



**TOWN OF NORTON**  
**ZONING BOARD OF APPEALS**  
70 East Main Street  
Norton, Massachusetts 02766-2320  
Office: 508-285-0278  
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## **MINUTES**

Meeting of October 24, 2013

The October 24, 2013 scheduled meeting of the Zoning Board of Appeals was called to order at 7:38 pm at the Norton Public Library by Tom Noel, Chairman, with the following members present. Tom Rota, Nitin Choksi, Frank Reynolds (Alternate member) and Jason Brolsma (Alternate member). Ilana Quirk, Town Counsel, was also present.

Tom Noel noted that there was 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 October 15, 2013 meeting)

### 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.
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
42. Letter from William D. Myles, Deputy Fire Chief, to the ZBA dated September 11, 2013.
43. Draft decision from Town Counsel dated September 11, 2013.
44. Updated 274 East Main Street Phasing Plan
45. List of waivers submitted by the applicant
46. Letter from Oren N. Sigal, Atty. at Law to the ZBA dated September 12, 2013.
47. Letter from Oren N. Sigal, Atty at Law to the ZBA with corrections to his letter dated September 12, 2013 dated September 16, 2013.
48. Extension of Purchase and Sale Agreement submitted on September 12, 2013
49. Letter from Oren N. Sigal, Atty at Law to the ZBA dated September 16, 2013.
50. Report from Graves Engineering, Inc. dated September 18, 2013.

51. Report from Robert J. Michaud, P.E., MDM Transportation Consultants, Inc. dated September 19, 2013.
52. Request by the applicant's Attorney, Peter Freeman for an extension of the public hearing to November 4, 2013.
53. Order of Conditions from Conservation.
54. Draft Waivers from applicant dated 10-3-13
55. Notes of Explanation for 274 East Main Street Pro Forma, Budget, and "One Stop" Submission to MHP.
56. Letter dated September 18, 2013 to ZBA from John C. Bowman, III.
57. Letter from Harold Silverman, 77 Coddington Road, Norton, MA to Tom Noel, ZBA.
58. Draft Decision dated 9-15-13.
59. Letter and Economic Analysis for 274 East Main St. to John C. Bowman, III from Lloyd Geisinger, Campanelli/Thorndike Development dated October 8, 2013.
60. Initial Pro Forma dated October 9, 2013
61. Letter dated October 14, 2013 to Tom Noel, Chairman, ZBA, from Richard Heaton, Partner of H & H Associates, LLP.
62. Letter dated October 15, 2013 to John C. Bowman, III, Crosswhite Property Advisors, from Oren N. Sigal, Attorney at Law.
63. Documents submitted by the applicant: amended 10-15-13: Operating Budget, Summary Project Budget-180 Unit Plan, Project Specifications.
64. Letter dated October 15, 2013 to David McClave, DHCD from Oren N. Sigal, Attorney at Law.
65. Financial Review by John C. Bowman, III, Crosswhite Property Advisors, dated October 23, 2013.

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

Present at the public hearing were Lloyd Geisinger of Thorndike Development, David Eastridge of Thorndike Development, Peter Freeman, Attorney for the applicant and David Kelly, Engineer.

John C. Bowman, III of Crosswhite Property Advisors passed out copies of his Financial Review dated October 23, 2013.

Tom Noel asked Town Counsel, Ilana Quirk what the status of the project was to date and she stated that the applicant had been given a condition which he has deemed would render the project un-economical. She noted that in this case, the condition is to reduce the height of certain buildings. She stated this has prompted the applicant to submit a Pro-Forma which was reviewed by ZBA's Peer Review. The Peer Review has submitted a report which he will go over this evening.

Ilana Quirk noted that anytime the Zoning Board would like to impose a condition to the decision, they may do so. The applicant may agree to accept the condition or may state that the condition will render the project un-economical, which she noted, is the case with

this project.

Ilana Quirk noted that there are two methodologies that determine the economic situation.

Ilana Quirk noted that the **first** methodology is a new rule has been adopted within the last year which will provide that when the ZBA board imposes a condition, such as lowering the height of certain buildings, in this case, it must put forth a valid local concern to the community to justify the condition. She commented that the **second** methodology is if the board does not put forth a valid local concern, there is a more ownerous provision on with regard to how the uneconomic determination is made.

Mr. Bowman proceeded with his explanation of his report. He pointed out the different columns beginning with the totals submitted to the Housing Agency to start the 40B Public Hearing Process. He pointed out totals revised by the applicant since then and finally the final totals if the total number of units was reduced.

Mr. Bowman commented that many figures, after reducing the amount of units, were less than the figures submitted to the MHP. He noted that the MHP might deem the project un-economical at this point.

Mr. Bowman commented that the MHP is going to first determine whether or not the imposing of the condition to reduce the amount of units is justified by a valid local concern. They will then made their final decision on what numbers to use for their decision as to whether or not the project will be un-economical.

Discussion regarding Regulation 56.02 D ensued as to whether or not it would be applied if the condition imposed by the board is deemed not a valid local concern.

Ilana Quirk stated that the burden of proof will be on the developer to show why the imposed condition will render the project un-economical. She stated that the ZBA will have to show that there is a valid local concern.

Tom Noel had a few questions for Mr. Bowman regarding the figures in his Financial Report.

Tom Noel asked the applicant what the most important differences are in their Financial Reports. Lloyd Geisinger replied that, in his opinion, Mr. Bowman has been very cooperative and helpful and they had good communication between them. He noted that the biggest difference is the "Operating Budget" which he says is very complicated. He said that some of the percentages that look small may, in reality from day to day, be much larger than they appear.

Peter Freeman wanted to comment on the regulations used regarding a Pro Forma review. He noted that a Pro Forma is just a chart with figures and does not show an accurate amount of a return for a project.

Tom Noel asked Mr. Bowman if, after hearing from all interested parties regarding the Pro Forma and Financial Report, he thought there was a need to address the Board again at another meeting and he replied that he did not think he would have to attend another meeting.

Tom Noel asked Mr. Geisinger if he would consider extending the public hearing again from the November 4, 2013 deadline in order to continue review of the draft decision.

It was agreed to continue the public hearing until Friday, November 1, 2013 to be held at 7:00 pm at the Norton Public Library.

It was agreed to post another meeting for Saturday, November 2, 2013 to be held at 1:00 pm at the Norton Public Library.

Tom Rota made a motion, seconded by Frank Reynolds, to continue the public hearing until Friday, November 1, 2013 to be held at 7:00 pm at the Norton Public Library.

Tom Rota made a motion, seconded by Frank Reynolds, to adjourn the meeting at 10:47 pm. All in favor. Approved.

Minutes Approved by Committee on: September 22, 2014

Respectfully submitted,



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Thomas R. Noel, Chairman  
Norton Zoning Board of Appeals