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**Town of Norton
Zoning Board of Appeals
Minutes of Meeting Held on July 13, 2022**

The July 13, 2022 meeting of the Zoning Board of Appeals was held in person at the Norton Media Center and remotely via the ZOOM platform, provided for interested parties and members of the public as noticed.

The meeting was called to order at 7:13 p.m. by Tom Noel, Chair. Members participating were Mr. Lukasz Wasiak and Mr. James Tenore. Also, in attendance is Zoning Board Secretary, Bryan Carmichael and Building Commissioner, Nicholas Iafrate.

The meeting was recorded and made available to the public on the Norton Media Center YouTube page.

Public Hearing – Variance

ZBA File No. 15268

Property Address: 19 Shelly Road

Applicant/Owner: Christopher Irvine

Mr. Christopher Irving is present to speak on the application. Mr. Noel reads on the application that the residence is a pre-existing non-conforming single-family residence in a R-40 zone. They are proposing an addition of 1045 square feet. It is non-conforming because it is an R-40 and has just over 33,000 square feet on the lot and it doesn't fall under the exception that is new under 1.5e because it is more than a 25% increase in livable space area. Mr. Noel states that this project falls under 175-1.6c an increase in non-conforming nature or increase in habitable floor area by 25% or more in the event the Building Commissioner determines the reconstruction, extension, or alteration of a non-conforming single residential structure increases the non-conforming nature of the structure. The Zoning Board need to determine whether the extension or alteration will be more detrimental to the neighborhood in which the structure is located than the existing non-conformance.

Mr. Wasiak asks what the living space will be used for in terms of livable space. Mr. Irving states it will be three bedrooms and a bathroom. The walls will come out of the existing house and it will become a living room and the three bedrooms will be moved into the addition. Mr. Noel asks if it overtakes the deck. Mr. Irving states that it is a six-inch deck. There would be no variance just a setback requirement. The setback with the proposed addition would have a setback of 33 feet and would have to go on the side of the house because of the septic system on the other side and it is within the setbacks. Mr. Noel asks if the applicant knows when the house

was built. Mr. Irvine states he believes it was 1983. Mr. Noel states that it isn't pre-existing non-conforming. Mr. Noel states that the decision is whether the extension as shown which doubles the floor area is more or less conforming.

Motion to close the Public Hearing is made by Mr. Tenore and seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Tenore Yes, and Mr. Noel Yes.

Motion to approve the variance under the Zoning bylaw 175-1.6c that the plan on record will not render the property more non-conforming than what is already there is made by Mr. Tenore and seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

Public Hearing – Variance

ZBA File No. 15383

Property Address: 1 Gilbert's Way

Applicant/Owner: James & Bethany Fleming

Mr. James Fleming is present to speak on the application. Mr. Noel reads the application which states that the applicant is seeking to get a variance for the front yard setback to be released from 40.5 to 30 feet in order to construct a new porch. Mr. Noel states that the plan that is in the file is from 1999 and that the plan was not drawn with the setback distances and was not the plan drawn up for sewage disposal location as built. Mr. Noel asks if this is the plan the Building Department was presented with. Mr. Lafrate states it was and that there may have been a discussion and was directed to come to the Zoning Board for the proposal. Mr. Noel states that the application states it is from frontage but the variance is for a front yard setback requirement. In the current zoning it is 40 feet front yard setback. The plan however doesn't show the 40.5 or the 30-foot setback. Mr. Noel states he sees that the 30 feet is in the Southeast corner and the road line.

Mr. Wasiak states there are two concerns about the plan the first is that it is from 1999 and the second is that it talks about a proposed deck on the back side of the house. Mr. Fleming states there is an existing deck there now and it is starting to rot out so it will be replaced with an all-season room deck next to it. Mr. Irving is going through Conservation now for notice of intent work. The second portion of the building is going to be a new front porch. The drawing is from Chris Kelly who had done the original survey when the building was built in 2001. A surveyor was hired that had worked with him on this who took the same drawing updated it so that survey was done in January 2022. That is how it was marked out and the dimensions were given for the deck and that is how the engineers found the 30-foot front yard setback needed a variance. Mr. Noel asks if the original plan was amended with the front porch. Mr. Fleming states it is the original plan for the construction. Mr. Noel asks about the engineer. Mr. Fleming repeats that he had gone to Chris Kelly who plotted the plan when the house was built in 2001. Mr. Tenore explains that the plan wasn't restamped and they took the old plan from 1999 and drew in the porches. Mr. Noel states that regulations ask for a stamped plan and explains that old plans don't

work and it doesn't show the setback distances for both the existing and the proposed plans.

Mr. Fleming asks if the original plan from 1999 is needed. Mr. Noel states he doesn't need that plan. Mr. Noel states that Mr. Kelly would understand what is being asked if the bylaw was shown to him. Mr. Noel states that the plan has to show the setback from the existing structure to the road for all setbacks and then the plan showing the porch drawn on should show the distance measured from the road as well. An engineer has to determine the front yard setback from Gilbert's Way and stamp the plan and show the Zoning Board on the plan. If granted the Board would have to say according to the plan of record and this plan isn't what the Zoning Board wants and is missing information. Mr. Noel states that due to the lack of the needed pieces of the plan he is thinking of having the applicant continue and bring in an updated plan with the needed information with an updated stamp by the surveyor or engineer. Mr. Fleming understands and explains he had a surveyor come out marked up the plan and did the drawing which is almost identical to the original existing dwelling. Mr. Tenore states that the Zoning Board is looking for a plan that shows the deck that is being proposed and then from the deck the yardage from the deck to Gilbert's Way.

