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**Town of Norton
Zoning Board of Appeals
Minutes of Meeting Held on May 12, 2021**

Pursuant to the State of Emergency declared in the Commonwealth of Massachusetts on March 10, 2020 due to the Coronavirus Covid-19 pandemic, the subsequent Orders of Governor Charles D. Baker, and pursuant to the Declaration of Emergency in the Town of Norton dated March 16, 2020 and the directives of the Board of Selectpersons, the May 12, 2021 meeting of the Zoning Board of Appeals was held by Remote Means, telephonically and *via* electronic visual means, with reasonable access provided for interested parties and members of the public as noticed.

The meeting was called to order at 7:00 p.m. by Tom Noel, Chair. Members participating remotely: Mr. James Tenore and Mr. David Wrenn. Replacement Board member Lukaz Wasiak is also present. Also in attendance remotely was Paul DiGiuseppe, Director of Planning and Economic Development.

Mr. Noel reviews the Governor's Order regarding public meeting remote participation. The meeting will be recorded and available to the public on the Norton Media Center YouTube page.

CONTINUED-PUBLIC HEARING-Variance

ZBA File No. 8009

Property Address: 0 Tipping Place

Applicant/Owner: Peter T Clark/Howard James F Trustee

Applicant is asking for Frontage relief from 150' to 40'.

Mr. Peter Clark, the attorney is present to talk about the application. Mr. Wrenn releases himself from the decision and will be replaced by Mr. Wasiak. Mr. Noel asks who currently owns the property. Mr. Clark answers the property is owned by the Minor Family Irrevocable Trust with James Howard as trustee. Mr. Howard is the brother of Mrs. Carol Miner who had previously applied. Mr. Noel while bringing up the plans informs the board that this is a R80 zoned property. Mrs. miner was the applicant who had originally got denied the variance in 2014. Mr. Clark states the end result is the same with the amount of frontage but the way it is getting changed is different from the 2014 application. The reason for the 2014 denial was because the board felt the applicant had not met the criteria and felt they had not looked at other options. An appeal was taken in 2014 to preserve the rights. Mr. Clark recalls they were working with Town Counsel from Copeland and Page as well as Otis Dyer the engineer who had passed away since then to figure out what other options could be done with the property. They had gone to the planning board and received a preliminary plan approval to create a Tipping Place Extension

which would add a cul-de-sac to the cul-de-sac which on paper would look like a figure eight to create frontage. The variance is being asked as it is seen as more practical to pave 20 feet wide and 140 feet in with the addition of a hammerhead turnaround for firetrucks to make easy turns. This is seen as too much for a single-family house with a driveway and would cause a financial hardship for the applicant. The Plan of Record is March 17, 2015 as it was a relocation of the lot line. Mr. Noel explains that this was a single lot that extended out to Burt Street. Mr. Noel asks when the lot was subdivided. Mr. Clark explains the lot was originally two parcels with the house on Burt Street as the first and the second parcel being the backland. When the house was sold, they wanted to create a complying lot which had 0 Tipping Place's lot line moved back. Mr. Noel asks how far back was it moved. It was moved back 135 feet on one side and 118 feet on the other side. Mr. Noel notices that the original building would not have been conforming with the amount of frontage. The house is 1.9 acres and just under three acres in the back. Mr. Noel asks when the house was conveyed from Burt Street or was it conveyed before the lot line was pushed. Mr. Clark informs the Board that it was simultaneous, that the Planning Board signed off on a form A plan for the front lot and it was in close proximity to the closing of the Burt Street house. Mr. Noel asks if they had perfected the planning board approval. Mr. Clark states they got the preliminary plan approval but the definitive subdivision plan was not submitted as the engineer Mr. Dyer had died. The mylars are done but Mr. Dyer died before they were stamped. Mr. Noel asks for clarification on what the Planning Board approved on whether it is the cul-de-sac or hammerhead driveway. Mr. Clark confirms it was both as part of the preliminary plan which was a street extension plan. Mr. Clark explains the cul-de-sac was made for frontage and asked for a waiver of the subdivision regulations down to the 20-foot-wide paving in the hammerhead. This was so the applicant wouldn't have to pave the 60-foot radius cul-de-sac. Mr. Noel asks if this would change frontage as the cul-de-sac looks to be on the applicant's property. Mr. Clark states it was done as two separate lots as the cul-de-sac and driveway are its own lot and the rest of the original lot for the house is now its own lot. The street extension was the most the Planning Board could do to extend the frontage which was the hammerhead, the second cul-de-sac, and the foot tall concrete berm. Mr. Noel asks if the street extension will be deeded to the town of Norton. Mr. Clark had agreed at the Planning Board Meeting to keep the driveway private and it would be on a single deed that the future homeowner would be responsible for the maintenance of the street extension. Mr. Noel asks if the street extension now is on private property. Mr. Clark says it is a 12046 square no road extension. Mr. Noel states under the Zoning bylaws that the dividing line is from the second cul-de-sac and extends to the future house lot which would still be 40 feet of frontage. Mr. Clark disagrees stating that with the cul-de-sac the radius is 60 feet and a length of 306.32 feet with a delta of 292 degrees, 30 inches, which would be the new frontage on paper. Mr. Noel explains that the first cul-de-sac going into the second would be the new frontage putting it at forty feet. Mr. Clark states that the ZBA had previously done this on a property on the corner of Power and Olympia where the frontage was just under 25 feet. Mr. Wasiak agrees with Mr. Noel's frontage decision. Mr. Tenore asks to confirm if this application is similar to the original submission as it has the same amount of frontage. Mr. Noel asks why they have both a second cul-de-sac and a hammerhead if they both serve the same purpose. Mr. DiGiuseppe asks if Mr. Clark had gotten a preliminary subdivision endorsed by the Planning Board but they never approved a definitive

