



**TOWN OF NORTON
ZONING BOARD OF APPEALS**

70 East Main Street
Norton, Massachusetts 02766-2320
Office: 508-285-0278
Fax: 508-285-0277

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MINUTES

Meeting of March 4, 2013

I. Call to Order

The March 4, 2013 scheduled meeting of the Zoning Board of Appeals was called to order at 7:35 pm by Tom Noel, Chairman with the following members Tom Rota, Nitin Choksi, Frank Reynolds (alternate member) & Jason Brolsma, (alternate member). Also present was Ilana Quirk, Esq., Kopelman & Paige.

Tom Noel noted that there was only one public hearing for tonight's agenda.

013-005 – Campanelli Thorndike Norton, LLC, Parcels 61 & 76, Assessor's Map 11, **274 East Main Street** Comprehensive Permit 40B application – 230 apartments.
(continued from the February 4, 2013 mtg.)

Tom Noel stated that a letter/report dated February 27, 2013 has been received from the Peer Review, Graves Engineering. He noted that Jeff Walsh from Graves Engineering was present. Tom Noel asked Mr. Freeman to update the board on the project. Mr. Freeman replied that tonight's meeting was, in fact, to hear Graves Engineering's report outline. Lloyd Geisinger replied that he would be submitting a written response to the letter/report submitted by Graves Engineering.

Tom Noel asked Dave Eastridge if he had any communication with Graves Engineering after reading the report and he replied only to offer additional plans if needed. Tom Noel briefly explained to the audience the process of hiring a Peer Review for a project and noted that the Town hires the Peer Review who is funded by the applicant. He said that the Peer Review is to review all submitted information. He noted that the applicant may agree or disagree with the findings of the Peer Review.

Jeff Walsh of Graves Engineering addressed the board and he also introduced Jennifer Conley, P.E. of Conley Associates who is the traffic consultant for the project. He noted that the submitted plans were very easy to work with and well drawn. He said that there

were a few small issues but four major issues. He said he would outline the four major issues tonight which are:

1. Building Height: He said that they are mainly architectural issues pertaining to Fire Department accessibility.
2. Parking Spaces: He said that the Zoning By-Laws are clear as to how many parking spaces are needed per bedroom. He said that there appears to be a deficiency in the parking within the paved area because a few of the parking spaces should be enlarged eliminating a couple of parking spaces. He said there were a few "shadow" parking spaces on the street which should not be considered as full time parking spaces nor overnight parking spaces. He said that he excluded the "shadow" parking spaces when counting the number of parking spaces and the applicant has included them in his count.
3. Snow Storage: He said that special consideration should be given to this issue given the area size of the project.
4. Peak rates of runoff in the storm water management. He said that the locations of the storm water basins are good. He noted that because the site already has good drainage it is harder to replicate that during the development of a project. He said that after developing a property, the volume of runoff goes up and it is up to the applicant to keep the peak rates down. He noted that the plans already show that the volumes will be good.

He noted there were two storm water detention basins on the site, the larger on the west side not an issue, the smaller on the right side, challenging.

He noted one drainage issue at the most northern eastern side at the entrance. He noted that area is the lowest point on East Main Street. He noted there was some off site runoff to be dealt with.

Jeff Walsh stated that the project will have to be permitted under the Mass Wetlands Protection Act which will mean filing a Notice of Intent with the Conservation Commission. He noted that the project encroaches the 100-foot buffer zone of a wetland and that there is a vernal pool on the property which has a protected area of 100 feet around the pool. He said that the Conservation Commission has a 25-ft. No Disturbance policy also. He stated that the 25-ft. No Disturbance area will not be encroached upon, only the 100-ft. buffer zone. Discussion ensued regarding a local wetlands bylaw and Tom Rota noted that Norton does not have a local wetlands bylaw. He stated that a Town Meeting vote decided against a proposed wetland bylaw.

Jeff Walsh stated that the applicant will respond in writing to his report and then he will do a second review with revisions and go forward from there. He noted that the applicant will either agree or disagree with his findings which will have to be resolved between the two. He stated the most important issues are the storm water and the parking spaces.

Frank Reynolds asked if the materials used for the piping was sufficient and Jeff Walsh

replied that it is standard material and as long as it is bedded properly and not used on a main highway, it is suitable for this type of project.

Frank Reynolds had a question regarding the sewer force main location and Mr. Walsh agreed it was alright and the location made sense. Tom Noel asked what a force main pipe was and Mr. Walsh explained it to him. He explained that the sewer pump system has not been designed yet. Tom Noel asked who would review the sewer design and Mr. Walsh replied that the Water/Sewer Department would review the sewer design.

