

WALPOLE PLANNING BOARD MINUTES OF JUNE 17, 2021

A regular meeting of the Planning Board was held on Thursday, June 17, 2021 at 7:00 p.m. in the Main Meeting Room at town hall. The following members were present: John Conroy, Chair; Sarah Khatib, Vice Chair; Philip Czachorowski, Clerk; Catherine Turco-Abate, John O'Leary, and Carl Balduf, Town Engineer.

Reorganization: Mr. Czachorowski nominated Ms. Khatib as Chair. Motion seconded by Ms. Khatib. Motion voted 2-3-0 (Conroy, Abate, O'Leary voted in the negative). Ms. Abate nominated Mr. Conroy as Chair. Motion seconded by Mr. O'Leary and voted 3-2-0 (Khatib, Czachorowski voted in the negative). Mr. Conroy nominated Mr. O'Leary as Vice Chair. Motion seconded by Ms. Abate and voted 3-2-0 (Khatib, Czachorowski voted in the negative). Mr. Conroy nominated Ms. Abate as Clerk. Motion seconded by Mr. O'Leary and voted 4-0-1 (Khatib abstained).

Master Plan Discussion: After a lengthy discussion between the Board members, Mr. Czachorowski made a motion to let the consultant start doing interviews with town boards and officials. Motion seconded by Ms. Khatib. Ms. Abate feels we should limit it to the town hall and town boards for now such as Select Board, ConCom, Building, Planning Board and not include everyone yet. Mr. Czachorowski changed his motion to elected boards and department heads at this time. Ms. Khatib seconded the motion. Motion voted 4-1-0 (Conroy in the negative).

7:34 p.m. New World Estates Subdivision, Peach Street: Mr. Conroy stated that this was opened at our last meeting and continued without testimony as requested by the applicant's engineer, Dan Merrikin, Legacy Engineering.

Mr. Conroy read the public hearing notice for the five lot subdivision. The applicant was represented by Dan Merrikin and Atty. Philip Macchi, Norwood. Mr. Merrikin stated the application is for a definitive 5-lot subdivision and they previously had filed a preliminary application for 38 Peach Street and 24 Peach Street. This property was divided by an ANR in 2019. There are no road construction waivers being requested and the soils are very good at this site. There will be a basin out front and two waivers relating to the basins are being requested. He feels this is not a complicated project. They have perimeter erosion control and a construction entrance to the site. They have appeared before the Conservation Commission and they are addressing the comments received from the town engineer. The street name, Christopher Way, was approved by the Police Department originally, but they would like to change that to Litchfield and will follow that up with both the Fire and Police.

Mr. Conroy read comments from the Board of Health, Conservation Commission, Sewer and Water Commission, Historical Commission and Fire Department. Mr. Merrikin will provide the fire department with the turning radius specs and they are presently working with the Historical Commission. Letters were received from many abutters. Mr. Merrikin stated they will be meeting with the Conservation Commission in July.

Mr. Balduf stated that both he and Chris Johnson reviewed this and they have many comments. He requested that the sight distance be added to the plan. Mr. Balduf stated he has no issues with the waivers requested and mentioned that a Scenic Road Hearing would be necessary as there is a wall and fencing involved. Mr. Merrikin stated that with regard to the Scenic Road Hearing, the town regulates street trees and walls that are in the right of way. He feels there is only a small portion of a granite sloped wall is in the town right of way and there are no trees involved. They did reconfigure the wall across the entire front of the property. The Board of Health wanted three street lights. Does the board want an additional one, which he doesn't think is necessary. Mr. Conroy suggested Mr. Merrikin speak to the Board of Health as that would be consistent with the town requirements of every 300'. Ms. Abate asked if the fence is on top of the stonewall and Mr. Balduf stated yes. Mr. O'Leary questioned the run off and basins and wants to make sure they are sufficient. He questioned the safety of the basin and Mr. Merrikin stated there will be a wall there.

WALPOLE PLANNING BOARD MINUTES OF JUNE 17, 2021 (2)

Mr. O'Leary asked if they could put in an island at the end of the street to prevent the lights from going into the houses and also questioned sidewalk being on one side. Mr. Merrikin showed him where it will be stopping.

