



**TOWN OF NORTON**  
**ZONING BOARD OF APPEALS**  
70 East Main Street  
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## **MINUTES**

Meeting of September 23, 2013

The September 23, 2013 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 pm at the Norton Middle School by Tom Noel, Chairman, with the following members present. Nitin Choksi, Frank Reynolds (Alternate member) and Jason Brolsma (Alternate member). He noted that Tom Rota would be arriving shortly.

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

**014-003 – A. Brandt & Marie Henderson – 25 South Lakeview Road, Parcels 702 & 703 (Assessor's Map 3). Application is for a Variance of the Norton Zoning Bylaws for frontage, side yard setbacks of an existing house and side yard setbacks for a shed and for a Section 6, 1.5e finding for the maximum percentage of a lot covered by a building on a non-conforming lot.**

### Document List

1. Application for variance
2. Plan entitled "Zoning Plan, 25 So. Lakeview Road, prepared by hutchins-Trowbridge associates, inc., Scale 1"=20', dated July 18, 2013".
3. Colored in Assessor's Map to show lot, existing buildings, parcel of property to be acquired from the Town and the proposed addition.

Present at the public hearing were Brandt Henderson and his Attorney, Peter Clark.

Tom Noel noted that there is an existing non-conforming structure on the property. He asked when the property was purchased and Mr. Clark replied in 1985.

Tom Noel asked Mr. Clark to describe exactly what is being asked of by the applicant. He replied that due to a medical diagnosis recently, Mr. Henderson will be requiring living space and facilities to be located on the first floor. He passed out a color coded plan to the members for review.

Mr. Clark noted that there are several variances and a Section 6, 1.5e finding being requested. He said that the hardship for the project is the unusual shape of the lot. He

noted that at this time the lot has only 12 feet of frontage but is in the process of acquiring another 3 feet from the Town (which is approximately 15' x 100').

Mr. Clark stated that the first variance requested is relief from the amount of space covered on the lot. He said that according to the Zoning Bylaws, 16% coverage is allowed in an R60 zone. He said the applicant is asking for 18.49% coverage which would include the land acquired from the Town which is approximately 1617 sq. ft. Mr. Clark stated that the variance is needed for coverage because the addition has to be on the first floor to be handicap accessible for Mr. Henderson which enlarges the footprint.

Mr. Clark noted that the applicant has received an Order of Conditions from the Conservation Department.

Frank Reynolds had questions on the proposed location of the shed which would be located approximately 3 ½ feet from the side line of the property. Mr. Clark replied that he would like to keep at least 8 feet between the shed and the existing house. Tom Noel asked why the shed could not be re-located on the property. Mr. Clark noted that the Conservation Commission had suggested this location for the shed which would have the least impact to the wetlands.

Mr. Clark noted that all the proper procedures have been followed to obtain the extra property from the Town including payment of the legal fees by the applicant to have the property deed drawn up.

Nitin Choksi asked about an easement shown on the property and Mr. Clark noted it was a concrete pipe located in a catch basin which would be the applicant's responsibility to maintain as part of the conveyance of the property. He stated that the Bd. of Selectmen is requiring the area to be paved rather than have crushed stone placed over the pipe.

Tom Noel asked if there was anyone opposed to the proposed project with no response.

Herb Ellison of 27 So. Lakeview Road spoke in favor of the application.

Tom Noel asked if there was a fence behind the shed and Mr. Clark noted there was not because the area is very wooded.

Frank Reynolds suggested that 4 conditions be part of the decision as follows:

1. Acquisition of the additional parcel from the Town providing an additional 3 feet of frontage so as to render fifteen (15) feet of total contiguous frontage;
2. Installation of final surfacing and bedding material within the drainage easement area as may be requested or required;
3. Maintenance of the catch basin by the applicant; and
4. Rotation of the shed by 90 degrees so as to leave no less than a 5-foot side line setback, which is a modification of the plan submitted.

It was agreed to turn the shed a little to locate it 5 feet from the sideline and to abide by the other suggested conditions.

Nitin Choksi made a motion, seconded by Frank Reynolds, to approve the application with the above-stated conditions:

Mr. Clark replied that the shed cannot be moved. He had concerns with the word "maintenance" of the catch basin. Tom Noel suggested that he would re-word the decision to require any damage caused to the catch basin or underground pipe by the applicant to be repaired as seen fit by the Town, by the applicant.

All in favor. Approved.

Tom Noel made a motion, seconded by Frank Reynolds to remove the second item from the table for discussion the project:

**014-002 – Stephen Henkin – North Worcester Street ( between #52 and #58) Parcel 11-01 (Assessor's Map 21). Application if for a Variance of the Norton Zoning Bylaws Section 6.2 for the required frontage dimension of 150 feet. (cont. from the August 26, 2013 mtg.)**

Document List:

1. Application for variance;
2. Plan entitled "Sewage Disposal Plan for #0 North Worcester Street, prepared by RIM Engineering Co., Inc., Scale 1"=40", signed and stamped by Ralph I. Maloon and dated May 29, 2013" with latest Revision July 8, 2013;

Present at the public hearing were Stephen Henkin and his engineer, Earl Chartier of RIM Engineering.

Tom Noel stated that since the previous public hearing on this project, he has had a chance to review the last three decisions for this property.

Frank Reynolds asked if the applicant had done any more research on the "Shape Factor" and his engineering, Earl Chartier replied he has. He proceeded to point this out to the members on the plan. He noted that a parcel of land 200' x 200' could be used with Shape Factor 16. He said there are not wetlands on this property.

There was no one present to speak in favor of the project.

