

## WALPOLE PLANNING BOARD MINUTES OF DECEMBER 6, 2012

A regular meeting of the Walpole Planning Board was held on Thursday, December 6, 2012 at 7:00 p.m. in the Town Hall Main Meeting Room. The following members were present: Edward Forsberg, Chairman; Richard Nottebart, Vice Chairman; John Murtagh, Clerk; John Conroy, Richard Mazzocca (7:20 p.m.), and Margaret Walker, Town Engineer.

Mr. Forsberg opened the meeting at 7:08 p.m.

**ANR – Guisti, 210 Main Street:** The applicant was represented by Rob Truax, GLM Engineering, Holliston, MA. Mr. Forsberg moved to endorse an ANR plan entitled “Plan of Land in Walpole” dated October 20, 2012 prepared for Starr Realty, Inc. by GLM Engineering finding Form A in order and subdivision control not required. Motion seconded by Mr. Nottebart and voted 4-0-0.

Said property is shown as Assessors’ Map 19, Parcel 12, Zoning District RB. The owner of record is Ralph Topham, 210 Main Street, Walpole, MA. The owner’s to the land is derived under deed from Mr. Jelineck dated May 6, 1994 and recorded at the Norfolk Registry of Deeds, Book 10504, Page 672. As noted on the plan, the purpose of plan is to create Parcel B, which is to be conveyed to and become part of Lot 2C for a total combined area of 20,092 s.f.

**Minutes:** Mr. Forsberg moved to accept the minutes of November 15, 2012. Motion seconded by Mr. Nottebart and voted 4-0-0.

**Time Cards:** Mr. Forsberg moved to approve the secretary’s time cards. Motion seconded by Mr. Nottebart and voted 4-0-0.

Mr. Mazzocca arrived at 7:20 p.m.

**Charter Review Input:** The Board is in receipt of a request dated October 2, 2012 from the Selectmen requesting input on possible changes to the Town Charter. The board discussed Section 3-5(B)(2). They were not sure when the last update to the Master Plan was done and asked the board secretary to find out. Mr. Conroy thought that updates at 10-year intervals was a State requirement and asked that we find out if it is.

Also, the board felt there should be a penalty imposed if we are not following procedures outlined in the Charter; i.e., failure to have a hearing within the proper time frame should result in an article being automatically withdrawn for the pending town meeting. Mr. Conroy agreed and stated that the process for every bylaw change should have a penalty so that things can’t slide through. Mr. Mazzocca stated we would not be sponsoring anything, just suggesting.

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**Zoning Bylaws:** The letter from the Building Inspector dated October 29, 2012 was put on the board's January 17<sup>th</sup> agenda.

**Northridge Farm Bond Set:** Mr. Forsberg moved to set the bond for Northridge Farm at \$846,000 as per recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Nottebart and voted 5-0-0.

**7:35 p.m. Walpole Place Continued Hearing, Case No. 12-12:** The applicant was represented by Atty. Philip Macchi II, Dan Merrkin, Merrikin Engineering, Donnell Murphy and Steve Cosmos, Landscape Architect.

Mr. Macchi stated that what is in front of the board is to his knowledge acceptable to everyone. They have a new set of plans with everything incorporated into it. Mr. Macchi submitted a letter regarding KFC and a draft utility easement. He stated there are outstanding engineering items and buffer zone issues.

Mr. Merrikin stated that the majority of the issues on the revised plans were buffer issues. They also submitted a new set of architectural plans showing the dimensions on the width of the building changed by 2", the two end spaces widened to 11', the wall a little shorter and not as tall as previously presented and they added the 40' buffer line to the plans. Also, Mr. Conroy had questioned whether or not a special permit was required because of the proposed overhang as the building inspector had stated there can be no retail signs under the canopy unless they applied for further approvals and Mr. Mee is satisfied with that. Mr. Merrikin stated they have retained a landscape architect who has presented two or three scenarios primarily along the Pearson property. There would be a full length wall and plantings of 5' high trees; however, they preferred a shorter wall with a little sloping and an enhanced buffer plan throughout. Also, the applicant will seek a variance for the 8' fence. They met with the Pearsons who have not officially agreed with this. The wall is slightly higher with less sloping and will extend into the 40' area. It will be 9' in the corner and will taper down. They will go from big block to a unilock wall down to zero. If they get the variance, they will move the stockade fence. Ms. Walker has asked that they add a chain link fence on top of the wall and continue it across at 3' high.

