

PLANNING BOARD
Meeting Minutes
Tuesday, June 12, 2012
Town of North Andover High School, 430 Osgood Street, Room 1108
7:00 PM

1 Present: J. Simons, M. Colantoni, D. Kellogg, L. Rudnicki
2 Absent: R. Rowen, T. Seibert arrived at 6:40PM
3 Staff Present: J. Tymon
4 Meeting began at 6:30 pm.
5
6
7

8 CONTINUED PUBLIC HEARING: Annual Town Meeting Zoning Articles.

9 *Town of North Andover*
10 *Annual Town Meeting*

11 *June 12, 2012*

12 **Planning Board Report**

13 The Planning Board makes the recommendations regarding the following Town Meeting warrant articles
14 as required by M.G.L. c.40A, Section 5 and Chapter 2, Section 9 of the Town Code:
15

16 **Article 4. Authorization to Accept Grants of Easements.** To see if the Town will vote to
17 authorize the Board of Selectmen and the School Committee to accept grants of easements for access,
18 water, drainage, sewer, roadway and utility purposes on terms and conditions the Board and Committee
19 deem in the best interest of the Town;

20 Or to take any other action relative thereto.

21 **Board of Selectmen**

22 **RECOMMENDATION: X Favorable Unfavorable**

23 PB voted at last meeting.

24 **Article 5. Authorization to Grant Easements.** To see if the Town will vote to authorize the
25 Board of Selectmen and the School Committee to grant easements for access, water, drainage, sewer,
26 roadway and utility purposes on terms and conditions the Board and Committee deem in the best interest
27 of the Town;

28 Or to take any other action relative thereto.

29

30 **Board of Selectmen**

31 **RECOMMENDATION: X Favorable Unfavorable**

32 PB voted at last meeting.

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33 **Article 15. Reduction of Community Preservation Act Surcharge.** To see if the Town will as
34 follows:

35 Should we, the tax payers of North Andover, reduce the Community Preservation Act surcharge?

36 The CPA was enacted in 2002 at the maximum of 3%. The state matched dollar for dollar. Since
37 that time, many projects benefiting the town have been completed – protection of our drinking water,
38 assisting in renovations of the Town Hall, Steven’s Estate, the Senior Center and more at a cost of 21
39 million tax dollars.

40 Due to the downturn in the economy, the State has reduced their matching amount to .26 cents on the
41 dollar. Is it time to follow the Commonwealth lead and reduce our spending?

42 The CPA surcharge is an additional cost on your real estate tax bill. Should we reduce the surcharge from
43 3% to a more reasonable 1 and 1/2%?

44 **Petition of William P. Callahan and others**

45 **RECOMMENDATION: Favorable Unfavorable**

46 PB voted at last meeting.

Article 28 : Capital Improvement Plan Appropriation Fiscal Year 2013. To see if the
Town will vote to fund the Capital Improvement Program as listed under the heading "Board of
Selectmen/Town Manager Recommend" and with the language included:

FY13 CIP Recommendations			
<u>Line #</u>	<u>Project Description</u>	<u>Fund Code</u>	<u>BOS , Town Managers Recommendations</u>
1	Roadways	B/N-G	\$ 476,700
2	Sidewalk Reconstruction	B/N-G	\$ 50,000
3	Building Maintenance	B/N-G	\$ 50,000
4	Replace Fire Chief's Vehicle	B/N-G	\$ 34,000
5	Replace Mobile Data Terminals	B/N-G	\$ 90,258