Frank Reynolds asked if the project has a construction time line or phasing at this time, and Mr. Walsh replied that there is no phasing proposed at this time and will probably depend on the market.

Jason Broksma asked Mr. Walsh if his report includes the re-location of the White Family house and he replied that his report includes both scenarios. He stated that the only difference would be about four parking spaces.

Jennifer Conley of Conley Associates addressed the board. She noted she did the Traffic Impact and Traffic Study for Graves Engineering. She said she followed the steps using the existing conditions into the future with "no build" and then into the future with the proposed project built. She said she found the **volume** to be **appropriate**, if not, **conservative**. She noted that her two concerns were:

1. the project did not look at off-site intersections. She said these would consist of the less traveled nearby intersections. She noted one intersection in particular being the intersection at Leonard Street and Route 123, East Main Street. She stated that the intersection at Kingsbury Hill Condos had been noted, but that is a small condo unit and not a standard intersection. She said it is not standard procedure to omit local intersections.

Frank Reynolds asked if the increased traffic would be significant to the Route #495 off ramp on East Main Street and Ms. Conley replied it would not have as much significance as it would to the local intersections because of the size and volume of traffic all ready using the off ramp. She said for the size of the project, it is not appropriate to require the applicant to look into the impact to the State Route 495 intersection.

Tom Rota asked Ms. Conley what the traffic impact would be toward Newland Street and she replied that, according to "trip patterns" in Norton, the impact toward Newland Street is much less than toward Route #495. She replied that the "trip patterns" in Norton show approximately 70% going towards Route 495.

Tom Noel asked Ms. Conley if she reviewed only what was submitted by the applicant and was it a full traffic study. She replied that she did not do an independent study, but only reviewed what was submitted by the applicant. She said the applicant did follow all the standard steps in preparing the traffic study.

2. Sight Lines. Ms. Conley pointed out an area in front of the project on East Main Street that is a safety concern and suggested that the board ensure that the side lines in that area are met for safety reasons. Tom Noel asked if the volume and traffic speeds in this area were done correctly and Ms. Conley replied that they were. Frank Reynolds asked Ms. Conley if the traffic study done by the applicant was done during or after the construction on Route 123. She replied that it was done during but the applicant did submit additional information obtained after the construction on Route 123. She said the volume of traffic did not change dramatically.

Tom Noel asked Ms. Conley why the intersection at Route 495 and East Main Street should not be considered a concern. She replied that an intersection of that size is totally different from local intersections. She stated that, given the volume and traffic and the size of the on and off ramps, the increased volume will not be significant as that of a smaller nearby intersection.

Jason Brolsma asked Ms. Conley if the traffic coming from the shops at the Red Mill Village community will be a concern as the occupancy total was less when the traffic study was done. She replied that if the shops were occupied when the traffic study was done, it would be included in the report submitted.

Jeff Walsh noted that removal of shrubs at the beginning of the project could be a safety issue for the construction workers.

Frank Reynolds asked if the applicant anticipates lane closures during the widening of East Main Street. Bob Michaud of MDM Transportation replied that with phasing in place for the work, two-way traffic will continue during the widening. He noted that a police officer will be on duty during the widening of the road and also that the time for the work will be limited as well. He suggested that the length of time for the road widening will be approximately two weeks.

Tom Noel asked Jeff Walsh if Jennifer Conley would be attending any more meetings and he replied that her scope of work is for one review and two meetings.

James Pappas of 3 Danforth Lane asked Ms. Conley if the pre-school located at the corner of Leonard Street and East Main Street (route 123) had been given any special consideration in the Traffic Survey that was done. She replied that drop-off and pick-up traffic is not a consideration but the volume of traffic at the location was included in the survey. He asked if there were any special considerations for school zones and Ms. Conley replied there was not, but certainly the fact that a school is present at the location would be taken into consideration.

Dr. Maureen Sroczyński of 283 East Main Street, Unit 15, stated to Ms. Conley that she heard that the residents of Kingsbury Hill Condos should expect lengthy delays in exiting the community to the left. Ms. Conley replied that was correct and that the applicant did

include that in his application also. Ms. Sroczynski noted that the limited study for this project is a concern and Ms. Conley replied it was. Ms. Sroczynski stated that the Route 495 is a dangerous intersection which should be included in the traffic study for this project. Ms. Conley replied that she does not doubt the intersection can be dangerous but has no information to review, but also noted that it would not be helpful to the project traffic study because the impact of the project would have very little effect on the existing conditions at the Route 495.