Ms. Abate feels that Peach Street is one of the prettiest streets in town and she could accept this more if the house was to remain. We can't control what the houses will look like, but we would like them to ask their client to keep the houses in line with the character of the street, even though she knows we can't stop it. Mr. Czachorowski seconds what Ms. Abate says. He questioned the location of the retention basins. Mr. Merrikin stated it will be screened and all the water will be handled within the run-off, including the 100-year storm. Mr. Czachorowski questioned the private way versus a public street. Mr. Merrikin stated he didn't get a good reaction from the board during the preliminary hearing, so he abandoned that idea. Mr. Czachorowski questioned the temporary slope easements and Mr. Merrikin explained it. Ms. Khatib asked when they will be filing for the scenic road hearing and Mr. Merrikin stated soon. Ms. Khatib questioned the street name, street lights, street trees and asked the demolition date. Mr. Merrikin stated it is slated for August 27, 2021 and the applicant is still working with the Historical Commission. Ms. Khatib stated she would like to do the scenic road hearing sooner rather than later and Mr. Merrikin stated he will get it in. Mr. Conroy asked if the developer would be amenable to cutting the street back to a private way to decrease the asphalt and intensity and to build houses that go along with the other houses on the street. Mr. Macchi stated he will get an answer to that question. Mr. Conroy stated we would like this to blend with the rest of the neighborhood and would like this to be part of our decision. He would like to know ahead of time what the houses will look like so we could keep it the way it looks now. Mr. Macchi stated that could be written into the decision without getting into colors and trim width, which would be enforceable and upholdable. Mr. Conroy asked them to meet with the abutters before we do the decision as we would like to keep this historical looking. Ms. Khatib asked if it was possible to add a detail showing the stone wall and Mr. Merrikin stated yes.

Kevin Uniake, Peach Street stated the plan as presented would be lovely if this was on West Street, but it is not, it is on Peach Street. There is a lot of hydrology going on that needs to be addressed and a lot of sub-surface water that was disturbed with the other subdivision next door. He thinks this is the same developer. He asked if they can come off the existing private road so there are not two curb cuts and also questioned the trees on site. He asked for a planting plan with all identified. He also feels the fewer street lights the better. Mr. Conroy stated that planting plans are not required, but they will need to show more when they do the Scenic Road hearing.

Jenn Karnakis, 16 Rainbow Pond Drive and Chair of the Historical Commission questioned the hold that is on this property until August 27th and after that it is not under their purview. Ms. Khatib stated that was what was said before. Mr. Conroy stated that it goes away after a year. Ms. Abate questioned the role of the Historic Commission and Jenn ___ explained it.

Dana Stearns, 16 Juniper Circle stated he has done yard work for everyone on Peach Street at one time or another. He asked if either Mr. Merrikin or Mr. Macchi are planning on living there. Mr. Macchi replied no and Mr. Merrikin replied maybe. Mr. Stearns stated that the owner of the other subdivision did not do what he said he would and we have no proof that they will do what they are supposed to do here. He had an issue with the egress from the property onto Peach Street and feels there is no respect for the neighbors as the headlights will go directly into Loescher house. The properties on all of Juniper Circle are at risk. Also, the area in the back is wet all the time so there will be drainage issues that can affect the wetlands. Any heavy rain or snow melt will cause an issue. A run-off drains into Rainbow Pond. He has a huge problem with this and other irrigation basins. He asked Mr. Merrikin how long the water will sit stagnant in the basins and Mr. Merrikin responded a couple of hours. Mr. Stearns stated he has been an emergency physician at MGH for thirty years, so the Board of Health issues are a big thing for him. These issues need to be aggressively addressed and feels this poses a real lack of respect of the neighborhood.

WALPOLE PLANNING BOARD MINUTES OF JUNE 17, 2021 (3)

_____, 2 Peach Street stated he is concerned with drainage from the new development going toward his property. Right now there are a lot of mosquitoes and he doesn't allow his kids out back now. There are also a lot of deer. He questioned what will happen to the habitat. He opposes this project. Mr. Merrikin stated they calculate the drainage so that no more water than what is currently there will be added in any direction.

_____, 2 Peach Street asked if the contours of the properties in the back will be raised and Mr. Merrikin stated the contours will not change dramatically, but there will be a continuous pitch of about 2-3%.

Annessa _____, 2 Peach Street stated they do have more deer and rabbits since the last two houses were built and there is a lot of wild life in this area plus they have a lot of mosquitos which has increased also and feels this is a safety issue as she is not sure how that will affect her children and their safety.

Kurt Sandquist, 88 Peach Street stated he echoes the same comments that the other residents have said. It sounds like there are a lot of wetlands in their backyard with a lot of mosquito issues and that is concerning with more houses going in. Peach Street is a cut through and people fly down that road and adding more people and more traffic is super important for the safety of the kids. Mr. Conroy asked what is the elevation of the basin and Mr. Merrikin stated 3' and it will be grassed and crushed stone at the bottom. Ms. Khatib asked for a picture of something similar that we could show to the abutters at the next meeting. Ms. Abate questioned the fencing. Mr. Stearns stated his questions are still not answered. Mr. Merrikin stated that the Conservation Commission requested crushed stone. Mr. Conroy stated that the ConCom handles stormwater management. Mr. Stearns stated this shows a lack of insight. Mr. Conroy stated that ConCom would need to explain that to him.