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6	General IT	B/N-G	\$	40,000
7	School Dept IT	B/N-G	\$	165,098
8	Design Work (Central Office & Kittredge School Gym)	B/N-G	\$	359,500
General Fund Total			\$	1,265,556
9	Water Main Replacement	B/N-W	\$	573,000
10	Water Meter Installation	B/N-W	\$	60,000
11	Flocculation & Sedimentation Building	B/N-W	\$	65,000
12	Concrete Repairs and Coating	B/N-W	\$	97,000
Water Enterprise Fund Total			\$	795,000
13	Rea's Pond Sewer Pump Station Replacement	B/N-S	\$	250,000
14	School St & Bunkerhill Sewer Replacement	B/N-S	\$	100,000
15	Osgood St Sewer Preliminary Design	B/N-S	\$	300,000
Sewer Enterprise Fund Total			\$	650,000

* Fund Codes spelled out below

<u>Funding Recommendation</u>	<u>Code</u>	<u>Totals</u>
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Raise and Appropriate - General Fund	R&A-G	\$	-
Raise and Appropriate - Water Enterprise	R&A-W	\$	-
Raise and Appropriate - Sewer Enterprise	R&A-S		
Bonds/Notes - General Fund	B/N-G	\$	1,265,556
Bonds/Notes - Water Enterprise	B/N-W	\$	795,000
Bonds/Notes - Sewer Enterprise	B/N-S	\$	650,000
Total All Capital Projects (New Borrowing)		\$	2,710,556
Unexpended Bond Proceeds		\$	<u>650,000</u>
		\$	2,060,556

that to meet this appropriation:

(1) The Treasurer with the approval of the Board of Selectmen is authorized to borrow \$2,060,556 under chapter 44 of the Massachusetts General Law or any other enabling authority.

(2) The appropriation for items 13, 14 & 15 above in the amount of \$650,000 shall be funded with the transfer from the following project in the amount set forth below,

said sum represents excess bond proceeds not needed for the completion of the project:

Amount	Project	Date/Article Number	Date Bonded
\$ 650,000	Waverly Road Relief Sewer Main	2008 / Art 21 Sec 23	6/1/2008

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Board of Selectmen

RECOMMENDATION: X Favorable Unfavorable

PB Voted at last meeting: Article 28 #1, 2, and 9-15.

Article 30. Sale of Public Buildings-Bradstreet School Main Street. To see if the Town will vote to transfer the care, custody, management and control of the land and building formerly known as the Bradstreet School and located on Main Street, North Andover, identified on the Town's Assessor's maps as: Map 29, Block 23, Lot 0, from the Board of Selectmen for the purposes for which such land is currently held to the Board of Selectmen for the purposes of sale of the building and to authorize the Board of Selectmen to sell the parcel of land per the provisions of Massachusetts General Law Chapter 30B, and further that the Board of Selectmen approve any other restrictions, including restrictions on use, that are in the best interests of the Town and that would effectuate the purposes of providing the maximum benefit to the Town from the proposed sale of the property, upon such terms and conditions as the Board of Selectmen may deem appropriate and necessary;

Or to take any action relative thereto.

Town Manager

RECOMMENDATION: X Favorable Unfavorable

PB Voted at last meeting

Article 31. Amend Article 29 2011 Annual Town Meeting - CPA BAN Authorization. To see if the Town will vote to amend the vote taken on Article 29 of the 2011 Annual Town Meeting Warrant under "Principal Repayment: Windrush Farm" from \$638,000 to \$659,648 to pay principal and interest and to raise, borrow, transfer and/or appropriate from the Community Preservation Fund, in accordance with the provisions of Massachusetts General Laws Chapter 44B, this sum of money;

Or to take any other action relative thereto.

Town Manager

RECOMMENDATION: X Favorable Unfavorable

PB voted at last meeting.

