

WALPOLE PLANNING BOARD MINUTES OF AUGUST 16, 2007

A regular meeting of the Town of Walpole Planning Board was held on Thursday, August 16, 2007 at 7:00 P.M. in the Main Meeting Room, Town Hall. The following members were present: John Conroy, Chairman; Nancy Mackenzie, Vice Chairman (7:10 P.M.); Edward Forsberg, Clerk; Robert Hirshom, Elizabeth Nashawaty, Donald Johnson, Town Planner; Margaret Walker, Town Engineer.

Minutes: Ms. Nashawaty moved to accept the minutes of July 19, 2007 with clerical corrections. Motion seconded by Mr. Hirshom and voted 3-0-1 (Mr. Forsberg abstained).

Appointments:

7:30 P.M. Grandview III Continued Hearing: The applicant, Dick Saccone, was represented by John Glossa, Glossa Engineering, 46 East Street, East Walpole, MA. Mr. Glossa informed the board they have an amended ORAD dated August 14, 2007 from the Conservation Commission, which freezes the wetland flagging for three years. He gave the board a copy of the ORAD. He also stated they have a plan with a revision date of August 8, 2007 which shows that portion of the cart path into the property are not in the wetlands.

Mr. Glossa stated he is not ready to move forward tonight, as he needs to do more work, but would give the board an update. He stated they believe there was a culvert under the driveway at one time. He would also like to reduce the width of the road to 24' or 22'. He thinks he may propose that this be a one-way road, but is not sure at this time if that would be in the board's best interest as it might possibly create more headaches than resolve issues. Mr. Forsberg asked how wide they could make the entire street and Mr. Glossa stated 26'. Mr. Forsberg stated that Rustic Road is only 18' and Mr. Glossa agreed. Ms. Mackenzie asked how many lots would be built and Mr. Glossa stated nine. She further stated that if the board granted a waiver, the money not being spent by the applicant could possibly be put into the sidewalk fund.

There were no comments from the public. Mr. Conroy continued this hearing to September 20, 2007 at 7:30 P.M.

7:45 P.M. Sprint – Full Gospel Church, Case No. 07-5 Continued Hearing: Mr. Conroy recused himself at 7:46 P.M. The applicant was not present; therefore, Ms. Mackenzie continued this hearing to September 20, 2007 at 8:15 P.M. No testimony was taken.

Mr. Conroy returned at 8:00 P.M.

8:14 P.M. Southridge Business Park Subdivision: The applicant, Reserve Realty Trust, was represented by Philip Macchi, Esq., 1256 Washington Street, Norwood. Rob Truax, GLM Engineering, Holliston, MA was also present.

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Mr. Conroy read the public hearing notice as advertised. He asked Mr. Macchi for the green cards and he informed the board that Mr. Truax forgot them. Mr. Macchi stated the cards are Mr. Truax's office and he will forward them forthwith.

Mr. Macchi asked that this hearing be rescheduled. He would readvertise it and renotify the abutters. Mr. Conroy put this on our September 20, 2007 agenda at 8:20 P.M.

Other Business:

ANR – East Walpole Cemetery and Leo Brennan: Ms. Nashawaty moved to endorse an ANR plan of Land drawn by John Anderson & Associates, 281 Mylod Street, Walpole, MA as presented finding Form A in order and subdivision not required. Motion seconded by Ms. Mackenzie and voted 5-0-0.

The record owner and applicant for Parcel A is East Walpole Cemetery Association, 9 Donnelly Drive, Dover, MA and for Lot 20 is Leo and Wendy Brennan, 56 Charlotte Road, Norwood, MA. Said parcels are shown as Assessors' Reference Map 15, Sheet 3, Lot 1 (Cemetery, Norwood); Map 15, Sheet 4, Lot 2 (Cemetery, Norwood); Map 15, Sheet 3, Lot 8, Brennan, Norwood; and Sheet 20, Parcel 73 (Brennan, Walpole), Zoning District General Residence, Norwood and Walpole. The remaining land of the East Walpole Cemetery Association after conveyance to Brennan will be 2.8 acres; total frontage along Pleasant Street will be 537.66 feet.

The owner's title to the land is derived under deed from Charles S. Bird dated December 11, 1963 and recorded in Norfolk County Registry of Deeds, Book 4132, Page 381.

