

Town of Norwell
BOARD OF APPEALS
Public Hearing Minutes
June 1, 2022

TOWN OF NORWELL
TOWN CLERK

2022 JUN 30 PM 12:19

MEETING DATE: Wednesday, June 1, 2022
TIME SCHEDULED: 7:00 P.M.
LOCATION: Osborn Room
MEMBERS PRESENT: Lois S. Barbour, Chair
Ralph J. Rivkind, Clerk
Daniel M. Senteno Assistant Clerk
Stephen H. Lynch
MEMBERS ABSENT: Philip Y. Brown, Vice Chair
Nicholas K. Dean
William J. Lazzaro

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OTHERS PRESENT: Jim Pavlik, Outback Engineering for Applicant
Mohammed Itani, Developer

CALL TO ORDER: The business meeting was called to order at approximately 7:01 P.M. and the public notice read by Member Rivkind. Mr. Lynch reviewed the protocol for Zoom participants.

AGENDA: Upon a motion duly made and seconded, members present **VOTED** unanimously to accept the agenda, as written.

MINUTES: Upon a motion duly made and seconded, members present **VOTED** to approve the business meeting minutes of 5/5/22 and 5/11/22, with reading of the minutes waived. Upon a motion duly made and seconded, members present **VOTED** to approve the public hearing minutes of 5/5/22, with reading of the minutes waived.

INVOICES: Upon a motion duly made and seconded, members present **VOTED** to approve the *Mariner* invoice #0004560530 in the amount of \$44.40 for legal notice for the Rules public hearing.

DISCUSSION on Damon Farm: The Board received a notice of project change that was approved at the last meeting. A letter was sent to the Applicant to confirm the vote. The final as-built will show the approved change. The six (6) affordable units at this Queen Anne's Corner project are eligible for inclusion on the Town's SHI (Subsidized Housing Inventory).

DISCUSSION on Tiffany Hill: The Applicant's engineer submitted information just prior to this meeting that has not been reviewed. Mr. Lynch reported he had walked the property with Mr. Chessia the Friday prior to this meeting. Chair Barbour clarified the role of the ZBA relating to the Tiffany Hill project, which is to ensure conditions of the Comprehensive Permit are met and to ensure fulfillment of the agreement for the cash bond. Member Lynch stated discussion will be centered on the list of twenty (20) items from Mr. Chessia's September 16, 2021, memorandum that was emailed to Mr. Pavlik and Mr. Itani at this meeting, as they did not have that document in front of them. Mr. Itani stated he had undertaken some of punch list items over the past two weeks. An unstamped plan showing changes in the tree line and other features were submitted to the ZBA with revised drainage calculations also submitted. Mr. Pavlik stated the project is in essential compliance but there is washout at the basin at the top of the hill.

Mr. Itani stated the topcoat of roadway and access to detention basin and fencing for a basin are completed. There are a total of three basins: rechanneled flow to #3 because of erosion that he said was fixed on Saturday after Messrs. Chessia and Lynch's site walk the day before. The erosion channels are repaired and the bottom of the basin has been fixed, as well as erosion in the big pond.

Mr. Lynch asked Mr. Pavlik to indicate when each item would be completed or was already completed. Mr. Itani says some items were completed in November 2021 after the September 27, 2021, meeting with more work done about 4 weeks ago and that they tried to finish last Saturday.

