



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES

Meeting of March 18, 2013

I. Call to Order

The March 18, 2013 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 pm by Tom Noel, Chairman with the following members Tom Rota, Nitin Choksi, Frank Reynolds (alternate member) & Jason Brotsma, (alternate member). Also present was Ilana Quirk, Esq., Kopelman & Paige.

Tom Noel noted that there were three items on tonight's agenda.

013-006 – Bart Steele/ViewPoint Sign & Awning
Parcel 126, Assessor's Map 22, **184 West Main Street**
Request for Variance from Section 8.4.4, (b) of the Norton Zoning Bylaws.

Document List

1. Application Form
2. Request cover letter dated 2/18/13.
3. Color pictures of the modified sign with dimension details.
4. Hand drawn portion of Assessor's Map showing location of sign.

Present at the public hearing were Bart Steele, applicant and Dr. Welter, owner of the property.

Tom Rota made a motion, seconded by Nitin Choksi, to remove the application from the table. All in favor. Approved.

Tom Noel read description of proposed project.

Bart Steele described the proposed project to the members. He submitted revised pictures of the modified sign. He said that the Building Inspector is in favor of the modification to the sign only had an issue with the height. Mr. Steele noted that the existing sign is 16 feet tall and standing off the ground 2 ½ feet and 8 feet wide consisting of 128 sq. ft. He

said what he is proposing is to keep the sign at 128 sq. ft. but to add an architectural header and footer making the sign 6 feet higher.

Dr. Welter noted that the building on the property is under renovation.

Bart Steele noted that it is the intent to have the sign match the décor of the buildings. He said that the intent for modifying the look of the sign is to make the property look nicer and to help make the plaza more successful. He noted that Dr. Welter is moving his practice in one of the buildings.

Tom Noel noted that the height is changing from 18 ½ feet to 25 feet.

Dr. Welter stated he is keeping the name of the plaza, Norton Crossing, because people are familiar with that name.

Tom Noel asked if the sign is illuminated and Mr. Steele noted it is and will be.

Mr. Steele noted that the message portion of the sign complies with the Building Code.

Tom Rota asked Dr. Welter if the bank building on the property belonged to him as well and he replied it did. He asked if there was a sign on the property and Dr. Welter replied the sign belonged to the bank, which is now an elderly day care center. Tom Noel asked how it came to be that there are two signs on the property. Mr. Steele noted that Dr. Welter has owned the property for a year and the two signs were pre-existing. Dr. Welter stated there are two different addresses for the two buildings.

Ilana Quirk noted that to comply with the "911" Fire Dept. code, a street number will have to be added to the sign. Mr. Steele replied a street number would be added to the sign.

Tom Rota asked if the two buildings were on two separate parcels or one. Dr. Welter replied he has not intentions of combining the two parcels. Tom Rota noted that the building codes do not allow two signs on one parcel.

Tom Noel asked if the buildings are on one or two parcels of property and checked the submitted plan to see if there are two parcels of property or one. He noted that only one sign is permitted on one parcel of property. Tom Noel stated that the plan submitted was not an engineered-signed plan. Tom Rota noted that it is a Zoning By-Law that only one sign is permitted on one parcel of property. He advised the applicant that it is the Zoning Board's policy that an engineered-signed plan is necessary to review an application. He said this is very important because the dimensions have to be very accurate. Mr. Steele stated that he would like the board to approve this sign and he is willing to take down the other sign and if needed in the future, will apply for the second sign.

Again, Tom Rota pointed out that engineered plans are required and at that time it can be determined whether or not two buildings have been built on one or two parcels of property. He said that this is the same requirement for all applications. He noted that it was his opinion that this project is not more detrimental.

Bart Steele requested a two-week extension for the public hearing.

Jason Brolsma asked why the height of the sign was going to be increased by 6 ½ feet and Mr. Steele explained about the header and the footer extensions.

Nitin Choksi made a motion, seconded by Tom Rota, to continue the public hearing until Monday, April 1, 2013 at 7:30 pm. All in favor. Approved.

