Town of Norfolk
Zoning Board of Appeals
One Liberty Lane
Norfolk, MA 02056
June 22, 2016

Zoning Board Members	Others
Michael Kulesza –Chairman ----- present	Amy Brady--Administrative Assistant --Present
Robert Luciano –Vice Chairman---present	Ray Goff – Town Planner – Present
Mr. Wider – Clerk ----------present	Judi Barrett, 40B Consultant - Present
Joseph Sebastiano –Full Member - present	John Weddleton – Conservation Commission Liaison - Present
Jeffrey Chalmers – Associate Member- absent	
Donald Hanssen – Full Member – present	

The duly posted meeting of the Zoning Board of Appeals convened at 7:10 p.m. in room 124 at the Norfolk Town Hall. Mr. Kulesza announced that this meeting was being audio and video recorded.

MINUTES:

Mr. Wider made a motion *to accept, as amended (page 6 after review of tape), the minutes for the Town of Norfolk Zoning Board of Appeals meeting on May 18, 2016;* ***Mr. Sebastiano seconded*** *the motion;* ***the vote on the motion was unanimous.***

Mr. Kulesza announced new business will be discussed at the end of the meeting

PUBLIC HEARINGS:

27 Pine Street, Extension of Special Permit: Mr. Kulesza opened the public hearing at 7:15 P.M. Mr. Wider read the public notice into the record. Present was Al Quaglieri. Mr. Kulesza explained that at first it was thought the Special Permit was automatically renewed for 2 years, but in fact it does need to be extended every year, due to Norfolk bylaw G.4. Mr. Quaglieri stated that he has not been able to secure a client for the building, and so has not been able to invest the money needed to construct. Upon questioning by Mr. Hanssen, it was clarified that the address has changed from 0 Valley St. to 27 Pine St. to the current address of 35 Pine St. Mr. Sebastiano referred to the gas station at the first hearing, and was informed that aspect of the request had been removed at the first hearing. Mr. Wider asked the applicant if he was actively pursuing clients, and Mr. Quaglieri alluded to his opinion that it would be easier to secure clients if residential zoning were allowed on the 2nd floor, but yes, he is still actively pursuing commercial clients for the property. Upon inquiry from Mr. Hanssen, it was related that there is no limit on the number of extensions that can be granted, and to grant longer that one year would require changing the zoning bylaw. Mr. Kulesza opened the meeting to the public for questions, but none related to the extension of this special permit were voiced. ***Mr. Wider made a motion to close the public hearing; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous. Mr. Wider made a motion to grant the Special Permit; Mr. Sebastiano seconded the motion; the vote passed by roll call vote as follows:***

Mr. Sebastiano – yes to grant
Mr. Wider – yes to grant
Mr. Kulesza – yes to grant
Mr. Luciano – yes to grant
Mr. Hanssen – yes to grant