Parcel A, belonging to the East Walpole Cemetery, is to be combined with adjacent Lot 20, to comprise one lot containing 15,007 s.f.; reference is made to Section 4112 of the Norwood Zoning By-Laws regarding "Inconsequential Change".

Said ANR plan was endorsed by the Norwood Planning Board on August 13, 2007. No determination as to compliance with all zoning requirements has been made by the Walpole Planning Board.

Time Cards: Mr. Conroy moved to approve the secretary's time cards as submitted. Motion seconded by Ms. Nashawaty and voted 5-0-0. Mr. Conroy moved to endorse the town planner's time cards as submitted. Motion seconded by Ms. Nashawaty and voted 5-0-0.

Walker Realty Trust (Oakwood Estates) Tripartite Agreement: Mr. Johnson stated that Mark Good, Finance Director, does not want the town to use the Walpole Cooperative Bank for a cash bond as the town's accounts are now with Bank of America.

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Mr. Conroy asked if we have something signed and are we covered by the Walpole Cooperative Bank and Mr. Johnson stated yes, as Mr. Argiros' tripartite is still in effect. Ms. Nashawaty asked that Mr. Good attend our September 6th meeting to discuss Walker Realty Trust's proposal to secure the subdivision with a cash deposit at the Walpole Cooperative Bank.

Horsley Witten: The board is in receipt of Invoice No. 24502, which was submitted for payment. Mr. Conroy stated he would like an accounting of what has been done, what has been billed for payment and what work is remaining before approving this invoice. He had asked for this when he approved the previous invoice at the July 19th meeting.

Mullin Rule: Ms. Nashawaty moved to support the Mullin Rule as requested by Landis Hershey, Conservation Agent. Motion seconded by Mr. Conroy and voted 0-5-0. Motion denied.

2007 Southern New England Planning Convention: Ms. Nashawaty moved to allow the town planner to attend this seminar on October 11 and October 12. Motion seconded by Mr. Hirshom and voted 5-0-0.

Niden Woods: Rick Merrikin, Merrikin Engineering, Millis, MA was present with Ellen and John Rosenfeld. He stated that he had asked the board several months ago to reduce the drainage bond. It was suggested at that time that he wait to see how the subdivision works through the Spring. The only thing remaining on the drainage work at this time is the two retaining walls at the front and trees need to be planted. The fence is already in. The remaining work will cost approximately \$30,000. He has an as-built for Ms. Walker and he is asking that the board consider a modification to allow the drainage bond to be reduced.

Ms. Walker stated her concern is that the drainage bond was to stay in effect until the subdivision has been completed, which is what made the abutters comfortable. The grass has started to grow and essentially the drainage system is in.

Ms. Rosenfeld stated they have been through two complete cycles of seasons. Mr. Conroy stated his opinion is to finish the road. Ms. Rosenfeld stated she would like access to more money, as it is tough right now. Mr. Conroy stated if you are that close to finishing, just do it. John Rosenfeld asked if the bond will be released without the houses being finished and Mr. Conroy stated yes. He asked if they could possibly get \$100,000 to finish the road. Mr. Conroy stated they would need to notice all the abutters again. Mr. Merrikin asked if that would be a waste of time. Ms. Mackenzie stated we had a room full of people and our job is to represent them. After everything was in place, the still got water. Mr. Merrikin stated that was because the system wasn't finished, but it is now. Ms. Mackenzie stated she is not comfortable, but if they readvertise and can convince the neighbors, she might change her mind. Mr. Forsberg stated if they are happy, we will be happy.

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Mr. Merrikin stated regarding the trees, they would have to cut down some to plant some and that doesn't make sense. He asked that Ms. Walker and Mr. LeBlanc visit the site. Ms. Walker stated she will be glad to go out there. John Rosenfeld stated they can leave more vegetation than they originally thought.

Mr. Merrikin stated regarding the gas easement, the gas company wants to put in gas and there is an existing water easement. He is not sure if the gas can go into the same easement. The town wants 10' on either side for their use and the gas company wants 10' on either side for their use, which would leave the middle 10' common. They would be expanding by 7-8'. Mr. Merrikin stated he will get Ms. Walker a plan as she will need to issue a permit to the gas company. Ms. Walker stated the only problem is that if they don't put the main in the proper place, the town won't have 10'.

