

**Norton Planning Board Minutes of Meeting  
For  
August 21, 2012**

**Call to Order**

The August 21, 2012 meeting of the Norton Planning Board, held in the first floor Selectmen's Conference Room, was called to order at 7:15 P.M., by Mrs. Haracz, Chairman. Members Present: Mrs. Joanne Haracz, Chairman; Mr. Patrick Daly; Mr. Joseph Fernandes; Mr. Scott Nichols; and Mr. Alec Rich. Absent: Mr. David Miller, Vice-Chair and Mr. George Burgess. Also present was Mr. Charles Gabriel, Town Planner.

**Report of the Planning Board**

It was consensus of Board to move all regular agenda items to end of meeting.

**Approval of Minutes**

**MOTION was made by Mr. Rich to approve the Planning Board Minutes of Meeting, dated July 10, 2012, as amended. Second by Mr. Daly. Vote: Unanimous. MOTION CARRIES.**

**MOTION was made by Mr. Fernandes to approve the Planning Board Minutes of Meeting, dated July 24, 2012, as amended. Second by Mr. Rich. Vote: all Members voted in favor, except for Mr. Nichols voting "present". MOTION CARRIES.**

**Report of Town Planner**

Mr. Gabriel clarified letter (two plans: a previously approved plan and a new plan regarding Waitkus proposal. Some asphalt was on previously approved plan.

Mr. Fernandes discussed "treatment". Mr. Nichols said what is shown was not specific to parking areas.

Mr. Gabriel said he is sending Planning Board two plans and he left it open-ended toward end. Discussion ensued.

Mrs. Haracz said gravel is proposed by modified plan.

Mr. Gabriel stated it enters into Cul-tech infiltration. He spoke of concerns he would have if he were consultant. He believed Plan A was better than Plan B. He asked Board to review modified plan. "Question" to consultant was discussed.

Mr. Fernandes said he did not see anything different in terms of treatment on newly proposed plan, etc.

**Planning Board Business and Policies**

**Bills and Warrants**

**MOTION was made by Mr. Fernandes to approve Planning Board Bills and Warrants in the amount of \$ 2,184.48, dated August 21, 2012. Second by Mr. Daly. Vote: Unanimous. MOTION CARRIES.**

**Approval Not Required Plans Pending:**

Applicant Name      Date Filed with Town Clerk

No ANR's were reviewed.

**7:30 P.M. Continued from August 7, 2012: Site Plan Approval: Dr. Ryan Welter, proposed modification of 184 West Main Street with 315 foot addition**

Mr. Ed Ryberg of Land Tech General Contractors was present on behalf of applicant, and explained plan to Planning Board (revision date of 8/16/12). Discussed was parking and two additional islands, as well as six light fixtures, which will be bronze (not silver), which are nicer fixtures. It will meet IES full-cutoff criteria.

Mrs. Haracz spoke of Bradford Pear trees denoted in islands, however, they tend to split/branch too wide, too low); she recommended they decide on a better shade tree. When asked for a suggestion by Mr. Ryberg, Mrs. Haracz suggested a Red Maple, which is a native tree.

Mr. Ryberg stated they already went before Concom (Conservation Commission) and he referenced the 25' buffer/new plantings which may now be an issue.

Mrs. Haracz said it is currently grass; not a native vegetation in that location.

Mr. Ryberg responded it was a good idea and he will check on this. Also, a light spec (specification) was distributed to Board.

**MOTION was made by Mr. Fernandes to approve site plan: Dr. Ryan Welter, proposed modification of 184 West Main Street with 315 foot addition, with future alteration of trees and island plantings as discussed above.**

**Mrs. Haracz said changes are simple. Discussion ensued.**

**Mr. Fernandes withdrew his above-referenced Motion.**

**MOTION was made by Mr. Fernandes to approve Site Plan: Dr. Ryan Welter, proposed modification of 184 West Main Street with 315 foot addition, as presented with changes to landscaping to raised islands and site plan also be conditioned upon condition of landscape plan as previously required. Second by Mr. Daly. Vote: Unanimous. MOTION CARRIES.**

**8:00 P.M. Continued from August 7, 2012: Special Permit/Site Plan Review, John Waitkus submission of plan for modification of previously approved Special Permit #433-Handling of Toxic or Hazardous Material within the Water Resource Protection District and for Site Plan Approval**

Attorney Almeida was present on behalf of applicant and letter distributed to Planning Board (dated August 21, 2012) to the attention of Mr. Charles Gabriel, Town Planner, re: application for modification of special permit for JLW, LLC/Waitkus, Lopes drive, Norton, MA (the "Site") from Connor & Hilliard P.C. (Attorney Alan B. Almeida).

