



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

Meeting of May 10, 2016

The May 10, 2016 scheduled meeting of the Zoning Board of Appeals was called to order at 7:01 pm in the first floor Selectmen's area, Town Hall, by Tom Noel, Chairman with the following members present, Frank Reynolds and Lukasz Wasiak, Associate Member. Also present was Ilana Quirk, Town Counsel and Beth Weirling, Director of Planning and Economic Development. Nitin Choksi was absent.

### **PUBLIC HEARING**

#### **Variance**

**16-10** – 23 No. Washington Street  
Assessor's Map 10, Lot 495

### **PUBLIC HEARING**

#### **Variance**

**16-09** – 25 No. Washington Street  
Assessor's Map 10, Lot 495-01

At 7:20 pm a motion was made by Frank Reynolds to review the projects at 23 & 25 No. Washington Street, waiving the reading of the public hearing notice, seconded by Nitin Choksi. All in favor. Approved.

### **(23 No. Washington St.)**

#### **Document List**

1. Application for a Variance – 23 North Washington Street received by the ZBA on April 11, 2016;
2. Memorandum in Support of Zoning Application, RE: 23 North Washington Street and 25 North Washington Street prepared by Attorney Costa;
3. Property Assessment Records – 1972;
4. Certified Abutters list, dated March 15, 2016;
5. Public Hearing Notice; and
6. Plan entitled "Land Owned by The Molly Jones Supplemental Needs Trust in Norton, Massachusetts", dated December 13, 2015 and Revised through May 5, 2016, prepared by, E. Otis Dyer, R.P.L.S.

### **(25 No. Washington St.)**

1. Application for a Variance – 25 North Washington Street received by the ZBA on April 11, 2016;
2. Memorandum in Support of Zoning Application, RE: 23 North Washington Street and

- 25 North Washington Street prepared by Attorney Costa;
3. Property Assessment Records – 1972;
  4. Certified Abutters list, dated March 15, 2016;
  5. Public Hearing Notice; and
  6. Plan entitled “Land Owned by The Molly Jones Supplemental Needs Trust in Norton, Massachusetts”, dated December 13, 2015 and Revised through May 5, 2016, prepared by, E. Otis Dyer, R.P.L.S.

At 7:02 pm a motion was made by Frank Reynolds to re-open the public hearing for 23 and 25 No. Washington Street, seconded by Lukasz Wasiak. Approved.

### **PUBLIC HEARING PRESENTATION**

Attorney Patrick Sullivan was in attendance representing the applicant Robert Koditek. Tom Noel noted that at the previous meeting the board requested a revised plan be submitted signed and stamped by a Professional Engineer. He noted the revised plan was submitted this week. Atty. Sullivan advised that he would rest on the new submission.

Tom Noel noted that, since Nitin Choksi could not attend this evening’s meeting, he requested that Lukasz Wasiak review the project. He asked Lukasz Wasiak if he had any comments and Mr. Wasiak replied he did not.

Tom Noel asked if there was anyone in the audience to speak in favor of, or opposed to, to the project and there was no response. The vote and decision pertains to 23 and 25 North Washington Street.

### **DECISION**

Motion made by Frank Reynolds and seconded by Lukasz Wasiak, to grant, in accordance with M.G.L Chapter 40A, Section 10 & 11 and Article X, Section 10.3 of the Town of Norton Zoning Bylaw, a variance for frontage on a pre-existing, non-conforming lot: 120 feet of frontage exists, where 150 feet of frontage is required in an Residential 60 Zoning District and that a literal enforcement of the Bylaw would involve substantial hardship, financial or otherwise, to the appellant and where desirable relief may be granted without substantially derogating from the intent and purpose of the Bylaw, but not otherwise. Existing conditions are shown on the Plan Titled “Land Owned by The Molly Jones Supplemental Needs Trust in Norton, Massachusetts”, dated December 13, 2015 and Revised through May 5, 2016, and prepared by E. Otis Dyer, R.P.L.S. ***Approved. All in Favor (3-0).***

### **Peer Review/Surety – 274 East Main Street**

Tom Noel asked Ilana Quirk to update the board on the status of the surety issue for 274 East Main Street. She noted that the board has allowed for the Occupancy Permit for one building because the surety bond has not yet been Peer Reviewed but there was a bond in place. She commented that after the surety bond has been reviewed, the board will allow for issuance of

Occupancy Permits for the remaining buildings.