Steve Cosmos, Registered Land Surveyor, Natick, MA stated that he prepared a landscape plan for the entire site. He met with the neighbors and viewed this from their yards and decks. He tried to save as much vegetation in the buffer as possible and combined evergreens with deciduous. The evergreens are all 7-8' and some are 8-9', which will make a good immediate buffer in place. He will be available to work with the abutters when this happens. There will also be some screening from the highway.

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Mr. Murtagh stated he is impressed with the plan and asked if what has been proposed will thrive. Mr. Cosmos stated everything will do well as he used plantings that will tolerate shade. Mr. Murtagh asked if the screening will be instant and Mr. Cosmos stated yes.

Mr. Nottebart feels Mr. Cosmos did a good job. He spoke with the Pearsons and they seem to be fairly happy with this. He reviewed the plans after they were dropped off in the office. He asked if they are covered by a two-year warranty and if there is a problem will they be replaced and Mr. Cosmos stated yes. They are also putting in a temporary irrigation system. Mr. Merrikin stated he submitted this revised plan two weeks ago and then met with the Pearsons. They discussed fencing and added more trees behind the Gillis' house. They are planning on seeking a variance for an 8' fence which will go across the back and down to the existing 6' fence. Mr. Merrikin stated they will also have a 4 or 5' chain link fence on top of the wall. One of the conditions of the decision will be that the applicant will seek the 8' variance. Mr. Forsberg stated that previously there was a question as to which way the fence will face and Mr. Merrikin stated they will do it the way the neighbors want it. Mr. Murtagh asked the material of the chain link fence that is going on top of the wall and Mr. Merrikin stated it will be vinyl coated as shown on the detail. Mr. Conroy if this will all meet code and Mr. Merrikin stated yes. Some of it will be 5' and others will be 4'. Mr. Conroy asked if the retaining wall will be keystone and Mr. Merrikin stated it will be an oversize concrete block with a hollow cavity in the middle and filled with stone in the middle. Mr. Conroy asked if there something to stop snow from going onto the neighbors' property and Mr. Merrikin stated there is a slope. Mr. Conroy asked if there is a curb and Mr. Merrikin stated no. Mr. Conroy stated the plantings on the plan have to be maintained forever and if the fence comes down it has to be fixed. Everything on the plan has to stay forever. Mr. Merrikin had added notes to the plan regarding work in the buffer. Before anyone starts any work, they have to meet with either Dan or Steve. Mr. Conroy asked if there will be a light or an arrow at the Route 1 entrance and Mr. Merrikin stated there will be pole lights.

Mr. Forsberg read comments that were received regarding the revised plans from the Deputy Fire Chief, Sewer and Water Commission, ConCom and Engineering. Mr. Merrikin stated that both on and off site work is shown on the plan already. Mr. Forsberg questioned the overhang. He stated the language as shown to Jack Mee has been added to the plan. Mr. Nottebart asked if the trees that are coming down has been discussed with the neighbors and Mr. Cosmos stated they have marked the trees and have talked with the neighbors. Mr. Merrikin stated that one tree that is to be removed is leaning and its removal was requested by the Pearsons.

Mr. Forsberg asked for comments from the public.

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Brendan Pearson, Mohawk Circle thanked Mr. Cosmos, Mr. Murphy and Mr. Merrikin for the improvements made and for the inclusion of the landscape plan. He stated it has made a huge difference to what was previously proposed and what is not to be done. He feels the revisions will mitigate the negative effects of the development depending upon the kind of uses going in. They do however have an issue of follow through. KFC had some things that weren't done and he doesn't want that to happen here. He asked that the fence be continued where the present stockade fence is. Mr. Merrikin stated they did what the approved KFC site plan called for. Mr. Pearson stated he wanted the fence to be moved closer to the wall similar to CVS near Legacy Place in Dedham. He is not sure if this would be in lieu of the 4' stockade fence. He would like the 6' stockade fence to be extended to connect to the fence in front of the Gillis'. He was told it would deny them access for maintenance, but they could put in a gate with a padlock for access. He feels a lot of security concerns have been adequately addressed. He questioned the signage. Dan had proposed "employee parking only" in the southwest corner. He can't tell how his property will be affected until it actually goes in. He also doesn't feel the root protection of the trees is adequately addressed and would like a certified arborist to look at this. He submitted his comments to the board.

