



Office of Planning Board &
Town Planner

TOWN OF NORWELL
Norwell Town Offices, Room 112
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Norwell Planning Board Meeting Minutes 4/17/2019

The meeting was called to order at 7:20 P.M. with Chair Brendan Sullivan presiding. Also present were Board Members Donald Mauch Sr., and Patrick Campbell; and Town Planner Kenneth Kirkland. Unable to attend were Vice Chair Jamie Crystal-Lowry and Scott Fitzgerald. The meeting opened in the Planning Office and then moved to Meeting Room 2 for the Zoning Bylaw Amendment hearings.

CALL TO ORDER/AGENDA

Motion by Mr. Mauch to open the meeting. Duly seconded and unanimously voted.

Mr. Kirkland added an item regarding an appointment to the Pathway Committee.

After a motion was duly made and seconded, it was unanimously voted to approve the agenda as amended.

APPROVAL OF MINUTES

The minutes of the April 10, 2019 meeting were distributed and reviewed.

Motion by Mr. Mauch to approve the minutes of the April 10, 2019 meeting as amended. Duly seconded and unanimously voted.

BILLS

The following invoices were presented for approval:

Christopher Sullivan	Meeting Minutes (4/10)	\$150.00
Gatehouse Media	Legal Ads	\$1,260.48

Mr. Kirkland advised that he spoke with Town Administrator Peter Morin regarding the Gatehouse Media bill, which includes charges for legal ads for public hearings on Zoning Bylaw amendments proposed by Citizen's Petitions; Mr. Morin had advised that the PB's Advertising line item was intended in part to pay for such ads.

Mr. Mauch commented that most of the articles proposing Zoning Bylaw amendments had not been put forth by the PB, and felt the person or entity proposing such amendments should be the one to pay for the corresponding legal ad. He particularly objected to the PB paying for ads for articles in which a profit-making entity may have approached a resident to sponsor a Petition.

Chair Sullivan asked Mr. Mauch if he had paid the advertising fees for Citizen's Petitions he had filed in the past; Mr. Mauch pointed out that all Petitions he had filed involved the Town's General Bylaws, as opposed to the Zoning Bylaw, and as such did not require public hearings or advertisements.

Mr. Campbell acknowledged Mr. Mauch's concerns but noted that these ads had already been purchased by Mr. Kirkland, and questioned how the PB would collect the fees for such ads from a third party.

After further discussion of options including requesting more money for the Advertising line item or revising the procedure going forward, Mr. Kirkland suggested that payment of the Gatehouse bill be revisited when a majority of the Board were present to discuss and vote.

Motion by Mr. Campbell to approve invoice #1 as submitted. Duly seconded and unanimously voted.

ZONING BYLAW AMENDMENTS

Solar Photovoltaic Overlay District (SPOD) Expansion

Proposed Zoning Bylaw Amendment

Public Hearing

Citizen's Petition

Chair Sullivan read the Notice of Public Hearing. Attorney Jeff De Lisi present for Petitioner Bates. Mr. De Lisi stated that the article proposed to expand the existing solar photovoltaic overlay district (SPOD) to include five additional parcels on High Street and Bates Lane, near the intersection with Longwater Drive; the proposal would not expand the business zone or its associated uses into these parcels.

Attorney De Lisi indicated they had appeared before the Advisory Board on March 25, with a follow-up meeting scheduled for April 30, as well as the Board of Selectmen. Mr. Mauch queried why they had appeared before these entities before the Planning Board. Attorney De Lisi advised that BOS had invited them to discuss the proposal. They had submitted the petition to the Town Clerk about 10 weeks ago, and could not speak to why they had not been on an earlier PB agenda. Mr. Mauch commented that the PB's role was to issue a positive or negative recommendation to the BOS and Advisory Board, yet in this case it was the last entity to receive this presentation.

Attorney De Lisi indicated that the proposal provides for a 150-foot setback requirement for vista protection, and stated that its passage would not mean that the subject parcels could immediately install panels; only that the parcel Owners could apply to the Board of Appeals for Site Plan approval to allow their installation.

