



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES

Meeting of October 24, 2011

I. Call to Order

The October 24, 2011 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 p.m. in the second floor meeting area in the Norton Municipal Center by Thomas Noel, Chairman, with the following members present: Thomas Rota, Nitin Choksi and Frank Reynolds.

II. Review of the decision granted on June 2, 2010 for Jonathan Drobnis, 286 West Main Street (File #010-013).

Tom Noel stated he would like to use his discretion and table discussion of the decision for Jonathan Drobnis until the end of the meeting.

III. Daniel M. Rich – 34 Evergreen Road

Variance from Section 6.2 for relief of side yard set back and frontage requirement and lot size.

Document List

1. Variance application
2. Portion of a plan entitled "Proposed House Location at HSE.NO.34 Evergreen Road in Norton, MA, Scale 1"=20", dated December 21, 2010, prepared by RIM Engineering Co., Inc. and signed and stamped by Craig E. Cygawnoski.
3. Drawing of proposed house.

Tom Noel stated the application is for a residential single-family house. He stated the applicant proposes to tear down the existing structure and rebuild a larger house. He said the applicant is seeking a variance from Section 6.2 for relief of side yard set backs and frontage requirement and lot size. He noted the plans submitted are dated December 21, 2010.

Dan Rich stated the existing structure has not been lived in for over nine years and cannot be lived in or renovated. Tom Noel asked Mr. Rich if he owned the property and Mr. Rich replied that he purchased the home in 2001 but just recently recorded the deed at the Registry of Deeds.

Dan Rich stated that there are a couple of larger homes on nearby lots that are the same size as this lot and that improve the look of the neighborhood. He said that he would like to build a home that would improve the look of the neighborhood. He stated the size of the proposed house is 24'x36'.

Tom Noel noted that a deed had been recorded last year and asked Dan Rich if he was familiar with this deed. Dan Rich noted the name and address did not pertain to this property.

Tom Noel stated that Mr. Rich is looking for a 22' side setback on each side of the house. Tom Noel asked Mr. Rich if he needed a variance for the front or back setbacks and he replied that he did not. He stated he would be demolishing the existing house as well.

Tom Rota asked Mr. Rich if there would be any stairs, decks or porches built on the side of the proposed house which would encroach further into the side setbacks and present future problems with the obtaining of a building permit. Mr. Rich replied that there would not be any additions to the sides of the house.

Nitin Choksi asked why the application was also requiring a variance to the "frontage". Dan Rich replied that he was not clear on what to request and therefore requested a variance for the frontage in case this was not included in the Section 1.5. Tom Noel stated the frontage would be covered under the "small lot" exception. The secretary noted that she usually receives a letter from the Building Inspector stating what the applicant is requesting, but he did not give her a letter for this project. Tom Noel stated this project is covered under 6.5 of the Zoning Bylaws.

Tom Noel asked if there was anyone present to speak in favor or opposition of the application and no one responded.

Tom Noel asked that "under Section 1.5E, would the non-conforming use as changed, extended and altered as per the plans on file, by the Zoning Board of Appeals, be substantially more detrimental than the existing non-conforming use?" Tom Rota made a motion, seconded by Nitin Choksi, that the changes would not be more detrimental than the existing non-conforming use.

All in favor.

Tom Rota made a motion, seconded by Nitin Choksi, to approve the plan Portion of a plan entitled "Proposed House Location at HSE.NO.34 Evergreen Road in Norton, MA, Scale 1"=20', dated December 21, 2010, prepared by RIM Engineering Co., Inc. and signed and stamped by Craig E. Cygawnoski with the house size proposed to be 36' x 24' to include the side setbacks at 22 feet. All in favor.

Tom Rota made a motion to discuss the request for an extension for the **Turtle Crossing** Comprehensive Permit.

Document List

Letter dated October 12, 2011 sent by Matthew W. Gaines of the law firm of Marcus, Errico, Emmer & Brooks, P.C. on behalf of FNBI Realty Company requesting an extension for the **Turtle Crossing Comprehensive Permit** which would extend the permit to January 10, 2013.

Matthew Gaines was present at the public meeting. Tom Noel read his letter requesting an extension to expire on January 10, 2013. Tom Rota asked if all project dates within the Comprehensive permit would be extended and expired accordingly and Tom Noel said this was correct. Mr. Gaines stated that when FNBI foreclosed on the property they came before the ZBA to request an extension from January 10, 2011 to January 10, 2012 and now they have a perspective buyer for the property. He noted that it is his right to request two extensions. Tom Rota stated that the new buyer of the property shall be notified that two extensions have been granted and they will not be able to request any further extensions. Mr. Gaines stated the new buyer would receive this information.

