



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 October 18, 2010

I. Call to Order

The October 18, 2010 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 p.m. in the First Floor, Board of Selectmen Meeting Area in the Norton Municipal Center by Chairman Thomas Noel, with the following members present: Thomas Rota and Nitin Choksi and Frank Reynolds

II. Robert Herrmann, 131 East Main Street, 011-005

Application is for a Section 6 Finding to alter a pre-existing non-conforming structure.

Document List

1. Application for a Section 6 Finding.
2. Plan stating "Mortgage Lender Use Only", scale is **1/64** and signed and stamped by **John S. Lauretani**.

Tom Rota made a motion, seconded by Nitin Choksi, to remove the application from the table for discussion. All in favor. Approved.

Tom Noel asked Mr. Herrmann if he had engineered-plans to submit to the board and he replied that he had and gave a copy to each member for review. Tom Rota asked Mr. Herrmann if he was correct in stating that he proposes to take a pre-existing non-conforming building, raising it and rebuilding on the same footprint. Mr. Herrmann replied that this was correct. He asked the board if he could extend the second floor a couple of feet and Tom Rota stated that the Zoning Board of Appeals is making a decision based on the footprint at the ground level. Tom Noel said that any other decisions with the construction of the building would have to be made by the Building Inspector. Tom Rota again stated the ZBA decision is based on the footprint of the foundation as shown on the submitted plans.

Mr. Herrmann stated that the former Building Inspector advised him that he would have to consult with the Zoning Board of Appeals for any proposals to enlarge the building. Tom Noel stated the ZBA will make their decision based on the submitted engineered-plan. Tom Noel stated the applicant if requesting a finding under Section 1.5E and also a

variance as needed. Tom Rota stated the finding will be whether or not the new dwelling will be more non-conforming than the existing dwelling. Tom Noel asked Mr. Herrmann what was going on with the demolition of the building and Mr. Herrmann stated he had not spoken with the Building Inspector after the last meeting. Tom Noel made a motion, seconded by Tom Rota, to make a finding that the proposed re-construction will not be substantially more non-conforming than the prior existing structure. All in favor. Approved. Tom Rota made a motion, seconded by Nitin Choksi, to allow for the variance based upon the lot lines and side and front yard setbacks as shown on the submitted plans. All in favor. Approved.

III. Michelle Fitzgerald, 64 South Washington Street, 011-007

Application is for a Variance from Section 6.2 of side and front yard setbacks.

Document List

1. Application for a Variance for relief from Section 6.2 of side and front yard setbacks.
2. Plan entitled Sanitary Disposal Repair for John & Ruth Schepis at 64 South Washington Street in Norton, MA

Present at the public hearing were Michelle and Eric Fitzgerald.

Tom Rota made a motion, seconded by Nitin Choksi, to remove the application from the table for discussion. All in favor. Approved.

Ms. Fitzgerald stated that her house was built in 1850 and she is proposing to add a famers porch to the front and side of the house which is non-conforming since the house is only 16 feet from the road. She said she does not intend on building any further towards the road only keeping in line with the portion of the house that is 16 feet from the road.

Tom Noel stated that the house at 64 So. Washington Stret was purchased in September of 2006 by Michelle and Eric Fitzgerald which Ms. Fitzgerald confirmed.

Tom Noel noted that the submitted plan is two years old with the proposed farmer's porch drawn in by the applicant. He stated that the Zoning Board of Appeals requires engineered-drawn plans, signed and stamped, with all applications. Tom Rota further explained the requirements to the applicants.

Discussion ensued on whether or not the concrete steps are considered part of the structure or not and Ms. Fitzgerald noted that the steps will remain in place and and porch will be constructed over them. Tom Noel asked if there was a foundation under the stairs as part of the footprint of the structure and Ms. Fitzgerald replied there was not, only footings.

Tom Noel stated to the applicant that she would have to submit an engineered-plan showing the proposed farmer's porch and suggested continuing the public hearing until the next meeting of Monday, November 15, 2010. The applicant agreed.

Tom Noel made a motion, seconded by Tom Rota, to continue the public hearing until the next meeting on Monday, November 15, 2010 at 7:32 pm. All in favor. Approved.

Discussion ensued on re-wording the application regarding the type of plan required with an application.

IV. Bay Road Heights, LLC, Bay Road – 40B Comprehensive Permit Request Modification. (cont. from the August 2, 2010, September 13, 2010 & October 18, 2010 mtgs.)