Jeff Sbardella, 52 No. Worcester Street, read aloud his letter opposing the project and why. He noted that at the time he purchased his house next door to this property, his realtor told him that this parcel was non-buildable and had been issued several ZBA denials.

Peter Murphy, 53 No. Worcester Street, stated that he is opposed to the project because of the severe water problems on this and neighboring properties that periodically flood the street and surrounding lots.

Susan Bradwin, 60 No. Worcester Street, stated she was opposed to this project because of flooding issues on her property as well as neighboring properties.

Theresa Peck, 42 No. Worcester Street, stated she was opposed to this project because of flooding issues on her property as well as neighboring properties.

Tom Noel commented that the three previous denial decisions with consistent and he noted that the previous owner had created a non-buildable lot after dividing her property.

Stephen Henkin requested to **withdraw his application without prejudice.**

Tom Noel noted that Nitin Choksi was not present at the previous meeting and Tom Rota had to recuse himself from the public hearing.

Frank Reynolds made a motion, seconded by Jason Broolsma, to accept Mr. Henkin's request to withdraw his application without prejudice. All in favor. Approved.

Jeff Sbardella, 52 No. Worcester Street, asked the board if they could permanently deny the project and Tom Noel replied he cannot do that. He stated that anyone could apply in the future.

Tom Rota, made a motion, seconded by Nitin Choksi, to remove from the table for discussion 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 August 26, 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 subdivision 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.

6. Memo from Bob Engler, SEB, dated July 30, 2013.
7. Letter from Board of Selectmen to ZBA dated August 9, 2013.
8. Letter from Frank Westgate of Westgate Associates to Graves Engineering, Inc. dated August 20, 2013 in response to Graves Review Report dated June 26, 2013.
9. Report from Jeffrey Walsh of Graves Engineering, Inc. dated September 20, 2103.

Present at the public hearing were Rober Junior, owner and applicant, Bob Engler of SEB, LLC, Frank Westgate, Westgate Engineering and Jeff Walsh of Graves Engineering, Inc.

Jeff Walsh went through his report of September 20, 2013, item by item. He commented that the report was in response to documents he received on June 26, 2013. He noted all comments from previous letters are included in this report. He pointed out the most important issues. Mr. Walsh noted that more detailed Hydrology plans are needed.

Mr. Engler replied that his engineer will be in touch with Mr. Walsh and will resolve any issues outstanding.

Funds were discussed and it was agreed there was enough funds for Peer Review.

Jeff Walsh continued with his report summary.

Frank Reynolds noted that due to the size and scale of the plans, the dimensions, including the wetland boundaries, are hard to read.

Tom Rota noted that there are a lot of wetlands on this site and the project will be reviewed by the Conservation Commission. He commented that the Conservation Commission will be very strict and will adhere to the Mass Wetland Protection Act when doing their review. He commented that there will be no reason for the ZBA to review wetland issues if the Conservation Commission does not allow the project to be developed. He suggested that the ZBA members get permission from the owners of the abutting properties to walk the boundary lines. Tom Noel commented that he would not know what to look for without an engineer being present.

Bob Engler commented that if the Conservation Commission denies the project, a Superseding Order of Conditions may be obtained from DEP. He stated that it is wiser to get ZBA approval before applying to Conservation because if the ZBA denies the project, there would be no point in applying to Conservation.

Frank Westgate, Engineer, commented that a letter had been received from Jennifer Carlino, Conservation Agent, and there was not indication that the project would be denied.

Tom Noel asked if gas was going to be one of the utilities in the community and Mr. Junior replied he has not contacted the gas company to date.

Jeff Walsh recommended drawing the manholes on the preliminary plans for the sewer connections.

Tom Noel asked about the water system which Jeff Walsh proceeded to point out in detail to the members. Mr. Walsh noted there should be more detail on the plans for the water system. Robert Junior replied that too many lines on the plans might make the plans too confusing to review.

Robert Junior noted that he has gone to the Water/Sewer Department and has not gotten an answer as to whether there is water/sewer available at this time. Bernie Marshall, Water/Sewer Superintendent noted that looping was discussed at the meeting.

Discussion ensued regarding the Water/Sewer lines in front of the site on Route 123.

Bernie Marshall, Water/Sewer Superintendent noted that North Cottage owns their own water sewer lines on Route 123 and advised Mr. Junior to speak to them. He also suggested that he go to the Town of Mansfield who might own part of the lines.

Discussion ensued regarding a place for school children to wait for the school bus and what route the bus will take. Tom Rota noted that buses will pick children up at the end of the road which will be on East Main Street.

Frank Gallagher, engineer, noted that he will confer with Mr. Walsh and make the necessary revisions to the plans.

Dao Kim, 120 East Main Street, had concerns with either the Board members or the applicant or his representatives entering her property without notice. Tom Noel assured Ms. Kim she would be contacted and her permission sought before anyone from the Board would go onto her property.

Jeff Walsh noted that he would need at least two weeks to review any submitted plans.

Tom Rota made a motion, seconded by Nitin Choksi, to continue the public hearing to Monday, November 25, 2013 to be held at 7:35pm at the Norton Public Library. All in favor. Approved.

The members reviewed an invoice for Graves Engineering, Inc. in the amount of \$2,734.15. Nitin Choksi made a motion, seconded by Tom Rota, to pay the bill. All in favor. Approved.


The members reviewed an invoice for The Sun Chronicle in the amount of \$91.83. 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 10:37 pm.

All in favor. Approved.

**Minutes Reviewed and Approved by Committee on August 20, 2014**

Respectfully submitted,



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Thomas R. Noel  
Chairman, Norton Zoning Board of Appeals