

## WALPOLE PLANNING BOARD MINUTES OF MARCH 1, 2012

A regular meeting of the Walpole Planning Board was held on Thursday, March 1, 2012 at 7:00 p.m. in the main meeting room at town hall. The following members were present: John Conroy, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk; Richard Mazzocca, Richard Nottebart, and Margaret Walker, Town Engineer.

**Time Cards:** Mr. Conroy moved to approve the secretary's time cards as submitted. Motion seconded by Mr. Nottebart and voted 3-0-0.

**Planner's Job Description:** Mr. Conroy moved to approve the planner's job description as presented by the Personnel Board. Motion seconded by Mr. Nottebart and voted 3-0-0.

Mr. Mazzocca arrived at 7:12 p.m.

**Pinebrook Estates Update:** Mr. Conroy read an email dated February 23, 2012 from Margaret Walker informing the board of her request to be on the Selectmen's agenda to discuss the final easement documents.

Mr. Murtagh arrived at 7:16 p.m.

**High Plain Street Update:** Mr. Conroy read a memo dated February 23, 2012 from Margaret Walker to the Selectmen regarding the High Plain Street layout alteration.

**Planning Board Consultant:** Ms. Walker suggested that the Planning Board consider putting out an RFP for consultant services now so one will be on board if needed. Mr. Conroy stated he will talk with Jim Johnson.

**Sharon Credit Union, Case No. 11-7:** Mr. Conroy and Mr. Mazzocca recused themselves from voting. The applicant was represented by James Carlson who was seeking a determination of a minor modification. Mr. Conroy stated the applicant doesn't want to do the two-lane drive thru and overhang as approved. Mr. Forsberg asked if everything else is still the same and Mr. Carlson stated yes. Mr. Forsberg stated it looks like there will be one pass lane and one drive thru lane. Mr. Nottebart asked if there will be a structure coming off the building similar to what is there now and Mr. Carlson stated yes.

Mr. Forsberg moved to consider the change as presented to be a minor modification. Motion seconded by Mr. Nottebart and voted 3-0-0. Mr. Forsberg moved to endorse pages S-1 and G-1 dated February 27, 2012 which reflect a minor modification to an approved site plan. The minor modification shows the removal of an overhang and one drive thru lane being replaced with one drive thru lane and a pass thru lane. Everything else as shown on the original approved plan will remain as approved. Motion seconded by Mr. Nottebart and voted 3-0-0.

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The board signed three paper copies and Mr. Carlson will bring in the mylars for pages S-1 and G-1 for the board to sign at the next Planning Board meeting.

**7:25 p.m. Minuteman Truck Site Plan Approval, Case No. 11-11 and Minuteman Truck Special Permit, Case No. 11-12 Continued Hearings:** Mr. Conroy read correspondence from Robin Chappell, Health Agent, Jack Mee, Building Inspector and Michael Laracy, Deputy Fire Chief stating they were satisfied with the peer review that was submitted by Cambridge Environmental.

There were no public comments. Mr. Macchi stated he has nothing further to add. He asked however that Standard Conditions #26 and #27 be removed from the draft decision and also Special Condition #12 in the Special Permit be modified to read as follows: "The Health Department, Building Department and Fire Department shall be given permission to access the premises for any inspection they may need to perform in the future subject to providing reasonable advance notice except in emergency situations."

Mr. Conroy moved to close the public hearing for Case No. 11-11. Motion seconded by Mr. Mazzocca and voted 5-0-0. Mr. Conroy moved to close the public hearing for Case No. 11-12. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Conroy moved to approve the Site Plan application for Minuteman Truck subject to 29 standard conditions and 2 special conditions. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Conroy moved to approve the Special Permit application for Minuteman Truck Special Permit subject to 16 conditions. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Conroy moved to approve payment of Invoice No. 12827 from Cambridge Environmental in the amount of \$4500. Motion seconded by Mr. Nottebart and voted 5-0-0.

**7:35 p.m. Walpole Park South:** Mr. Conroy stated that according to town counsel, the board needs to endorse the Trustee Certificate Release, Accept the Passbook and Agreement in the amount of \$283,220 and Release the Existing Tripartite Agreement which is to be held in escrow by the Planning Board until the check clears.

