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ZONING BOARD OF APPEALS

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

MINUTES

Meeting of May 16, 2013

I. Call to Order

The May 16, 2013 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 pm at the Norton Public Library by Tom Noel, Chairman, with the following members present. Tom Rota, Nitin Choksi & Frank Reynolds (Alternate member). Also present was Ilana Quirk, Esq., Kopelman & Paige. Jason Broolsma was absent.

Tom Noel noted there was only one item on the agenda this evening.

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 April 1, 2013 mtg.)

Document List

1. Expanded Study Area Traffic Assessment dated March 28, 2013.
2. Comprehensive Permit Application – Supplement No. 2. Response to Comments.
3. Comprehensive Permit Application – Supplement No. 3. – Revised Architecture.
4. 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.
5. 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).
6. List of Waivers requested from the Zoning Board of Appeals.
7. A letter dated May 7, 2013 addressed to the ZBA in response to Graves Engineering, Inc. letter dated April 26, 2013.
8. Letter dated May 13, 2010 to ZBA from Oren N. Sigal.

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.

Tom Noel noted that new documents were submitted this evening which the board has not had a chance to review. He stated that after the last meeting he wrote letters to the Planning Board, Fire Department and the Water/Sewer Department requesting that they review the latest set of plans and attend tonight's public hearing with comments or concerns. He noted that Charles Gabriel, Town Planner, David Myles, Deputy Fire Chief and Duane Knapp, Water/Sewer Superintendent were present.

David Myles stated that he had a couple of concerns with the "ghost" parking spaces and one radius turning area which he related to David Eastridge who, in turn, corrected both concerns by revising the plans. He said that the applicant has complied with all Fire Dept. requests.

Tom Rota asked David Myles if all fire apparatus can access any and all portions of the proposed buildings at the proposed height and David Myles replied they can.

Tom Noel asked David Eastridge if the revisions just mentioned by David Myles are included on tonight's presentation and Mr. Eastridge replied they are.

Tom Noel asked the audience if they had any questions for Deputy Chief David Myles. Oren Sigal, 28 Coddington Road, noted that there are several islands located within Red Mill Village which have proven to be a concern with the Fire Department. Deputy Chief David Myles replied that there are no areas of concern at this time on the revised plans as far as he could see.

Leland Goldberg, 9 Danforth Lane, asked if school children would be picked up within the community, and, if so, would the buses have trouble turning around. Tom Rota replied that, like at the Turtle Crossing project, which is a private road, school children will wait for school buses on East Main Street/Route 123. Tom Noel noted that at the Turtle Crossing project site, little kiosks located on Newland Street would provide shelter for the school children waiting for the school bus.

Tom Noel asked Duane Knapp if he had a chance to review the latest revised plans and he replied that he has reviewed the domestic water and fire lines. He noted that the Water/Sewer Board has been negotiating the possibility of waiving some of the water installation fees because the applicant will be installing new 12" water mains. He said that the Water/Sewer Board will be meeting on May 29th and hope to have all waivers in place and will send a letter to the ZBA with the new information of any agreements between the board and the applicant.

Mr. Knapp stated that it was his understanding that the sewer line and pump station were going to be located off the road and on the property and are going to be privately owned. He noted that no one in the area will be forced to hook up to the sewer line.

Mr. Knapp noted that with the development of this project, there will 3 lift stations and all concerns and issues will be discussed at the Water/Sewer meeting of May 29th.

Tom Noel noted there will only be water waivers and no sewer waivers and Mr. Geisinger confirmed that was correct. Ilana Quirk read aloud the waiver requested of the Water/Sewer /Department. Peter Freeman noted that the waiver is a standard waiver submitted with every application. Mr. Geisinger stated he would submit a letter to the ZBA after the meeting of May 29th.

Mr. Knapp noted that he has always treated 40B projects in the same manner as any other development and has required the applicant to meet all specifications. He stated that the Water Department has never waived water meter costs.

Tom Rota stated that, in his opinion, Duane Knapp has always required that every applicant follow the rules and regulations of the Water Department and he respects Mr. Knapp's opinions.

Duane Knapp stated that some fees are waived when the applicant is going to make improvements that will benefit the town.

Bob Kimball asked that even though the water/sewer system will be private, will the applicant need an easement if passing through private or town-owned property. Peter Freeman replied that easements may not be necessary at this time, but if they are in the future, it is his understanding that, under Chapter 83C, the Water/Sewer Commissioners will take care of that.

