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NORTON PLANNING BOARD MEETING
MINUTES OF September 27, 2022

The Planning Board Meeting of September 27, 2022 was called to order at the Norton Public Library Center via Hybrid means over ZOOM at 7:15 p.m. by Mr. Timothy Griffin, Chairman. Members present were Mr. Allen Bouley, Mrs. Laura Parker, Mr. Bill Marr, Mr. James Artz, Mr. Eric Norris, and Mr. Wayne Graf. Also, in attendance was Administrative Assistant Bryan Carmichael.

Mr. Griffin explains how hybrid meetings work and how they will affect this meeting.

General Business

Bills & Warrants – Two bills are presented; they are for Verizon and the reimbursement form for the 196 Mansfield Avenue peer review account.

MODIFICATION TO SPECIAL PERMIT AND SITE PLAN

Lucky Green Ladies LLC / Ronald Haskell, 394 Old Colony Road (Assessor's Map 26, Lot 15). Applicant seeks determination to proceed with a minor modification to the Special Permit and Site Plan #13543 and #13544 Continued from September 20, 2022.

Mr. Griffin explains that after the meeting Mr. Carmichael found that there were no stamped engineered plans for the modification and wanted to make sure that was completed prior to the written decision. Ms. Alissa Nowak, the owner of Lucky Green Ladies LLC states that the presentation will be the same as last weeks as there were no differences between the two set of plans the only difference being the plans now have the official engineer stamp. MR. Carmichael pulls up the stamped plans. Ms. Nowak states the only difference between the plans presented last week and now is the architect found that the wall being moved was unnecessary as the Toyota Prius vehicles that will be used can fit into the garage.

Motion to find the application as a minor modification is made by Mr. Bouley and is seconded by Mrs. Parker. The Planning Board vote in favor of the modification being minor.

Motion to approve the special permit is made by Mr. Bouley and is seconded by Mr. Norris. The Planning Board vote in favor of granting approval of the special permit.

Motion to approve the site plan is made by Mr. Bouley and seconded by Mr. Norris. The Planning Board vote in favor of granting approval of the site plans.

REVIEW OF FINDINGS AND CONDITIONS AND EXECUTION OF DECISION

SPR-15808: 0 Hill Street. Application for Site Plan Approval for a 9900 square foot building. Owner: Norton Development Inc. Applicant: Kessler Machine and Fabricating. Applicant seeks to build a 9900 square foot machine and fabricating building with 13 parking spaces. Public hearing closed on September 20, 2022.

Mr. Bouley stated he would like to review the decision and make sure that an updated landscape plan is added to the decision to be given to the Planning Board to show the screening. Mr. Bouley asks to have the landscape plan be provided to the Planning Board prior to the construction of the facility and to have it provided by the Planning Department and Building Department. Mr. Griffin also wants the applicant to provide the hours of operation and the landscaping plans. Mr. Griffin changes the hours of operation to hours of full operation. Mr. Bouley suggests adding that it doesn't dictate building occupancy. Mr. Marr suggests only having a set number of people there after hours. Mr. Bouley states there can't be a limit to how many people are in the office. Mrs. Parker states that it should read hours of business operation.

Mr. Griffin asks if the Board should put in language about the trucks taking a right out of the site. Mr. Bouley states that can't be regulated. Mr. Griffin states he had put vehicles will have to take 495 on Commerce Way to avoid residential neighborhoods. Mr. Bouley suggests using the language most direct way to state road. Mr. Marr states that ideally he'd want them to take a left turn to go onto the Industrial Park onto 495 and asks if the Board can request a left turn only. Mr. Griffin states that he can put in that they are to take a left toward Camp Myles Standish Industrial Park. Mr. Artz asks if going to the right also leads to the Industrial Park. Mr. Griffin states he is trying to take them down to the industrial park and away from residential streets as much as possible. Mr. Griffin adds that this is a challenging condition to enforce as contractors have many layers of subcontracting. Mr. Bouley states that this rule could also apply to pickup trucks and vans.

Mrs. Parker asks if there should be a note for the additional buffering that they are to be non-deciduous trees and of adequate size to provide the visual screen requested. Mr. Griffin adds language to the decision and states he will send the decision over to Mr. Carmichael.

SP-15966: 120 Mansfield Avenue. Application for Site Plan Approval and Special Permits for a 11,892 square foot building and a drive through. Owner: Town of Norton Applicant: VHB, Inc. Applicant seeks to build a 11,892 Senior Center with a drive through. Public hearing closed on September 20, 2022

Mr. Griffin asks Mr. Carmichael if there were any specific conditions related to drive throughs he could find. Mr. Carmichael states that he couldn't find any special conditions with the last special permit for drive-throughs.

Public Hearing

DEF 13932 & SP 14704: 0, 126, 128 & 154 Pine Street and 0 Wood Road.

