

70 East Main Street
Norton, MA 02766



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PLANNING BOARD NORTON, MASSACHUSETTS

Norton Planning Board Minutes of Meeting For June 7, 2011

Call to Order

The June 7, 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; Mr. Joseph Fernandes; Mr. Alec Rich; and Mr. Patrick Daly. Absent: Mrs. Marilyn Benaski and Mr. George Burgess. Town Planner, Mr. Charles Gabriel, was also present.

Report of the Planning Board

Mr. Lettoun of High Tech Auto started work on wall. Mr. Miller stated there was some confusion; company called him about stone wall and clarification was needed/provided.

Approval of Minutes

MOTION was made by Mr. Fernandes to approve the Planning Board Minutes dated April 19, 2011, as amended. Second by Mr. Rich. Vote: Mr. Daly voted "present" and all other Planning Board members voted "yes". MOTION CARRIES.

Report of the Town Planner

Mr. Gabriel spoke of common drive off of John Scott Blvd. Concern with condition of base coat and developer only willing to do it if no one came back to complain about conditions in road. He wrote letter to three to four residents regarding this. To date he has not received any replies.

Mr. Miller said he does know one of those residents and a voicemail was left for him and interested in having money released for a contractor.

Mr. Gabriel said he believed the Board can work with them. He was uncertain if money could be turned over to residents to hire contractor. Mr. Gabriel said some or all of residents need to respond to this letter.

Mrs. Haracz recommended they hold off on this item until residents respond.

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A letter had been sent to Mr. Turwetz (subdivision off Anna Way) from Mr. Gabriel regarding Mr. Silver, Highway Superintendent's, concern with roadway deteriorating. Have not heard back yet and

told him to respond by June 21, 2011.

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Mr. Gabriel stated this was not on agenda but spoke about issue of animals/chickens on properties.

It was noted this was by special permit currently. Mrs. Haracz said it is possibly overkill and some research done by Mr. Gabriel and possibly change zoning bylaw.

Bills and Warrants

No bills and warrants were reviewed.

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.

Angelo Pasqualino – request to release surety for Johnson Drive

Mr. Gabriel spoke of a letter received from Fire Dept and Highway Dept. stating all was fine/ok.

Mr. Gabriel said Mr. Silver said it was not a conforming street sign but had receipt for two street signs.

Mr. Pasqualino said street sign will be ready on Thursday.

Mr. Gabriel said request by Conservation Commission (ConCom) to withhold \$10,000. As of April 2011 \$39,407.00 and \$17,520.00 (two accounts). The \$39,407 figure is essentially for construction of roadway and \$15,000 amount of snowplowing and \$5,000 for Cross Street scenic way for possible damage. Approximately \$17,520.50 plus interest.

Mr. Gabriel said at next town meeting this could be accepted; Planning Board does have mylar. He was unsure if all bounds were in.

Mr. Pasqualino said, yes, everything is in.

Mr. Pasqualino said if Ms. Carlino, Conservation Agent, does release \$10,000 then Mr. Gabriel has right to give that amount to him. Ms. Carlino has \$30,000 including this \$10,000.

Mr. Gabriel stated it appears no more work needs to be done.

Sign issue was discussed. Mr. Pasqualino said Mr. Silver wants wider signs.

MOTION was made by Mr. Rich to release all surety except for \$10,000 to be held back per Conservation Commission until receipt of Certificate of Compliance is issued by Conservation Commission. Second by Mr. Fernandes.

Discussion: Mr. Fernandes said what happens if a large piece of equipment tears up road; Town is responsible for it since timing between now and next fall town meeting.

Mr. Gabriel said if someone were to cause damage to it and not Mr. Pasqualino; cannot use Mr. Pasqualino's money.

Mr. Fernandes said he has a concern releasing all surety as it is like a car being uninsured.

Mr. Pasqualino suggested Board hold \$10,000 for ConCom.

A Friendly Amendment was made by Mr. Fernandes to release all surety except for \$10,000 for road and \$10,000 for Conservation Commission until Certificate of Compliance is issued (hold total of \$20,000). Second by Mr. Miller.