Tom Noel stated that the public hearing was continued to the last meeting of September 13th and no one was present at this meeting representing the applicant. He said Mike Trowbridge of Hutchins-Trowbridge Associates, Inc. finally received a response to his pier review report late Friday afternoon as did the ZBA Secretary. Tom Noel stated that Mr. Trowbridge said that there would not be enough time to review the revised plans and write up a response before tonight's meeting and suggested to continue the meeting to the next meeting of Monday, November 15, 2010.

Tom Noel stated that Ilana Quirk, Town Counsel, had spoken with Paul Cusson of Bay Road Heights, LLC and he requested to be present at the next public meeting of Monday, November 15, 2010. He said that he asked Ms. Quirk to advise Mr. Trowbridge not to attend tonight's meeting as the applicant would not be present. Tom Noel suggested that the applicant be notified to submit more copies of the plan and report.

Tom Rota made a motion, seconded by Nitin Choksi to continue the public hearing until the next meeting of Monday, November 15, 2010 at 7:35 pm. All in favor. Approved.

The members reviewed a request for an extension for the **Turtle Crossing Comprehensive Permit** on Newland Street.

Document List

Letter dated October 13, 2010 from Marcus, Errico, Emmer & Brooks, P.C. requesting a 2-year extension to expire on January 10, 2012.

Present at the public hearing was Attorney V. Douglas Errico and Mitchell Marcus of The First National Bank of Ipswich (FNBI).

Mr. Errico explained that the property for the Turtle Crossing project was foreclosed upon and has been recorded at the Registry of Deeds. He pointed out Condition #35 of the Turtle Crossing, LLC Comprehensive Permit which states that the permit will expire if all

other permits are not obtained within 3 years. He said that it further states that the permit may be extended by 1 year twice before expiring.

Tom Noel asked Mr. Marcus what the intentions of the bank were and he replied the bank is going to re-sell the property along with the permit. Tom Noel asked if the property was going to be marketed as a "40B" project and Mr. Marcus replied it was. Tom Rota stated that the present expiration date for the project is January 10, 2011. Mr. Errico stated that is the date a building permit has to be obtained by and he requested an extension of 1 year for the permit, which would expire on January 10, 2012.

Frank Reynolds pointed out that the permit may be extended twice for one year each time. Tom Rota stated this should be disclosed to the new buyer.

Tom Rota made a motion, seconded by Nitin Choksi, that the Board find that the request by FNBI Realty Company, LLC approve the transfer of the Comprehensive Permit as an insubstantial change, as contemplated by Section VII of the Comprehensive Permit issued to Turtle Crossing, LLC and under 760 CMR 56.05(12)(b.), subject to and conditioned upon receipt by Boar of written confirmation from the Subsidizing Agency that FNBI Realty Company, LLC meets the requirements of 760 CMR 56.04(1)(1) and (b). All in favor. Approved.

Tom Rota made a motion, seconded by Nitin Choksi, that the Board find that the request by FNBI Realty Company, LLC, to extend the three year deadline for obtaining building permits that is set forth under Section V. Conditions. C. 35 of the Comprehensive Permit issued to Turtle Crossing, LLC from January 10, 2011 to January 10, 2012, with all other deadlines to continue to apply, would not be a substantial change. All in favor. Approved.

Tom Noel stated a letter of confirmation would be sent to the applicant. Mr. Errico stated that the entity purchasing the property would have to abide by all 40B restrictions and regulations.

Tom Noel presented an invoice submitted by Hutchins-Trowbridge Associates, Inc. for \$2,875 for review. Tom Rota had concerns with there being enough funds to complete all reviews for this project and Tom Noel stated that Ilana Quirk, Town Counsel, had a conversation with Mr. Cusson of Bay Road Heights, LLC and he stated the company would make sure there would be enough funds to pay all review costs. Tom Rota made a motion, seconded by Nitin Choksi, to pay the bill. All in favor. Approved.

Nitin Choksi made a motion, seconded by Tom Rota, to authorize the ZBA Secretary, Phyllis M. Bernard, to sign all Bills Payable Sheets after approved by the Zoning Board of Appeals. All in favor. Approved.

Discussion ensued regarding the submission of applications. The board agreed that the applicant should see the Building Inspector first and then see the ZBA secretary to ensure

that the proper documents are submitted, which includes a signed and stamped engineered-plan.

Meeting scheduled for Monday, November 15, 2010.

Tom Noel made a motion, seconded by Tom Rota, to adjourn the public meeting at 8:40 pm. Approved.

Minutes Approved by Committee on: _____
(Date)

Respectfully submitted,

Tom Noel

Chairman, Norton Zoning Board of Appeals