Mr. Murtagh asked why Mr. Pearson wants a stockade fence instead of chain link. Mr. Pearson stated stockade provides better screening for privacy, stops sound and stops middle school kids from climbing. Mr. Merrikin stated he is disconcerted this is coming up tonight as he met with the Pearsons about six months ago and the applicant made a lot of concessions for the Pearsons. He feels they are asking for too much. What they have proposed significantly exceeds what is required per the zoning bylaw. They are trying to meet some of their requests in an economical way and feels they have. They have gone as far as they are willing to go on the fencing issue. There is a lot of visual obstruction because of the trees; signage will be stipulated by a condition; and, the southwest corner of the parking lot will be for employee parking, even though they don't know how many employees will be there. They measured the disturbance limits of the trees. Regarding the tree the Pearsons wanted taken down, they were going to grind it, but Brendan Pearson wants it cut flush and that is fine with him. He wants the record to show that both he and Steve Cosmos feel it should be ground but will do what Mr. Pearson requested. Mr. Merrikin stated that Brendan Pearson has a different view from his parents. The compromise design creates some limited grading. He stated the choices before them are the same as discussed at the last meeting; i.e., larger number of trees than required, applicant to seek a variance for an 8' fence, higher trees. He feels this is a great design and is superior to what is required. Mr. Merrikin stated that Brendan Pearson is questioning the design and they now need to make the plan reflective of what they want. Mr. Merrikin refreshed the board as to what is on the table at this point. He stated when he met with the Pearsons, he left feeling all was good. Mr. Murphy has spent a lot of money and time on this; i.e., there will be less disturbance in the buffer, trees are bigger and more dense than originally proposed, they added the second fence line. This plan represents a significant effort on the part of the owner to meet the concerns of the neighbors. The alternative is not as good and he hopes the board supports this plan.

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Mr. Conroy stated it is about keeping people happy. You have done everything you said you were going to do and only one person objects. If everyone is happy, then he is okay with what is proposed. You can always go back to what is in the book and do only what is required. Mr. Murtagh stated this is an exceptional plan and he is ready to go with it.

Theresa Vanderboom, 12 Mohawk Circle stated she was nervous at the last meeting and is starting to feel that way tonight. She is grateful to Mr. Murphy, Mr. Merrikin and Mr. Cosmos. She is more than pleased with the new plan. It is not the perfect solution, but it is more than acceptable.

Sue Pearson, Mohawk Circle thinks that to get Mr. Cosmos involved was excellent. She feels when residence meets commercial, this should be mandatory. There have been concessions made and what Brendan Pearson wanted has been taken care of. Steve Cosmos' plan is fantastic. She hopes the existing trees will live through this and she is very pleased with the materials chosen and the concessions offered. She feels they have taken care of them.

Steve Cosmos stated the big issue is not just what is proposed but saving what is there. He feels the amount of trees coming out is minimal and they have done their best to accommodate the neighbors. He is planning on fencing off the trees during construction. Mr. Nottebart stated he had spent over an hour in the office reviewing the plans. He thought Brendan Pearson was going to say thank you and is surprised he is not happy. He feels they have gone way beyond what most developers would do. They could go back to the bylaw and then you have nothing. He feels Mr. Cosmos is a top notch architect and what is before us is more than what he has seen in three years on the board. He feels Mr. Murphy is giving a lot and there are some nice trees proposed. Brendan Pearson stated he is very pleased, but he had asked for four things: one is already on the plan from 2008 and he considers his requests minor. If they don't want to do those requests that is fine.

