

Norton Planning Board Minutes of Meeting
For
May 6, 2014

Call to Order

The May 6, 2014, meeting of the Norton Planning Board, held in the first floor Selectmen's Conference Room, was called to order at 7:20 P.M., by Mrs. Haracz, Chairman. Members Present: Mrs. Joanne Haracz, Chairman; Mr. David Miller, Vice-Chair; Mr. Edward Beatty; and Mr. George Burgess. Mr. Joseph Fernandes arrived at 7:23 P.M. and Mr. Patrick Daly arrived at 7:40 P.M. Absent: Mr. Scott Nichols. Also present was Mr. Charles Gabriel, Town Planner.

Re-organization

Mrs. Haracz asked for nominations for Chairman of the Planning Board.

MOTION was made by Mr. Miller to nominate Mrs. Haracz as Chairman of the Planning Board. Second by Mr. Burgess.

Discussion: There were no other nominations for Chairman.

Vote: Unanimous. MOTION CARRIES.

Mrs. Haracz asked for nominations for Vice-Chair of Planning Board.

MOTION was made by Mr. Burgess to nominate David Miller as Vice-Chair of Planning Board. Second by Mr. Miller.

Discussion: There were no other nominations for Vice-Chair of Planning Board.

Vote: Unanimous. MOTION CARRIES.

Mr. Fernandes arrived at 7:23 P.M.

Mrs. Haracz asked for nominations for Clerk of Planning Board.

MOTION was made by Mr. Miller to nominate Mr. Daly as Clerk of Planning Board. Second by Mr. Beatty. Vote: Unanimous.

Discussion: There were no other nominations for Clerk of Planning Board.

MOTION CARRIES.

Approval of Minutes

March 18, 2014

MOTION was made by Mr. Burgess to approve the Planning Board Minutes, dated March 18, 2014, as amended. Second by Mr. Beatty. Vote: Unanimous. MOTION CARRIES.

Report of the Town Planner

Mr. Gabriel reported the Finance Committee had no issues regarding the solar bylaw.

Report of the Planning Board

Mrs. Haracz stated she will not be able to attend the May 12, 2014 Town Meeting.

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The "solar" article on Town Meeting_warrant on May 12 was referenced and it was noted Mrs. Haracz will not be able to attend Town Meeting and she hoped Mr. Gabriel would be able to attend.

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Mr. Miller said he may not be able to attend the May 20, 2014 Planning Board meeting.

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Bills and Warrants

No Bills and Warrants were reviewed/voted on.

Approval Not Required Plans Pending:

<u>Applicant Name</u>	<u>Date Filed with Town Clerk</u>
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No ANR's were reviewed/approved.

7:30 P.M. Public Hearing: Mary Jo Estate, a 4 lot subdivision located off East Hodges Street, continued from April 15, 2014

Mr. Chris Yarworth of Yarworth Engineering was present and stated he had dropped off a color photo and a survey plan previously to Planning Board office. He explained this is one lot with frontage indicated and there is a piece of land for sale and could possibly become two lots. If able, they could possibly do more than two lots.

Mr. Gabriel said when ANR was approved, no houses were intended to be put on lot.

Mrs. Haracz referenced lot 4, it states 109' dry contiguous land.

Mr. Daly arrived at 7:40 p.m.

Mr. Yarworth stated all wetland permits have been issued.

Mr. Gabriel said originally it was a wetland and it appears Mr. Yarworth may be saying because someone put a road right through it, it is no longer a wetland.

Mr. Yarworth referenced the 80,000 square feet-shape factor of 40,000 and excess wetlands.

Mr. Gabriel said he was not certain if this was a correct interpretation; a wetland that went through it and someone then put a driveway through it. Discussion ensued.

Mr. Yarworth commented it should be legal and, if not, building inspector can have a discussion with him.

Mr. Gabriel said he did not feel it was asking too much to get an opinion from building inspector before Board signs it.

Accessibility was discussed.

The power line overhead was referenced. Mrs. Haracz said she did not think she would waive that requirement and would want it to be underground utilities. She said a number of waivers are already being requested.

Mr. Gabriel referenced bylaw, and for informational purposes, Planning Board should be aware of this.

Mrs. Haracz asked if there were any comments/questions from the audience? No one from audience responded.

Mr. Gabriel said it could be argued if this is a "way" or not. Also, does it provides access to another house or solar facility; it appears to be "skirting" intent of law.

Mr. Fernandes spoke of the 109,963 square feet of dry square contiguous land and concern about meeting of 80,000 square feet of a buildable lot. If the driveway frontage was eliminated, then applicant does not meet it.

Definition of "way" was discussed.

Mr. Fernandes said there appears to be two separate issues: 1.) Contiguous issue; and 2). Calculations (80,000 square feet).

Mr. Gabriel said if he meets it, excluding driveway, does it meet the 80,000 square feet?

Mr. Fernandes said to assume this is wet and applicant built a bridge over it, then it would not be contiguous, however, it is not a bridge, it is a driveway.

Mr. Yarworth spoke of the square footage of driveway at 7,200.

Discussion on interpretations which could be interpreted differently.

Mr. Gabriel said this was supposed to be a cranberry bog. It has a "dicey" beginning, then roadway added, and Mr. Gabriel asked if a legal wetland permit was granted to fill. He said Conservation Agent, Ms. Carlino, said something was happening with stabilization. Mr. Gabriel questioned if this was a legitimate process. He said they may need to revise the bylaw.

