

Town of Norfolk
 Zoning Board of Appeals
 One Liberty Lane
 Norfolk, MA 02056

July 5, 2017

Zoning Board Members	Others
Michael Kulesza –Chairman ----- Absent	Amy Brady – Administrative Asst. - Present
Robert Luciano –Vice Chairman --- Present	Dan Hill – 40B Attorney
Christopher Wider – Clerk ----- Present	
Joseph Sebastiano –Full Member --- Present	
Donald Hanssen – Full Member ---- Present	
Devin Howe - Associate Member --- Present	
Associate Member – Vacant	

The duly posted meeting of the Zoning Board of Appeals convened at 7:11 P.M. in the Community Room at the Norfolk Public Library. Mr. Wider announced that this meeting was being audio and video recorded, and that he would be chairing in Mr. Kulesza’s absence.

PUBLIC HEARINGS:

2 Needham St - Variance Request: Mr. Sebastiano read the public notice into the record. Present was Robert Wooding, applicant.

Plans presented were entitled “Foundation As-built Plan, 2 Needham Street, Norfolk, MA,” prepared by O’Driscoll Land Surveying, Co., dated 4/3/17, revised 6/7/17.

Mr. Wider recognized Mr. Wooding, who gave an overview of the project to date, stating that he had appeared before the Zoning Board of Appeals for a Special Permit to build a dwelling on this property, which was granted. The plan approved by the Board at that time (entitled “Certified Plot of Land, 2 Needham Street, Norfolk, MA, prepared by O’Driscoll Land Surveying, Co., dated 7/11/15, revised 10/27/16,) did not reflect a porch or deck. Mr. Wooding stated that plans depicting a front porch and rear deck had been shown to the Building Department, and he had been advised that the front porch needed to be on footings, not a foundation, and the rear deck could only be 6’ x 8’, not the 8’ x 16’ shown on those plans. After the house was built, including the front porch, Mr. Wooding was informed by Bob Bullock, Building Inspector and Zoning Officer for Norfolk, that the porch was not in compliance with zoning bylaws. After some discussion, it was determined that there had been some miscommunication. In discussing the current plan with the applicant, it was not immediately evident to the Board exactly which part of the porch or deck was noncompliant, and Mr. Wooding stated that he was not sure either. Mr. Wider suggested continuing the meeting until a day that Mr. Bullock would be available for discussion/clarification. Mr. Sebastiano made a motion to continue the hearing to July 19, 2017, at 7:15 P.M.; Mr. Hanssen seconded the motion; the vote on the motion was 5-0.

17 Lawrence St – The Preserve at Abbyville and Abbyville Commons – continuation - Present were Thomas DiPlacido, applicant; Rick Goodreau, Engineer, United Consultants, Inc. (UCI); John Smolak, Smolak & Vaughan, LLP; Mike Zavalia, Engineer, BETA Group; Dan Hill, Daniel C. Hill Law Offices; Kaitlyn Baptista, Daniel C. Hill Law Offices.

Plans and materials presented were entitled "The Preserve at Abbyville, Revised Roadway & Lot Layout Plan, Norfolk, MA for Abbyville Development, LLC," dated 6/30/17, prepared by UCI; "The Preserve at Abbyville, 1B – 1 Plan, Norfolk, MA for Abbyville Development, LLC," dated 6/28/17, prepared by UCI; "The Preserve at Abbyville, Groundwater Flow Plan, Norfolk, MA, for Abbyville Development, LLC," dated 6/28/17, prepared by UCI; chart entitled "Street Widths, The Preserve at Abbyville and Abbyville Commons," prepared by UCI.

