



TOWN OF NORTON
ZONING BOARD OF APPEALS
70 East Main Street
Norton, Massachusetts 02766-2320
Office: 508-285-0278
Fax: 508-285-0277

MINUTES
Meeting of May 4, 2010

I. Call to Order

The May 4, 2010 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 p.m. in the second floor meeting room in the Norton Municipal Center by Chairman Thomas Noel, with the following members present: Thomas Rota, and Alternates Nitin Choksi and Francis Reynolds; David Sharpe was absent.

II. David Sollecito, 34 Sunset Road, 010-010

Present at the hearing were Mr. Sollecito, Mr. Bowyer and Atty. Henry Sousa. Property located on the corner of Sunset and Mayflower Road. Lot #34 has a single family home on the property; lot next to it is vacant land. Proposed use would include a new house on lot #2.

Applicant seeks to enlarge and reconfigure the existing house lot at 34 Sunset Road, and create a house lot from 3 original annex lots making the lots more compliant. Lot 1 will have 80 feet of frontage on Sunset Road, with a total of 8800 sq ft; lot 2 will contain 130 feet of frontage on Mayflower Road with 12,800 sq ft in area. Garage will become an accessory use to the new dwelling on Mayflower Road.

Atty. Sousa showed a plan showing the current home on 34 Sunset Road. Garage is located on a separate lot. Mr. Bowyer owns M 9/P 194 and 200. Mr. Sollecito owns M9/P195, 199 and 201. Proposal is for Mr. Sollecito to purchase lots 194 and 200 from Mr. Bowyer and reconfigure them. Ten foot strip from parcels 194 and 195 will be added to parcels 199, 200 and 201 giving the new lot 130 feet of frontage on Mayflower Road. It will contain the existing garage which will now become an accessory use to the new house if variances granted. Mr. Sollecito would like to move his mother to the home on 34 Sunset Road.

Over the years, Norton has increased the requisite area for a building lot, driven by the realization that 5,000 sq ft lots or less were not large enough to accept the septic systems located on these lots. Health and safety dictated that lots become increasingly larger and larger. Sewage and water came to the Grove area.

Lot 1 with the existing house – asking ZBA to make a finding that the change of the existing lot is appropriate course of action; Lot 2 needs frontage and area variance with a

financial hardship to make appropriate use of the area. Lot 2 will contain garage already existing and new house will be constructed.

Hearing was tabled until later in the meeting.

III. Edward Breault, 23 King Phillip Road, continued from 4/7/10

Motion by Mr. Rota to remove from the table the application of Mr. Breault; second by Mr. Choksi, all in favor. Application is for a Section VI finding to alter a non-conforming structure in an R-80 zone.

A new dated plan was submitted from Engineer Vance. A letter dated 5/4/10 was received from the Building Inspector stating that the applicant has a valid active building permit. It also states that Mr. Breault has continued work on the dwelling from the start date to the present. Building Inspector is in favor of granting this application. Mr. Reynolds cited that a Conservation permit has to be closed which will be the responsibility of that department.

No one present to speak in favor of or in opposition to this application.

Automatic motion for approval for the plan as submitted of 23 King Phillip Road by Mr. Noel as any alteration is not more non-conforming as what existed prior to; second by Mr. Rota; all in favor.

David Sollecito, 34 Sunset Road, 10-010, hearing continued

Atty. Sousa read material submitted to Board by town attorney referring to small lot exemptions. Applicant is not applying for small lot exemption status. Atty. Sousa does not believe that the 12,800 sq ft proposed Lot 2 is detrimental to the interest of the town; does not derogate from the intent of the zoning by-law.

Discussion about Zoning By-law 6.3. Board concerned about approving this application with lots that are not currently joined.

Judy Consentino, 5 Mayflower Road spoke about proposed Lot 2 being placed under Section 6.3.

Anne Marie Pucillo, 41 Alder Road, asked if variance/building goes near her property. Atty Sousa stated that normal setbacks would be used.

Janet Plumb, 9 Mayflower Road, asked if existing house would have additions. Mr. Bowyer stated that was not his intention at this time.

Mr. Davis, 33 Mayflower, also owns 30 Mayflower, stated that Mr. Sollecito is a good neighbor and is in favor of this application.

Kevin Crowe, 16 Sailors Lane, feels these changes will improve the neighborhood.

Ms. Consentino discussed the fact that these 3 back lots are not owned by the same owner and another request to build on lots not singularly owned for Habitat for Humanity was not approved.

Patricia Pierce, 31 Mayflower Road, likes Mr. Sollecito, but believes combining lots to create larger lots to build on makes this area too congested.

Richard Plumb, 9 Mayflower Road, spoke about the area being on town water and town sewer. New construction on this area would put more demands on water/sewer.

Atty. Sousa stated that 6.3.1 enables an owner with a 5,000 sq ft lot with 50 feet of frontage under single ownership to build without a variance. Applicant is not taking this position; Atty. Sousa asks for a variance due to the financial hardship and the uniqueness of the property.

