould stated that the building is actually between 900-1,000 square feet and 1,300 square feet if you include the garage. The proposed duplex is not going to be 550% bigger; that information is inaccurate. He also claimed that the idea that it was presented fifteen minutes before the Design Review meeting is also inaccurate. He thought that there were numerous Design Review meetings, good questions were asked, and changes were made.

Ms. Martinek said the sky view distance looked farther apart than the site plan. Mr. Yaceshyn said the side setback is 45-feet to the edge of the garage and slightly over that on the other side of the duplex. Ms. Poretsky commented that plantings and sitework in the rear of the lot continue onto the neighbor's yard. She stated that originally this applicant owned both properties. How will they complete the sitework on the adjacent property now that it has sold? Attorney Gould said it has not been sold yet and there will be a temporary easement to do the work. Ms. Poretsky said the size of the building was never discussed at Design Review meetings. She mentioned the other duplexes down the street were approximately 1,250 per unit. Mr. Bishop commented that the design is aesthetically pleasing for the area. It isn't a design that maximizes his profit on the property, what it does is put something on the property that he believes improves the general neighborhood and allows them to do something that otherwise hasn't been done in the Hudson Street area. Ms. Martinek commented that the role of the board is to make sure it fits within our bylaws and our special permit criteria. Mr. Bishop said that was an excellent point as far as their bylaw and their criteria is concerned and asked where it doesn't fit.

Ms. Poretsky asked if there were perimeter drains around the house and was told yes. Mr. Litchfield said the GAC recommended approval pending confirmation of their response to his review letter that everything had been addressed; it has been. His review included Ms. Connors so outstanding issues could be added into the decision. Any issues she wanted addressed were included as conditions of approval in a draft decision; there was a modification to the fencing condition. Mr. Ziton thought it was a difficult part of town because there is lack of consistency and thought it would look enormous and stand out. Ms. Martinek asked who has the right to authorize the easement. Attorney Gould explained that Mr. Bishop is the principal of both companies that own both 87 & 91. The property owner will be able to use it but will not be able to dig into the hill and cause problems; it will be part of the sale.

Ms. Martinek was concerned that it's maxed out edge to edge and is significantly bigger than the residential homes within the vicinity. Mr. Yaceshyn didn't think it was maxed out because there is 10-feet more on both sides to build out. Attorney Gould explained the reason it's wide from left to right is because of the steep topography in the back of the lot. Mr. Reardon cautioned the Board about exclusively focusing on substandard houses that are adjacent to this new property to influence their decision.

The Chair asked for public comment; there was none. The email from Design Review Committee member Lisa Maselli received today was shared. Mr. Yaceshyn confirmed that 30-feet in height on the hill was not being carved out; the increase of 500% is not true; scale and mass minimum of 70% increase over existing RC surrounding structures is not true. Ms. Martinek asked if there was any consideration to make it smaller. Mr. Reardon said after getting recommended approval from Design Review Committee and the GAC, coming before the Board, and then having to repeat the process again and possibly be rejected again by the Board, they would lose trust in the process; he said it's very frustrating. Ms. Martinek acknowledged the frustration with the process and reminded the applicant that the Planning Board is the

board that makes the decision. This is the Town's process. Ms. Poretsky commented again that they were told they couldn't talk about size at the Design Review Committee meetings. The Design Review Committee were told by Ms. Joubert that they were not the board that could discuss size. Attorney Gould said the bylaw does not provide a size and there are a few places in the bylaw where it talks about effect on the neighborhood and are if you're changing the neighborhood. The neighborhood consists of small single families, large two families, larger multi-families from 3 to 5 family homes, several industrial buildings, and a church; that all has to be taken into account. Ms. Martinek said a unanimous vote of 4 voting members is needed. She would like to confer with Town Counsel before closing the hearing and voting on it. Attorney Gould asked for what purpose. Ms. Martinek said to go through the special permit criteria and talk through what their options are as a Board.

Ms. Connors made it clear that because there is no rationale to go into Executive Session, discussion with Town Counsel will have to be part of the public hearing. Ms. Martinek asked if the Board was prepared to make a decision. Ms. Milton would be prepared; Mr. Ziton would like discussion with Town Counsel before making the final decision. Attorney Gould reminded the board that it would have to be in open session if there is going to be communication between members, and one member takes that to Town Counsel. He was willing to go over the criteria and only found one section that could possibly be relevant and thought it was easily determined that this is not a true neighborhood. If they are going to say neighborhood, they can't cut it off at two homes to the left or to the right; it has to be Hudson Street as the neighborhood; they are consistent with building sizes and uses on Hudson Street.

Ms. Martinek reiterated her desire to confer with Town Counsel prior to making a decision. Attorney Gould reiterated his desire for Town Counsel advice to be discussed in open session so that the applicant and all the Board members can hear both the question and the answer from Town Counsel. Ms. Connors advised that guidance that Town Counsel provides pertaining to a matter in public hearing should be shared with the rest of the Board in writing or orally via open session. She reiterated that there is no legal justification for discussing the matter in Executive Session since there is no active litigation regarding this matter. Ms. Martinek agreed to follow up with Ms. Connors on the matter.

