



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES

Meeting of April 1, 2013

I. Call to Order

The April 1, 2013 scheduled meeting of the Zoning Board of Appeals was called to order at 7:25 pm at the Norton Public Library by Tom Noel, Chairman, with the following members present. 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 were three items on tonight's agenda.

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

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 und MGL Chapter 40B for construction of 100 single-family houses, including 25 affordable houses on 43.35 acres in R60 & VC Zoning Districts. (continued from the March 18, 2013 meeting)

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. Report from Jeffrey Walsh of Graves Engineering Inc. dated March 8, 2013.
4. Response letter from Frank Westgate to Jeffrey Walsh's report of March 8, 2013 dated March 14, 2013.

No one representing the applicant was present at the public hearing.

Ilana Quirk noted that she received an email on March 27, 2013 from Bob Engler, applicant's consultant, with a letter addressed to the ZBA formally requesting a 6-month extension of the comprehensive permit hearings for the Island Brook project to begin on April 1, 2013. She said Mr. Engler noted that there would be a new set of plans and that they were willing to put more money into escrow to fund the Peer Review. Tom Noel asked Ilana Quirk if there was mention of anyone attending tonight's meeting and she replied there was not.

Ilana Quirk noted that the applicant, his consultant and his engineer have been communicating with Mr. Walsh, Peer Review, and she said this is not the proper way to proceed. Tom Noel stated that he is not sure if the applicant understands what the board wants or how to proceed with this project. Ilana Quirk replied that the applicant wants to have Peer Review review revised plans from time to time. She said the applicant should submit a formal letter requesting an extension and be specific with deadlines and dates.

Tom Noel stated that reading an email that he was copied on over the weekend, it appeared that the applicant was conferring with Jeff Walsh about the matter of the rain gardens and if he would approve them or not in his review. Mr. Noel stated that this is not proper procedure and that Mr. Walsh can only review each aspect of the submitted plans, but not approve or disapprove of any portion of it.

Tom Rota commented that it seemed as though the applicant did not know the correct way to proceed with a project such as this and is trying to "piecemeal" plans with the peer review engineer. He said he felt this was not the proper way to proceed with a project.

Ilana Quirk suggested tabling the request for an extension until another date before the 120-day review period ends.

An abutter asked if this was normal procedure to keep giving an applicant the opportunity over and over to submit the correct information and to follow the correct procedure. Tom Noel replied that it is normal for the ZBA to allow the applicant to continue the project. Ilana Quirk noted that any abutter or interested party could call the ZBA secretary tomorrow and obtain the date that the project will be continued to.

Tom Rota made a motion, seconded by Nitin Choki, to table the application of Island Brook until 8:45 pm this evening. All in favor. Approved.

At approximately 9:00 pm Ilana Quirk stated she was going to try and contact Mr. Engler to have him send an updated email as to what his client's intentions are at this time for the Island Brook project.

Ilana Quirk returned to the meeting and noted she had contacted Mr. Engler who confirmed that he is requesting a six-month extension on behalf of his client and is granting permission to the ZBA to extend the project for further review. She said he

apologized for his client for contacting the peer review without consulting with the ZBA. She said Mr. Engler agreed that revised plans would be submitted for review and that funds will be in place to pay for the review. Ilana Quirk stated that Mr. Engler is requesting the public hearing be continued to Monday, June 24th.

Tom Rota made a motion, seconded by Frank Reynolds, to accept the request to continue the public hearing for six months after such time the Peer Review will have reviewed revised plans, and to continue the public hearing to Monday, June 24, 2013.

Nitin Choksi asked from what date the six-month extension will begin and Ilana Quirk noted from today. Tom Rota noted that would extend the review to October 1, 2013.

An abutter asked if it was normal procedure to allow the applicant to request a continuance of the project and Tom Noel replied it was and it was actually more beneficial to the ZBA to allow more time for review.

All in favor of motion. Approved.

Tom Rota made a motion, seconded by Nitin Choksi, to remove from the table for discussion the application of Bart Steele/ViewPoint Sign & Awning. All in favor. Approved.

