



## Town of Norton Planning Board Meeting Minutes December 1, 2015

### 7:15 P.M. Call to Order/General Business

The December 1, 2015, 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. Members Present: Joanne Haracz, Chairman; Mr. David Miller, Vice-Chair; Mr. Edward Beatty, Mr. George Burgess; Mr. Joseph Fernandes; Mr. Pat Daly; Mr. Joseph Fernandes; and Ms. Cheryll-Ann Senior. Also present: Beth A. Wierling, Director of Planning & Economic Development, and Janet Sweeney, Recording Secretary.

#### A. Endorsement: ANR – Map 32, Lot 47

*Mr. Fernandes recused himself due to a potential conflict of interest.*

Mr. Mark Fernandes was present on behalf of application for an ANR Plan on Worcester Street, Map 32, Lot 47. Ms. Wierling explained to Board members that the applicant is proposing to create Lot 1: 1:92 +/- acres (83,712 s.f.) and Parcel A (12.27 +/- acres) which is not to be considered a buildable lot from an existing 14.19 +/- ac property. Ms. Wierling noted that all lots shown on the plan meet the requirements for endorsement as an ANR plan and recommends the Planning Board endorse the ANR plan as submitted.

**MOTION was made by Mr. Burgess to approve ANR for Land Surveyed for Joseph E. Fernandes & Rosemary Kline in Norton, Massachusetts, dated November 13, 2015, drawn by E. Otis Dyer, R.P.L.S., Rehoboth, MA. Second by Mr. Beatty. Vote: Unanimous. MOTION CARRIES.**

Mr. Fernandes reentered the meeting at 7:20 P.M.

#### B. Discussion: 316 East Main Street, Norton Self Storage – Craig Larson

Mr. Craig Larson, Agent for owner of Norton Self Storage, was present and said he had respectfully requested an informational meeting with the Planning Board to discuss insubstantial and substantial changes made to the site after Planning Board approvals. Mr. Larson noted the site is at about the 80% stage of completion.

The original Special Permit for the site (#391) was referenced and it was noted that the biggest concern was condition number 3; construction inspections. Mr. Larson noted that as far as it was known, there have been no inspections conducted on site.

Mr. Fernandes believed in 2007 there was an initial inspection conducted by an engineer but was not certain the status or result of inspections.

Mrs. Haracz stated this site is within the Water Resource Protection District (WRPD) and is a concern, noting that building construction and site drainage is important because of the site's location in the WRPD.

Mr. Larson indicated the property abuts a residential neighborhood, and discussed site changes that will improve the appearance of the site, specifically noting the dumpsters located in the front of the property will be relocated as well as the port-a-potties. Mr. Larson noted it was the intent to have 3' of pea stone next to building instead of wood chips.

Mr. Larson discussed the request to have a residential unit on-site, noting that he understood the previous Planning Board decision indicated no residential component be permitted. Mr. Larson indicated there are a number of self-storage units run by the applicant and they do have a residential component to it; noting concerns for what may be stored on site and the need for security as the reason for a residential component. Mr. Larson indicated he knew the current Zoning Bylaw does not allow for residential units in the Industrial Zoning District, but pointed out to Board members that Zoning does provide for agricultural use with an onsite resident in an Industrial Zone, so they would go through that route if the Board would not support a residential unit in an Industrial Zoning District.

Mr. Larson said they are asking if they should apply for substantial or insubstantial changes?

Ms. Wierling responded they should be requesting substantial changes, requesting Mr. Larson to provide a list of changes to the site plan, and requesting an as-built plan be submitted so a comparison can be made between the approved plan and what the applicant has constructed. Ms. Wierling also indicated upon submittal of the requested information, peer review for construction inspections should be established. Ms. Wierling indicated that from what she could see, there have been no inspections completed at this site. Mrs. Haracz responded, inspection services are at the expense of the applicant and coordinated by the Planning Board.

Mr. Larson indicated they have had preliminary discussions with the Fire Department and the Building Department.

Mrs. Haracz requested the applicant begin with providing a letter with requested changes and revised plans. The applicant was asked to coordinate with the Planning Office.

