

Zoning Board of Appeals  
 One Liberty Lane  
 Norfolk, MA 02056  
 September 4, 2019  
 7:00 P.M.

Christopher Wider – Chair ----- Present	Medora Champagne – Associate Member--Absent
Michael Kulesza – Vice Chair ----- Present	Daniel Hill – 40B Consultant Attorney ---- Present
Joseph Sebastiano – Clerk----- Present	Amy Brady– Administrative Assistant----- Present
Donald Hanssen – Member ----- Present	
Devin Howe – Member ----- Present	

The duly posted meeting of the Norfolk Zoning Board of Appeals convened at 7:00 P.M. Room 124 of the Norfolk Town Hall. Mr. Wider announced that the meeting was being video- and audiotaped

**PUBLIC HEARINGS:**

The Preserve at Abbyville (cont'd from 7/17/19)  
Abbyville Commons (cont'd from 7/17/19)

Thomas DiPlacido, representative for the developers, advised the board that the Buckley and Mann property is no longer under agreement; the developers are investigating options; a meeting with MassHousing in forthcoming, after which they hope to present a concept plan at the October 2, 2019, ZBA meeting. Sandra Myatt, Eric Road, asked if the applicant will be withdrawing the current application; he will not.

***Mr. Hanssen made a motion to continue the hearing to October 2, 2019, at 7:15 P.M.; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.***

39 Mirror Lake Avenue, SP (cont'd from 8/21/19)

Plans presented and referred to were entitled “On-site Sewage Disposal System, 39 Mirror Lake Ave, Norfolk, MA,” dated 6/21/19, prepared by DMG Associates of Berkley, MA, and “39 Mirror Lake Ave,” dated 4/19/19, prepared by Creative Designs by Scott Rapoza of Mansfield, MA. Present was Don Bryan, J&D Remodeling.

Mr. Bryan said the previous picture submitted showed the stairs out farther than the existing actually were, and submitted new photos with approximate location of the planned stairs. He stated that the original deck projected 2’ from the side of the house, and the new structure would not project further into the setback than what was originally there, whether they constructed stairs, or just a deck. The upper, cantilevered deck is still there.

***Mr. Sebastiano made a motion to close the hearing; Mr. Howe seconded the motion; the vote on the motion was unanimous.***

5 Shire Drive, Special Permit

Mr. Sebastiano read the Public Notice into the record. Plans and documents presented and referred to were entitled “Lot 22, Shire Drive,” dated October 25, 2018, pp. C-2.- & C-3.0, rev. through April 8, 2019, prepared by CDW Consultants, Inc. Present was Charlie Sheppard, CDW.

Mr. Sheppard reviewed the project. Proposed is an office/warehouse building, about 7,480 sf. Twenty four parking spaces are proposed, with associated utilities. There are 11 parking spaces in the front yard. Lighting is only on the building. Plan has been through site plan approval with the Planning Board.

5 Shire Drive, Special Permit (cont'd)

*Mr. Sebastiano made a motion to close the hearing; Mr. Hanssen seconded the motion; the vote on the motion was unanimous.*

7 Shire Drive, Special Permit

Mr. Sebastiano read the Public Notice into the record. Plans and documents presented and referred to were entitled "Lot 21, Shire Drive," dated October 25, 2018, pp. C-2.0- & C-3.0, rev. through April 23, 2019, prepared by CDW Consultants, Inc. Present was Charlie Sheppard, CDW Consultants, Inc.

Mr. Sheppard reviewed the project. Proposed is a 6,000 s.f. building. Thirteen parking spaces are proposed, with associated utilities. There are 4 parking spaces in the front yard. Lighting is only on the building. Plan has been through site plan approval with the Planning Board.

*Mr. Sebastiano made a motion to close the hearing; Mr. Hanssen seconded the motion; the vote on the motion was unanimous.*

Lakeland Hills-144 Seekonk Street (cont'd from 7/31/19)

Mr. Wider called the continued public hearing to order. Present were Sean Reardon, Tetra Tech (peer reviewer); Dan Hill, 40B consultant attorney; Ted O'Harte for Lakeland Hills, applicant; Christopher Agostino, Atty. for applicant; Travis Brown, Andrews Survey & Engineering (ASE). Plans presented and referred to were entitled "Lakeland Hills, A Comprehensive Permit Plan, Norfolk, MA," prepared by Andrews Survey & Engineering, dated November 19, 2018, rev. through 7/25/19; Peer review letter from Tetra Tech, dated 8/26/19;

Atty. Agostino reviewed the state of the project to date. A peer review was received from Tetra Tech last week; some design details will be a function of additional soil testing that has not been done yet; they would like to collaborate with the peer reviewer on what testing needs to be done pre-permitting. They would like to schedule a work session with the board to develop more evolved plans for the next meeting.

