

Approved
2-24-16



Town of Northborough

Earthwork Board
63 Main Street, Northborough, MA 01532
Conference Room B
Wednesday, December 23, 2015

Present: Tom Beals, Anthony Ziton, and Tony Pini

Also Present: Fred Litchfield, Town Engineer; Jacquie Goring, Board Secretary; Daniel Ruiz, Capital Group Properties; Don Lavin, owner of 360 Southwest Cutoff; Carol Romano, resident of 46 Donnelly Cross Road, Spencer, MA.

At 7:00 pm, Mr. Beals called to order the Earthwork Board meeting.

Public Hearings:

Renewal Permit
920 LLC
370 Southwest Cutoff
Map 108 and 109, Parcels 2 and 15

Daniel Ruiz, permitting manager for Capital Group Properties, was present and stated that material is still being moved on the site and indicated he was seeking a renewal permit. Ruiz stated that the remaining work will be completed in the spring of 2016. Fred Litchfield recommended that the bond amount remain the same and not be reduced because of the minimal amount of stabilizing work that has been completed thus far. Litchfield noted that he has visited the project and it is coming along slower than expected but there was a fair amount of site work to complete prior to starting the project. Funds have been posted as required in the original permit.

Don Lavin, owner of 360 Southwest Cutoff, was present and discussed his concerns regarding the height of the retaining wall along the property line. Lavin noted that the Zoning Board of Appeals (ZBA) approved a sixteen foot retaining wall but a 29 to 30 foot wall was constructed, approximately 26 feet from ground surface of Lavin's property. Lavin provided the Board copies of the ZBA approval and photos of the retaining wall. Lavin noted that a 24 inch field stone wall was removed and large boulders were placed to achieve a three to one pitch off the existing wall. Lavin stated that 360 Southwest Cutoff is currently occupied by a landscaping company and that he had lived at the property for 30 years and ran a repair business and leased space to a catering company. Lavin added that the owners of 370 Southwest Cutoff were going to purchase his property for 3.5 million dollars which was advertised for 3.7 million dollars and after the wall and boulders were installed he was offered 1.25 million. Lavin stated that he has had interest in leasing the property from Cumberland Farms and Town Faire Tire but would like to sell the property. Lavin expressed concerns about the value of the property and being surrounded by the 370 Southwest Cutoff project and noted that he feels there is room for easements and curb cuts to ease traffic in the area on his property. Lavin stated that the wall should be 30 feet back from his property line and no more than sixteen feet high. Lavin added that the original application with the ZBA proposed a 26 foot high wall and the wall was reduced to sixteen feet throughout the hearing process. The Board clarified

with Lavin that there are currently no easements on the lot and that Lavin does not believe the wall was built in accordance with the ZBA approval.

Lavin expressed concerns about the boulders proximity to the building on the 360 Southwest Cutoff. Litchfield confirmed that there are setbacks from any structure for retaining walls but a variance was issued by the ZBA. Litchfield added that a special permit was issued by the ZBA for the project and subsequent amendments to the special permit were issued. The wall was requested to be built lower than 26 feet but subsequent plans submitted with the amendment changed the height of the wall back to 26 feet. Litchfield noted that the sixteen foot height was discussed in the hearing but was not listed as a condition in the permit. Litchfield stated that the Building Inspector had reviewed the issue and recommended that the applicant go back to the ZBA to clarify the issue and will not issue an occupancy permit until that has been done. Litchfield clarified that the exposed height of the wall is 26 feet and that the surface of the parking lot and elevation of the wall has not changed. Litchfield noted that Lavin's concerns are important but not part of the Earthworks Board jurisdiction and clarified that any issues with stability of the site could be addressed by the Earthworks Board and recommended the other issues be addressed by the ZBA in conjunction with the Building Inspector. Litchfield also noted that the sale or value of property is not addressed by any Board or Commission. Lavin added that he did not receive an abutter notification for this evenings Earthworks Board hearing or any other hearing. Lavin continued to express concerns about the sale of 360 Southwest Cutoff and the Board noted their appreciation for his comments and he confirmed he had no other questions.

Mr. Pini moved to close the public hearing and to renew the permit with the same conditions and bond amount as previously approved; the motion was seconded by Mr. Ziton and was unanimously approved.

Bond Releases/Reductions:

- Tim Shay, 130 Main Street, Map 53, Parcel 152. Earthwork Board members discussed 130 Main Street and the final as-built plan still pending updates including comments from the Department of Public Works.
Mr. Ziton motioned, Mr. Pini seconded, and it was unanimously voted, "To release the \$9,500 bond for 130 Main Street, Map 53, Parcel 152 pending the receipt of the final as-built."
- Kendall Homes, 150 Church Street, Map 55, Parcel 60. Earthwork Board members discussed 150 Church Street request for bond reduction. Litchfield noted that he had completed calculations for reducing the bond based on the amount of area that has been hydroseeded and recommended reducing the bond from \$23,000 to \$10,000. Litchfield stated that the majority of the site work has been completed and one acre remains to be stabilized and the as-built and contingency requirements remain.
Mr. Pini motioned, Mr. Ziton seconded, and it was unanimously voted, "To reduce the \$23,000 bond for Kendall Homes, 150 Church Street, Map 55, Parcel 60 to \$10,000."

FYI:

- The Board discussed 269 West Main Street including tree plantings and issues with the site plan. Litchfield will contact Chuck Black and will address any issues when the permit is up for renewal.
- Tentative date for the next meeting, Wednesday, January 27, 2015. Board members discussed and agreed to meet if needed on January 27th. Tom Beals will not be available.

- The Board reviewed the current Bond spreadsheet.
- The Board requested that Litchfield prepare a letter to Jimmy Voyiatzis for review at the next meeting regarding as built and stabilization of the slope at 73-79 West Main Street.

Review Minutes of September 23, 2015:

Board members discussed the minutes of September 23, 2015.

Mr. Beals motioned to approve the minutes as submitted, Mr. Ziton seconded, and it was unanimously voted, “To approve the September 23, 2015 minutes of the Earthwork Board.”

Adjourn:

Board members agreed that no further business needed to be discussed. Mr. Ziton requested action.

Mr. Pini motioned, Mr. Beals seconded, and it was unanimously voted, “To adjourn the Earthwork Board meeting.”

The Earthwork Board meeting ended at 7:50 pm.

Respectfully submitted,

Jacquie Goring
Board Secretary