



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

MINUTES

Meeting of March 3, 2014

The March 3, 2014 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 pm at the Norton Town Hall by Tom Noel, Chairman, with the following members present; Nitin Choksi, Frank Reynolds (Alternate member) and Jason Brolsma (Alternate member). Also present was Ilana Quirk, Esq., Kopelman & Paige.

Tom Noel noted the first item on the agenda is the project:

014-009 – Simon Paff – 205 So. Worcester Street – Parcel 189 (Assessor's Map 27)

Application for a Section 6 Finding 1.5(e) to alter a pre-existing non-conforming structure and lot. The applicant is proposing a 20' x 25' addition.

Document List

1. Application for a Section 6, 1.5e Finding.
2. Plans entitled "Plot Plan Showing Proposed Additions at 205 South Worcester Street for Simon C. Paff in Norton, MA, Scale 1"=15', signed and stamped by John F. Vance, Jr. and dated September 1, 2008.

Present for the public hearing was the owner and applicant, Simon Paff and his neighbor, Dorothy Baker.

Tom Noel asked Mr. Paff if this was his residence and he replied it was and he was proposing to use the new added room for his office for his construction business, Monster Construction.

Tom Noel noticed one of the sideline measurements was missing and Mr. Paff submitted a revised plan showing that dimension. He stated the John Vance, engineer, had given him this final plan after adding the missing dimension.

After discussing the dimensions and side and front setbacks, it was agreed the dimensions were allowed according to the latest Zoning By-Laws book of Rules and Regulations.

Tom Noel asked if there was anyone present to speak in favor of, or against, the proposed project. Dorothy Baker, abutter, said she was in favor of the project and commented that this addition would improve the neighborhood.

Motion by Mr. Choksi for a finding under Section 1.5(e) that the proposed construction of the addition will not make the existing non-conforming use substantially more detrimental than the existing, non-conforming use in that it is of the same general class as the existing non-conforming use in an VC Zone and will not significantly increase traffic, noise, bright lights, and other undesirable impacts on the surrounding environment. Seconded by Mr. Reynolds. All in favor **Approved**.

Turtle Crossing 40B Comprehensive Permit.

Modification to Comprehensive Permit by altering and clarifying the areas to be disturbed by construction and structures within close proximity to wetlands and to alter the location of one building and to alter the nature of a portion of the storm water drainage infrastructure. (cont. from the January 27, 2014 mtg.)

Tom Noel stated that an email was received this morning from Attorney Peter Freeman requesting a continuance of the public hearing for the modification until the next meeting after March 10, 2014. In his email, Mr. Freeman noted that the public hearing for the Notice of Intent for Turtle Crossing will be closed by then.

Nitin Choksi made a motion, seconded by Frank Reynolds, to continue the public hearing until Monday, April 7, 2014. All in favor. Approved.

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 January 6, 2014 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.
24. Draft decision dated December 31, 2013.
25. Letter dated January 20, 2014 from Shell Pipeline Company LP to Muhammad M. Itani.
26. Several drawings of different styles of houses.
27. Revised Sheet 2 of the Preliminary Site Plans showing 56 single family dwellings with phasing.
28. Letter dated February 10, 2014 to Tom Noel, Zoning Board of Appeals, from Jennifer Carlino, Conservation Agent
29. Letter dated January 27, 2014 from Bob Engler granting a 90-day extension to the public hearing for Island Brook to close on April 30, 2014.
30. Memorandum dated March 3, 2014 to the Zoning Board of Appeals from Jay Talerman on behalf of the Board of Selectmen.
31. Letter dated March 3, 2014 to Norton Zoning Board of Appeals from Frank J. Gallagher listing waivers being requested by the applicant.
32. Contract Change Order #5 from Graves Engineering, Inc.
33. Letter dated February 27, 2014 from the Water/Sewer Department listing water and

sewer fees.

Present at the public hearing were Bob Engler of SEB, Frank Gallagher, Engineer and Muhammad M. Itani, new applicant.

The members reviewed a Contract Change Order #5 submitted by Graves Engineering, Inc. Nitin Choksi made a motion, seconded by Frank Reynolds, to accept the Contract Change Order #5 as submitted. All in favor. Approved.

Tom Noel stated that a list of requested waivers had been submitted by the applicant. He requested the list of requested waivers be sent to Jeff Walsh, Graves Engineering, Inc. for review at the next public hearing.