14 Cottage Avenue, Variance (and withdrawal of Special Permit Ap): Mr. Kulesza opened the public hearing at 7:30 P.M. Mr. Wider read the public notice into the record. Present were Peter Lavoie, Guerriere and Halnon, and Thomas Orlandi. Mr. Lavoie gave an overview of the project. It is an existing lot with a 1-1/2 story single family home; an existing, livable cottage with a bathroom that is tied in to a cesspool, with a 33' of front setback; and a garage in front of the cottage with a 5' front setback. Mr. Lavoie stated that the lot slopes from Cottage Ave. to the back of the property (from a grade of 198 to 173, about 100'), then drops off quickly, 40 more feet to Old Populatic Road. The applicant appeared before the Board previously for a Special Permit, but concerns arose, prompting a site walk by board members. After the site visit, it was decided to move the proposed house further toward the street, necessitating the request for a Variance instead. Due to the topography of the land, moving it forward will require less grading in the back, providing protection for the properties below. Mr. Lavoie explained how drainage concerns had been addressed with Cape Cod berm and catch basins and an underground chamber. Roof runoff will be directed into 2 underground recharge areas ("A" soil will be very receptive). Also, they propose cutting in a riprap swale along back for runoff from grass or any that gets by the pavement. Mr. Lavoie next addressed stabilization during demolition/reconstruction. A jute mat will be used, as well as a plywood barrier along the trees, and the house will be pulled into the lot (i.e. not toward the dropoff). In responded to a question from Mr. Hanssen, Mr. Lavoie stated that the 32' width of the proposed new house did not change. Mr. Wider confirmed with Mr. Lavoie that the current retaining wall would be replaced, in the same place. Mr. Wider asked for clarification as to the area after the existing 1-1/2 story structure is demolished, and clarified aspects of the jute matting, to be applied to disturbed areas during construction and was informed that the area will be loamed and seeded, and perhaps used as a patio area. Mr. Wider next addressed the plywood barrier, stating that it should not just be plywood leaned up against trees, and that it should come down after the structure comes down. Mr. Luciano asked what would happen if the lawn planting didn't take root, and the jute matting had degraded; he was informed that the applicant would continue to try to plant lawn, reapplying jute matting, and suggested making it a condition. Discussion ensued with regard to erosion control requirements and conditions. Mr. Kulesza reviewed with Mr. Lavoie what makes the lot unique with regard to topography. With no further questions from the Board, Mr. Kulesza opened up the meeting for questions from the public. Carol and Shawn Davenport, 18 Old Populatic Road, expressed concern that grass won't grow there, and maybe some other ground cover should be tried; more loam should be added; would like to see plantings along borderline. Mr. Davenport also expressed concern about the part of the structure to come down that "juts out." Mr. Orlandi explained what the process will be to keep that part of the structure from falling down toward Old Populatic; Mr. Wider stressed that the plywood barrier will also be a condition. Theresa Miller and Peter Iafola, 16 Old Populatic Rd, the property just beneath, are very concerned about their property due to the slope and the texture of the soil, with all of the trees coming down. Mr. Lavoie stated that by moving the house forward, several large trees will remain along the property line. Mr. Luciano inquired as to the risk of erosion, and whether the engineer felt the risk would increase, decrease, or stay the same with the work being done. Mr. Lavoie responded that he thinks that the end result will be an improvement to the property below, in that there will now be a berm and water will be directed into the ground. Mr. Lavoie stated that he believes that due to the type of soil, the water will be readily accepted into it. Mr. and Ms. Davenport expressed concern that the water would all be directed into one area, and were informed that it will actually go into the 70' long swale, and into plastic chambers, and be directed back up the hill. Mr. Lavoie further detailed the process he utilized. Mr. Kulesza asked how board members who did a site visit feel about the project. Mr. Wider stated that he does have concerns. The immediate abutter, whose property is 7 feet away, stated that

vegetation on the hill is well established, and flooding below is not caused by rain coming down the hill. Carey Orlandi, father of the applicant, Thomas, and owner of Milford Homes, stated that they are both licensed, and Tom's main function is demolition; he also said that a trap rock barrier will also be used. Mr. Kulesza stated that they will probably do another site visit, and condition heavily on vegetation. Sean Noonan was assured that his well is greater than the required distance from the proposed new septic. With no more comments or questions, at 8:10 P.M., Mr. Wider made a motion to close the public hearing; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous. Mr. Kulesza informed the public that the case will be deliberated and voted upon at the next meeting, July 20, 2016, and that all were welcome to attend.

84 Cleveland Street, Lakeland Farms, Comprehensive Permit – Mr. Kulesza announced the continuation of the public hearing at 8:20 P.M. Present were Judi Barrett, RKG Associates; John Weddleton, Planning Board Liaison; Andrew Ogilvie, BETA Group, Inc.; Attorney Rob Knapik & Frank Niro, Knapik Law Office; Edward O'Harte, Applicant; Stephen O'Connell & Travis Brown, Andrews Survey & Engineering.

Attorney Knapik, reviewed that at the last meeting, the applicant's team made an overview presentation, and since that meeting, the town's consultant, BETA Group, Inc. submitted a review of the project, and Andrews Survey & Engineering engaged a traffic study consultant. Mr. Knapik stated that it would be most efficient to begin with the Engineering Peer review.

