



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES

Meeting of August 29, 2013

The August 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 and Frank Reynolds (Alternate member). Also present was Ilana Quirk, Esq., Kopelman & Paige. Nitin Choksi and Jason Brolsma (Alternate member) were absent.

Tom Noel noted that there is 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 August 6, 2013 meeting).

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.
9. Letter dated May 24, 2013 from MDM Transportation Consultants, Inc.
10. First Amendment to the Purchase and Sales Agreement.
11. Letter dated June 6, 2013 from Brona Simon, Mass Historical Commission
12. Letter dated June 5, 2013 from Mass Housing Partnership

13. Letter dated June 3, 2013 from Oren N. Sigal, Atty.
14. Letter dated June 3, 2013 from Oren N. Sigal, Atty. requesting to do a presentation.
15. Draft Comprehensive Permit dated June 2, 2013
16. Letter dated June 11, 2013 from Michael Yunits, Town Manager
17. Graves Engineering, Inc. Report dated June 21, 2013
18. Memorandum dated June 23, 2013 from Conley Associates
19. Letter dated June 24, 2013 from Oren N. Sigal, Atty.
20. Letter dated June 24, 2013 from residents of Red Mill Village
21. Letter dated June 24, 2013 from Mass Housing Partnership
22. Traffic Consultants letter dated July 19, 2013
23. Graves Contract Change Order #3
24. Graves Contract Change Order #3R
25. Abutters' Additional Supplemental Material dated 7/22/13
26. Draft Comprehensive Permit for 274 East Main Street
27. Memorandum of Agreement
28. Supplement No. 7
29. Abutters' Response to Supplement No. 7 dated 8/5/13
30. Letter from SRPEDD dated August 6, 2013
31. Extension letter from Freeman Law Group, LLC to ZBA dated August 7, 2013
32. Letter to ZBA from the Board of Selectmen dated August 9, 2013
33. Contract Change Order #3R from Graves Engineering, Inc. dated August 6, 2013
34. Town Counsel's draft Decision dated August 23, 2013
35. Letter from David T. Gay of Gay & Gay, Attorneys for the Kingsbury Hill Condominiums, to the ZBA dated August 23, 2013.
36. Town Counsel's draft Decision (with Developer's Revisions) dated August 23, 2013
37. Letter to ZBA from the Red Mill Village Condominium Trust dated August 29, 2013
38. Report from Kelly Engineering Group, Inc. dated August 26, 2013 to the Norton Conservation Commission responding to Chessia Consulting Services LLC report dated July 26, 2013
39. Letter from Kelly Engineering Group, Inc. to Jennifer Carlino dated August 26, 2013 in response to her letter dated July 15, 2013.
40. Letter to Thomas Noel, Chairman, Zoning Board of Appeals from the Red Mill Condominium Trust dated August 29, 2013.
41. Contract Change Order #4 from Graves Engineering, Inc. dated August 29, 2014

Tom Rota made a motion, seconded by Frank Reynolds, to remove the project from the table for discussion. All in favor. Approved.

Tom Noel noted that this is the second absence for Nitin Choksi, therefore, he will not be able to vote on any issues for this project.

Tom Noel noted that a Contract Change Order #4 from Graves Engineering, Inc. was received this evening. Jeff Walsh commented that this Change Order included a Storm Water report and plans that he received this morning.

Frank Reynolds made a motion, seconded by Tom Rota, to approve Contract Change Order #4. All in favor. Approved.

Tom Noel noted that other documents were received this morning which the board has not had the chance to review yet.

Tom Noel noted that a letter dated August 7, 2013 requesting to extend the public hearing was received by Peter Freeman.

Tom Rota made a motion, seconded by Frank Reynolds, to accept a request to extend the public hearing for this project until September 30, 2013. All in favor. Approved.

Tom Noel noted that a revised draft of the conditions was submitted by Town Counsel since the previous public hearing. He said a draft of the conditions was also submitted by the abutters with the changes suggested by their Attorney, Jay Talerman.

Discussion ensued regarding a letter that was received from the Red Mill Village Condominium Trust with a request to add a condition to the draft conditions. Tom Rota noted that the main content of the letter is to ensure that the proposed 274 East Main Street project remains totally separate from the Red Mill Village community in all aspects. Tom Noel replied he was not sure this could be done.

Larry Finn, Chairman of the Red Mill Village Board of Trustees, stated that the residents of the Red Mill Village Community are looking to keep both projects totally separate.

Tom Noel noted that, at this time, this is not proposed and in the future, if changes are to be made to this project, the board would review the documents and take a vote.

Town Counsel reminded the board that the board only has jurisdiction over plans and reports submitted for review. Tom Rota commented that any agreements or changes agreed to between the applicant and abutters will have to be added to the plans for review by the board.

Lloyd Geisinger stated there was a minor change to the latest revised plans at the area of the detention basin. He said that because the Conservation Commission requested that the detention basin be located as far away as possible from the vernal pool, the location of the playground and the detention basin have been reversed.

Tom Noel asked Town Counsel for an update with the Water/Sewer Department and she replied that the Memorandum of Agreement has been voted on and signed by the Water/Sewer Department and she was waiting for a signed copy.

Ilana Quirk thanked Peter Freeman and Jay Talerman for their prompt participation in commenting on the draft conditions.

Lloyd Geisinger noted that there were 90 one-bedroom units, 124 two-bedroom and 14 three-bedroom units proposed at this time.