Tom Noel noted that the second item on the agenda was the application for:

**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 March 4, 2013 mtg.)**

He noted that there would be no public discussion this evening for this project or further reviewing by the board. He stated that reason for tonight's meeting is only to approve the new "Scope of Work" and added funding for the project amending the contract that has already been approved.

Tom Rota made a motion, seconded by Nitin Choksi, to remove the application from the table. All in favor. Approved.

David Eastridge noted that, since the previous meeting, plans, drawings and information have been revised to comply with comments submitted by Jeff Walsh of Graves Engineering and Jennifer Conley of Conley Associates. He said the written response letter will be dropped off sometime tomorrow.

Ilana Quirk stated that part of the reason for tonight's meeting is for the applicant to state what added information will be included in their revised Traffic Study. She noted that at the previous public hearing, it was suggested adding Leonard Street and Hastings, but not Route 495, be included in the revised Traffic Study. She said there has been communication between Graves Engineering and the applicant. Tom Noel asked that copies of any correspondence be submitted to the ZBA. She noted that the Scope of Traffic Study will be increased as well as the Scope of Work regarding the review of the revised plans. She said an amount of increased funding will be agreed upon. She stated that Graves Engineering has not had a chance to come up with a new "Scope of Services" or added fund amount due to the fact they just received the revised plans today.

David Eastridge noted he had spoken to Jeff Walsh and gave him an outline of what increased information would have to be reviewed just to get an approximate amount of

added cost. He said he asked Jeff Walsh if he would be able to attend tonight's meeting with a cost for the added review and Mr. Walsh replied he would prefer to wait until he has the entire package before him before submitting a new "Scope of Work".

David Eastridge stated that the applicant was going to include Leonard Street, Hastings Way and only the information available at this time for Route 495.

Jeff Walsh replied that he gave Jennifer Conley the information regarding what was going to be included in the applicants revised Traffic Study. He said a revised "Not to Exceed Amount" could not be decided upon for tonight's meeting because he needed more information which would be derived from the applicant's written reply to his first comment report.

Ilana Quirk stated that the reason for tonight's meeting was to state what added information would be included in the applicant's revised Traffic Study and to inform the public of that information. She said now the Peer Review can use that information to come up with a new "Not to Exceed" amount. She said that the ZBA can approve the added information for the revised contract regarding the "Scope of Work" and the new "Not to Exceed" amount. David Eastridge stated he would get that information to the ZBA soon.

Jeff Walsh informed the board that he has spoken with Kelly Engineering regarding the Storm Water issues. He stated that April 1st will not be enough time to submit the second report. David Eastridge replied he would still like to meet on Monday, April 1st. Jeff Walsh stated he would attend the April 1st meeting.

Oren Sigal asked if the Peer Review was going to do the revised Traffic Study and Tom Noel replied the Traffic Study would review the revised Traffic Study that would be done by the applicant.

Richard Slavinsky, 7 Willis Drive, asked if added information will be submitted for the intersections at Route 495 and Route 123. David Eastridge replied his applicant would be using only the existing data for this area because this area is beyond the scope of this project. He said that the actual revised Traffic Study will not be completed for the April 1st meeting, but can be discussed. He noted that about two and a half more weeks would be needed to acquire the needed data.

Jeff Walsh stated that Jennifer Conley of Conley Associates is required to attend one more meeting per the signed contract. He said that she will not attend the April 1st meeting because the final plans will not have been reviewed by her at that time.

Ilana Quirk briefly read an outline of the expanded Traffic Study information which will be reviewed which included data from Hastings Way, Leonard Street and Rt. 495 at Rt. 123 exits.

Tom Rota made a motion, seconded by Nitin Choksi, to have Tom Noel sign the revised contract with the new "Scope of Services" and increased information for the revised "Traffic Study" to include Leonard Street, Hastings Way and existing information for Route 495. All in favor. Approved.

