

## WALPOLE PLANNING BOARD MINUTES OF MARCH 15, 2012

A regular meeting of the Walpole Planning Board was held on Thursday, March 15, 2012 at 7:00 p.m. the Senior Center, Town Hall. The following members were present: John Conroy, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk (7:16 p.m.); Richard Nottbart, and Margaret Walker, Town Engineer.

**Minutes:** Mr. Conroy moved to accept the minutes of February 16, 2012. Motion seconded by Mr. Forsberg and voted 3-0-0.

**ANR – Town of Walpole, Mylod Street:** The applicant, Town of Walpole, was represented by Dan Merrikin, Merrikin Engineering, Millis, MA. Mr. Conroy asked why we need to do this and Mr. Merrikin stated it is presently two parcels and town counsel wants it all combined into one big parcel so the parking lot will be clearly accessible. Mr. Conroy stated we don't have to do this and Mr. Merrikin stated it is because of the deed restriction.

John Murtagh arrived at 7:16 p.m.

Mr. Merrikin stated the zoning bylaw says you can treat lots held in common ownership as one lot. He read the four deed restrictions. He said it will be a split zone lot.

Mr. Conroy moved to endorse an ANR plan of land dated February 7, 2012 by Merrikin Engineering finding Form A in order and subdivision control not required. The locus is comprised of four parcels: Lot 1A and Parcel C as shown in Plan Book 431, Plan No. 425; and, Parcels 38B and 39B as shown in Plan Book 516, Plan No. 780. Further, the properties do not lie within the WRPOD or the Flood Plain Overlay District. Said property is zoned LM and PSRC and owned by the Town of Walpole and shown as Assessors' parcels 14-75 and 19-38. Motion seconded by Mr. Nottbart and voted 4-0-0.

Mr. Conroy moved to waive the filing fee for the town. Motion seconded by Mr. Murtagh and voted 4-0-0.

**ANR – Carl Swanson, West Street:** Mr. Conroy asked what the property before the board was and Mr. Swanson stated it was a big lot with a field. He is just cutting out one lot. Mr. Conroy moved to endorse an ANR plan of land by John Anderson dated December 27, 2011 finding Form A in order and subdivision control not required. The owner of record is the Estate of Carl Swanson, 1000 West Street and shown as Assessors' Parcel 39-234 and 235, Zoning District Residence A and Rural and partially located within the WRPOD, Zones 3 and 4. Motion seconded by Mr. Murtagh and voted 4-0-0.

**ANR – 400 Old Post Road, Lot 26:** The applicant was represented by Rick Merrikin, Merrikin Engineering, Millis. He stated the applicant will be tearing the house down at 400 Old Post Road next week. Also, they will be submitting a preliminary plan to the Planning Board next week.

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Mr. Conroy stated they will be creating a violation and will have to pay a \$300 per day fine. Mr. Fox stated need a building permit because the bank won't lend them the money without one. Mr. Merrikin stated that Jack Mee has been working with them. Mr. Fox stated the house is vacant. Mr. Conroy stated there has to be a minimum of two lots for a subdivision.

Mr. Conroy moved to endorse an ANR plan of land dated February 5, 2011, latest revision March 7, 2012 by Paul J. Desimone, PLS, 38 Coffee Street, Medway, MA showing Lot 26 being a subdivision of Lot 1 on Land Court Plan 13037B and the remainder of Lot 2 on Land Court Plan 13037B having 5.25 acres finding Form A in order and subdivision control not required. The owner of the property is Mary Bremilst, 82 North Street, Norfolk, MA. It was noted that the property, located within the RB zone, is not within the Flood Plain and not within the WRPOD. Motion seconded by Mr. Nottebart and voted 4-0-0.

**ANR – 400 Old Post Road, Lot 28:** Mr. Merrikin will refile this at a later date. There will be no filing fee for this refile as Mr. Merrikin has paid for Lot 26 and Lot 28 filing fees in one check which was received and filed.

**Atlantic Court Extension:** Mr. Conroy moved to set the bond for this subdivision as requested by the applicant, Michael Viano at \$570,000. Motion seconded by Mr. Nottebart and voted 4-0-0.