Tom Noel stated that the question before the board tonight is whether the extension will be a "substantial" or "non-substantial" modification to the project. He said if the board finds the extension to be "substantial", a public hearing will have to be held and if the board finds the extension to be "non-substantial", a decision letter with the new extension date will be sent to the applicant. Tom Noel stated the request falls under 760 of the Code of Massachusetts, Section 56.

Tom Rota stated, in his opinion, the extension request is non-substantial to the project.

Nitin Choksin asked if there were any dates within the permit that would be affected by the extension date. Tom Rota stated if there are dates to be met according to the extension date, they would be extended accordingly. Tom Noel asked if there were any other comments or questions regarding the extension and no one responded.

Tom Rota said he did not believe there were any changes in the project at this time and made a motion that the extension request per the letter dated October 12, 2011, is non-substantial to the project. Nitin Choksin seconded the motion. All in favor.

IV. Discussion: To release remaining review funds for the **Ashley Place 40B project.**

Tom Noel asked how the request for the funds were requested and the secretary stated that Mr. Larry Dean had called and asked that this request be put on the agenda. Tom Rota stated that Mr. Dean has to send a letter requesting that the money be refunded to him. Tom Noel stated that research with several departments will have to be done to see what the status of this project is at the present time before any funds are refunded. He said that Mr. Dean will have to attend a public meeting of the ZBA and update the board on the status of the project. The secretary stated she would call Mr. Dean and advise him

of this information. The members agreed to table the discussion for this request until the next meeting of the ZBA.

Discussion ensued regarding the decision for **Jonathan Drobnis, 286 West Main Street (File #010-013)**. Tom Noel stated that he was notified by the secretary that there was a problem with Mr. Drobnis trying to obtain a building permit. He stated that the secretary was informed by the Inspection Department that Mr. Drobnis was proposing to construct a garage 20' x 40', but his decision from the ZBA was showing the size approved for a 20' x 30' garage. His application stated 20' x 30', but his approved plan showed a size of 20' x 40'.

Tom Noel stated that he had received the minutes of June 2, 2010 for the hearing for Mr. Drobnis by email from the ZBA secretary and this is the information he used for the decision. The size of the garage that was approved in the minutes was 20' x 30'. Frank Reynolds noted the application stating 20' x 30', but the letter from the building inspector, as well as the submitted plans, stated 20' x 40'.

Tom Noel played the recording of the meeting for the ZBA meeting of June 2, 2010. It was noted that after listening to the recorded tape of the meeting of Tuesday, June 2, 2010, that the applicant stated his proposed garage to be the same as the neighbors, 20' x 30'.

Tom Noel agreed to check with Town Counsel on how to proceed with correcting the decision.

The members reviewed the draft minutes of May 4, 2010. Tom Noel noticed the date on the bottom of the pages was incorrect. Tom Rota made a motion, seconded by Nitin Choksi, to accept the minutes as amended. All in favor.

The members reviewed the draft minutes of June 2, 2010. Tom Noel asked that the minutes be tabled to the next regular meeting after he has conferred with Town Counsel regarding the Jonathan Drobnis public hearing and decision. The members agreed.

The members reviewed the draft minutes of November 15, 2010. Tom Rota made a motion, seconded by Nitin Choksi, to accept the minutes as written. All in favor.

The members reviewed the draft minutes of November 29, 2010. Tom Rota made a motion, seconded by Nitin Choksi, to accept the minutes as written. All in favor.

The members reviewed the draft minutes of January 24, 2011. Tom Rota noted that the word "new" in the finding should read "identical". Frank Reynolds noticed a couple of "typos" to be fixed. Tom Rota made a motion, seconded by Nitin Choksi, to accept the minutes as amended. All in favor.

The members reviewed the draft minutes of February 7, 2011. Tom Rota made a motion, seconded by Nitin Choksi, to accept the minutes as written. All in favor.

The members reviewed the draft minutes of February 28, 2011. Tom Rota made a motion, seconded by Nitin Choksi, to accept the minutes as written. All in favor.

Tom Rota made a motion, seconded by Nitin Choksi, to adjourn the meeting at 9:11 pm. All in favor. Approved.

The members agreed that the next regular meeting would be scheduled for Monday, November 28, 2011.

Respectfully submitted,

PHYLLIS M. BERNARD
Zoning Board of Appeals Secretary

Minutes Approved by Committee on: December 12, 2011

Thomas R. Noel, Chairman
Norton Zoning Board of Appeals