Mr. Noel doesn't feel the Board can make a decision on this application at this hearing without studying all the information. He suggests a continuation to the next meeting.

Mr. Rota said this may not use small lot exemption; when combined, these lots will be much larger.

Chris Yarworth, Engineer, stated that if this applicant appeared before the Planning Board before the Zoning Board, the lots could be combined under an ANR endorsement, but would be ruled unbuildable without variances. This creates confusion with future buyers, the registry, etc.

Zoning was created to prevent overbuilding on small lots. Mr. Noel stated that the applicants knew that they were buying small lots that were not in common ownership. Financial hardship argument may not carry much weight with this knowledge.

Motion by Mr. Rota to continue the hearing of David Sollecito to June 2, 2010, at 7:30 p.m.; second by Mr. Choksi; all in favor.

IV. James Mulcahey, 131 East Main Street, 10-011

Applicants seeks to raze the existing house and construct a new single family dwelling. James Mulcahey, son James Jr. and Mr. Yarworth were present. Present owner, Mr. Ciesluk has permission granted to file for a variance on this property.

Mr. Yarworth stated the non-conforming house is in very poor condition which is in a Residential 60 zoning district. Proposed dwelling would be 32 x 34 sq ft. Plan submitted does not present where existing house is located. Mr. Rota stated that this board does not approve applications without a plan showing current and proposed dwellings.

Motion by Mr. Rota to continue the hearing of James Mulcahey to 6/2/10 at 7:35 p.m.; second by Mr. Choksi with an engineering plan showing where the current house is located; all in favor.

V. Tom George, 25 Rumford Road, 10-009, continued from 4/7/10

Mr. Noel recused himself from this hearing. Mr. Sharpe was absent. Mr. Rota appointed as chair pro tem. Mr. Choksi and Mr. Reynolds are appointed as voting members for this application.

Variance requested for relief of area setbacks and Section 6 finding for alteration of a structure on a non-conforming lot of 15,000 sq ft in an R-60 zone. Side-yard setback requested is 15.5 feet; 25 feet is required.

New plan was submitted, signed and dated showing the size of the entrance was decreased from 10.17 feet to 8.17 feet, bringing the side yard setback from 15.5 feet to 17.5 feet.

No one present in favor or in opposition of the application.

Automatic motion by Mr. Choksi to approve the plan of Thomas George, 25 Rumford Road, dated 4/9/10 as drawn; second by Mr. Reynolds; all in favor.

Mr. Rota removed as chairman; Mr. Noel returned as chairman.

VI. Donald Abbott, 3 Hampshire Court, 10-012

Section VI finding for expansion of an existing non-conforming structure and variance from Section 6.2 for relief of area setbacks. Mr. Abbott present with Mr. Yarworth. Applicant wishes to add a garage to the existing house in an R-80 zone. Property acquired in 2/02.

Mr. Yarworth stated that the proposed garage would create a 28.2 foot side yard setback; bylaw allows 35 feet.

Gary Collasi, 1 Hampshire Court, has no objection to this proposal. These lots are large with privacy. This would add curb appeal.

Letter received from Building Inspector states the setback issue with this application. Determination was applicant would need a Section VI finding for altering a structure on a non-conforming lot and variance for area setbacks.

Letter from Conservation Agent states that this lot contains extensive wetlands requiring a permit from Mass. Wetland Protection Act.

No one present in opposition to this application.

Automatic motion for approval. Board has no issue with this application. This is not substantially more detrimental than the current conditions; side yard variance would be granted of 28.2 as shown on plan; Mr. Yarworth actually wants 28 foot variance; plan modified to 28 feet. **Motion to approve application of Mr. Abbott by Mr. Choksi; second by Mr. Reynolds; all in favor.**

V. Donald Abbott, 3 Hampshire Court, 010-012

Section VI finding for expansion of a structure. Applicant present; would like to add a garage to existing single family home in an R-80 zoning district. He acquired the property in February, 2002. Adding garage will make lot more non-conforming. Chris Yarworth also present.

Garage would be located 28.2 feet to the side yard setback.

Gary Collasi, 1 Hampshire Court, has no problem with this addition. Will add curb appeal to the lot.

Letter received from Building Inspector stating setback requirements and need for Section VI finding for altering a structure on a non-conforming lot. Letter also received from Conservation; property needs a permit under Mass. Wetland Protection Act.

Automatic motion for approval. There is no other option for placement of garage elsewhere on property.

Motion by Mr. Rota to approve application of 3 Hampshire Court for plan as modified dated 5/22/10; second by Mr. Choksi; all in favor.

General Business

Discussion regarding clerk's replacement after July 30th retirement date.
Next scheduled meeting is 6/2/10.

Motion by Mr. Rota to adjourn at 9:10 p.m.; second by Mr. Choksi; all in favor.

Respectfully submitted,

PHYLLIS M. BERNARD
Zoning Board of Appeals Secretary

Minutes Approved by Committee on: October 24, 2011

Thomas R. Noel, Chairman
Norton Zoning Board of Appeals