1. Sediment barriers should be removed: Mr. Itani indicated they were removed, but this was not observed by ZBA consultant and member on Friday, 6/10/22.
2. Silt bag at end of subdrain: Mr. Itani indicated they were removed, but this was not observed by ZBA consultant and member on Friday, 6/10/22.
3. Design engineer should review plantings that should be grass seed mix but it has been mowed. Mr. Chessia stated the ground feels like hardpan gravel and is not appropriate for a bio-retention basin. Part of maintenance should be to dig up and replace the soil with 2 ½ feet of compost mix. The basin should be unclogged if sediment has collected.
4. Forebay to bioretention area: Mr. Itani indicated work was completed, but this was not observed by ZBA consultant and member on Friday, 6/10/22. Member Lynch stated to be fair, Mr. Itani should provide dates when any work was completed or is anticipated to be completed. Mr. Itani stated most of work was done after 11/18/21 with rip rap in place. Mr. Chessia indicated this area doesn't look that bad but the Board needs dates of when work was accomplished.
5. Catch basins: Itani stated he was unsure of the date but the last cleaning was less than a year from November 2020. The HOA indicated the catch basins were cleaned two weeks ago. The responsibility is transferred to the HOA.
6. Weep and silt by station 22 and 00 0.75: Mr. Itani believes the cause of flow on right side facing south has been determined. The pipe sits in on a crushed stone bed which is where weep is. Mr. Chessia noted that the flow should go into the pipe and also that the silt sock had not been removed.
7. West side appears to be functioning as designed but invasive phragmites must be removed. Mr. Lynch stated two to three (2-3) cycles of "clip and drip" with an herbicide is required; simply cutting does not eradicate the invasives.
8. Approve design between 22-24 at southwest corner: The rim is above grade of stone. Lot 23 eliminated a swale that was not approved to increase lawn area and says there is minimal impact on impervious surface. The ZBA must decide whether this can be allowed. Mr. Chessia indicated the as-built plan showing the line for limit of clearance is needed, as well as the unapproved exclusive use areas. This expansion goes into common zone and trees. The question remains about how to protect areas that should not have been encroached upon. Supporting documents are required that is likely the biggest issue. A discussion of where we are on the List of 20 could take more than one evening; Member Lynch notes that the HOA is worth the time spent. Mr. Itani understands that homeowners cannot extend a lawn area without approval of the ZBA. The "exclusive use" areas were drawn with the intention to keep people out of each other's backyards. Further, no tree cutting is allowed. Mr. Itani noted that two yards were approved by Itani for expansion (but not the ZBA) including Lot 23. Information that is relevant and brief should be provided. Mr. Itani said the two yards were expanded by cleaning up the area that included trees that were failing. He noted that five yards were expanded with three not done by Mr. Itani.
9. Appears to be weeping: A neighbor mulched on the slope and the area now appears to be stable. Mr. Chessia noted no water during the site visit on Friday, 6/10/22. There is a weep area further uphill with rushes. Mr. Chessia wants the developer to determine where the weeps are coming from and why. Member Barbour noted there was a concern about soils on site that are dense glacial till with clay about 3' at most below soil, as noted during the application process. Mr. Chessia stated that 3' is generous and as seen during construction could be as shallow as 18". The question that must be answered is whether any weep is from groundwater or septic that would be nutrient rich. This is up to the developer to resolve. Mr. Itani noted there is a barrier for septic, but is willing to test the water.
10. Swale discontinuous behind Lots 1-6. There has been some ponding on lots and some have been graded to drain. The swales were intentionally put into place to slow water down with trenches and crushed stone. With heavy rains there can be puddling. The swales should be kept in place because of water acceleration to prevent erosion. Member Lynch questioned whether these will require same regular maintenance. Mr. Chessia noted it is difficult to see because it's now dry. The swales are not just for slowing down draining and checking

velocity. Member Barbour noted Mr. Chessia has provided photo documentation that is in our files and the developer should correct areas shown in photos. Once lawns are stabilized this should not be as much of a problem. Mr. Itani said this is seeded now. Mr. Chessia noted there could have been errors in grading in some areas. There is obviously no water now with drought conditions. However, there is no evidence that work has been done.

11. Between Lots 6-7: Swale ended near roadway, where the berm has not been completed or has been compromised, now allowing water. Mr. Chessia notes no change is obvious even though Mr. Itani believes some work has been done.
12. More extensive clearing than on approved plan with restoration of the woodland required as a result of lawns being expanded. These areas should no longer be mowed or allowed to stay as-is with no additional clearing. However, no decision has been made. Member Lynch wanted to revisit the "exclusive use areas" and wonders whether homeowners are inadvertently doing damage by mowing. Mr. Pavlik, Mr. Itani's engineer, has produced an as-built that doesn't show the so-called exclusive use areas. Mr. Chessia indicated a worksheet should be developed, showing (1) limit as is and (2) where the limit of work was supposed to be. Mr. Pavlik indicated the recent drainage calcs provided reflect changes. Member Lynch wants an explanation, not just calcs and other testing. There also needs to be a clean cutover to the HOA. Member Barbour reminded Mr. Itani that an "exclusive use area" plan is required to be filed with a written request to the ZBA to approve. Apparently, the HOA has been given "exclusive use areas" with conveyancing documentation. However, such areas need to be within the permitted limits of work and not outside of that approval. Mr. Itani promised he will submit such a plan. Member Barbour stated any such plan needs to be an on-the-ground boundary survey that is stamped by the registered land surveyor that draws the plan.

