

Approved  
9/20/17



# Town of Northborough

Earthwork Board  
Meeting Minutes  
Wednesday, July 26, 2017  
63 Main Street  
Conference Room B  
7:00 PM

Present: Janet Sandstrom, Anthony Ziton, Tony Pini, Tom Beals and Fred Philcox

Members Absent: None

Also Present: Fred Litchfield, Town Engineer; Mike Lotti, Fatem Ramadan, Paul Shattuck, Mr and Mrs. Dhaliwahl and Antonio Santiago

At 7:00 p.m. Ms. Sandstrom called to order the Earthwork Board meeting.

### Public Hearing:

New Permit: Mali Realty, LLC  
25 West Main Street  
Map 63, Parcel 154 and 166

Antonio Santiago (contractor for the construction project was present); he submitted the green cards to Mr. Philcox. He was asked when the project would be completed. He said because they had design issues with the basements because of the ground water, the project sat idle; they are going to resume the French drain next week. Mr. Litchfield said the project had a permit issued in 2015; the cash bond was set at \$4,500 and is still in place. The board does not want to change the bond amount. It is a new permit because they went beyond the twelve month period.

Discussion: Paul Shattuck (abutter) said he owns property at 17 West Main Street. Last month due to lots of circumstances he closed his business after 37 years. One of the influences was the progress, or lack of progress, and lack of cooperation with the owners of 25 West Main Street. He ran his business for years when the property was vacant. He was delighted several years ago when the owners came to him with their plans and assured him they wanted to do a good job, they were eager to do it promptly, they were going to do it right, and everything was going to be beautiful. He fully supported them and fully cooperated with their efforts. The project involved demolition, remodeling, excavation, cement work and new construction. After how many years we have seen demolition, not finished; remodeling has not started; they've done excavation and now they are having problems, they've done some framing and then left it untouched for weeks, exterior walls are not done, there is no roofing, he allowed them 10 days to close off one of the entry ways to his business. For 2 months they had it blocked off and to this day they are still encroaching on his property. Mr. Shattuck said he has to look at his retirement as his commercial real estate interest at 17 West Main Street. Whether he leases or sells it, the fair market value of his property and his retirement is affected by the eyesore next door which is making no progress. He said it looks as bad today as the day they bought the property; he sees no end in sight. His position is if they are requiring something from the board to issue or renew, his feeling is he wants this project done and finished. Is it possible to not grant them the extension until they finish something they have started. It seems to him that construction plans have a sequence of events. Those events should be finished before going on to do something else. He has no problem with granting the permit, but finish what you started. Mr. Santiago said he was ok with that; the earth work was done before he took the job and was directed by the builder and the owner. He can't finish the building without the earth work permit. Mr. Shattuck said he was assured by the owner that the project would be finished two years ago and occupied by July of this year. Ms.

Sandstrom asked what is the anticipation of the project being finished. Mr. Santiago said no more than four months to 100% completion to button it up so it can be worked on over the winter. Mr. Pini asked how do they account for the delays that have gone on up to this point. Mr. Santiago can't speak to the prior contractor, but he took it over just before winter. Originally he had the job for the full basement, when they started digging and they found organic material and stopped the job and waited for an engineer and consultant. When they restarted the work, the water came up and that was another delay. They have a noise level, there is gravel; they just got the ok to enclose the building, and will pump the concrete into the buildings. The first contractor did the demolition and design; he took the project after that. Mr. Santiago said he will bring a schedule to the board. Mr. Shattuck said they have delays for extended periods of time with no one on the project. Mr. Santiago said the footing have been poured for the foundations, the plywood needs to be finished for the frames. Mr. Litchfield asked if they are encroaching on his property now; yes. With just their construction material and equipment? Mr. Shattuck said with a fence and pavement they have dug up. Mr. Santiago was asked how soon he could remove the pavement and fence so Mr. Shattuck's property is not encroached. Mr. Santiago said he has to get in touch with the earth guy regarding the pavement. He may not be able to remove the fence, he has to go between off hours to do the siding and roofing on that side. Mr. Litchfield said if you removed pavement and stockpiled it on Mr. Shattuck's property. Mr. Santiago said it is not stockpiled there. Mr. Shattuck knows there are surprises and delays construction projects. He does not believe Mr. Santiago when he says he will have it closed in in four weeks. Where are the owners? Where is the counsel? Any obstacle he can present to get them to finish what they've already started and not create more mess, he will do. Mr. Litchfield said not issuing the permit would stop work altogether and that wouldn't be anyone's best interest. He suggested that the board consider setting a reasonable goal to have accomplished by your next meeting and have Mr. Santiago and the owners come back at that time. You would be continuing the hearing, setting a goal of what needs to be accomplished to at least get us going in the right direction, see a measurable goal, and at that time consider increasing the bond to a much higher amount in order to give some incentive to the builder and the owners, we can discuss how much that would be to give them the proper incentive. At this point, stopping the project is going to help Mr. Shattuck or the owners. Mr. Shattuck said the project is stopped. Mr. Santiago explained what would happen by removing the fence and said the project will be delayed by four weeks.