**Time Cards:** Mr. Conroy moved to approve the secretary's time cards. Motion seconded by Mr. Murtagh and voted 4-0-0.

**Minuteman Truck:** Mr. Conroy read an email dated March 5, 2012 from Rich Lester, Cambridge Environmental to Jack Mee and Phil Macchi requesting additional funds for the RFP that was submitted.

**Sharon Credit Union Minor Modification:** Mr. Conroy recused himself. Mr. Forsberg moved to endorse the mylar for the Sharon Credit Union Minor Modification dated March 1, 2012 as the paper copies were previously endorsed on March 1, 2012. Motion seconded by Mr. Nottebart and voted 3-0-0.

**7:35 P.M. Town Meeting Article 25:** Mr. Conroy recused himself. Mr. Forsberg read the public hearing notice as published. He noted the board received letters from Engineering, Police and Conservation showing no comment. The applicant being the Board of Selectmen was represented by Michael Boynton, Town Administrator.

John Swindlehurst, Jasons Path asked what the zoning is now and Mr. Forsberg stated RB. Mr. Boynton stated what is being proposed is a more restrictive use, but they are trying to make it consistent with the other schools in town. Regardless of Article 26, all the schools in town should be in the same zone.

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You won't get the extra benefits associated with the PSRC zone if we don't make this change. Mr. Forsberg stated if we make this change the school couldn't be closed at a later time and made into condos in the PSRC zone. Mr. Boynton agreed, but stated there is no intention to close any schools.

Julie Quinn, Jasons Path, asked the difference between RB and PSRC and Mr. Boynton offered an explanation. He stated PSRC is more restrictive.

Carol Lane, FinCom, stated we started to do this before but it was put off until a later date. We can change the parcel back by going back to town meeting if we want.

Cliff Snuffer, Hummingbird Lane, stated it is important to recall the language that our Zoning Bylaw created for PSRC, "provide for areas supporting low density municipal, educational and recreational use." He feels that is worth remembering before we move onto the other articles.

Ms. Quinn stated she lives next door to the Boyden School and she wants to make sure they don't build behind Boyden School. She asked if making it conservation-protected would stop building back there. Mr. Boynton stated we are just changing the area shown in blue on the plans and those lots in blue are already town owned. The others are lots with frontage along Route 1.

Carol Lane, FinCom stated we are really only dealing with town-owned land, not private property land.

Jack Conroy, 455 Elm Street, stated when this was first done in 1998, Bird and Boyden were not done because on town counsel's advice these were small and we didn't want to create spot zoning. Elm Street School was pulled because there was a defective notice. Mr. Boynton stated we don't want a spot zoning issue so we picked all the schools. Ilana Quirk, Town Counsel, stated this will not constitute spot zoning. Mr. Conroy stated the Attorney General can say it is spot zoning and this will fail. That will be the last hurdle after tonight's meeting and town meeting.

There were no board questions or public comments or questions.

Mr. Forsberg moved Favorable Action on Article 25. Motion seconded by Mr. Murtagh and voted 3-0-0. Mr. Forsberg did not close the public hearing as that would mean there could be no more input.

Mr. Conroy returned at 8:04 p.m.

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**Town Meeting Article 26:** Mr. Conroy read Article 26 as published. Mr. Boynton deferred to the private petitioner. Mr. Boynton stated he spoke with town counsel about a typo and she in turn offered her advice which was taken. Lori Wilson, representing the Boyden School PAC, was at the meeting to present the article. She stated they are looking to raise \$250,000 to redo the Boyden field and maintain it on a yearly basis and also to build a new playground. Therefore, they are proposing that Patriots fans be allowed to park at the Boyden School. She stated there are close to 500 students at the school and the playground presently has structural damage. The PAC would like to sell 106 spots at \$300 each per season. Those spots will not be numbered, but will start out front and then go behind the building and then up by the pool parking lot area. There will be no tailgating and no port-a-pottys and they will need five people to work there. They are also proposing to cover the cost of insurance. A long term benefit is the town will save on their funds plus it will bring in revenue. The DPW would come in to clear the area so it would be safe for the children. The PAC will go to FinCom, the Board of Selectmen and town meeting. They want to sell passes to Walpole residents first and then to other towns.