Owner/Applicant: Norton Land Company, LLC. Application for the creation of 44 lots into a residential cluster subdivision. Continued from May 10, 2022, May 24, 2022, June 21,

2022, June 28, 2022, and July 26, 2022, August 30, 2022, and September 20, 2022. Asking for continuance to October 18, 2022.

Mr. Griffin states he understands peer reviews take time and asks Mr. Carmichael to have the applicant's information a week prior to the meeting to have enough time to review it.

Mr. Bouley motions to continue the hearing to October 18, 2022 and is seconded by Mr. Norris. The Planning Board vote in favor of continuing the hearing to October 18, 2022.

Public Hearing-Upcoming Town Meeting Warrant

Proposed amendments to Zoning Bylaw Articles 175-22.2 (General requirements for all power generation installations); and 175-22.3 (Location, setback, and screening requirements);

Mr. Randy Fogerty of 95 Oak Street states that large scale solar can be applied for by special permit in R60 and R80 but R40s are not allowed. Mr. Fogerty states he is making the change to allow large mounted solar panels by special permit in the R40 zone just like the other two residential zones.

Mr. Carmichael shows the bylaws as they are currently to the Board. Mr. Griffin asks what the setbacks will be. Mr. Fogerty states that the setbacks will be the same as the other two residential zones. Mr. Fogerty states that he wants the R40 large scale solar to be like the other residential zones. Mr. Griffin states that the solar bylaws have changed several times in recent years and asks Mr. Fogerty his logic behind keeping the same setbacks when R40 is more densely populated and that the lots aren't always in regular shapes. Mr. Fogerty states that the property he is looking to do has all the abutting neighbors wanting a solar facility over a housing development. The solar field would not be close to any of the residential houses. Mr. Griffin states that it would go for all R40 properties. Mr. Fogerty states that there may already be some properties in R40 that have the same issue, so why shouldn't it be allowed in all residential zones. Mr. Fogerty states that it doesn't mean it is an as-of-right use just that it would give everyone the same chance by special permit as the other two residential zones do. With special permits they can still be denied if seen as undesirable but in Mr. Fogerty's case the property is in the woods and wouldn't interfere with anyone.

Mr. Bouley asks to look at what amount of Norton is in the R40 zone. Mrs. Parker asks when the bylaw was created as it was more recently added. Mr. Griffin states not specifically but knows the bylaw has been changed several times over the last five years. Mr. Carmichael shows the R40 zone is in the top left corner of Norton. Mrs. Parker asks to confirm that when the solar bylaw was implemented is currently unknown. Mr. Griffin states he does not know when the original text of the bylaw was made. Mr. Griffin states that the items around what was permitted in residential and the R40 part is what was changed in recent years. For a short while there was approval by site plan review and not by special permit in residential zones. Then it was changed to allow in Industrial and by special permit in residential up to residential 60 probably based on a density perspective. Mrs. Parker asks if the Norton bylaw was modeled after the zoning made by the Massachusetts Department of Energy. Mr. Griffin states he does not know if it was modeled after the Massachusetts Department of Energy.

Mr. Oren Sigal of 28 Coddington Road had submitted an email to the Planning Board prior to the meeting which Mr. Griffin reads into the record. The letter had wanted the Planning Board to bring their attention to a noise concern rate in regard to the Next Sun Solar project off of Bay Road, the applicant for that project had given the Board a document titled Noise Levels at Various Distances from the inverter pad. It was noted under 310 CMR 7.10 that the noise level policy the DEP established for the regulations that the ambient sound level measured at the property line of the facility or the nearest inhabited buildings should not be increased by ten decibels waited for a scale and decibels out of the facility during its operating hours which Mr. Griffin states that is a state noise guideline as Norton does not have noise ordinances. The applicant of the project proposed acoustic panels providing noise transmission loss of 30 decibels with noise reduction according to the exhibits located within 100 meters of the pad and the property line would still violate the noise regulation. In addition, the process project raised the issue of mosquito noise as it is a major problem an abutter had to another solar project had with children not being able to play in the yard due to the noise from the solar facility. While not a specific property the petition is seeking to utilize however while capable of being addressed in larger sites reduced in this bylaw petition to include residential properties of 40,000 square feet town wide using setbacks applicable to larger properties as the noise issues would be problematic.

Mr. Carmichael opens the attachment showing the decibel distance from the inverter pad. Mr. Griffin states that the picture shown is a large converter for a large project. The question was are all converters the same and the answer was no but they all make noise which radiates out from the inverter. The applicant had proposed adding some acoustic paneling to make a half enclosure around the solar facility to reduce noise in the direction of homes but as shown on the picture noise travels far.