Mrs. Haracz referenced site plan approval requirement - greater than those handling toxic/hazardous materials. Mrs. Haracz stated this letter from Attorney Almeida requested a vote on issue.

Attorney Almeida stated he submitted a letter to Mr. Gabriel, Town Planner, and he stated, with all due respect, jurisdiction is under zoning bylaw; zoning bylaw specific for handling of toxic/hazardous materials. He said fuel of a fuel tank on site is not "handling". He referenced Webster's Dictionary definition of "handling". He stated Planning Board does have authority to grant Special Permit and Attorney Almeida explained his position. He said there is 110% containment, and they have fire dept. permits and Planning Board has issued a special permit. Attorney Almeida said jurisdiction is referenced under Section 15.32 which governs non-residential uses or ten parking spaces. Temporary building constructed and has a building permit (under 2500 square feet threshold). Site does not have ten parking spaces per zoning bylaw; does not pertain to ten vehicles. Attorney referenced Section 7.6, if parking requirement requires more than ten spaces, and no it does not. Attorney Almeida stated Mr. Pilling of Pilling Engineering states one parking space needed.

Mrs. Haracz stated intent of WRPD is to protect the groundwater supply of the Town. This is a small hazardous waste generator by definition and basically Planning Board has concerns.

Attorney Almeida stated it is a "very" small generator, and Planning Board does not have blanket jurisdiction. Specific provisions do not apply. If site plan approval granted, applicant can go forward or stop here, and it is a determination that needs to be made.

Mr. Fernandes said one remaining issue is question of: is gravel as effective as asphalt if a spill occurred. Important for another party to look at this and then Planning Board can go ahead and make a decision. Mr. Fernandes referenced the two areas Attorney Almeida defends their decision--a 499 gallon tank which is prima facie evidence of handling (constitutes handling). Intent is clear; lack of striping for parking spaces. An example of Waste Management who is constructing their building in Norton has 132 trucks and Planning Board approved and went beyond ten parking spaces. Therefore, someone could make an argument that no special permit needed. Mr. Fernandes stated he agreed with Chairman of Planning Board's position as it is in a WRPD.

Mrs. Haracz stated the Planning Board has their position and Attorney Almeida/applicant appear to have their own position and positions do not appear to meet in middle.

Attorney Almeida said Mr. Pilling revised plans regarding stormwater, and not certain if Planning Board received those plans yet.

Mr. Gabriel responded, no, revised plans not yet received.

Attorney Almeida said he would like to keep Hearing open for two weeks. It is applicant's decision if end result is moot and asked for it to be continued in two weeks and they will make decision and referenced the proposed question(s) to consultant, etc.

Mrs. Haracz referenced the issue of gravel vs. asphalt.

Timeframe was discussed.

Attorney Almeida said if they come back in two weeks they will contact Mr. Gabriel. Proposed question to consultant discussed.

Mrs. Haracz had concern of prolonging/dragging this out. Discussion ensued.

Mrs. Haracz said Planning Board should be able to ask their own questions to consultant.

Mrs. Haracz said she believed it was a very narrow interpretation Attorney Almeida has taken.

Jurisdiction was again discussed.

Mrs. Haracz stated it appeared the Planning Board and Applicant/Attorney Almeida agree to disagree. She said it was important to learn the day to day activity of use of that site by applicant is question. It is not only a catastrophic spill (could be a smaller spill as well) as to what Attorney Almeida stated earlier.

Mr. Fernandes said it is important to know the "efficacy of gravel to asphalt". Does it protect aquifer equally or better? He stated he was bewildered as to why Attorney Almeida could not render an opinion at this time.

Mr. Nichols said if something leaks and it rains, how will it collect; materials used, etc.

Mr. Gabriel said how is it being treated once it gets to a certain point is question?

Attorney Almeida responded with the use of gravel; cleaned up or biodegraded.

Mr. Gabriel said he was certain a consultant would want to know how it will be treated once it gets to a certain point. Discussion ensued.