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. Rendering color pictures of the modified sign with dimension details.
4. Hand drawn portion of Assessor's Map showing location of sign.
5. Plan entitled "Proposed Building Addition, 184 West Main Street, Norton, MA, Site Plan Review, Prepared for Dr. Ryan Welter, MD, Ph.D., Tristan Medical Primary Care Centers, stamped and signed by Tracy L. Duarte and dated 9/4/12.
6. Copy of letter dated April 2, 1985 from the Planning Board.
7. Copy of letter dated February 8, 1988 from the Planning Board.

Bart Steele stated he was submitting an engineered-plan with more detail as requested by the board at the previous meeting.

Tom Rota asked if the parcel was one parcel or two. Mr. Steele noted it was only one parcel even though it contained two buildings and two signs. Tom Rota noted that normally two signs are not allowed on one parcel. Mr. Steele submitted copies of two letters from the Planning Board dated April 2, 1985 and February 8, 1988 allowing two signs on the property by Special Permit. He said that one of the letters permitted a 20-ft.

sign and he wanted to note that his application was less non-conforming than originally proposed.

Tom Rota noted that the permits for the two signs were issued before Special Permits were needed for digital, or EMC, signs. Bart Steele stated the digital signs are allowed by right. Mr. Steele noted that both signs have had multiple modifications over the years and are grandfathered for modifications. Ilana Quirk noted that the correct term for the so called grandfathering is "Special Permit relief".

Tom Rota stated that any future changes to the sign will be reviewed by the Zoning Board of Appeals because it is written in the Zoning By-Laws. Ilana Quirk noted that the Sign By-Law came into effect in 1990.

Tom Noel stated that the Zoning Board of Appeals can allow variances for signs, but digital, EMC signs are regulated by the Planning Board. He noted that if a section of the sign was going to be digital, the applicant would have to file for a Special Permit with the Planning Board. He pointed out the section of the Zoning By-Law that requires the applicant to file for a Special Permit for EMC signs.

Mr. Steele requested that the decision note the specific dimensions for the size change of the sign and that if any part of the sign is to be digital, it would have to be permitted by a Special Permit.

Tom Rota made a motion that, under Section 1.5e, the modification of the existing sign is not more substantially detrimental than the existing non-conforming use of the sign, that any digital or EMC portions of the sign will be only permitted by Special Permit by the Planning Board and the approved plan for the review of this project is dated September 4, 2012 along with a revised rendering drawing dated March 18, 2013. All in favor. Approved.

Bart Steele stated he would add the numbers for 911 purposes to the sign.

Tom Rota made a motion, seconded by Nitin Choksi, to remove from the table for discussion the project for 274 East Main Street. All in favor. Approved.

**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 18, 2013 mtg.)**

Document List

1. Expanded Study Area Traffic Assessment dated March 28, 2013.
1. Comprehensive Permit Application – Supplement No. 2. Response to Comments.
2. Comprehensive Permit Application – Supplement No. 3. – Revised Architecture.
3. Plans entitled "Norton Apartments, 274 East Main Street, Norton, MA, Campanelli Thorndike Norton LLC, March 1, 2013. Pages T1 & A1 – A12. Preliminary

Architectural Drawings, Typical 30 Unit Apartment Bldg., 274 East Main Street, Norton, Massachusetts, signed and stamped by Candice L. Reynolds.

4. Plans entitled "Plans to Accompany Comprehensive Permit Application for Norton Apartments, 274 East Main Street, Norton, MA, January 31, 2013, prepared by Kelly Engineering Group, Inc. and signed and stamped by David Noel Kelly. (Sheets 1-16).

Present for the public hearing were Lloyd Geisinger of Thorndike Development, David Eastridge of Thorndike Development, Peter Freeman, Attorney for the applicant and Robert Machaud of MDM Transportation.

Lloyd Geisinger noted he had submitted a Supplement No. 2, Response to Comments, Supplement No. 3, Revised Architecture and an Expanded Study Area Traffic Assessment. He said he submitted a check for \$7,800 for the Peer Review just this evening.

