



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

MINUTES

Meeting of March 7, 2014

The March 7, 2014 scheduled meeting of the Zoning Board of Appeals was called to order at 6:31 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).

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.
34. Letter dated March 7, 2014 from Jay Talerman (on behalf of the Board of Selectmen) to the Zoning Board of Appeals.
35. Email dated March 4, 2014 from Bob Engler sent to Ilana Quirk

Present at the meeting was the applicant/Muhammad Itani and his Attorney.

Tom Noel noted this is a continuance of the previous public hearing held Monday evening to hear back from the Board of Selectmen on the issue of what the Zoning Board

of Appeals (ZBA) should do regarding the application.

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

Tom Noel noted that at the previous public hearing for Island Brook Mr. Talerman, who was representing the Board of Selectmen, suggested that the ZBA exercise their right to use the Safe Harbor Rule at this time. He said that he requested that the Board of Selectmen submit specific reasons for doing this at this time, therefore requiring the meeting this evening.

Tom Noel noted an email from Jay Talerman (on behalf of the Board of Selectmen) had been received by Ilana Quirk on March 6, 2014 who passed it along to the Zoning Board of Appeals. He said that in the email, Mr. Talerman noted that the Board of Selectmen decided not choose to pursue this issue at this time. Tom Noel commented that tonight is the deadline to issue a letter to the DHDC for this application.

Tom Noel asked Mr. Itani if he understood what Mr. Talerman had been asked to suggest to the ZBA on behalf of the Board of Selectmen. He asked Mr. Itani if he thought the changes to his project warranted a letter to the DHDC or not.

Mr. Itani noted that he did not think the changes to the project are substantial enough to report them to the DHDC, but he said he would have his attorney review the situation.

Jason Brolsma commented that the decision lies with the applicant as the risk is with the applicant.

Mr. Itani noted he has never been asked to report to the DHDC changes made to a 40B project.

Discussion ensued whether or not the applicant should report the changes to the DHDC.

Tom Noel commented that it is up to the applicant to make the decision whether or not the changes to the project are substantial enough to warrant notification to the DHDC.

Nitin Choksi commented that an email dated March 4, 2014 had been sent to Ilana Quirk by Bob Engler in which he suggests that the burden lies with the ZBA to decide whether or not the applicant has satisfied their project eligibility requirements.

Jason Brolsma commented that as of March 3, 2014, because a list of waivers has been received, a complete package has been submitted by the applicant.

No one present had any comments to make at this time.

Nitin Choksi made a motion, seconded by Frank Reynolds to continue the public hearing until April 7, 2014 to be held at 7:40 pm in the 1st floor Selectmen's area. All in favor.

Approved.

Frank Reynolds made a motion, seconded by Nitin Choksi, to adjourn the meeting at 7:04 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. Noel', is written over a horizontal line.

Thomas R. Noel, Chairman
Norton Zoning Board of Appeals