Mr. Wider began by recognizing Mr. DiPlacido's team. Atty. Smolack began by reviewing some documents submitted since the last meeting, on June 7, 2017, and responses to concerns raised at that time: Activity Use Limitation Summary, dated June 12, by IC Environmental Management Co/ a project review request from NHESP, dated June 12, 2017; fire chief comment letter dated June 16, 2017; letter from Atty. Smolack dated July 5, 2017, providing links to impact studies discussed at the last meeting, and summarizing progress on various issues raised at that meeting. Atty. Smolack referred to the June 21 site visit that had been scheduled at the last meeting; and to a meeting on June 15 between the applicant's team and the Fire Chief, resulting in the letter referenced above. Based on the Fire Chief's letter new plans were being submitted tonight; presented tonight also would be information on phasing and earth removal. Atty. Smolack stated that the applicant's team had met with the Department of Public Works regarding Lawrence Street and the bridge, and information would be provided on that. Atty. Smolack stated that the applicant had received a Peer Review Letter from BETA Engineering, dated June 30, 2017, and responses would be provided tonight. Atty. Smolack stated that a Notice of Intent would be filed with the Conservation Commission, once it was clear that a plan was nearing approval. Regarding easements, restrictions and covenants governing maintenance of the roadways, and the development of a Homeowners' Association, Atty. Smolack stated that based on conversations with the town, the roadways could be presented for acceptance by the town as public roads. Atty. Smolack addressed open space and NHESP priority habitat, which will be addressed as hearings progress. Regarding the dam in the pond, Atty. Smolack stated that Mr. DiPlacido has retained a specialized engineer to evaluate its structure and integrity. Atty. Smolack turned the hearing over to Rick Goodreau, Engineer.

Mr. Goodreau began by going through comments from BETA's June 30 letter, as well as changes made to the design based on conversations with the town. Based on discussions with the Fire Department, roadways had been revised, creating loops, and eliminating or revising cul-de-sacs. Pavement and roadway widths were submitted. Regarding comments #1 and #2, Mr. Goodreau stated that in some cases, waivers would be requested, and noted that some roadways would be one-way. Comment #4 has been responded to with redesigned roadways based on the Fire Chief's comments. Regarding comment #6, Mr. Goodreau stated that they had endeavored to work with the original topography, while also maintaining relatively flat intersections. Comment #7 referred to the Elliot Boulevard connection to town-owned property; Mr. Goodreau responded that it was included for the town's convenience, and could be removed if directed by the Board. Addressing comment #8 regarding Title V and groundwater flows with relation to neighboring wells, groundwater flow studies were performed, and it was determined that groundwater flowed to the southeast, toward the tail race and away from properties. When Mr. Goodreau indicated that he had been informed that properties on Bush Pond Road were on town water, the audience disagreed, and Mr. Goodreau said that he would look into it. Regarding comment #9, Mr. Goodreau explained the reasoning behind the design, and reviewed testing that had been done. Mr. Goodreau reviewed how water flowed to the tail race area, and therefore did not continue to the AUL area (comment #12).

Mr. Goodreau wrapped up by stating that all bullet items in the June 30 Peer Review letter would be responded to, but wanted to highlight the dozen or so already covered in the time since receiving the letter.

Mr. Zavalia responded to the items referred to by Mr. Goodreau. Regarding comments #1 & 2, Mr. Zavalia stated that UCI has provided information necessary for BETA to evaluate the proposed design in context with the town's standards; comment #3, related to the roundabout, is part & parcel of the geometry of the site; comment #4, relating to cul-de-sacs, Mr. Zavalia observed that communication had taken place between the applicant and the Fire Chief, and roadways/cul-de-sacs has been revised accordingly; Mr. Zavalia noted that (although not in the original comments,) BETA will want to look at the turning movements for large vehicles throughout the site's roadways; comment #5, regarding cuts & fills, BETA does not have disagreement with keeping grades in the range of 2-4%, but reserves the right to keep this item open until they can see how much earthwork is involved; comment #6, same as comment #5; comment #7, regarding Elliot Boulevard, is not really an engineering comments, and needs input from the town; comments #8 & 9, related to septic systems, more information is needed, but applicant is evidently aware of the Title V requirements, and is working on gathering information; comments #10 & 11, related to the water gate valves, acknowledgement that they may be modified as changes are made to roadways; comment #12, BETA's LSP will be coordinating with the applicant; comment #13 & 14 are minor comments that will be addressed; comment #15, BETA did receive HydroCAD printouts; comments #16 & 17, related to the method of analysis, while not having a substantive impact on design, is a more standard way of looking at this; comment #18, an observation that design of infiltration basins is based on a prescriptive infiltration rate that is substantially more conservative than the field-observed rates; comments #19-21, related to particular elements of stormwater, it appears there are some modeling inconsistencies that can be readily resolved by the applicant, and should have no substantive effect on the stormwater design; comment #22, related to the location of one infiltration basin, will need to be located to an independent, undeveloped lot; comment #23, related to access to the infiltration basins for purposes of maintenance needs to be addressed; comment #24, related to size and location of one of the forebays needs to be addressed.