Mr. Reardon said the plans were well-done and very readable, but the project was very dense; there is no space that is not taken up by stormwater basins, leaching fields, etc., leaving no room for error if any calculations are off. The principal concern is wastewater, and the final density will be dependent upon how much wastewater can be handled on site. There is some reserved space shown, but no detail shown for a wastewater treatment plant, no sludge removal access, no underground tankage, etc., all of which will affect the developable footprint. Information in the test pit data doesn't necessarily correlate with some topographical features, so additional data is needed. Stormwater comments are similar to wastewater comments. Mr. Wider asked if more work should be done before a working session is scheduled and Mr. Reardon said he would defer to the applicant. Atty. Agostino said that wastewater design would be critical to the project, and since a wastewater treatment plant (WWTP) would be permitted by the state, the applicant's intent is to present just enough information to show that there are no obvious site conditions that would prevent the project from moving forward; Atty. Agostino solicited input from the board and Tetra Tech as to how much and what type of information they would like to see. Mr. Reardon said the plans right now are a far way off from allowing him to conclude that the discharge systems being proposed would fit; the more aggressive the plan, the more detail that will be needed; Mr. Wider added that the board needs to be comfortable with the density before a state permit is obtained.

Atty. Hill said important design aspects for the board to focus on are environmental impacts and traffic safety impacts. Most abutters have private wells, there is a stream that is tributary to the Stop River; it is an environmentally sensitive site; extensive clear cutting will also be a major drainage concern. Atty. Hill advised the board that they do have the right to require a hydrogeological evaluation done, as they did with the Abbyville sites. He said the applicant has requested a waiver from the BOH requirement for a hydrogeological evaluation, but the board is not obligated to grant every waiver requested. He suggested a meeting between the applicant's engineering team and the board's peer reviewer, a member or two from the

board, and attorneys for both sides might be warranted. The Chair and the Vice Chair said they would like to see a hydrogeological study. Mr. Reardon said that he will require the hydrogeological properties of the underlying soil, but right now foundational aspects such as infiltration rates and ground elevations must be known before getting in to more of the detail required for a full hydrogeological evaluation. Atty. Hill said he would ordinarily agree, but because of the time constraints of a 40B project, he suggests that the full study be undertaken. Atty. Agostino asked if the board could provide general feedback as to the layout, number of units, etc., stating that he would not want to go through the process of evaluating and permitting wastewater for 96 units, only to find out that the board would not approve that many units anyway. Atty. Hill said the board's decision has to be based on the kind of information being asked for, not on the opinions of board members; Mr. O'Harte said he would like some general feedback regardless of that.

Mr. Reardon said he is concerned with adjacency issues such as potential locations of detention ponds and WWTP components. Mr. Howe said he feels the plan appears very linear, with long stretches of straight roads, but the grading detail could affect that opinion; he also noted some 10' wide backyards right up against retaining walls; questioned how the retaining walls will be built given their proximity to abutting properties. Mr. Kulesza expressed additional concerns with design, construction and maintenance of the retaining walls. Mr. Sebastiano expressed concern with car stacking, no visitor parking spaces. Mr. Hanssen said past decisions on whether a site is or is not too dense consider all the contributing factors, which the board does not have yet. Atty. Agostino said they will be submitting additional soil information and will show it on the plan along with a narrative on the WWTP. He suggested the two engineers talk directly to each other to reach agreement on what information should be shown in order for the board to make their decision on how much more hydrogeological information is required, short of a full evaluation. Mr. Kulesza said a full evaluation was required from another applicant due to the environmental sensitivity of the site, and he would like to see that in this case as well. Atty. Hill said it would make sense to develop a Scope of Work, and that it is important to have a hydrogeological expert on board to help develop it. Atty. Agostino said he feels that Mr. Reardon and his team at TetraTech have that expertise. Mr. Reardon said that because of the boundary constraints at every property line, a full hydrogeological study will have to be done at some point, so it would make sense to do it now; he is probably going to need most of that information anyway, because of the inflexibility of the site. Atty. Agostino referred to the "controversial" aspect of the property, and expressed concern that after going through a full hydrogeological study, another major limiting factor would emerge; he would like to hold off ordering the hydrogeological study until after the next hearing, in order to get some of the existing comments addressed. He also said that he would not be adverse to further extending the 180-day requirement of 40B, as long as things were progressing. Mr. Wider said that as 40B projects drag out, they get more and more unclear, and said that he feels the hydrogeological study should be done now. Mr. Reardon expanded on the study itself, which begins with collecting data on the existing subsurface conditions, and suggested the applicant start compiling that information. Atty. Hill suggested the board start acquiring price and availability information from a few reviewers.

