

Town of Norwell
BOARD OF APPEALS
Business Meeting Minutes
September 21, 2016

MEETING DATE: Wednesday, September 21, 2016
TIME SCHEDULED: 7:00 P.M.
LOCATION: Town Hall Building Office
MEMBERS PRESENT: Lois S. Barbour, Chair
Philip Y. Brown, Vice-Chair
David Lee Turner, Clerk
Thomas P. Harrison (arrived 7:25 P.M.)
Ralph J. Rivkind
OTHERS PRESENT: Robert W. Galvin, Town Counsel
John C. Chessia, Town Consultant
Brian Flynn, Health Agent (7:17 P.M. to 7:30 P.M.)

The meeting was called to order at approximately 7:06 P.M.

MINUTES: Upon a motion duly made and seconded, members present **VOTED** unanimously to approve minutes for the business meeting held on September 14, 2016, with reading of the minutes waived.

INVOICES: Upon a motion duly made and seconded, members present **VOTED** unanimously to approve Damon Farm 40B invoice #1589 in the amount of \$357.00, Tiffany Hill 40B invoice #1586 in the amount of \$863.00, and 495 Washington Street invoice #1580 in the amount of \$918.15, all dated 8/6/16 and payable to Chessia Consulting Services, as well as Tiffany Hill 40B invoice #1597, dated 9/5/16, in the amount of \$560.70.

NEW BUSINESS/CHAIR STATUS REPORT:

Bylaw Review Committee: The Chair, who serves as the Board's liaison to the Bylaw Review Committee and its Vice Chair, reported that the BLR Committee has completed Tables of Contents for the Town's General Bylaw and the Zoning Bylaw that were recently submitted to General Code to provide basic structure for the recodification of both.

2017 Meeting Calendar: Upon a motion duly made and seconded, members present **VOTED** to approve the 2017 meeting calendar.

EXECUTIVE SESSION: Upon a motion duly made and seconded, individual members were polled to enter into executive session at approximately 7:12 P.M. for the purpose of reviewing litigation status with Town Counsel and discussing strategies for conducting the remand hearing for Lot 62 North River/aka Stony Brook Lane and the status of other open litigation matters. Members Brown, Turner, Rivkind, and Barbour were individually polled and **VOTED** to enter into executive session and to return to open session

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immediately following. (Mr. Harrison arrived at approximately 7:25 after the opening of the executive session.) Upon a motion duly made and seconded, Members Brown, Turner, Harrison, Rivkind, and Barbour were individually polled and **VOTED** to return to open session at approximately 8:09 P.M.

CONTINUED BUSINESS MEETING:

Old Business/Status Updates: Upon a motion duly made and seconded, members present **VOTED** unanimously to approve closing of the following escrow accounts that include accrued interest as of 6/30/16.

Account #89-176-0603-2580, SS Medical/141 Longwater Dr - \$2,446.98
Account #89-176-0703-2580, Friendship Home/460 Main St - \$1,212.03
Account #89-176-0708-2580, A Zildjian/22 Longwater Dr - \$1,212.55
Account #89-176-0709-2580, Porsche/75 Pond St - \$1,415.23
Account #89-176-0710-2580, Audi/59 Pond St - \$2,020.88

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239 Washington Street Notice of Project Change – Minor Modification Determination:

After discussion with Attorney Baker and Brian Murphy present, upon a motion duly made and seconded, members present **VOTED** unanimously to approve the requested Notice of Project Change modification under 760 CMR 56.05 (11), 760 CMR 56.07(4) for one additional unit to bring the total approved from thirty-nine (39) units to forty (40) units per the submitted plan that will also increase the number of bedrooms from eighty-nine approved under the Comprehensive Permit to ninety-four (94). It was noted other approvals will be required from DEP for the Groundwater Discharge Permit and from the Conservation Committee, prior to issuance of a building permit.

ADJOURNMENT: The business meeting was adjourned at approximately 8:30 P.M.

REMAND HEARING: Upon a motion duly made and seconded, Members Brown, Harrison, and Barbour **VOTED** on Lot 62, North River (a/k/a Stony Brook Lane) remand questions, as follows:

- Order 1: The Board of Appeals scheduled a duly noticed public hearing in the case of Thomas F. Williams v. Board of Appeals of Norwell, 13-P-438 (9/11/14) on July 27, 2016, which was continued to September 13, 2016, and September 14, 2016, and closed on September 21, 2016.
- Order 2: Public notices for the above meetings were posted as required by the Court and the Open Meeting Law with abutters and counsel notified.
- Order 3: In response to Question 3, upon a motion duly made and seconded, members **VOTED** unanimously that Lot 62 qualifies for separate lot protection, as there was no zoning in effect in Norwell in 1948. It should be memorialized in the decision that the 1942 Norwell Zoning Bylaw and amendments thereto were held to be invalid by Land Court Case No. 9746 Misc. (*Herbert A. Lincoln vs. Inhabitants of the Town of Norwell*), dated

January 16, 1947, as a matter of fact is in conflict with a prior stipulation that was submitted to the Court relating to the current case.

- Order 4: In response to Question 4, upon a motion duly made and seconded, members **VOTED** to decline to respond to address the legal right of the plaintiff to use the full length of the way, which was raised by abutter Maura Lareau with standing under the zoning bylaw. Stony Brook Lane would provide vital access for emergency fire and police vehicles. However, members decline to opine on any title issues. Further, the Board offers no opinion as to who is in the right or wrong nor does it offer an opinion in favor of or against either party, but respectfully believes this is a specific issue for the Court to address. Notice should also be taken of the 1972 Official Map by Loring Jacobs, Surveyor, which identifies "state highways, county highways, town ways, private roads, and private lanes".
- Order 5: In response to Question 5, upon a motion duly made and seconded, Members Brown and Harrison **VOTED** to affirm issuance of the building permit, while Member Barbour **VOTED** against affirming issuance of the building permit.

NEXT REGULARLY SCHEDULED MEETING: Wednesday, October 5, 2016

These minutes have been approved with reading of the minutes waived by unanimous vote of the Board of Appeals at a public meeting duly held on ~~05 OCTOBER 2016~~ accordance with M.G.L. c40A, Section 11, and the Massachusetts Open Meeting Law.

Signed:  Date: 05 OCTOBER 2016
As Clerk/Assistant Clerk

Copy filed with: Office of the Town Clerk

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