



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES

Meeting of November 29, 2010

I. Call to Order

The November 29, 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, Nitin Choksi and Frank Reynolds. Also present was Town Counsel, Ilana Quirk of Kopelman & Paige.

II. Request for Extension – K.G.M. Custom Homes, Inc./Strawberry Fields Comprehensive Permit/ZBA Case No. 7000.

Document List:

1. Letter of Request dated November 19, 2010 from Peter L. Freeman, Freeman Law Group LLC.

Present at the public hearing were Greg Mills, applicant, and his attorney Peter Freeman. Peter Freeman stated that the decision for this project is under appeal at this time and a favorable decision has been handed down and his client is awaiting the Final Judgement. He stated that the seller of the property has reneged on his original contract agreement and Mr. Mills has sued the seller. He said they are awaiting the Final Judgement which is expected at any time now. He said this is the reason for the request for another Extension Permit.

Mr. Freeman stated that an Extension Permit has already been issued for this project which requires the applicant apply for building permits prior to December 31, 2010 and shall begin construction within 30 days after issuance of the building permits; and construction is to be completed no later than December 31, 2012. Mr. Freeman stated his applicant is requesting another Extension requiring the applicant to apply for building permits prior to December 31, 2012 with construction to begin within 30 days after issuance of the building permits and that the completion be extended through December 31, 2014.

Peter Freeman explained that because of the economy, building permits may have to be applied for one at a time. Ilana Quirk stated the applicant may need to apply for a

modification of the project for this type of construction. She stated that Condition #37 of the Decision states that if because of any legal issues or litigation, the dates for obtaining permits, beginning construction and completing the project may be extended.

Tom Rota stated that with so many projects in the past, there were too many delays and took too long to finish the projects. He said he would like to see this project started and finished as soon as possible.

Tom Rota made a motion to grant the request for an extension as an insubstantial change with the following conditions:

1. KGM shall obtain and provide the Board, not later than March 1, 2011, a letter from KGM's Lender, FHLB Boston, that the NEF approval has been extended through December 31, 2011 (i.e. stating that the reservation of funds made for the Project is still in place through that date);
2. KGM shall obtain and provide the Board, not later than March 1, 2012, a letter from KGM's Lender, FHLB Boston, that the NEF approval has been extended through December 31, 2012 (i.e. stating that the reservation of funds made for the Project is still in place through that date);
3. KGM shall apply for building permits no later than June 30, 2012 and shall begin construction within 30 days after issuance of the building permits.
4. KGM shall complete construction no later than June 30, 2014; and
5. Any failure by KGM to comply with the above conditions shall cause the comprehensive permit to lapse on the date specified.

The motion was seconded by Frank Reynolds. All in favor. Approved.

**III. Bay Road Heights, LLC, Bay Road - Modification
(cont. from the August 2, 2010, September 13, 2010, October 18, 2010 &
November 15, 2010 mtgs.)**

Application is for a modification to a 40B Comprehensive Permit.

Document List:

1. Plans entitled "Bay Road Heights, A Residential Development Located In Norton, Massachusetts/Sheets 1 – 10. Latest Revisions: June 23, 2010. Prepared by Outback Engineering, Inc. and signed and stamped by Rene L. Gagnon.
2. Drainage Report, Bay Road Heights, Norton, Massachusetts, A Proposed Housing Development In The Town of Norton., June 24, 2010.

No one was at the public hearing to represent the applicant. Ilana Quirk stated she left many voice messages with Mr. Paul Cusson but did not get a reply. She stated her message stated that he would more than likely not have a problem with Phasing the project, but the Board would want to control the timing of the Phases. Ilana Quirk recommended that the Board find the modification substantial. She recommended that the Engineer, Mike Trowbridge, at least review the drainage details of the phases before a

decision by the Board is made. Tom Rota stated he would like to get feedback from different boards on the modification.

Tom Noel asked Ilana Quirk what the deadlines are if the modification is voted substantial at tonight's meeting. She replied that a written decision would have to be sent out within 20 days of tonight's meeting and a public hearing would have to be held within 30 days of tonight's meeting. Discussion ensued regarding the date of the next public hearing and the deadline to advertise for the public hearing. The general consensus of the board was that the best date for the next public hearing would be Monday, December 20th. Tom Rota suggested that Ilana Quirk speak to the applicant and request an extension of the date for the next public hearing due to the fact that it is so close to the holidays and it may be difficult to get a quorum before January. She agreed that she would ask the applicant if he would agree to having the next public hearing on his project on Monday, January 24th. She said she would ask him to submit this in writing.

Tom Rota made a motion, seconded by Nitin Choksi, to deem the modification to this project substantial due to the fact that no further detailed information has been received on Phase I, Lot 1, Phase II, infrastructure for single-family homes and Phase III, condominiums. All in favor.

Tom Rota made a motion, seconded by Nitin Choksi, to hold a public hearing on Monday, December 20, 2010 at 7:30 for discussion on the modification by Bay Road Heights LLC and have a legal notice published in the local newspaper this week unless the applicant agrees to extend the date for the next public hearing to a later date, preferably January 24, 2011. All in favor.

Tom Noel made a motion, seconded by Tom Rota, to adjourn the public meeting at 9:00 pm. Approved.

Minutes Approved by Committee on: _____
(Date)

Respectfully submitted,

Tom Noel

Chairman, Norton Zoning Board of Appeals