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Planning Board Meeting Minutes January 12, 2016

7:15 P.M. Call to Order

The January 12, 2016, meeting of the Norton Planning Board was held in the first floor Selectmen's Conference Room, of the Norton Town Hall and was called to order at 7:15 P.M., by Joanne Haracz, Chairman. Member(s) Present: Joanne Haracz, Chairman; Mr. David Miller, and Ms. Cheryll-Ann Senior. Absent: Mr. Edward Beatty; Mr. Patrick Daly; Mr. Joseph Fernandes. Also present was Beth Wierling, Planning and Economic Development Director.

General Business

Mrs. Haracz noted there was no quorum this evening, therefore, they would hold an informal discussion on zoning articles with no voting, etc. She noted the warrant closes February 3, 2016 for Spring Town Meeting and the actual Town Meeting will be held on May 9, 2016. There are some potential amendments to vote on for Town Meeting when there is a quorum.

Rezoning:

133 South Worcester Street

Mrs. Haracz indicated they had a request to rezone a parcel on South Worcester Street, which is part of rectory of St. Mary's Church. It appears there is a problem with how abutters were informed.

Ms. Wierling stated this is 133 South Worcester Street and is partially zoned industrial and partially zoned R-40. Petitioner is looking to have the parcel rezoned entirely to R-40. It was brought before Town Meeting and Town Meeting voted in favor of rezoning this parcel. Upon submitting that paperwork to Attorney General's Office, they indicated it was not properly advertised once they received the document. She said they are still awaiting on that formal

letter stating that indeed happened. In order to correct situation, it needed to be advertised in newspaper properly and, if no one appeals within 20 days, it would be properly considered notification. Since then, discussions occurred if they should include surrounding properties, so she provided the Board with a memo regarding what some of the surrounding properties are. Some are industrially zoned and if rezoned to R-40, it would actually leave them as nonconforming. To rezone it would not improve their status as being a conforming lot. The only one to benefit would be 133 South Worcester Street.

Mrs. Haracz stated it appeared the options for this would be to: 1) re-advertise and give abutters the opportunity to appeal that or other option would be 2) to include other surrounding properties and have a second hearing at Town Meeting.

Mrs. Haracz asked if there was a third option?

Ms. Wierling responded, in her opinion, the third option she did not see it as being beneficial because it's already done and the Attorney General's Office is recommending to just re-advertise it. At that point in time, an abutter/abutters can appeal it. It was technically approved at Town Meeting and a public hearing did happen, and residents/abutters did have option to voice their concerns, however, Town Meeting did approve it.

Mrs. Haracz stated Option 1 appears to be the simpler option. She asked if they still had the time at the next meeting to take a vote on this?

Ms. Wierling responds, yes there is still time.

Ms. Senior said she thought re-advertising it would be fine.

Mrs. Haracz stated then they will bring that up as an option at the next Planning Board meeting.

Ms. Senior asked if any of the owners of the industrial properties came forward with an interest of being possibly rezoned?

Ms. Wierling responded that this hadn't occurred since it first came up, but since then, there have been some discussions about potentially including other properties. There was one property owner who said they were interested, but there has not been any discussion with that property owner to indicate doing that would change their property. They would still need to go through ZBA, etc,

Ms. Senior commented it appears it would not change process for the property owner.

Self-Storage Facility

Mrs. Haracz said the second item was the Self-Storage facility on West Main Street where applicant would like an accessory apartment at that location here to have someone on-site to keep an eye on things. It is in an industrial zone now and does not allow residential uses. The

question is if they can pose a zoning amendment that would allow an accessory apartment within an industrial zone.

Ms. Wierling stated at first it seemed pretty standard, but upon looking at zoning bylaw, it became very complex and not a simple answer. She referenced two documents she had for the Board: one is a discussion about the issues and the second one is entitled, "Norton Review Accessory Living Unit within an Industrial Zone" which was submitted by Mr. Larson, who appeared before the Planning Board a few weeks ago, to discuss the potential accessory unit.

Ms. Wierling indicated she would go through what she sees being the issues in allowing such a unit.

The current zoning bylaw was referenced and defines accessory apartment as a single family dwelling unit and an accessory use or building. An "accessory apartment" is only permitted as defined and only allowed as incorporated into a single family dwelling unit. There is no provision in the zoning bylaw to allow an accessory apartment in this type of structure other than a single family.

It was noted the proposed plan has the offices located on the ground floor with apartment above.

Ms. Wierling clarified, by definition, someone can only have an accessory unit/apartment in a single family home.

Ms. Wierling said "accessory use" is defined as use or building as a freestanding building customarily incidental subordinate to the principal use or building. The important statement is as long as it is not prohibited by Section 4.1 or use regulations. Section 4.2, Regulation Uses, prohibits residential use in an industrial district. Therefore, someone cannot have an accessory use/apartment in an industrial zoning district because it does not allow for it as an accessory use.

