



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 March 6, 2017**

**7:00 P.M. – Call to Order**

The March 6, 2017 meeting of the Norton Board of Appeals was held in the 2nd Floor Meeting Room, at the Norton Town Hall and was called to order at 7:00 P.M., by Tom Noel, Chair. Member(s) Present: Tom Noel, Chair; Mr. Frank Reynolds, Mr. Lukasz Wasiak, Mr. Nitin Choski, and Mr. Butch Rich. Also present was Courtney Salvo, Planning and Zoning Secretary.

**Public Hearing**

**46 Evergreen Road, Assessor's Map 9, Lot 82, (R60); Section 6 Finding: Case #17-21**

**Applicant: Jeremiah Hennessey**

Applicant and Owner Jeremiah Hennessey along with Representative Chris Tracey of Yarworth Engineering were in attendance to discuss proposal to construct a 164 sq. foot addition onto an existing single family home. Parcel is in a R60 zone, with an undersized lot, total area of 8,000 sq. feet. The property was acquired in 2013 and the applicant is asking for a total of 100sq foot total addition. The application notes that this lacks frontage 150 ft required and 80 existing and 8,000 sq. feet in area.

Mr. Noel reported that sheet 1-2 and sheet 2-2 noted in publication, first sheet showed existing house without addition and sheet 2 showed the house with the addition. Brief discussion between Mr. Noel and Mr. Reynolds on photographs presented by applicant and representative. Discussion with Mr. Tracey. Mr. Noel then asked if there was anyone in attendance that would like to speak in favor of or in opposition. For the record, none. Mr. Noel reported that northeasterly side of the house is 3.7 ft off the property line. He asked representative what was next to property line. Mr. Tracey stated it was a fence up to the property line.

Mr. Noel asked the board if there was any further discussion on the matter, is there a motion under Article 1 Section 1.5e; that the intended construction will not render the locus substantially more detrimental than present use of the property in terms of light noise and other factors. Motion by Mr. Reynolds, second, by Mr. Wasiak. All in favor. Approved (3-0).

**Public Hearing 7:13 P.M.**

**0 Young Avenue, Assessor's Map 16, Parcel 49 (R40); Denial of Building Permit: Case # 17-18; Applicant: Paul Freeman**

Motion by Mr. Reynolds to resume consideration of this application, Second by Mr. Wasiak. All in favor. Approved (3-0). Mr. Noel informed board and attendees that counsel had sent an additional brief memorandum for review, explaining the various contiguous lots and their title rundowns. Counsel suggests the further information satisfies the board's inquiry as to the history of the contiguous lots and whether any merger by common ownership occurred.

**Discussion.** Mr. Noel states the law is that if 2 lots at time of zoning or any time after are owned by the same owner and they merge by operation of bylaw 6.3.

Mr. Sullivan stated that there was a conversation at last meeting about a John J. Adams. He tried to provide information 1955 in terms of two lots to show the entity Boulevard Acres was not the same as the John J. Adams. He tried to highlight to the boards satisfaction 1974 at that point owned by a Marion Adams owning the adjacent lot and lot in question is owned by Boulevard Acres, which had been dissolved back in the 60's or 70's. The officers were Edward Van noted as president, attorney Jay A. Estereks, as clerk. He noted because there was conversation based on history of the properties and whom developed them, he wanted to provide background. Bristol Homes was a corporation that John Adams was the president of and has since been dissolved, nothing appears in registry of deeds past the 60's.

Mr. Sullivan stated there could be overlap in Boulevard Acres and the joint ownership of Marion and John Adams. Some years could have been lapsed by Boulevard Acres and Town of Norton. Lot 39 was never owned by Bristol Homes, shown in documents provided.

Discussion that the lot was non-conforming, but if it was a buildable lot at the time of institution of zoning it remains so unless there was merger. If building inspector decides new plans suggest a variance is required, the applicant would be sent back to the Board. Mr. Freeman adds that he intends to follow the plans.

Mr. Noel thanked Counsel for the clarification, and asked if there were any questions. Jean Stewart of 36 Young Avenue, expressed concern regarding the size of the home and how it could change neighborhood. Mr. Noel explained that the building inspector would require compliance with setback requirements. Motion to close public hearing. All in favor. Approved (3-0).

