



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES

Meeting of April 7, 2014

The April 7, 2014 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 pm at the 1st Floor Selectmen's meeting area, Norton Town Hall by Tom Noel, Chairman, with the following members present, Nitin Choksi, Frank Reynolds and Jason Brolsma. Ilana Quirk, Town Counsel was also present.

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

014-010 – Paul Freeman – 86 East Main Street – Parcel 53 (Assessor's Map 17)

Application is for a Section 6 Finding (Section 1.5e) of the Norton Zoning By-Laws

Document List

1. Application for a Variance and Section 6 Finding.
2. Plan entitled "Sewage Disposal System, 86 East Main Street", Scale 1"=20', prepared by hutchins-Trowbridge associates, inc., signed and stamped by Michael A. Trowbridge, last revised on March 12, 2014.

Tom Noel noted that the Building Inspector has submitted letter stating that the owner proposes to demolish the existing structure and construct a new house. The letter stated that the lot is a pre-existing, non-conforming lot having 9,795 sq.ft. of area with 54 feet of frontage. It was noted that a Section 6 Finding would be needed.

Paul Freeman stated that the existing structure had been demolished in a fire last August 22, 2013.

Mr. Freeman stated he would like to tear the existing structure down and construct a new 28' x 44' building to rent out.

Tom Noel noted that the new structure would overlap the existing footprint. He stated that the plan showed a side setback dimension of 11.5 and did not show the proposed deck and

stairs. He commented that the side setback requirement is 10 feet and if a deck and stairs are to be added, the setback will end up being less than the 10 feet.

Mr. Freeman replied that during construction he can shift the house slightly to the right to allow for the 10 feet setback on the left.

Ilana Quirk commented that the building department may allow a variation for the stairs which should be stated in the decision.

Mr. Freeman stated that he will construct the house as shown, and if he has to come back to the ZBA, he will.

Tom Noel replied that the decision has to be made noting the exact measurements on the submitted plans which will be filed with the decision. He said that the applicant has the right to move the house to the right 3 feet, still meeting Zoning setbacks on both sides, but the submitted plan does not show this and has to be described in the decision as submitted.

Nitin Choksi made a motion, seconded by Frank Reynolds that the new structure will not make the use substantially more non-conforming or adversely affect conditions at or near the property as delineated in Section 1.5e of the Norton Zoning Bylaws and to approve the Section 6 Finding as requested. All in favor. Approved.

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

014-011 – James W. Chaisson, Esq. – 13 Indian Road – Parcel 136 (Assessor's Map 10)

Application is for a Section 6 Finding (Section 1.5e) of the Norton Zoning By-Laws

Document List

1. Application for a Variance and Section 6 Finding.
2. Plan entitled "Sewage Disposal System, 86 East Main Street", Scale 1"=20', prepared by hutchins-Trowbridge associates, inc., signed and stamped by Michael A. Trowbridge, last revised on March 12, 2014.

Present at the public hearing was James W. Chaisson, Esq., applicant and representative for the owner.

Mr. Chaisson noted that the owner is out of the country at this time. He stated that the owner is proposing to raze and replace the existing structure on the site. He pointed out the proposed 24' x 50' structure on the submitted plans. He noted that the proposed structure will have boundary setbacks of 25' at the rear, 25' at the front, 13' on the left and 13' on the right.

Tom Noel noted that the Building Inspector has submitted letter stating that the owner proposes to demolish the existing structure and construct a new house. The letter noted that the house is located in an R60 zone requiring 60,000 sq. ft. with setbacks of 25' for the sides, 15' for the rear and 40' for the front. It was stated that this is a pre-existing non-conforming structure and lot requiring a Section 6, 1.5e Finding under the Norton Zoning By-laws.

Tom Noel asked if there was anyone present to speak in favor of, or opposed to, this project and no one responded.

Jason Brolsma asked if there are any other structures proposed on or near the building not shown on the submitted plans and Mr. Chaisson replied there are not.

Frank Reynolds asked Mr. Chaisson if a single-story house was proposed and he replied he was not sure but there were other two-story houses in the area.

Frank Reynolds made a motion, seconded by Nitin Choksi, that the new structure will not make the use substantially more non-conforming or adversely affect conditions at or near the property as delineated in Section 1.5e of the Norton Zoning Bylaws and to approve the Section 6 Finding as requested. All in favor. Approved.

Extension Request – Strawberry Fields/K.G.M. Custom Homes, Inc. Comprehensive Permit-Case No. 7000

Attorney Peter Freeman was present representing the applicant.

Tom Noel stated a letter dated April 1, 2014 was received by Attorney Peter Freeman, representing the applicant, requesting an Extension of the Comprehensive Permit 40B project for Strawberry Fields.

Tom Noel stated that the last Extension Request was made in 2012 requesting that the dates for the permit be extended as follows:

1. Building permits would be obtained by June 30, 2014
2. Construction would begin within 30-days of obtaining the building permits
3. Construction would be completed by June 30, 2016.

Tom Noel asked if this information was correct and if the applicant was seeking to extend those dates another two years because of the pending appeal. Mr. Freeman replied this is correct and the appeal is nearing an end which will be either this spring or the fall.