Mr. Ogilvie stated that the waiver list appeared complete. Mr. Ogilvie then reviewed the list of engineering questions and comments found in the BETA Group Inc. "Lakeland Farms, Chapter 40B Peer Review" memo dated June 21, 2016. Of greatest concern to Mr. Ogilvie, with relation to stormwater, the detention and recharge volume calculations used different values for the impervious surfaces on the site, and this needs to be reconciled, as it could greatly impact the building area. This discrepancy carries through to other comments within the review. Mr. Ogilvie also stated that other calculation utilize the HydroCAD model, but should be revised to use the Mass DEP method.

Mr. Weddleton noted that since the basin is right on the wetland line, confirmation that the correct calculations have been used is critical; and also observed that it would be nearly impossible to build so close to the wetland line without getting into the wetlands; Mr. Ogilvie stated that typically a 5' area is preferred.

Mr. Knapik stated that the discrepancy in the calculations is a mistake in the output of the report, and he is confident it will not affect the size or design of the basin. In response to Ms. Barrett, Mr. Knapik responded that a corrected report will be available before the next meeting. Mr. Knapik also stated that AS&E will supply a truck turning diagram. Discussion ensued with regard to parking capacity, and Mr. Ogilvie agreed to do a review of that, as well as handicapped parking requirements. Discussion ensued regarding blasting, and Mr. Kulesza stated that a blasting plan would be required; in response to Mr. Knapik's request for clarification, Mr. Ogilvie said a more general term of Construction Management Plan might be better, and detailed what would be expected. Snow storage locations appear adequate. Ms. Barrett requested that BETA Group have landscape architects review and comment on the playground plans.

Mr. Kulesza opened the meeting to questions from the public. Gene Bailey asked if trees would be cleared all the way to the street, and if/how the rock wall along the front will be maintained. Mr. Brown responded that all the trees will be cleared, and the rock wall will come down; the landscaping plan will show plantings and an entrance wall. Kathy Kubit asked for clarification of locations for snow removal and blasting areas; Matt Sylvestrie expressed concern with additional traffic. Mr. Kulesza stated that traffic will be addressed ad the next meeting, and Ms. Barrett stated that pedestrian and bicycle safety should be reviewed as well. Mr. Sebastiano clarified that the traffic study will look at nearby intersections, etc. Mr. Weddleton informed the applicant that they should look at actual ROW, not just

where the street is, and scenic road aspects should be reviewed as well. Derek Murphy asked questions with regard to school population and drinking water impacts, and was informed that the ZBA cannot consider school population impact; the town water consultant submitted a report to the applicant's team, and a hydrant flow test will be conducted and discussed at the next meeting. Midora Champagne stated that the existing structure may have historical significance. The Historical Society will be notified. Peter Diamond asked who determines how much profit is made, and what happens to any excess. Ms. Barrett responded that it is up to the subsidizing agency, and if there is any surplus, it is supposed to go into an affordable housing fun.

Ms. Barrett suggested that a Development Review Team might be a good idea, and Mr. Kulesza agreed. A meeting will be arranged including the Town Planner, ZBA Chairman, Police and Fire Chiefs, Building Commissioner/Zoning Enforcement Officer, and the DPW Superintendent. In summary, the following topics will be discussed at the next meeting: Engineering, Traffic, Water.

Mr. Sebastiano made a motion *to continue the meeting to July 20, 2016, at 7:30 P.M.;* ***Mr. Wider seconded the motion; the vote on the motion was unanimous.***

Bristol Pond Estates – Variance, Case Snow Management – The Board began deliberations at 10:00 P.M.

Findings of Fact:

Dwellings on lots 13 and 14 are both basically famed, roofed, and foundations built
Both buildings meet building setback lines.
This is an open space subdivision
Applicant is requesting reduction in setback from 50' to 36.7' between buildings
Building permit was issued
Owners of 13 have provided mitigation to owners of 14
Owners of 14 were represented by counsel (legal)
Both parties are satisfied with the solution proposed amongst them
DEP Zone 2 boundary line cuts through the property
Septic could only be put where it is due to soil conditions

Criteria:

1. The Variance must be with respect to particular land or structures

Parcel of Land: 6 Bristol Pond Drive,
Structure: Single Family Dwelling currently under construction. Building permit #BP-2005-88, approved by" Tom" of the Town of Norfolk on April 30, 2015.

