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**Zoning Board of Appeals
Meeting Minutes
February 6, 2018**

The February 6, 2018 meeting of the Zoning Board of Appeals was held in the Second Floor Meeting Room and was called to order at 7:39 p.m. by Mr. Thomas R. Noel, Chairman. Member(s) present: Mr. Lukasz Wasiak and Mr. Jim Tenore. Not in attendance was Mr. Frank W. Reynolds. Mr. Noel began the meeting by stating Mr. Reynolds was ill and unable to attend.

Public Hearing – 236 N. Worcester Street

MOTION was made by Mr. Tenore to continue this hearing to the next scheduled meeting on March 6, 2018 at 7:40 p.m. Seconded by Mr. Wasiak. Vote: Unanimous MOTION CARRIES

Public Hearing – Variance & Section 6 Finding, 21 Juniper Road

Applicant, Christopher Rejos/Peter and Cheryl Flynn, are seeking a variance on dimensional setbacks and a section 6 finding due to non-conforming lot size. They have proposed a plan to build a 12 x 15 addition to an existing single family home. Mr. Rejos, contractor and agent of owner, gave a brief description of the proposed plan and request for variance, which do not meet the requirements. Would like to update bedroom. Mr. Rejos distributed the plan dated October 25, 2017.

The single-family residence is a pre-existing, non-conforming use due to lot size and setbacks in an R-60 District. Christopher Retos, of NEPS Construction, the owner's agent, was present. Applicant proposes to construct a 180 sq. ft. addition onto the existing single-family residence. This is a pre-existing non-conforming use as the parcel is approximately 4,356 sq. ft. in size in an R-60 Zone. The residence is occupied by Mr. Peter Flynn. Originally submitted plan was revised dated January 3, 2018 to show existing front steps facing Juniper Road, at a distance of 16.8 feet from the property line, and an additional proposed deck and steps (12 ft. by 4 ft.) in front of the 12 x 15 ft. room addition. The construction as shown on the Plan would place the addition 18.5 feet from the Lagoon Lane setback on its Northwesterly corner, where 25 feet is required. The Proposed Addition would be 9.3 feet from the rear property line where 15 feet is

required, but this is further than the presently existing 9.2-foot rear setback to the house corner. The front steps would be no closer than 23.1 feet from Juniper Road, whereas the present steps from the existing house are 16.8 feet from Juniper Road.

Mr. Noel asked if there was anyone else was in attendance to speak in favor of or in opposition to the application as filed. There were none. Brief Board discussion ensued concerning the planned construction and existing conditions including the grade on the parcel. The Board discussed the Plan, the exiting non-conforming encroachments, and the further reduction in setback distances proposed.

MOTION was made by Mr. Tenore to approve the variance for property to what is shown on the plans dated January 3, 2018 at 7:52 p.m. Seconded by Mr. Wasiak. Vote: Unanimous MOTION CARRIES

MOTION was made by Mr. Tenore for finding the proposal will not detrimentally impact the existing non-conforming use at 7:53 p.m. Seconded by Mr. Wasiak. Vote: Unanimous MOTION CARRIES

Public hearing – 10 South Washington Street

Correspondence received from Richard Vetstein, attorney, requesting for this hearing to be continued.

MOTION was made at Mr. Tenore to continue this hearing to the April 9, 2018 meeting. Seconded by Mr. Wasiak. Vote: Unanimous MOTION CARRIES

Public Hearing – Variance, 107 Crane Street

The applicant, William D'Antonio/Catherine Headen are seeking a variance from the side setback to allow use of an in-law residence. Mr. D'Antonio, the builder, was in attendance. The owners are Mr. Michael Carlucci and Catherine Headen. Mr. D'Antonio came before the Board and stated the foundation on the property was poured 18 inches too close to the property line to avoid undermining. Mr. D'Antonio distributed a picture of the garage that is 2.2 feet away from the existing structure. This is an unattached structure next to the existing. Mr. Noel consulted Counsel and members regarding the provided plan. Mr. Noel informed the applicant the Board must see what is proposed for the property, including wetland buffer line, of proposed and existing conditions. In order to be able to approve a plan, these things need to be marked on an engineer-stamped plan. Mr. D'Antonio stated the home is a modular home, not a permanent home, and its intended use of the addition is to use it as an in-law addition. The By-law states only one residence per lot is permitted. Mr. Noel stated the Board cannot grant a use variance

allowing two residences on a single lot. Mr. Noel stated that the proposed plan, as submitted, is insufficient as it lacks detail to explain the proposal, and that the Board would be unable to grant the variance since it would technically be allowing two residences on one property. Mr. Noel is requesting a proposed plan with dimensional and content requirements. Mr. Francis Riley, 97 Crane Street, spoke. He stated this new addition will affect the abutters. Mr. Tenore stated he may have to be recused of this case as he lives at 54 crane street.

