



**PLANNING BOARD
NORTON, MASSACHUSETTS**

**Norton Planning Board Minutes of Meeting
For
July 12, 2011**

Call to Order

The July 12, 2011 meeting of the Norton Planning Board, held in the first floor Selectmen's Conference Room in the Municipal Center, was called to order at 7:15 P.M., by Mrs. Haracz, Chairman. Members Present: Mrs. Joanne Haracz, Chairman; Mr. David Miller, Vice-Chair; Mrs. Marilyn Benaski; Mr. George Burgess; Mr. Alec Rich; and Mr. Patrick Daly. Mr. Joseph Fernandes arrived at 8:17 p.m. Mr. Charles Gabriel, Town Planner, was also present.

Report of the Planning Board

Mrs. Benaski stated more work has started at Red Mill Village (next phase).

Approval of Minutes

**MOTION was made by Mr. Miller to approve the Planning Board Minutes dated June 7, 2011, as written. Second by Mr. Daly. Vote: All In Favor; except for Mr. Burgess voting "present".
MOTION CARRIES.**

Report of the Town Planner

Mr. Gabriel referenced John Scott Blvd./proposed private way and resident visited him yesterday to indicate what they are planning to do. Planning Board needs to accept and they can proceed. Certificate of Liability Insurance (commercial liability expires 7/24/11) so resident will check into it.

Mr. Burgess asked about language on "no guaranties/warranties"?

Mr. Gabriel responded he was unsure what was meant by that.

Mrs. Benaski said the residents that live on that private way are responsible for anything over and above

Mrs. Haracz believed a Homeowner's Association is involved.

Mr. Gabriel said Mr. Silver heard of contractor and he seemed ok with contractor. Developer is paying for it with surety. Mr. Gabriel stated he could send it to town counsel if desired.

Mrs. Haracz recommended make it subject to an updated Insurance Certificate.

MOTION was made by Mr. Miller to accept proposal by A-1 Paving subject to receiving an updated Certificate of Insurance (Certificate is expiring). Second by Mrs. Benaski. Vote: Unanimous. MOTION CARRIES.
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Mr. Gabriel said the Board of Selectmen wanted someone from Planning Board to discuss issue of wall at Autumn Park.

Mr. Gabriel said Mr. Ryan, resident of Autumn Park, has a family conflict, so cannot attend, but Mr. DiMascio, developer, is planning to attend that meeting. Items in question are: 1) fancy wall and 2) rebuilt wall. Mr. DiMascio moved some rocks but Mr. Ryan said it does not look good. Board members can take a look at it. Any member who is planning to attend Board of Selectmen meeting should bring a copy of plan. Mr. DiMascio opines it is not a part of subdivision regs. Board of Selectmen has some jurisdiction since they have to release money to Planning Board. Planning Board has found Mr. DiMascio in default. Discussion ensued.

It was noted Board will ask Mr. Fernandes, when he arrives, if he could attend Board of Selectmen meeting on behalf of Planning Board.

Mrs. Benaski said member attending from Planning Board should really be a Planning Board member when plan was approved.

Mr. Gabriel said he could not find anything specific about wall in Minutes of Meeting and forwarded about four to five copies to Mr. DiMascio.

It was decided to Table this item until Mr. Fernandes arrived.

Planning Board Business and Policies

Future Planning Board meetings to be held July 26; August 2; August 16; September 6; and September 20, 2011.

Bills and Warrants

MOTION was made by Mrs. Benaski to approve Planning Board Bills and Warrants in the amount of \$3,247.39, dated July 12, 2011. Second by Mr. Burgess. Vote: Unanimous. MOTION CARRIES.

Approval Not Required Plans Pending:

| | |
|------------------------------|--|
| <u>Applicant Name</u> | <u>Date Filed with Town Clerk</u> |
|------------------------------|--|

No ANR's were reviewed.

Appoint SRPEDD Representative

It was noted Cheryll-Ann Senior, former Planning Board member, was the Planning Board's previous representative. It was discussed that it does not necessarily need to be a Planning Board member so if someone is interested they can come forward. It was discussed to ask Mrs. Senior if she would like to continue to be Planning Board's rep.

