



**TOWN OF NORTON**  
**ZONING BOARD OF APPEALS**  
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## **MINUTES**

Meeting of July 29, 2013

### **I. Call to Order**

The July 29, 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) & Jason Brolsma (Alternate member). Also present was Ilana Quirk, Esq., Kopelman & Paige.

Tom Noel noted the first item on the agenda is:

**013-007 - William Moore – 409 Reservoir Street, Parcels 93 & 94 (Assessor's Map 3) – Application to correct (or amend) the wording of the Amended Decision dated January 24, 2011.**

#### **Document List**

1. Application for a Variance.
2. Plan entitled "Foundation As-Built Plan" for 409 Reservoir Street, Norton, MA 02766 prepared by Prime Engineering, Inc., scale 1"=20', signed and stamped by Bernard N. Perrotty and dated May 13, 2013.
3. Plan entitled "Proposed Development Plan", for 409 Reservoir Street, Norton, MA 02766 prepared by Prime Engineering, Inc., scale 1"=20', signed and stamped by Bernard N. Perrotty and dated March 1, 2007.

Present at the public hearing was William Moore.

Tom Noel noted that the decision which was given in 2011 was taken from an earlier decision from 2007 which had expired. He said that when Mr. Moore appeared before the board a couple of weeks ago, it was stated that the ZBA had not made a mistake on the 2011 decision and advised Mr. Moore that he would have to file a new application. He said that the new application is requesting a correction to the decision filed in 2011. Tom Noel said that Mr. Moore is stating that the side yard setback of 14.7' listed in the decision referring to the approved plans is incorrect. Tom Noel replied that the 14.7'

setback listed in the final decision refers to the approved plan which clearly shows the side yard setback at 14.7' on the right side.

Mr. Moore stated that he applied for setbacks to range from 25' to 13' generally and said that he thought he could use any dimensions within those guidelines. He said that his contractor wanted to center the house on the lot and disregarded the approved side yard setback of 14.7' therefore locating the foundation 7" closer to the side line than was approved by the ZBA. He said he did not give the contractor (Prime Engineering) a copy of the approved plan and decision.

Tom Rota commented that the applicant is actually filing a new variance for the new dimensions for the actual location of the foundation.

Tom Noel commented that he is very disappointed that applicants and contractors do not follow plans as approved by the Zoning Board.

Tom Rota commented that the lots are very small in the Grove area and it is hard to construct a normal size house without encroaching further into the front and side yard boundaries.

No one was present to speak in favor of, or opposed to, the project.

Mr. Moore stated that he thought he was making the structure more conforming.

Tom Noel noted there was a motion on the table to approve a variance of the side yard setback of 13.9' at the closest point as shown on the submitted plan entitled "Foundation As-Built Plan" prepared by Prime Engineering, Inc., scale 1"=30', signed and stamped by Bernard N. Perrotty and dated May 13, 2013. Tom Rota made a motion, seconded by Nitin Choksi, to approve the application for a variance as submitted. Approved.

Tom Noel stated the seconded item on the agenda is the project:

**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 June 24, 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. Report from Jeffrey Walsh of Graves Engineering Inc. dated March 8, 2013.
4. Response letter from Frank Westgate to Jeffrey Walsh's (Graves Engineering, Inc.) report of March 8, 2013 dated March 14, 2013.
5. Jeff Walsh (Graves Engineering, Inc.) response letter dated July 26, 2013.

Present at the public hearing were Frank Westgate, Engineer, Robert Junior, applicant, Bob Engler of SEB LLC, Development Consultant, and Jeff Walsh of Graves Engineering, Inc., Peer Review Engineer.

Tom Rota made a motion, seconded by Nitin Choksi, to remove the project from the table for discussion.

Tom Noel stated that a Change Order Contract #2 has been submitted by Graves Engineering, Inc. but Mr. Engler did not want the drainage calculations included in the Change Order at this time. Ilana Quirk commented that the applicant has to state why he does not want the drainage calculations reviewed at this time and at what time will he have drainage calculations for the Peer Review.

Tom Noel read aloud an email received by Bob Engler dated July 22, 2013 stating that the applicant does not want to submit drainage calculations until he is assured that the 40b Comprehensive Permit will be issued.

Jeff Walsh went through his report dated July 26, 2013. He pointed out a few comments that referred to the drainage calculations. He commented that regular preliminary plans do not include drainage calculations. He stated that in a 40B project he would be concerned, at the preliminary level, with (1) if there is enough land area allocated for storm water facilities and (2) was there enough elevation available on the site to convey the water, under gravity conditions, to deal with storing and discharging of water.

Jeff Walsh noted that there are a few areas that are encroaching the Conservation Commission's limit of work zone of 25 feet. He was concerned with the berms being high enough in those areas.