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69 **Article 32. Report of the Community Preservation Committee and Appropriation From the**
70 **Community Preservation Fund.** To receive the report of the Community Preservation Committee and
71 to see if the Town will vote to raise, borrow, transfer and/or appropriate from the Community
72 Preservation Fund, in accordance with the provisions of Massachusetts General Laws Chapter 44B, a sum
73 of money to be spent under the direction of the Community Preservation Committee;

74 **(Information to be provided by CPA Committee prior to warrant being signed).**

75 Or to take any other action relative thereto.

76 **Community Preservation Committee**
77 **RECOMMENDATION: X Favorable Unfavorable**

78 **PB voted at last meeting.**

79
80 **Article 37. Amend North Andover Zoning Bylaw – Section 8.1.4(a) Off-Street Parking General**
81 **Requirements.** To see if the Town will vote to amend the Town of North Andover Zoning Bylaw,
82 Section 8.1.4(a) Off-Street Parking General Requirements in order to allow seasonal outside seating to not
83 counts towards the parking requirements.

84 Amend Section 8.1.4(a) by adding Note 8 to the use table as follows:

85 Notes:

86 8. Seasonal outside seating for food establishments shall be exempt from Section (a) of this regulation as
87 long as the seating does not exceed 25% of the indoor seating or a total of twenty outdoor (20) seats,
88 whichever is greater;

89 **And further that the non-substantive changes to the numbering of this bylaw by the Town Clerk be**
90 **permitted in order that it be in compliance with the numbering format of the Zoning Bylaws of the**
91 **Town of North Andover.**

92 Or to take any other action relative thereto.

93 **Planning Board**

94 **RECOMMENDATION: X Favorable Unfavorable**

95 **PB voted at last meeting.**

96 **Article 38. Amend North Andover Zoning Bylaw – Section 4.135 Industrial “S” District.** To see if
97 the Town will vote to amend the Town of North Andover Zoning Bylaw, Section 4.135 in order to allow
98 retail stores that are an accessory use to warehousing or wholesaling.

99 **Amend Section 4.135 by adding the underlined language and deleting the stricken language to read**
100 **as follows:**

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101 **4.135 Industrial “S” District**

102 **8.** Premises of a bank, post office, telephone exchange or telephone business office, local bus passenger
103 station, or business office buildings. By Special Permit, an automobile service or filling station, a diner, a
104 restaurant, a retail food store, and retail stores that are accessory to warehousing, wholesaling and/or
105 a service business, but no other retail stores of any kind.

106 (Proposed Zoning Bylaw amendment to allow additional retail uses within the Industrial “S” Zone)

107 **And further that the non-substantive changes to the numbering of this bylaw by the Town Clerk be**
108 **permitted in order that it be in compliance with the numbering format of the Zoning Bylaws of the**
109 **Town of North Andover.**

110 Or to take any other action relative thereto.

111 **Planning Board**

112 **RECOMMENDATION: X Favorable Unfavorable**

113 **PB voted at the last meeting to make the following changes to Article 38:**

114
115 **Amend Section 4.135 by adding the underlined language and deleting the stricken language to read as**
116 **follows:**

117
118 **4.135 Industrial “S” District**

119
120 **8.** Premises of a bank, post office, telephone exchange or telephone business office, local bus
121 passenger station, or business office buildings. By Special Permit, an automobile service or filling
122 station, a diner, a restaurant, a retail food store, and retail stores that are an accessory use to the
123 principal use, ~~but no other retail stores of any kind.~~

124
125
126 **Article AK. (39) Amend North Andover Zoning Map -1080 Osgood Street-Assessors Map 35-**
127 **Parcel 19 from Industrial 2 (I2) to Business 2 (B-2).** To see if the Town will vote to amend the Town of
128 North Andover Zoning Map, Assessor’s Map 35 Parcel 19 from Industrial-2 to Business-2;
129 or to take any other action relative thereto.

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Planning Board

RECOMMENDATION: X Favorable □ Unfavorable

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134 **J. Tymon:** The applicant has provided a covenant that states that the architectural design will be in
135 conformance with the town's character.

136 **MOTION**

137 A motion was made by D. Kellogg to recommend favorable action. The motion was seconded by M.
138 Colantoni. The vote was unanimous.