Frank Reynolds made a motion, seconded by Nitin Choksi, to grant an 18-month extension to the extended dates to now be:

1. Building permits would be obtained by December 30, 2015
2. Construction would begin within 30-days of obtaining the building permits.
3. Construction would be completed by December 30, 2015

and to require a letter be submitted from the Federal Home Loan Bank of Boston noting the extension of the loan of April 1, 2015. All in favor. Approved.

Tom Noel noted that the next item on the agenda is:

Turtle Crossing Comprehensive Permit – 127-129 Newland Street

Notice of Project Change

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 March 3, 2014 mtg.)

Document List

1. Draft copy of the modified Comprehensive Permit.
2. Revised plans entitled “Turtle Crossing Comprehensive Permit Application” Local Initiative Program, Newland Street, Norton, Massachusetts with latest revisions on **March 4, 2014** prepared by Level Design Group, signed and stamped by Daniel Campbell.

Attorney Peter Freeman and engineering Dan Campbell of Level Design Group were present at the public hearing.

Tom Noel stated that the modification requested was voted to be a “substantial” change and an application for a public hearing for the modification was required and was to be heard on January 27, 2014. He commented that on January 27, 2014 it was noted that a request for a continuance of the public hearing until after the date of February 10, 2014 was received in order to allow for the Order of Conditions to be issued by the Norton Conservation Commission. He noted that another continuance was requested at the March 3, 2014 meeting for the public hearing to be heard at this meeting of April 7, 2014.

Mr. Freeman noted that he had emailed a copy of the Order of Conditions to the Zoning Board. He said he had drafted a modified version of the Comprehensive Permit for review this evening.

Dan Campbell described to the members the revisions to the members as requested by the Conservation Commission. He noted the changes were to the areas that were encroaching the buffer zone and the 25-ft. no-disturbance zones and grading.

Frank Reynolds made a motion, seconded by Nitin Choksi, to close the public hearing. All in favor. Approved. The members voting in favor to close the public hearing were Tom Noel, Frank Reynolds and Nitin Choksi.

Frank Reynolds made a motion, seconded by Nitin Choksi, to approve the modification as presented at the January 27, 2014 meeting and the revised plans dated March 4, 2014 to comply with Conservation comments. All in favor. Approved. Tom Noel, Nitin Choksi

and Frank Reynolds voted in favor.

Frank Reynolds made a motion, seconded by Nitin Choksi, to have Chairman, Tom Noel, type the final decision for the modification. All in favor. Approved. Nitin Choksi, Frank Reynolds and Jason Brolsma voted in favor.

Ilana Quirk commented that she would help draft the final Decision for this Modified Comprehensive Permit.

Tom Noel noted that the final item on tonight's agenda is:

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 March 7, 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
36. Report from Graves Engineering, Inc. dated April 1, 2014
37. Color coded Revised Preliminary Plan (Page 2.)
38. Letter dated Mary 28, 2104 from Gallagher Engineering to ZBA.
39. Invoice from Graves Engineering, Inc. for \$1,346.00
40. Letter dated April 7, 2014 signed by W. Robert Knapik requesting to extend the public hearing date to June 30, 2014.

Present at the public hearing were Muhammad Itani, his attorney, W. Robert Knapik, Frank Gallagher of Gallagher Engineering and Jeff Walsh of Graves Engineering.

Tom Noel noted that an extension for the public hearing is required at this time.

Tom Noel asked Mr. Jeff Walsh to present and explain his report dated April 1, 2014.

Frank Reynolds had a few questions regarding the lots and hydrology for Mr. Walsh which he answered for him.

Discussion ensued on the amount of information needed to finish the Peer Review. Mr. Gallagher noted he could submit the needed information.

Jeff Walsh replied he could do the review and submit the report in approximately 3 weeks time.

Mr. Knapik submitted a letter requesting a continuance of the public hearing until June 30, 2014. Frank Reynolds made a motion, seconded by Nitin Choksi, to extend the public hearing until June 30, 2014. All in favor, Approved.

Frank Reynolds made a motion, seconded by Nitin Choksi, to authorize the Chairman, Tom Noel, to request that Jeff Walsh, Graves Engineering, Inc. to draw up a Contract Change Order per comments from tonight's public hearing and to have funding for the Peer Review submitted by the applicant in order to have the review completed. All in favor. Approved.

Frank Reynolds made a motion, seconded by Nitin Choksi, to continue the public hearing to Monday, May 19, 2014 at 7:35 pm to be held in the 1st floor Selectmen's area. All in favor. Approved.

Ilana Quirk suggested holding a brief workshop on 40B procedures. Tom Noel replied that a workshop could be held before the regular meeting of Monday, April 28, 2014. It was agreed to meet on Monday, April 28, 2014 at 7:00 pm.

The members reviewed an invoice submitted by Graves Engineering, Inc. in the amount of \$1,346.00. Nitin Choksi made a motion, seconded by Frank Reynolds, to pay the bill. All in favor. Approved.

Frank Reynolds made a motion, seconded by Nitin Choksi, to adjourn the meeting at 10:41 pm. All in favor. Approved.

Minutes Approved by Committee on: March 2, 2015

Respectfully submitted,



Thomas R. Noel, Chairman
Norton Zoning Board of Appeals