Mr. Conroy read letters from Engineering, Police and Conservation. There were no comments. Mr. Conroy asked for public comments.

Joe Dineen, Brown Drive: He questioned how long the five people working would remain on site and Ms. Wilson stated two hours before the game and through the first quarter. Mr. Dineen stated the problems are after the game. The lack of port-a-pottys could be a problem. He feels there needs to be supervision on site. If there is an issue, 4-500 kids could be walking into a problem the morning after a game or event. Ms. Wilson stated they will need to look into having someone stay on site for the entire game.

Cliff Snuffer, Hummingbird Lane: He said we are debating this with the assumption that Article 25 passed. He feels we need two police officers on site. With respect to the DPW, would that be overtime? Also, how do you transfer money from the town to PAC? Under Section 2.2.A it addresses the Board of Selectmen as a special permit granting authority and he feels that is dangerous ground. If you go through the language as presented, you will see it is an opportunity for three boards to convene simultaneously; i.e., the Planning Board, the ZBA and the Selectmen. He feels the Selectmen should appoint the ZBA to deal with this. This is fraught with the opportunity to violate Section 5-A-1-b. This could further more interest as it pertains to the casino. He will fight at town meeting not to have the Selectmen added to the SPGA process. Mr. Boynton stated that with respect to the Selectmen being the SPGA under the Table of Uses, they will become the SPGA only in this one instance in the PSRC zone. The Selectmen will have to get into a procedural effort to grant a license, so they are the license granting authority for that site. All the concerns being discussed are genuine. With respect to the DPW clean up, we would calculate the cost and it would be figured into the cost of their license.

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Nancy Mackenzie, 96 Pine Street: speaking as a parent and resident of South Walpole, she disagrees with Mr. Snuffer's reference to Section 5-B-1-b. She stated that Bob Kraft pays for a detail until half time. She feels what they are proposing would be a lot quieter for the residents in South Walpole. With regard to football games, those crowds will get in and out. It is the unorganized events that cause chaos. To compare this to casinos is not correct. There are other schools in town that have good playgrounds. Mr. Snuffer stated that respectfully you have just described an enforcement issue that is incumbent upon the Board of Selectmen to enforce. You would be exacerbating a bad situation.

Josette Burke, Precinct 4: if approved, would this be just for the football season or for everything? Ms. Wilson stated just football season. Mr. Conroy stated that the way it is written now they could have it in any PSRC area in town. Mr. Murtagh asked if we can condition it and Mr. Conroy stated we can't as it doesn't deal with the Boyden School specifically.

Julie Quinn stated her kids went to Boyden School and she agrees the field and playground does need to be done over. She asked what else they have decided to do for a fundraiser and Ms. Wilson stated they have a Playground Committee in place and they are meeting next month to discuss this. Ms. Quinn stated there are a lot of issues she disagrees with and she doesn't want any parking there. The Police Department and John Carmichael have been wonderful and have done a phenomenal job. If there is a snowstorm, the DPW doesn't get to her street until 5 or 6:00 a.m. If you go for a walk after any game, there is glass and beer cans from South Walpole to the cemetery. It is an absolute disgrace. She doesn't want people coming up behind the school or onto their street. It is not all fans, just some of them. They have the pool that people throw empties into. She would like to know what else could be planned instead of parking. Ms. Wilson stated they have fundraising and grants. Ms. Quinn stated that once this parking lot starts, it won't stop. She asked how many years they are planning to do this. Ms. Wilson stated to fix the existing playground is \$55,000. To start fresh would be \$85,000. The Parks and Recreation Department came to their meeting last night. They wanted to do the field over and not let the Boyden School kids play on it. Ms. Quinn agreed the field has not been kept up. Mr. Dineen asked what mechanism would be used to get this money into the town coffers to finance the improvements. Mr. Boynton stated the General Fund would take the receipts and then be allocated through the budget process or it could be done as a gift. Mary Kent, Finance Committee, asked if the police detail is paid by the stadium and Mr. Boynton stated they all are. Ms. Kent asked why wouldn't you keep it and Ms. Wilson stated they would. Ms. Kent stated she worked on the playground at Fisher School to raise money for playgrounds because in Walpole playgrounds are not a funded item. You have to raise the money yourself. She is not sure how she feels about this proposal, but feels she needs more information. She likes to think outside the box and she would like to see the more details if you are going forward with this. She doesn't think people are very civilized after the fourth quarter.

