



**TOWN OF NORTON
ZONING BOARD OF APPEALS**
70 East Main Street
Norton, Massachusetts 02766-2320
Office: 508-285-0278
Fax: 508-285-0277

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Minutes of Meeting of February 21, 2017

7:00 P.M – Call to Order

The February 21, 2017, meeting of the Norton Zoning Board of Appeals was held in the 2nd Floor Meeting Room, of the Norton Town Hall and was called to Order at 7:00 P.M., by Tom Noel, Chair. Members present: Tom Noel, Frank Reynolds, Lukasz Wasiak, and Alternate Member, Butch Rich, with Reynolds, Wasiak, and Noel to be voting. Excused: Nitin Choksi. Also present was Courtney Salvo, Planning and Zoning Secretary.

General Business

Turtle Crossing 40B request for modification and 15 South Washington Street (Eco- Site cell tower application) will be continued to the next meeting date, March 6, 2017 at 7 p.m. Both involved off-meeting discussion with counsel.

Public Hearing

7:05 P.M. - 16 Renwick Drive; Section 6 Finding and Variance: Case No.17-19

Applicant and owner Edward Capone was in attendance. The Board had made a Finding following Hearing on July 18, 2016 (Decision dated July 26, 2016) permitting construction of an attached garage on a prior-existing non-conforming lot. The Decision recited that the proposed addition would be no closer than 46.86' from the front lot line on Renwick Drive, and no closer than 30.71' from the Northerly side yard line. The resulting construction further encroached the limits granted in the July 2016 Decision. Mr. Capone submitted revised plans dated February 1, 2017 indicating that the new garage was erected at 44.86' from Renwick Drive and 29.5' from Northerly side yard boundary at the Northern-most corner of the structure. Mr. Capone attributed the further encroachment on unintended miscommunication between engineer and architect. There were no further comments from anyone in attendance. Board discussion ensued. The Board expressed concern that the error occurred, but noted that there was no indication it was intentional.

Motion by Mr. Reynolds for a Finding under Section 6, Article 1.5e, that the garage foundation as shown on the "Foundation as Built Plan" dated September 14, 2016, revision date February 1, 2017, will not render the preexisting non-conforming, use substantially more detrimental to the surrounding neighborhood under the factors in 1.5e. Second by Mr. Wasiak. **Vote: All in Favor (3-0).** **Motion** for variance by Mr. Reynolds, that the front yard setback would be no less than

44.86' and the side yard setback no less than 29.5' on corner as depicted. Second by Mr. Wasiak. **Vote: All in Favor (3-0).**

Public Hearing

7:16 P.M. - 152 South Worcester Street; Section 6 Finding and Variance: Case No. 17-17

Motion to take up the 152 South Worcester Street application, tabled at the last meeting due to lack of quorum, for further consideration. **All in Favor (3-0).**

Applicant, Lukas Rei, intends to build a 2,200 sq. ft. colonial, demo the existing garage on the property. Mr. Rei states that he owns the property now, and there are no residents on property.

Mr. Rich explains that the property was built as a commercial garage. The owner passed away two years ago and his family took over the property, which was then sold to Mr. Rei. Mr. Noel states this is an application for a Section 6 Finding in a R40, requiring a side setback of 25ft, and a front setback of 40 ft., which the plan does not impact. Mr. Reynolds had questions on the "Proposed House Location Plan," which shows a commercial garage on the central area of the locus. Rei replies that the garage will be demolished.

Motion by Mr. Reynolds for a Finding under Section 6, Article 1.5e, that the proposal as shown on the plan will not render the use substantially more detrimental than the existing use. **Second** by Mr. Wasiak. **All in favor; Approved (3-0).**

Public Hearing

7:22 P.M.- 0 Young Avenue; Appeal of Building Inspector's Decision: Case No. 17-18

Attorney Patrick Sullivan was in attendance on behalf of his client, Paul Freeman. Mr. Sullivan states that his client acquired property in October 2016, from the Town of Norton. Applicant was denied a building permit on November 18, 2016. This is an appeal from the decision and a request for a determination from the board that the lot is buildable under the grandfather protection of Chapter 40A Section 6.

Discussion:

Mr. Noel asked Mr. Sullivan about the 10,000 sq. foot lot in question whether there was a merger of any sort. Plot plan "Reservoir Heights" dated October 1951, was presented to the board to show that the lot in question was not held in common ownership with any adjacent lots and that it has been vacant at all times. Mr. Noel explains that if held in common ownership, the lots would have merged by operation of law. Mr. Sullivan states that he did a title search on 0 Young Ave when purchased by Mr. Freeman in October of 2016 as well as a title search on adjacent lots, and submits a document signed on this date, February 21, stating "I performed a title examination on the property known as 0 Young Ave", which is submitted for the file.

