



**TOWN OF NORTON
ZONING BOARD OF APPEALS**

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MINUTES

Meeting of June 18, 2012

I. Call to Order

The June 18, 2012 scheduled meeting of the Zoning Board of Appeals was called to order at 7:00 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, Frank Reynolds (Associate Member) and Jason Broksma (Associate Member). Also present was Attorney Ilana Quirk of Kopelman & Paige, Town Counsel.

Tom Noel re-opened the public hearing for the Request for a Modification/Project Change to the Comprehensive Permit for **Turtle Crossing 40B**. (07-003) Newland Street (cont. from the April 30, 2012, May 21, 2012 & June 4, 2012 mtgs.

The requested modifications were as follows:

1. reduction number of buildings from 15 to 7
2. increase the height of the buildings from 2 stories to 3 stories
3. decrease the number of bedrooms from 352 to 296
4. delete a portion of the property which would change the access entrance to one lane from two lanes.
5. decrease the parking spaces
6. altering the configuration of the development
7. modify the storm water drainage infrastructure
8. modify the water and sewer infrastructure
9. modify the lighting infrastructure
10. modify the plans
11. extend the deadlines to exercise the permit and complete construction
12. transfer the permit to Dakota Partners, Inc.

Document List

1. A request letter dated March 19, 2012 from Peter L. Freeman, Atty. At Law of the Freeman Law Group, LLC addressed to Thomas R. Noel, Chairman, Zoning Board of Appeals.
2. Copy of original decision for the 40B Comprehensive Permit for Turtle Crossing project.
3. Plans dated March 16, 2012 entitled Turtle Crossing Comprehensive Permit

Application, Local Initiative Program, Newland Street, Norton, Massachusetts. (Sheets C-1.0 – C-6.4, A1.01A – A1.01D, A1.02D, A4.01A. Prepared by Level Design Group, LLC and signed and stamped by Nicola Facendola.

4. Stormwater Report for Turtle Crossing Comprehensive Permit Application, Local Initiative Program, Newland Street, Norton, MA. Prepared by Level Design Group, LLC and signed and stamped by Nicola Facendola.

5. A letter/report dated May 16, 2012 from the Peer Review, Jeff Walsh of Graves Engineering, Inc. addressed to Norton Zoning Board of Appeals, a copy of which was sent to Daniel Campbell of the Level Design Group for comments.

6. A response letter dated May 17, 2012 addressed to Norton Zoning Board of Appeals addressing the comments in the May 16, 2012 letter from Graves Engineering, Inc.

7. Several aerial photos of the site.

8. Revised sheets of the originally submitted plans submitted on May 21, 2012.

9. Revised Stormwater Report for Turtle Crossing Comprehensive Permit Application, Local Initiative Program, Newland Street, Norton, MA. Prepared by Level Design Group, LLC and signed and stamped by Nicola Facendola.

10. A response letter dated May 31, 2012 addressed to Norton Zoning Board of Appeals addressing the comments in the May 17, 2012 letter from Level Design Group for comments.

11. A response letter dated June 1, 2012 addressed to Norton Zoning Board of Appeals addressing the comments in the May 31, 2012 letter from Graves Engineering, Inc.

12. Draft decision submitted by Peter L. Freeman, Atty. At Law.

13. Email from David Brunelle, abutter to the project, dated Thursday, May 10, 2012.

14. Letter from Duane Knapp, Water/Sewer Superintendent, dated March 5, 2012.

15. Letter from Paul J. Schleicher, Fire Chief, dated April 30, 2012.

16. Memo from Jennifer Carlino, Conservation Agent, dated May 2, 2012.

17. "Exhibit A" Notice of Project Change dated March 19, 2012 from Peter L. Freeman, Exq.

18. Revised Plans dated June 1, 2012 entitled Turtle Crossing Comprehensive Permit Application, Local Initiative Program, Newland Street, Norton, Massachusetts. (Sheets C-1.0 – C-6.4, A1.01A – A1.01D, A1.02D, A4.01A. Prepared by Level Design Group, LLC and signed and stamped by Nicola Facendola.

19. A letter/report dated June 4, 2012 from the Peer Review, Jeff Walsh of Graves Engineering, Inc. addressed to Norton Zoning Board of Appeals, a copy of which was sent to Daniel Campbell of the Level Design Group for comments.

20. Final report/letter dated June 14, 2012 from Jeff Walsh of Graves Engineering, Inc. addressed to the Norton Zoning Board of Appeals.

21 Final revised modification Decision.

Present at the public hearing were Ilana Quirk, Town Counsel, Peter Freeman of Freeman Law Group, Mark Daigle and Roberto Arista of Dakota Partners, Inc., the prospective buyer of the property, and Engineer Dan Campbell of Level Design Group.

