



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES
Meeting of January 24, 2011

I. Call to Order

The January 24, 2011 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.

II. Bay Road Heights, LLC, Bay Road - Modification
(cont. from the August 2, 2010, September 13, 2010, October 18, 2010,
November 15, 2010 & November 29, 2010 mtgs.)

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

Document List:

1. Letter dated November 17, 2010 from Paul E. Cusson, Managing Member, Delphic Associates, LLC to Tom Noel, Chairman, Zoning Board of Appeals, requesting the project be constructed in Phases.
2. Letter dated December 1, 2010 from Tom R. Noel, Chairman, Zoning Board of Appeals to Paul E. Cusson, Managing Member, Delphic Associates, LLC stating that the request to construct the project in Phases is a substantial modification and will require a public hearing and notification to abutters.

Tom Noel stated that the modification request is to allow the project to be built in phases. He stated the first request was a letter dated November 17, 2010 requesting that the project be allowed to be built in three phases. He said the second letter dated December 22, 2010, explained in more detail the phasing process and, in an email, he stated, the applicant further described the modification request.

Tom Noel stated that the permit holder had contacted the Town's peer review Engineer for this project, Mike Trowbridge, and asked him to review the latest plans and requests for the modification. He said that, according to office records, the amount remaining in

the permit holder's account for any expenses was \$162.00. Mr. Noel said that Mike Trowbridge was asked to give an estimate of his cost to do further reviewing of this modification and he submitted an approximate amount of \$687.00. He said through correspondence between Town Counsel and Mr. Paul Cusson, the funds would be submitted to the Zoning Board office to cover the Peer Review expenses.

Tom Noel stated that Nick Adams had requested a continuation of the public hearing in order to meet with Duane Knapp, Water Superintendent, in regards to any water or piping issues for this project. He asked the board members if they had any comments at this time.

Tom Rota stated there were two main concerns at this time; 1. information is needed from Duane Knapp regarding the matter of the water looping and how it is to be structured into this project and 2. having Mike Trowbridge review the final water looping and submitting his report on how it will work in with the three phases of construction for the project. He said that the board cannot make a decision on the changes to the modification until these concerns are addressed and resolved.

Duane Knapp stated the Water Department has not made any decisions based on the original submitted plans and stated that he has been meeting with the permit holder trying to come to a decision on the water looping.

Nick Adams addressed the board and stated he was under the impression that the Water Dept. would be speaking and that the pier review engineer, Mike Trowbridge would be at the meeting tonight. He apologized that he missed a few of the latest emails earlier today. He stated that negotiations are underway with residents of Buttermilk Way in hopes of obtaining an easement through the road in order to loop the water mains easier and more economically.

Tom Noel stated that Mike Trowbridge would need the final approved plans between the permit holding and the Water Department before he could submit a report. He asked Mr. Nick Adams if he intended on submitting new plans or drawings and Mr. Adams stated the Water Department is insisting on the total water system be shown on submitted plans before any construction has begun. Tom Noel asked Mr. Adams if the plans would be submitted in the near future and he replied that as soon as negotiations are finished between the Water Dept. and the residents of Buttermilk Way, plans will be submitted for Mike Trowbridge's review.

Tom Rota stated funds have been submitted by the permit holder to pay for the pier review by Mr. Trowbridge.

Tom Noel noted that an extension was granted for this project last October and since then, a request has been received to Phase the project. Tom Rota added that the board had deemed the Phasing request to be a substantial modification and decided to re-open and

re-advertise the modification in order to give abutters and the public a chance to comment on the changes and note any concerns they may have.

Discussion ensued on the date for the next Zoning Board meeting. It was decided to continue discussion on this project until Monday, February 7, 2011 at 6:30 pm.

David Henry, Chairman of the Norton Conservation Commission, submitted a memo dated January 24, 2011 written by Jennifer Carlino, Conservation Agent in response to a letter received by the Zoning Board of Appeals which included the latest modification request and request to change the modification. Tom Noel proceeded to read the letter to the board as follows:

“The Conservation Commission has received the notice dated January 20, 2011 regarding the Notice of Determination of Substantiality for the Comprehensive Permit Bay Road Heights, LLC. Please be aware that the applicants of the Bay Road Heights Project have not yet filed for a permit under the Wetland Protection Act (MGL Chapter 131 Section 40) and its implementing Regulations (310 CMR 10.00). Also, the construction sequence and storm water management are under the purview of the Conservation Commission and EPA under the Construction General Permit. In addition, there could be other state and federal permits for which the project may need to apply which may influence construction sequencing. As such, the Conservation Commission's conditions to a wetland permit influence how a project is designed, sequenced and constructed. Even through the project may be phased, the Commission reviews the comprehensive project without segmentation.”

