



## TOWN OF NORTON ZONING BOARD OF APPEALS

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### Meeting Minutes July 18, 2016

The July 18, 2016, meeting of the Norton Zoning Board of Appeals was convened in the first floor Selectmen's Conference Room of the Norton Town Hall and was called to order at 7:01 p.m., by Tom Noel, Chairman. Members Present: Tom Noel, Chairman, Frank Reynolds and Nitin Choksi, Members. Lukasz Wasiak, Alternate Member, was absent.

Tom Noel commented that there were no bills on the agenda for this evening.

#### **PUBLIC HEARING** – *Initial*

*Adv.: July 1, 2016 & July 11, 2016*

#### **Section 6 Finding and Variance**

*Abut.: June 21, 2016*

*16 Renwick Drive – Assessor's Map 4, Lot 222*

Owner/Applicant: Edward J. Capone

The applicant is seeking a Section 6 Finding to construct a 24' x 28' garage on a pre-existing, non-conforming building and lot and a Variance for front yard setback, 50' required, 46.86' proposed and side yard, 35' required, 30.71' proposed.

#### **DOCUMENT LIST**

1. Application for a Section 6 Finding and a Variance received by ZBA on June 20, 2016;
2. Notice of Public Hearing;
3. Certified Abutters list, dated March 16, 2016
4. Plan entitled "Mortgage Plot Plan in Norton, Massachusetts" prepared for Edward J. & Shirley A. Capone, 16 Renwick Drive, Norton, Massachusetts, prepared by Tilton and Associates, Inc., scale 1"=20', signed and stamped by Larry E. Tilton and dated March 25, 2016.

The public hearing was opened at 7:05pm. Attending the hearing was Edward Capone.

Mr. Capone commented he is proposing a 24'x28' attached garage on a non-conforming lot size which will be located 46.86' from the front lot line. Discussion ensued. Members found no issue with the slight variances sought.

Tom Noel asked if there was anyone else present to speak in favor of, or in opposition to the application as filed, and there was no response.

Motion by Frank Reynolds to close the public hearing, seconded by Nitin Choksi. **All in favor. (3-0). Approved.**

## **DECISION**

Motion made by Frank Reynolds to make a Finding under Section 6, Article 1, Section 1.5 e of the Norton Zoning Bylaws that the proposed 24'x28' attached garage, as shown on the plans dated March 25, 2016, will not make the pre-existing, non-conforming, single-family house will not be substantially more detrimental to the neighborhood in regard to noise, lighting, or other factors under the Bylaw, in that the addition will be no closer than 30.71 feet to the side property line and no closer than 46.86' to the front/street property line, seconded by Nitin Choksi. **All in favor (3-0). Approved.**

Motion made by Frank Reynolds to approve the variance for the front setback to be no closer than 46.86' and the side line set back no closer than 30.71 feet as shown on the plans dated March 25, 2016. **All in favor (3-0). Approved.**

### **PUBLIC HEARING** – (cont. from 6/20/16 mtg.)

*Adv.:* June 3, 2016 & June 13, 2016

#### **Section 6 Finding**

*Abut.:* May 10, 2016

254 Reservoir Street - Assessor's Map 10, Lot 368

Residential-60 Zoning District

**Owner/Applicant:** Linda Loring

The applicant is proposing to construct a 17' x 15', 1-story addition to a pre-existing, non-conforming, single-family house. Residential 60 zoning requires: 60,000 s.f. lot, 150' frontage, 40' front yard setback, 25' side yard setback and 15' rear yard setback. The applicant is proposing a 30' front yard setback where 40' is required.

### **DOCUMENT LIST**

1. Application for a Section 6 Finding, received by ZBA on May 3, 2016;
2. Notice of Public Hearing;
3. Certified Abutters list, dated April 28, 2016
4. Plan entitled "Addition Plan – Linda Loring – Norton, MA, Scale: 1"=20' signed and stamped by Michael Paul Antonino and dated October 29, 2005.
5. Revised plan entitled "Addition Plan, No. 254 Reservoir St., Norton, MA", signed and stamped by Michael Paul Antonino and dated June 23, 2016.

**7:15 pm** - Motion by Frank Reynolds to re-consider the application for Linda Loring at 254 Reservoir St., seconded by Nitin Choksi. **All in favor (3-0) Approved.**

Attending the meeting was Linda Loring who submitted revised plans with all dimensions drawn by her engineer as requested at the last meeting. Also present at the public hearing was James Perkins who stated that the engineer had come out to the property to revise the plan. Brief discussion ensued. Members found no issues with the relief sought.

