

Zoning Board of Appeals  
 One Liberty Lane  
 Norfolk, MA 02056  
 April 22, 2020  
 7:00 P.M.

Christopher Wider – Chair ----- Present	Josephine Cordahi – Associate Member---- Present
Michael Kulesza – Vice Chair ----- Present	Timothy Martin – Associate Member -----Present
Joseph Sebastiano – Clerk----- Present	Amy Brady – Administrative Assistant----- Present
Donald Hanssen – Member ----- Present	Richard McCarthy – Town Planner -----Present
Devin Howe – Member----- Present	Daniel Hill – Hill Law -----Present

The duly posted meeting of the Norfolk Zoning Board of Appeals convened at 7:10 P.M. Mr. Wider announce that in accordance with the Governor’s Order Suspending Certain Provisions of the Open Meeting Law, M.G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the April 22, 2020, public meeting of the Norfolk Zoning Board of Appeals would be physically closed to the public to avoid group congregation, and further that:

Alternative public access to this meeting shall be made utilizing the Zoom virtual meeting software <https://zoom.us> for remote access. This software will allow users to view the meeting and send a comment or question to the Chair via the “Raise your Hand” function. The Meeting will be recorded for future rebroadcast by Norfolk Community Television.

**PUBLIC HEARINGS:**

194 Main Street – Residences at Norfolk Station (cont’d from 4/1/20)

Mr. Wider recused himself from this hearing. Mr. Kulesza called the continued public hearing to order. Present were Bill McGrath, BETA Engineering; Michael O’Shaughnessy, attorney for the applicant, Jamie Bissonnette, Zenith Consulting Engineers (ZCE); Greg Siroonian, Rescom Architects; Al Quaglieri, applicant, was present, but experienced audio/video technical difficulties. Plans presented and referred to were entitled “Residences at Norfolk Station,” prepared by Rescom Architectural, Inc., dated 4/22/20; BETA Comprehensive Civil Peer Review Letter #3, dated 4/16/20; BETA Traffic Peer Review Letter #3, dated 4/16/20; “Vehicle Turning Plan,” prepared by ZCE, dated 4/17/20, rev through 4/22/20; Proposed Residences at Norfolk Station Drainage Summary; Green International Affiliates, Inc. additional information, dated 4/14/20; Glen S. Fontecchio Review letter dated 4/15/20.

Atty. O’Shaughnessy began with reviewing traffic information; he said their traffic engineer had provided supplemental information since the last meeting, and he believes they have resolved all of BETA’s concerns with regard to traffic. With regard to Civil and Stormwater, Mr. Bissonnette had provided stormwater analysis; BETA completed a high level review, and they believe BETA agrees the site will work from an engineering perspective. A turning template plan was provided to the Fire Chief, who had concerns; a building location was modified to make a turnaround area; both Fire and Police Chiefs have said they approve of the changes. Regarding Architecture, Mr. Siroonian and Glen Fontecchio, the boards peer review architect, have spoken and new drawings have been submitted.

Regarding Traffic, Mr. McGrath said they looked at sight distance and the sight triangle coming out of the driveway; the triangle is contained within either the applicant’s property or the right of way (ROW,) and sight distance can be maintained; level of service (LOS) shows very little queuing coming out of the driveway and very little impact to Main Street. He does not see any remaining issues.

Regarding Civil Engineering, Mr. McGrath said a high-level review of the plan shows the project to be feasible. There is still final design work and detail to be included and reviewed, but it is generally acceptable.

In the absence of Mr. Fontecchio, Mr. McGrath said Mr. Fontecchio review of the plans included the town's Design Guidelines for buildings in the town center. Mr. Fontecchio was looking for some relief, such as porches, on the fronts of the buildings; quality materials on the exterior should be used. Layout and overall architectural design was generally acceptable, with some details to be included and reviewed. Mr. Kulesza said that Architecture should be reviewed next time, when Mr. Fontecchio will be available, or can provide a more detailed report.