MOTION was made by Mr. Wasiak to continue this hearing at 7:10 p.m. on April 9, 2018 at 8:14 p.m. Seconded by Mr. Noel. Vote: Unanimous MOTION CARRIES

General Business

274 East Main Street Ch. 40B

The permit holder, Mr. Eastridge, gave an update regarding post-approval requirements and issues including road construction, installation of the sewer system and installation of a water main within the Town Right of Way, on-site paving, landscaping, and bonds. A bond exists for completion of landscaping work in the amount of \$728,000. A representative from BETA engineering, Scott Ridder, was in attendance. Mr. Ridder stated he completed a site visit on December 20, 2017 and followed up with an email with photos attached, in addition to the July letter and photos. Mr. Peter Freeman, attorney, was also in attendance and he stated the regulations don't require approval from the Zoning Board of Appeals for transfer of the property when the property is sold. Only agency approval is necessary, which is then acknowledged by the Zoning Board.

Mr. Eastridge has requested a release in its entirety. At a previous Zoning Board meeting, the Board was concerned whether the landscaping was substantially complete and typical of regular maintenance. BETA Engineering visited the property and evaluated the stressed plants. Mr. Ridder gave a description of his second site visit. Mr. Ridder stated it is hard to tell if plants are thriving due to the weather in December and also commented missing plants were either not planted, had died, or were substituted. Mr. Eastridge stated there were 1,900 plants on proposed landscape plan, with two dozen that are stressed. Mr. Ridder's email from July 15, 2017 read that plantings were in good shape and showed good intent.

Mr. Segal and Mr. Shapiro were in attendance and expressed concerns regarding the landscaping plan. Discussion ensued regarding the number of trees planted versus what was stated on the plans. Mr. Ridder stated he did not look at the two areas Mr. Segal is referring to, since he focused on Exhibit "C". Mr. Noel asked if BETA Engineering could go out and check these areas Mr. Segal is referring to. These trees are on red mill villages property, and not subject to Beta review. Mr. Segal stated he does not agree with the outcome between the settlement

agreement and what was planted. Participants agreed that a partial release is acceptable with \$15K to be held to replace dead and missing plants and trees. Mr. Wasiak stated he felt the Town did its due diligence by having BETA execute two site visits to ensure compliance with the proposed plans.

MOTION was made by Mr. Wasiak to move to release the existing landscaping bond in the amount of \$728K upon receipt of substitute surety in the amount of \$15k cash to replace dead and missing materials as shown on the January 7, 2018 landscape plan with BETA to report back at a later date and with \$1000 to be deposited by the owner in the peer review 53G account and for the \$15K to be held by the Town and to be released upon completion of landscaping. Motion at 9:40 p.m. Seconded by Mr. Tenore. Vote: Unanimous MOTION CARRIES

ZBA File No. 07-02A, Bay Road Heights LLC, Chapter 40B - Request for Modification

The applicant, Bay Road Heights, LLC. is seeking approval to modify the dates contained in the Zoning Board of Appeal's Comprehensive Permit Modification decision, dated April 4, 2017. The permit was already extended a number of times, as noted within the file. It was also noted in the 2017 decision that further extension requests would be disfavored. Counsel distributed a chronological timeline of events. There have been seven modifications in total, resulting in extensions totaling an extra seven years. The applicant is asking for another extension. Counsel advises that the Board could view this request as substantial due to repeated extensions and lack of evidence of progress or status of project. The recommendation is to hold a public hearing to review the record and give an opportunity to the applicant to explain and inform the Board.

MOTION was made by Mr. Tenore to deem the current extension request to be substantial within the meaning of the law due to the length of time the permit has been in existence and therefore to schedule a public hearing. Motion at 10:03 p.m. Seconded by Mr. Wasiak. Vote: Unanimous MOTION CARRIES

Bills and Warrants

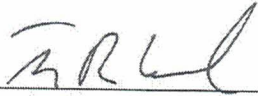
MOTION was made by Mr. Tenore to approve invoice in the amount of \$302.28, payable to Beta Group, Inc. from account 53G at 10:09 p.m. Seconded by Mr. Wasiak. Vote: Unanimous MOTION CARRIES

Adjournment

MOTION was made by Mr. Tenore to adjourn at 10:10 p.m. Seconded by Mr. Wasiak. Vote: Unanimous MOTION CARRIES

Minutes contemporaneously typed by: Kayleigh Correia, Recording Secretary.

Respectfully Submitted,



Thomas R. Noel
Chair, Norton Zoning Board of Appeals

Approved by Committee on: September 19, 2018