Mr. Wasiak explains that the setbacks are on the plan, except for the existing setbacks to Gilbert's Way. The existing front stoop is also on the plan at 35.7 feet so there is the 30-foot setback but not the existing setback in the other corner. Mr. Noel asks where the 35.7 feet is being measured to. Mr. Iafrate points out to Mr. Noel where the arrow is pointing from the corner of the proposed steps to the road as there are no drawn lines for the setbacks. Mr. Iafrate confirms there are no setbacks drawn of the existing building to Gilbert's Way. Mr. Wasiak states he feels comfortable just knowing the proposed setbacks. Mr. Noel states that normally the Board does ask for it and, in this instance, will ignore it and write it in that it shall no be closer than 30 feet at the south eastern corner of the proposed addition. Mr. Wasiak explains that the arrows may have been from the program that if stretched out enough will point in the opposite direction and states he would've liked to have had an updated engineered stamped date. Mr. Noel states that is the purpose of the engineered stamped plans to have that information and that the applicant has told the Board that the engineer had drawn in and asks the Board if they are comfortable with this as what is normally required is the existing and the proposed distances both shown. Mr. Wasiak states that if this was an extension of the dwelling or apartment, he would be more stringent but it is a porch and feels comfortable with it.

Mr. Fleming states that they had updated the plan's date which had been presented to the Conservation Commission. Mr. Noel asks if that plan can be given to the Zoning Board. Mr. Fleming states he can email it to Mr. Carmichael. Mr. Noel asks if the distances are all the same on the plan already submitted to the Zoning Board and the one that was given to the Conservation Commission. Mr. Fleming states that it is the same and they just had to change the location of the sillcock but it wasn't moved too far. Mr. Noel states that the Board can accept it for the purpose as normally this wouldn't be. Mr. Noel states this would require a variance from 40 to 30 feet frontage setback in a R-60 zone and can substitute the plan of record when the updated plans do come in. They will not be closer to the setbacks as depicted on the plan given.

The wetlands show that this is a needed variance there is wetlands in the southern part of the lot and there isn't enough room on the North side of the lot. Mr. Noel states that the applicant has shown hardship on this project.

Mr. Tenore motions to close the Public Hearing and is seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

Mr. Tenore motions for the porch to be no closer than 30 feet from the existing 45 feet as shown on the plan to the southeastern corner of the lot seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

General Business

Mr. Carmichael had prior to the meeting emailed Mr. Noel what his thoughts were for bringing back 6 Todd Drive for a modification. Mr. Iafrate states that it was a detached garage. Mr. Noel shows the decision and the proposed modification and asks the Board what they should do about it. Mr. Iafrate explains that the applicant had applied for the variance and they have to make a modification to the garage direction for when they were digging some test pits the soil conditions weren't conducive for the garage as on the plans. The garage would be moved further into the back behind the house as opposed to the side of the house. Mr. Noel asks if it is still detached. Mr. Iafrate confirms that it is and the size of the garage is still the same. Mr. Iafrate continues that the decision was made based off of the initial plan and location and had Mr. Carmichael email Mr. Noel to know if they would want another ruling on it because it is different from the plan that was approved. Mr. Iafrate states that it is a change and alteration from what was approved. Mr. Tenore state they have concerns about the noticing of the change. Mr. Noel agrees as they don't know if the neighbors would have a problem with it and what other uses the property has. Mr. Iafrate agrees which is why he had asked the Board's opinion. Mr. Tenore states that even though there was no opposition as stated in the initial decision that this is a significant enough change to want to have the application noticed again. Mr. Noel states that he feels like they have to send out notices and that Tow Counsel has allowed the Zoning Board to make corrective decisions which are for mistakes written in the decision which this application doesn't fit into. Mr. Wasiak seeing where Todd Drive is doesn't find a neighbor issue but sees the application as a protocol issue. Mr. Iafrate states that is what it is as this was already approved upon just the soil conditions aren't conducive for a building which might be showing a hardship there. Mr. Noel states that the decision was for a 1.5e finding. Mr. Iafrate states this is so the plan matches the work that will be done. Mr. Noel states that the applicant will have to refile the application and asks what soil has to do with foundation. Mr. Iafrate states that different soils have different compact levels and the way the building is being proposed, the soil might not be suitable to hold the weight of the building for their foundation. Mr. Noel asks for the applicant to refile for 6 Todd Drive and try to get on the August 10th meeting.

Mr. Carmichael states that August 10th is the last meeting date scheduled and that there should be more put on the agenda. Mr. Tenore states he may not be present during the month of October.

Mr. Noel states he will have to talk to Town Counsel about it as there may be quorum issues in the future. September 14th will be the next meeting after August and will make more meeting dates at the August meeting.

Mr. Carmichael presents the Zoning Board with three bills. Two bills for Horsley Witten's peer review of 195 Mansfield Avenue and one for the Sun Chronicle.

Mr. Tenore motions to approve the movement of funds for the first Peer Review of 195 Mansfield Avenue and is seconded by Mr. Wasiak. The Zoning Board votes all in favor of the transfer of funds.

Mr. Tenore motions to approve the movement of funds for the second Peer Review of 195 Mansfield Avenue and is seconded by Mr. Wasiak. The Zoning Board votes all in favor of the transfer of funds.

Mr. Tenore motions to approve the payment of the overdue Sun Chronicle bills and is seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

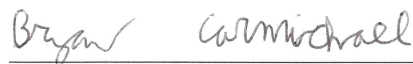
Two sets of minutes were submitted April 13th and May 11th and approved by the Zoning Board of Appeals.

Adjournment

Motion to adjourn at 7:56 by Mr. Tenore and seconded by Mr. Wasiak. The Zoning Board of Appeals all vote unanimously to end the meeting.

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: June 21, 2023



Thomas R. Noel, Chair