Mr. Noel asks those in attendance if anyone wished to speak in favor of or in opposition to the application. Bruce Berry of 41 Young Ave believes there was an easement on the lot and that it was held in common ownership before becoming property of the town and put up for auction. Mr. Freeman states that he purchased the property at a tax auction.

Joe Masse, Jean Stewart, Kim Stewart and a couple of neighbors are curious to know ownership in 1974, which they believed was owned by John Adams who owned lot 41. The audience also questions how the lot went up for auction. Mr. Rich explained the process by which any property would be sold by Town at auction.

Neighbors also voice opinion on house size, concerned on how large of a home in comparison to the look of the neighborhood. Mr. Noel commented that the ZBA was to decide only whether the lot is a buildable lot. Mr. Sullivan asserts that the grandfather protection is not just to create a buildable lot.

Mr. Noel asks Mr. Sullivan to provide evidence that the 3 other lots were conveyed away to someone prior to 1974. Mr. Sullivan plans on providing a Title deed on lots 35, 37, 39, 41 which the board can review. Mr. Noel suggests that 0 Young Ave be continued to the next meeting which is March 6, 2017, the board has asked counsel and the applicant for more details on the title search for property.

Motion by Mr. Reynolds to continue this hearing to March 6th at 7:15 p.m.; **second** by Mr. Wasiak. **All in Favor. (Approved 3-0).** Matter continued.

Public Hearing

8:15 P.M – 9 Alder Drive, Rick Lema/B&D Construction, Variance & Section 6 Finding: Case # 17-11A

Applicant Rick Lema submitted a revised plan to the board “A Plan of Land in Norton, MA” dated October 21, 2016 and revised December 13, 2016. Applicant filed for a variance and section 6 finding proposing to construct farmers’ porches on the front and rear of a single-family residence. Application under consideration seeks to alter the previous submitted plans by adding porches to the front and rear of the premises, which alter the permitted setbacks. The new Plan of Record, Sheet 2, indicated that the front porch steps would be 19 feet from the Alder Road and would extend the footprint of the structure at the Southern corner placing it at 15.9 feet from Woodbine Road. The new porch from the rear would be no closer than 20.1 feet from Woodbine Road. Brief discussion develops and members of the board noted that the proposed changes would not offend the purpose or intent of the Bylaws. Mr. Noel asked if anyone in attendance wished to speak in favor or in opposition to the application as filed. No response. **Motion** by Frank Reynolds to close the public hearing. **Second** by Lukasz Wasiak. **All in favor, (3-0).** **Motion** by Mr. Reynolds for a determination under Article 1 Section 1.5 e of the Bylaw that the additions and alterations as indicated on Plan of Record sheet 2 of 2, would not render the use

substantially more detrimental to the neighborhood than the existing non-conformance in terms of traffic, light, noise, or other factors under section 1.5e. **Second** by Mr. Wasiak. **All in favor (3-0) Approved**

Variance motion is in order due to conditions on the property, the desire for porches and the need for steps coming from the structure, the proposed construction as indicated on the Plan of Record Sheet 2 of 2 be granted variance relief as it is minor changes over existing conditions, that the front porch steps shall be no closer than 19 ft from Alder Rd., the Southeastern corner of the new porch shall be no closer than 15.9 ft from Woodbine Road, and the new porch to the rear of the residence shall be no closer than 20.1 feet from Woodbine Rd, as shown on the Plan of record Sheet 2 of . **Motion** by Mr. Reynolds. **Second** by Mr. Wasiak. **All in favor (3-0). Approved.**

Public Hearing

8:25 P.M. Turtle Crossing -continued

Motion made to take Turtle Crossing up for consideration. Mr. Noel reports he has been informed by Town Counsel that applicant's counsel, Mr. Freeman, was still attempting to talk to the Board of Selectman concerning an agreement that the extension sought would be the last, and that it would be beneficial for the ZBA to wait until the outcome of those discussions. **Motion** by Mr. Reynolds to continue hearing to March 6, 2017 at 7:20 P.M, **Second** by Mr. Wasiak. **All in favor (3-0). Approved.**

Public Hearing

8:34 P.M 15 South Washington St., Eco-Site Cell Phone Tower Application.

Motion by Mr. Noel to consider the matter, continued from the last meeting. **Second** by Lukasz Wasiak. **All in favor (3-0). Approved.** Mr. Noel reports that due to the status of the peer review and other work being performed, the matter should be continued again. **Motion** by Mr. Noel to continue the Eco- Site, 15 South Washington St application to March 6, 2017 at 7:25 p.m. **Second** by Mr. Wasiak. **All in favor, I (3-0) Approved**

Motion by Mr. Reynolds, **second** by Mr. Wasiak, to adjourn the meeting at 8:40 p.m. **All in favor.** Meeting adjourned at 8:40 p.m.

Minutes Approved by Committee on August 8, 2017

Respectfully submitted,



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