

WALPOLE PLANNING BOARD MINUTES OF DECEMBER 3, 2009

A regular meeting of the Town of Walpole Planning Board was held on Thursday, December 3, 2009 at 7:00 p.m. in the Main Meeting Room, Town Hall. The following members were present: John Conroy, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk; Don Johnson, Town Planner; Margaret Walker, Town Engineer.

7:00 P.M. Cary and Karen Orlandi, d/b/a Millbrook Homes, Route 1 Discussion: Mr. Orlandi presented a preliminary plan for discussion purposes. The board, the planner and town engineer gave him suggestions. He will file an application in the near future.

Time Cards: Mr. Conroy moved to approve the secretary's time cards. Motion seconded by Mr. Forsberg and voted 3-0-0. Mr. Conroy moved to approve the planner's time cards. Motion seconded by Mr. Murtagh and voted 3-0-0.

Bird Estates Phase IV Bond Reduction: Mr. Conroy moved to reduce the bond for Phase IV to a remaining balance of \$965,000.00 per recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Murtagh and voted 3-0-0.

7:35 P.M. Rhonda LaVerghetta/Cormac Kennedy, 1311 North Street, Case No. 09-10: Mr. Conroy read the public hearing notice. The applicant was represented by Rob Truax, GLM Engineering, Holliston, MA. Mr. Conroy informed the Mr. Truax that the board only has three members tonight. Rhonda LaVerghetta, property owner and Cormac Kennedy, applicant agreed to go forward.

Mr. Truax handed out a picture of the site. He stated the orange barn in the picture is what is being proposed. He stated this is the former Ken Isaacs property and there have been horses on the property previously. There is an existing stonewall. The indoor riding arena will be 72'x150' and there will be a 72'x72' barn on the back of the arena. People will come in off North Street onto the existing driveway, which they are planning on making wider. They will continue the existing gravel driveway to the back of the new barn. The barn will be tucked into the slope. A retaining wall that will go from 0' to 8' to 10' and then taper back will be around the barn. The barn will be built on posts with no foundation and a dirt floor. They have not designated or striped anything because it will be gravel. They can accommodate 6-12 cars and also some trailers. The building's primary access will be away from the street and toward the back of the property. The drainage from the roof will increase the run-off. The proposed parking is all gravel. They are proposing to take the roof run-off to a holding tank and recycle it into a 12-gallon tank. There will be a water system with down spouts. There will be a pump system with a fire hose set up to keep down the dust. The water will be pumped into the tank and a 3000-gallon level maintained in the tank to wet down the indoor arena. It will take about 20 minutes to water the arena down each time with either well or town water. There will also be an overflow through a line but it will not be distributed onto the abutters' property. There will be a small retention basin in the corner of the field with a discharge into the wetland. There is an accommodation for a septic system that has been sized to accommodate the new barn. This is an agricultural use.

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Mr. Conroy stated they submitted their application for site plan approval under Section 13 of the Zoning Bylaws, but this is in a rural district. We are conducting a hearing on a horse barn in a rural section for site plan. Is it allowed? He doesn't see the word "agriculture" in the application. He is dealing with a public hearing notice that doesn't mention the word "agriculture". Mr. Kennedy stated even though it is commercial, it is still agricultural. Ms. LaVerghetta asked if Mr. Conroy is saying they should have elaborated further. Mr. Conroy stated yes. The word "agriculture" should have been in the application. Mr. Truax asked if it is illegal without the word "agriculture" and Mr. Conroy stated it is the reason you are coming to us. Mr. Johnson stated site plan approval kicks in except when you are doing small additions or one, two or three family houses. Ms. LaVerghetta stated the building inspector said it was the size of the building that made them be here. Mr. Conroy stated that site plan approval applicability as put forth in the bylaw means they don't need to be here. Mr. Johnson suggested he read Limited Site Plan Approval regarding the 2500 s.f. disturbance. Mr. Mee feels this is more than that and therefore needs a site plan approval. Mr. Conroy stated everything goes back to commercial.

Mr. Conroy read an email from town counsel. He asked Mr. Truax if he had a copy and he stated no

Mr. Forsberg asked if they filed for a building permit and Mr. Truax stated no. Mr. Conroy stated that town counsel recommended this is a "voluntary" site plan. Mr. Truax stated they wouldn't have come here if they weren't told to. Ms. LaVerghetta stated that when they met with Jack Mee for clarification, he indicated that it would be good to have this board's review due to the size of the building. Mr. Conroy stated he is looking for our input to help him. Mr. Kennedy stated he is trying to accommodate everyone. Mr. Conroy stated that because town counsel said it is "voluntary" he is okay with it. Mr. Forsberg asked if Mr. Kennedy is purchasing the property and Mr. Kennedy stated yes. Mr. Forsberg stated the gray area is that this is a commercial use on an agricultural piece of land. Mr. Johnson stated he spoke with town counsel today. He asked what will be going on in the arena. Mr. Kennedy stated riding lessons and schooling. Mr. Johnson asked if this will be a show facility and Mr. Kennedy stated no.