subdivision plan. Mr. Clark confirms the definitive plan was not submitted because the engineer died. Mr. DiGiuseppe explains to the board that there was no final confirmation with the Planning Board which means that the plan is still in draft and is getting approval from the Zoning Board before getting a Definitive Subdivision Plan. Mr. Clark states the title came into the Minor family as two separate lots. Mr. Noel asks if the applicant sold off parcel one knowing that parcel 2 was not buildable. Mr. Clark states that at the time the Town had accepted the 40 feet of frontage which is why they didn't close off the entrance to the cul-de-sac. Mr. Noel agrees that access to unimproved property is one thing but having a single-family household there is different. Mr. Noel asks if the finished portion was approved prior to Zoning. Mr. Wasiak agrees with the original decision as nothing different but will give the previous decision on Power/Olympia Street a chance if it is a corner lot. Mr. Clark tries to answer the Mr. Noel's question of the hammerhead and the cul-de-sac as the cul-de-sac was paper only for the creation of the frontage and what was to be constructed was by waiver of the Planning Board to build only the 24-foot-wide driveway. Mr. Noel confirms with Mr. Clark that it is a driveway with a 40-foot frontage. Mr. Tenore agrees with the plan that a driveway would be better than having a second cul-de-sac but the problem Mr. Tenore has is the plan didn't go through all the way with the Planning Board. Mr. Clark asks if it would be appropriate to come back to the Zoning Board of Appeals to show a definitive plot that shows that only the driveway will be built. Mr. Tenore says to go ahead with the approved plans. Mr. Noel is unsure if that could be reapplied or if it could go forward as it is.

Mrs. Sandy Ollerhead of 14 Tipping Place, has concerns of privacy as they are the neighboring yard. Mr. Noel asks when she acquired her house. Mrs. Ollerhead states she bought the house in 2009 and the building was there from the late sixties. Mr. Noel asks Mr. Clark to write a letter of extension. Mr. Clark complies with the request.

Motion to continue this application to the meeting of June 16, 2021 at 7pm was made by Mr. Tenore and seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

CONTINUED- PUBLIC HEARING-Variance

ZBA File No. 8317

Property Address: 30 Keith Drive

Applicant/Owner: Cody & Calista Thompson

Applicant is asking for a Variance for side yard relief and a finding under 175-1.5(e), for an increase in non-conforming use.

Mr. & Mrs. Thompson are present to speak on the application. Mr. Noel states this is an application requesting a variance for side setback relief to add an addition on the south side of the property however it is an undersized lot with approximately 30,000 feet of area and frontage is 64 feet. The building was made as part of a Planning Board Special Permit and the permit allowed reduction in frontage which was allowed within the limits allowed by the special permit.