Tom Rota made a motion, seconded by Nitin Choksi, to amend the previous motion to state that the public hearing will be continued to Monday, April 1, 2013 at 7:35 pm to be held at the Norton Public Library. All in favor. Approved.

Tom Noel noted that the last item on the agenda was:

013-003 - Island Brook, LLC - East Main Street, Parcels 57, 238,239 240, 241, 242, 243, 244 & 245 (Assessor's Map 17) - Application for a Comprehensive Permit and MGL Chapter 40B for construction of 100 single-family houses, including 25 affordable houses on 43.35 acres in R60 & VC Zoning Districts. (cont. from the February 4, 2013 mtg.)

Document List:

1. Comprehensive Permit Application dated October 18, 2012.
2. Plans entitled Preliminary Subdivision Plan to accompany application for Comprehensive Permit for a Planned Unit Residential Development to be known as "Island Brook" being a resubdivision of Lot 57; and Lots 238 thru 245 as depicted on Assessor Map 17, signed and stamped by Robert A. Junior and dated August 7, 2012. (Sheets 1-6)
3. draft Contract for Services by Graves Engineering.
4. Graves Engineering, Inc., Jeff Walsh's Review report/letter/comments dated March 8, 2013.
5. Response letter to Jeff Walsh's, of Graves Engineering, Inc., comment letter of March 8, 2013 from Frank Westgate, engineer dated March 14, 2013.
6. Comment letter from Jennifer Carlino, Conservation Agent dated February 13, 2013.
7. Response letter to Conservation Commission from Frank Westgate dated March 16, 2013.

Frank Westgate, engineer, was present representing the applicant.

Tom Rota made a motion, seconded by Nitin Choksi, to remove from the table for discussion the proposed project for Island Brook. All in favor. Approved.

Tom Noel noted that a report had been received by peer review engineer Jeff Walsh of Graves Engineering, Inc. dated March 8, 2013. He noted a response letter dated March 14, 2013 to that report has been received. He said a comment letter dated February 13, 2013 had been received from Jennifer Carlino, Conservation Agent and a response letter dated March 16, 2013 to her letter from Frank Westgate has been received. Tom Noel asked Mr. Walsh if he had a chance to review Frank Westgate's response letter dated March 16, 2013 and Mr. Walsh replied he did.

Tom Noel noted that serious concerns were noted by some of the Town Departments and he asked Mr. Westgate if he was planning on submitting revised plans. Mr. Westgate replied that he was and that he has been receiving negative comments from Town Departments especially regarding the density of the project. He said that the applicant has decided to reduce the 100 units to 80 units, 40 single-family houses and 20 duplexes. He pointed out a section on the plan referred to as the "Island" containing 20 single-family houses which he said was going to be eliminated.

Frank Westgate stated he would like to get the ZBA's blessing before leaving this evening and continue with a conceptual plan.

Tom Noel asked Mr. Walsh if he would have to start over with these changes as presented and he replied he would and he is not surprised after reviewing the plans that have already been submitted. He noted that one big concern on the submitted plans is the narrow width of roads and the right of way to the houses and utilities. He said that he is concerned with the applicant's response to this issue because the applicant has changed one Right of Way to 40 feet wide when Subdivision Rules and Regulations require a minimum of 50 feet. He noted that the applicant is still proposing one of the entrance roads to be only 16 feet wide one way with a 30 foot right of way.

Frank Westgate replied that he wanted this project to have a village effect rather than a subdivision look and this is why he has proposed narrower roads with a lot of pavement. Tom Noel suggested that the Fire Department is going to have a problem with the smaller roads and right of ways. Frank Westgate replied that he made a lot of changes requested by the Fire Dept. and did not think they would have a problem with the narrow roads and right of ways as revised.

Tom Noel asked Jeff Walsh if he was referring to a specific area or the entire project and he replied he was referring to the entire project. He said that the applicant is defying the Subdivision Rules and Regulations. He noted that the applicant is stating he has removed the dead end roads but when the roads are only 16 feet wide and one way, this is in actuality a dead end road. Mr. Walsh noted that snow removal is going to cause even more narrow roads as well as short-term parking. He suggested requiring the applicant to demonstrate how these 16-foot narrow roads are going to work.