The owners of Northboro Liquors, Mr. and Mrs. Dhaliwall (15 West Main Street) have similar complaints as Mr. Shattuck. They are still running their business and have lost a lot of customers because they see the entrance and exits closed; they won't stop. Their entrance was closed for two months. The entrance they were using was also used for the construction vehicles. They've had to call the police because of the way the construction vehicles were parked. There are many potholes because of the construction. They share the entrance with Mr. Shattuck. Mr. Litchfield asked Mr. Santiago what he could do to not block their property. Mr. Santiago said he will talk to everybody to not park there. He was asked what he could do to improve the situation in the next three weeks. Can you guarantee that the access to their property will not be restricted; he said yes starting tomorrow. It is open now, the concern is when they resume working. It will be part of the construction schedule. Mr. Litchfield asked what he could do to move the project along so Mr. Shattuck can see some satisfaction in the building and demolition that would indicate that you and the owners are serious about completing the project in a timely manner. Can you give us a date certain when the project will done and buttoned up. Mr. Litchfield is looking for something that Mr. Santiago can commit to that can be done in the next three weeks and that you can have him back in to report on that, and if it is not done completely (or even if it is) you can discuss reducing the hours of operation of the permit. The permit allows for work on Saturdays; you don't have to allow that; you could also increase the bond. We need to set a date, time certain, and have him come back with the owners. If he has promised certain things and delivered them, you could renew the permit as it is. If he promises and doesn't do them all, you can talk about amending the conditions of the permit, increasing the bond and reducing the hours, making his life more difficult but hopefully better for his neighbors he is encroaching on and move the project along. Mr. Litchfield said the property that is subject of the permit has no access to West Main Street. The space between the Shattuck's property and the former Lowes building belongs to Mr. Shattuck. It was always an agreement that people going to Lowes could drive in there and park in the back. The

owners bought a small piece in the back and with that came the access from Gale Street over to the bank which goes out to West Main Street. He is looking for something on the construction end that could be accomplished and visibly seen by everyone and at the next meeting decide that is in fact what he said he would do and he did it, and then you can decide how you want to renew the permit. He recommends not issuing the permit tonight but continue the public hearing and have measurable goal. Have the neighbors, applicant and owners back at the next meeting. Mr. Santiago said he will keep the driveway open and work on the Bank of America side of the building. Mr. Litchfield said you can't encroach on other people's property while you're waiting for the perfect time for you to do your job. You can't impose on them your schedule for demolition. Mr. Santiago said the driveway is 6'-8' of the parking lot. The driveway will be open during working hours. Before the fence can be moved in the back, Mr. Santiago said the roofing has to be finished, trim, siding, and put back the asphalt/paving. He can do the roofing next week and the siding after that. He said he can take care of it within three weeks. Mr. Santiago said by the time we meet again, the roofing, siding area will be clean. Mr. Shattuck said it is reasonable but doesn't believe it will be done. The framing has been exposed for some time now and it is evident that the lumber is weathering. The public hearing will be continued. Fred's notes: Antonio is going to keep the driveway open, maintain it open, he is going to work with the Liquor Store owners to coordinate when he does need to close it so they have warning, and he is going to complete the roofing next week and the siding the week after, and shortly after that we will be meeting and we will evaluate what he said he was going to do vs. what he did, and will have a discussion with the owners about issuing another permit, and invite you all to come. A copy of the agenda will be sent to those in attendance after the next meeting date has been set. Mr. Pini made a motion to continue the public hearing; Mr. Ziton seconded; all voted in favor; motion approved.