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Ms. Mackenzie stated the chief was happy to know he could free up that detail as he could use it in other spots in South Walpole. Ms. Kent feels strongly about the police detail remaining.

Carol Lane, Finance Committee stated she has an issue with this proposal. People will say if you can do it, why can't we. She feels it will be hard to keep it under control and it isn't under control now. To do this will open it up more. She feels this is asking for trouble.

John Swindlehurst, Jasons Path stated they have to raise money. He is always asking for money as he is the head of the Scholarship Foundation. He believes this is a good cause, but to raise money through parking fees and impact their neighborhood is a challenge. He does call the police on issues with people now. If this went through, he would want two police officers and any clean up done right away. The DPW is shorthanded now and in the case of a storm they will be shorthanded again and if they miss glass on the playground, who is liable for that. People leave a lot of trash behind and to introduce more cars now will be a problem. People tailgate and drink with school going on, now to add 106 cars into the mix would be bad. Somebody could be intoxicated driving out. Bring those cars to your backyard and ask them to be quiet when leaving. He has to work in the morning.

Julie Quinn, Jasons Path stated that if all these cars are leaving at the same time at 11:00 at night onto Washington Street, the back up would be past her house. If she's trying to get out of the neighborhood, she will be backed up behind 50 cars. Mr. Swindlehurst stated their street is a split road and if there is a lot of traffic, people will use the wrong lanes. They do now sometimes. Ms. Quinn stated there are 20 kids in the neighborhood getting their license this year. It is a safety issue.

Cliff Snuffer, Hummingbird Lane stated he doesn't believe the Planning Board or Board of Selectmen or town meeting would want to be responsible for creating an attractive nuisance. Dan Merrikin, Carpenter Road knows the private lots have to pay the State a \$7 fee per car and asked if the town would have to pay that. He asked how much of the \$32,000 would be revenue. Mr. Boynton doesn't think there would be a fee as they are not located on Route 1. Mr. Merrikin stated there would be insurance costs, DPW costs and license fees. Mr. Boynton stated the license would go to a third party. We would tell them there is a cost to run the lot and DPW costs which would come off the top. The PAC would have to hand us the insurance certificate. There is also the final cost of the tags to consider when everything is added in, but we need to get to the point that this is going to go before we have actual numbers. Mr. Conroy stated so no one knows the net net. Mr. Swindlehurst stated the PAC should know. Ms. Wilson stated they still need to find out how much the insurance will cost and they may be able to get a 6-month policy. Carol Lane asked if overtime would be part of the final figure and Mr. Boynton stated yes.

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Ms. Lane asked if the PAC volunteers would be covered under our umbrella and Mr. Boynton stated no. Mr. Dineen stated if this gets to town meeting floor it would behoove them to have a budget. Mr. Swindlehurst asked if this would be done through the Selectmen and Mr. Conroy stated this is all done through them. Mr. Swindlehurst asked what are we doing here then and Mr. Conroy stated we are holding the public hearing. Mr. Snuffer stated the zoning article links you. Ms. Mackenzie stated this is the first time the PAC has brought anything like this forward. They are planning a neighborhood meeting at Boyden School and plan on inviting the RTM members. They have to start somewhere. If this works and the PAC can find the answers, they want to adopt the field and it would be a forever program if it is positive and working. If not, the Board of Selectmen will close it down. She feels it is worth the risk. Mr. Swindlehurst asked how the board votes and Mr. Conroy stated we recommend favorable action. We are the forum to hold the public hearing. Ms. Lane stated this is the beginning of the process. How the Planning Board votes tonight goes to the next step and then after the next step this goes to town meeting. If their recommendation and town meeting is no, the issue is over. If positive, then the Board of Selectmen get to choose how they want the parking lot to run. So, it is Planning Board, FinCom, Board of Selectmen and then town meeting, but this is the place to start.