Mr. Conroy questioned how we notify the bank that holds the Tripartite Agreement as it is no longer in existence. It was agreed to ask town counsel.

Mr. Conroy moved to release any and all interest in the Tripartite Agreement between the Town of Walpole, Old Stone Bank and VJ Corporation dated May 17, 1986, filed with the Norfolk County Registry District of the Land Court as Document No. 493795 as alternative surety has been provided to the Planning Board's satisfaction.

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Further, it was agreed to hold said release in escrow until any and all monies clear. Motion seconded by Mr. Nottebart and voted 5-0-0.

**The board signed the Tripartite Release and it will be held until town counsel tells us to release it.**

Mr. Conroy moved to endorse the Performance Secured by Bank Deposit in the amount of \$283,220.00. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Macchi stated the check will be wired to the town's Finance Director, Mark Good, in the morning.

Mr. Conroy moved to accept the Trustee's Certificate as presented. Motion seconded by Mr. Nottebart and voted 5-0-0.

**7:45 p.m. Plimptonville Crossing, Case No. 12-1:** Mr. Conroy stated that he feels what was advertised and shown on the plan doesn't exist any more due to the ANR which was endorsed on January 5, 2012. Rick Merrikin stated that 254 Plimpton Street includes both parcels. Mr. Conroy stated as it is before us now, we are now dealing with one entire parcel, but it has been ANR'd. Mr. Merrikin stated that no transfer has been made yet. Mr. Conroy stated we approved an ANR making the plan that you submitted different.

Atty. Paul Schnieders, Canton, MA was present to represent the applicant. He stated if the ANR was approved and not recorded and the public is aware of this, there should be no problem. Mr. Conroy disagreed and stated we can't do a decision based on what is before us presently. Mr. Schnieders stated the decision can be issued the way the notice was done. We know what the piece of land is. Mr. Conroy stated we have created a new lot and what was there before ceases to exist. Mr. Merrikin stated that is not true as it doesn't become a plan of record until it goes to the registry for recording. Mr. Schnieders stated all it is is a vote and we are not bound by it. It probably should have come in after this hearing. Mr. Conroy asked why they did the ANR first and asked where he is supposed to go with this. Mr. Merrikin stated the ANR is the easiest part of this process. The applicant is buying one piece of land from one party and another piece from somewhere else. It is not uncommon to do the ANR first, but it is not on record until it goes to record. Mr. Conroy stated we only know that we approved an ANR. Mr. Schnieders stated there is no one who doesn't know what is before the board tonight. It is a technicality to tie this together. Mr. Merrikin stated the board could make the same agreement if we didn't do the ANR. The lot didn't exist and the line didn't exist. Mr. Conroy disagreed because of the advertisement. Mr. Schnieders stated it is the same land with a designation. Mr. Marini, the applicant, stated there will be no designation until they record the plan. Mr. Conroy stated the question isn't the notice, it is how can we give a decision based on what is before us. Mr. Schnieders asked why the board can't modify and substitute the ANR for the 240-242 Plimpton and a portion of 254 Plimpton Street. Mr. Conroy stated he can't answer that as he is not an attorney. Mr. Merrikin stated we can write the decision based on what is before the board.

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Mr. Conroy asked what the board's thoughts are. Mr. Forsberg asked if the address of the new parcel is 254 Plimpton Street and Mr. Schneiders stated a portion of 254. Mr. Forsberg asked who owns 254 and Mr. Merrikin stated Mr. Lubold and he signed the application. Mr. Mazzocca asked the date of the plan and Mr. Conroy stated October 2011. Mr. Schneiders doesn't understand why the board can't render their decision using "also known as" in their decision. Mr. Mazzocca stated we are not taking any risk, you are if the notice is defective. Mr. Schneiders stated that the town's risk is whether or not they want the subdivision built. He is not concerned about the technicalities as he feels it was properly described, but has another name. Mr. Mazzocca stated it is up to the applicant whether he wants to proceed as there is the potential that what is before us could be defective and could be challenged. Mr. Conroy stated we will ask town counsel, but it is at your risk to proceed tonight. The applicant chose to proceed.

