

## WALPOLE PLANNING BOARD MINUTES OF MAY 21, 2009

A regular meeting of the Town of Walpole Planning Board was held on Thursday, May 21, 2009 at 7:00 p.m. in the Main Meeting Room, Town Hall. The following members were present: John Conroy, Chairman; Nancy Mackenzie, Vice Chairman (7:27 P.M.); Edward Forsberg, Clerk (7:25 P.M.); John Murtagh, (7:15 P.M.); Donald Johnson, Town Planner and Margaret Walker, Town Engineer.

### **Appointments:**

**7:32 P.M. CVS (G. B New England 2, LLC) 929 Main Street – Case No. 09-5 (Site Plan Approval) and Case No. 09-6 (Special Permit):** The applicant was represented by Philip Macchi, Esq., 1256 Washington Street, Norwood. He asked that the meeting be opened and suspended without testimony. The ZBA met the night before and they did not have a quorum; therefore, they continued the hearing to June 24<sup>th</sup>. They need a special permit from them first. He requested this hearing be continued to the first available meeting after June 24<sup>th</sup>.

Mr. Conroy moved to open these hearings to continue. Motion seconded by Ms. Mackenzie and voted 4-0-0. Mr. Conroy continued Case No. 09-5 to July 9, 2009 at 7:30 p.m. and Case No. 09-6 to July 9, 2009 at 7:31 p.m.

Mr. Macchi requested the Planning Board ask town counsel about the quorum necessary for a special permit.

Mr. Macchi granted an extension of time up to and including July 31, 2009 for Case No. 09-5 and 09-6. Mr. Conroy moved to accept an extension of time for both cases up to and including July 31, 2009. Motion seconded by Ms. Mackenzie and voted 4-0-0.

**8:00 P.M Michael Shea, 390 West Street, Case No. 09-3 (Site Plan Approval) and Case No. 09-4 (Special Permit):** The applicant was represented by Rick Merrikin, Merrikin Engineering, Millis, MA. He stated that given the fact that there is a short board present tonight, he would like to continue these two hearings. Mr. Conroy stated he will open to continue. He informed Mr. Merrikin that they may not finish at the next meeting and if it gets continued again, they may have a short board again. Mr. Merrikin stated he is aware of that. He also dropped off new plans today.

Mr. Conroy moved to open the two public hearings to continue to June 4, 2009 at 7:45 P.M. and 7:46 P.M, respectively.

Mr. Conroy moved to accept an extension of time up to and including June 19, 2009 for Case No. 09-3 and Case No. 09-4 as per request of Rick Merrikin. Motion seconded by Ms. Mackenzie and voted 4-0-0.

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**Other Business:**

**High Oaks IV:** John Walsh, Walsh Construction, Attleboro, MA was present. He stated that the only reason there is a bond on this entire subdivision is because the Planning Board had a problem with the previous contractor. Mr. Conroy stated that Delaney Drive was done with two separate approvals. Regarding Millbrook, the board had said he couldn't end up with a dead end of not more than 750'. Also, Delaney Drive in High Oaks I was done with two different approvals. Mr. Walsh stated there is some miscommunication. Mr. Conroy asked Mr. Johnson to talk to Mr. Walsh about what provisions we could do to get this done, as we don't want to end up with a dead end. We are trying to protect the town. We need to find out procedurally how this needs to be done. Mr. Walsh stated he would have come in sooner to talk about this. Mr. Johnson stated this could be looked at as one loop rather than two loops.

Mr. Conroy asked Mr. Walsh to meet with Mr. Johnson and Ms. Walker to work out a way this can be achieved. We are not here to hold you up, but we have to protect the town. All issues have to be addressed. Mr. Walsh asked what is the big issue – a turn around? Mr. Conroy stated our issue is a road that just stops. Mr. Walsh agreed to meet with Mr. Johnson. He stated that everything is bonded right now.

Mr. Walsh asked Ms. Walker for another punch list showing what needs to be done. Ms. Walker stated she hasn't generated a punch list as yet. Mr. Walsh stated he wants to know what she wants done. Mr. Conroy asked that there be notes taken at the meeting with Mr. Walsh, Ms. Walker and Mr. Johnson.

**Malo Terrace:** Mr. Conroy read a letter from Ken Wood requesting an extension of time for the Form F Covenant. Mr. Wood stated he would like the extension for two years if possible. Mr. Conroy moved to grant an extension of time up to and including August 31, 2011 as per request of Ken Wood. Motion seconded by Ms. Mackenzie and voted 4-0-0.