Winter Estates Phasing: The applicant was represented by Philip Macchi, Esq., 1256 Washington Street, Norwood, MA. He requested that the board act on the "Subdivision Phasing Plan" and asked the board to grant twenty (20) points as the subdivision falls within the scope of Section 9-I(5)(h) of the Zoning By-Laws, which states: "(h) The applicant of the development is to provide other arrangements to mitigate the impacts of the development upon public facilities including (but not limited to) fire, police, education, public infrastructure, transportation, water conservation, and/or recreation." As per Mr. Macchi, the Planning Board has the discretion to grant from five (5) to twenty (20) points as to this particular criteria and the applicant submits that the subdivision will provide a significant upgrade for water conservation as all recharge will be captured from the roadway by basins and from the homes by galleys. Further, the site will be significantly cleaned up and the Conservation Commission jurisdiction protected. Therefore, they are requesting twenty (20) points be granted.

Further, the Winter Estates Subdivision additionally falls within the scope of Section 9-I(5)(m) which states: "(m) The development is designed so as to preserve or enhance scenic roadside views or vistas from existing public ways". As per Mr. Macchi, the Planning Board has the discretion of awarding five (5) points as to this particular criteria and the applicant submits that the subdivision has been designed to provide the building lots significantly off Winter Street thereby leaving the natural vegetation and preserving scenic roadway views along Winter Street. Therefore, they are requesting five (5) points be granted.

Mr. Conroy moved that the board grant twenty (20) points. Motion seconded by Mr. Forsberg and voted 4-1-0. Ms. Nashawaty voted against the motion. She stated that in order to build the subdivision, the area needed to be cleaned up.

Winter Estates: Mr. Conroy moved to accept the Conveyance of Easements and Utilities as presented and reviewed. Motion seconded by Ms. Nashawaty and voted 5-0-0.

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Mr. Conroy moved to accept the Operations and Maintenance Plan and Covenant as presented and reviewed. Motion seconded by Ms. Mackenzie and voted 5-0-0.

Mr. Conroy moved to accept the Form F Covenant as presented and reviewed. Motion seconded by Ms. Nashawaty and voted 5-0-0.

Mr. Conroy moved to endorse the Winter Estates subdivision plans finding that the appeal period has ended and the town clerk has signed off that no appeal has been taken. Said plans were reviewed by the town engineer and town planner. Motion seconded by Mr. Hirshom and voted 5-0-0.

Mr. Macchi took the original copies of the documents and the endorsed mylar and will return recorded copies.

Hercules Plaza update: Mr. Macchi stated the board had voted to allow a minor modification to the site plan and also the endorsed the modification as approved by the Planning Board and Conservation Commission.

Mr. Macchi stated that Jack Mee, Building Inspector, had said that the plan didn't comply due to arborvitae plantings. After he received Mr. Mee's violation letter, his client planted 7' arborvitae. At that time, Mr. Mee stated they were in compliance. He stated that Conservation is also satisfied.

Mr. Macchi stated the big issue was the trees that were originally planted, but they are all now 6' plus. Mr. Conroy stated that the completion date was June 2, 2006 and they were not done by that time. Mr. Macchi agreed and stated he asked for a minor modification in January of 2007. Mr. Conroy read from the January 18, 2007 minutes and also read the motion, which indicated the board wanted a new hearing. Mr. Macchi stated that was not his understanding. Also, this is now probably better than most yards and the work is completed at this point. Mr. Conroy stated they cannot modify a hearing that is over. Mr. Macchi stated that if Mr. Conroy wants to discuss this further, he needs to pull the file. He stated they asked for approval from ConCom and received that. There is a letter in the file from Jack Mee stating everything is done and he asked why the board would want a new hearing now that everything is done. He further stated that one of the board members had asked that one of the conditions of approval be added to the plan and they did that also. Mr. Forsberg stated he vaguely remembers the discussion. Mr. Macchi stated that everything that Jack Mee, ConCom and the Planning Board wanted was done. Mr. Conroy stated the issue is they came to the Planning Board in January to do a minor modification. Mr. Macchi stated the town has six years to correct this. Further, this happens with ConCom all the time – they issue an order of condition, it expires and they issue an enforcement order. The applicants does the corrective work under the enforcement order.