Lisa Stearns, 7 Juniper Circle asked if the abutters will be noticed of the Scenic Road Hearing and Mr. Conroy stated yes. Ms. Stearns asked if there will be assurances that they build what is approved. Mr. Conroy stated it will be in the decision. Ms. Stearns asked if any approvals will be contingent on a meeting with neighbors. Mr. Conroy stated it will not be contingent, but it is to the applicant's benefit to meet with them ahead of time. Ms. Stearns asked if the developer would consider naming the street after Jeremiah Allen to give a nod to the past. Ms. Abate stated we already have an Allen Street. Mr. Conroy stated we have no objections, but the name would need to be approved by E911, Fire and Police. Mr. Macchi stated they will ask.

Mr. Merrikin granted an extension of time on which to take action up to and including August 31, 2021. Motion seconded by Mr. O'Leary and voted 5-0-0. Mr. Conroy continued this hearing to August 19, 2021 at 7:15 p.m. Ms. Khatib stated she would like the Scenic Road hearing done at this time.

9:10 p.m. Lincoln Estates Continued Hearing: The applicant was represented by Rob Truax, GLM Engineering and Atty. Brian Almeida, Walpole, MA. Atty. Almeida stated that Beta who did the peer review for gravel would like their review discussed tonight.

Regarding the easement, Mr. Conroy asked if he is saying that the old easement is now defunct and Atty. Almeida stated yes. Mr. Conroy questioned extending the proposed Ava Drive. Mr. Truax stated they discussed that previously but the abutters didn't want it plus it is not the applicant's desire to do so. Mr. Conroy feels that would be considered proper planning, but you are saying no. Mr. Truax agreed. Mr. Conroy also asked if he is saying the Gun Club doesn't want that and Mr. Truax stated yes. Mr. Conroy stated he will check that out. Mr. Truax stated that Parcel A is within the property boundaries. Mr. Conroy questioned shooting within 500' and asked if we are allowed to zone out another property. Mr. Truax stated they are not zoning out anyone. Mr. Conroy stated you would be if you zone this out. He asked if we can approve something that will put someone out of business. Atty. Almeida stated they are not putting anyone out of business. Mr. Conroy questioned the dirt and asked him for his interpretation of the bylaw. Mr. Truax stated they only want to build the roadway. Mr. Conroy stated this only allow you to put in and take out the gravel to construct the roadway. Do we bond the lots? Mr. Truax stated no, just

WALPOLE PLANNING BOARD MINUTES OF JUNE 17, 2021 (4)

the road. Mr. Conroy stated if they are going to take out more dirt, they need to see the ZBA. Atty. Almeida disagrees. Mr. Conroy asked at what point they go to the ZBA. Atty. Almeida responded if they were trying to extract more than what is necessary. Mr. Conroy stated for the roads. Atty. Almeida responded it doesn't say that. Ms. Khatib stated if you went to the ZBA, it would answer her concerns and she agrees with the Chair. Ms. Abate stated the word "incidental" is a huge block for her. Mr. Conroy stated this is under subdivision control. How can this be bonded. Mr. Truax stated they will bond the road. Mr. Conroy stated but not the lots. Atty. Almeida disagreed. Mr. Truax stated they wouldn't bond the road until they are read to pull a building permit. Mr. Conroy stated we can only bond the roadway, but you want us to approve a project taking everything out. Mr. Truax stated yes. Mr. Conroy stated they want us to approve every lot and we can't do that. You want to bypass that section of the bylaw. Mr. Truax stated that is Mr. Conroy's opinion. Mr. Conroy asked when does this apply and Atty. Almeida stated if you are removing more gravel and Mr. Conroy stated yes, from the roadway.