**Grandview III Subdivision:** The applicant was represented by John Glossa, 42 East Street, East Walpole, MA. Mr. Conroy asked if tonight is a scheduled public hearing and Mr. Glossa stated no. Mr. Conroy asked if he is here to request an extension of time and Mr. Glossa stated yes through September 2009.

Ms. Mackenzie moved to accept an extension of time up to and including September 30, 2009 as per request of the applicant's engineer. Motion seconded by Mr. Forsberg and voted 4-0-0.

Mr. Conroy informed Mr. Glossa that this public hearing will need to be readvertised and Mr. Glossa agreed. Mr. Glossa stated that the Frangiosa's and Federico's are trying to work things out and he continued with an informal discussion. Mr. Conroy stated that if there are changes, it will be a new subdivision.

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Mr. Forsberg asked if that would need to be readvertised and Mr. Conroy stated yes because it is currently still under subdivision control. Mr. Forsberg asked if both parties would need to sign the application and Mr. Johnson stated yes. Mr. Glossa stated the parties involved will do whatever the board wants and they will join together in the application process if necessary. Mr. Glossa stated that one can't be built without the other. Also, the utilities will need to be looped. Mr. Johnson asked if the drainage will stay in town and Mr. Glossa stated yes.

Mr. Glossa stated his options are to fix Joseph Lane to the satisfaction of the Planning Board, then get it accepted or start from scratch and come back with one big subdivision. He stated he will talk to his client. Mr. Glossa stated his client has already paid a \$12,000 filing fee when originally filed and asked if there would be another filing fee due. Mr. Conroy stated yes as the first one has already been used up.

**Lakeview Drive Extension:** Michael Viano, Gary and Lisa Mitchell and their neighbor Nadine were present to discuss the status of the Mitchell's driveway at 536 Fisher Street.

Mr. Conroy read a letter that was received on 5/20/09 from Gary and Lisa Mitchell, 536 Fisher Street. Mr. Johnson submitted a time line of the Lakeview Drive Ext. subdivision to the board. He stated there was a bond in the amount of \$52,000 that was originally posted and there is \$4,000 remaining. Mr. Conroy asked what is our involvement in the driveway and Mr. Johnson stated it should go back to the condition it was in if any part of the driveway was altered. He read from the grant of easement document. Mr. Conroy asked what was the original condition of the driveway. Mr. Johnson stated that according to Michael Viano, it was put in eleven years ago. The majority of the water line is beside the driveway, not in it. It is located on the south side of the driveway.

Gary Mitchell submitted 14 pictures to the board as referenced in his 5/20/09 letter.

Mr. Conroy asked Mr. Johnson if he has been out there and Mr. Johnson stated he was there in the middle of March. Ms. Walker stated she was out there before the winter. Mr. Conroy stated the driveway has to go back to the way it way and asked if it did. Mr. Forsberg stated we didn't have any pictures of that. Ms. Walker stated that would have been about two years ago, but we can't prove if it was base coated or top coated. Ms. Mackenzie stated that if the town had the right of way in someone's driveway, would they rip it up and patch it or redo the entire thing? Ms. Walker stated it depends on other factors. We would probably have to do the whole thing. It doesn't happen very often.

Mr. Murtagh asked if we know what type of condition the driveway was in before we started and Ms. Walker stated no. We have no documentation of "what it was". Ms. Mackenzie asked if it was inspected and Ms. Walker stated yes. Mr. Forsberg stated the pictures indicate that the edge of the driveway is cracked and he assumes the heavy equipment did that.

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Mr. Viano, Norton Avenue: had pictures taken the morning the work was done. He had asked earlier today for a copy of Mr. Mitchell's letter and was told he couldn't have it; therefore, he can't respond to everything. He knows there is work that needs to be done out there. He is uncomfortable with doing work without any agreement. The driveway is 8' wide and is eleven years old. It is 307' long. He is not disputing that the cracks rolled over, but he is not sure how to address this. Paul Cisternelli wanted to put in a crushed bank shoulder. It is his opinion that to restore that ground to as good a condition back to what it was in October of 2007, they have to saw cut an 18" cut, put in a decent base of crushed bank and then Mr. Cisternelli could install a level base coat. He would do this for the first 88'+-, and would also do the radii because Ms. Walker has asked him to.