Ilana Quirk noted that easements in public ways are generally voted on at Town Meetings, but there are statutory exemptions. She stated that water and sewer easements are statutory exemptions. She said one other way would be through a temporary license arrangement through the Board of Selectmen. Ms. Quirk noted that there is not enough information on the location of the water and sewer at this time to make a decision regarding easements. She noted that more information will be available after the May 29th Water/Sewer Meeting. She said normally the water/sewer issues are worked out between the applicant and the Water/Sewer Department and not the ZBA.

Tom Rota stated that he does not want the ZBA to interfere with the Board of Selectmen's policies and procedures. Peter Freeman responded that he will certainly report back to the ZBA after the Water/Sewer Commission meeting of May 29th and hopes that they and the applicant will arrive at an agreement. He said that he is hoping that the applicant will receive the appropriate permits and will not need any easements.

Ilana Quirk noted that if the applicant encroaches on private property, easements would be required and Peter Freeman replied that the applicant does not plan on encroaching on private property. Bob Kimball noted that easements would be needed if encroaching on private property other than the right-of-way in the roadway. Ilana Quirk said in order to make that determination, revised plans would have to be reviewed.

Duane Knapp noted that the process is different when the systems are installed on private property.

Maureen Sroczynski, 283 East Main Street, Unit 15, asked Mr. Knapp if there was a cap on the amount of waivers that would be given to an applicant and he replied there is not. He said that the board looks at the cost to the applicant. Ms. Sroczynski noted that the applicant is asking for \$424,000 in waivers. Mr. Knapp replied that he cannot waive costs for the pipes without seeing the actual size of the pipe on a plan. Ms. Sroczynski asked Mr. Knapp to confirm that there will be some changes and he replied there would be.

Leland Goldberg, asked Mr. Knapp in what area was he concerned with capacity. Mr. Knapp replied there was no specific area. He stated that if more than one pump were needed to pump the water and they were all working at the same time, which ones would stop and which ones would go on running. He noted that there might be an need for holding tanks.

Oren Sigal asked Mr. Knapp where the pumping stations would be located. He asked who owns the pumping stations at Red Mill Village and Norton Glen. He replied that the Town owns the pumping station at Red Mill Village but the one at Norton Glen is privately owned. Mr. Sigal asked who would be responsible if the privately-owned pumping station proposed for 274 East Main Street breaks down. Mr. Knapp replied this would be a Board of Health or Water/Sewer Department issue.

Jay Talerman, Attorney, asked if the location of the water/sewer lines was confirmed showing the utilities to be put on private or public property maybe requiring an easement. Peter Freeman replied that if the utilities were to be located on Town property, an easement is not required. Jay Talerman replied that if a water or sewer line were to run along private property, an easement would be required and a Town Meeting vote would be required.

Frank Reynolds asked Mr. Knapp if there would be separate domestic fire and water lines and Mr. Knapp replied there would be going to the different buildings. Mr. Knapp stated that after one year, the Town takes ownership of the water/sewer lines. Mr. Reynolds asked Deputy Fire Chief, David Myles if he had a preference for the type of pipes used in the buildings and he replied he did not as long as it meets code.

Tom Noel noted that a letter dated April 22, 2013 has been received from the Planning Board. He said that the Town Planner, Charles Gabriel was present this evening to explain the letter.

Mr. Gabriel stated that after reviewing the project, the Planning Board concludes that the density of the project is way too high. He said everything about the project is a function of the density. He stated that the Town of Norton is not opposed to 40B projects and that the Zoning Bylaws require that for projects with over 6 units, 10% have to be affordable units.

Mr. Gabriel stated that the Planning Board has always had a friendly relationship with the applicant, but in this case, he feels that the numbers of units for this project should be reduced, resulting in less impacts to all departments. He gave a few examples of density at different locations as follows:

Norton Glen – 150 units on 31 acres
Woodland Meadows – 130 units on 53 acres
Turtle Crossing – 176 units on 26 acres
Great Woods – 116 units on 23 areas
Red Mill Village – 156 units on 46 acres
Chestnut Farms (Raynham) 240 units on 20 acres (too dense)
Concord Muse -350 units on 30 acres
Needham Muse – 300 units on 6 acres

Charles Gabriel noted that Norton has approximately 640 people per square mile which is more dense than some of the above locations. He said that, in his opinion, this project is too dense for Norton. He noted that 4-story buildings on a main road, close to the road, is not keeping in character with the community.

