



TOWN OF NORTON
ZONING BOARD OF APPEALS
70 East Main Street
Norton, Massachusetts 02766-2320
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MINUTES

Meeting of June 9, 2014

The June 9, 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, Frank Reynolds and Jason Brotsma. Ilana Quirk, Town Counsel was also present.

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

**013-005 – Campanelli Thorndike Norton, LLC, Parcels 61 & 76, (Assessor's Map 11)
274 East Main Street –**

Comprehensive Permit 40B application – 188 apartments.

Post-approval issues will be discussed.

Present at the public meeting were David Eastridge, Thorndike Development, Lloyd Geisinger, applicant, David Kelly, engineer and Jeff Walsh of Graves Engineering.

Ilana Quirk noted that the Peer Review by Graves Engineering of the post submitted plans will be discussed this evening by Jeff Walsh.

Jeff Walsh went through the many revisions.

Frank Reynolds made a motion, seconded by Jason Brotsma, to continue discussions on Monday, June 23, 2014. All in favor. Approved.

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

**014-013 – Fairland Farm LLC – Parcel 46 (Assessor's Map 19) 16 Maplewood Avenue
Application for a Section 6 (1.5e)**

Finding for the extension and alteration of an existing non-conforming structure.

Document List

1. Application Form for a Section 6 Finding
2. Exhibit A – Description of project
3. Proposed Plan entitled “Proposed House Plan 16 Maplewood Avenue, Norton, MA 02766, prepared for Fairland Farm, LLC by Yarworth Engineering Co., Inc., Signed and stamped by Christopher D. Yarworth, Scale 1”=10’, dated April 24, 2014.

Present at the public hearing were the applicant Fred Bottomley, Christopher D. Yarworth, Yarworth Engineering Company, Inc. and Attorney David C. Manoogian.

Mr. Manoogian stated that the applicant is proposing to demolish the existing structure and construct a new single-family house. He said a Section 6 Finding is requested to show that the demolition of the existing non-conforming structure and construction of a new house will not be any more detrimental to the neighborhood than the existing house.

He noted that the Zoning By-Law requirement for lot area for the R80 Zone is 80,000 sq.ft. and this existing lot has only 7,400 sq. ft.

He noted that the property has more than 50 feet of frontage and has more than 5,000 sq.ft. of area. He said that this is an existing non-conforming lot.

He said that the new structure would meet all the local By-law setback requirements by the “Existing Non-Conforming Lot” status but would not meet the required minimum of 80,000 sq. ft. requirement and this is the basis for the application for a Section 6 Finding.

Mr. Manoogian noted that the structure has not been occupied for a long time. The board members questioned whether the existing non-conforming use has thereby been abandoned. Mr. Manoogian replied that work on the structure has been performed continuously for the past two years to make it marketable.

Jason Brolsma suggested that a variance would be needed for this application.

Fred Bottomley stated he would submit further information regarding building permits at the next meeting.

Frank Reynolds made a motion, seconded by Jason Brolsma, to continue the public hearing until Tuesday, June 24, 2014. All in favor. Approved.

Tom Noel stated the next item on the agenda is:

014-014 – John & Nadine Orlando – Parcel 118 (Assessor’s Map 22) 156 West Main Street

application for a dimensional variance in a Village Commercial Zone.

Document List

1. Application for a Variance.

2. Plan entitled "Plot Plan, 156 West Main Street", prepared by hutchins-Trowbridge associates, inc. Scale – 1"=30', signed and stamped by Michael A. Trowbridge and dated 4-22-2014.

Present at the public hearing were the applicant's John & Nadine Orlando.

Mr. Orlando stated that at the present time he has one apartment and a hair salon and is applying for a second apartment to be added. He said he needs a variance for the dimensional requirement of 26,000 s.f. He noted he has only 22,934 s.f. which is 3,066 s.f. less than the required amount.

Much discussion ensued regarding the Zoning By-Law regulations for a "multi-family" dwelling within a Village Commercial zoning district. It was noted that under Section 4.1 multi-family dwellings within a Village Commercial zoning district may be allowed as long as a Special Permit is obtained.

Frank Reynolds pointed out that in Section 6.1 it was noted that a 3-unit dwelling within a Village Commercial district would require 34,000 s.f. of area. He noted that the applicant has only 22,934 s.f. of area and the variance would be approximately 30%.

Discussion on the definition of a "unit" ensued. Jason Brolesma commented that, in his opinion, the dimensional requirement appears to be 26,000 s.f. and not the 34,000 s.f.