**7:30 P.M. PUBLIC HEARING** – *Continued from 11/10/15*

*First Hearing Date: September 29, 2016*

**REMAND:**

*Adv.: July 13, 2015 & July 20, 2015*

*Wheaton College and Norton Solar I, LLC*

*Abut: July 11, 2015*

*v. Norton Planning Board*

*650 Kw Solar farms – located off Clapp Street*

*Special Permit & Site Plan*

**Special Permit:** Article XXI: Large-scale, Ground-mounted, solar, Photovoltaic Installations

*Document(s) presented to the Planning Board:*

1. *“Potential Conditions for Discussion Purposes Only” prepared by Attorney Quirk*

Present on behalf of the applicant was Conor Nagle, P.E. Project Manager, VHB and Planning Board Consulting Landscape Architect, Scott Ridder, ASLA, LEEP AP, Senior Landscape Architect, BETA Group, Inc.

Ms. Haracz noted the Board requested a peer review of the landscaping plan and proposed renderings of views by abutters to determine if what the applicant is proposing is sufficient and if any changes need to be made to the plan to decrease impact to the abutters of the solar array.

Mr. Connor Nagle of VHB said there were no changes to the plan at this point in time, but indicated the landscape architect provided information as well as data and plants on site, that included evergreens, shrubs, and trees with a two year guarantee for plants as required in the Norton Zoning Bylaw.

“Proposed Solar Farm, Norton, MA - Aerial Exhibit” was presented to the Board.

It was noted heavy screening would be along road, with a berm so it appears more natural looking. They will also do a culvert under berm for drainage.

Mr. Nagle commented they could realign access driveway if needed, so the view into the solar array is altered, indicating, the Plan as proposed and screening is sufficient. Members indicated this should be completed.

Ms. Haracz indicated she would like to have comments provided by Jennifer Carlino, Conservation Agent.

Attorney Quirk indicated the applicant reviewed questions/comments and referenced a letter from the engineer, VHB dated November 19, 2015, noting that, the applicant will agree to appropriate measures for screening and other items as long as it is favorable to the Planning Board; revised plans will be submitted upon approval by the Planning Board.

Attorney Quirk indicated, conditions of approval should provide a level of detail necessary for the applicant to provide a revised plan.

Mrs. Haracz recommended trees be further away from road/more staggered, so it does not feel like a wall when driving down the street. Noting this was a recommendation per the Planning Board’s consulting Landscape Architect, Scott Ridder. Planning Board members commented that trees right against the road could create an issue.

Mr. Daly indicated screening does not appear ideal from second floors of dwelling units, specifically referencing, #37 Clapp Street.

Resident of #9 Clapp Street, Dean Zwicker, noted the report does not say anything about #15 Clapp Street and asked if that was possibly a typo? Mr. Zwicker indicated that #15 Clapp Street is across from funeral home and that he is renting it for supplemental income. Mr. Zwicker indicated he did not support this project on his residential area.

Resident of #14 Clapp Street, Janice Heyden, indicated the first floor of her house is elevated, expressing concern that the solar array is a commercial facility that is being proposed in a residential neighborhood. Ms. Heyden indicated no one from the applicant’s team was ever in her house regarding this project and doesn’t understand how they can assume the array won’t be seen from her home.

Mr. Nagle responded to Ms. Heayden's concerns, indicating they took elevations of window sills.

Mr. Kevin Heayden, of #14 Clapp Street, said he did not recall anyone from this project coming on his property and a visual study of all seasons should be conducted, indicating he will see this project from his backyard and from his first and second floors. He did not agree with professional studies indicating this project will not be seen, especially in all seasons. The abutter indicated he thought the project was a power plant in a residential area. Mr. Heayden raised concerns about safety, referencing his concern with children being able to access the site under the security fencing and indicated he visited a solar farm at Stonehill College and wires were coming down from it; a safety issue.

Resident of #32 Clapp Street said it appeared road was closer to her house and the berm is large; the resident indicated she did not want a power plant in the back of her property.

Mr. Nagle indicated that there is little to no grade change being proposed.

Bruce Cummings, abutter, indicated if there was a reduction size of this solar project, most neighbors would be happy. Mr. Cummings was concerned that the neighborhood property values will decrease; currently a nice looking street. Mr. Cummings believed the project would result in a 10% decrease in the value of their houses. Mr. Cummings appreciated all of the time the Planning Board put toward this project.