Mr. Joseph LaFleur of 4 Hillcrest (Lot 23) used the builder's real estate agent who apparently told buyers that they could build pools or other amenities. He indicated his backyard was unusable. He reported that he does drainage for a living and left the original swale with new drain and now his neighbor doesn't get water. In fact, he had his area surveyed and planted more trees.

Member Barbour indicated that drainage calcs with site elevations should be on the ground and shown to be working with have photos from Mr. Chessia previously showing water and areas of concern addressed by the developer.

Ms. Julissa Viana, a former HOA trustee of 29 Hillcrest Circle stated the master deed on p. 4, section 7.8, includes a "site plan". Member Barbour indicated any plan included should have been what was approved in the Comprehensive Permit. Perhaps, this is a land issue, but it cannot be resolved by the ZBA. Per this evening's discussion, what has been constructed should be what was approved. The ZBA requested at its meeting on 9/27/21 that an "exclusive use area" plan should be submitted for approval but has not yet received such a plan or a request to approve. The final as-built plan should reflect the approved plans and any changes agreed upon in the Board's discussion with the developer. Unit at upper end of roadway (most recently constructed) with plantings that are not fully established due to current drought conditions. Mr. Chessia noted the plants just didn't make it. Mr. Itani will reseed the grass strip next to street but that area doesn't have sprinkler heads. With limited natural water, Member Barbour suggested that grass should be reseeded in fall unless appropriate water can be made available. Elizabeth Reeve of 19 Hillcrest Circle (Lot 7) indicated loam had trash with glass, plastic, and other materials in it and was a hazard.

13. Sidewalk was originally installed without inspection but was redone; now completed.
14. Structures in the street are no longer raised above grade as a final coat of asphalt has now been applied.
15. Completed.
16. Grass in leaching areas to be replaced: Mr. Chessia notes this item is now completed.

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17. Sink hole around distribution box: now completed. Mr. Itani stated this has been inspected by the Board of Health
18. Basin east of septic field: Mr. Itani indicated this was completed on Saturday, but this was not observed by ZBA consultant and member on Friday, 6/10/22.
19. Per Mr. Itani not completed yet. Grade cover has not been installed.

Some issues should be handled directly between the HOA and the developer.

Member Rivkind suggested the developer should look over the list and provide approximate dates to complete, including % finished and realistic time required to complete. The homeowners are entitled to know when this project can be closed out with a date certain.

Mr. Chessia stated the Board needs to have plans to make decisions. Member Lynch wants a baseline with the exclusive use area and limit of work delineated on one plan. No site visit by the Board's consultant is needed at this time.

The Board asked when the requested plans would be ready. The Board also needs a plan showing work approved by Mr. Itani but not the ZBA with an on-the-ground surveyed plan.

By mutual agreement, Tiffany Hill will be placed on the 7/27/22 agenda for discussion.

Mr. LaFleur should submit his surveyed plans to the ZBA for its files.

Allen Upjohn of 25 Hillcrest is interested in any sound barrier to Rte. 3. Mr. Itani stated there was no requirement for a sound barrier. However, the project has a 600' fence at the top of the hill.

Member Barbour recommended that any plans or comments should be submitted to the Board at the Building/Zoning Office: Attention Roberta Mahoney.

ADJOURNMENT: Upon a motion duly made and seconded, at approximately 8:30 P.M., members present **VOTED** unanimously to adjourn the business meeting.

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 6/29/22 in accordance with M.G.L. c40A, Section 11, and the Massachusetts Open Meeting Law.

Signed: _____

As Clerk

Date: _____

6/29/22

Next scheduled meeting: June 15, 2022

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