The applicant noted that he has to obtain a Special Permit from the Planning Board before he can add another apartment.

Tom Noel suggested that the variance will be given on a requirement of 34,000 s.f. rather than the 26,000 s.f.

Frank Reynolds made a motion, seconded by Jason Brolesma, to allow the application as submitted with the dimensional variance from the required 34,000 s.f. (per the Norton Zoning By-Laws) for a 3-Unit building with the proviso that the applicant has to obtain a "Multi-Family" Special Permit from the Planning Board as well as any other permits per regulations from any other departments and noting that the footprint of the building cannot be increased nor the square footage. All in favor. Approved.

Tom Noel noted the last item on the agenda is:

**013-003 - Island Brook, LLC - Parcels 57, 238, 239 240, 241, 242, 243, 244 & 245
(Assessor's Map 17) East Main Street**

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 May 19, 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 known 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 May 28, 2014 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.
41. Letter dated April 25, 2014 from Gallagher Engineering in response to Jeff Walsh, Graves Engineering's report of April 1, 2014.
42. List of waivers dated April 25, 2014 from Gallagher Engineering.
43. Revised plans "Preliminary Plan Comprehensive Permit "Island Brook" in Norton, MA dated April 15, 2014.
44. Contract Change Order #6 submitted by Graves Engineering.
45. Letter dated April 17, 2014 from Jennifer Carlino to Tom Noel, Zoning Board of Appeals.
46. Revised Topographic Sheet from the plans "Preliminary Plan Comprehensive Permit "Island Brook" in Norton, MA.
47. Summary of impacts to 25 foot buffer zone, Island Brook, Norton, MA
48. Report from Graves Engineering dated May 1, 2014.
49. Letter dated May 27, 2014 from Jennifer Carlino to Tom Noel, Zoning Board of Appeals.
50. Letter dated April 25, 2014 to the ZBA from Frank Gallagher, Gallagher Engineering \ with a list of waivers requested.
51. Letter dated May 28, 2014 from Bernard E. Marshall, Water/Sewer Superintendent to Tom Noel, Chairman, Zoning Board of Appeals.
52. Report from Graves Engineering, Inc. dated June 6, 2014.
53. Island Brook Development Budget.
54. Revised Preliminary Construction Budget.
55. Draft decision dated June 5, 2014

Present at the public hearing were Muhammad Itani, Frank Gallagher of Gallagher Engineering, Bob Engler and Jeff Walsh of Graves Engineering.

The draft decision was reviewed by the members.

All issues in the decision were discussed by the members and the applicant.

Discussion ensued on certain issues that applicant complained were going to cost it significant money. Ilana Quirk commented that these issues can be listed in a proforma.

Mr. Itani commented that the board is being very uncooperative and is taking too long on each issue.

Tom Noel suggested the applicant submit a pro forma. Mr. Itani replied that he is not willing to submit a pro forma.

Mr. Itani had issues with the water/sewer fees and wanted the board to waive the fees. Tom Noel replied that, as in past 40B projects, the board has always let the Water/Sewer Department handle the fees.

Ilana Quirk asked Mr. Engler if his applicant intends on submitting a pro forma and he replied he would confer with his client.

Ilana Quirk outlined the **four** specific issues to be listed on the pro forma as follows:

1. Sidewalks from the library to the crosswalks,
2. Water/Sewer fees,
3. Fencing on the lots that abut the wetlands and
4. the two recreation areas, one for children and one for adults.

Bob Engler commented that if his client decides on submitting a pro forma, it will be submitted before the next meeting.

Frank Reynolds made a motion, seconded by Jason Brolsma, to continue the public hearing until Tuesday, June 24, 2014. All in favor. Approved.

The members reviewed the balance of an invoice submitted by Graves Engineering, Inc. for the amount of \$1,082.85 for the 274 East Main Street 40B project. Tom Noel noted the invoice was voted to be paid at the previous meeting, but there was not enough funds in the revolving account to pay the bill. Frank Reynolds made a motion, seconded by Jason Brolsma, to pay the remainder of the bill. All in favor. Approved.

The members reviewed an invoice submitted by Graves Engineering, Inc. for the amount of \$3,186.95. Frank Reynolds made a motion, seconded by Jason Brolsma, to pay the bill. All in favor. Approved.

Frank Reynolds made a motion, seconded by Jason Brolsma, to adjourn the meeting at 11:00 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