Mr. Sigal states that he would also like to add to his statement that he gets concerned about town wide changes to address a particular need. Mr. Sigal states he knows R40 residential is in one part of Norton but it was from his understanding that large solar panels amendments for R80 & R60 was to accommodate that fact that there was a lot of two-acre zoning that wasn't being used by the town because it was expensive to develop. Using the 40,000 square foot area is probably the most likely to be developed in Norton as a residential use and is reluctant to try to scope out solar paneling throughout that section allowing it without some limitation and the noise will travel further with smaller lots.

Mr. Matthew Henkin of 59 Plain Street asks if this bylaw change would only affect R40 Zone. Mr. Griffin explains that currently the bylaw allows for ground mounted solar facilities in R60 and R80 zones by special permits but not R40. Mr. Griffin continues that this would expand solar to the R40 zone with the same setbacks as R60 and R80. Mr. Henkin asks if R40s would still need a special permit. Mr. Griffin confirms that they would still need a special permit. Mr. Henkin states the last time that a change like this was proposed it was by right.

Mr. Fogerty states that the idea of a special permit is to make it a case-by-case situation and not having it done by right. Mr. Fogerty states that for example the lot he has in mind is bordered by Land Preservation properties which will never be developed. Mr. Fogerty states that by going by

the logic provided by the Board on development the Land Preservation Society should give back their properties to have them be developed as they are also R40 properties. Mr. Fogerty states that noise would affect houses if close but the property that Mr. Fogerty has been looking at is in the woods with no neighbors and asks why can't applicants have that opportunity. Mr. Fogerty continues that he purchased the lot as he and his neighbors did not want the land developed as a housing development and would rather have solar on the property.

Mr. Bouley states he understands how Mr. Fogerty came to the conclusion of wanting to write the Town Meeting article and can see why he wants to make it fair. Mr. Bouley states that he doesn't agree with solar being in residential areas. Mr. Bouley states with a special permit it is hard not allow for a project requesting a special permit. Mr. Bouley states that without adding more language to the bylaw and description to more than just setbacks, he wouldn't feel comfortable supporting the petitioned article.

Mr. Marr states that on a smaller lot there tends to be less trees and vegetation for screening and could minimize the noise that they would transmit and on those small lots and agrees with Mr. Bouley that it is hard to approve the article as it is. Mr. Bouley adds that he feels that the Board would have to do much more of a deep dive into the bylaw in his opinion.

Mr. Artz asks to confirm that the land around the property he was thinking of was Land Preservation land. Mr. Fogerty confirms it is. Mr. Artz asks if the zoning could change or will the lot be forever R40. Mr. Griffin states that it will remain as Conservation Land and the Board cannot foresee if it will change. Mr. Griffin states that the land is governed by the zone it is in now and the owner of it among other changes and to regard the article as a town wide change. Mr. Griffin states it is a very broad finding to make and agrees that when it was as of right then the only thing to look at was the site plan approval which are conditional approvals making it hard to deny where a special permit's bar is much lower.

Mrs. Parker states since R40 was excluded by the bylaw and had assumed it had been done for a reason and while not knowing the reason had gone out to seek guidance. Mrs. Parker stated the Massachusetts Department of Energy Resources have drafted model zoning regulations for solar. Mrs. Parker reads that pursuant to Chapter 40A Section 3 a municipality in Massachusetts may not prohibit or unreasonable regulate solar energy except when necessary to protect health, safety, or welfare. Although these systems must be allowed in the community they may be regulated when necessary to protect the public and provided model zoning for all the various scales of solar. As drafted model zoning for large scale ground mounted solar is specifically permitted in some residential districts and restricts it in other residential districts intentionally. Given that R40 has been designated as the zone by the town that will have the highest population density with small parcel sizes with houses closer together and besides Village Commercial, R40 zones are the only other zone in Norton that allows for multi-family. So, it is intended to be a densely populated zone and without any specific rationale on the decision has to be assumed that the town had determined to disallow large-scale solar in R40 in the interest of public safety. Mrs. Parker states she is disinclined to reverse the decision as large-scale solar can go in any other zone but R40, VC, and VCC. Which Mrs. Parker estimates to be easily eighty percent of Norton which she thinks is sufficient.

Mr. Bouley motions to close the public hearing and is seconded by Mr. Marr. The Planning Board vote in favor of closing the public hearing.

Motion to recommend the article to Town Meeting is made by Mr. Bouley and is seconded by Mr. Marr. The Planning Board vote to not recommend the article. Mr. Griffin votes in favor of recommending the article. (1-6) The motion fails.

General Business

Adjournment

The motion to adjourn the September 27, 2022 meeting was done by Mrs. Parker and seconded by Mr. Norris. The Planning Board vote in Favor of adjourning the meeting at 8:23 pm.

Minutes prepared and submitted by Bryan Carmichael, Department of Planning and Economic Development Administrative Assistant.

Minutes Approved on: 9/13/23

Signature