Ms. Wierling stated Mr. Larson presented a document that discussed the zoning bylaw allowing a roadside farm stand in the industrial zoning district which allowed for a residence on site. However, his explanation does not talk about a major portion of grown on-site. He indicates he would, by default, be allowed to have a resident proprietor on site.

Ms. Wierling said in looking at all different components to allow it, her first thought was, in general, even if it is an accessory dwelling, industrial zones is not typically where there should be housing. Her first recommendations would be, if the Board would like to explore this, is for improvements to be made. The accessory apartment definition should probably be a zoning bylaw. It is more like a zoning bylaw than an actual definition, and then a definition for an accessory apartment should be created and defined on use table as to where it is decided to allow it. Then, in looking at the definition for dwelling unit, the current definition includes definitions for single family dwelling unit, duplex, and multi-family. These definitions should

probably be separated into stand-alone definitions. And also consideration in redefining the definition for accessory use or building.

Ms. Senior noted there are apartments above Alberto's Restaurant.

Mrs. Haracz replied they have approved accessory apartments in single-family homes as it is allowed. Alberto's is not in the village commercial district, however, it could have been a pre-existing use. Zoning in the Town of Norton did not occur until 1974, therefore, before then there was no zoning.

Ms. Wierling said the Board should think about what are accessory uses they want to allow and not allow and thinking how it is defined; any use that is allowed in Section 4.1 can actually be an accessory use. Section 4.1 is the entire use table.

Mrs. Haracz stated, in general, she thought the request for someone living at a self-storage facility makes sense; other places have done this. She noted in a case like this, a special permit would be needed.

Ms. Wierling said sometimes there is a facilities manager on site in an industrial zoned business, which could be considered.

Ms. Senior asked if a special permit would tie that individual to be there 24 hours?

Mrs. Haracz responded she would think it would be tied to business and one of the factors that would be written into the definition and bylaw.

Mrs. Haracz stated in the past they have put placeholders into the warrant and then between now and Town Meeting they could try to develop the bylaw.

Ms. Wierling said she was told the Spring Town Meeting is more budget-oriented and Fall Town Meeting is more zoning-oriented.

Mrs. Haracz said Spring Town Meeting is more budget-oriented because budget needs to be ready for the next fiscal year.

Ms. Wierling stated she wanted to ensure there was enough time to work on it, etc.

Mrs. Haracz suggested Ms. Wierling check with Mr. Yunits, the Town Manager. She was not opposed to putting in on warrant or starting work on it, but if it is not ready, they can vote to not move it and it won't be approved. She believed they could bring it back to the next scheduled Town Meeting.

Ms. Wierling noted there were multiple issues at hand, and would mean the Board would need to decide what they actually want on warrant. It is not as simple as saying they want to put a unit in an industrial zone.

Mrs. Haracz said it may be in the section bylaw entitled "accessory apartment".

Ms. Wierling explained they have "accessory apartment" now in definitions and it currently only allows it in a single family dwelling. Therefore, there is a need to rework that entire section.

Mrs. Haracz stated everything they have discussed would need to be reworked. They basically would have to pull out a definition and create a separate section of the bylaw to deal with that issue.

Ms. Wierling indicated she would create something.

Mrs. Haracz said if it proves more complicated and is not ready for Spring Town Meeting, then they can vote to not recommend it because it is not ready and would prepare it for Fall Town Meeting.

Mrs. Haracz said if it works and makes sense, then there is enough to do a placeholder and then develop it as they go forward. The trouble with Fall Town Meeting is the problem with quorums due to summer vacations of Board members, etc.

Ms. Senior asked if there would be something in this proposed bylaw to allow someone who owns a business in an industrial area, who may want to build a second story for housing for themselves because they own it?

Ms. Wierling replied it should be incidental to the particular business.

Ms. Senior stated she agreed with Ms. Wierling.

Ms. Wierling commented to allow housing in an industrial zoning district is not good planning.

Mrs. Haracz referenced the John Scott Boulevard area where it was originally industrial and turned residential. They want to protect their industrial area for industrial development. If it is an accessory use that supports the industrial use, that is where she believed it made sense. It should be related to the primary use of the site.

Mrs. Haracz said the Board does not need to make a decision this evening.

Ms. Senior said it appeared the Board was all in favor of what they are proposing.

Mrs. Haracz responded, yes, basically in agreement with the general concept, but it is always the "devil in the details". They will need to add the zoning discussion to the next agenda, and they would need to vote on it then.

Mr. Miller noted this is proposed to be a gated and secured facility with a keypad to enter. The facility could be locked down from 11 P.M. to 6 A.M., so no one would be able to enter and no one would need to be on site to supervise.

Mrs. Haracz responded Mr. Miller was correct, however, their business model is 24/7. She was not certain if they had any restrictions in hours of operation of the facility.

Ms. Wierling asked if Mrs. Haracz if it would be beneficial to have Mr. Larson present to discuss his memo?

Mrs. Haracz replied it would probably not be useful at the next meeting, but possibly he could attend a subsequent meeting. When they get to the point of discussing the actual site, it may be helpful.

