



## 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 February 27, 2012

#### I. Call to Order

The February 27, 2012 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 p.m. in the first floor meeting area in the Norton Municipal Center by Thomas Noel, Chairman, with the following members present: Nitin Choksi, alternate member and Frank Reynolds, alternate member. Also present was Ilana Quirk, Town Counsel.

Tom Noel noted there was only one item on the agenda this evening which was a request for an extension to the modification to the Bay Road Heights LLC project on Bay Road. Mr. Paul Cusson was present at the public hearing. Tom Noel stated the board would decide whether or not the request for an extension was substantial or non-substantial.

Nitin Choksi made a motion, seconded by Frank Reynolds to review the request. Approved.

Tom Noel read the letter as follows:

"February 13, 2012

Thomas R. Noel, Chairman  
Zoning Board of Appeals  
70 East Main Street  
Norton, Ma 02766

Ref: Bay Road Heights

On February 28, 2011 the ZBA voted 3-0 to find that the February 9, 2011 extension request to extend the Bay Road Comprehensive permit to March 15, 2012 as an insubstantial modification.

Since that time the Applicant and Outback Engineering (the "Engineer") have been working with the Conservation Commission, its peer review engineer, and Natural Heritage, regarding an "Order of Conditions".

As required by the Comprehensive Permit a "Notice of Intent" was filed with the Conservation Commission in the spring of 2011. During the hearing process Natural Heritage required a filing of a Environmental Notification Form ("ENF"). The ENF was filed in July of 2011. Since that time there have been several meetings with the Conservation Commission and that process is continuing.

Therefore, it is unclear to me regarding the position of the Zoning Board of Appeals as to the expiration date of the Comprehensive Permit. Base on my reading of the Comprehensive Permit Regulations, specifically 760 CMR 56.05(12)(c) titled "Lapse of Permits" it states in part the following:

*...If construction authorized by a Comprehensive Permit has not begun with three years of the date on which the permit becomes final except for good cause, the permit shall lapse. This time period shall be tolled for the time required to pursue or await the determination on any appeal on any other state or federal permit or approval required for the Project...*

My interpretation of the above is that the extension of the Comprehensive Permit to March 15, 2012 as granted by the board on February 28, 2011 is tolled to the period of time necessary to obtain an "Order of Conditions" from the Conservation Commission or the conclusion of any appeals taken thereto.

If the board agrees with my interpretation we are hereby requesting a written confirmation of the "tolling period"

If the board disagrees with my interpretation , on behalf of the "Applicant" and in accordance with 760 CMR 56.05(11), 760 CMR 56 . 05(12)(c), and 760 CMR 56.07(4) we are hereby requesting an extension to the Comprehensive Permit to March 15, 2014.

Sincerely

Paul E. Cusson"

Paul Cusson addressed the board. He stated that since the original permit was issued, the wetland boundaries had expired, therefore, the project is being reviewed by the Conservation Commission and the Natural Heritage and Endangered Species Program. He stated that there are not changes proposed at this time and he is requesting a one-year extension on all permits and conditions.

Tom Noel asked the board to vote that the extension request is a **substantial** change or an **insubstantial** change.

Nitin Choksi made a motion to deem the requests in the letter dated February 13, 2012 as an **insubstantial** change. Frank Reynolds seconded the motion. All in favor. Approved. The vote was 3-0.

Nitin Choksi made a motion, seconded by Frank Reynolds, to adjourn the meeting at 7:55 pm. All in favor. Approved.

Minutes Approved by Committee on: September 17, 2012.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'T. R. Noel', is written above a horizontal line.

Thomas R. Noel, Chairman  
Norton Zoning Board of Appeals