Board discussion ensued. Motion by Mr. Reynolds to deem the parcel a buildable lot based on the evidence submitted, second by Lukasz Wasiak, all in favor. Approved (3-0). Town Counsel suggested findings that lot has always been vacant since becoming non-conforming, and it has 5,000 sq.foot of area and 50ft of frontage and always held in separate ownership. Motion by Mr. Reynolds, second by Mr. Wasiak, to accept those as additional findings upon which the decision is based. **All in favor. Approved (3-0).**

**Public Hearing 7:41 P.M.**

**Turtle Crossing Chapter 40B Permit-Request for Modification**

**127-129 Newland St, Assessor's Map 2, Lots 4& 5**

Continued from the meeting of February 21, 2017.

Mr. Noel informed board and attendee's that he received a letter that the Board of Selectman had voted not to approve the agreement: "Board of Selectman met on March 2, 2017 and voted to reject the agreement of support for the Turtle Crossing project, and is opposed to any further extensions for the development of this project." The BOS based its vote on the following issues:

- The project, as now proposed, is substantially different from what was originally proposed and supported as a Local initiative program ("LIP") project.
- The inability of the proponent to obtain conventional financing for the project.
- The proposed method of financing the project places an overabundance of affordable units in one location.
- The financing of the project in phases does not guarantee that future phases will be completed.
- The proponent did not provide the Board with approval from the water and Sewer Commission for the development as currently proposed.

The permit holder has asked the Board to continue the matter to the next meeting date, April 6, 2017, in order to be able to confer with counsel. Motion to continue. All in favor.

**Public Hearing 8:09 P.M.****122 West Hodges Street, Assessor's Map 34, Lot 2-0, R-80****American Tower & T-Mobile****Applicant: Haskell Farms, LLC.**

Attorney Michael Dolan, counsel for the applicant, provides a brief description on proposed construction, a 145' above ground multi-carrier monopole-style tower with nine panel antennas.

Town Counsel recommends the Board and American Towers schedule a site visit with a balloon test. Applicant agrees to do so. Mr. Noel asked to hear briefly concerning site identification. Mr. Dolan explains that, as seen on Radio frequency cover plot provided with the application, T-Mobile has a significant coverage gap in the Town of Norton, especially on Maple St, West Hodges St, and a portion of John Scott Blvd. This would be a 145' Monopole- tower, have a chain linked fence around the facility that will house the equipment for the wireless carrier, with an access road back to the compound. Proposing to add 9 antennas to the tower, base station, radio equipment and ancillary equipment that is customary with wireless antenna facilities. There are no existing structures on which to apply antennas needed to achieve coverage and in fact there are no towers in a 2-mile radius of the proposed site. Applicant states that the closest industrial district is over a mile away, and commercial is even further. They are seeking a use variance under the telecommunications act. The towns' bylaws restrict the height of a tower to 125'. The applicant is requesting a 145' tower for coverage objected needs and believe that is the



height to satisfy T-Mobiles coverage needs. The size of the lot satisfied all the dimensions needed, and dimensional requirements for setbacks under the bylaw. Board reviewed plan C202, suggested by applicant to explain why it chose this location, C101 to show surrounding wetlands and how pushing tower back would implicate setbacks. Mr. Almada explained his process, stating that Norton is 60-70% wetland. He listed a number of Site locations in area, RF-reviewed each, and dismissed all but the Haskell location.

Mr. Rich asked applicant how many times a tower had been struck by lightning. Mr. Dolan responded that there would be a lightning rod on the tower, designed to absorb a lightning strike.

Mr. Noel suggested that Peer Review be retained, funds of \$3,500 be made available with contract. Mr. Noel asked board to take a vote to authorize communication with Isotrope Engineering to ask it to submit a contract for peer review services. Motion by Mr. Reynolds, Second by Mr. Wasiak. All in favor. Approved (3-0).

Mr. Noel opened discussion to the public.

Mike Beaton of 66 West Hodges St questioned the width of tower, as well as health issues that it could bring to people and wildlife in the area. He submitted documents that he had researched. Mr. Dolan stated that the tower should not pose concern to wildlife or residents.

Peter Giunto of Attleboro, stated he bought his house last year, and spoke with his realtor about the tower possibility affecting the value of the home and was told it would. Mr. Dolan states applicant did a real-estate study that determined there would be no diminution in property values; it is contained in the application file.

Discussion re date for balloon test; applicant suggests March 25 or April 1, weather permitting. The applicant and board agreed on dates and start time of 8 A.M.

Motion by Mr. Reynolds to continue the hearing to April 4 at 7:20 P.M. Second by Mr. Wasiak. All in favor, (3-0).

**Tom Noel made a motion to adjourn the meeting at 9:15 P.M, Seconded by Frank Reynolds. All in favor. Approved (3-0).**

Minutes Approved by Committee on August 8, 2017.

Respectfully submitted,



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