Steve Berkley, 1326 Old North Street: when he looks at Table 5 in the Zoning Bylaw, there is a section for commercial and business uses that specifically talks about riding academies and stables. How do you make the determination if it is agriculture or this other category. Mr. Conroy stated that MGL allows agriculture if more than five acres. We don't control that. Mr. Berkley stated so agriculture overrides the Zoning Bylaw. M

Mr. Conroy read comments received from other boards; i.e., Conservation Commission, Fire Department, Police Department, Board of Health and Engineering.

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Ms. Walker stated there will be revisions to the drain calculations before going to Conservation. She also stated she needs to discuss parking with the applicant. Mr. Kennedy stated that on an average there will be two cars on site at one time. Mr. Johnson stated they also need enough room to maneuver a horse trailer. Mr. Truax stated they can turn around in the field if necessary. Mr. Johnson stated they need one handicap space also. Mr. Truax asked if it needs to be paved and Mr. Johnson stated it needs to be some type of hard surface. Ms. LaVerghetta stated there is one space at Adams Farm and it is not paved. Mr. Kennedy stated it will be marked and should be no problem. Mr. Truax stated he will speak with Mr. Mee about it.

Ms. Walker asked if they are removing any stonewalls or trees and Mr. Truax stated no. Ms. Walker questioned signage and Mr. Kennedy stated he will do what is allowed. Mr. Johnson stated 10 s.f. and 15' back. Ms. Walker asked what would be the typical amount of people per day. Mr. Kennedy stated there will be an average of 2-3 cars in the parking area at one time. Ms. Walker asked about site distance. Mr. Truax stated it is a straight road and you can see all the way to Sexton Farm Road. He will put that on the plan for her. Ms. LaVerghetta stated they never had a problem. Maybe there should be a horse crossing sign. Ms. Walker asked if it will be yellow and black and Ms. LaVerghetta stated yes.

Ms. Walker stated she will address the drainage calculations with Mr. Truax. Mr. Johnson stated they submitted a plan dated November 3 and then one to Conservation dated November 10. He assumes the November 10 plan is the correct one. Mr. Truax stated that the November 10 plan is in compliance with Stormwater Management. Mr. Conroy asked Ms. Walker what was the date of the plans her comments were based on. Ms. Walker stated November 3.

Mr. Truax requested a waiver for no pavement. Mr. Johnson questioned the soils. He stated the system suggested is a good one. He asked if there are any dumpsters and Mr. Truax stated the Board of Health will require them and it will be on the plan for manure. Mr. Johnson asked if they will need a trash dumpster. Mr. Kennedy stated they don't have one in Milton. Mr. Forsberg stated he thought that site plan approval mandated a dumpster. Mr. Conroy stated no. They could have regular residential trash pick up. Mr. Truax stated there is not a lot of trash generated by this.

Mr. Johnson questioned site lighting and said there can be no spillage. Mr. Truax stated there will be no night lighting.

Mr. Berkley asked if this site will be used in the evening and Mr. Kennedy stated yes in the summer, but only until 8-9:00 at night. It will be 5:00 p.m. in the winter. Mr. Forsberg questioned the overflow from the storage tank and asked if it goes into the grass. Mr. Truax stated there will be a swale along the edge of the field to the detention pond. Mr. Johnson asked if that is what is before Conservation and Mr. Truax stated yes.

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Mr. Forsberg stated that the applicant will be responsible for signage and that there will be no shows. He asked that these two conditions be put in the decision. Mr. Kennedy stated that there is a Homeowners' Association and they won't allow shows. Mr. Truax stated this is a small arena as usually they are 200' long. Mr. Forsberg asked if there will be bathroom facilities and Mr. Truax stated yes in the barn and it will be pumped up to the leaching field. Mr. Forsberg stated that anything built over 1200' would require a separate men's and women's bathroom which would need to be handicap accessible. He doesn't want the applicant to get caught after the fact. Ms. LaVerghetta stated they usually share. Mr. Forsberg suggested they talk to Bob Heavey for a determination.

Mr. Murtagh stated this is what North Walpole is all about. This will add to that scenic route as they aren't removing any stonewalls and sees this as a positive addition. Mr. Berkley asked if the plan shows where the manure storage will be. Mr. Truax stated that is not on the plan yet. Mr. Kennedy stated it will be down at the far end of his property. Mr. Berkley questioned the trees along the street and asked if the line of trees perpendicular to the street will remain. Mr. Truax stated those along the neighbor's property will remain, but after about 50' they will not remain. Mr. Kennedy stated he will be landscaping the property and will leave as many as possible. Mr. Berkley asked if that is shown on a landscape plan and Mr. Kennedy stated not yet. Mr. Forsberg stated he would like the dumpster emptied between 7 a.m. and 7 p.m. and not on weekends. Mr. Truax stated this is in the Homeowners' Association agreement as they have been a part of this process.