Elaborating on Mr. Howe's comments, Mr. Wider said the applicant could also begin working on eliminating the "straightaway" look to the project, perhaps introducing some cluster housing. Mr. Howe said that, as noted in Tetra Tech's review letter, complete information was not provided on who performed the test pits shown on ASE's plans. Mr. Howe referred to a letter from the Board of Selectmen [to Mass Housing Finance Agency, dated 4/3/07] which included information from test pits performed on this site by O'Driscoll Land Surveying Co. One test pit by O'Driscoll, which was close to one on ASE's plans showed groundwater about 40" below grade with a question of "perched?" perhaps indicating the water table might be substantially higher than what was more recently found in the field; Mr. Reardon agreed that it would be beneficial to have test pits witnessed, and noted the lack of mottling found in recent test pits, as compared to O'Driscoll's. Mr. Reardon said he is concerned that some test pit data does not jive with topographical features, such as one near the wetland that does not show water even 4' down. He suggested leaving a well behind when doing test pits. The pipes installed during the '07 O'Driscoll testing are still existing. There was further discussion regarding insufficient data for making decisions regarding groundwater as well as potential blasting. Mr. Howe added the following comments: 1) Missing test pit and infiltration system for (??); Atty. Agostino said there was soil evaluation work begun in 2017, which they did not finish after the Building Inspector's letter of 8/21/17, but they do intend to continue now. 2) Mass GIS shows a vernal pool on the Sweeney property (northeastern-most abutter) from which water is being diverted, requiring a water budgeting analysis. 3) Detention systems that exceed 6' in height must be made to conform to the Office of

Dam Safety requirements. 4) At station 10+30 (wetland crossing) no culverts or cross connections are shown between the upstream and downstream wetlands. 5) From station 9+50 to 1100 (where the double-barrel entrance ends) there is about 50' of pavement; would like to see less expanse of pavement. 6) Retaining walls are very high and close to property lines, difficult to construct (behind unit 84 and units 1-8.)

Debra Gursha, 143 Seekonk Street, expressed concern with the lack of a backup plan for systems within this development (i.e. septic system.) She's concerned about groundwater, and potentially wastewater in the event of failure, flowing down the hill when all the trees are removed. Ms. Gursha also expressed concern with the amount of parking proposed. Mr. Reardon replied that DEP requirements will include reserved space as well as backup power for the discharge permit.

Michael Kozakowski, 24 Stop River Road, questioned the rate of progress in these hearings, and Larry Clark, 130 Seekonk Street, asked what would happen if the applicant refused to grant extensions. Linda Benton, 19 King Philip Trail expressed concern about Highland Lake, which is fed by Stop River. Ms. Benton also asked for confirmation that Cleveland Street will also be looked at in the traffic study.

Timetables were discussed. Atty. Hill said ideally a hydrologist should be brought on board in the next two weeks. Mr. Brown said that additional witnessed soil testing should be done before he responds to tonight's comments. Atty. Agostino said test pits would likely be done the week of 9/16/19, and a new plan submitted about a month from now. It was decided that, in order to continue making progress, traffic and any available civil engineering and hydrology updates could be discussed at the next meeting on October 2, and civil engineering and hydrology would be discussed on the 16<sup>th</sup>. Mr. Brown will have responses to most current comments by 9/25/19 for the meeting on 10/2/19. A new plan will be submitted on 10/9/19 for discussion on the 16<sup>th</sup>. A soil evaluator from BETA will witness the test pits done the week of 9/16/19.

Larry Clark 136 Seekonk Street and Everett Benton, 19 King Philip Trail, asked what will happen if the applicant does not agree to a request for extension; Atty. Agostino responded that Constructive Approval would only be granted in cases of gross negligence on the part of the ZBA.

Eliot Sennet, 196 Seekonk Street, asked if the comment letter will be posted on the website before the next meeting. It will.

Mr. Howe noted that most of the units are set back from the neighbors, with one exception, #14 Stop River Road, and suggested that some consideration should be made in that area.