Mary Kent, Finance Committee recommended that if they are going to invite the town meeting members for a presentation, maybe they should open it up to other residents in South Walpole so they can ask other people in the Boyden School area how they feel. Julie Quinn stated there are people out there who love that school and they will donate to this. You need to reach out. She agrees the playground and field needs to be done over, but parking just won't fit with her neighborhood. She feels they should reach out to the alumni family as people will also donate their time. Mr. Boynton stated that with the amount of work the PAC has done, they are well prepared. The topic of a budget is premature. They have done a lot of leg work to get to this point. They have tried collectively to be very supportive.

Josette Burke, Finance Committee stated way back she was in charge of the playground at Plimpton School. The townspeople and Lorusso donated time and money. Ms. Wilson stated one of the other parents had offered to put in irrigation and they were told no because it would interfere with town work. Mr. Swindlehurst stated he worked on the Elm Street School playground. Ms. Mackenzie stated it is too bad they don't have a playground like they had when she was there. Mr. Swindlehurst stated it really wasn't that big.

Mr. Conroy stated the PAC was going to use their own people and he doesn't think they will ever get five people to work. It never works out. He had a discussion with Eric Kraus about High Oaks subdivision. They were going to build a Little League field up there and the town was asked if they wanted it and the Selectmen said no. They made an offer to re-do another field by putting up \$100,000. Mr. Kraus stated he would earmark that money for Boyden School, so right now there is \$100,000 out there.

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Ms. Mackenzie asked just Boyden School or a field or your choice. Mr. Conroy stated a field of your choice, but Eric said he wanted Boyden School. Ms. Mackenzie stated if we take Boyden School out of play and do it ourselves, then this money could go elsewhere. Mr. Conroy stated this is just what Mr. Kraus said. I am only telling you where some money is. Mr. Boynton stated that Ms. Mackenzie's point is that there may be money out there but it is not available until the lot dispute is resolved. He agrees the lot at High Oaks is not a good spot for a field. Mr. Forsberg stated the Conservation Commission is against giving him another lot.

Mr. Nottebart stated he shares the passion of the PAC. Nancy Mackenzie is sticking her neck out, but the protection of the neighborhood is important. He is conflicted especially with what Cliff Snuffer said about the casino. There are a lot of issues that trouble him especially egress through a neighborhood. How do we provide enforcement of any kind? Also, it is hard to get volunteers. He will be conflicted to vote favorably. John Murtagh stated he supports and has enormous respect for the teachers at Boyden School. His kids went there. If this goes through there should be supervision before and after the games. He hasn't gotten a good night's sleep since the casino came into his back yard. He appreciates the support from Michael Boynton, Nancy Mackenzie and Cliff Snuffer, but, supervision is key.

Mr. Forsberg commends the PAC for their effort to raise funds; however, Article 26 doesn't mention the parking. He agrees with Cliff Snuffer that the SPGA should be the Zoning Board. In fact, he feels they ZBA should do all special permits. He reviewed Oaktree Realty, a parking lot on Route 1 which offers 77 spaces and also Hercules Plaza, which offers 36 spaces. Each of these lots had to provide port-a-johns. Foxboro is looking at a zoning change to prohibit parking at houses around this area. Regarding the hours of operation, Hercules Plaza is open three hours before a game and two hours after. He doesn't know what Oaktree on Route 1 can do. There would be a need for lighting at Boyden School as it is very dark there. The Planning Board required a contact person and his phone number on the other two parking lots. He questioned signage. He stated he would like to see the breakdown on other various parking lots. There shouldn't be any parking in back of the school until you see how it goes out front. He knows it is tough to get volunteers. He also has an issue with the DPW clean up after night games. The port-a-johns would have to be off the property before school started. He asked if they have a system for checking the cars there. Will there be stickers on number plates or stickers on car windows. His issue isn't the article, just the guidelines. Ms. Mackenzie stated it sounds like some of Ed Forsberg's issues could be eliminated if the police details were addressed. She stated the PAC also needs to look at their cost analysis. She asked if the board would be willing to table their decision so that they can come up with numbers and potential licensing guidelines. Mr. Forsberg stated there are two problems. He doesn't have an issue with the article, but he feels the ZBA should do the special permit. Also, he feels guidelines need to be written for the parking lot. Ms. Mackenzie stated if this article passed right now, it would be a special permit issued by the Board of Selectmen and it could go away if necessary; however, if the ZBA does the special permit it is forever.