Mr. Conroy read the public hearing notice and stated the hearing is open. Mr. Conroy explained how the hearing will proceed. He also stated that they are proceeding at their own risk.

Atty. Paul Schneiders, Washington Street, Canton, MA stated this was before the board in 2008 when the Planning Board granted site plan approval for ten condominium units. He stated they have met with the neighbors and have attempted to address their concerns. Rick Merrikin stated that in 2007, this project was filed seeking approval for 17 units. The traffic report originally was for the 17 units, then pulled back to ten units and finally modified to 16 units. The plan is similar to the one approved in 2008 which is still a valid approval. The driveway has been shifted about 15-20' and the building will be a little different as they will be a bit smaller, but in the same location under the current approval. There were six units and the new one is proposing eight units as four units were added by the driveway. All units will have one garage and each unit has two parking spaces plus one in front for a total of three spaces, which fits comfortably. The road will be a 24' private driveway with Cape Cod berms and the grade is essentially the same. The water and sewer is the same and they will connect into the Neponset River which is exactly the same as the original approval. The driveways will come off the street, leaving more room for the buildings. They will be set up as condo units even though Mr. Marini may rent them for a while. They will be two and three bedroom townhouses. Also, the drainage will be similar. The original approval had an infiltration system under the cul-de-sac and they have eliminated the buildings in the back and moved the basement. The original discharge has been moved. The original approval had a lot of buffering from the neighbors. They have a 50' buffer and the buildings are outside that buffer. They have asked to use about 15' as part of the lawn area because a lot of the buffer is not very thick. They have been working with the neighbors and even with some individuals. The plan before the board provides buffer improvements and trees along the outside edge as requested by a neighbor. Mr. Merrikin submitted a plan to the board. He stated the prime concern of the neighbors is the screening and the submitted plan shows what is being proposed. He feels the trees should not be arborvitaes, but should be spruces and he would like two rows with a fence.

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They are also proposing two rows of white pines around the existing vegetation, which they will not be taking out, but enhancing. Ms. Rubini is 25' below the project and she is concerned as she should be. They will plant some evergreens and it was suggested that they put shade trees in the back area. They feel the project will blend with the rest of the neighborhood after it is developed.

Bill Scully, transportation engineer, was present. He presented his background to the board and said he has been doing this since 2006. He stated that traffic could enter the site with minimal delay and problems and that sight distance is good toward Main Street, but to the east they are restricted because of the railroad overpass. They suggested safety signage and some pruning of the trees. The tree warden recommended replacement trees and what type should be used. Also, because the speed is lower, the sight distance is less. They will work with Ms. Walker prior to the treatment of the slope. In late December, the traffic engineer prepared a letter stating the additional traffic with sixteen units versus a ten unit development. Going from 10 units to 16 units will change the traffic by four trips only and they meet the stopping sight distance clearly. He did try to get 240' of sight distance but could only get 230'. The town did put in some safety signage and they enhanced it already.

Mr. Conroy read comments received from other boards and committees. Mr. Merrikin stated there is an order of conditions and they will file an amendment on Monday to the original order after he receives Ms. Walker's comments. It was noted that E911 wants a new name. Ms. Walker read and discussed her comments. Mr. Conroy stated he wants anything on our plans to be stamped and if anything changes, they need to come back. Anything that is done on site needs to be on our plan and if it changes it goes to Jack Mee and then to the Planning Board.

Mr. Conroy read a letter from Ms. Rubini, Allston Drive regarding the buffer. Mr. Conroy asked Mr. Merrikin if he went before the ZBA for a variance from the buffer and Mr. Merrikin stated no because where they abut a 3-family they don't need a 50' buffer. He stated he will check with the Building Inspector for his opinion. Mr. Conroy stated we don't modify a buffer. Mr. Merrikin stated he would just be asking to modify what is in the buffer, not the actual buffer. Mr. Conroy stated that going back to the ANR, because it is not yet recorded, they need a 50' buffer. He stated they can't have it both ways and asked which way they are going to go. Mr. Merrikin stated he will have to think about that and will speak to his counsel. Mr. Conroy stated he knows why they did it because without the ANR they need the 50' buffer. With regard to Ms. Rubini's letter, he stated that the town engineer will look at item #2 and get all the answers to her questions for her at our next meeting. He asked Ms. Walker to check on Ms. Rubini's questions.