***Mr. Sebastiano made a motion to continue the hearing for Lakeland Hills to October 2, 2019, at 7:00 P.M.; Mr. Kulesza seconded the motion; the vote on the motion was unanimous.***

#### Town of Norfolk, SP Modification

Mr. Sebastiano read the Public Notice into the record. Plans and documents presented and referred to were "Business District Drainage Evaluation, 201 Main Street Development, Norfolk, MA," prepared by Pare Corporation, dated August 16, 2019, and a related 4-slide PowerPoint Presentation, prepared by Pare for this meeting; MOU dated June, 2004, between the Town of Norfolk and the property owner of 201 & 220 Main Street. Present was Richard McCarthy, Norfolk Town Planner; Lance Hill, Pare Corporation

Mr. McCarthy gave a historical overview of the project. Land takings at 201 & 220 Main Street occurred in the 2003-2004 timeframe related to intersection improvements at Main & Boardman Streets, as well as additional plans to access the MBTA parking lot. A PWED grant was applied for but not funded, although these land takings were. A Memorandum of Understanding (MOU) with the land owner was to allow for the 98,000 s.f. of impervious surface at 201 Main Street to discharge into the town drainage system (Northside Interceptor) as well as discharge from 220 Main Street. 220 Main Street has since been developed, and is discharging into the interceptor. In order to fulfill that MOU, the town is seeking to modify the 1995 Special Permit issued by the town. Pare Corporation was hired to ensure that there is adequate capacity in the interceptor to accept this drainage. Mr. Hill explained that Pare was tasked with evaluating and validating a

previous report prepared by Coler and Colantonio in 2009, taking field measurements and checking manholes, in order to determine if there were any adverse impacts to Town Pond, which this drains into. Some discrepancies between the reports and findings in the field were noted. A couple of areas in the existing conditions, which includes 14,500 s.f. at 220 Main Street, do show minor surcharging conditions of about .2' or less. Adding 201 Main Street will increase that slightly, but all will be maintained within the manhole; calculations were run using a 25 year storm event, which he classified as typical criteria for designing pipes. Calculations on the pond were run using a 100 year storm event, the typical criteria for ponds. Mr. Hill said their analysis showed there is plenty of capacity for running the additional discharge through the system, though if more is added in the future, extra attention should be paid to the two discharging areas. Mr. Hill said that where 201 would tie into the system, there is a very shallow pipe (in terms of slope) crossing Main Street that should be carefully reviewed for its ability to carry that capacity. Mr. Wider asked if Mr. Hill felt the town should remedy that situation. Mr. Hill said an alternative solution for that would be to match the outlet pipe of whatever is developed at 201 Main to the existing pipe. A need for general cleaning and preventative maintenance in some of the drainage structures was discussed. In response to Mr. Hanssen, Mr. Hill said the potential 40B project at 194 Main Street was taken into consideration. Mr. Wider mentioned an open culvert area at Ware Drive, and reiterated the need for cleaning and maintenance. Mr. McCarthy said that is part of the town's MS4 permit requirements.

Ann Willever, 15 Boardman Street, asked for clarification where the additional drainage is coming from, to ensure that the impervious surface at 220 Main Street will not be enlarged; also in response to Ms. Willever, Mr. McCarthy said that the limit for impervious coverage of a property in the B-1 zoning district is 80%, which the 98,000 s.f. does fit into.

*Mr. Sebastiano made a motion to close the hearing; Mr. Hanssen seconded the motion; the vote on the motion was unanimous.*

#### **DELIBERATION:**

##### Town of Norfolk, SP Modification

Findings of fact:

This is an amendment to the town's Special Permit 95-9, Northern Interceptor

Based on MOU of June, 2004

Pare Corp. has reviewed the Northern Interceptor and found that it will meet the 25 & 100 year requirements  
220 impervious surface will not be increased

Proposed 40B developments at 194 Main Street and 25 Rockwood were taken into consideration

Downstream areas from town pond will have decreased rates of discharge during a 100 year storm

Future development will need to match 201 Main Street discharge to the shallow pipe in the street

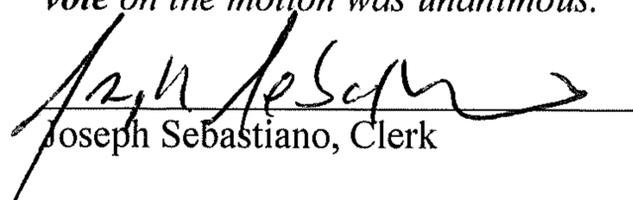
Town Planner has included conditions & criteria in current and historical Appendices A, B & C

Property is not adjacent to or tributary to a water supply

*Mr. Sebastiano made a motion to grant Modification #1 to the Town of Norfolk Special Permit #95-9; Mr. Hanssen seconded the motion; the vote on the motion was as follows:*

<i>Christopher Wider</i>	-	<i>yes to grant</i>
<i>Michael Kulesza</i>	-	<i>yes to grant</i>
<i>Devin Howe</i>	-	<i>yes to grant</i>
<i>Joseph Sebastiano</i>	-	<i>yes to grant</i>
<i>Donald Hanssen</i>	-	<i>yes to grant</i>

*Mr. Kulesza made a motion to adjourn the meeting at 9:26 P.M.; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.*

  
Joseph Sebastiano, Clerk