#### **Public Hearing:**

New Permit: Massachusetts Electric Company, dba National Grid  
55 Bearfoot Road  
Map 29; Parcel 46

Mr. Pini recused himself from the matter because he used to work for National Grid. Mike Lotti was in attendance; provided the legal ad and green cards. They propose to install solar canopies in the parking lot of the existing building. They received Site Plan approval from the Planning Board. They propose to install solar canopies in the parking lot of the existing building. Each one of the canopies is placed on 2-5 pier foundations, 3' diameter, 8'-10' deep; we use a bucket auger to drill for the foundations. Each pier is approximately 30' apart. There will be a trench from one row to the inverted area with a concrete pad which will have the switch gear, transformer and data system, and a trench from there out to the street to connect to National Grid. It will be behind a fence, there is security access; there is no noise. There are no contamination issues on site; any access material will be hauled off to a construction yard. The catch basins near the construction are will have silt sacks. There is a construction sequence with National Grid. The project is estimated to be completed in 5-6 months.

Faten Ramadan (15 Emunds Way) had a concern and asked if they will be using any release agents when pouring the forms. Mr. Lotti said no. Mr. Ramadan asked if power underground is going to the nearest telephone pole. Mr. Lotti said it will be underground and connects to the underground system on the street; is connected on Bearfoot Road. Mr. Ramadan asked about reflection? His concern is that at certain times during the day the sunlight will reflect straight from the angle towards his property. Mr. Lotti said it should not go into his property. Mr. Litchfield asked that they talk about it outside because the permit to be issued has to do with earth work and making sure that the site is stabilized throughout construction. That discussion should have taken place at the ZBA hearing. Mr. Litchfield estimated the bond at \$7,700; the board agreed. Mr. Philcox made a motion to issue a permit to National Grid at the address of 55 Bearfoot Road with a bond of \$7,700; Mr. Ziton seconded; all voted in favor; motion approved.

Mr. Ramadan said residents heard there was a rumor that the town will be bulldozing trees on Edmunds Way Circle. Mr. Litchfield advised him to call him next week since it is not an issue for the Earth Works board; it could be a DPW issue.

**Public Hearing:**

Renewal Permit: Mohamad Ramadan  
0 Newton Street  
Map 7; Parcel 1

The application was just received. Mr. Ramadan sent an email stating he was out of the country and would contact him Monday; no message was received. There is a \$17K bond posted. He is wrapping up the Newton Street roadway improvements. He will be asked to advertise for next month if it has not been done. We can hold a meeting in August if it is confirmed that advertising and abutter notices were sent.

**FYI** – A new person has been hired to do the Conservation Commission and Earth Work boards starting on August 1<sup>st</sup>; she does have a conflict with meetings on the 4<sup>th</sup> Wednesday; she is committed to another board on that week. He asked if the board would have a problem changing to the 3<sup>rd</sup> Wednesday of the month. The board agreed to change the meetings to the 3<sup>rd</sup> Wednesday; he will inform the Town Administrator. The next meeting will be on August 16<sup>th</sup>.

**Bond Releases/Reduction:**

920 LLC, 370 SW Cutoff, 108/2 and 109/15 – One building pad is poured but no building is on it, most of the other work is complete. Mr. Litchfield will be meeting with the developer next week to see what the bond can be reduced to; the developer would like it released. A performance bond could be substituted with a cash bond.

Kendall Homes, 269-273 West Main Street, 82/17 & 18 – The work is completed. The current bond is \$15,000. Mr. Philcox made a motion to release the bond on 2011-5, 269-273 West Main Street; Mr. Beals seconded; all voted in favor; motion approved.

Kendall Homes, 150 Church Street, 55/60 – An as-built plan was not received. Mr. Litchfield was not recommending release or reduction at this time.

TSHAY LLC, 113 West Main Street, 62/69 – The current bond is \$5,500. Mr. Philcox made a motion to release the bond for 113 West Main Street; Mr. Beals seconded; all voted in favor; motion approved.

Mr. Philcox made a motion to adjourn; Mr. Beals seconded; all voted in favor; motion approved. The meeting adjourned at 8:35 p.m.

Respectfully submitted,

Melanie Rich  
Board Secretary