Ilana Quirk noted that a Contract Change Order has been proposed by Graves Engineering and was approved by the applicant amending the Scope of Work and to include an additional \$7,800 for the review. She stated that the board will vote to accept the Contract Change Order and then it will be submitted to the Board of Selectmen for the Town Manager's signature.

Tom Rota made a motion, seconded by Nitin Choksi, to accept the funds from Campanelli Thorndike Norton LLC and the Contract Change Order including the amended Scope of Work and additional funds for the review. All in favor. Approved.

Lloyd Geisinger proceeded to show slides of the revised architecture of the buildings. He noted that the height of the buildings in the front were revised from 55' 1" to 50' 9". He pointed out that all the information in the revised documents and in the slides are on the website. He said that the architecture of the old White Farm house was revised and can be re-located without a land swap with the Town at this point.

Dave Eastridge noted there were several comments received from David Myles, Deputy Fire Chief. He said one of the issues brought up by David Myles was the trees in front of the three-story buildings and making it difficult to access the windows at the top if necessary. Mr. Eastridge noted that revisions have been made to the landscaping plan spacing the trees 38 feet apart instead of 25 feet apart at each of the 3 front entrances to the buildings. He said this would allow more access to the buildings by the fire department trucks.

Lloyd Geisinger noted there was some concerns with the parking spaces. He said that he intends on having adequate parking for the tenants. Mr. Bob Machaud gave a summary of the parking standards for Massachusetts and stated that the parking proposed for the project is well within the standards and that there will be adequate parking for all tenants.

Bob Machaud gave a brief description of the traffic study for the areas at Hastings Way, Route 495 at Route 123 and at Leonard Street. He said the potential growth will be 10% for these areas. He noted that the future potential traffic from the restaurants at Red Mill Village were also taken into consideration when configuring the Traffic Study.

Frank Reynolds asked Mr. Walsh if he was going to comment on the newly submitted Supplement No. 2 and he replied he has not had time yet to review it but will have a report for the next meeting of April 29th. Frank Reynolds noted he would ask questions at that time. Jason Brolsma stated he had questions as well but would save them until the next meeting of April 29th. Tom Rota asked Mr. Kimball if the revised contract could be signed at the Selectmen's meeting on Thursday evening and he said it would be if it is added to the agenda. The secretary stated she would request that the signing of the contract change be added to the Selectmen's agenda for Thursday evening.

Frank Reynolds asked Lloyd Geisinger to specify where the air conditioning units were going to be located and he replied he would have this information at the meeting on April 29th. He asked if the White Farm house will have a basement and Mr. Geisinger replied a new foundation is proposed.

Frank Reynolds asked if the "shadow" parking spaces were included in the parking spaces count and Mr. Geisinger replied they were not and they are listed only as shadow parking spaces to be used occasionally and not on a regular basis.

Frank Reynolds had concerns with the recharge area at the entrance and asked Mr. Walsh to comment on this area. Mr. Walsh stated he had concerns with this area but noted that according to the submitted plans, any runoff should flow back onto the property.

Henry Ferris of 37 Owen Road had concerns with the increase in traffic flow caused by this project. He said the project would double the numbers. Bob Machaud replied that according to the current studies, the traffic flow will not be doubled. Mr. Ferris stated he had concerns with the high density of this project. Tom Noel replied that the Zoning Board does take that into consideration and relies on the Peer Review to review this issue and report back to the board.

Michael Zelman of 4 Coddling Road had concerns with water build up increasing behind his property if this project is developed. Tom Rota replied that according to the state rules and regulations, a project is not allowed to increase water flow to any adjoining properties. Jeff Walsh noted that a pre and post development report is required of all projects to ensure water flow is not increased on any adjoining properties.

An abutter asked about building in the wetlands and Mr. Walsh replied that if any work is going to be performed within 100 feet of wetlands, a permit will have to be obtained from the Conservation Commission.

Dr. Maureen Sroczynski, 283 East Main Street, #15 noted that the applicant has an Abbreviated Notice of Resource Area Delineation before the Conservation Commission which is not completed and has already filed a Notice of Intent. She asked Mr. Walsh if he factors this information into his findings. He replied that the Conservation Commission hires their own consultants. He says he may review the documents, but he makes his own reports on his own findings which may be very similar to wetland consultants.