Mr. Noel asks when Mr. Thompson had acquired the house. Mr. Thompson states he had moved in in 2019 and the special permit had built the house in 1999. Mr. Noel reads the plan stating the addition would bring the extension to a point 11.3 feet and the other corner would be closer at 10.89 feet as shown on the plan of record whereas now the existing dwelling is 16.6 feet off the side property line. Mr. Thompson confirms that this would be the case. Due to the building being a non-conforming but not pre-existing building that the application would require a variance and a finding from Mr. Noel's understanding. Mr. Noel asks if the extension is an enclosed building or if it will be an extension of the pool deck. Mr. Thompson states that the addition is a full structure with a one-story addition and a basement. Mr. Noel asks if the board goes off of the zoning setback minimum or the frontage allowed by the Special Permit as the variance is crossing both setbacks. Mr. Noel asks how close they are to the house at lot 14. Mr. Thompson states it is farther north on the lot than the position of their house so it won't impact them. Mr. Wasiak asks if they have any plans to use this area as an in-law apartment. Mr. Thompson states it will not be a full apartment, it will have a kitchenette and maybe a fridge that will help out Mrs. Thompson's mother in the event she does need an assisted living space but in the interim it'll be a recreational area with hardwood tiles. The only concern given by the Building Inspector was the septic tank and the Thompsons agreed that if the plans were approved, they'd tie into the town sewer to alleviate any of those concerns and will be working with them if there are any more issues if the plan gets approved. Mr. Tenore asks to confirm about the basement. Mr. Thompson states it is accurate but it is still unfinished but will be seven feet high at least. Mr. Tenore asks if there will be any utilities in the basement. Mr. Thompson states there will be electrical that will be tied to the existing structure.

Motion to approve the first application for variance reducing to as shown on the plan of record no less than 10.89 feet and 11.3 feet as shown on the plan of record with the condition that the applicant proceed with plans to tie into sewer is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Tenore Yes, Mr. Wrenn Yes, and Mr. Noel Yes.

Motion to approve under section 1.175 - 1.5e that the alteration of this non-conforming use would not be substantially more detrimental to the surrounding environment in terms of light, noise, and the other factors is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.

CONTINUED-PUBLIC HEARING-40B Comprehensive Permit

ZBA File No. 20-14

Property Address: 253 Mansfield Avenue

Applicant/Owner: 253 Reservoir, LLC

Applicant seeks to construct a 60-unit rental apartment building including 15 affordable housing units.

Ms. Lynne Sweet is present to speak on the application. Ms. Sweet informs the Board that there have been no submissions since the last meeting in April. The order of conditions was issued by

the Conservation Commission. The Civil Engineer, Mr. Kameron Campbell has met with the Water and Sewer Board. A comprehensive permit draft has been given out and since April has received comments from Norton's Affordable Housing Consultant. Ms. Sweet confirms that there were only minor changes asked by the Conservation Commission in regards to the engineering plans. Mr. Noel brings up that there an update for a signage rendering showing the dimensions. Mr. Campbell states he met with the Water and Sewer commission and they don't seem to have any major concerns with the plan. They did have a concern with connecting the oil/water separator to the town sewer and Mr. Campbell states they haven't made a decision yet and could change the oil/water separator to a tight tank which wouldn't be seen as a significant change to the plan but is still needed under the plumber's code for building parking. Ms. Sweet states they have a comprehensive permit that has condition that they need water and sewer approval. Mr. Noel asks if the applicant is looking for any fee waivers. Ms. Sweet states they do not need to have a fee waiver. Mr. Campbell states that the application has been proved by the Fire Department. Mr. Noel asks if there were plans to put in a bus shelter. Ms. Sweet sates there wasn't just a place for people to wait at for a bus stop. Mr. Campbell shows on the map that the bus stop would be placed next to the emergency access point in a paved area. Mr. Noel asks if there is a gate on the emergency access point. Mr. Campbell confirms. Mr. Noel asks if there is any space for a bus shelter. Ms. Sweet feels that the safest place for a shelter would be the garage which is nearby. Mr. Tenore states in term of sight line that the roadway next to the bus stop would be used for only emergency access which Ms. Sweet confirms. Mr. Tenore asks if the bus stop could be moved east of the sight line. Ms. Sweet states they do not wish to alter the emergency access point. Mr. Campbell explains that the area in red is landscape in the summer and will be used to for snow storage in the winter. Mr. Tenore suggests putting the bus shelter by the gate before reaching the sightline. Ms. Sweet doesn't think they will be able to satisfy the request brought with the shelter without altering the efficiency of the emergency exit. Mr. Noel requests the applicant look into the possibility of adding a bus shelter. Ms. Sweet asks if it can be a condition that the applicant will explore if it is safe to put in a bus shelter. Mr. DiGiuseppe suggests to the board that they should go through the draft decision before closing the hearing.

