



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES

Meeting of December 9, 2013

The December 9, 2013 scheduled meeting of the Zoning Board of Appeals was called to order at 7:32 pm at the Norton Town Hall by Tom Noel, Chairman, with the following members present, Frank Reynolds (Associate Member) and Jason Brolsma (Associate Member) Also present was Ilana Quirk, Town Counsel. Nitin Choksi was excused.

Tom Rota made a motion, seconded by Frank Reynolds to remove from the table for

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 November 25, 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.
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, 2013.
10. Email sent September 24, 2013 from Bob Engler confirming the granting of an extension of the public hearing to December 1, 2013.

11. Graves Engineering, Inc. Contract Change Order #4 dated October 9, 2013.
12. Revised plans entitled "Revised Preliminary Plan to accompany application for a Comprehensive Permit for construction of a Residential Condominium Complex known as "Island Brook", East Main Street, Norton, MA, Comprising Lot 57 and Lots 238-245 on Assessor's Map 17, Scale 1"=80', Prepared by Gallagher Engineering, signed and stamped by Frank J. Gallagher and dated May 15, 2013. (Sheets 1-8). **Latest revisions on October 28, 2013**
13. Abutters Sketch **"Island Brook", Scale 1"=200', October 23, 2013.**
14. Gallagher Engineering comment letter dated November 8, 2013.
15. Report from Jeffrey Walsh of Graves Engineering, Inc. dated November 21, 2013.
16. Waiver List, Island Brook, East Main Street, Norton, MA
17. Revised Stormwater Management Report dated October 28, 2013.
18. Soils reports submitted on November 12, 2013.
19. Norton Conservation comment letter dated November 26, 2013.
20. Revised plans entitled "Revised Preliminary Plan to accompany application for a Comprehensive Permit for construction of a Residential Condominium Complex know as "Island Brook" East Main Street, Norton MA, Scale 1"=80', signed and stamped by Frank Joseph Gallagher and dated May 15, 2013 with latest revisions on December 4, 2013. (Sheets 1-8).
21. Form 11 – Soil Suitability Assessment for On-Site Sewage Disposal.
22. Graves Engineering, Inc. (Jeffrey Walsh) letter dated December 6, 2013.
23. Email received from Francis Westgate of Westgate Associates on December 9, 2013.

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

Frank Reynolds made a motion, seconded by Jason Brolsma, to remove from the table for discussion the Island Brook 40B project. All in favor. Approved.

Jeff Walsh, Graves Engineering, addressed the board to go over his report which was submitted on November 21, 2013.

Frank Reynolds commented that building 17A is within the 25' limit of work regarding wetlands. Tom Noel noted that the applicant will have to file with the Conservation office regarding any wetland issues or areas within the buffer zone of a wetland area.

Ilana Quirk suggested including a condition in the decision requiring the basement floor levels be above elevation 73.5 to avoid any flooding issues in the homes.

Frank Gallagher handed out revised plans and a Form 11 form – Soil Suitability Assessment for On-Site Sewage Disposal to the members. He commented that the property consists of two different zones, Residential and Village-Commercial.

Mr. Gallagher agreed with Ilana Quirk on the basement floors to be located above the high water ground level.

Ilana Quirk commented that any fill to be brought onto the property be of the same quality, or better, than what is present on the site now. Frank Gallagher replied that, in his opinion, it is too soon to condition what type of soils should be brought on to the site.

Tom Noel commented that, in his opinion, an applicant should be willing to submit most of the needed information up front and describe to the board how this project will work. Bob Engler replied that, in his opinion, the applicant should not have to spend money on a project that might not be approved. He said that the applicant would be willing to follow any conditions put forth by the board.

Frank Reynolds asked Ilana Quirk if landscaping was an appropriate issue for our review, and Ms. Quirk replied that it was.

Frank Reynolds asked Ilana Quirk if the property having two zones was a problem and she replied that the rules and regulations for each zone would have to be followed.

Jeff Walsh proceeded to discuss the drainage and grading for the project.