Maureen Sroczynski stated that Kingsbury Hill condo development already has water problems and she is afraid that with an increase of impervious surface across the street, the water problems on her property will increase. Tom Noel replied that the applicant has to ensure this will not happen. Ms. Sroczynski noted that the calculations used by the Traffic Study consultant were prior to 2004 and before the Target plaza in Easton was built. Bob Machaud replied that the area of Rt. 495 was not part of his study and he used only existing data for that area.

Ms. Sroczynski asked Mr. Noel if the ZBA takes into consideration comments by the Selectmen and Police Department regarding crash data. Mr. Noel stated that the board does take into consideration this information but he replied the totals have not increase and cannot be anticipated to increase at this point.

Ms. Sroczynski noted that the parking areas are proposed to be 18 feet instead of the recommended 19 feet, and she asked who decides on the size. Tom Noel replied it would be decided by the experts. Ms. Sroczynski asked if the board would listen to any experts that were brought before the board by the abutters and residents and he replied they would. Tom Rota noted that the size of the parking areas are standardized. Ms. Sroczynski noted that they are in the bylaws but the applicant is looking for a waiver to the bylaws.

Ms. Sroczynski asked Mr. Geisinger where the sewer line is going to be located. He replied that he is planning a meeting with the water department on April 16th to discuss this issue. He said he hopes the sewer line can be located at the front of the property parallel to the road.

At this time, David Eastridge explained that by making the parking spaces 9 feet wide by 18 feet deep, the width of the roadway is increased to 28 feet. He said this is a typical parking area. He said that the road is required to be only 11 feet wide. Ms. Sroczynski noted that the applicant was asking for a waiver to the width of the parking spaces in order to widen the road ways because of the large density of the project. She stated the project should have a smaller density. Tom Rota replied that the applicant is within his rights to shorten the roadway and increase the length of the parking spaces, but feels it is more important to have a wider roadway.

Jeff Walsh stated that in preparing his review, he checked with the Zoning By-Laws for Norton and ensured that the applicant abides by the Zoning By-Laws.

Oren Sigal, 28 Coddington Road had concerns with increased traffic issues at Hastings Way and Leonard Street during the peak traffic flow times as a result of the developing of this project. Bob Machaud replied that Mr. Sigal's information is not accurate. Tom Noel suggested that Mr. Sigal present his concerns to the traffic expert, Ms. Conley, at the next meeting.

Mr. Sigal asked if the fact that Red Mill Village is an elderly community has been taken into consideration. Tom Rota replied that elderly people, especially retired people, are less likely to be coming or leaving their homes during regular working rush hours.

Kathy Shunney of 9 Flint Lane disagreed with Mr. Rota and noted that many elderly people these days are up and leaving early and the assumption that they do not, should not be made by the ZBA. Tom Noel noted that the subject of the elderly population was brought up by Mr. Sigal and Mr. Rota was just responding to his comments. He noted that there are no special provisions within the traffic study for elderly drivers. Ms. Sroczynski pointed out that the difference with elderly drivers is time and skill.

Peter Williams of 8 Hastings Way noted that having a college in town might increase the number of people that might be parking in the roadways of the proposed project. He suggested having a study done for the projected parking habits in a rental-controlled apartment complex be done. Tom Noel replied that the complex will not be a rental-controlled complex and will have 25% affordable units.

Leo Conlin, 79 Coddington Road, stated that it was his opinion, that by the comments presented by the neighbors and abutters, it is the density of the project that will cause any problems and he suggested that the board take the size of the density into consideration.

Tom Rota made a motion, seconded by Nitin Choksi, to continue the public hearing until 7:30 pm on Monday, April 29th at the Norton Public Library. All in favor. Approved.

Tom Rota made a motion, seconded by Nitin Choksi, to adjourn the public hearing at 10:11 pm. All in favor. Approved.

Minutes Reviewed and Approved by Committee on August 20, 2014

Respectfully submitted,



Thomas R. Noel

Chairman, Norton Zoning Board of Appeals