Ms. Senior noted there are homes across the street. She asked what would happen if a large truck pulled up at 2 A.M. to empty out, etc.? How do they control that where it is a 24/7 operation.

Mrs. Haracz responded they cannot control the vehicles entering and using the facility.

Ms. Wierling stated there was an explanation to her where it was a 24 hour operation and they wanted to ensure they could supervise to see what is going in units because it is in a WRPD (Water Resource Protection District).

Mr. Miller suggested that possibly the Planning Board limited the hours from the beginning and they are not aware of that?

Mrs. Haracz stated that was information for the special permit.

Town of Norton GIS Zoning Map

It was noted SRPEDD was preparing a new zoning map for the Town on GIS and it is still in draft stages.

Use Tables/Residential Uses/Special Permits

Ms. Wierling stated for the future, the Board may want to think about a few of the uses under "Residential Uses", She was seeking insight on why things are listed under residential, such as religious facilities, also driveways are listed because it is connected to residential use, and also listed are hospitals, and government buildings.

Mrs. Haracz noted those were on the "use tables" for original zoning bylaw. The "use table/listings" did not change per se.

Ms. Wierling noted that religious facilities require a special permit; however, that should be changed.

Ms. Wierling noted under "Special Permit Granting", Section 10.9, it indicates the special permit decision of the Planning Board must be filed with the town clerk and notice of the decision sent to parties of interest within 90 days of the hearing date. She believed that was actually contradictory to what Mass General Laws requires.

Mrs. Haracz agreed that should be consistent with Mass General Laws. She believed the Board has been following Mass General Laws anyhow and not this document.

Ms. Wierling said she will double check on this.

Procedure for Submitting Plans

Ms. Wierling said one of the other things she wanted to bring to the Board's attention related to plans which are required to be directly delivered to the town clerk and other departments need to sign that they received a copy of the plan, and that is done by the applicant. She suggested that the applicant bring the plans directly to the Planning Office and the Planning Office can ensure everything is being submitted properly; the application was complete; the fees are correct; the abutters list was correct; and any drainage reports or anything else that a complete application requires. Ms. Wierling noted once it is stamped in by the town clerk, that will start the time ticking for when the Planning Board needs to make a decision and, if an application is incomplete, it will only draw out the process for the applicant, for the Planning Board and will create frustration for everyone.

Ms. Wierling stated she would distribute it to every department that needs to receive it; she would also submit to town clerk. If an application is received by her, she would ensure it is stamped in with the clerk by the end of the day as long as it is complete. She has found in the past that things go to the town clerk first or go to other departments are missing things/not complete at times. Currently it is written in the bylaw to deliver to town clerk, etc., therefore she is requesting a change to this process.

Keeping of Chickens

Keeping of chickens was discussed. Mrs. Haracz said she did not feel it made sense to have a special permit for the keeping of a couple of chickens and there may be other ways to handle it under the general bylaw.

Ms. Senior said she has seen it get very heated when applicants come in for the keeping of chickens, and agreed something needed to be done regarding this.

Mrs. Haracz said there should be some bylaw implemented to set standards. In her opinion, the Board of Health is better off being involved with this.

Ms. Wierling noted it also becomes very expensive for the applicant who wants to keep even five or ten chickens. The application is \$250 plus the cost of abutters' list, plus advertising cost in newspaper, and cost of certified mailing.

Mrs. Haracz noted it is the same procedure as if someone was building a 100,000 square foot building. She said this was a remnant of the original zoning bylaw.

Ms. Wierling said a person in an R-80 district with under five acres could keep more than 50 chickens by right but if a people is in an R-60 district and wants to keep five chickens, and has under five acres, they need a special permit.

Mrs. Haracz noted the Town's bylaw regarding livestock and keeping of animals is very fuzzy and not well organized. Also, she noted, for the most part, R-80 is in the WRPD.

Lot Shape Factor

Ms. Wierling spoke of a long-term discussion being the lot shape factor and how Planning Board feels about that, or perhaps a different way of looking at it.

Ms. Haracz responded that came about because of a lot of wetlands being in Town and odd jerry-rigged lots.

Ms. Wierling wondered if there was an easier way to do it.

Mrs. Haracz believed most people who build understand it and have gotten used to it and she has not heard a lot of complaints regarding this.

Ms. Wierling said one of the most important things is to look at the "Use Table" and for the long-term what the Board would and would not want for an accessory use.

Mrs. Haracz she would be open to any suggestions by Ms. Wierling. It was noted definitions would need to be added, etc.

Gas Stations

Gas stations were also referenced. Mrs. Haracz noted gas stations are not allowed in the WRPD.

Ms. Wierling stated she was surprised to see they are allowed by right in a commercial zone with no special permit. She expressed that she felt there should be some permitting oversight for such gas stations.

Adjournment

MOTION was made by Mrs. Haracz to Adjourn 8:15 P.M.

Respectfully Submitted by:

Janet Sweeney
Planning Board - Recording Secretary

Minutes Approved by Committee

on: 4/4/17
(Date)

Signature: Joanne Haracz Chairman: JOANNE HARACZ