Attorney De Lisi characterized the proposal as a way to generate revenue to the Town without the traditional impacts or concerns of traditional development. A payment in lieu of taxes (PILOT) agreement would be required, and abutters in the area would qualify for credits towards their own

energy bills. He also felt the proposed expansion would promote good planning principles and free up land in the adjoining business district for business use. In response to a question from Mr. Campbell, Attorney De Lisi indicated that four of the five subject parcels were house lots, and the petition bears the signatures of the four Owners. Brian Bates, Bates Lane, had had conversation with multiple Owners in the area to explain the proposal.

Mr. Campbell noted that with the proposed 150-foot setback, panels could only actually be placed on one of the five parcels, and asked why the overlay had been drawn to include the other four parcels. Attorney De Lisi indicated the four house parcels were included to make the overlay contiguous to the adjoining business district and address concerns regarding spot zoning. While the other properties did not meet the geographic requirements for placement of the panels, he felt these properties could benefit from utilizing solar as an accessory purpose, and there was nothing that would prevent these Owners from requesting a variance or merging their lots.

Mr. Mauch asked whether expanding the overlay would be precedent setting; Attorney De Lisi indicated it would not by virtue of a previous expansion of the SPOD to include a single parcel by the Hanover Mall. Mr. Mauch felt this project would affect more than just the direct abutters and could change the complexion of the larger neighborhood. He also questioned how much communication had been done in Town, and objected to having a corporate entity use a Citizen's Petition to advocate for a zoning change at a specific location. He would also like quantification as to the actual PILOT payments to the Town.

Attorney De Lisi felt that the larger community discussion was part of a public process that should be driven by the planners in Town as opposed to the Applicant, and noted that the proposal contains provisions to protect the vistas of adjoining properties, and there is already a permitting process in place.

Chair Sullivan indicated that he liked the concept, but the proposal as written struck him as spot zoning. Mr. Campbell noted that he was on the PB when the original SPOD bylaw was adopted, and the overlay was sited in the Business C1 and C2 districts as well as the Hanover Mall parcel because they were nonresidential areas. He acknowledged that the immediate abutters may be okay with the proposal, but he would like to know where the remaining neighborhood stood.

Glenn Bernstein, 237 High Street, commented that he was not opposed to the use of solar energy, but did not want to see solar panels in residential areas, and expressed concern at nonresidential uses creeping into the area from the adjoining business districts. John Stanton, 31 Christopher, advised that he did not know this was being proposed and agreed that more residents needed to know proposals or activities being planned.

Selectman Jason Brown commented that this presentation as well as the previous one to the Board of Selectmen had left him with more questions than answers. He was not against the SPOD proposal, but would like more specifics regarding the relative benefits to the entity placing the panels, immediate abutters, neighborhood residents, and the Town.

Motion by Mr. Mauch that the PB forward a negative recommendation for the Petition. Duly seconded and unanimously voted.

Mr. Campbell noted he would be willing to reconsider the matter at a Special Town Meeting in the fall provided more information were received in advance, and suggested that Petitioners

consider a different footprint. Mr. Mauch indicated he supported the concept of the SPOD but opposed its expansion to this particular location.

Mauch also expressed concern at a seeming trend of Citizen's Petitions coming to the PB at the last minute, without sufficient abutter notification, and suggested that this be addressed when the Master Plan is updated.

Assisted Living Overlay District (ALOD)

Proposed Zoning Bylaw Amendment

Continued Public Hearing

Citizen's Petition

Petitioner Steve Regan present along with one dozen residents.

Motion by Mr. Campbell to open the continued public hearing. Duly seconded and unanimously voted.

Chair Sullivan advised that Petitioner's attorney Walter Sullivan had advised in writing that they would be withdrawing the Petition on the floor at Town Meeting. The floor was then opened to comments from those in attendance.

John Stanton, Christopher Road, commented that he only learned about the proposal through a Facebook post and Greg Berberian, Teaberry Lane, found out through his wife. Chair Sullivan noted that Citizen's Petitions only required the posting of a newspaper ad, which had been done. Mr. Campbell added that the Board had advised the Petitioner at the previous meeting that the burden was on him to notify impacted residents, and it would be difficult to get the required two-thirds majority at Town Meeting without sufficient notice. Mr. Mauch noted that Mr. Regan had made some effort to talk with residents, but the overall communications effort seemed to have been inadequate.