Attorney Hill noted an anomaly in the GIAI report, citing 30 m.p.h. where it should state 40 m.p.h., but sight distance is still achievable in both directions using 40 m.p.h. With regard to Traffic, he said the Board should have a more detailed report on how the project does or does not conform to the Design Guideline principles. Atty. Hill asked why storage sheds were added to the back of building #7. Mr. Siroonian said that building can't have a basement due to septic setbacks, and they do not have a garage, either, so a shed was added for storage of bikes, lawn equipment, etc. He also indicated an area on the left of the site, where it abuts commercial property, and more screening was requested; a fence with landscaping in front of it was added. A walkway was added to connect the units along Main Street with the units in the back, and access to Main Street.

Mr. Siroonian said he felt porches along the front on Main Street were "too much" and he shared that with Mr. Fontecchio. He said the Guidelines mention other features, such as bay windows, entrance porticos can be utilized, which they are providing. He does not feel that stone and brick work well with these buildings, they are using lap siding and shingles, which Mr. Fontecchio seems satisfied with. Atty. Hill noted that not all entryways are shown on the drawings; they will be updated.

Regarding interior circulation, Mr. Bissonnette said Fire Chief Erron Kinney, had noted the distance of the dead-end exceeds 150'; a turnaround was added between building #7 and #11; Chief Kinney provided ZCE with dimensions for the truck. Chief Kinney said angle of approach, angle of departure, and turnaround ability were all adequately addressed, and said the new turnaround also allows better access to the units in the rear. Signage or striping will be utilized to ensure the turnaround is not blocked; it will be paved and plowed.

Atty. O'Shaughnessy suggested that it would make sense to begin drafting a decision. Atty. Hill said the Board typically sees a greater level of detail on plans before beginning the decision, and he wants the Board to be aware of the level of detail they currently have. Test pit data, design of septic system, and location of one of the infiltration basins are examples of detail not included. He said developers are not always OK with post-permit conditions and suggested getting as much detail as possible before the hearing is closed. Mr. Bissonnette said they have done field testing with the Board of Health present, but one of the drainage ditches does need additional test pits. Mr. Howe said he would like to see preliminary comments from Glen Fontecchio; he does not believe the applicant can be required to fully design the septic system. Atty. Hill said more details could still be provided, such as what type of system, groundwater elevations, size of leach field and detention basins, components of system, whether there would be a pump chamber, etc. Mr. Bissonnette said a lot of the drainage information was on the original plan, and he has high confidence in that. The basin bottom and the load has not changed; it will all be pulled together for the final; full hydroCAD with pre- and post-construction data was provided to BETA Engineering. Regarding septic, he is waiting to be sure elements are not going to be moved any more. Mr. McGrath said more information on the drainage structures would be helpful, and some more detail on the septic, to be sure it doesn't conflict with any stormwater components, but he is confident the systems are feasible. Mr. Kulesza said if there was no objection from other board members, they would make an exception to their general policy of requiring more detailed plans. There was no objection. Atty. Hill said he would like the applicant to state that the project's stormwater and wastewater management systems shall be reviewed after the permit has been issued by the board's civil peer review engineer, and the permit would be contingent on the peer reviewer's satisfaction with the plans. Atty. O'Shaughnessy said they would be comfortable with that.

At this point, Mr. Quaglieri joined the discussion, and Atty. O'Shaughnessy provided an overview of the discussions. Atty. Hill reviewed actions items: he will draft conditions and review waivers, and circulate to Atty. O'Shaughnessy for comment, and then to board members; Mr. Fontecchio will be requested to provide a follow-up memo, including specifically addressing design guidelines; additional materials are not being

requested from the applicant at this point. Mr. Howe asked if a commitment from the applicant post-permit conditions was required; Atty. Hill said the commitment from the applicant's attorney would suffice.