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She stated she was on the Planning Board when they did the first parking lot. She thinks the Selectmen and other boards in town could do the same thing. Mr. Nottebart stated if the Boyden School wanted to do other fund raisers, would you have the ability to give them permission to do that. Ms. Mackenzie stated there is already a Fun Run at Boyden School. Other schools have a big fund raiser. Mr. Boynton stated that anything inside the school would be permitted by the School Committee and outside the school would be the Selectmen. Mr. Conroy stated not a special permit. Ms. Mackenzie stated if this was an empty lot that was going to be built, the ZBA could do it. An annual license with an annual renewal could be fine tuned to address issues and therefore give extra protection. Mr. Nottebart agreed with that.

Ms. Mackenzie stated if the board is leaning toward not supporting this article, she hopes they would table it to allow to Board of Selectmen time to work on this. Mr. Conroy stated there is no guarantee that parking would not be allowed during other functions, like Country Fest. Other events would effectively shutdown the school from August through December or January. If you are trying to build a field and playground and you want to use it on a Sunday, you won't be able to. The pool would essentially be shut down for the month of August. Also, what about basketball in November, December and January? How will the parking lot affect school activities? Also, to require the DPW to clean up the lot in such a short window of time could be a problem. You have effectively shut down the school for those days because of a parking lot. In the morning the chances of getting everything cleaned up is a problem. The dumpster will be full because everyone will use it and toilets are a problem. Not having port-a-potties will be an issue. You said no tailgating, but I could just sit in my car and drink. Ms. Mackenzie stated no drinking on school property. Mr. Swindlehurst asked who after the game will enforce people getting out in a timely manner if no one is there. Also, plowing in December and January could be a problem which could cause a delay of school. He asked who counts the money. Mr. Forsberg stated it would be prepaid. Mr. Boynton stated the PAC. Mr. Conroy stated someone will ask if all 106 spaces are accounted for. Mr. Forsberg suggested using stickers. Ms. Mackenzie stated they would use placards and a contract would need to be signed. There will be rules. If someone is caught doing something that is not allowed, they would lose their placard. Mr. Conroy stated most of the stuff happens late at night. You don't want PAC people, you will need a bouncer. All bar fights start at closing time. Ms. Mackenzie stated this is town-owned property enforceable by the police. Mr. Swindlehurst stated you said the cops won't be there. Mr. Conroy stated there is also the problem of damage.

Ms. Mackenzie stated she has written this all down and will bring it back to the PAC. Mr. Conroy asked if the Selectmen have voted on this yet and Ms. Mackenzie stated no, they will three weeks from now. They voted to put it on the warrant, but they haven't held a presentation yet. Mr. Conroy stated that should have been done. Ms. Mackenzie stated the Planning Board should have had them in later. Mr. Conroy stated we have to meet a time frame. Why did you pick the Selectmen and not leave it with the Zoning Board. That affects the checks and balances of the process. Ms. Mackenzie stated because the

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lot is already there. It is not a site being built on or altered. It didn't fit a site plan. Mr. Conroy stated that a special permit goes with the land. You can't renew a special permit every year. Once you issue it, it is dead. When you give it, it is gone. Mr. Snuffer stated Mr. Conroy is right on the money and is the reason for its defeat. What would be the change to the scope, if any, if that article erased all mention of the Board of Selectmen? Mr. Conroy stated that should be answered by town counsel. Mr. Boynton stated there could be a substitute motion on town meeting floor. Ms. Mackenzie stated they can go to the ZBA and if they get a special permit, it goes with the land. Mr. Boynton stated the Planning Board already does parking lot site plans and special permits for stadium parking. Ms. Mackenzie stated if you don't like what is going on, the Selectmen can make it gone. Mr. Conroy asked why not stay with the ZBA. Also, when the Selectmen take it over you have to conform to the site plan. Ms. Mackenzie asked if he feels this could trigger a full site plan and Mr. Conroy stated it could because you are going a different route. Do you actually need a special permit or can you just license it. Mr. Boynton stated they could not charge in the PSRC zone and Mr. Snuffer stated you could take a donation.