Mr. Zavalia wrapped up by saying that from a Civil/Site standpoint, there are questions, some of which have been answered; additional review will be necessary as the design evolves; regarding stormwater, no "fatal" flaws were noted, the approach is conducive to, and seems to work with, the characteristics of the site. Upon questioning from Mr. Wider, Mr. Zavalia indicated that the most important items to be addressed in the short term including finalizing the proposed roadway layout and associated elements, such as stormwater management and utility location. In response to another question from Mr. Wider, Mr. Zavalia responded that his feeling was that analysis will show that groundwater moves away from the wells that were discovered tonight to exist on Bush Pond Road. Mr. Zavalia further noted that it may be advisable for the Board to request a 3-D representation of the site.

Mr. Wider turned over comments to Dan Hill. Atty. Hill recommended that the town's peer reviewer go through the waiver list before the next meeting. Atty. Hill asked for clarification on the NHESP status, and Atty. Smolack responded that the NHESP has changed their mapping, and the habitat area previously indicated on their maps, is no longer there. Atty. Hill asked the applicant to be more specific on which wetlands bylaws they were requesting waivers for; Atty. Smolack responded that they would look into and provide a more specific waiver request list. Atty. Hill asked if the Board had input from the Planning Board regarding the waiver list; the Planning Board chairman, John Weddleton, who is also the Conservation Commission chairman, being in the audience, responded. Mr. Weddleton first stated his displeasure at the "blanket" wetlands waiver request, and referred to the expired ORAD for this site, noting that there is currently no legal wetlands delineation of the site. Mr. Weddleton asked if there was any drainage or discharge to the resource area, to which Mr. Goodreau replied that there is not. Mr. Weddleton stated that he is not inclined to accept a waiver for any wetlands bylaws at this point in time. From a Planning Board perspective, Mr. Weddleton stated that he didn't think enough weight had been given to the cuts and fills. Mr. Howe asked for clarification on which state and local bylaws can and cannot be waived, and Atty. Hill responded; if the town does not approval waiver of a particular bylaw, onus shifts to the applicant to show the need for the waiver in order to make the project work

economically, at which point onus shifts back to the ZBA to show that the waiver would result in a severe effect, such as environmental, health, safety, etc.

In response to Mr. Weddleton's comments regarding Conservation, Mr. Goodreau noted that there are three areas that have worked proposed within the buffer zone. First, Lawrence Street, including road work and bridge work; second, the boathouse and dock area; third, on Green Circle, there is some lot grading within the riverfront area. Mr. Goodreau further noted that otherwise, no roadways or drainage systems are within the jurisdictional areas of the buffer zone, the riverfront, or land subject to flooding, based on the previous ORAD; Atty. Hill noted that because that ORAD has expired, the wetland delineations may have changed.

Atty. Hill returned to earth removal, noting that it will have an effect on the hydrology issues on this site, and stating that he felt it very important to have a cut and fill analysis done. Atty. Hill also noted his concurrence with BETA that a hydrogeological review is warranted; this is a process that can span months, and so should be acted upon quickly. Atty. Hill elaborated that, under Title V, a system over 10,000 gpd would require a discharge permit, and since this hearing encompasses two distinct project aspects (one being the rental units at just under 10,000 gpd, and the other being 148 distinct, single-family-home systems), that requirement may be unintentionally evaded. This fact, combined with the facts that this is in a Zone II District, and that land is being offered to the town for a potential well site, are reasons that he feels the hydrogeological review is necessary.