Mr. Walsh stated that pedestrian travel has to be looked at. He noted that in the Subdivision Rules and Regulations it is required to install granite curbing and a grass strip. He said that once in a while, if vertical curbing is used, the grass strip will not be necessary.

Mr. Walsh stated that the next important issue is drainage. He noted that the front yards are being proposed as "rain gardens". Tom Noel asked Mr. Walsh to explain what a "rain garden" is. Mr. Walsh replied that a rain garden is made up of layers of organic material that can grow some plants which filters and slows down water run off. He said that DEP

is suggesting them in smaller projects with smaller run-off rates. Mr. Walsh stated that the rain gardens do not work well in larger developments such as this one. He said that they might work when combined with back-up systems and suggested having the applicant demonstrate how they will work.

Tom Rota asked Mr. Walsh if the yards will flood if the "rain gardens" do not work properly and he replied they would without other drainage mechanisms in place. He replied that the rain gardens need a pre-treatment device to capture any sand before it flows onto the "rain garden". He stated that "BMP"s (Best Management Practice) devices, such as detention basins, should be in place to create a better drainage system. Tom Noel asked Mr. Walsh if "rain gardens" are common in SE Massachusetts and Mr. Walsh replied that he has not done a lot of Peer Review work in this area but did not think they were common in this area at this time. He said he did see a few used more frequently in central Massachusetts, but with other drainage devices in place. Tom Noel asked if "rain gardens" are proposed for all the houses and Mr. Walsh replied only the ones on the main street. Mr. Walsh did remind the board that peak rate runoffs cannot exceed the "pre-development" runoffs.

Tom Noel asked Mr. Walsh if he had elevations at this time and he replied he did have enough elevations and pointed out the "rain gardens", contours and drainage areas. Tom Noel asked him to show him in what direction the water is going to flow from the project.

Jeff Walsh noted that the Subdivision Rules and Regulations do allow for islands at the end of roads for turning around purposes but they are hard to snow plow. He stated he wasn't sure if the roads would someday be accepted roads by the Town as public ways at some time or not. Mr. Westgate replied they would not be accepted as public ways and an Association that will be formed will maintain the public ways and other details.

Mr. Westgate asked Mr. Walsh why he did not include in his written report a lot of the information he is giving the ZBA board this evening. He asked if he ran out of money or time and Mr. Walsh replied that he ran out of patience. Mr. Walsh stated he wanted to address the larger issues before going into the smaller details.

Tom Rota noted that all the proposed units were within the 100-ft. buffer zone and maybe even within the 25-ft. buffer zone. He noted that in Mr. Westgate's response letter to Jennifer Carlino's letter, he disagreed with her suggesting to keep all units out of the 100-ft. buffer zone. Mr. Westgate stated that it is not a DEP regulation to stay out of the 100-ft. buffer zone completely. Tom Rota stated that Jeff Walsh has not had a chance to review Jennifer Carlino's letter and Mr. Westgate's response to her letter. Jeff Walsh noted that he will attend one more meeting per his contract with the applicant. He said any further review will have to be an amendment to the contract if the funds are available.

Tom Noel noted that the revisions to the submitted plans are probably going to be drastic and he wanted to know if the applicant should start over or continue with an amendment.

Frank Westgate stated he would like to continue with revisions and pay the Peer Review as he goes. Ilana Quirk stated this cannot be done. She said an amendment to the "Scope of Work" in the contract has to be filed along with added funding.

Ilana Quirk stated that the revisions may be substantial enough that the information should be filed with the Subsidizing Housing Agency at this time to allow them to make a determination as to whether or not the project is still eligible for a 40B project and will work out financially for the applicant.

Frank Westgate stated that the project will work with the revisions and he will file with Mass Housing.

Tom Noel asked if the Zoning Board of Appeals has the authority to keep the public hearing open for this project and to review the revised plans. He asked if the board can deny the project or if there is a point where they should deny the project. Ilana Quirk replied that the board should let the applicant modify the project if he is willing to pay for the Peer Review.