Ms. Mackenzie stated that Mr. Viano submitted seven pictures.

Mr. Conroy asked for comments from the Mitchells. Ms. Mitchell stated that her pictures were all taken after the 88'. The edge has fallen off and her car also falls off the driveway. Everywhere there is a patch has totally caved in. They are not asking Mr. Viano for a second coat, they just want the whole right side that was dug up and patched to be fixed. It wasn't like that originally. They couldn't even get the driveway plowed this past winter.

Mr. Mitchell stated that the saw cut suggestion is new to him. He spoke with Paul Cisternelli and he said the original fix suggested would last about a year. Ms. Mitchell stated that to do the entire driveway as offered by Mr. Viano would mean they pay \$4,000 and Mr. Viano would pay \$1700.

Mr. Conroy asked if the Mitchell's would be happy with a saw cut procedure. They thought they would be. Mr. Conroy stated Mr. Viano will saw cut the ragged edge 18" on the southerly side, remove the asphalt and reinstall with new asphalt. He will do the first 88' complete to topcoat to a key way. Mr. Viano stated he would like a memo they can both agree to.

**Peach Grove Farm:** Mr. Conroy ask that we respond to the insurance form as submitted.

**Winter Estates:** Mr. Macchi asked that the board grant an extension of time for the Form F Covenant. Mr. Conroy moved to grant an extension to the Form F Covenant up to and including August 16, 2011. Ms. Mackenzie seconded the motion and it was voted 4-0-0.

**Bach Court 2 Extension:** Mr. Macchi stated that Ms. Nashawaty had asked that the Mutual Maintenance Agreement and Covenant be added to the decision. They don't disagree with that, but there is no such thing as a Mutual Maintenance Agreement with the Town of Walpole. That shouldn't be there at all. He would like 1) delete "Mutual Maintenance Agreement with Town of Walpole: and substitute just "Mutual

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Maintenance Agreement”; 2) galleys and riprap should be taken out of Special Condition 1-e; 3) reword the preamble to Section 1: remove “record at the Norfolk County Registry of Deeds” as he will not do that prior to coming back to us.

Ms. Mackenzie asked if we should withdraw the original decision and re-vote it. Mr. Macchi asked that the changes be determined to be scrivener errors and they just be corrected. They will record the correction with the decision. Ms. Mackenzie stated we should not change any standard conditions. Mr. Macchi stated the board could just remove them. Mr. Conroy stated we should just write “not used”. We should not renumber them.

Mr. Conroy moved to correct a scrivener error as written in the Bach Court Extension 2 decision dated May 28, 2009 by removing the words “Town of Walpole” in line 3 of Standard Condition #2. Motion seconded by Ms. Mackenzie and voted 3-0-1 (Mr. Forsberg abstained).

Mr. Conroy moved to remove the first three lines in Special Condition #1 as written in the Bach Court Extension 2 and substitute “a covenant and mutual maintenance agreement shall be signed prior to the endorsement of the plan. Further, the following shall be included in the covenant with the Town of Walpole and are hereby set as conditions of approval”. Motion seconded by Ms. Mackenzie and voted 3-0-1 (Mr. Forsberg abstained).

Mr. Conroy moved to remove the words “galleys/drainage system, riprap” from Special Condition 1-e. Motion seconded by Ms. Mackenzie and voted 3-0-1 (Mr. Forsberg abstained).

Mr. Macchi asked if it was a determination by the board that these are all minor modifications and Mr. Conroy stated no, scrivener errors.

**Special Permits:** Mr. Macchi was present to speak to his letter dated May 5, 2009. Mr. Conroy stated we were only going to add a word. Mr. Johnson stated we can amend Section 13. It can be corrected when the Use Table gets changed. Mr. Macchi stated that the buildings in the center of town still have to go to the Zoning Board because they are non-conforming.

Mr. Conroy stated that Section 13.3 of the zoning bylaw should read: “When a project requires a site plan review and any special permit (that is already under the purview of the Planning Board) they will be done simultaneously.”

Mr. Forsberg stated we would only hear a special permit if it is in the CBD.

Ms. Mackenzie stated she would like the first set of plans for Panera Bread at the next meeting.

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Mr. Conroy stated he would like Mr. Johnson to ask Jack Mee about the draft changes. Ms. Mackenzie agreed and asked that Mr. Mee give the board a letter stating that he likes those changes.