Mr. Swindlehurst stated that in the notice he got of tonight's meeting nothing is said about a parking lot. He is the most impacted person in the town and he wasn't told anything about this. Ms. Mackenzie stated the PAC was only following the process for a change. Mr. Swindlehurst stated the neighborly thing to do would be to reach out to the abutters and have that discussion. Everyone would then know what is going on. Mr. Conroy stated that type of discussion needs to be public. How is the PAC assured they will be the owner of the license and the special permit? What allows them to do this? What if someone else comes in first? Mr. Boynton stated this was actually presented to town counsel. If this was approved and another group wanted to come in and run this and put the money back into the Boyden School, have at it. Mr. Conroy stated that addresses the license, but not the special permit. Mr. Boynton stated you asked about the license. Mr. Conroy stated no, he asked about the special permit. Ms. Mackenzie stated the town would have to be a co-signer. Mr. Conroy asked what is to stop him from doing this. Mr. Boynton stated if you keep this together, it rolls together. Mr. Conroy stated he has a problem with the Board of Selectmen being in the Zoning Bylaw. Ms. Mackenzie stated the town needs to sign off. Mr. Conroy asked how they could deny him. Ms. Mackenzie stated it is about the special permit. Mr. Conroy stated you have two separate entities. The town is the owner of the property; Boyden PAC comes in as the applicant and you sign off. You hear the special permit. How do you do that as both the owner of the property and the SPGA? You can't own it and give yourself a special permit. That's why we have checks and balances. Ms. Mackenzie stated that is a good question for town counsel, but she disagrees because the ZBA is appointed by the Selectmen. Mr. Conroy stated they are not the consignor. Mr. Conroy stated you can't waive a buffer. They need to go to the ZBA for waivers. Mr. Snuffer agrees with Mr. Conroy.

Mr. Conroy stated he feels the notice was incorrect for this article. He questioned the word "application" that is in italics. He asked that town counsel review this.

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He also questioned the mention of the Use Table Section 5.B.1.4 as it refers to a business. Mr. Boynton stated it would be classification of the use. Mr. Conroy stated the school is not a business. Mr. Boynton stated if that is the case, they could pull this from the warrant and issue a license next week. Mr. Forsberg stated he knows what Mr. Conroy is saying. Ms. Mackenzie stated this is the way town counsel suggested it be written. Mr. Conroy stated they make these mistakes all the time. They don't read it very closely. The Selectmen will be doing special permits for anything that is on PSRC property. Ms. Mackenzie stated she thought this was extra protection for the town. She asked if he would be more comfortable to give this to the ZBA and then have a license agreement with the Selectmen. Mr. Conroy stated you can't give yourself a special permit. He has nothing against the PAC's goal.

Ms. Mackenzie asked about tabling this to see what we can do to protect the neighbors and residents. We can all work together. Mr. Conroy stated there are too many things in the zoning bylaw to do this. Mr. Forsberg suggested the Selectmen just do the license. Ms. Mackenzie stated she will ask town counsel. This is what town counsel told us to do. Mr. Snuffer stated the article before you is just too flawed. It will require a 2/3 vote from town meeting and that is huge hill to climb.

Mr. Conroy continued this to April 5, 2012 at 7:45 p.m.

**Article 33 FEMA:** Mr. Conroy read the public hearing notice. He stated that we don't have much choice with this article. If the town doesn't approve this, no one can get flood insurance if they need it. Ms. Walker agreed and stated the town wouldn't qualify for the national flood rates.

There were no questions from the public.

Mr. Conroy moved to close the hearing on Article 33. Motion seconded by Mr. Murtagh and voted 4-0-0.

Mr. Conroy moved Favorable Action on Article 33. Motion seconded by Mr. Nottebart and voted 4-0-0.

Mr. Conroy moved to close Article 25. Motion seconded by Mr. Murtagh and voted 3-0-0.

It was moved, seconded and voted to adjourn. The meeting adjourned at 10:30 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 4/5/12