Language of proposed question discussed. It was discussed, the term "better" to be changed to "as well as".

It was discussed Board could close the Public Hearing, or keep open and move forward.

**MOTION was made by Mr. Fernandes to change letter as described above in following places: the word “better” changed in two locations--as well as “impervious surface...to protect aquifer equally.” Second by Mr. Rich. Vote: Unanimous. MOTION CARRIES.**

Mr. Gabriel asked Attorney Almeida if this clarified/resolved letter?

Attorney Almeida responded, yes, it resolved letter.

Mr. Gabriel said he will send it out to all three consultants and get prices/estimates.

Attorney Almeida agreed to this.

Mr. Daly indicated to Planning Board on Sept. 4<sup>th</sup> (in two weeks) he may be absent.

**MOTION was made by Mr. Daly to continue Public Hearing to Sept. 18, 2012 at 7:30 pm. Second by Mr. Rich. Vote: Unanimous. MOTION CARRIES.**

Mr. Gabriel asked Attorney Almeida if Mr. Pilling could send him copies of originally approved plan?

Mr. Nichols asked if letter from Attorney Almeida will be responded to by Planning Board?

Mrs. Haracz said she believed the Planning Board's response at this meeting covers it.

Mrs. Haracz advised Attorney Almeida to advise Planning Board as soon as possible.

**Site Plan Approval: Fiorentina Ferrara, modification of the approved site plan for 111 West Main Street (restaurant)**

Mr. Rico Ferrara was present on behalf of Sabatino's Trattoria Restaurant. Plans distributed. “Modified site plan, 111 West Main Street, Norton” drawn by Pilling Engineering, Brockton, MA, - Date: May 10, 2012 (revised Aug 9, 2012).

Mr. Ferrara indicated that a variance was granted and abutter was present and was in their favor.

Mr. Gabriel said it appeared to be a better plan than originally planned.

Mr. Ferrara said it would be better traffic flow and lot to be striped before occupancy. Four foot vinyl fence installed already. Side-loading door and only open for dinner at this point is plan. A thirty foot radius in back of building, even a fire truck could access. An additional parking space added from original layout.

**MOTION was made by Mr. Fernandes to approve Fiorentina Ferrara, modification of the approved Site Plan for 111 West Main Street, as shown on plan dated May 10, 2012 (revised August 9, 2012). Second by Mr. Nichols. Vote: Unanimous. MOTION CARRIES.**

**David Eastridge – regarding development of an affordable housing project (40b) adjacent to Red Mill Village**

Mr. Eastridge will not be present this evening, he will come to a future meeting (planned for Sept. 4, 2012).

**Release surety of Angelo Pasqualino**

\$10,000 being held for subdivision, and tax collector anxious to have Planning Board release surety for Mr. Pasqualino because it will go to bank, then released to Town for back-taxes. Once road is accepted Town is obligated to release money. Discussion ensued.

**MOTION was made by Mr. Rich to release all remaining surety for Johnson Drive. Second by Mr. Nichols. Vote: Unanimous. MOTION CARRIES.**

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Discussion ensued on possible policy of receiving bonds before building, etc.

**Adjournment**

**MOTION was made by Mr. Fernandes to Adjourn at 9:07 p.m. Second by Mr. Rich. Vote: Unanimous. MOTION CARRIES.**

**Minutes Approved by Committee on: \_\_\_\_\_**  
**(Date)**

**Signature:**

\_\_\_\_\_

**Chairman:** \_\_\_\_\_

Respectfully Submitted,

Janet A. Sweeney  
Planning Board – Recording Secretary

**Documents Reviewed/Distributed at Planning Board Meeting of August 21, 2012**

. Planning Board Draft Minutes of Meeting dated July 10, 2012 and July 24, 2012

. “Proposed Modification Plan – 184 West Main Street: Dr. Ryan Welter revision date of 8/16/12” -  
Land Tech General Contractors

. Letter dated August 21, 2012, from Connor & Hilliard P.C., to the attention of Charles Gabriel, Town Planner re: application for modification of special permit for JLW, LLC/Waitkus, Lopes Drive, Norton, MA

. “Modified Site Plan, 111 West Main Street, Norton, MA” - drawn by Pilling Engineering, Brockton, MA, date of May 10, 2012 (Revised August 9, 2012)