Resident of 89 Clapp Street said people will see the solar array from her property as well. The abutter asked Board members if they would like they would want a project like this in their backyard.

Mr. Heayden of 14 Clapp Street said at the last meeting the attorney put a list of draft conditions together and inquired about that list as to whether abutters could retain a copy.

Attorney Quirk provided Mr. Heayden a copy of the draft conditions being discussed by the Planning Board.

Attorney Quirk reviewed list: "Potential Conditions for Discussion Purposes Only", indicating it incorporates comments from peer review and covers each property.

Attorney said construction hours should be indicated to Planning Board.

Mr. Brian Douglas of Wheaton College said they were eager to bring this to a resolution. The bullet points from Attorney Quick will be discussed again but indicated many items have already been addressed.

Mrs. Haracz said it would be helpful to have a response in writing and to include landscape details.

Mr. Douglas said they would hope to move this along as quickly as possible. It was noted they were supportive of recommendations from the peer landscape architect; recommendations appear to be fairly minor. They can respond in writing to visual comments, and would also respond in writing to Town Counsel's recommendations as well.

Mrs. Haracz said it was import that they come to as many agreements as possible and address concerns and vote on plan. They need to have conditions written up based on peer review.

Attorney Quirk suggested one more session between now and then with responses on potential conditions and Planning Board can take votes on a draft decision and push them toward a final decision. Court needs to be aware of status/update mid-month.

Mrs. Haracz said there were a number of questions in peer review regarding landscaping (trees right on road vs. further away). Her personal opinion would be to have landscaping more natural than wall-like.

It was noted the applicant will do a small, detailed landscape area of plan.

Mrs. Haracz referenced two unresolved items from peer review: driveway by “B” and landscaping by “A”.

Mr. Douglas said for next meeting they will provide two renderings addressing Ms. Haracz’s comments and provide a written response to Attorney Quirk’s comments.

Attorney Quirk recommended a Draft Decision to include draft condition for review at the next meeting.

Mrs. Haracz stated the Board is aware neighbors are not happy with this project and cognizant of their concerns, especially the depreciation of property, etc.

Attorney Quirk said a copy of the depreciation document should be sent from the applicant’s counsel to her.

It was noted the neighbors/abutters should have at least a two year guarantee to determine if their property values are impacted.

Mr. Fernandes said this was a long established neighborhood. If there is no impact financially for property depreciations, then two years of more should not matter to applicant.

Applicant responded it was a legal document with liability, one they do not want to be burdened with for too long. The applicant indicated there is no supporting evidence showing that solar panels decrease property values.

Attorney Quirk said this is a financial document; she can take an initial look at it or pass it on to a real estate attorney or financial analyst to review it, but she would not be able to provide in-depth comments.

Mr. Cummings of 37 Clapp Street indicated the property value document says Wheaton College has right of first refusal of any appraisal. He believed they as abutters needed an attorney for that and also he noted a National Grid discount.

Mrs. Haracz said intent is to layout all conditions, including one referencing the property value document.

Mr. Cummings asked for clarification if they need counsel to review the financial document?

Attorney Quirk said she was here to represent the Town of Norton by and through the Board of Selectmen for Town’s interest but cannot provide any advice to abutters.

Mrs. Senior stated she did ask previously if this project could be smaller but was told it was not economically viable from applicant. She was aware a neighbor said if it was made smaller, they would prefer that.

Applicant responded they cannot decrease the size of the project as it would not work economically. Mr. Nagle responded if the panels are any closer together, they will shade each other.

It was noted maintenance for trees (watering, etc.) needed to be detailed/spelled out.

Mrs. Hayden of 14 Clapp Street referenced property value guarantee; if in two years or \$100,000. She was concerned about if the project was sold.

Applicant said it is their plan to own and operate project, however, if they need to sell, they will stand behind \$100,000 or two-year guarantee.

Attorney Quirk said there needs to be sufficient surety and there are a couple ways to do this. Type of surety could be discussed.

Mrs. Haracz said the Board needs a landscape sketch and conditions.