Frank Westgate replied that he wants to submit another set of revised plans but no more than that. Tom Noel replied that the board cannot give any guarantees at this time that the revised plans will work without having reviewed them. Tom Rota stated that he is not sure that Jeff Walsh can come to the agreement that the revised plans will work without detailed plans.

Ilana Quirk noted that if the applicant is proposing to reduce the number of units for this project from 100 to 80, an application for a modification will have to be submitted and the process will have to be followed by advertising a public hearing with the abutters being notified.

Tom Noel asked Mr. Westgate if he thought the applicant would be willing to submit an application for a modification as well as pay for further review by Graves Engineering. He replied he would.

Bob Kimball stated that the applicant has been trying to develop this land for too many years. He suggested that the applicant does not know what he wants or can do with this property and it is not the Town's nor the ZBA's job to give them this information. He stated that the applicant should put together a good plan that will work for this property and submit it along with a new application to the ZBA as well as to Mass Housing. He said that the applicant should stop wasting the ZBA's time as well as the Town's time.

Duane Knapp stated that he has reviewed plans for this property for years. He said that the plans given to him have never had enough details to make a decision on. Frank Westgate asked Mr. Knapp why he has never returned his calls. Tom Noel suggested that this conversation is going nowhere and to move forward.

Ilana Quirk stated that the board has three options at this time.:

1. have the applicant withdraw the application.
2. deny the application for lack of information.
3. allow the applicant to submit a modification.

Frank Westgate stated that his applicant is not going to go forward without receiving some implications that the project will work from the different departments.

Tom Rota suggested that the board cannot advise the applicant which option to choose nor can they make any decisions without hearing from the various Town departments.

Jeff Walsh stated that the correct process, as he understands it, for processing a 40B application is for the board to review preliminary plans without much small detail to decide if the project is viable or not.

Tom Noel replied that the Zoning Board of Appeals is trying to discourage applicants from submitting many preliminary plans. He said the board would like to get as much detail on the plans from the beginning to save a lot of time having meetings and having the plans reviewed over and over again.

Ilana Quirk stated that in all her years of experience, she has not seen an application for a 40B project submitted without pre and post drainage calculations and that these should be included with the preliminary plans.

Frank Westgate stated that a much more detailed preliminary plan will be submitted. He asked how more detailed are the plans going to be as requested by the board.

Ilana Quirk advised the board that the applicant should be required to ask for a six-month extension due to the fact that the 180-day public hearing process will be reached in two months and the applicant is basically starting over.

Duane Knapp stated he is not against 40B projects and suggested that the applicant and his engineer come to his office to discuss the project. Frank Westgate stated he will do that if he can make an appointment first.

Tom Noel asked Mr. Westgate if the applicant will be willing to request a six-month extension and he replied he would.

Tom Rota made a motion, seconded by Nitin Choksi, to continue the public hearing until Monday, April 1, 2013 at 7:25 pm to be held at the Norton Public Library in order to have the applicant submit three items as follows: 1. a written request for a 180-day extension from the original date to extend the public hearings until October, 2013. 2. a written statement notifying the board of a time line that modified plans will be submitted; and 3. an agreement to amend the contract as to the "Scope of Work" and that funding

will be submitted for the amended "Not to Exceed" amount. Jeff Walsh stated he would not be able to give a "Not to Exceed" amount until he sees the revised preliminary plans. Applicant understands. All in favor. Approved.

Bob Kimball asked Ilana Quirk, that if the property gets transferred after receiving a decision, would the new buyer have to start over and file a new application, and she replied they would not, but that they would have to notify Mass Housing among other steps.

Tom Rota made a motion, seconded by Nitin Choksi, to adjourn the public hearing at 10:03 pm. All in favor. Approved.

Minutes Approved by Committee on August 20, 2014

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "TRN", is written over a horizontal line.

Thomas R. Noel
Chairman, Norton Zoning Board of Appeals