



**TOWN OF NORTON
ZONING BOARD OF APPEALS**

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Minutes of Meeting of April 4, 2017

The April 4, 2017 meeting of the Norton Zoning Board of Appeals, in the 2d floor meeting room of the Norton Town Hall, was called to order at 7:00 P.M. by Tom Noel, Chairman. Members Present: Tom Noel, Frank Reynolds and Butch Rich. Nitin Choksi and Lukasz Wasiak were excused.

PUBLIC HEARING – *Continued from March 6, 2017 meeting*
Turtle Crossing Chapter 40 B Permit- Request for Modification
127-129 Newland Street. Assessor's Map 2, Lot(s) 4 & 5

Turtle Crossing, LLC Comprehensive Permit dated January 10, 2008, as modified by the June 18, 2012 Modification to Comprehensive Permit, by the May 19, 2014 Second Modification to Comprehensive Permit and by the January 29, 2015 Modification. Permit holder requests an extension of the date the Permit will lapse if building permits are not issued, from January 10, 2017 to January 10, 2019, and an extension of the date that the Permit will lapse if the Applicant has not completed construction, from January 10, 2019 to January 10, 2021.

Mr. Noel reported that town counsel had informed him that Attorney Freeman was still attempting to discuss a potential agreement with the Board of Selectmen and asked that the ZBA continue until the next meeting. Attorney Freeman offered an extension letter to the ZBA requesting further continuance and extending time for action. **Motion by Mr. Reynolds, second by Mr. Rich**, to continue the hearing to May 9, 2017 at 7:00 p.m. **All in favor (3-0). Approved.**

PUBLIC HEARING – *Continued from March 6, 2017 meeting*
Use and Dimensional Variance- Applicant for construction of a Cell Tower under the telecommunications Act of 1996, 15 South Washington Street, Assessor's map 18-150-3, R-60 Zoning District.

Applicant: Eco-Site & T-Mobile Northeast

Owner: Douglas J. Nason and Alfred R. Nason

The applicant is proposing to construct a new 125' monopole and install six (6) wireless communications antennas at a centerline height of 120' more or less, one (1) dish antenna and appurtenant radio equipment cabinets at the base of the monopole.

Applicant's counsel Richard Sousa was in attendance, along with David Maxson, Isotrope

Engineering, the Board's peer review consultant.

Mr. Maxson explains he is reviewing the need for service in terms of gaps in coverage, and has submitted a report dated March 29, 2017. (Review is located in the file #17-04A)

Mr. Maxson had asked the applicant for a 700 MHz analysis. Applicant pointed out that T-Mobile had limited spectrum at the lower frequency, which means they don't have much channel capacity there, but Mr. Maxson recommends looking at coverage at the low frequency as well as at 2100 MHz. Mr. Maxson then summarizes his report called "Application Review: Eco-Site & T-Mobile 15 S. Washington St, Norton." The applicant, Board members, Mr. Maxson, and attendees review and discuss various graphic plots of coverage and gaps in the Norton area. Mr. Maxson again suggests the Board request a 700MHz driving coverage analysis.

Applicant agrees to provide the further analysis but states that the distinction between 2100MHz and 700MHz is important as his client has the most spectrum at the higher frequency. Applicant nevertheless will provide it, and an extension of time in which the Board must act, to June 15.

Tom Noel asked if anyone else in attendance wished to comment.

Ms. Carol Smith of 161 East Main Street asked how far apart each tower could be. Mr. Maxson explained to Ms. Smith that each tower used to be as much as 8 miles apart but now can vary from 1-2 miles in order to provide coverage.

Mr. Sousa informed the board that for the next meeting he would provide plots showing 700MHz as an overlay over the 2100MHz as well as a new drive test.

Mr. Noel read Attorney Sousa's extension letter into the record stating that the applicant, Eco-Site and T-Mobile hereby extend the shot-clock and any other time limitation imposed on the Board or Town until June 15, 2017. **Motion** by Mr. Reynolds to accept extension, **second** by Mr. Rich. **All in Favor (3-0). Motion** by Mr. Reynolds to continue the hearing to May 8, 2017, **second** by Mr. Rich. **All in favor (3-0). Approved.**

PUBLIC HEARING – *Continued from March 6, 2017 meeting*

Variance- Application for Construction of a Cell Tower under the Telecom. Act of 1996,
122 West Hodges Street, Assessor's Map 34, Lot 2-0, R-80 Zoning District.

Owner/Applicant: Haskell Farm, LLC

The applicant is proposing to construct a new 145' above ground level multi-carrier monopole-style tower. Installing nine panel antennas (three antennas per sector) at the 140' AGL antenna centerline mark, extending to 145' AGL, together with related amplifiers, cables, fiber and other associated equipment.

Attending the public hearing was Attorney Dolan representing the applicant. Mr. Noel asked Mr. Maxson if Isotrope could also provide peer review services concerning the 122 West Hodges

Street application. Discussion ensued whether one tower application affects the other. Applicant and Mr. Maxson agree there is no conflict with Maxson reviewing both. Mr. Maxson states Isotrope should be able to complete its initial review and report back by the Board's next meeting.

Mr. Dolan presented results including photos of the March 25, 2017 balloon test.

Abutter Mike Beaton of 66 East Hodges Street said he was there and satisfied with what he observed during the balloon test.

A written extension was presented to the Board by Attorney Dolan to extend the deadline by which the Board must close the hearing and render a decision to June 15, 2017. **Motion** by Mr. Reynolds to accept extension letter, **second** by Mr. Rich. **All in favor (3-0).**

Motion by Frank Reynolds to continue the matter to the next meeting, seconded by Mr. Rich. **All in favor (3-0).**

General Business

Bay Road Heights Chapter 40B Permit Modification Request dated March 7, 2017.

Permit holder's representative, Paul Cusson, wrote requesting extensions of the deadlines imposed for all three phases, as cited in the letter. Permit holder granted an extension to the Board to consider the Request through tonight's meeting. The Board must decide, initially, if the requested extensions are insubstantial or not insubstantial. Brief discussion ensues, including review of town counsel's advice that a request for a reasonable time extension, without more, is usually considered insubstantial by the courts.

Motion by Mr. Reynolds to deem this an insubstantial change to Bay Road Heights Comprehensive Permit so as to allow 12-month extensions of each of the existing deadlines per the request of March 7, 2017. Second by Mr. Noel. All in favor. (2-0).

Discussion – Call for Executive Session

The Chair announced he had determined that under Chapter 30A, Section 21, the Board should enter into Executive Session to discuss strategy regarding litigation known as *Minor v. the Zoning Board of Appeals*, which concerns an appeal from a decision of the Board, because a discussion in Open Session could have a detrimental effect on the bargaining and litigation position of the Town. The Chair requests a motion to this effect, the board to reconvene in Open Session at the conclusion of the Executive Session. **Motion** to do so by Mr. Reynolds, **second** by Mr. Rich:

Frank Reynolds: yes
Butch Rich: yes
Tom Noel: yes

Motion Approved. The Board entered into Executive Session at approximately 9:21 p.m.

Confidential Executive Session Minutes Separately Maintained


The Board returned to open session at approximately 9:43 p.m. No further business was discussed.

ADJOURN:

Tom Noel made a motion to adjourn the public meeting at 9:44 p.m. Second by Frank Reynolds. All in favor. Approved.

Minutes Approved by Committee on August 8, 2017.

Respectfully submitted,



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