Mr. Douglas, Wheaton College, indicated he has not responded to a majority of comments by abutters, but wanted to say, Wheaton's relationship at arm's length with the Town is that of a good neighbor. Regarding visibility and buffers, etc., they have gone above and beyond solar bylaw requirements. It was the will of this Town to have this bylaw and was passed by the Town. Wheaton identified this parcel and believes it is the right parcel. He questioned if a three-story dorm would be better?

Many people from the audience responded "yes" it would be better. Mr. Douglas said he respectfully disagrees being near a three-story dorm would be better.

Ms. Haracz asked if there were any additional comments that have not yet been discussed, seeing there were none, Ms. Haracz asked when members would like to continue the Public Hearing.

Attorney Quirk said she would not be available on December 15, 2015. Mrs. Haracz stated she is available on January 12, 2016. Mr. Daly indicated he would not be available on January 12, 2016 but could watch the meeting video if necessary.

Attorney Quirk asked if any members had missed a meeting thus far? Mrs. Haracz responded no member has missed a meeting and requested the meeting to be continued until January 26, 2016 when there is a full Board available.

**MOTION was made by Mr. Daly to continue this Public Hearing to January 26, 2016 at 7:30 P.M. Second by Mr. Beatty. Vote: Unanimous. MOTION CARRIES.**

**7:35 P.M. PUBLIC HEARING** – *Continued from 11/10/15*

60 West Main Street, Garrett's Shoppes on Main

*Applicant: GAC Development, LLC*

(2) Special Permits & Site Plan:

**Site Plan:** Section 15.3.3: All "Drive-through facilities", as defined in Article II – Definitions, shall require Site Plan approval.

**Special Permits:** (1) Section 4.8: Construction of a commercial building in excess of 10,000 s.f. (13,562 s.f. proposed) and (2) Section 4.4 Commercial Uses: Drive-Through Facility in Village Commercial Zoning District

Document(s) presented to Planning Board:

1. Correspondence from David Cohen, DMR Construction, dated December 1, 2015, requesting continuance of Public Hearing scheduled for December 15, 2015.

Ms. Wierling stated applicant, Mr. Cohen, sent her correspondence regarding a request to continue the public hearing to allow for additional time to resolve outstanding issues.

**MOTION was made by Mr. Beatty to continue 60 West Main Street, Garrett's Shoppes on Main, to December 15, 2015 at 7:30 P.M. Second by Mr. Burgess. Vote: Unanimous. MOTION CARRIES.**

**7:40 P.M. PUBLIC HEARING** – *Initial Hearing*

215 South Worcester Street, MCM Pool Services

*Adv.: July 13, 2015 & July 20, 2015*

*Applicant:* MCM Pool Services, Inc.

*Abut: July 11, 2015*

**Special Permit:** Article IV-Use Regulations (Section 4.5 wholesale, storage and distribution facility)

*Document(s) Presented to Planning Board:*

1. *Application for a special permit for Use – wholesale offices or showrooms with storage on premises in the Village Commercial Zoning District, dated November 12, 2015*
2. *Owner's Authorization, dated November 4, 2015*
3. *Special Permit Supplement Special Permit Decision #414: Montione's Bakery, Inc.*
4. *Existing Conditions Plan, previously prepared for Montione's Bakery, Inc. by Yarworth Engineering Company, Inc. titled "Existing Conditions Plan" #215 South Worcester Street, Norton, MA Prepared for Montione's Bakery, Inc., November 12, 2008*

Mrs. Senior disclosed she, at one point in time, worked for the Mahoney's who owned property, but did not work for applicant. Attorney Mirrione indicated they do not object to Mrs. Senior's participation.

Walter Mirrione, Esq., Mirrione Law Group, LLC and the applicant, Christopher Murphy, President, MCM Pool Services, Inc. were present before the Board to discuss the proposed use of 215 South Worcester Street. Attorney Mirrione indicated it was the applicant's intent to convert the use of the property from a previously existing bakery, Montione's Bakery, to the headquarters of MCM Pool Services, Inc. Attorney Mirrione indicated the applicant's business is experiencing significant growth and he is need of a facility that will support his company's growth, indicating the company is currently run from the applicant's house.