Mr. Noel asks if the applicant agrees with the changes made by Mrs. Judi Barrett the consultant on 40B projects. Ms. Sweet accepted the edits made except for Local Preference which is a requirement made by Mass Housing get proof from the municipality that they in essence deserve or to receive a local preference on the project in paragraph B4. Mass Housing would review the Affirmative Fair Marketing Plan, they require a letter from municipality state why a local preference is needed. Ms. Sweet explains that an applicant that is within the local municipality would be in two separate lottery pools and that the Mass Housing can be up to 70% of affordable housing have a local preference. Mrs. Barrett talks about her edit stating that she does agree that is not within the power of the applicant but it also isn't in the power of the ZBA to grant. Mrs. Barrett wants the condition to be submitted to the town Planning Department a copy of the affirmative fair housing marketing plan for review and comment no later than two weeks before they submit it to Mass Housing so the town can write up the letter to submit to Mass Housing so it can be written with all the information. Ms. Sweet states that in the previous paragraph, B3 that the applicant shall obtain approval by the subsidizing agency of an affirmative fair housing plan

prior to the rental of any affordable. Which would leave the applicant responsible for the plan and the following paragraph is saying that if they want a local preference, we would need your assistance which Mrs. Barrett states doesn't have to be included in the ZBA's decision.

The Attorney for the applicant Mr. Christopher Alphen is fine with summarizing the condition and then combining the two paragraphs. Mr. Noel asks who took out the property management plan from the decision. Ms. Sweet states it was a leftover from the base decision that had low-income housing tax credits which is different from the current project and was removed. Mr. Noel asks about the edits on G6 and G7 and if they will include an elevator in the plan this is confirmed by Ms. Sweet. Mr. Noel asks if this project will need a generator or emergency backup. Ms. Sweet states the prior decision was from elderly housing which required backup but it is not required on a family building. Mr. Noel asks if G10 was also removed as it talks about a card access system. Ms. Sweet informs the board that G10 was also from the previous decision. Mr. Noel and Mr. Tenore think that some of the security could be implemented into the plan. Mr. Tenore asks if there will be a key fob to get in and out of the building and the information will be stored in a computer and the applicant confirms. Ms. Sweet tells the board that unlike the previous decision there will not be a live-in superintendent watching all the information. There will be a Knox box on site to give access to fire and police if they need the access. The applicant states that the building will have information logged as to who and when the fob keys are used as well as a camera system, fobs will be turned off when people move out, and the police will be given a code to access the information from the computer. Ms. Sweet expresses concerns about the inclusion of security language in the decision as it hasn't been developed yet. Mr. Noel asks about J8 and if it was written in by Mrs. Barrett. Ms. Sweet believes that Mrs. Barrett had written it and was accepted. Ms. Sweet states that they had provided a list of waivers with the application. Mr. Noel is going to talk about signage and whether or not it needs a waiver. Ms. Sweet took it out just to be safe as there were other factors that might change.

Motion to continue this meeting to June 16, 2021 at 7:05 was motioned by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.

PUBLIC HEARING-Section 6 Finding

ZBA File No. 8856

Property Address: 43 Bay Road

Applicant/Owner: Douglas St. Germain

Applicant is asking for a finding under 175-1.5e for an increase in non-conforming use.

Mr. Douglas St. Germain and Mrs. Lisa Schiffer is present. Mr. Noel asks if Mr. St. Germain is the owner or contractor. Mr. Germain states he is the contractor and the owner is Mrs. Lisa Schiffer who is also present. Mr. Noel begins reading the building information which includes the property is in the R80 zone, frontage is 116.6 feet, total area is 21,000 square feet which makes it an undersized lot with insufficient frontage. The property was acquired in November 2007. The plan was submitted on April 7, 2021. The plan shows an existing house. Mr. St.

Germain explains the plan will add a two-story addition to the front of the house, there is an existing sun room that will be removed. Mr. Noel asks which side is the front of the house. Mr. St. Germain states the front of the property is facing Bay Road. The addition is going to be in place of the sun room about 22 feet out and 21.5 feet wide. Mr. Noel asks about the deck on the front of the building. Mr. Noel reads the distance from the road is 59.3 feet to the deck. Mr. Noel finds this application under 1.5e and a variance relief is not needed. Mr. Noel reads the house is 34.4 feet away from the side yard. The new construction will have it 35.8 feet which is within the side yard footage of 35 feet. Mr. Noel asks if the shed is a pre-existing structure. Mr. St. Germain confirms that it is. Mr. Noel states that it now changes the side yard boundary to 17.6 feet and the addition doesn't encroach on any of the setbacks. Mr. Noel asks if the Building Commissioner found this to be a 25% percent increase which Mr. St. Germain confirms. Mr. Noel asks what the intrusion is on the plan. Mr. St. Germain states it is a Bulkhead. Mr. Noel asks if the mailbox is on Sunhill Road, would that be the front of the building as the mailbox is on that side. Mr. DiGiuseppe had spoke with Mr. Nicholas Iafrate, the building commissioner and thought that an emergency access point and would like to discuss it with the Fire Department so there could be an access point on the Bay Road side of the house. Mr. Tenore asks if the bay road side is hilly. Mr. St. Germain confirms it is hilly on the Bay Road side but not so hilly it is inaccessible. Mr. DiGiuseppe answers Mr. Noel's question that the Fire Department would be the ones to declare addresses. Mrs. Schiffer confirms Bay Road is the address. Mr. Noel asks for when the building was constructed. Mr. DiGiuseppe looks to the accessor's map which reads the house was built in 1940 making it a pre-existing non-conforming house.