Ms. Poretsky made a motion to continue the public hearing for 87 Hudson Street Special Permit per Groundwater Protection Overlay District Bylaw and Special Permit Site Plan Approval to June 7, 2022 at 6:10 p.m.; Mr. Ziton seconded; roll call vote: Ziton-aye; Poretsky-aye; Milton-aye; Martinek-aye; motion approved (Pierce did not vote).

Continued Public Hearing for 100 Bearfoot Road Special Permit and Special Permit Site Plan Approval

Applicant: Monocled Tycoon Real Estate Trust
Engineer: Connorstone Engineering Inc.
Date Filed: March 21, 2022
Decision Due: 90 days from close of hearing

Vito Colonna (Connorstone Engineering), Dario Dimare and Bryan Madden were in attendance. Ms. Milton recused herself at 8:04 pm because she has a separate business entity relationship with one of the applicants.

Mr. Colonna said it is in the Industrial Zone; it is not within a Groundwater Protection District. There is a buffer between the building and the road. The existing conditions plan showed the building in the center, employee parking in the front, loading docks in the back lower level. The building is split; front upper level is office; underneath the office is existing warehouse area. There is a wetland offsite to the right of the tracks. The proposed plan is for two additions to match the existing building with office space in the front

on both additions and warehouse space in the back. The existing driveway will remain; a portion will be reconstructed for the septic system. The front parking area would remain and be resurfaced for handicap accessibility. The layout and grading will remain essentially the same. There will be changes to the side and rear of the building. There will be more parking to accommodate the new floor area & employees. The loading areas have been increased. The parking requirements call for 68 spaces; 70 are provided. The addition to the east side will have a second story of office space; it was added after the submittal; additional parking will need to be added. There is a landscaping plan; they will keep the buffer in the front and supplement it. There is town water service; a new service will be brought in to provide a new fire hydrant to the site. A large subsurface infiltration system and treatment system is proposed is the rear; there will be no impact to abutting areas. Comments were received from town staff, the Fire Department and Town Planner, which have not yet been addressed by the plans. The Fire Department asked for increased access on one side of the building.

Ms. Poretsky asked if it was an expansion of the current business or was it a new business and was told it is an expansion of the current businesses. There are 7 loading docks in the back; 2-3 bays on the left; not many on the right. The building and topography will be the same. Mr. Pierce asked if 27-foot box trucks coming out would be able to turn if the tenant changed. Mr. Colonna said there is enough room in the main area to accommodate the trucks. Mr. Pierce was concerned about the amount of traffic which almost doubles. Mr. Colonna said it's based on square footage, not use specific. Ms. Martinek asked about plan for snow storage and for fire truck access. Mr. Colonna said snow will be pushed to the perimeter; there is ample area.

The Chair asked for public comment; there was none. Mr. Colonna asked about Ms. Connors' comment relating to the elevations and floor plans; she would like to see all four elevations. Related to the traffic comment, Ms. Connors would like it personalized for the particular use because it is an expansion of two existing uses. She also had a concern with the 1:1 slope on the side and would prefer a retaining wall. Mr. Colonna said for this slope, they looked at a combination of wall and slope; a wall would be 14-feet; a cut wall would be 6-feet of horizontal disturbance; it wouldn't limit the disturbance very much whether it was a wall or rip rap slope. The trees in that area are newer growth between 10"-12". Mr. Litchfield has not yet completed his review. He said an Earthwork Permit will be required and the Earthwork Board typically doesn't want to see a 1:1 slope; they prefer 2:1 in a cut and 3:1 in a fill area. If it needs to be 1:1, a full armored engineered slope will be necessary. Mr. Colonna will look at a combination of terracing, slope wall, etc. Mr. Litchfield reminded him to talk to the traffic engineer and make him aware of the bridge rating on Whitney Street which is 6 tons.

Ms. Poretsky made a motion to continue the public hearing for 100 Bearfoot Road Special Permit and Special Permit Site Plan Approval to June 21, 2022 at 6:10 p.m.; Mr. Ziton seconded; roll call vote: Ziton-aye; Poretsky-aye; Pierce-aye; Martinek-aye; motion approved.

Ms. Milton returned to the meeting at 8:39 p.m.

Old/New Business:

Consideration of Minutes (4.19.22 & 5.03.22) – Ms. Poretsky made a motion to approve the 4/19/22 minutes as amended; Ms. Milton seconded; roll call vote: Poretsky-aye; Ziton-aye; Pierce-abstained; Milton-aye; Martinek-aye; motion approved. Ms. Poretsky made a motion to approve the 5/3/22 minutes as amended; Ms. Milton seconded; roll call vote: Poretsky-aye; Ziton-aye; Pierce-aye; Milton-aye; Martinek-aye; motion approved.

Planning Board Meeting Minutes – May 17, 2022

The next Master Plan Implementation Committee meeting will be held May 25, 2022.

Upcoming Planning Board Meetings are scheduled for June 7, 2022 and June 21, 2022. The board will meet only once in July and August. July 14, 2022 was confirmed; August TBD.

The next ZBA Meeting is scheduled for May 24, 2022.

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

The meeting was adjourned at 8:51 p.m.

Respectfully submitted,

Melanie Rich
Board Secretary