139
140 **Article AL (40) Amend North Andover Zoning Bylaw – Section 4.137 Floodplain District.** To see
141 if the Town will vote to amend the Town of North Andover Zoning Bylaw, Section 4.137 Floodplain
142 District in order to make minor adjustments so that the Bylaw accurately reflects the date of the newly
143 adopted flood maps.

144 Amend Section 4.137 by adding the underlined language and removing the text shown as stricken to read
145 as follows:

146 **4.137 Floodplain District**

147 **1. STATEMENT OF PURPOSE**

148 The purpose of the floodplain District is to:

- 149 a. Ensure public safety through reducing the threats to life and personal injury.
150 b. Eliminate new hazards to emergency response officials;
151 c. Prevent the occurrence of public emergencies resulting from water quality, contamination,
152 and pollution due to flooding.
153 d. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down
154 the utility network and impact regions of the community beyond the site of flooding;
155 e. Eliminate costs associated with the response and cleanup of flooding conditions;
156 f. Reduce damage to public and private property resulting from flooding waters.

157
158 **2. FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION AND**
159 **FLOODWAY DATA**

160 The Flood Plain District is herein established as an overlay district and includes all special flood
161 hazard areas within the Town of North Andover designated as Zone A and AE on the Essex
162 County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management
163 Agency (FEMA) for the administration of the National Flood Insurance Program. The map
164 panels of the Essex County FIRMs that are wholly or partially within the Town of North Andover
165 are panel numbers 25009C0207F, 25009C0209F, 25009C0217F, 25009C0226F, 25009C0227F,
166 25009C0228F, 25009C0229F, 25009C0233F, 25009C0236F, 25009C0237F, 25009C0238F,
167 25009C0239F, 25009C0241F, 25009C0242F, 25009C0243F, 25009C0244F, 25009C0377F and
168 25009C0381F, dated July 3, 2012. The exact boundaries of the District may be defined by the
169 100-year base flood elevations shown on the FIRM and further defined by the Essex County
170 Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are
171 incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building
172 Official and Conservation Commission.
173

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174 **3. BASE FLOOD ELEVATION AND FLOODWAY DATA**

- 175 a. **Floodway Data.** In Zone A~~[, AH, A99]~~ and AE, along watercourses that have not had a
176 regulatory floodway designated, the best available Federal, State, local or other floodway data
177 as determined by the Building Inspector, in consultation with the Director of the Division of
178 Public Works, shall be used to prohibit encroachments in floodways which would result in
179 any increase in flood levels within the community during the occurrence of the base flood
180 discharge.
- 181 b. **Base Flood Elevation Data.** Base flood elevation data is required for subdivision proposals
182 or other developments greater than 50 lots or 5 acres, whichever is the lesser, within
183 unnumbered A zones.
- 184 c. Areas designated as flood plain on the North Andover Flood Insurance Rate Maps may be
185 determined to be outside the flood plain district by the Building Inspector, in consultation
186 with the Director of the Division of Public Works, if an accurate topographic and property
187 line survey of the area conducted by a registered professional engineer or land surveyor
188 shows that the flood plain contour elevation does not occur in any area of proposed buildings,
189 structures, improvements, excavation, filling, paving, or other work activity. The person
190 requesting the determination shall provide any other information deemed necessary by the
191 Building Inspector, in consultation with the Director of Division of Public Works to make
192 that determination. If the Building Inspector, in consultation with the Director of the Division
193 of Public Works, determines that the Flood Insurance Rate Maps are in error, the subject area
194 shall not be regulated as occurring within the Flood Plain District, and any such
195 determination shall be noted on the Flood Insurance Rate Maps. Nothing in this section shall
196 prohibit the Conservation Commission, Board of Health, or other Town officials or Board
197 from making non-zoning determinations of the flood plain or performing their official duties.
198