Marc Levitt of 89 Coddling Rd. asked Ms. Conley if her traffic report included the proposed traffic going in and of Red Mill Village when completed as well as the unfinished Kelly's Restaurant when completed or just the existing traffic volume. Ms. Conley replied that the applicant did include the proposed traffic volume from the Red Mill Village build out as well as proposed traffic from the Turtle Crossing project. She noted she has not heard of Kelly's Restaurant. Mr. Levitt noted he did not see any mention of Kelly's Restaurant in the submitted traffic report. Ms. Conley replied that the applicant may have included it with the expected traffic volume from Red Mill Village.

Tom Rota asked what the capacity of the proposed Kelly's Restaurant was and no one knew.

Jay Herzog of 43 Coddling Road stated that the traffic coming off of the Route 495 ramp late in the day is already backed up and will be further backed up by additional traffic flow. He said he fears for his safety because his car is sometimes halfway on and halfway off the highway at times. Tom Rota asked Bob Kimball, Selectman, if the Board of Selectmen have been in contact with the State suggesting to install traffic lights at the Route 495 intersection and he replied they have not. He said they have contacted Mass Highway to remove vegetation at the intersections and also to try and change the way cars come off of the highway.

Tom Rota suggested that traffic lights be installed as on Rt. 138 in Raynham and on Bay Rd. in Norton which has helped similar situations. Bob Kimball stated that the Town has received final approval to widen the road from the Town Hall to Route 495 and will be able to widen the road from Route 495 to the Easton line in five years. Tom Noel noted that the issue at hand is what the developer can do to make the project safer and it is not his responsibility to make the Route 495 intersections safer.

Leland Goldberg of 9 Danforth Lane noted that there is a great safety concern with traffic going north over the Rt. 495 bridge (Rt. 123) at a fast rate of speeds then attempting to take a left into Dunkin Donuts plaza when the traffic volume going south on East Main Street (Rt.123) is high. Tom Rota suggested this is a speeding issue to be discussed with Police Officer Grecco who is in charge of these issues in Norton.

Jennifer Conley agreed that more traffic could mean more traffic issues. She explained that it is her job to review what was submitted by the applicant and not existing problems

at Dunkin Donuts. She said the safety issues at the shopping plaza should be looked at by the plaza owner.

Jay Talerma, Attorney for the Red Mill Village residents, asked Ms. Conley if she would agree that additional traffic from an over-built development may increase traffic issues and she replied it could. He asked Ms. Conley if she included Hastings Way in her traffic report and she replied she did not. Mr. Talerma asked Ms. Conley if she had looked at any Department of Transportation (DOT) numbers in the past few years for the traffic growth and she replied she had.

She noted that the increase over the past few years has been very little, less than ½%. He asked her if she looked for the numbers for this particular area and she said she did. She said that when numbers are that small, she uses a number of 1%. She said that the applicant used ½% as well as 2% to be conservative. She said the applicant also added in the built-out numbers as well.

Mr. Talerma stated he had information showing numbers in 2008 and comparing those numbers with present numbers from the traffic flow, would be about 5% increase. Ms. Conley replied she is not aware of this data and used only the information submitted to her as well as the DOT numbers on line at this time.

Mr. Talerma asked Ms. Conley that, at the intersection of Route 123 and the Kingsbury Hill Condos, if Service level F was worse than Service level E. She replied that Service level E was that the delay time to get out onto the road was going from 42 seconds to 49 seconds and Service level F would be 55 seconds, which would be worse. He asked Ms. Conley if there should be some kind of mitigation between the town and the applicant and Ms. Conley replied that, in this instance, there should be. Mr. Talerma asked Ms. Conley if the traffic resulting from the opening of Kelly's Restaurant at Red Mill Village should be included in the traffic study and she replied it could be if the numbers are significantly higher.

Tom Labossier, 283 East Main Street, Unit 16, asked Ms. Conley if she was confident with her figures for growth increase. She replied that she is confident and in her 20 years of experience with traffic studies, the growth increase has been about 1% per year. She noted that the calculations provided by the applicant are sufficient, in her opinion.

Oren Sigal of 28 Coddling Road stated that, according to Mass DOT numbers, at the Norton/Easton line, in 2008 compared to today's numbers, have increased approximately 5%. Ms. Conley says that they may have been using two different locations.

Mr. Sigal asked how the number of vehicles coming and going for the traffic report for this project can be correct given the amount of proposed apartments. Ms. Conley replied that not all the vehicles are leaving at the same time.