Discussion ensued on driveway.

Mr. Yarworth explained history of this site (ANR, etc., however, no lots created). House was built and was "messed up" by another party and tried to fix it.

Mr. Yarworth said they can go to Board of Appeals if necessary.

Mr. Gabriel said he visited site today and there is a small pond there.

Mr. Yarworth noted it was a gravel removal pond.

Mr. Gabriel said originally there were no houses; now it is changing.

Mr. Yarworth said they still need to go through process (special permit, etc.) and Planning Board would have the leverage. Discussion ensued.

Mrs. Haracz asked if there were any other utilities other than the overhead wires?

Mr. Walter Landry, applicant, said that roadway was built in 1980's or prior to that. A cart path was there before. Mike Chisolm is owner.

Mr. Burgess said he believed it was built before 2001.

Mr. Gabriel said he would be satisfied with a letter from Conservation Commission stating wetlands were properly filled, etc.

Mr. Landry said they already appeared before Conservation Commission and the subject never arose that it may be illegal or had stabilization issues. Numerous violations were rectified.

Mrs. Haracz asked if there was a permit issued to build this road?

Mr. Yarworth said in past he walked onsite with State and Ms. Carlino, and did not recall issue of driveway.

Mr. Bottomley said he wanted to clarify a couple of issues:

1. A cranberry bog was built by Mr. Vidala and he has since passed away. There were three outstanding things Mr. Vidala needed to correct.
2. Also, he had gone back through Google Earth for over 20 years and saw a roadway at this location. Also aware an Order of Conditions by Conservation Commission to access that house (a road). An occupancy permit issued for that house. Mr. Chisolm bought property in December 2012, and since then has been living there with occupancy permit by Town of Norton as well.

Mrs. Haracz said issue appears to be with a) number of lots; and b) issue of request of waivers.

Mr. Gabriel said if Conservation Commission signs off and states it was built before any regulation, then so be it. Zoning was discussed.

Mr. Fernandes said if driveway was filled properly, then it is contiguous.

Town of Norton Zoning Bylaws were reviewed.

Mr. Miller stated page 80 provides a definition of a "way".

Mr. Gabriel said even if it does meet 80,000 square feet, and separated by a "way"; question still remains. Is a driveway a "way"; appears not spelled out in bylaw. Room for some interpretation, but cannot have road separating things. Easement was discussed.

Mr. Yarworth spoke of subdivision control law and explained definition of a "way". He said the definition of "way" is clear.

Mrs. Haracz said it is a "tortured" lot.

Mr. Yarworth noted wells are to be on lots.

Mr. Gabriel agreed it does not meet strict definition of way, but he did not think it meets the intent of what bylaw is about. Discussion ensued.

Mr. Yarworth stated he can obtain a letter from Conservation Commission if Planning Board would like him to do so.

Mrs. Haracz said there were options provided to Planning Board and asked how they could proceed, and suggested a possible straw vote to be taken by Board.

Mr. Yarworth said he believed four members of Planning Board were eligible to vote this evening out of six members.

Waivers were reviewed by Mrs. Haracz - "Waivers for Content of Submission".

An abutter spoke and said he heard it was an environmental impact and referenced drainage report which noted a high level of arsenic in water when he first moved in.

Mr. Yarworth responded it is very small; no catch basins.

Mrs. Haracz spoke of paved width; minimal cross section that is paved.

Mrs. Haracz reviewed waivers.

Mrs. Haracz said referenced waiver regarding "road"; members were fine with this road waiver at last meeting.

Waivers for road and drainage system were discussed.

No utilities to be aboveground; so no waiver for that by Planning Board.

Most waivers generally seemed ok.

Mrs. Haracz referenced lot #4 issues and recommended input from Conservation Commission.

Mr. Yarworth said he will provide Planning Board with what he can regarding this.

Mr. Daly noted square footage on piece on lot 4 and does not include the "way".

**MOTION was made by Mr. Burgess to continue this to June 3, 2014 at 7:30 p.m. Second by Mr. Beatty.
Vote: Unanimous. MOTION CARRIES.**

Site Plan Approval: proposed parking associated with a driving school located at 8 Olympia Street, continued from April 15, 2014

Mr. Yarworth of Yarworth Engineering was representing client. He referenced grass in back and recycled asphalt is not very good, so will pave and put a berm in back with boxwoods. Mr. Yarworth stated he took photos and met with owner of property and his contractor. Mr. Yarworth said this will hold water back a bit; puddling in back, next to this house.

MOTION was made by Mr. Beatty to approve Site Plan as proposed. Second by Mr. Burgess. Vote: Unanimous. MOTION CARRIES.

Adjournment

MOTION was made by Mr. Beatty to Adjourn at 8:45 P.M. Second by Mr. Burgess. Vote: Unanimous. MOTION CARRIES.

Respectfully Submitted by:

Janet Sweeney
Planning Board - Recording Secretary

Minutes Approved by Committee on: _____

(Date)

Signature:

Chairman: _____

Documents Reviewed/Distributed at Planning Board Meeting of May 6, 2014

- . Draft Planning Board Minutes of Meeting, dated March 18, 2014

- . Town of Norton Zoning Bylaws

- . Plan of Mary Jo Estates, 4 lot subdivision, located off East Hodges Street, by Yarworth Engineering, Norton, MA

- . Site Plan – 8 Olympia Street (driving school), by Yarworth Engineering, Norton, MA