*Mr. Sebastiano made a motion to continue the hearing to May 20, 2020, at 7:00 P.M.; Mr. Hanssen seconded the motion; the vote on the motion was unanimous.*

**PUBLIC HEARINGS:** (cont'd)

144 Seekonk Street – Lakeland Farms (cont'd from 4/1/20)

Mr. Wider resumed as Chair, and called the continued public hearing to order. Present were Bill McGrath, BETA Engineering; Ted O'Harte, applicant; Christopher Agostino, attorney for applicant;

Atty. A. reviewed the project; it is down to 44 units form 84 units, which he felt was well-received by board members at the last meeting. Initial peer review indicated it address many of the concerns with the larger project. Comments have been received from the Police and Fire departments. Architectural review has also been received. No insurmountable issues are indicated.

Mr. McGrath, speaking for Glen Fontecchio, peer review architect, said he was happy to see the green area in the middle; he feels there is opportunity for side garages and drives; the applicant is open to exploring this. There was a building type that Mr. Fontecchio did not see on the site. Atty. A. said it was the "Liverpool" and "Woolton" duplex units that Mr. Fontecchio said seemed incongruent on the site. Atty. A. said the idea was to have acceptable alternatives listed in the permit, with a condition stating there would not be a traditional, classic design next to a unit that is not traditional or classic. He said he though Mr. Fontecchio's concern was that there were four "alternative" types, A, B, C or D, but there are only two: A/B or C/D.

Atty. Hill clarified that the Fire Chief's concern with Knox boxes did not apply to this project. Fire Chief Erron Kinney said he did not see any issues with access to the site, and there are no dead-ends to be concerned with; he will need to approve hydrant locations. Water supply and water pressure concerns raised have been approved by the DPW. Conditions have been drafted with regard to sight distances.

There being no questions from the Board, Atty. A. began to review the conditions. He said that in addition to a Comprehensive Permit, there will also be separate Memorandum of Agreement (MOA) signed by the applicant and the Select Board with agreement that the applicant will not appeal the decision of this Board.

Proposed Conditions of the Comprehensive Permit were discussed. One condition states that the Roadway into the 44 unit subdivision will never serve any other use or access to any other property, will also be a recordable instrument separate from the Permit. Regarding the Condition to request \$15,000.00 review funds, to be replenished at \$2,500.00, Atty. A. proposed reducing to \$5,000.00. Atty. Hill said he put in a higher number, because there will be more review than what is typically done; he said this can be negotiated at the next meeting, after Atty. A. has had a chance to review the document. Condition B.8. in the draft proposes that after the permit has been issued, the applicant will submit a final set of engineered plans for review by the board's peer reviewer, Tetra Tech; such review will include compliance with Stormwater Management Standards that are issued by Mass DEP. Atty. A. said because there are wetlands on the property, he expects they will have an Order of Conditions (OOC) that demonstrates compliance with the Stormwater Standards, and suggested that wording to the effect that the OOC is sufficient to demonstrate compliance with those standards; Atty. Hill is not in agreement; he suggested that the OOC be reviewed by Tetra Tech for the Conservation Commission. Atty. Hill concurred with Atty. A. that individual septic systems can be reviewed by the Board of Health, not Tetra Tech. Rich McCarthy, Town Planner, said that the Board of Health should also review the groundwater. Atty. Hill said the main point of section B.8. is that the engineered plan will need to be reviewed, and the applicant is bound to adhere to the reviewer's comments. Mr. Howe suggested adding language to the effect that stormwater ponds in excess of 6' must comply with the Office of Dam Safety. Mr. O'Harte asked for confirmation that language would not prohibit him from having perc test; this can be discussed at another time. Vertical bituminous curbing (Section E) will be reviewed. Section F states that a Conservation Restriction must