Further Discussion: Mr. Rich said it is not fair to applicant; if landscaper or other person tears up/damages road, it is not Mr. Pasqualino's responsibility.

Mr. Pasqualino said since Highway Dept. and Fire Dept. accepted it, this seems unfair to him. He respects whatever Planning Board decides to do. Because Town Meeting occurs in Fall he felt was not his fault and he has done an excellent job.

Straw vote taken to accept Amendment to Motion:

Yes to accept Amendment:	Mr. Fernandes; Mr. Miller; and Mr. Daly
No to not accept Amendment:	Mr. Rich and Mrs. Haracz

Amendment to Motion applies.

MOTION was made by Mr. Rich to release surety, except to hold \$20,000; \$10,000 for road and \$10,000 for Conservation Commission until Certificate of Compliance is issued (see above Amendment to Motion). Second by Mr. Miller Vote: Unanimous. MOTION CARRIES.

Dan Ryan – regarding construction of stone wall at entrance Autumn Park subdivision

Mr. Gabriel distributed Autumn Park plans drawn by RIM Engineering to Board. Mr. Gabriel stated he also has original subdivision plan if anyone is interested in seeing it. Some members asked to review it.

Mr. Gabriel stated everyone on Planning Board, except for Mr. Fernandes attended the last meeting. Plan specifically shows the stonewall and opinion of Mr. Ryan (homeowner) is that stone wall should be constructed. There is about \$41,000 in cash surety that remains in this subdivision. Most of subdivision is in Mansfield and four lots are in Norton and several have frontage on Essex Street and one or two meet frontage from subdivision road.

Mr. Perry DiMascio of Perry and Feck said he begged to differ. Road is complete according to road

regulations. Wall is out of roadway and plan shows proposed garages/dwellings also which were not built according to plan. Road was built exactly to specs in rules and regs and encouraged Board to ride by this area. Sign is something extra and Mr. DiMascio asked Mr. Gabriel to look through regs to see if this is a requirement.

Mr. Gabriel said a street sign is required; not a vanity sign.

Mr. Gabriel stated stone wall was never bonded. They did approve plans as shown so in approval the Board stated it fairly specifically. Mr. Gabriel stated he listed 18 sheets and one of which was referenced was stone wall. There is nothing in subdivision regs to require to build a vanity wall/sign and no bond for that wall. They tried to itemize and come up with a certain amount (it is an estimate and do not try to identify every single item). This is up to the Planning Board's discretion.

Mr. DiMascio said the other wall was a special permit-subdivision and in town of Mansfield. In Norton they built to conventional rules and regs, and said every bit was bonded including grass seed.

Mr. Gabriel said 300' of road is in Norton. Mansfield will do most of snowplowing/maintenance of road. Mr. Silver, Highway Superintendent, has not done a final inspection on this. Question is if Planning Board would recommend acceptance without the wall.

Mr. DiMascio spoke of only four lots in Norton.

Mr. Fernandes said nonetheless it is a subdivision, therefore, why show the sign as part of subdivision if not building it?

Mr. Fernandes said if Mr. DiMascio had not shown it on plan and then decided to build it there would not be a problem with Town. What is shown should be built. It is a subdivision and whether it's a wall or an amenity to subdivision it should not matter.

It was noted the wall is on private property.

Mr. Daly said Mr. DiMascio had even gone so far as to tell "how" it will be built.

Mr. DiMascio stated it is not in subdivision rules and regs.

Mr. Rich said if he saw this drawing and was on Planning Board at the time, he would have approved what is on plan because it is a plan. He believed Mr. DiMascio should have to build it. Discussion ensued.

Mr. Gabriel said Mr. Ryan (homeowner) had been in contact with Mr. Gabriel three to four times. He has correspondence that Mr. Ryan had sent him regarding issue of surety and Mr. Gabriel had ensured there had not yet been a request of surety by developer.

Mr. DiMascio noted it is his property and he owns where wall is now.