Attorney Mirrione indicated MCM Pool Services provides a range of services for in-ground and above ground pools, including pool opening and closings, leak detection, pool cleaning and maintenance services as well as general repairs. The applicant will utilize the proposed space for offices to support employees and for storage of products to support his business; there will be no retail component to the project.

Mr. Murphy indicated that he anticipates a need for approximately 10 parking spaces and with employee growth, maybe up to 20 parking spaces in the future, noting there is sufficient onsite parking.

An abutter who lives next to 215 South Worcester Street addressed the Board and the applicant expressing concern about the chemicals that would be stored on site as well as the ability to contact someone in case of an emergency. The abutter also inquired to the safety of chemicals if there were a flood.

Daniel Mahoney, current owner of the property indicated in all the years he has been an owner of the building, he has never seen any water in the building and indicated the bakery has probably used more bleach to clean the bakery than any amount of chlorine Mr. Murphy will store on site and he has never had a complained from any neighbors.

Mr. Murphy also explained to the Board there would be no storage of liquid chlorine onsite, noting the only chlorine stored onsite is in crystal form, in airtight containers. Mr. Murphy indicated he intends to store the chlorine in a secure manner to ensure it meets necessary safety requirements.

Mr. Murphy expressed it is his intent to work with neighbors to have a positive neighbor/business relationship. Attorney Mirrione indicated if it would be helpful to abutters, Mr. Murphy is willing to have a name and contact number posted on the exterior of the building in case of an emergency, noting Mr. Murphy is resident of the area and that is why he would like to locate in this area.

Board members inquired about storage of materials, plans for trash removal and the status of the existing storage container on site. Attorney Mirrione indicated the existing storage container would be removed by the current owner upon sale of the building, while Mr. Murphy indicated any materials would be stored indoors only. Mr. Murphy also indicated he intended to have a dumpster similar in size to the dumpster already on site.

Board members requested that a spill prevention/hazard plan be submitted and reviewed by the Fire Department, noting that no liquid choline should be stored on site.

Members asked Mr. Murphy what types of deliveries occur and when they were proposed, noting the abutting residences. Mr. Murphy indicated it was his intent to receive deliveries Monday through Friday only. Board members asked that deliveries not occur before 8:00 a.m. on weekdays, to which Mr. Murphy agreed.

Planning Board members discussed potential conditions as follows:

1. There shall be no outside storage of materials or products.
2. The onsite storage container shall be removed prior to the issuance of an occupancy permit.
3. Deliveries shall occur Monday through Friday and shall not occur before 8:00 a.m.
4. There shall be no onsite storage of storage of liquid chlorine.
5. A Spill Prevention/Hazard Plan shall be submitted to the Planning Board prior to the issuance of a Certificate of Occupancy by the Building Commissioner; the Plan shall be reviewed by the Norton Fire Department.
6. If deemed necessary by the Town of Norton Deputy Fire Chief, the Town of Norton Fire Department shall review the premises to ensure all chemical storage is properly contained and stored prior to the issuance of an occupancy permit.

7. The name and contact information for the property owner shall be posted near the building entrance door in case of emergency.
8. Except for good cause, this Special Permit expires two years from the date this decision is filed with the Town Clerk if use has not commenced.
9. This Special Permit shall not take effect until it is recorded in the Bristol County Registry of Deeds and no construction shall take place until the Applicant has provided proof of such recording to the Planning Board.

**MOTION was made by Mr. Burgess to close Public Hearing. Second by Mr. Beatty. Vote: Unanimous. MOTION CARRIES.**

**MOTION was made by Mr. Burgess to approve the request of MCM Pool Services, (Applicant: MCM Pool Services, Inc.) 215 South Worcester Street, for a Special Permit – Article IV – Use Regulations (Section 4.5 wholesale, storage and distribution facility) with conditions as discussed. Second by Mr. Beatty. Vote: Unanimous. MOTION CARRIES.**

**MOTION was made by Mr. Burgess to Adjourn at 9:52 P.M. Second by Mr. Beatty. Vote: Unanimous. MOTION CARRIES.**

Respectfully Submitted by:

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Janet A. Sweeney  
Planning Board – Recording Secretary

Minutes Approved by Committee on: 3/8/16  
(Date)

Signature:

Joanne Haracz  
Joanne Haracz, Chair  
Norton Planning Board