David Miller, Planning Board member, confirmed what Mr. Gabriel said. He noted that the size of the buildings close to the main road will look out of place.

Charles Gabriel stated that the applicant should render exactly how the buildings will be viewed while driving by. It was his opinion that the units should be reduced by 50 units.

Tom Noel stated to Charles Gabriel that the ZBA has to follow the guidelines in making decisions as to whether a project will adversely affect the health, safety or welfare of the community. He asked Charles Gabriel if it was his opinion that any of these issues were to be affected enough to reject the project. Mr. Gabriel replied that he is not suggesting to reject the project, only to reduce the density of the project. He said that the project should be “consistent with local needs”. He proceeded to read aloud from the bylaws the chapter on “Local Concerns”. He explained that the ZBA should take into consideration these issues in making their decisions.

Ilana Quirk agreed that Mr. Gabriel is correct in what he has said about Local Concerns

which would have to outweigh Local Needs. She stated that the suggestion by Mr. Gabriel to reduce the number of units, not to reject the project, is a valid suggestion. She stated that if the board were to require the applicant to reduce the number of units for the project, the applicant could do one of two things; 1. agree to reduce the amount of units or, 2. state that by doing so it would "render the project uneconomical". If the applicant states that it would "render the project uneconomical", then the proper procedure would have to be followed.

Ilana Quirk noted that at this time, the ZBA board would review the "Proformer" and may require a peer review. She said that before this happens, all waivers should be reviewed to see what the impacts to the Town will be.

Tom Noel asked if there was a better way to view the height of the proposed buildings as suggested by Charles Gabriel. He asked what type of professional would do this type of work. Charles Gabriel replied that it is up to the applicant to get this information.

Ilana Quirk suggested having a "physical" markings of the height of the proposed buildings. Tom Noel asked Mr. Gabriel if he had ever witnessed a "balloon test" to show the height of a proposed building and he replied he has not.

Peter Freeman stated that he wanted to make three points as follows:

1. In response to Mr. Gabriel's statement noting comparable projects relating to density, the applicant has already submitted 11 examples.
2. There is no rule of thumb with the state relating to density.
3. The number of units per acre is not the important factor for a project, it is the impact a specific number of units per acre will have.

He stated that there does not seem to be any problems with all the other departments regarding the density of the project at this time.

Tom Noel noted that according to the Peer Review's report, the height will be deviated from 35 feet and not 45 feet as stated by the applicant. He asked Mr. Freeman where the applicant arrived at the 45 feet assumption.

Mr. Freeman stated the information is located in the Zoning By-laws under Section 6.c. where it states that comparing to residential properties the height is 35 feet and comparing to commercial properties it is 45 feet. He stated that the property is clearly commercial.

Ilana Quirk replied that the Zoning regulations (6.1.c) clearly state that if the surrounding area is recorded as residential, the height of 35 feet is the height that should be what the height of the proposed project is compared with.

Ilana Quirk noted that this information is very important as to the way the board will look at the waiver requested for the height. She suggested a balloon test be set up for review.

Frank Reynolds asked Mr. Gabriel if the issue of the appearance of the buildings is his own preference or if it pertains to the whole Town of Norton. Mr. Gabriel stated that it pertains to the characteristics of the Town of Norton. He said that normally buildings this high are not seen in Norton, especially on a main road. Frank Reynolds asked Mr. Gabriel if he was considering the lofts to be the 4th story and he replied he did. Charles Gabriel noted that it is the height, not the amount of stories, that is his biggest concern.

Christine Roessel, 93 Coddling Rd., noted that the residents of Coddling Road were to receive a diagram showing what the view from the back of their homes was going to look like when this project is completed and they have not yet received that diagram from the applicant. She stated that they will see monstrous buildings from their rear decks.

Oren Sigal asked if anyone knew the size of the telephone poles in Norton and Tom Rota replied that they could be 30, 60 or 90 feet in height. Oren Sigal suggested they would be 30 feet in height. Mr. Sigal asked if anyone knew what the grade level for the units is compared to East Main Street and Red Mill Village. He suggested that the grade level may raise the height of the proposed buildings even further. He noted that in reply as to what the 4th story on the buildings will be, he replied they will be lofts. Mr. Sigal asked Mr. Gabriel his opinion on the traffic issues and Mr. Gabriel replied that giving the fact that after any particular area increases to a "Level F" service, there is no point in trying to figure out the impacts and the traffic issues should be left to the traffic experts.

