



**TOWN OF NORTON**  
**ZONING BOARD OF APPEALS**  
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## **MINUTES**

### **Meeting of June 23, 2014**

The June 23, 2014 scheduled meeting of the Zoning Board of Appeals was called to order at 7:33 pm at the 1<sup>st</sup> Floor Selectmen's meeting area, Norton Town Hall by Tom Noel, Chairman, with the following members present, Nitin Choksi, Frank Reynolds and Jason Brolsma.

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

#### **014-015 – Carol A. Miner, Parcel 19 (Assessor's Map 5) 38 Burt Street**

Application is for a frontage variance to create a buildable lot with access off of Tipping Place which presently has 40 feet of frontage.

#### Document List

1. Application Form for a variance.
2. Plan entitled "Plan of Land Prepared for Carol A. Miner in Norton, Massachusetts, prepared by E. Otis Dyer, R.P.L.S. Scale 1"=50', signed and stamped by Everett Otis Dyer, Jr. and dated April 17, 2014.
3. Additional letter dated June 2, 2014 from Attorney Peter T. Clark

Present at the public hearing were Carol Miner and her Attorney, Peter Clark.

Mr. Clark addressed the board and noted that the entire property consists of a little under 5 acres. He said that the Miners have owned this property for almost 40 years. He commented that the existing house on the property needs a lot of repairs which will cost quite a bit of money.

Mr. Clark stated that Burt Street will not be affected by the creation of this back lot which will have frontage on Tipping Place.

Mr. Clark noted that even after separating the property into two lots, the existing lot with the house on it will still have 82,000 s.f. of which 80,000 s.f. is required in an R80 zoned district.

Mr. Clark stated that a second lot was always intended to be created on this property even before Tipping Place was constructed. He pointed out on the submitted plans the boundaries on Tipping Place that were left in place in order to allow for an additional lot. He commented that a hardship would be created for Ms. Miner if she were required to create another cul-de-sac where her property has frontage on Tipping Place. He said that this would create a hardship for the town as well.

Mr. Clark noted that the proposed lot will consist of over 125,000 s.f. when all is required for an R80 zoned district is 80,000 s.f. He said there will be no affect at all to the residents of Tipping Place.

Tom Noel asked if a single family house is proposed for this lot and Mr. Clark replied that it is. Mr. Clark commented that if a variance is given, the proposal will have to be reviewed by the Planning Board.

Frank Reynolds asked why the frontage was not proposed off of Burt Street and Mr. Clark replied that there would be a lot of opposition if the frontage would be off of Burt Street. He said that a Definitive Subdivision Plan would have to be submitted to the Planning Board.

Jason Brolsma asked Mr. Clark if the two lots were proposed before Tipping Place was proposed and he replied they were deeded as such.

Tom Noel asked if there was anyone present to speak in favor of the application and there was no response.

Tom Noel asked if there was anyone present to speak in opposition of the application.

John King, 11 Tipping Place, commented that he purchased his property because it was the last house on the cul de sac and was told that this property would never be developed.

Myron Pierce, 9 Tipping Place, commented that he has lived at this address for over 40 years and he is not in favor of granting such a substantial variance as this.

Sandra Ollerhead, 14 Tipping Place, commented that she was also told when she purchased her property that there would be no more development going on next to her or behind her. She said she was told that this area off of Tipping Place was just an easement for the town.

Attorney Daniel Rich, 34 Burt Street commented that in his opinion, a hardship does not exist with this application. He said that the property is for sale and the owner is trying to create another lot for financial gain only.

Elizabeth Souza, 7 Tipping Place, commented that she did not think there was a hardship at this time.

Patricia King, 11 Tipping Place, commented that children play at the end of the cul de sac and she does not think it safe to have vehicles going through that circle including construction vehicles.

Steven Lipkind, 42 Burt Street, commented that the previous owners of his property had tried to create a second lot and were denied.

Scott Ollerhead, 14 Tipping Place, commented that when he purchased his property at the end of the cul de sac he was told no other lots would be added.

Frank Reynolds asked if the existing 40 foot frontage was curbed and Mr. Clark replied it was not.

Jason Brolsma asked Mr. Clark to explain what he meant by the language referring to the deeds of the properties. Mr. Clark replied that the deed clearly states the 40-ft. frontage on Tipping Place as an access to the rest of the property. He noted that when the Town had accepted Tipping Place as a public way in 1995, they did not close this 40-ft. frontage area off.

An abutter was concerned about seeing the proposed house and Mr. Clark assured the abutter measures would be taken to install a buffer.

Frank Reynolds commented that in his opinion, he did not think that the town had intended to have this property accessed through Tipping Place, but left this area open for an easement if needed.

Tom Noel commented that the applicant could choose to create another cul de sac on her side if she wanted to construct a house. Mr. Clark replied this would be a great financial burden for the applicant who would have to go before the Planning Board. Tom Noel had concerns with the fact that the ZBA board had previously denied a request for a variance from 75 feet.

Arthur Taylor, 39 Burt Street, commented that he was present at the public hearing when another applicant was denied a frontage variance from 75 feet and did not think it would be fair to allow this variance at this time.

The members agreed that, in their opinion, this property was not intended to be created as two lots.

Frank Reynolds made a motion, seconded by Nitin Choksi, to **deny** the application as submitted. All in favor. Approved.


Tom Noel noted that the following project will be continued to a meeting to be held on Wednesday, June 25, 2014 at 7:30 pm in the 2<sup>nd</sup> floor conference room, Town Hall.

**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.

Frank Reynolds made a motion, seconded by Nitin Choksi, to adjourn the meeting at 8:39 pm. All in favor. Approved.

Minutes Approved by Committee on: March 2, 2015

Respectfully submitted,

  
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Thomas R. Noel, Chairman  
Norton Zoning Board of Appeals