Bob Engler stated he had met with the Water/Sewer Department and noted that they will not waive any of the fees. He said that would cut down on the profits significantly.

Tom Noel commented that a letter dated February 27, 2014 had been received from Bernie Marshall, Water/Sewer Superintendent regarding fees. He said that only the affordable housing units would receive a discount.

The members reviewed the letter submitted by Jay Talerman on behalf of the Board of Selectmen dated March 3, 2014. Tom Noel noted that he was contacted by Jay Talerman today and was informed that the Board of Selectmen had retained Mr. Talerman for his review of the Island Brook project.

Tom Noel suggested the Bd. of Selectmen wanted to compare his opinion with Ilana Quirk's opinion of the project. He stated that the Bd. of Selectmen are suggesting that the Zoning Board comment on several issues as to why this project should not move forward. He said that Mr. Talerman is suggesting that by submitting revised plans, a new application should be submitted.

Mr. Talerman noted that there have been so many major changes to the project that a new application should be submitted. He suggested that the Zoning Board of Appeals reserve this right to request a new application.

Tom Noel asked Ilana Quirk's opinion on this issue. Ilana Quirk stated that Mr. Talerman is referring to a new Safe Harbor rule which he thinks the ZBA board can take advantage of if they choose to do so.

Jay Talerman suggested that the Zoning Board of Appeals request that the Subsidizing Housing Agency review the project at this time due to major changes including a new applicant/owner.

Bob Engler noted that ownership has not changed.

Ilana Quirk noted that if the board were going to take any action, it should be done this evening.

Muhammad Itani commented that he is managing the project at this time but Robert Junior is still involved with the project.

Frank Reynolds asked if there was any risk involved if the ZBA requests that the applicant send a letter to DHCD and Ilana Quirk replied there is no risk involved.

Tom Noel commented that, in his opinion, there is no basis for the Board to send a letter to DHCD. He read a letter from Bob Engler granting an extension of the public hearing to April 30, 2014.

Ilana Quirk asked Mr. Talerman what he thought would be a basis for the board to send a letter to DHCD and he replied that it seemed that ownership had changed.

Tom Noel commented that Mr. Talerman had been retained by the Board of Selectmen and together they came to the conclusion that a new application is necessary for this project. He suggested presenting this to the Selectmen at this coming Thursday's meeting and ask why they feel this project should be stopped. Tom Noel stated he is not in a position to send a letter to the DHCD at this time. He said the project is moving forward slowly.

Tom Noel commented he was going to ask that the Selectmen state reasons for their suggesting a letter be sent to DHCD regarding a new application for this project.

Jay Talerman said he would prepare a draft notice and send it to the ZBA before the meeting.

Tom Noel read aloud a comment letter dated February 10, 2014 sent to the Zoning Board of Appeals by Jennifer Carlino, Conservation Agent after reviewing revised plans for this project.

Nitin Choksi made a motion, seconded by Frank Reynolds, to continue the public hearing to Friday, March 7, 2014 to be held at 6:30 pm in the Selectmen's meeting area at the Town Hall. All in favor. Approved.

The members reviewed an invoice by Graves Engineering, Inc. in the amount of \$3,234.70 which was approved on January 9, 2014. The ZBA secretary stated there were funds of only \$2,151.85 in the revolving account leaving an unpaid balance of \$1,082.85.

Tom Noel asked why the money is not in the account for payment. The secretary stated that a \$3,500 check was given to the Conservation Commission which was meant for the Zoning Board of Appeals. Part of the check was used by the Conservation Commission and the balance given to the Zoning Board of Appeals.

Ilana Quirk suggested sending a letter to Campanelli Thorndike Norton LLC explaining the situation and the facts requesting them to send the balance due and then send a letter to Graves Engineering, Inc. explaining the situation and stating a portion of the invoice will be paid at this time.

Nitin Choksi made a motion, seconded by Frank Reynolds, to amend the motion made on January 9, 2014 to pay \$3,234.70 and change the amount to be paid to \$2,151.85 at this time. All in favor. Approved.

Nitin Choksi made a motion, seconded by Frank Reynolds, to adjourn the meeting at 9:20 pm. All in favor. Approved.

Minutes Approved by Committee on: March 2, 2015

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'T R Noel', is written over a horizontal line.

Thomas R. Noel, Chairman
Norton Zoning Board of Appeals