be obtained before any occupancy permits are obtained; this will be in addition to the Comprehensive Permit and the MOA. Atty. A. said he believes a Conservation Restriction is very difficult to obtain, and the same goal can be met with restrictions within the CP and the MOA; an easement was suggested as another way around this; the lawyers will discuss. Regarding Section G.1., Mr. Howe requested that an updated document showing the new location of the driveway be obtained from WSP; he also said that one of the stopping sight distance diagrams the provided show two cars colliding. Atty. A. said it would be time consuming and costly to go back to the engineer for new plans; he suggested wording the condition in such a way that it would cover this. He also said the "Case F" scenario is the only instance that may be questionable for sight distance, and that is not considered a "critical instance" as articulated in the February 11, 2020, WSP memo. Atty. Hill added that there is not sufficient intersection sight distance at 14-1/2" and that a curve in the road to the south of the driveway interferes with sight distance there. He said there was a significant public safety issue, and there is still a public safety issue, but it has been reduced by the changed plan. Mr. Howe asked if a speed limit plaque will be required below the speed feedback sign; Atty. Hill. said it could be conditioned by the ZBA, perhaps with review by the DPW. Atty. Hill said telephone pole #73 would require a lamp on the pole. Mr. O'Harte said that he has reached agreement with some abutters that will be incorporated into the next draft of Decisions. Mr. Wider said he is comfortable with the mitigation that has occurred and will occur with regard to the sight distance issues; Mr. Kulesza, Mr. Sebastiano, Mr. Hanssen, and Mr. Martin concurred. Mr. Wider said he is comfortable with reducing the upper limit of the review fund budget to \$10,000.00; there was no dissent from the Board. Mr. Howe suggested having a boilerplate condition that material cannot be stockpiled sold informally in small lots. Mr. O'Harte said he believes the cut and fill analysis currently shows about 45,000 cubic yards of material being removed.

Debra Gursha, 143 Seekonk Street, expressed concern with the ability of fire apparatus to navigate the grade. Mr. O'Harte said it is the same grade now, as it was when it was reviewed previously. Ms. Gursha asked about plans for a school bus stop; Mr. O'Harte said he has spoken to the Holmes Bus Company. Ms. Gursha expressed concern with the ability of a school bus to navigate a lefthand turn out of the development, and said they should be factored into the traffic analysis; in addition she said the majority of people with school children coming out of the site will be taking a left. Atty. A. said that all of those circumstances have been addressed at some point in the WSP memos, and reviewed by TEPP. Mr. Wider said the traffic study on this site was much more indepth than others due to concerns such as these, and the board is satisfied that the concerns have been adequately addressed and mitigated. There are no plans to reopen the traffic study. Mr. Wider will, however, follow up with the police chief on these issues. Mr. Sebastiano emphasized that all of the mitigation plans will be incorporated clearly in the decision.

Ms. Clark, 130 Seekonk Street, also expressed concern with the traffic issues. She addressed the placement of the strips used in the traffic study, which in her mind were not placed in the most strategic locations. She also feels that the sight distance was never fully resolved. Ms. Clark asked if there will be any blasting on the site. Mr. O'Harte said they are not sure, but if there is, there are many restrictions and procedures governing it, which are spelled out in the decision. Ms. Clark asked if the tall wall behind her property which was shown on the higher density plans will still exist; Mr. O'Harte said there will be no walls over 6' and that can be written into the conditions. Ms. Clark asked if there will be fencing at the rear property lines; Mr. O'Harte said he is not certain. Atty. A. said with the reduction in density, the units have been moved far away from the property lines; there is a wooded area there, and any small retaining walls that are necessary will not exceed 6'. Ms. Clark also expressed her concern for the wetland area, and hopes that it will be protected thoroughly.

Mike Kozikowski asked via the "chat" function about how the 45,000 cu.yds. of material will be removed. Mr. O'Harte said that will be addressed in the Construction Management Plan, which will be completed and approved before any material is removed.

Susan Jacobson said that she has no concerns with the affordable housing aspect.

D. Tristram Carpenter, 120 Seekonk Street, said he would like to see a condition requiring fencing, not just wooded area, in the rear of the property. Mr. Wider asked Dr. Carpenter to put together a specific request.

An updated list of waivers will be provide by Atty. Agostino; Atty. Hill will update the conditions, including information from the Office of Dam Safety; Mr. Wider will check on the possibility of reduced fees for the affordable units.

***Mr. Hanssen made a motion to continue the hearing to May 20, 2020, at 7:15 P.M.; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.***

***Mr. Sebastiano made a motion to adjourn the meeting; Mr. Howe seconded the motion; the vote on the motion was unanimous. The meeting adjourned at 10:15 P.M.***

  
Joseph Sebastiano, Clerk