Tom Rota commented that he has reviewed this parcel of land over the past 25 years and there was always drainage/wetland issues.

Tom Noel agreed that with most 40Bs, drainage calculations have been included early in the review process.

Frank Reynolds agreed with this comment.

Bob Engler replied that if the board feels strongly enough that the drainage calculations should be reviewed at this time, the applicant will provide them.

Tom Noel stated there was a motion on the table to issue and sign the Change Order #2. All in favor. Approved.

Jeff Walsh went over his second report dated July 26, 2013 which was in response to the applicant's letter dated March 8, 2013.

Jeff Walsh had questions about the water mains and where they were and if they were connected throughout the project. Frank Westgate replied they were looped throughout the project and did not show this on the preliminary plans.

Frank Reynolds had questions regarding the site lighting and Bob Engler noted that the specifics are usually conditioned in the decision.

Bob Engler commented that he did not have enough time to comment on Mr. Walsh's latest report because he received the report last Friday.

Jeff Walsh reminded Mr. Engler to make sure lighting is not excluded on future plans.

Ilana Quirk commented that the lighting can be included as a condition in the final Decision.

Bob Engler asked what the permitting process is with a 40B application. Ilana Quirk replied that the applicant needs to provide preliminary schematic plans. She stated that after the approval of this project, if the ZBA feels the need to review certain details or calculations, they would be added to the decision as one of the conditions that would be peer-reviewed.

Tom Noel commented this is not how the Board has handled 40Bs in the past, that the usual process is to have the applicant provide as much detail as possible to be reviewed before any decision is drafted.

Discussion ensued regarding the possibility the applicant would want to phase the project. Tom Rota commented that if phasing were to be done, the Board would require that all infrastructure be completed first.

Jeff Walsh commented that he has not been notified that there will be enough water and water pressure available for the project. Frank Westgate stated that he has not gotten any response from the Water/Sewer Department to his latest communications. Tom Noel stated he will notify the Water/Sewer Commission of this.

Bob Kimball commented that all boards need to be included in this project.

Frank Westgate stated that Duane Knapp, Water/Sewer Superintendent, had already advised him that there is enough water and pressure available for this project to go forward.

Ilana Quirk noted that in the past the applicant has applied to the Water/Sewer Department for their approval.

Jeff Walsh continued with his comment letter and pointed out #47 which states that he has not seen a list of Waiver Requests to date.

Bob Engler replied that general requests had been requested in the application, but would be requested with more detail in a revised letter.

Jeff Walsh noted that #50 states that the elevation as shown on the plans at 73.5' need to be supported by details.

Jeff Walsh said he had created a Regulations Compliance Table to list the most important issues to be discussed with a new 40B application.

He commented that a parking waiver should be requested after reviewing the submitted plans.

Frank Reynolds noted that the pump station should be discussed with the Water/Sewer Department. He requested that the crushed stone for the roof drains be added to the plans.

Frank Reynolds asked if there was a condo management association proposed and Bob Engler replied one would be formed by the residents.

A discussion on snow removal ensued and Jeff Walsh did reply that the Condo Association would have to make sure the sidewalks were plowed.

Frank Reynolds asked if school buses were going to enter onto the property. Jeff Walsh replied that in some towns, a kiosk is constructed for students to wait under until the bus picks them up. Tom Rota stated that the buses will not go onto the property, but will pick the kids up at a specific location.

Condo and Association fees were discussed.

Frank Reynolds asked if speed bumps were under consideration and, if so, stated that they should be shown on preliminary plans. Jeff Walsh replied that if they were proposed, they would be shown on the final plans for review.

Jeff Walsh stated that he would quickly review the Traffic Report and would advise the Board if he thought it should be reviewed by an independent Traffic Consultant. He said that if this was done, a Contract Order Change would have to be signed.

Frank Westgate asked if the applicant was allowed to contact the Engineer directly and Tom Noel replied he could. Tom Noel noted that it was the fact that money might not be in place to pay for any further Engineer review that was concerning the board about further contact.

Ilana Quirk commented that the budget can be discussed at the next meeting. (Peer Review Costs).

Sean Harris, 122 East Main Street, had issues with possible future water runoff onto his property. Tom Noel replied that a project cannot be approved if the water runoff will increase.

Veasna Kim, 120 East Main Street, stated that he has a sump pump running constantly and noted that any major changes in the drainage system caused by this project may have an adverse effect on the existing water problem.

Tom Rota made a motion, seconded by Nitin Choksi, to continue the public hearing until Tuesday, August 6, 2013 at 7:31 pm. All in favor. Approved.

The members reviewed an invoice from Graves Engineering, Inc. in the amount of \$1,021.50. Tom Rota made a motion, seconded by Nitin Choksi, to pay the bill. All in favor. Approved.

Tom Rota made a motion, seconded by Nitin Choksi, to adjourn the meeting at 10:03 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