Mr. Macchi asked that regarding Section 12, does the Planning Board want to hear residential site plan approvals as he feels that Mr. Johnson's amendment addresses this. Mr. Conroy stated that section 12-c-5 is a policy issue. Mr. Macchi that that "requirement for application" is not a policy issue. He suggested that the board add "only if a site plan is required" to Section 12-4-A-1 and that the board remove the sentence about 1,2,3,4 families. Ms. Mackenzie stated she would like to see it in writing before we vote and asked that this be put on our June 4<sup>th</sup> agenda.

Mr. Conroy asked that the word "uses" be removed in the Buffer section and the word "zones" be added. He placed this on our June 4<sup>th</sup> agenda.

**Commerford's Corner:** Mr. Johnson stated that Ilana Quirk suggested we talk to her before rescinding this subdivision. Mr. Conroy asked Mr. Johnson to time line this all out and to come back to the board with what we have to do. He asked that this be sent out to Ms. Quirk. Mr. Forsberg asked that Jack Mee be told not to issue any permits for this subdivision. Ms. Mackenzie asked if this subdivision is in GeoTMS and Mr. Johnson stated he will put it in. His software was not working. Ms. Mackenzie asked that he put a hold on it in the GeoTMS system.

Mr. Conroy put this on our June 4<sup>th</sup> agenda and asked that the board have input on how to rescind. He would like the rescission hearing scheduled for July 9<sup>th</sup>.

**Brush Hill:** Ms. Walker stated she just received confirmation that they have a work order for Hancock Court Ext. and Kevin Sullivan will install streetlights. PJ Hayes said the work will be started in June and that the bases are in at Nstar.

**Nstar ANR Discussion:** Mr. Johnson stated they would like to present an ANR at 1"=60' scale which would allow it to be on one page. Mr. Conroy stated it is in the Rules and Regulations, so we can waive that requirement. Mr. Forsberg stated it should be 1"=40'. The board agreed to waive that requirement.

**Walpole Times:** They board questioned paying for the paper on an annual basis as it is cheaper to do it for three years; however, Accounting will not allow that. Mr. Conroy asked that we check into that. Possibly we could pay \$65 for one year and get the next two years free.

**Outstanding Subdivision List:** Mr. Conroy asked the planner if he contacted everyone that has a Form F Covenant that will expire this year. Mr. Johnson stated there are none other than the two that were already extended earlier in the meeting.

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**Horsley Witten Contract:** Mr. Conroy read a letter dated May 21, 2009 from the Selectmen stating that they voted 2-2 to extend this contract. Ms. Mackenzie stated she spoke with Mr. Boynton and it will be brought up again at their next meeting. She asked why it took seven days to get from us to the Selectmen. Mr. Johnson stated it got to them in time for their agenda. Ms. Mackenzie stated it took seven days after our vote to get to them and it was only two paragraphs. She stated that is unacceptable. Mr. Conroy stated we could address this after elections. Ms. Mackenzie asked that this be put on the Planning Board's June 4 and July 9 agendas.

**Meeting:** Mr. Conroy asked that we post a special meeting for June 8<sup>th</sup> to discuss Ms. Mackenzie's replacement if she is elected to the Board of Selectmen.

**Private Road List:** Mr. Conroy stated we need to make sure that what we do for private roads is legal. Mr. Johnson passed out copies of a response from Town Counsel regarding the steps and special conditions of approval suggested. Mr. Forsberg stated that when a person requests a road to remain private, they should be giving something back to the town. Mr. Conroy stated we need to make sure that is covered in our conditions.

**Overlay Scopes of Work:** Ms. Mackenzie wanted to know where these are. Mr. Johnson stated the board will get them by the end of the day on Tuesday. Ms. Mackenzie asked that this be put on our June 4<sup>th</sup> agenda. She asked Mr. Johnson to email these to the board by May 31<sup>st</sup>.

**Rules and Regulations:** Mr. Conroy asked that this be held until June 4<sup>th</sup>. Mr. Johnson presented a format of the changes putting the old on the left, the new on the right. The board will review and revise at the next meeting.

**MPIC:** It was agreed to contact Mr. Hirshom to see if he would like to be reappointed as his term expires on June 30.

It was moved, seconded and voted to adjourn. The meeting adjourned at 10:35 p.m.

Respectfully submitted,

Edward Forsberg, Clerk

Accepted 6/4/09