Mr. McCarthy, 262 Plimpton Street: asked what type of street lights will be used. Mr. Merrikin stated they will be screened and directed down. He will put the details on the plans.

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Joseph White, 220 Plimpton Street: stated he doesn't have a sidewalk in front of his house. Mr. Conroy stated that anyone who buys in this development should be aware that they can't park and have people parking at the subdivision. Mr. White stated the commuters are in a lethal position when they walk from the train by his house, but he doesn't want the town to take his land for a sidewalk.

Gary Ciplik, 224 Plimpton Street: questioned the speed limit. The signage is not worth it because people won't adhere to what is posted. He asked about speed bumps. Mr. Conroy stated no. Mr. Ciplik stated Dover has them and they work great. Mr. Conroy stated we are not the road commissioners. He needs to ask the selectmen that question. If they want to put them in, they can. Mr. Ciplik asked if it is a cultural thing in town and Mr. Conroy stated we don't have the money that Dover does. He suggested Mr. Ciplik go see the Safety Officer or the Board of Selectmen. This is not the only street that people complain about. They would also be impractical because of plowing and the Selectmen control the roads. Mr. Ciplik questioned the sight line toward the train station and asked what it should be. Mr. Scully stated there are different types of sight lines, but this one is about 230'.

Charlie Carr, 236 Plimpton Street: gave the board a letter stating he is concerned about the visibility buffer. The neighbors are working with the developer to work out these issues. Mr. Conroy stated we will add the visibility questions to the other questions and get answers for the abutters. He stated there are also a lot of drainage questions.

Mr. Forsberg questioned the dumpster being large enough for sixteen units. Mr. Merrikin stated that will be addressed. Mr. Forsberg asked how often the dumpster will be picked up and Mr. Merrikin stated once a week. Mr. Forsberg stated he would like a big dumpster used and specified pick up times. He stated he is disappointed with the buffer. Mr. Merrikin stated it changed once, but it is what it says. Mr. Forsberg asked if the driveway was moved and Mr. Merrikin stated yes toward Main Street for better sight distance. Mr. Murtagh asked if the applicant has made a submittal to the Conservation Commission and Mr. Merrikin stated yes to request to modify the order that is in place. Mr. Murtagh asked if the water run-off will be increased and Mr. Merrikin stated yes. Ms. Walker stated she will have a sight distance discussion with Mr. Scully. Mr. Nottebart would like a drawing putting the curb cuts of the driveways coming onto Plimpton Street all the way to the bridge. Mr. Merrikin agreed. Mr. Nottebart asked if from Plimpton Street to the cul-de-sac is a 40-50' drop and Mr. Merrikin stated it is a 7% grade. Mr. Nottebart stated he would like to walk the site and Mr. Merrikin agreed. He stated the town allows a grade of 8% maximum on a road and the driveway is less than that. Mr. Conroy asked for a cross section of the retaining wall in relation to the Rubini's and also the other side. It looks like you didn't re-grade anything. Mr. Merrikin agreed. Mr. Conroy stated we don't want a wall like Walpole Park South. Mr. Merrikin stated it will be 6' maximum. Mr. Conroy questions the decks and patios and stated he thinks they will need a variance. Mr. Merrikin stated it is not a structure, but they are asking the board to approve the site plan with what is in the buffer.

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Mr. Conroy stated a buffer is a buffer. Mr. Merrikin stated the board can approve what is in the buffer. Mr. Conroy stated they are trying to use the buffer as part of the development and it is supposed to stay natural. Mr. Merrikin doesn't agree with that statement. He will give the board an explanation of how it fits under the bylaw. He stated that Section 5.g.2 of the Zoning Bylaw permits the Planning Board to allow alterations.

John Marini, applicant and owner, explained the set up. He stated there will be all townhouses and all will be the same, but they will change the fronts around. The units will be wood frame and the rent will be around \$2600 per month. The intention is that these units will become condos some day. Mr. Murtagh asked if any units will be affordable units and Mr. Marini stated no. Mr. Conroy stated the Planning Board doesn't approve what this will look like. We only approve the footprint. He asked when they are meeting with the Zoning Board and Mr. Merrikin stated next Wednesday.