John Walsh, Walsh Bros. Building stated that going back to Wisteria, they built it slowly and the vast majority of gravel was out in two years. Wisteria Ways came out nice. He can't think of any subdivision that went to the ZBA for gravel removal. The Meadow Ridge subdivision went from 50' to 0'. Atty. Almeida stated there could be a trade off. Mr. Conroy stated the gravel is worth a ton of money and it is strange that you did a boring at 50'. Mr. Truax stated they wanted to see what was down there. Ms. Khatib stated that with regard to the Beta proposal, we didn't see anything that asks for a bond or any protection for the town. Also, there was nothing shown for construction services. Do we think that is important or do we just want someone to review the plan. Mr. Conroy stated that one issue is we don't know the quantity. We need to sort out how much material is coming out. Ms. Khatib feels they need to go to the ZBA for better protection for the town. Atty. Almeida stated the maximum allowable amount is what this is based on. Mr. Conroy asked if this would be going from dirt to truck to out. Atty. Almeida believes this is addressed on the second gravel removal plan. Ms. Abate stated that plan shows only the route and number of trucks. Mr. Conroy asked if the loam will be screened on site and Mr. Walsh stated yes. Mr. Conroy stated so now it becomes a gravel removal operation. He asked if they will have a crusher and Mr. Walsh stated no. Mr. Conroy asked him to tell the board how they are going to do all this. Atty. Almeida stated a very detailed gravel removal plan will be presented at the next hearing. Mr. Conroy agreed. Mr. Walsh stated that typically this dirt is screened and used to make the road. Ms. Khatib stated that according to our regulations Ava Drive should be a Lane. Atty. Almeida stated he will make that change. Ms. Khatib said they had said they were not doing anything with regard to the Scenic Road. Mr. Truax stated if they removed any walls or trees, they will file for one for Lot 24. Ms. Khatib asked why not do that now and Mr. Truax stated there is nothing being cleared here. Ms. Khatib stated if they are going to have Lot 24 in the subdivision, it should be addressed. Mr. Truax stated that lot needs a septic system as do all the other lots. Ms. Khatib stated we don't approve a subdivision without Board of Health approval. Mr. Truax stated the Board of Health is not approving septic systems at this time and will not do an individual system at this time. Also the lots have not been created. Ms. Khatib asked if they can add something to the Phasing plan about Lot 24 as it just looks incomplete. Mr. Truax stated no because they don't know yet what they are going to do. When this is approved, it will have frontage on Lincoln Road which could be an ANR lot. Ms. Khatib asked for an explanation of the utility easement between Lots 7 and 8. Mr. Truax stated it will be granted to the town of Walpole and cannot be used for anything. Mr. Balduf stated it is an actual utility easement. Ms. Khatib stated that Sheet 21 says "were" but should say "where". She also still has a question on the special permit for gravel removal. Mr. Truax stated they gave information on the 500' and asked if now would be the right time to send it to town counsel. He would like an opinion on the gravel also. Mr. Czachorowski asked to see what is on the deeds. Also, on Sheets 10 and 12, recharge systems are not shown. Mr. Truax stated that is an error as every house will have a recharge system. Mr. Czachorowski questioned the gravel removal and the phasing plan. Mr. Truax stated they are not in the plan set now, but he will do so. Beta will review the worst case scenario at the applicant's expense. Ms. Khatib stated the special permit also needs to be reviewed. Mr. Truax asked if she is asking them to review this as a special permit and Ms. Khatib stated yes.

WALPOLE PLANNING BOARD MINUTES OF JUNE 17, 2021 (5)

Mr. Czachorowski questioned the 18 wheeler trucks and asked if they will be limited to 40 trips per day. Mr. Truax stated they are tractor trailers and yes they will be limited to 40 trips per day. Mr. Czachorowski stated that is an enormous amount of dirt and he agrees that a special permit would be much better for the town. Atty. Almeida stated the Zoning Bylaw says this is allowable. Mr. Conroy disagrees. Atty. Almeida stated Section 5-D-3 states residential buildings. He feels it is important to mention a "trade off". Mr. Conroy stated we will go around and around for a long time on this. Atty. Almeida stated the roads are cut out. It becomes a safety issue to have a house on a hill. Mr. Conroy questioned the Deerfield cul-de-sac and Mr. Balduf stated it will be separate project. Mr. Conroy asked if the Gun Club is all set with wiping out the road and making it a two-way street. Mr. Truax stated yes. Ms. Abate has doubts about the gravel removal and would like clarification on this as there will be a truck every ten minutes for three years, which she feels that is a lot. She can't go forward without that clarification. Atty. Almeida asked if she wants that from town counsel and Ms. Abate stated yes. Mr. O'Leary questioned the width of Parcel A and Mr. Truax stated he will get back to him on that. Mr. Czachorowski questioned forty trips in and forty trips out every day and Mr. Truax stated yes. Mr. Conroy asked how many yards are on a trailer, maybe 20, but that probably depends on whether you are buying or selling. Mr. Walsh stated yes.