Mr. Sigal noted that at the time that the second traffic study for this project had been done, December 20, 2012, there was a significant weather event. He asked Ms. Conley if

this would affect the outcome of a traffic study and she replied it would. Mr. Sigal noted that a traffic study done in 2004 for the Red Mill Village showed a traffic trip count of 289 cars per day. Ms. Conley stated this count has nothing to do with this project. She stated that, in her estimation, Red Mill Village would have more of a delay than Kingsbury Hill Condos. Mr. Sigal asked if older drivers tend to have longer delays in pulling out and Ms. Conley replied they do.

Tom Noel asked if the numbers posted by the DOT are correct from past years and the present time. Ms. Conley stated that the building of Red Mill Village certainly would have an impact on the traffic studies done in the area as well as any other developments. Oren Sigal noted that the level of service is a very important factor to keep in mind when it comes to the traffic study. He noted that most of the residents of Red Mill Village are elderly and will have a difficulty coming and going if traffic is increased by this project and this could be a safety issue.

Frank Reynolds asked Ms. Conley what mitigation has been done at the local intersections rather than the larger intersections. She replied that she does not know what the specific issues are at the off site smaller intersections. She did say she has seen some small improvements after reviewing the accident reports for the area. She noted that the applicant will be doing some site line improvements such as widening the road in a certain area and suggested that the board keep a close watch on this.

Tom Noel asked Ms. Conley if she recommended lighting at the entrance of the project and she replied this was not part of her study, but lighting would help.

Frank Reynolds asked Ms. Conley if she was going to recommend the applicant include the review of the intersection at Leonard Street in their study and she replied she was.

Bob Kimball noted that there is already another approved 40B on the East side of Norton with multiple units. He said that when that project begins construction, and if this project is under construction at the same time, there could be a huge traffic problem in this area. He also noted that there will be more traffic when Red Mill Village is completed.

Tom Rota stated that the Zoning Board of Appeals has to review all 40B projects objectively. He noted that any time a project is denied by the board, it can be appealed and a lot of the time, the applicant is approved for what they originally applied for. He said the Town would better benefit by allowing a project regulated by the ZBA than just denying it.

Ilana Quirk noted that is it certainly within reason for the ZBA to ask for added information from the applicant at this time in the review.

Tom Noel asked if it would be unreasonable to ask the applicant to include areas further away from the project than Leonard Street and Ms. Conley replied that it is not the developers burden to include intersections and private driveways so far away from the

Robert Shuman of 22 Coddling Road noted that the northbound exit at Rt. 495 onto Rt. 123 is shown as an exit leading to the Comcast Center which will cause great traffic issues as well.

Dr. Maureen Sroczyński of 283 East Main Street, Unit 15, informed the board that she and her neighbors are not advocating to deny this project but to reduce the amount of units for this size property.

Oren Sigal asked the board if the added "Scope of Work" will be made public and Tom Noel replied it would be made public.

Angelo Renna, 26 Coddling Road suggested that the problems at the Rt. 495 exits and at various points on East Main Street toward Easton may be solved somewhat by installing traffic lights.

Christine Bohn, 10 Willis Drive, asked if she heard correctly this evening, that each developer could contribute to a study to be done for certain larger intersections rather than putting the burden on one developer. Ms. Conley confirmed that this is something that could be done.

Frank Reynolds asked Bob Kimball if the Town had done studies for the Rt. 495 intersection and he replied the only study done at the present time is on Rt. 123 from the Town Hall to Rt. 495. He said there will be added funding in about five years to study the other side of Rt. 495 towards Easton. He said the study will not include Rt. 495.

Jay Talerman, Attorney, stated it is too early to forecast what might or might not be affected by this project and suggested getting all information and revised information submitted as soon as possible.

Dr. Maureen Sroczyński of 283 East Main Street, Unit 15, noted that the applicant has not met with the Sewer Department to date. Lloyd Geisinger replied he has met with the Water/Sewer Department twice to date with plans for future meetings. Ms. Sroczyński asked if the meetings will be made public and Tom Noel suggested she call the Water/Sewer Department.

Tom Rota made a motion, seconded by Nitin Choksi to request that the applicant confer with the Peer Review pertaining to the added "Scope of Work" and the added "Cost" and then appear at the next meeting of the ZBA on Monday, March 18th at 7:34 pm to state the details to the ZBA. He stated there will not be any other discussions for this project that evening, and the public hearing would be continued to the meeting of Monday, March 18, 2013 at 7:34 pm. All in favor. Approved.

Tom Rota made a motion, seconded by Nitin Choksi, to adjourn the public hearing at 10:05 pm. All in favor. Approved.

Minutes Approved by Committee on: September 8, 2014

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'TR Noel', is positioned above a horizontal line.

Thomas R. Noel, Chairman
Norton Zoning Board of Appeals