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It was noted Mr. Gabriel will contact her and report back to Board at next meeting.

Sign roadway acceptance plan for River Oaks

Outback Engineering was engineering company.

David Azanow to discuss removal of over-55 age requirement for Harvest Farm Estates a 26 unit development located off South Worcester Street

Planning Board members unanimously decided to take agenda out of order while they waited on Mr. Fernandes.

This area is off of South Worcester Street and plan was approved of 26 units and most were duplexes. A map was drawn by Mr. Gabriel and area shown and where duplexes were to be located and land was zoned village commercial. After Mr. Azanow's project was approved it was commercially zoned and duplexes were not allowed, but allowed only for 55 and over and only condos. Mr. Azanow wants it amended to remove over 55 designation (it was approved according to zoning). Development more or less remains same. Mr. Azanow may lose some units. It is a split zone and is an R-60 so it was determined he may lose one unit. Duplexes are allowed in R-60 with a special permit. Approval was for over 55 development and under rubric Town allowed duplexes/triplexes but no special permit granted for duplexes. Today Mr. Azanow would need a special permit for duplexes; however he does not have a special permit for duplexes technically at this time. It is a major amendment and town counsel has always stated it needs to be advertised. Moving a 55 and over restriction is a big change in Mr. Gabriel's opinion. At a minimum, an advertisement for change is needed.

Mr. Azanow said by right in village commercial a person can build duplexes. He said he was still under the thumb of Southcoast Rail so not until 2012 is timeframe.

Mr. Gabriel corrected Mr. Azanow and said it is not by right; but by special permit.

Mr. Azanow stated he was awaiting a Final Environmental Impact Statement and Final Environmental Impact Report which needs to be filed.

Mrs. Haracz said Southcoast Rail was involved two different times and doubted they will now change their mind about coming through Norton (they will most likely not come through Norton).

Mr. Azanow said there would be 24 or 25 units.

Mrs. Haracz clarified, in essence, Mr. Azanow was reapplying for special permit for site.

Mr. Gabriel responded, yes, it is considered a different project.

Mr. Azanow believed there were two special permits issued.

Mr. Gabriel said on December 27, 2007 it was approved. January 2008 it was signed by former Town Clerk, Diane Casagni.

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Mrs. Haracz said she personally did not have an issue with eliminating over 55 but believed Mr. Azanow should reapply.

Mr. Rich asked if special permit was issued by zoning district or by use?

Mr. Gabriel responded one special permit would allow duplexes in both districts.

Mr. Azanow asked if anyone on Board was strongly against eliminating 55 and over restriction?

Mrs. Haracz said Mr. Azanow is essentially applying for a special permit.

Mr. Azanow stated he was not vacating anything at this point, etc.

Mr. Rich said he liked the over 55; however, if neighbors do not object he would be in favor of this change.

Review draft decision for SP#433: John and Lauri Waitkus re: handling of toxic and/or hazardous materials in a Water Resource Protection District; and for Site Plan Approval
Mrs. Haracz said at last meeting no vote on special permit was taken. A straw vote was taken only.

Fire Chief Richard J. Gomes was present this evening as well.

Fire Chief Gomes said he had a couple of items and he did understand that the Public Hearing was closed. In public session Fire Dept. sent three letters to Planning Board regarding this agenda item with several conditions in each one (however the plan is getting cloudy and changing over time). Plan was very vague. He believed it had been said in public session it was not a pleasant experience by applicant and/or his representative regarding their visit with Fire Dept.

Chief Gomes said in April 2011, the third letter was sent to Planning Board. Mr. Waitkus visited Fire dept. on Nov 4, 2010 and bullet list was given to Mr. Waitkus by Fire Dept. regarding fuel storage info. If Mr. Waitkus and/or rep did not have a pleasant experience at Fire Dept. that is not true. Generic questions were asked by Mr. Waitkus and were given generic answers by Fire Dept. They were very vague/generic questions about fuel storage. No permits were issued because no permits were applied for. He was not sure if fuel is there on site or not. It was a basic inquiry about fuel by applicant.

Mrs. Haracz said there was fuel storage with a double walled tank.