Ilana Quirk noted that one surety bond or many separate bonds can be submitted. She said that the developer for 274 East Main Street has requested that he would like to submit one bond to cover the entire landscaping project.

Ilana Quirk suggested that the board may vote on the submitted surety bond this evening subject to her review on the language. She suggested a condition that would allow the Chairman, Tom Noel, to sign the finalized surety bond on the Zoning Board's behalf.

Tom Noel commented that the Town Manager had requested that the external roads be reviewed by Keith Silver, Highway Superintendent. Beth Weirling noted that the Highway Superintendent did not want to be involved with any issues concerning the surety bond or private/internal roads. She said that he did sign off this particular surety bond but will not for any future bonds for private roads, but he would inspect any town/external roads.

David Eastridge explained to the board why the Highway Superintendent was involved with this surety bond by a sentence that was included in the surety bond and will be omitted in the future.

Tom Noel asked Mr. Eastridge to update the board regarding the reconstructing of a portion of the sidewalks that were not smooth. Mr. Eastridge replied that the defective portion of the sidewalk has been removed and will be replaced this Friday.

Lloyd Geisinger addressed the board and commented that he understands that the As-Built Plan and the surety amount have to be Peer Reviewed and he noted that the full amount of the surety bond will be in place. He stated that many of the 14 units in building 2 have been rented and requested that the board consider issuing an Occupancy Permit for building 2 once the full amount of the surety bond is in place. Mr. Geisinger noted that he will be at the June 20<sup>th</sup> meeting when the Peer Review Report will be reviewed and commented that he does not anticipate any major issues.

Frank Reynolds asked Mr. Geisinger when he thought the landscape would be completed to the south of building 3. Mr. Geisinger replied all landscaping for buildings 1, 2 and 3 and the pool house and playground will be completed by Memorial Day.

Ilana Quirk suggested that the developer submit a landscape report by Friday to give the board an idea of what is left to be done.

David Eastridge commented that the As-built Plan for building 2 will have to be Peer Reviewed in order for the closing of building 2 to take place.

Mr. Geisinger asked if the As-Built review can be sent to Beth Weirling when completed for the board's review in the near future in order to have an Occupancy Permit issued by June 1<sup>st</sup>.

The board agreed to set the next meeting date for Tuesday, May 23, 2016 for the review of 274 East Main Street Peer Review report and the issuing of an Occupancy Permit for building 2.

Motion by Frank Reynolds to allow the Chairman, Tom Noel, to sign the surety bond for building 3 on the board's behalf once reviewed by Town Counsel, seconded by Lukasz Wasiak. Approved.

The board reviewed a contract submitted by BETA Group, Inc. for the review of the surety amount for the landscaping for 274 East Main Street.

Motion by Frank Reynolds to allow the Chairman, Tom Noel, to sign the contract as reviewed by Town Counsel, which has already been signed by the Town Manager, seconded by Lukasz Wasiak. Approved.

Tom Noel signed the contract for the review of the surety bond for 274 East Main Street landscaping by BETA Group, Inc.

Tom Noel commented that a motion shall be made to go into Executive Session for the purpose of discussing strategy regarding litigation for Island Brook LLC v. ZBA, HAC (No. 2014-08) which concerns an appeal from a Comprehensive Permit issued to Island Brook LLC for 43 acres of land located off East Main Street because a discussion in Open Session could have a detrimental effect on the town's bargaining position and litigation position of the town. He noted the board will not return to Open Session at the completion of executive session.

Tom Noel made a motion to enter into Executive Session at 8:16 pm, not to return to open session thereafter, in order to discuss ongoing litigation involving Island Brook, LLC.

Tom Noel - yes  
Frank Reynolds - yes  
Lukasz Wasiak - yes

Minutes Approved by Committee on: October 11, 2016.

Respectfully Submitted,



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Thomas R. Noel  
Chair, Norton Zoning Board of Appeals