Motion for finding under 1.5e that the proposed extension and alteration will not make this substantially more detrimental to the area in terms of light, noise, and the other factors enumerated is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.

PUBLIC HEARING-Section 6 Finding/ Variance

ZBA File No. 8796

Property Address: 42 Evergreen Road

Applicant/Owner: Cameron Bagherpour

Applicant is asking for a finding under 175-1.5e and Variance relief to demolish the existing structure and build a new single-family house

Mr. Michael Larkin is present to speak as well as Mr. Cameron Bagherpour, who both own the property through an LLC. Mr. Noel reads that this application is in the R60 residential zone, it is non-conforming due to an undersized lot approximately 12,000 square feet, frontage of 120 feet, and the applicant is seeking a section 6 finding that the raising and reconstruction shown on the plan would not be substantially more detrimental to the neighborhood than the existing non-conformance which tracks the language of 1.5e.

Mr. Larkin shows on the existing foot print that there is a single-family cutter style which based

on the accessor's card was built in the 1940s, it has a two-car garage, a deck, and also another accessory shed on the property. The house is connected to Town Water and Sewer, the lot complies with a lot area, a lot width, and the front yard setback which is 40 feet in this district. The total square footage of the footprint of the existing dwelling, garage, and shed is approximately 1,331 square feet. The building is in low condition existing, the low-quality condition needs to be replaced. The applicants are looking to demolish the single-family dwelling and build another single-family dwelling. Mr. Noel asks if the garage will also be demolished. Mr. Larkin confirms that the garage will also be demolished as well as the existing deck. Mr. Larkin is planning on having the new single-family dwelling pushed five feet further from the street, meet the side yard setback, and the rear setback which is 35 feet. The new family dwelling will take it from 1331 square feet to 1095 square feet. There was talk about bringing the house back to 40 feet but a sight line along the street would look better as it is closer to the distance from the street with the neighbors. The Neighbors were shown the plans and what the new single-family dwelling will look like. Traffic and Parking should not be impacted as it is an existing property.

Mr. Noel states that 25 feet would require a front setback variance as the proper setback is 40. Mr. Noel asks if the house could have a 40-foot setback. Mr. Noel wishes to have the existing house setbacks on the plan. Mr. Tenore asks what a Section 6 finding would be. Mr. Noel states it was the old name for a 1.5e finding. Mr. Larkin shows on google Maps the distance the neighboring houses have with how close they are to the street showing they are also around the same distance.

Mr. Matthew Cicione of 23 Balsam Road asks the height of the building. Mr. Larkin believes the height is going to be about 33 or 34 feet with two stories of it being living space and the bottom floor being the garage.

Motion to close the public hearing is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.

Motion for a Variance of reduction from the required 40-foot front yard setback to 25 feet for the front yard setback as shown on the plan of record which is dated March 26, 2021 is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.

Motion under Section 6 or 1.5e that the alteration as shown on the plan of record would not be more detrimental to the area than the existing construction is made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.

General Business

Mrs. Nicole Cuneo, the administrative secretary has left the position and the ZBA state they wish her the best. For the time being Mr. DiGiuseppe will be taking over her duties.

Meeting Dates


Future meeting dates will be June 16, July 14, and August 18.

Adjournment

Motion to adjourn at 9:40 pm was made by Mr. Wrenn and seconded by Mr. Tenore. Roll Call; Mr. Wrenn Yes, Mr. Tenore Yes, and Mr. Noel Yes.

Minutes contemporaneously typed by: Bryan Carmichael, Administrative Secretary for the Planning and Zoning Board of Appeals.

Edited and Respectfully Submitted,



Bryan Carmichael

Administrative Secretary, Norton Zoning Board of Appeals

Approved by Committee on: September 14, 2022