Fire Chief Gomes said there was no detail about code; just "generic".

Mrs. Haracz said a condition to be included that an application needs to be submitted within a certain period of time (submit application or a consequence).

Mr. Gabriel said applicant did not need to file for application because no permits were needed applicant stated.

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Mr. Gabriel said Fire Dept. visited location/site a while ago. They have a 499 gallon fuel tank; is a permit needed?

Chief Gomes said he was not aware of a "499 gallon" fuel tank; possibly storage of 499 gallons in a 500 gallon fuel tank? This is not intention of regulations. He wished Planning Board well with regulation efforts because applicant built a building without a building permit and no repercussions occurred.

Mr. Burgess said a cease and desist was ordered also but there was no followup.

Chief Gomes apologized for not being at past Planning Board meetings as he had a class on Tuesday evenings. He referenced sprinklers. Norton adopted Home Rule Sprinkler Law, a year ago January that all municipalities have to be sprinklered 7500 or additions equaling that number. Chapter 148 Section 28 states Fire Chief can implement regulations; if it is a hazardous process and Fire Chief thinks building should be sprinklered, than building needs to be sprinklered.

Mr. Gabriel said building is 7000 square feet.

Chief Gomes said he was unsure of what is stored there because no one pulled permits. Building was built without permit. Discussion: a temporary building with a roof.

Regs says it can be a structure whether a flagpole, etc.

Mrs. Haracz said they went through plans have been approved but does not change fact something is there at this time. It is on record no visits made to Fire Dept.

At 8:17 p.m. Mr. Fernandes arrived.

Mr. Fernandes said Fire Dept/Fire Chief can require sprinklers if hazardous etc. Yes, there is some flammable materials.

Chief Gomes stated the ability to conduct inspections is important.

Discussion on hazardous items inside with secondary containment. Oak or wood floors are generally safer Chief Gomes stated.

Mrs. Haracz reiterated no permits have been applied for and needs to be independent of building permit. Should require them to apply with Fire Dept. for permits until certain amount of time. Should not just hold building permit as a "carrot".

Mr. Gabriel said applicant/rep say they do not need a permit.

Building permit becomes trigger-discussion.

Mr. Burgess said it appears this business is running illegally.

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Mr. Fernandes said site was straightened out when he visited site.

Mr. Rich said applicant needs to apply for Hazmat permits through Fire Dept.

Mr. Gabriel said a special permit needed for handling of hazardous/toxic materials. Applicant should meet with Fire Dept and specify what items he has (hazardous, etc.). Mr. Gabriel has list from November 2010, but has since learned some materials were moved.

Mr. Rich stated Fire Dept. could shut business down.

Handling of fuels and hazardous and toxic material Fire Chief wanted to edit. Discussion ensued.

Mrs. Haracz stated Mr. Knapp, Water Superintendent, provided Board with sketch regarding wells, etc.

Mr. Gabriel said Mr. Knapp and Norfolk RAM can make decision regarding wells. Applicant will have to pay for testing of wells; and how long will tests continue is question. It can be amended if needed.

Mr. Fernandes recommended to test wells every six months as long as this permit is necessary with storage of fuel, hazardous and toxic materials. "Continue every six months as long as this special permit is active" would be language to add.

- (4) Mrs. Haracz said she had a note stating to limit storage of gasoline to ten gallons. Gasoline is "no more than ten gallons of gasoline; not including diesel" under #4.

Mrs. Benaski departed meeting at 9:30 p.m.

Mrs. Haracz said Mr. Pilling, applicant's engineer, agreed to this at last meeting.

Mr. Fernandes said he thought everything applicant was going to store inside or outside building would have containment.

Mr. Fernandes discussed 55 gallon drums and storage of all hazardous materials. As described in 21E "in a containment vessel that can handle 110% of total volume contained within". 1,100 gallons for secondary containment.

Mr. Gabriel stated he was using State's language; Mass General Laws-Code of Mass Regulations and page 80 of zoning book.

Mr Fernandes believed that "10" should be "110".

Mr. Gabriel said they can say: "Hazardous materials shall be liquid and petroleum products prohibited....".

It was noted a "b" was missing possibly.