Mr. Merrikin granted the board an extension of time upon which to take action up to and including April 30, 2012. Mr. Conroy moved to accept an extension of time up to and including April 30, 2012. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy asked for the extension in writing. He continued this hearing to April 19, 2012 at 7:30 p.m. He stated the abutters will not be renoticed.

**9:15 p.m. Town of Walpole Water Tank, Old Post Road and High Plain Street, Case No. 12-2:** Mr. Conroy read the public hearing notice. The applicant was represented by Laurie Rosalla, from Wright Pierce. Also present was Rick Mattson, Superintendent of the Water Department and Jim Taylor, Sewer and Water Commissioner. Mr. Conroy stated he has never seen a site plan to remove water tanks. Mr. Mattson stated he is here because of Jack Mee and because of neighborhood concerns. Mr. Mattson stated they did remove the water tank on Davis Street, but didn't have to file with the Planning Board. Ms. Rosalla stated the tanks were built in 1896, 1901 and 1906 and they will be removed and replaced with one on the Old Post Road site. The new tank will hold 2 million gallons and it will be of the same material as it presently is; i.e., precast concrete. The roof elevation will remain the same, but the tank will be smaller in diameter. There will be no additional traffic after construction; but, during construction there will be trucks and concrete equipment. If additional screening is necessary for the neighbors, they will add trees. Regarding stormwater management, they did a full stormwater management plan which was included in their application. They have planned for a 100-year 24 hour rain event. The drains are lined with fabric and stones to hold the water until it infiltrates into the ground. The only impervious area is the tank itself. There will be no new roadway. All the tanks on High Plain Street are coming down and the existing one on Old Post Road.

Mr. Conroy read board comments that have been received. Charlie Quigley, Assistant Town Engineer, read his comments. Mr. Conroy stated the board did not receive anything from the residents.

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Bob Saskowski, 21 Highland Street questioned the lead around the old tanks to be removed and asked if there is any contamination or danger. Ms. Rosalla stated they are not in charge of that, but understands the lead issues will be addressed. She doesn't think there are any contaminants. Mr. Mattson stated they are not going to disturb any of the soil. Ms. Saskowski stated he doesn't care if they are removing any of the soil; he just wants to know if there was any consideration for possible contamination on that property. He asked what they are going to do with the property. Ms. Rosalla stated there is a booster pump station there so that property will remain water department property. Mr. Saskowski asked about the rest of the property. Mr. Mattson stated to his knowledge nothing is being done. Mr. Saskowski feels it could be two house lots. Mr. Mattson stated there is a big concrete foundation there and he doesn't know of any plans for anything. Mr. Saskowski stated the lot will not change whatsoever and Mr. Mattson stated no and also the chain link fence will remain. Mr. Saskowski asked why they don't change the chain link fence because it is so old. Mr. Saskowski asked what happens if they have other questions after this hearing and Mr. Conroy stated we will forward them to the proper person. Mr. Forsberg stated that re-use of the property will go through the Selectmen. Mr. Saskowski stated there is a zoning issue there also. Mr. Conroy stated town meeting would have to approve the sale of this property.

Nancy O'Brien, 33 Alton Street: would like the new tank put right where the old tank is. Mr. Mattson stated it is not a large enough area. Ms. O'Brien asked about a maintenance schedule, which was promised to them in 1991. She asked the provisions if there is a crack or a leak as this is right in the middle of a neighborhood. She feels it is just wrong to put all the tanks behind them in this area. What will happen if there is a problem or a crack. No one check them. She asked if there is water in the small tower and Ms. Rosalla stated yes. Ms. O'Brien stated the water in her basement is incredible. Also, they previously were told there would be trees, which they did plant, but no one watered them and they died. She asked if there is a plan if something goes wrong or is there a maintenance schedule.