Mr. Murtagh asked if Mr. Cosmos will be involved with the neighbors in the placement of the trees and he stated yes. Mr. Murtagh stated placement is key. Mr. Cosmos stated those trees can be shifted or moved to make this work. Mr. Mazzocca stated Brendan Pearson is concerned about the buffer zone and that is a very serious issue. That can hold us up and cause this whole thing to get thrown out. If Mr. Murphy and crew are going to compromise, you will lose some things. They could also end up with what is required by the zoning bylaw. Mr. Nottebart questioned the disturbance of the buffer for plantings and Mr. Cosmos stated there are some plantings on the slope. Mr. Murtagh stated when you plant these trees, will there be an irrigation system and Mr. Cosmos stated yes for two years. Mr. Merrikin stated that is on the plan.

There were no further questions or concerns from public. Mr. Conroy moved to close the hearing to testimony, but to keep it open for resubmission of the plans if necessary.

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Mr. Macchi stated that the standard fencing conditions will not apply as they will be seeking a variance. Mr. Forsberg stated if you take the zoning bylaw as the bench mark, they have gone above and beyond. It won't get much better than what is being offered and he is satisfied with what has been presented. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Macchi stated the decision will be held until the next meeting. Mr. Forsberg asked which way the neighbors want to the fence to face and Mrs. Pearson stated finished side toward her and Mr. Merrikin agreed to put the finished side out. Mr. Nottebart asked what happens if they don't get a variance for an 8' fence and Mr. Macchi stated they will put in a new 6' fence.

Mr. Forsberg continued this hearing to January 17<sup>th</sup> at 7:15 p.m. to vote the decision. He stated the board already has a draft of the decision and asked that they review it.

**9:00 p.m. Tall Pines Subdivision Continued Hearing:** On behalf of the applicant, Atty. Philip Macchi II asked to continue this hearing to January 17, 2013. Mr. Forsberg moved to continue this hearing until January 17, 2013 at 8:00 p.m. without testimony as per request by the applicant's attorney. Motion seconded by Mr. Nottebart and voted 5-0-0.

**Walpole Park South Extension of Time:** Mr. Macchi stated Subdivision Rules and Regulations say that the final bond release hearing must be held within 30 days of filing a request and because this was filed two weeks ago he is requesting an extension of time through January 31, 2013.

Mr. Forsberg moved to extend the time on which to take action up to and including January 31, 2013 as per request of the applicant's attorney. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Conroy suggested the applicant review and address an email dated November 15, 2012 stating concerns raised by Landis Hershey, Conservation Agent about fencing issues at Walpole Park South.

**9:12 p.m. John Lubold, 254 Plimpton Street Discussion:** The applicant was represented by Paul Brodmerkle, Managing Partner, Site Design Professionals, 1200 Providence Highway, Suite 200-A, Sharon, MA. Mr. Conroy suggested he meet with Margaret Walker, Town Engineer as the house exists but it is a new lot.

**Northridge Farm ANR Discussion:** Ms. Walker stated they can pull building permits for the ANR lots, but they would be given North Street addresses, which could be changed at a later time to Warren Lane after it is bonded.

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**High Oaks IV Construction Issues:** The board reviewed Ms. Walker's memo to Michael Boynton dated November 16, 2012 concerning various construction issues at High Oaks IV.

**Walpole Park South:** The board gave Mr. Macchi a copy of an email received from Landis Hershey dated November 15, 2012 regarding fencing issues.

**Niden Woods:** It was agreed to add this to our February 7, 2013 agenda and also to invite all parties, including Ellen Rosenfeld and a representative from the bank that issued the Tripartite Agreement.

Mr. Conroy moved to grant an extension of time up to and including February 8, 2012. Motion seconded by Mr. Nottebart and voted 5-0-0.

**RFP Request:** The board asked that a letter be sent to Jim Johnson asking him to prepare an RFP for an on-call consultant. The board also discussed a part-time planner.

**Budget:** Mr. Nottebart moved to accept the budget as proposed. Motion seconded by Mr. Forsberg and voted 5-0-0.

**Meetings:** It was agreed the board would meet briefly if necessary on December 20, 2012. The board discussed the upcoming January meetings and because there is nothing on the January 3, 2013 agenda, it was agreed to meet only once in on January 17<sup>th</sup>. Mr. Conroy moved that the next meeting of the board will be January 17, 2013. Motion seconded by Mr. Nottebart and voted 5-0-0.

It was agreed to meet sooner than January 17<sup>th</sup> if necessary.

It was moved, seconded and voted to adjourn. The meeting adjourned at 10:05 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 1/17/13