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Ms. Nashawaty stated the bottom line is this done and complete. If it is all done the way we wanted it, what is the issue. Mr. Macchi read Mr. Mee's letter. Mr. Conroy asked if the applicant requested and received an extension for the completion of the site plan. He doesn't think it was ever requested. Mr. Macchi stated there was no time set on that minor modification. Also the minor modification superseded any date shown on that site plan. Further, it is inconsistent that you have an endorsed plan and then you say you can't do the work. The work is done according to the plan that was signed. Now you want to reopen it and do something else. Mr. Conroy stated he will not take responsibility for something that wasn't asked for.

Mr. Macchi stated they came in under the enforcement order of Jack Mee. His letters were also copies to Jack Mee. They can't get an extension for something that expired – that is where the six years come in. Mr. Conroy stated that means we granted a minor modification to an expired plan. Mr. Macchi stated the work is done and the building inspector agrees with that.

Mr. Conroy stated the town planner will check with town counsel to see the status of this. If town counsel has no problem, he won't either. He just wants to make sure the loop is closed. He told Mr. Macchi he may be 100% right, but he himself is not sure.

Mr. Macchi stated that when the board signed the plan, they did the work from that. The town is estopped from doing anything now. Also, when that first site plan was approved, there was no appeal; therefore, there is no legal recourse now because no one appealed the first site plan. There is no legal standing.

Mr. Macchi stated that if in fact the project is all done and the board sends their questions to town counsel, what happens? Mr. Conroy stated that is what we will ask. Mr. Macchi stated he feels this is prejudice against his client. What is there is a different opinion from town counsel? Mr. Conroy stated we will put this back on our agenda as a discussion item after we hear from town counsel. Mr. Macchi stated he would like to know when that will be.

Zoning By-Law Rewrite Discussion: Nicholas Cracknell from Horsley Witten and George Hall, Esq., their attorney was present to give an update on the zoning rewrite. Mr. Conroy agrees that regarding town meeting, he doesn't think we will be ready by October, as this needs to be totally complete and reviewed by town counsel before going to town meeting. The board asked Mr. Johnson to check with the town clerk regarding time frames and procedures for holding a special town meeting.

Zarba Rezoning Article: Mr. Conroy moved to hold the public hearing on October 4, 2007. Motion seconded by Mr. Hirshom and voted 5-0-0.

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Third Floor Organization: Mr. Conroy stated that he did not want the Planning Board staff going up to the attic and that he will see Robin Chappell, Health Agent, regarding possible airborne asbestos. Ms. Mackenzie stated that if the board's staff needs to go upstairs, she will provide HEPA masks.

Arbor Court Extension Release of Covenant: Ms. Mackenzie moved to re-sign, at the applicant's request, the Form I Release of Covenant for Arbor Court Extension. It was previously endorsed on June 13, 2002, but was never recorded by the applicant. Motion seconded by Mr. Conroy and voted 4-0-0 (Conroy, Mackenzie, Forsberg, Nashawaty).

Lakeview Drive Extension Release of Covenant: Mr. Conroy moved to endorse the Form I Release of Covenant as requested by Michael Viano. Motion seconded by Mr. Hirshom and voted 5-0-0.

Hobart Street Extension: Mr. Conroy moved to accept the Mutual Maintenance Agreement and Covenant with the Town of Walpole as presented and reviewed by Margaret Walker, Town Engineer and Don Johnson, Town Planner for Malo Terrace. Motion seconded by Mr. Hirshom and voted 5-0-0.

Hobart Street Extension Form F Covenant: Mr. Conroy moved to accept the Form F Covenant for Malo Terrace as presented and reviewed by the town engineer and town planner. Motion seconded by Mr. Hirshom and voted 5-0-0.

Malo Terrace (Hobart Street Extension) Plan Endorsement: Mr. Conroy moved to endorse the Malo Terrace definitive plan showing two single family lots as presented and reviewed by the town engineer and town planner. Motion seconded by Ms. Mackenzie and voted 5-0-0.

Pinebrook Estates Update: Ms. Nashawaty moved that the town begin action to make a claim on the passbook with Mechanics National Bank as posted by Gary Werden to secure the construction of the Pinebrook Estates Subdivision in accordance with the process recommended by town counsel. Motion seconded by Mr. Hirshom and voted 5-0-0.

It was moved, seconded and voted to adjourn. The meeting adjourned at 10:50 P.M.

Respectfully submitted,

Edward C. Forsberg, Clerk