2. There must be circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located

Existing lot shape limits the possible position of a single family dwelling with the lot frontage being located on the arc of a 60' radius cul-de-sac. Lot 13 is an "L" shaped parcel that contains 123.55' of frontage on the Bristol Pond Road cul-de-sac but approximately 89' of frontage is within a drainage easement. The portion of the parcel with the drainage easement has a lot depth of 80.05'. The easterly property lines are located on the boundary of the open Space Subdivision and require a minimum setback distance of 30'.

Soil conditions and topography also limit the site due to the location of the required septic system based on approved soil testing locations and MA DEO required setbacks from the dwelling to the septic system tank and leaching field.

The existing dwelling located on Lot 14 creates a 32'+/- side yard setback from the westerly property line. The approved & recorded Open Space Definitive Subdivision Plan depicts a proposed dwelling on Lot 14 setback 42'+/- from the common property line between Lots 13 & 14 and the proposed dwelling for Lot 13 is setback 21' +/- from this property line. This approved plan laid out the proposed single family dwelling in this fashion based on the lot shape, topography, and soil conditions for the development of the lots.

The 50' separation between dwellings combined with the required 30' setback from the boundary of the open space subdivision, existing lot geometry, and requirements for a septic system negatively affect Lot 13 in developing a single family dwelling fitting the character of the subdivision.

3. Literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

Circumstances:
Literal enforcement of Section H.2.f.4 of the Town of Norfolk Zoning By-law would create a substantial hardship on the Applicant. The Applicant has applied for and received a valid building permit for the construction of the single family dwelling. Under that permit a foundation was constructed and signed off on by the Town of Norfolk Building Department. Once the foundation was approved the Applicant was allowed to move forward with framing and siding the entire dwelling. Literal enforcement of Section H.2.f.4 would render the dwelling unable to be completed and would result in substantial financial hardship on the Applicant for the constructed and approved components of the single family dwelling.

4. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such bylaw.

Relief would be:
The required relief is a reduction in the minimum setback between the dwellings on Lot 13 (6 Bristol Pond Drive) and Lot 14 (4 Bristol Pond Drive) from 50' to 36'.

Detriment would be:
The detriment would be a loss of 14' of land between the two dwellings without a structure located on it. Lot 14 has no rights on this 14' of land between the two dwellings with all the land in question being located on Lot 13.

Is it substantial:
The requested relief is minor. The two dwelling on Lots 13 & 14 will almost have the same side yard setback if the relief is granted. The dwelling located on Lot 14 is approximately 18.4' off of the property line between Lots 13 & 14. The dwelling on Lot 13 is approximately 17.5' off the property line between Lots 134 14.

Mr. Wider made a motion *to grant a Variance for Case Snow Management, pursuant to M.G.L. Ch. 40A, s.10, as amended, and Section H.2.f.4. of the Norfolk Zoning Bylaws to allow the construction of a dwelling not separated from the neighboring dwelling by at least 50 feet. The property is located at 6 Bristol Pond Drive, Assessors Map 19, Block 71, Lot 19-13 in the R-3 zoning district;* ***Mr. Hanssen seconded the motion; the vote passed by roll call vote as follows:***

Mr. Sebastiano – yes to grant
Mr. Wider – yes to grant
Mr. Kulesza – yes to grant
Mr. Luciano – yes to grant
Mr. Hanssen – yes to grant

NEW BUSINESS:
Pledge of Allegiance: Mr. Kulesza stated that Mr. Wider proposed saying the Pledge of Allegiance before Zoning Board of Appeals meetings. Mr. Sebastiano voiced his agreement. Mr. Wider stated that some boards in Medfield, Plainville and Wrentham (for example) do this, and as a judicial board, Mr. Wider thinks it would be appropriate for the Town of Norfolk ZBA. Mr. Wider suggested a study could be done. Mr. Kulesza took it under advisement.

Mr. Hanssen made a motion *to adjourn;* ***Mr. Wider second*** *the motion;* ***the vote on the motion was unanimous. The meeting adjourned at 10:22 P.M.***

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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.