There were no further questions or comments.

Mr. Conroy moved to close the public hearing. Motion seconded by Mr. Murtagh and voted 3-0-0.

Mr. Conroy moved to approve Case No. 09-10, 1311 North Street as per the latest plan dated November 10, 2009. Motion seconded by Mr. Forsberg and voted 3-0-0 subject to twenty (20) standard conditions and eleven (11) special conditions.

Mr. Berkley questioned the horse shows as Mr. Kennedy says that they are prohibited by the Homeowners' Association agreement. Why is it in the decision that he can apply in the future. Mr. Johnson stated it is another level of permitting. Mr. Conroy stated a horse show would change our conditions and also change the plan. The Building Inspector cannot enforce the Homeowners' agreement as he is not privy to that.

8:50 P.M. T-Mobil, 55 Rhoades Avenue, Case No. 09-9: Mr. Conroy moved to withdraw this petition without prejudice as per a request dated November 20, 2009 from Terri Feuersanger, Agent for T-Mobil. Motion seconded by Mr. Murtagh and voted 3-0-0.

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Conservation Commission comments re: NRAD, County Street, Hawthorne Development Partners: Mr. Johnson submitted a letter dated December 3, 2009. Mr. Conroy asked him to remove the things that weren't necessary to these comments.

Joseph Lane Update: Ms. Walker submitted a draft letter dated December 1, 2009 for the board's review before she sends it to Michael Federico. She stated he has paved already. Mr. Conroy asked her to remove any comments that Mr. Federico verbally presented to her.

Use Study Committee: As requested, the Planning Board is in receipt of the proposed language which the Board of Selectmen wishes to discuss on December 29th with the Planning Board. Mr. Conroy stated that regarding this meeting, the members of the Planning Board and probably the general public cannot make this night. It should probably be the Selectmen's first meeting of the 2010 New Year. He would like the Selectmen to forward us their anticipated agenda and whatever they are planning to discuss so that we might be prepared. We are not sure what we should be preparing for at this time.

Mr. Forsberg suggested the following verbiage: the Planning Board is requesting that the first meeting for the Use Study Committee be at the beginning of January as the 29th of December falls in the middle of the holiday season. It is an off week for us and our board members have prior commitments.

It was agreed to write a letter to Selectmen with Mr. Forsberg's verbiage.

Vacancy: Regarding the vacancy created by the resignation of Ms. Nashawaty, Mr. Conroy feels the Selectmen are not acting according to the Charter if they wait until December 29th to appoint someone to the Planning Board. He would like this done sooner. He feels that the applicants are entitled to a five-member board. He asked that we send a letter to the Selectmen reaffirming our position on this.

B&C Floral: Regarding the continued hearing for December 17, the applicant has not submitted revisions or plans within the required 14-day period. Therefore, this will not be on our December 17th agenda, but will instead be on our January 7, 2010 agenda. However, the applicant is requested to appear at our December 17th meeting to request this hearing be continued to January 7, 2010 and also to grant the board an extension of time on which to take action on this application. If we do not receive this request, the board's only option is to deny this request.

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Legacy Lane: Mr. Conroy asked Mr. Johnson to obtain a copy of the deed from Ken Wood to Mrs. MacPhee. Mr. Johnson agreed.

Regarding the continued hearing for December 17, the applicant has not submitted revisions or plans within the required 14-day period. Therefore, this will not be on our December 17th agenda, but will instead be on our January 7, 2010 agenda. However, the applicant is requested to appear at our December 17th meeting to request this hearing be continued to January 7, 2010 and also to grant the board an extension of time on which to take action on this application. If we do not receive this request, the board's only option is to deny this request.

Planner: Mr. Johnson will be off on December 14, 2009.

Master Plan Update: Mr. Johnson to forward to Board of Selectmen.

Hancock Court Extension: It was agreed to send a letter to Mr. Sullivan's attorney, Jonathan Smith, stating we have not received proof of recording of the Form I document. Therefore, we cannot release any more lots for sale or for building purposes. Numerous requests have been made requesting this proof of recording and to date we have not received it. Until we get that, we will not release any more lots in that subdivision. It was agreed to copy Kevin Sullivan and Jack Mee.

Metro PCS/Sprint Plans: Mr. Conroy asked Mr. Johnson to check on the status of these plans that need to be endorsed by the Board.

Christmas: The Board will hold their Christmas party on Thursday, December 17, 2009 at 204 restaurant. We will however need three members to attend the Planning Board meeting at 7:00 p.m. to continue Legacy Lane and B&C Floral.

It was moved, seconded and voted to adjourn. The meeting adjourned at 10:00 P.M.

Respectfully submitted,

John Murtagh, Clerk

Accepted 12/3/09