Atty. Smolack requested that the scope of that review be clearly defined, and stated his feeling that DEP would not consider the two projects in the aggregate. Mr. Wider requested of the applicant that cut and fill analysis and hydrogeological parameters be provided in the next few days. Atty. Hill will send a draft scope of services to the applicant. Mr. DiPlacido looked for acknowledgement from the Board that this may be an acceptable layout, before doing a full cut and fill analysis. Mr. DiPlacido noted that there will be 6 or 7 phases to the project, and that they will be looking to reuse as much material on-site as possible, drastically reducing the import trips. It was agreed to save a phasing presentation the applicant had prepared until the next meeting on 8/2/17, which will address traffic.

With the applicant's presentations completed, Mr. Wider opened the meeting to comments from the Board.

Mr. Hanssen referred to item #4 from Atty. Smolack's letter dated 7/5/2017 (Lawrence Street Improvements & Lawrence Street Bridge,) and inquired who would be responsible for paying for repairs/improvements to the bridge. Mr. DiPlacido responded that they are developing plans with the town to ensure they have adequate width up on Lawrence Street up to the entrance to Abbyville, including a sidewalk. Mr. DiPlacido stated that they are working with the DPW and the Town Administrator, and they are working to provide the town with information and engineering for a MassWorks grant. Atty. Hill asked if an engineer had evaluated the bridge. Mr. DiPlacido said that the DPW had had some preliminary work done, as had DiPlacido with their engineer, Green International. Atty. Hill asked the applicant to have additional information provided to the Board a week before the next meeting on August 2, 2017, and stated that the Board would follow up with the DPW as well. Mr. DiPlacido stated that he had a meeting with the DPW and the Town Administrator at MassWorks on July 12, and that the town had submitted a small grant to MassWorks 2 years ago for this bridge; the current grant needs to be submitted by August 4, so prior to the next meeting (8/2/17), much engineering will be done.

Mr. Sebastiano asked whether large discrepancies on the required vs. proposed street widths pertained to one-way streets, to which Mr. Goodreau responded in the affirmative. Mr. Howe made note of Mr. Smolack's statement that all roads would meet town standards, yet waivers are being submitted, and the right-of-way (ROW) and pavement width chart does not show that. Mr. Smolack responded that all road

widths are discussed with the town, and in some instances it is in the town's interest to modify the width, i.e. for public safety, or to avoid large cuts or fills, or to avoid wetlands impact, etc. Mr. Howe inquired also into the statement that roadways will comply with existing topography, yet the plans did not indicate that. Mr. Goodreau stated that the statement pertained more to the perimeter of the property, and there are intersecting roadways which require a leveling area of 2% grade for 100' in each direction, leaving very little room before that for meeting the 6% maximum grade.

Mr. Wider opened the meeting for public comment. Larry Wilson, 22 Lawrence Street, asked how much and what kind of equipment would be on site; Mr. DiPlacido responded that they will be processing some materials on site to minimize outgoing loads, but it would not be a "whole sale" gravel operation. Mr. Weddleton stated that these roads may change from privately- to publicly-owned, and roads are the jurisdiction of the Planning Board, and requested that any design plans and changes be sent to the Planning Board.

Margaret Kahaly, 11 Cranberry Meadow Road, noted that conservation concerns prevented a previous developer from completing a project in this area. An unidentified resident asked for confirmation that Lawrence Street will be included on any 3D presentations.

Mike Guidice, 6 Eagle Drive, stated that he would like any initial cut and fill analysis to be made available to the public; he stated that design plans for the reconstruction of Lawrence Street should exist and be available to the public; he asked for clarification on exactly what the applicant is willing to contribute to the reconstruction of Lawrence Street.

Keri Gillis, 7 Eagle Drive, requested to see the ProForma. Amy Brady, Administrative Assistant, will ensure all documents are available on the town's website. An unidentified resident asked when construction might begin, and was told by Mr. DiPlacido that, if approval was given in November or December, construction would likely begin in the Spring of 2018.

Atty. Hill requested the applicant provide an estimate of the quantity of material being exported, and Mr. DiPlacido responded that it would be available in the information Mr. Goodreau will be submitting.

Mike Mastro, 26 Lawrence Street, referred to the history of manufacturing on the land, and subsequent studies resulting in some reports and restrictions, and he questioned if future residents will be advised of that fact before moving in. Karen McCabe, 26 Lawrence Street, asked if the AUL would be shown on future plans and the 3D model. Mr. Goodreau answered that it is on the original site plans, and will be included in the 3D model. Mr. Mastro asked that the exact distance from the AUL to the nearest proposed property be cited.