Tom Noel asked Bernie Marshall, Water/Sewer Superintendent to update the board on where the project stands with his department at this time. He replied he has not spoken with the applicant or his engineer for approximately two months when the project was submitted. He commented that he had reviewed the plans submitted and said that there is enough water/sewer capacity in Norton for this project but there has been no conveyance of the sewer lines into the project from the owners. Mr. Marshall noted that there are no sewer lines in the area owned by the Town of Norton and the manhole on East Main Street in front of the site is owned by the Town of Mansfield.

Bob Engler stated that the applicant will confer with the Town of Mansfield if the project is approved.

Ilana Quirk commented that the standard procedure has always been that the applicant speak directly with the Water/Sewer Department regarding all water and sewer issues rather than request waivers for those issues.

Bernie Marshall stated that the project seems to be ok at this point but the applicant has to keep in contact with the Water/Sewer Department with all updates. Discussion ensued on continuing the public hearing because the revised plans were just handed out this evening to the members for review.

Bob Engler submitted a letter requesting to continue the public hearing to January 31, 2014. Tom Noel read the letter aloud.

Ilana Quirk noted that she would draft a decision for the next meeting.

Frank Reynolds made a motion, seconded by Jason Brolsma, to accept the request for an extension of the public hearing to January 31, 2014. All in favor. Approved.

Frank Reynolds made a motion, seconded by Jason Brolsma, to continue the public hearing until Monday, January 6, 2014 at 7:32 pm to be held in the Selectmen's meeting area, Town Hall. All in favor. Approved.

The members reviewed a Bills Payable Sheet for the 274 East Main Street 40B project received from Graves Engineering, Inc. in the amount of \$1,348.15. Frank Reynolds made a motion, seconded by Jason Brolsma, to pay the bill. All in favor. Approved.

The members reviewed a Bills Payable Sheet for the Island Brook 40B project received from Graves Engineering, Inc. in the amount of \$2924.80. Frank Reynolds made a motion, seconded by Jason Brolsma, to pay the bill. All in favor. Approved.

The members reviewed a letter from Attorney Peter Freeman dated December 6, 2013 requesting a 1-year extension for the Turtle Crossing 40B project. The extension would extend the project from January 10, 2016 to January 10, 2017. Attorney Freeman noted in his letter that the extension is an **insubstantial** change of the project. Frank Reynolds made a motion, seconded by Jason Brolsma, to extend the project to January 10, 2017. All in favor. Approved. Tom Noel replied that he would write a letter to the Town Clerk noting that the members had voted to extend the project deeming the extension an **insubstantial** change to the project.

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 December 2, 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.
66. Revised color pamphlet "Smart Growth Multi-Family Apartment Community, 274 East Main Street by Campanelli/Thorndike dated November 1, 2013.
67. Letter dated November 1, 2013 by the applicant requesting an extension to November 16, 2013.
68. two traffic charts
69. Memo to ZBA from Jennifer Carlino dated October 29, 2013.
70. Transfer of funds memo from Jennifer Carlino to James Puella dated October 30, 2013.
71. Contract Change Order #5 from Graves Engineering, Inc. dated November 7, 2013.
72. Draft Dimensional Table for 274 East Main Street.
73. Draft Dimensional Table for 274 East Main Street with abutter's notes.
74. Waivers requested by applicant.
75. Waivers requested by applicant with abutter's notes.
76. Graves Engineering report dated November 18, 2013.

77. Graves Engineering report dated November 25, 2013.
78. Response letter re: Draft Decision from the Town Manager, Michael D. Yunits dated November 25, 2013.
79. Emailed list of comments by Atty. Peter Freeman to the draft decision circulated by Ilana Quirk on December 1, 2013.

Ilana Quirk submitted a draft decision dated December 6, 2013 for tonight's review. She read through the yellow highlighted areas that she had revised one by one for discussion.

After discussing the revisions to the draft decision, Tom Noel asked Ilana Quirk to incorporate tonight's discussion with the members into a **Final** Decision to be voted on at a meeting to be held on Monday, January 6, 2014. All in favor. Approved.

Tom Noel made a motion, seconded by Frank Reynolds, to adjourn the meeting at 10:22 pm. All in favor. Approved.

Minutes Approved by Committee on: September 22, 2014

Respectfully submitted,



Thomas R. Noel, Chairman
Norton Zoning Board of Appeals