Tom Noel asked if there was anyone else present to speak in favor of, or in opposition to, the proposed project and there was no response.

Motion by Frank Reynolds to close the public hearing, seconded by Nitin Choksi. **All in favor. (3-0) Approved.**

## **DECISION**

Motion made by Frank Reynolds, to make a Finding under Section 6, Article 1, Section 1.5 e of the Norton Zoning Bylaws that the proposed 17'x15', 1-story addition, as shown on the revised plans dated June 23, 2016, will not make the pre-existing, non-conforming, single-family house will not be substantially more detrimental to the neighborhood in regard to noise, lighting, or other factors recited in the Bylaw, in that the addition will be no closer than 17 feet to the side property line and no closer than 29.5' to the front/street property line, seconded by Nitin Choksi. **All in favor. (3-0) Approved.**

### **PUBLIC HEARING – Initial**

*Adv.: July 1, 2016 & July 11, 2016*

#### **Section 6 Finding**

*Abut.: June 21, 2016*

181 Lincoln Street – Assessor's Map 7, Lot 12  
Residential-80 Zoning District

**Owner/Applicant:** Gregory P. Jurgilewicz

The applicant is proposing to demolish an existing 1,407 s.f. single-family house and construct a new single-family structure of similar size (approximately 1,416 s.f.). The lot is pre-existing, non-conforming: 62,868 s.f. existing, where 80,000 s.f. is required in the Residential 80 Zoning District; all other dimensions will comply with the regulations of the Zoning Bylaw.

### **DOCUMENT LIST**

1. Application for a Section 6 Finding, received by ZBA on June 27, 2016;
2. Notice of Public Hearing;
3. Certified Abutters list, dated June 21, 2016
4. Plan entitled "Plot Plan, #181 Lincoln Street, Norton, Massachusetts, prepared by Grady Consulting, LLC, Scale 1"=20', signed and stamped by Kevin S. Grady and dated June 21, 2016.
5. Approved A & R Plan for the created lot dated April 27, 1999.

Attending the public hearing was Gregory Jurgilewicz and his engineer, Kevin Grady.

At 7:25 pm the public hearing for Gregory Jurgilewicz was opened.

Mr. Grady explained that Mr. Jurgilewicz would like to tear down the existing structure which is in very bad condition and re-build a new house. He noted that the lot had been creating in 1990 and had been approved by the Planning Board and recorded at the Registry of Deeds. He said following that date, the Zoning District had been changed from R40 to R80. He continued to say that all boundary line setbacks are met and the only issue is the lot size which is 62,868 sq. ft. where in an R80 Zoning District 80,000 sq. ft. of area is required.

Ilana Quirk commented that as long as the lot size has not changed since the Zoning District had changed, the lot would be considered a pre-existing non-conforming lot.

Mr. Grady noted that a copy of the approved A & R dated April 27, 1999 was submitted. Tom Noel asked if anyone present was opposed to, or in favor of, the application as filed, and there was

no response.

Motion by Frank Reynolds to close the public hearing, seconded by Nitin Choksi. **All in favor. (3-0) Approved.**

### **DECISION**

Motion made by Nitin Choksi, to make a Finding under Section 6, Article 1, Section 1.5 e of the Norton Zoning Bylaws that the proposed project to raze and re-build a structure within the footprint, as shown on the plan dated June 21, 2016, will not make the pre-existing, non-conforming, single-family house anymore non-conforming and will not be substantially more detrimental to the neighborhood in regarding noise, lighting, etc., seconded by Frank Reynolds. **All in favor. (3-0) Approved.**

### **PUBLIC HEARING – Initial** **Section 6 Finding**

*Adv.: July 1, 2016 & July 11, 2016*

*Abut.: June 21, 2016*

383 South Worcester Street – Assessor's Map 32, Lot 120

*Residential-60 Zoning District*

**Owner/Applicant:** David L. Martin

The applicant is requesting a Section 6 Finding as to lot size, to construct a 624 s.f. garage addition to the existing 1,456 s.f. single-family house. The lot is pre-existing, non-conforming: 32,230 s.f. exists, where 60,000 s.f. is required in the Residential 60 Zoning District; all other dimensions will comply with the regulations of the Zoning Bylaw.