Mr. Regan replied that he had made numerous efforts at communication, including mass mailings, canvassing residents in the High and Grove Street areas, and meeting with entities such as the VNA and Council on Aging. He was withdrawing the Petition at this time because it had morphed into a zoning argument rather than about assisted living, which was not his intent. He would like to continue the discussion with all interested parties, but objected to what he characterized as rumor and misinformation that had been posted on social media. Mr. Mauch commented that these postings had nevertheless brought many of the residents to the hearing.

Richard Ricciardi, 30 Grove Street, indicated that his perception was that the proposal came in at the last minute, and Mr. Regan only reached out to him after the PB told Petitioner Regan to step up his outreach. He felt the proposal would have impacted a large number of people for the sake of a single project, and suggested that the project could be permitted with variances. Mr. Mauch agreed that adding assisted living as a specific use to the Zoning Bylaw might be feasible.

Louis Barbour, Chair of the Board of Appeals, noted that assisted living was already a use by special permit in the Business C district, which encompasses the industrial parks along Longwater, Cordwainer, and Accord Park Drives, and commented the proposal had the appearance of spot zoning in that it was proposed to facilitate one specific proposal.

Ramona Caruso, 30 Grove Street, commented that the proposed overlay would have taken over her entire property, and she only found out about it two weeks ago. She would prefer that the facility be built in one of the industrial parks.

Mr. Mauch commented that he had no issue with Artis, the company looking to construct the facility, but thinks the Petitioner has come to realize the impacts of the proposal were in fact much wider than it first appeared. Mr. Regan noted that most of the property in question is already zoned for business. He would have preferred to simply apply for a variance, but Town Counsel had advised them to petition for creation of the overlay, which ended up impacting more people than he intended.

Mike Haley, Dana Road, commented that the perception, rightly or wrongly, was that the proposal had been made public at the last minute, and suggested that all parties step back from the emotion so the project can be put forward the right way. Kevin Burns, 10 Bay Path Lane, commented that the boundaries of the proposed overlay looked quite extensive and Daniel Senteno, 37 High Street, agreed that the map of the proposed overlay had provoked an emotional reaction from impacted residents. Chair Sullivan noted that for both Petitions, some miscommunication between Town entities may have contributed to the perception of their being last-minute proposals.

B.J. Roussos, 23 Bay Path Lane, commented that he wouldn't have known about the proposal if a customer hadn't mentioned it to him, and Bill Donovan, 36 Bay Path Lane, asked about existing modes of notification. Chair Sullivan noted that agendas for all Town boards, committees, and commissions are posted in advance on the Town website. Selectman Jason Brown added that residents could sign up to receive agendas in advance by e-mail.

Motion by Mr. Campbell to accept the withdrawal of the Petition. Duly seconded and unanimously voted.

Motion by Mr. Campbell to close the public hearing. Duly seconded and unanimously voted.

MISCELLANEOUS

Pathway Committee Appointment

William Lazzaro, 49 Green Street, appeared before the Board to request an appointment to the Pathway Committee. He had attended the most recent meeting of the Committee to introduce himself to the other Committee members.

Mr. Mauch commented that he had no issue with the appointment, but thought the Board of Selectmen handled Committee appointments. Chair Sullivan added that he did not recall appearing before the PB when he joined the Committee.

Mr. Kirkland noted that the Pathway Committee was a sub-committee of the Planning Board, and records from previous Town Planner Chris Diorio indicated that members of the Committee were appointed by the PB. He also checked with Town Clerk Patricia Anderson, who indicated that Committee members seeking to renew their term likewise should appear before the PB.

Motion by Mr. Mauch to appoint William Lazzaro to the Pathway Committee. Duly seconded and unanimously voted.

NEXT MEETING

May 8th, 2019 – Town Hall, Room 112, 7 pm

ADJOURNMENT

There being no further business, motion was made by Mr. Campbell to adjourn at 9:25 P.M. Duly seconded and unanimously voted.

I certify that the above minutes were reviewed and approved by a majority vote of the Planning Board on May 8, 2019.



Scott Fitzgerald, Clerk

Brantley Sullivan
Copy filed with: Office of Town Clerk
 File

Post to Planning Board Webpage