David Eastridge presented slides showing revised plans. He pointed out a revision to an area of concern by the Deputy Fire Chief, David Myles and the ZBA and noted a revision to the shadow spaces in front of Building 6 which were of concern to the ZBA and stated this issue has been corrected by widening the road by 5 feet and changed the shadow spaces into striped parking spaces in that area. He stated that other parking space issues were addressed as suggested by Jeff Walsh of Graves Engineering.

Sidney Belastock, 45 Coddling Road, asked how a major snow storm would be handled with all these parking spaces. David Eastridge noted that the snow plowing and removal would have to be alternated.

David Eastridge addressed the sewer system issues and pointed out the areas where the pump stations would be located. He noted that the force main along the frontage of the project will remain on site. He stated that an easement on the property will benefit the town by allowing others to connect only if they want to. He noted that all sewage pump stations will pump at night when all others will be pumping during the daytime.

Lloyd Geisinger stated that his response letter to Graves Engineering's report is posted on their website. He pointed out that he had submitted a model of the project for review and realizes that the residents are expecting something more and he will provide something

else in two weeks. He said that the buildings on the road at Red Mill Village are two-story buildings.

Tom Rota asked what the height difference was between the buildings at Red Mill Village and the proposed 274 East Main Street project. Lloyd Geisinger replied that the proposed 274 East Main Street buildings are 1 story higher and with roof adding 6 extra feet.

Lloyd Geisinger noted that he would try and present something to help visualize the buildings as they will look when they are constructed. He stated there were two topics he wanted to discuss this evening; density and off-site mitigation. He noted different examples of density projects and the need for all of them. He stated that if he is going to provide quality affordable housing, this is the density that is needed. He stated that if he cannot build 3-story buildings, he will not be able to do this project.

Mr. Geisinger noted that he was making many improvements for the Town of Norton at his expense such as installing a new 12" water main at a cost of \$468,000, preserving the historic White Farm house at a cost of \$629,000, moving the detention basin at Red Mill Village underground at a cost of \$283,000 and installing sidewalks at about \$65,000. He stated the improvements will cost approximately \$1,000,000.

Tom Noel noted that the list of waivers was just received this week and will be discussed at the next meeting.. He stated that the applicant's response to Graves Report will have to wait until the next public meeting also. Lloyd Geisinger noted that there are two important items in the Graves Report that he has not addressed at this time, catch basins, and how they would work and if they or on the property or off the property and general paving questions, which he stated he decided to survey East Main Street to get the actual figures.

Maureen Sroczynski stated that she lives in Kingsbury Hill Estates and that the rents are less that the rents will be in this project. She noted that she has not heard from anyone that is in agreement with the proposed density of this project. She stated that no one is opposed to affordable housing or this project, but the density and height issues have to be mitigated with the ZBA.

Tom Noel asked Mr. Freeman if Order of Conditions were drafted at this time and Mr. Freeman replied they would be by the next meeting.

Ilana Quirk advised the board to review each waiver individually to know exactly what is requested to be waived and be very specific in the decision with the details of each waiver granted.

Tom Rota asked if the ZBA would be granting any waivers regarding Conservation issues and Ilana Quirk replied that the Conservation Commission would deal with those

issues. Mr. Freeman noted there are no waivers requested that would fall under the Conservation jurisdiction.

Ilana Quirk advised that the various waivers be given to the different departments for their review and input. Peter Freeman replied he would work on the revised waivers and submit them next Wednesday.

Discussion ensued on when the next meeting would be held. Tom Noel noted that since Jason Brolsma has missed two public hearings on this project, he is no longer eligible to vote on this project.

Tom Rota made a motion, seconded by Nitin Choksi, to hold the next public meeting would be held on Monday, June 3rd at 7:35 pm at the Norton Public Library.

Tom Noel noted that an invoice in the amount of \$7,891.79 was received from Graves Engineering, Inc. Tom Rota made a motion, seconded by Nitin Choksi, to pay the bill. Approved.

Tom Noel stated that a letter was received from The Planning Board regarding the height of the approved sign for an application at 184 West Main Street by Bart Steele. He stated that he drafted a response letter and read it aloud to the board members for their approval. The members agreed the letter should be sent as written.

Tom Rota made a motion, seconded by Nitin Choksi, to adjourn the meeting at 10:26 pm. Approved.

Minutes Approved by Committee on: September 8, 2014

Respectfully submitted,



Thomas R. Noel, Chairman
Norton Zoning Board of Appeals