### **DOCUMENT LIST**

1. Application for a Section 6 Finding, received by ZBA on June 27, 2016;
2. Notice of Public Hearing;
3. Certified Abutters list, dated June 23, 2016
4. Plan entitled "Proposed House Addition at 383 South Worcester Street in Norton, MA.", Scale 1"=30", Prepared by RIM Engineering Co., Inc., signed and stamped by Craig E. Cygawnoski and dated June 13, 2016.

The public hearing was opened at 7:39 pm. Attending the public hearing was David Martin.

Tom Noel noted that the front yard setback dimension of the proposed garage addition was not shown on the submitted plan. Frank Reynolds noted that there were other dimensions on the plan that could determine the dimension. The board agreed to accept the submitted plan as drawn.

It was determined that the front yard setback dimension of the proposed garage is 109 feet from South Worcester Street. Tom Noel asked if there was an existing driveway and Mr. Martin replied there was an existing unpaved driveway at this time.

Tom Noel asked if there was anyone present in favor of the application.

Ruth Schneider, 381 South Worcester Street, an abutter, said she was in support of the project.

Leo Arel, 401 South Worcester Street, an abutter, said he was in support of the project.

George Hast, 381 South Worcester Street, an abutter, said he was in support of the project.

No one spoke in opposition of the application.

Motion by Nitin Choksi to close the public hearing, seconded by Frank Reynolds. **All in favor. (3-0) Approved.**

### **DECISION**

Motion made by Frank Reynolds, to make a Finding under Section 6, Article 1, Section 1.5 e of the Norton Zoning Bylaws that the proposed project to construct a garage/addition, will not make the pre-existing, non-conforming, single-family house anymore non-conforming and will not be substantially more detrimental to the neighborhood in regarding noise, lighting, etc. by reducing the lot size by 8.8 % as shown on the plan dated June 13, 2016, and that the garage/addition will not be any closer than 109 feet to South Worcester Street, seconded by Nitin Choksi. **All in favor. (3-0) Approved.**

### **OPEN SESSION/EXECUTIVE SESSION** - continued from June 20, 2016

#### **Island Brook 40B (East Main Street) Island Brook LLC v. ZBA, HAC (No. 2014-08)**

Review and discussion with Town Counsel: status of litigation including possible terms of settlement proposed by the applicant; and possible discussion of settlement in open session with Island Brook.

Tom Noel commented that the applicant/owner, Muhammad Itani was present as well as his engineer, Frank Gallagher and his Attorney, Peter Freeman.

Tom Noel, at 7:54 pm, made a motion 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 expects to return to Open Session at the completion of executive session.

Frank Reynolds – yes

Nitin Choksi - yes

Tom Noel – yes

**All in favor (3-0).** The board entered into Executive Session at approximately 7:55 p.m.

### **Confidential Executive Session Minutes Separately Maintained**

The board returned to Open Session at 8:39 pm.



Ilana Quirk gave a brief summary of the items remaining:

- Sidewalks inside the development – proposed at 4.6” – Condition to state they will be to code per ADA Requirements if necessary.
- Timing of the two funding items: (1) **\$22,500** within 30 days of the deliverance of the stipulation dismissal; (2) **\$70,000** for the sidewalks before the first foundation permit is issued. Ilana Quirk noted that the board is willing to allow any local official qualified to do the foundation inspections if the Building Inspector is busy and there would be no cost to the applicant.
- Flood Insurance – Affordable housing will not be constructed in flood zones.
- Road salt – The ZBA will not insist on road salt and will leave this issue up to the Conservation Agent.
- Paved width of the roadway – Board will like at least 24 feet.

Discussion ensued on the width of the roadways. After much discussion, Mr. Itani stated that the roadways would be at least 24 feet wide.

Mr. Itani requested that if a wastewater treatment plant is not needed on the rear uplands portion of the site, some type of solar or cell phone tower will be permitted. He stated that no housing or commercial buildings would be built and there would be no impacts to the wetlands.

Tom Noel replied that if the condition is written correctly as implied by the applicant, this would be allowed under this permit as a modification.

Ilana Quirk stated she would draft the final decision for review by the board members and applicant. Peter Freeman requested that the draft be written and sent out for review as soon as possible so that the members may sign the final copy without having a special meeting.

Tom Noel noted the next regular meeting will be held on Monday, August 15, 2016.

#### **ADJOURN:**

Frank Reynolds made a motion to adjourn the public meeting at 9:20 pm, seconded by Nitin Choksi. All in favor. Approved.

Minutes Approved by Committee on October 11, 2016.

Respectfully Submitted,



Thomas R. Noel  
Chair, Norton Zoning Board of Appeals