“We respectfully request that the ZBA continue this discussion until such time as the wetland permit application has been filed so the project can be jointly reviewed. Thank you.”

Tom Noel asked why a Conservation permit should be applied for before a decision is made on the Phasing request for this project. He asked if the phasing would have an effect on the decision made by the Conservation Commission. Jennifer Carlino replied that it would be better for the two boards to review and make comments on the storm water management and sequencing portions of the project together at one time rather than having to discuss it twice. She said this would prevent having to have plans re-drawn and having to continue the project with the Zoning Board of Appeals or the Conservation Commission.

Tom Rota suggested to Mr. Adams that when revised plans are submitted to the Water Department and Zoning Board of Appeals plans also be submitted to the Conservation Commission and he agreed to do so.

Mr. Knapp stated that the best process for running the new water mains would be to obtain an easement through the end of Buttermilk Way up to the project and loop around and come back down by way of Bay Road. He said he is leaving up to Mr. Adams to look

into getting an easement through Buttermilk Way. He stated the looping of the water main has to be in place before any construction is started. Tom Noel asked how many residents were involved in the looping of the water main. Nick Adams spoke up and stated there are two options regarding Buttermilk Way, Mr. Alexander at 8 Buttermilk Way or Mr. Morrissey at 9 Buttermilk Way. He said he has not heard back yet from either of them and at this point is proposing to loop the water system within the development. He said that Mr. Knapp is requesting the water loop be in place before any construction takes place.

Duane Knapp stated to Mr. Adams that there might be the possibility of using sewer tie in permits that were not used for the Lake Winnecunnet sewer project and paying to run it along Bay Road from Charlotte Avenue and up to Buttermilk Way. He said he had presented this to his engineer as a possibility. Mr. Knapp stated he received a letter from Taunton stating these permits can be used other than for the Lake Winnecunnet sewer project.

Tom Rota made a motion, seconded by Nitin Choksi, to continue the public hearing for Bay Road Heights, LLC Phasing modification until Monday, February 7, 2011 at 6:30 pm. Approved.

III. William F. Moore – 409 Reservoir Street

For a variance of Section 6.2 of the Norton Zoning Bylaws for relief of continuous frontage, side yard, rear yard and front yard setbacks. Applicant plans to demolish the existing structure and construct a new structure.

Document List

1. Variance application form.
2. Plan entitled SITE PLAN for 409 Reservoir Street, Norton, MA 02766 prepared by Prime Engineering, Inc. signed and stamped by Bernard N. Perrotty with a scale of 1"=20'.

Tom Noel read the application aloud and noted that this application was a duplicate of the previous application that had expired and asked if anyone was present for this hearing. William F. Moore addressed the board. Mr. Noel asked Mr. Moore if it was his truthful statement that the plan was the same as the previous application and that the plan was an accurate description of the property at present. Mr. Moore replied it was, with the exception of the fence being removed from the property.

Tom Noel asked if there were any utilities on the property at present and Mr. Moore stated he had the water and the electricity shut off. He stated the house has not been lived in since it burnt down in 2006 and he has been paying the taxes on the property. He said that the Building Inspector required he board the house up to prevent vandalism. Mr. Moore stated the reason for not starting the project was lack of funds. Tom Noel said that this would be considered an "existing use" project.

Tom Rota made a motion that according the submitted plan dated March 1, 2007, the non-conforming use as changed, extended, and altered as per the plans on file shall not be substantially more detrimental than the existing non-conforming use, and that such extension is of the same general class as the existing non-conforming use and will not significantly increase traffic, noise, bright lights, and other undesirable impacts on the surrounding environment. Nitin Choksi seconded the motion. All in favor. Approved.

Tom Noel stated, in his opinion, a variance would not be necessary for this project on a Section 1.5E Finding. Tom Rota noted that once the house is demolished, the new building has to be constructed on the identical footprint. He also stated that if construction does not begin within two years of the issuance of the permit, the lot will automatically be deemed "non-conforming".

Tom Rota stated that the Conservation Agent, Jennifer Carlino, should be given a copy of the revised plans when submitted to the Zoning Board Office.

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