199 **4. NOTIFICATION OF WATERCOURSE ALTERATION**

200 If a landowner or project proponent proposes to alter or relocate any watercourse, that person
201 shall notify the following parties and provide evidence of such notification to every town board or
202 official who has jurisdiction over such alteration or relocation prior to or at the time of applying
203 for any approval that is required to perform such alteration of relocation:

- 204 a. Notify in a riverine situation, the following of any alteration or relocation of a watercourse:
- 205 1. Adjacent Communities
- 206 ~~2. [Bordering States]~~
- 207 3. NFIP State Coordinator
- 208 Massachusetts Department of Conservation and Recreation
- 209 251 Causeway Street Suite 600-700
- 210 Boston, MA 02114-2104
- 211 4. NFIP Program Specialist
- 212 Federal Emergency Management Agency, Region I
- 213 99 High Street, 6th Floor

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214 Boston, MA 02110

215 5. REFERENCE TO EXISTING REGULATIONS

216 The Floodplain District is established as an overlay district to all other districts. All development
217 in the district, including structural and non-structural activities, whether permitted by right or by
218 special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General
219 Laws and with the following:

- 220 a. Section of the Massachusetts State Building Code which addresses Floodplain and coastal
221 high hazard areas (currently 780 CMR 120.G);
- 222 b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently
223 310 CMR 10.00);
- 224 c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- 225 ~~d. [Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);]~~
- 226 e. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310
227 CMR 15, Title 5);
- 228 f. Any variances from the provisions and requirements of the above referenced state regulations
229 may only be granted in accordance with the required variance procedures of these state
230 regulations.

232 6. OTHER USE/DEVELOPMENT REGULATIONS

- 233 a. ~~[Within zones AH and AO on the FIRM, adequate drainage paths are required around~~
234 ~~structures on slopes, to guide floodwaters around and away from proposed structures.]~~
- 235 b. Within Zone[s ~~A1-30 and~~] AE, along watercourses that have a regulatory floodway within
236 the Town of North Andover, on the Essex County FIRMs dated July 3, 2012; encroachments
237 are prohibited in the regulatory floodway which would result in any increase in flood levels
238 within the community during the occurrence of the base flood discharge. However, a
239 registered professional engineer may provide proof and certification to the Building
240 Commissioner, in conjunction with the Director of the Division of Public Works,
241 demonstrating that such encroachments shall not increase flood levels during the occurrence
242 of the 100 year flood, and if both the Building Commissioner, in conjunction with the
243 Director of the Division Public Works approve this certification, such encroachments shall
244 not be deemed to be prohibited.
- 245 c. All subdivision proposals filed in accordance with M.G.L. Chapter 41, Section 81S and 81T
246 [or any revisions to the subdivision control law referencing the submission of preliminary or
247 definitive subdivision plans], respectively shall be designed so that:
 - 248 1. Such proposals minimize flood damage;
 - 249 2. All public utilities and facilities are located and constructed to minimize or eliminate
250 flood damage; and
 - 251 3. Adequate drainage is provided to reduce exposure to flood hazards.
 - 252 4. Existing contour intervals of site and elevations of existing structures must be included
253 on plan proposal;
 - 254 5. The applicant shall circulate or transmit one copy of the development plan to the
255 Conservation Commission, Planning Board, Board of Health, Town Engineer, and

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256 Building Commissioner for comments which will be considered by the appropriate
257 permitting board prior to issuing applicable permits.
258

259 **Proposed maps are on file in the Office of the Town Clerk and the Conservation Commission Office**
260 **and on the Town's web site.**

261 **And further that the non-substantive changes to the numbering of this bylaw by the Town Clerk be**
262 **permitted in order that it be in compliance with the numbering format of the Zoning Bylaws of the**
263 **Town of North Andover.**

264 Or to take any other action relative thereto.

265 ` **Planning Board**

266 **RECOMMENDATION: Favorable Unfavorable**

267 PB voted at last meeting.

268 ` **Planning Board**

269 **Article 41. Amend Section 16.2 of the Zoning Bylaw- Allow Drive-thru Restaurants in CDD1**
270 **District.** To see if the Town will vote to amend Section 16.2 of the Town of North Andover Zoning
271 Bylaws, in the Corridor Development District 1 (CDD1) by inserting the following language:

272 " Drive-thru restaurants shall be permitted within the CDD1 zone provided that they are located more
273 than 250 feet from the R6 zoned district."