The board proceeded to review the draft conditions submitted by Town Counsel dated August 23rd. Copies of the same draft conditions were on the table next to these conditions with comments red-lined by Attorney Jay Talerman and Attorney Peter Freeman. Therefore, **three** different copies were reviewed together to compare the comments and suggested revisions to the conditions.

Discussion ensued on the fact that the project is conditioned by a **final** review by the Housing Subsidizing Agency. Ilana Quirk noted that this is the standard process.

Peter Freeman noted that he had neglected to send a copy of the extension to the Purchase and Sales Agreement to the abutter's attorney and he said that he would send him a copy.

Discussion ensued whether or not the property is in the Wetland Protection District and the applicant stated he would find out if it is or not.

Lloyd Geisinger requested to discuss "Phasing" at an upcoming meeting.

Jeff Walsh had concerns with #14 "Traffic" and the wording to be added by the abutter's attorney. Tom Noel agreed that this language was too specific to add and would take days to research the contents for accuracy. The developer has requested to remove the contents of #14 and noted the information was listed in #16.

Discussion ensued the fixing problems with Route 123 at the project site. Mr. Geisinger stated that improvements will be made, but he is not going to commit to fixing all existing problems caused by someone else. He said there is no way of knowing what needs to be corrected until the road work has started.

Mr. Geisinger stated that he has already made certain commitments which he intends on keeping. Ilana Quirk suggested changing the wording of "make all attempts" to "make all **reasonable** attempts".

An abutter had concerns with this change to the wording suggesting that the developer will not make an attempt to fix existing problems with the road.

Jay Talerman suggested leaving in the letters regarding traffic from Charles Gabriel, Town Planner and Tom Houston. Tom Noel replied that even if they are not detailed in the decision, they would be listed under documents submitted and can be referenced at any time.

Oren Sigal had concerns with the sewer lines on his property and who would be responsible for them. Ilana Quirk noted it cannot be determined at this time.

Tom Noel noted that the applicant proposed to remove condition #24, which relates to the height of the proposed buildings in relation to the surrounding buildings. Frank Reynolds suggested that it is important to leave this paragraph as it relates to the discrepancy of the buildings which is an important issue with this project.

Discussion ensued with condition #29 which made reference to Thorndike Development and the Red Mill Village project. Lloyd Geisinger commented that this is incorrect information and that the two projects have different developers and financial partners. It was agreed to remove the words "The Applicant's joint venture partner, Thorndike Development" and leave the rest of the paragraph which states true facts.

Peter Freeman on behalf of the applicant had concerns with condition #32 and wanted the word "tower" removed from the paragraph. He stated that the word to be used would be "visible".

Lloyd Geisinger requested that the "Table" in #37 be corrected and clarified.

It was agreed to leave the word "tower" in #38. Tom Noel noted that the height is a very important issue with this project and it has to be determined if the buildings will actually "tower" over neighboring buildings. Tom Rota replied that the applicant has moved the buildings in the rear further away from the Red Mill Village community but he had concerns with the large buildings on Route 123.

Christine Roessel, 93 Coddling Road, stated that when the large trees at the rear of this project are removed, the buildings for this project will be so high and will tower over the neighboring buildings. She said that residents from both communities will be able to look into each others apartments. She commented that lowering the height of the proposed buildings one story will make a huge positive difference to both projects.

Ilana Quirk replied stating that she disagrees with Atty. Peter Freeman regarding the allowed height for this zoning district. She commented that the allowed height is only 35 feet and the applicant would need a waiver to construct the buildings higher.

Discussion ensued on the height of the proposed buildings. Maureen Sroczyński stated that the proposed height of the buildings would not be consistent with any buildings in Norton. Tom Noel commented that shortening the height of the buildings would not make much difference from a distant view. Jeff Walsh suggested to consider the **physical** consequences of constructing the buildings taller.

Discussion ensued on the possibility of asking the applicant to submit a "Pro-former". Ilana Quirk explained that if the ZBA Board requests a modification to the project that the applicant responds will make the project financially unfeasible, a Pro-former may be requested for review.

Christine Roessel, 93 Coddling Road, commented that she was given a value figure by a Real Estate agent for her home at the present time and then she was given a value figure for the property after the 274 East Main Street project is completed, as proposed, and the figure after was approximately \$50,000 to \$75,000 less.

Tom Noel explained that a planned project can be constructed, by right, on the property, and as long as it does not impact any local concerns for the town, cannot be denied.

Jeff Walsh stated he would be reviewing the latest revised plans and would submit a report in approximately 3 weeks. It was agreed to hold a meeting on Thursday, September 19, 2013.

Tom Rota made a motion, seconded by Frank Reynolds, to continue the public hearing to Thursday, September 12, 2013 to be held at 7:30 pm at the public library. All in favor. Approved.


Ilana Quirk commented that she would prepare another draft conditions incorporating tonight's comments and decisions and would have it available for the meeting of Thursday, September 12, 2013.

The members reviewed a Bills Payable Sheet for W.B. Mason Co. for \$2.02. Frank Reynolds made a motion, seconded by Tom Rota, to pay the bill. Approved.

Tom Rota made a motion, seconded by Frank Reynolds, to adjourn the meeting at 10:24 pm. All in favor. Approved.

Minutes Approved by Committee on: September 22, 2014

Respectfully submitted,



Thomas R. Noel, Chairman
Norton Zoning Board of Appeals