Atty. Philip Macchi, Norwood, MA stated he is here on behalf of the Sportsman's Club and they are trying to work with Mr. Walsh. They would prefer no lots within 500' and hopefully this can be worked out. He thinks they will come to an agreement on the access. He would like the opportunity to voice his opinion regarding an easement vs. adverse possession as the town, the gun club, the boy scouts, etc. are all stuck with what the board decides to do. We need to come up with a solution. Ms. Khatib stated this will not be shown as a fire road. Mr. Macchi stated that some buffer zones are better designed than others. Mr. Conroy stated that right now we have a difference of opinion on easement and there is no need to continue tonight until this is worked out. Easements need to be straightened out beforehand. They can claim adverse possession, but both lawyers need to have their differences resolved. Mr. Walsh thought they were on the July 29th agenda. Mr. Conroy stated we are not meeting on July 29th. Also, we don't have comments back on the resubmission.

Mr. Conroy stated we need an answer from town counsel on the gravel removal and also on the gun club.

Mr. Conroy moved to accept an extension of time up to and including August 31, 2021 as granted by Atty. Brian Almeida. Motion seconded by Mr. Czachorowski and voted 5-0-0. Mr. Conroy continued this hearing to August 19, 2021 at 7:20 p.m.

Other Business:

Open Space/Recreation Plan: Mr. Conroy moved to support the OSRC plan as submitted by the Conservation Commission. Motion seconded by Mr. Czachorowski and voted 5-0-0.

Roscommon Extension of Time: Mr. Conroy moved to grant an extension of time up to and including July 14, 2021 as requested by Eric Dias, Strongpoint Engineering. Motion seconded by Ms. Abate and voted 4-1-0 (Mr. O'Leary voted in the negative).

Draft Town Meeting Article: Ms. Abate submitted a draft town meeting article for the Fall 2021 town meeting. She doesn't think this will fix everything or replace or replace the group that is presently working on something similar. If a project comes forward now, she would like something in place. Mr. Conroy stated the reason for 10% is because that is what the State says. This will keep us at the requirement in the future. Mr. Czachorowski stated it is good that Ms. Abate is adding to the discussion, but feels this would be best presented to the joint task force. Ms. Abate feels this will be addressed at the June 22 meeting of the IZB committee. Mr. Czachorowski doesn't think we should have two discussions going on at the same time. Ms. Abate stated they are doing a very elaborate plan and she is trying to keep it very simple and straight forward to protect us. She is trying to react to the State mandate, not

WALPOLE PLANNING BOARD MINUTES OF JUNE 17, 2021 (6)

rezone the town. Mr. Conroy stated we are not here to exceed the 10%. The State says 10%, so we don't need to go higher than that. Mr. Czachorowski stated he is not on board with what Ms. Abate presented as this should just be done by the WHP. Ms. Khatib stated we are in an Affordable Housing crises now. We should do what we can to provide housing to anyone. This article would need much more input and she hopes it doesn't get passed tonight as she feels the joint committee should do their work. She is a no on this.

Mr. O'Leary stated this by law will not give us 10%. Key word is "priority". Ms. Khatib stated that zoning in this country was done to be discriminatory and that carries through today. Mr. Conroy stated it doesn't matter what color you are; it depends on what is in your pocket. Ms. Abate stated she would like to revise this and bring it back on the next agenda.

Boyden Estates Lot 4 ANR – Filing #3: Mr. Conroy read an email from town counsel that was received this afternoon. Mr. O'Leary stated that according to MGL, both lots need to have adequate frontage and access. Mr. Conroy stated this should also be labeled an unbuildable lot. Also, the bond has run out, so there is no bond in place. If the town owned Boyden Estates, Mr. Petrozzi could do this. We don't make a determination as to whether or not this is legal. Mr. Petrozzi needs to repost the bond. Ms. Khatib stated if this is an unbuildable lot, they don't need frontage. Mr. Conroy stated it should not be considered a buildable lot or a transferrable lot until a bond is posted. We can vote it down or ask for a continuance. Once bonded it becomes a buildable lot. Both lots are non-buildable until Boyden Estates is bonded.

Philip Macchi, Washington Street, Walpole stated he is speaking as a resident only. He stated you cannot condition an ANR decision because you are not required to approve it. The board either needs to endorse or deny. There is no statutory reason not to file again. They can post the bond and then come back. Mr. Macchi stated the decision is not recorded, just the plan is.

After a short discussion, the board agreed to hold a special meeting to allow for input from town counsel. This discussion was continued to Thursday, June 24, 2021 at 11:00 a.m. which would be prior to the expiration date which would allow constructive approval.

Mr. Conroy moved to adjourn. Motion seconded by Ms. Abate and voted 5-0-0. The meeting adjourned at 11:55 p.m.

Respectfully submitted,

Catherine Turco-Abate, Clerk

Accepted 9/2/21