274 **And further that the non-substantive changes to the numbering of this bylaw by the Town Clerk be**
275 **permitted in order that it be in compliance with the numbering format of the Zoning Bylaws of the**
276 **Town of North Andover.**

277 Or to take any other action relative thereto.

278 **Board of Selectmen**

279 **RECOMMENDATION:** Favorable Unfavorable

280 ` **Planning Board**

281 **J. Simons:** We need to discuss both the procedural issues with regard to this article and the substantive
282 issues. Procedurally, I have spoken with the Town Moderator about the additional language that is being
283 proposed and he has said that he will allow the proposed change to be made at tonight's Town Meeting. I
284 still have a problem with the manner in which this proposal has come forward, that it may not have been
285 properly noticed but the Town Moderator can make the decision as to whether the article can be changed
286 at Town Meeting.

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287 D. Kellogg: Have the abutters to the parcels in question been notified of this zoning change?
288 J. Tymon: The notice was not sent to abutters, since no request was received in writing for a copy of the
289 notice. The legal ad was placed in the local newspaper and it stated that the zoning change would apply
290 only to the CDD1 district.

291 J. Simons: We need to discuss the substantive issues. This added language allows drive-through
292 restaurants on certain parcels within CDD2 district that are over 5 acres and are over 400 feet from a
293 residence.

294 L. Rudnicki: But the new language is different than the original language, in that the new language refers
295 to distances from dwelling units, as opposed to distance from zoned areas.

296 J. Pelich: The 400 feet provides adequate protection from residents in the area. Also, the 400 feet is the
297 same language that was passed to allow bank drive-throughs in the warrant article that was passed at the
298 Fall Town Meeting in 2010.

299 J. Simons: Would you be willing to provide a covenant that would state certain architectural and design
300 standards?

301 J. Pelich: Yes, we can include the following in a covenant: architectural styles, signage, lighting, fencing,
302 stone walls. Also, with regard to traffic, there are currently two existing curb cuts on Route 114. We will
303 provide a complete traffic study

304 L. Rudnicki: I believe that there are additional language changes that need to be made to section 16
305 Corridor Development District.

306 J. Simons: Are we ready to vote? Town Meeting is looking for a recommendation. We can vote on a
307 recommendation now or we can vote during Town Meeting.

308 T. Seibert: We have three options: Vote a favorable recommendation, vote an unfavorable
309 recommendation or take no action.

310

311 **MOTION**

312 A motion was made by T. Seibert to recommend favorable action on Article 38, as amended. The motion
313 was seconded by D. Kellogg. The vote was 4 to 1 in favor. L. Rudnicki voted against the motion.

314

315 **ADJOURNMENT**

316 **MOTION**:

317 A motion was made by T. Seibert to adjourn the meeting. The motion was seconded by D. Kellogg. The
318 vote was unanimous.

319

320 The meeting adjourned at 7 pm.

321

322 **MEETING MATERIALS**: Agenda; 26 Main Street: 10/17/11 STM PowerPoint Presentation; Amended
323 Article 38; Assessor's Map CDD2 District; Comparison of original Article38 language to amended
324 Article38 language; Email from John Smolak to John Simons; GIS map of 0 Turnpike St.; Town of North
325 Andover Zoning Bylaw Section 16; 1018 Osgood St. Covenant; Proposed Site Plan for 0 Turnpike St.; 2nd
326 Proposed Site Plan for 0 Turnpike St.; 643/651 Turnpike St. Covenant.