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Mr. Gabriel said he will change to 110% from 10%.

Mr. Fernandes referenced "impervious surface" and appeared comma(s); period(s) missing. Either in containers or in above-ground tanks. It is not clear to read.

Mrs. Haracz said it should be above-ground. "On impervious surface" section, need to delete first "either"; then it should follow, in containers or above-ground tanks in building.

Mrs. Haracz agreed with Mr. Fernandes there appeared to be some commas missing. a) above-ground; b) on an impervious surface; c) either in a container , , "

Mr. Gabriel read zoning bylaw book.

It was discussed: with the exception of a 499 gallon tank.

Mr. Rich said manufacturer has stamped "499 gallon tank" therefore no permit needed.

Hazardous materials as defined in 21E; 110% storage capacity except for diesel inside building within containment area. Changes made as discussed.

Mr. Daly referenced impervious area on a 90 degree day with bulldozers will not stay impervious very long.

Could add: "except for steel-tracked vehicles.

Possibly change to say, per Mrs. Haracz, "all such vehicles that contain.... coolant "such as..."

Mr. Fernandes said fuel, lubricating or hydraulic fluid or liquid coolants". Larger concern is something not on list.

#6-Inspections. Leave the way it is.

Construction covered by plan should be referenced was discussed. Need to delete word "all".

Mr. Gabriel said money needed upfront; initial deposit.

Hours of operations were discussed. Mrs. Haracz stated there is no one in nearby area to be affected by this site/noise-level.

It was noted there will be no construction on Sunday; and from Monday through Saturday hours to be 7 a.m. to sunset which is standard language used in other conditions.

Mr. Daly spoke of it being a Town requirement that all equipment/vehicles be registered with Town of Norton.

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Mr. Rich asked if this company was registered in Massachusetts?

Mr. Rich said trucks pay a heavy excise tax.

Mr. Miller said it is usually where vehicles are "principally garaged". Should use same basic language as Waste Management used. Discussion ensued.

Mr. Rich said when he visited site all was well-marked and organized and he believed applicant will do well and he is going to give him the benefit of doubt.

Mr. Gabriel said it was a mess at first though and sitting on Town's water supply. It is Planning Board's responsibility as a Board to protect the drinking water.

Mrs. Haracz stated they cannot vote this evening; no quorum (Mrs. Benaski left meeting).

It was noted July 26, 2011 is Planning Board's next meeting.

Mr. Gabriel spoke of preparing a revised document . Mr. Fernandes said he would like to see language on storage and "110%" changes.
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Planning Board asked Mr. Fernandes if he could attend the Board of Selectmen's meeting Thursday evening, July 14, 2011, as Planning Board's rep regarding Autumn Park.

Mr. Fernandes said he was unable to attend on Thursday.

It was noted Mr. Burgess will attend and possibly Mr. Rich and potentially Mrs. Haracz.

Mrs. Haracz asked Mr. Gabriel to find out exact time of meeting/agenda item and e-mail Mr. Burgess, Mr. Rich and herself.

Discussed was Autumn Park wall, etc. – it is on approved plans. Mr. Rich said it is on plan and Town expects it.

Adjournment:

MOTION was made by Mr. Rich to Adjourn at 9:40 p.m. Second by Mr. Fernandes. Vote: Unanimous. MOTION CARRIES.

Minutes Approved by Committee on: 7-26-11
(Date)

Signature:

Joanne Haracy

Chairman: Joanne Haracy

Respectfully Submitted,

Janet A. Sweeney
Planning Board – Recording Secretary

Documents/Items Distributed/Viewed at Planning Board Meeting of July 12 2011

. Norton Planning Board Payables – July 12, 2011

. A-! Paving Co., Inc. Proposal, dated 7/1/11 (received 7/11/11-Planning Board Office)

. Outback Engineering – Roadway Acceptance Plan for River Oaks presented for signature at July 12, 2011 Planning Board Meeting

. Hand-drawn Map of Mr. Azanow's proposed development

. Draft for Planning Board Review-Special Permit #433-Applicant(s): John and Lauri Waitkus-Lot 4A and 5A off Lopes Drive, Norton, MA - "Findings and Decision"