Tom Noel noted there were no abutters present at the public hearing.

He suggested that the public hearing could be closed at this point since all information has been reviewed. Ilana Quirk noted that there were several questionable issues that the board should be aware of and make sure they have been resolved as follows:

Fire Chief's letter, ConCom's review of the project, Water/Sewer agreement, abutter issues, parking, garage, sidewalks, snow removal, bus shelter, etc. Peter Freeman stated these issues were resolved by letters and emails and have been incorporated into the decision.

Tom Noel requested of Peter Freeman that he email a copy of Duane Knapp's email to him. The secretary submitted an email from Duane Knapp of June 12, 2012 and Tom Noel read it aloud. It stated that he had reviewed the latest plan and was in total agreement with the applicant.

Tom Noel noted a final letter/report dated June 14, 2012 had been received from Jeff Walsh of Grave Engineering. He noted that #14 had to do with installing speed signs in the community and asked if this was required by law. Ilana Quirk asked if this had to do with the garages. Tom Rota stated it did and that the garages had been moved back 2 feet already. Ilana Quirk explained that in some private communities, mirrors can be installed at the end of the driveway. Tom Rota asked the applicant if liability insurance would be held by the owner of the property and Mr. Freeman stated that there would be liability insurance in place held by the Community Management company who would also oversee any safety issues.

Tom Noel asked if the revised plans reflected the new height measurements and Mark Daigle replied that they did.

Tom Noel had concerns with #18, snow removal, and Ilana Quirk noted this was listed in the conditions.

Peter Freeman stated the parking issues were clearly stated in the revised decision.

Jason Brolsma had concerns with paragraph 13 on page 27 regarding the "Restricted Covenant". He asked what would happen to the open space property if it was not accepted by the Town or any other non-profit organization. Ilana Quirk replied that most always Towns or Conservation Commissions, would always accept property offered to them, but nowadays, because of the expenses involved, they may not accept the property. She stated that the applicant would have to make every effort to give the property to either the Town or a non-profit organization.

Tom Rota asked if the Restricted Covenant would remain private and not available to the public and Mr. Freeman stated it would remain private property.

Jason Brolsma noted that on page 7, paragraph 6, the last sentence referred to "Phasing" of the project which was supposed to have been removed from the project decision. Mr. Freeman apologized and said this was an oversight that would be removed. Ilana Quirk suggested leaving that in place because if Phasing were to be proposed in the future, the applicant would have to apply for another modification with the ZBA.

Tom Noel asked what outstanding issues were to be resolved tonight and Ilana Quirk went through the list which included parking, garages, Conservation issues, open space property, bus shelter, building height, speed signs, water/sewer agreement, abutter concerns and the Fire Department letter. Peter Freeman stated these issues have been resolved and he had an email from one abutter, Mr. David Brunelle, stating they were in agreement and had spoken to Earl Willcott about leaving the natural buffer as requested.

Ilana Quirk noted that the lighting issue was included in the decision stating the lighting plan would be submitted to the building inspector before any building permits were issued. She noted that the height waiver and parking waiver were included at the end of the revised decision.

Tom Noel noted that a draft decision has been received and reviewed by all the members. He asked if anyone had any questions or concerns with the draft decision. Mr. Freeman pointed out a "typo" which he offered to fix. Tom Noel noticed that at the end of the draft decision, listing all the public meetings held for this modification, the June 4, 2012 date was omitted. Mr. Freeman stated it would be added.

Tom Rota made a motion, seconded by Frank Reynolds, to close the public hearing. All in favor. Approved.

Tom Rota stated that, in his opinion, this modified project is a better project than the original project approved in 2007. Frank Reynolds noted the same and had no further concerns or issues.

Tom Rota made a motion, seconded by Frank Reynolds to approve the draft decision, dated June 14, 2012, with appropriate amendments, and with all motions listed as positive and approved. All in favor. Approved.

Tom Noel noted there was no further discussion requested and all members agreed.

Discussion ensued regarding whether or not to allow a person or persons to attend a meeting to discuss projects before actually presenting an application with a plan. It was the consensus of the board to require an application before any discussion would take place on the project.

Ilana Quirk offered to present a work shop on "Land Use Issues". It was agreed to hold the workshop at the meeting of Monday, July 9, 2012 at 8:00 pm.

Tom Rota made a motion, seconded by Frank Reynolds, to adjourn the public meeting at 9:00 pm. All in favor. Approved.

Minutes Approved by Committee on: September 17, 2012.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'TR Noel', is written over a horizontal line.

Thomas R. Noel, Chairman
Norton Zoning Board of Appeals