Atty. Hill reviewed action items: applicant will provide memo/update on repairs to be done on the bridge; and an update on the grant application to MassWorks; the DPW will follow up with DEP on the same; developer will provide a cut & fill analysis, which will include an export tally; developer will explore producing a 3d model, pre- and post-construction; developer will update the waiver list to be more specific, which will be shared with BETA and the Planning Board; all Departments will be asked to submit questions/concerns to ZBA before the next meeting; Atty. Hill will draft an RFQ for a hydrogeologist, and will share that with the ZBA and Atty. Smolack; any information the applicant has on the pond should be submitted.

Mr. Wider recognized another audience member, Debbie Carr, 8 Bush Pond Road, requested confirmation that the project properties will be on town water, not well water. Peggy Bedard, 28 Lawrence Street, asked if there had been any assessment done on the use of salt, fertilizer, pesticides near the wetlands; Mr. Wider said that will be addressed at a later date.

Mr. Weddleton asked that the applicant request to be put on the Planning Board's next agenda to present the roadway plans, so that they can better comment on them. Mr. DiPlacido said that, with the ZBAs concurrence, they would be happy to do so.

Ms. McCabe asked, if the town were to say it couldn't supply water to this development, would the developer turn to private wells instead; Mr. Wider answered that the town has a responsibility to provide water to new, approved developments, and there would not be wells.

Mr. Sebastiano made a motion to continue the hearings to August 2, 2017, at 7:15 P.M.; Mr. Hanssen seconded the motion; the vote on the motion was 5-0.

AMENDMENTS:

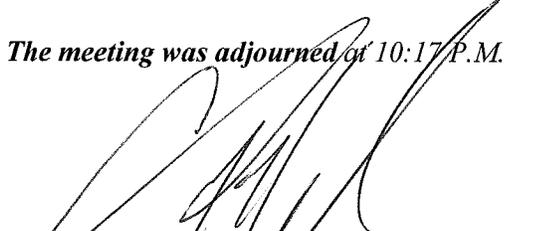
31 Mirror Lake Avenue – Mr. Wider explained the revised deck proposal, and that it was inside the footprint of the original structure that was razed. Mr. Wider prepared an amendment to this effect and presented it for signatures to the Board.

APPROVE MINUTES:

Mr. Sebastiano made a motion to approve the minutes of June 7, 2017; Mr. Hanssen seconded the motion; the vote on the motion was 5-0.

Mr. Hanssen made a motion to adjourn the meeting; Mr. Howe seconded the motion; the vote on the motion was 5-0.

The meeting was adjourned at 10:17 P.M.



Mr. Christopher Wider, Clerk

In accordance with the requirements of G.L. 30 § 22, approval of these minutes by the Board constitutes its certification of the date, time and place of the meeting, the members present and absent, the matters discussed, and the action taken by the Board with regard to those matters (if any). Any other information contained in these minutes is included for context only. Notes memorializing deliberation or discussion of any matter are in the summary form and may include inaccuracies or omissions. Where proof of the content of a statement is required, a tape recording or transcript should be consulted, if available.



**TOWN OF NORFOLK
ZONING BOARD OF APPEALS**

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CERTIFICATION PURSUANT TO G.L., Ch.39, §.23D
(ACCEPTED UNDER ARTICLE 12
OF THE SPECIAL TOWN MEETING
OF OCTOBER 24, 2006)

DATE: 8/1/17

APPLICANT'S NAME: Abbyville Development LLC + Abbyville Residents LLC

PROJECT NAME/LOCATION OF PROPERTY: Preserve @ Abbyville
and Abbyville Commons

CASE NO: 2017-03 +
2017-04

ASSESSORS' REFERENCE: Map 6 Block 2 Lot 9, 10, 12, 4, 3/1, 3/2

I, Michael Kulesza hereby certify that I have examined

all evidence received at the one (1) session of the public hearing in the above matter held

7/5/17 including (check all that apply):

- An audio/video recording
- Minutes
- Other supporting plans & documents

Michael Kulesza
Signature Board Member