



TOWN OF NORTON
ZONING BOARD OF APPEALS
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MINUTES

Meeting of October 27, 2014

The October 27, 2014 scheduled meeting of the Zoning Board of Appeals was called to order at 7:33 pm at the Norton Public Library by Tom Noel, Chairman, with the following members present, Nitin Choksi & Frank Reynolds, Associate Member.

Nitin Choksi made a motion, seconded by Frank Reynolds, to remove from the table the project for :

15-04 – Roman Catholic Bishop of Fall River – Parcel 51 (Assessor's map 27) South Worcester St./Power Street. Application for a Variance for dimensional area to create two lots. (cont. from the September 22, 2014 meeting)

Document List

1. Application for a variance.
2. Plan entitled Plan of Land in Norton, MA, Scale 1"=20', prepared by RIM Engineering Company, Inc., signed and stamped by Craig E. Cygawnoski and dated August 7, 2014 with **latest revisions** on October 15, 2014.
3. Letter dated September 16, 2014 to the Norton Zoning Board of Appeals from Mr. and Mrs Scott Wallace, 137 So. Worcester Street in opposition of the variance.
4. Photographs of the area flooding submitted by Thelma Pine, 72 Power Street
5. Letter dated September 26, 2014 to Lauren Feldman Goldberg, Esquire, Kopelman & Paige, P.C. from David T. Gay, Gay & Gay, P.C.

Present at the public hearing to represent the applicant was Atty. Matthew Costa. Mr. Costa submitted revised plans. He commented that the only change was the removal of one line.

Mr. Costa noted he had talked to the Town Planner who, he said, he had no problem with the applicant appearing before the Zoning Board before appearing before the Planning Board.

Tom Noel noted he had spoken with Ilana Quirk, Town Counsel, who is advising the applicant go to the Planning Board before applying with the Zoning Board of Appeals or a condition would have to be included with the decision "pending Planning Board approval". He said the ZBA does not have the authority to divide lots.

Mr. Costa replied that the applicant cannot divide a lot without having a variance from the ZBA first.

Frank Reynolds commented that a decision could be given as long as specific conditions are written into the decision regarding Planning Board approval.

Nitin Choksi questioned regarding hardship which applies to Zoning Bylaws Section 10.3. Mr. Costa replied that the size lots requested are similar to the neighboring lots. He said the one lot could have been divided easily many years ago, but was not.

Two abutters spoke in favor of the project.

An abutter at 72 Power Street raised questions regarding potential flooding of her property as a result of 2 houses being constructed on the lot. Frank Reynolds commented that a project cannot increase the runoff to another property. He noted that the closest point a fence can come to her property is 25 feet from her lot line.

Frank Reynolds made a motion, seconded by Nitin Choksi, to approve the project which will include the condition that the variance for lot size will not be effective until and unless the applicant obtains from the Planning Board permission to subdivide the lot and with the condition that the applicant will erect visual screening between the new construction and the property at 72 Power Street and that applicant shall report in writing as to the results of the Planning Board public hearing. All in favor. Approved.

15-03 – Edwin Whitcomb - Parcel 86 (Assessor's Map 21) 19 Oak Street

Application for a Variance of Section 6.1 & 6.2 for dimensional requirements (cont. from the October 20, 2014 mtg.)

Document List:

1. Application for a variance.
2. Plan entitled "Plan of Land in Norton, MA, Scale 1"=20', prepared by RIM Engineering Company, Inc., signed and stamped by Craig E. Cygawnoski and dated September 13, 2014.

Present at the public hearing was Mr. Whitcomb's attorney, Daniel Rich.

Frank Reynolds made a motion, seconded by Nitin Choksi, to remove from the table the project for Edwin Whitcomb.

Daniel Rich stated that he had submitted an updated plan as requested at the previous public hearing. He noted all dimensions were shown on the plan. He explained to the board that when Mr. Whitcomb had conveyed a portion of his own property to his neighbor, Mr. Cameron, he created a non-conforming lot which he now wished to convey.

The Board noted it appeared that no changes were being proposed at this time so that no variance would be required, and asked applicant whether he would withdraw the application. Tom Noel noted that if any changes are planned in the future, an application would be needed.

Mr. Rich asked if he could speak to Mr. Whitcomb before withdrawing the application. Tom Noel asked Mr. Rich to advise the board on his decision before the next scheduled meeting.

Frank Reynolds made a motion, seconded by Nitin Choksi, to continue the public hearing until Monday, November 17, 2014. All in favor. Approved.

15-02 – Kevin Willis – Parcels 10/11 (Assessor’s Map 12) 124 Burt Street.

Application for Section 6 Finding & Variance (cont. from the September 22, 2014 mtg.)

By the time of this continued hearing, applicant had filed and advertised two different applications for relief for the same parcel. Atty. Daniel Rich stated he would like to withdraw the original application for a Section 6 Finding and Variance dated July 28, 2014. Nitin Choksi made a motion, seconded by Frank Reynolds, to accept the withdrawal without prejudice. All in favor. Approved.

15-06 – Kevin Willis – Parcels 10/11 (Assessor’s Map 12) 124 Burt Street Application for Section 6 Finding & Variance. This was the second application submitted by Mr. Willis, which was noticed and advertised separately from the first.

Document List:

1. Application for a variance
2. Plan entitled “Plan of Land in Norton, MA” prepared for Elmer C & Paula C. Willis, Scale 1”=20’, prepared by Pilling Engineering Group, Inc., signed and stamped by Bruce A. Pilling with latest revisions on October 2, 2014.

Present at the public hearing were the applicant and his attorney, Daniel M. Rich, Esq. who submitted revised plans.

Mr. Rich indicated that the applicant is proposing to remove a mobile home on the lot and construct a single family house.

Mr. Willis noted that the lots have been subdivided previously and he is now seeking a finding concerning alteration to an existing non-conforming lot.

Discussion ensued. It was agreed the footprint of the proposed house would meet the existing setback requirements. Tom Noel noted that only a Section 1.5(e) finding would be necessary.

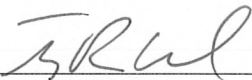
Frank Reynolds made a motion, seconded by Nitin Choksi, for a finding under Article I & 1.5 e that the proposed construction as shown on the plan, the removal of the mobile home and construction of a single family residence within the footprint shown on the plan would not be substantially more detrimental than the existing non-conforming use and is of the same general class as the existing non-conforming use and will not significantly increase traffic, noise, bright lights, or other undesirable impacts on the surrounding environment. All in favor. Approved.

The members reviewed an invoice from Graves Engineering, Inc. for the 274 East Main Street project in the amount of \$1,228.83. 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 8:35 pm. Approved.

Minutes Approved by Committee on: April 27, 2015.

Respectfully submitted,



Thomas R. Noel,
Chairman, Norton Zoning Board of Appeals