Mr. Fernandes said if it (wall) was not there he would have signed with or without the wall. It is possible someone based their decision on dressing up subdivision with wall and it has his own signature on it.

Mr. Fernandes said it was proposed and \$40,000 held to ensure all was completed.

Mr. Miller referenced Essex Street and 55' stone wall, and asked if is it there?

Mr. DiMascio responded 55' wall is on other side. It is a pretty bad wall and did not think homeowner wanted a remove and replace of it. In Mansfield, it is a scenic roadway, so had to remove and replace and spent more money to make it look better in Mansfield.

Mr. Daly said it is specified on plan (masonry stone wall) and is very specific. Discussion ensued.

Mr. DiMascio reiterated it is not part of rules and regs.

Mr. Fernandes said it appears to be a "bait and switch"; showing someone something different than what will ultimately be given.

Mr. DiMascio said response from Planning Board at time was they did not want to take care of wall.

Mr. DiMascio said he has stones but has not relocated stone wall.

Mr. Gabriel summarized Mr. DiMascio did not relocate and did not build vanity wall. Both are shown on subdivision plans.

Mr. Gabriel said when Mr. Ryan's home was built, was Mr. Ryan expecting a wall?

Mr. DiMascio said other builder built Mr. Ryan's house.

Mr. Gabriel said Mr. Ryan expected it.

Mr. DiMascio stated he always answered "I don't know" (regarding question of building of wall) to Mr. Ryan.

Mr. Rich stated Planning Board approved this particular plan.

Mr. Fernandes said his signature is on plan and on very page where amenities are proposed.

Mr. Gabriel said if Planning Board were to vote that this wall should be built he believed it may need Board of Selectmen's approval/ok. He believed Mr. DiMascio would need to go before Board of Selectmen as well as Mr. Ryan.

Mr. DeMascio said he did speak to legal counsel and it is counsel's opinion this is out of roadway and

plan is showing other structures that were not built, so it would not be consistent.

Mr. Fernandes noted other common amenities: street lights/landscape, etc., and are done all the time on private property.

Mr. DiMascio said at this point he is requesting release of surety, unless someone can prove legally otherwise. It would have been part of surety if it was so important. Mr. DiMascio said his response from Planning Board in past regarding wall was, "we don't want to take care of it".

Mr. Gabriel said Mr. DiMascio needs to have some obligation as a developer; to keep his word.

Mr. DiMascio said he told neighbors it was not necessarily going to be built. Reasons for not building it are the expense and detriment, as house is quite close. He did have one customer object to wall. Mr. DiMascio stated: "We don't care about that" was Planning Board's opinion of wall during past discussions.

Planning Board discussed reviewing videos and minutes for discussions and specifics regarding this subdivision plan.

When asked by Planning Board, Mr. DiMascio said he could obtain and provide the specific hearing dates for Planning Board.

Mrs. Haracz said it sounded like they needed to clarify this discussion.

It was discussed they could continue this discussion once they reviewed minutes of meeting and/or videos.

Request by William Jenkins to release surety for the Reserve at River Oaks

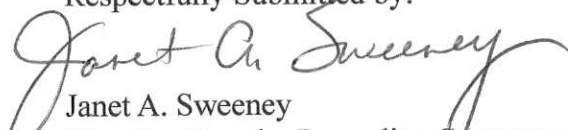
Mr. Gabriel said approximately \$10,000 was in account.

MOTION was made by Mr. Fernandes to release balance of surety for the Reserve at River Oaks (per Request by William Jenkins). Second by Mr. Miller. Vote: Unanimous. MOTION CARRIES.

Adjournment

MOTION was made by Mr. Fernandes to Adjourn at at 8:35 p.m. Second by Mr. Rich. Vote: Unanimous. MOTION CARRIES.

Respectfully Submitted by:


Janet A. Sweeney
Planning Board – Recording Secretary

Documents/Items Distributed/Viewed at Planning Board Meeting of June 7, 2011

- . Draft Planning Board Minutes – dated April 19, 2011
- . Plan/Subdivision Plan of Autumn Park Subdivision drawn by RIM Engineering