Rita Krueger, 27 Alton Street stated they were never informed of prior meetings. She has called the Water Department and has taken pictures. They never had a problem until the tanks went in and the trees came down. After that the water problem became horrible. It was bad enough with one and now they have two. She asked what the maintenance schedule is. Someone should check the leaks and rust. If anything serious happens, their homes would be wiped out because everything is pitched toward their houses. There is a concern. She asked what they check and what would be the procedure for checking. The tanks are enormous. She stated their property values have all gone down. In the winter, the tanks are right there in their view, and now there will be two. There have been issues with water towers in other parts of the country. Rick Mattson stated he doesn't have an evacuation plan, but those tanks are visited daily to check for vandalism and to take readings. The black you see is mildew. The people that go to those sites are not certified people to check the tanks, but they do look for leakage. Ms. Krueger stated that is not very reassuring if you live next to them.



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Mr. Conroy stated that part of the contract will be to pressure wash the tanks. He asked why they would have the contractor inspect the tanks, rather than the engineers. They are designed to certain standards. Mr. Conroy asked what is the industry standard for checking tanks through a tank contractor. Mr. Mattson stated every ten years for a concrete tank and every five years for a steel tank. It was last done in 1995. Mr. Conroy asked that the applicant to list the standards and recommendations for maintaining a full structural inspection schedule. He asked if there are monitors on site and Mr. Mattson stated they do not have leak detection monitors. Mr. Conroy stated because you have to physically see it, he would like to see the maintenance schedule regardless of whether it is a daily, weekly, monthly or yearly schedule. Regarding flooding in the basement, no flow will be allowed to go off site, including rain water. Ms. O'Brien stated there were French drains around the base of the water tank. Mr. Conroy stated we can revisit this to make sure they are still there and if they aren't working, they will be fixed. Anything broken will get fixed within this process. Ms. O'Brien stated they have major problems since 1991 and nothing was ever done. The neighbors have all installed sump pumps. Now going forward, the ground will be disturbed again. It is solid woods back there. She can't imagine what it will be like if they will have bigger problems than they do now. Mr. Conroy stated if the drainage does fail, it will be addressed by the Zoning Enforcement Officer; if it is something else, it would go to the Board of Selectmen. Also, the town engineer would become involved. All run-off, pre-construction and post construction should stay on site. Regarding the trees, if that is a condition of site plan approval, it has to be fixed. Ms. O'Brien stated it almost doesn't matter now. Mr. Conroy stated we can make it a condition that they look at this and fix what is not in conformance. Ms. O'Brien stated that everyone is pretty concerned about the drainage. Mr. Conroy stated they will have to fix everything because we have the whole lot in play.

Shawn Patrick, 476 Old Post Road questioned the pressure wash. He feels it should be done as needed. He asked if it is the tanks that will be maintained or the grounds. Mr. Mattson stated it is the grounds also and agrees the maintenance is not as it should have been. Mr. Patrick asked how the trucks will go in and out and Ms. Rosalla showed the access on the plans. Mr. Patrick asked how long this will take and Ms. Rosalla stated it will be 7-4 typically. Mr. Patrick questioned the water pressure and asked if it will be worse or better with a new tank. Mr. Mattson stated it will remain the same as it is now. Ms. O'Brien asked if the ground can be tested by the tanks that go back to the 1800's for lead. Mr. Mattson stated he knows that all the tanks absolutely have lead paint on them. Mr. Forsberg asked if there will be two separate bids for removal and construction and Ms. Rosalla stated there will only be one bid to cover the soil and the lead or any other hazardous materials. Mr. Conroy asked if they did borings on site and Ms. Rosalla stated yes in the location of the new tanks for structural reasons, but nothing else.

James Rice, 37 Alton Street asked how close to the abutting properties will they be during construction and how disruptive will it be. Ms. Rosalla stated trucks will drive by the tanks in a 15' path for about 20'. Mr. Rice asked the height of the new tank from the ground up. Ms. Rosalla stated about 2' higher than what is there now.

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Mr. Rice stated ground water is his concern but so is a child getting onto the site. That area can tend to be a hang out as it is secluded. Mr. Mattson stated that is a valid concern as he knows kids have constructed an underground fort there. They need to keep checking on the area and will notice the police of any issues.

Mr. Patrick, 476 Old Post Road asked if any type of camera could be installed up there and Mr. Mattson stated that would be very expensive, but they could look into that. Mr. Rice asked if there is an amount of land required as a buffer and Mr. Conroy stated not necessarily, but there is one shown on the plan. Also, there will be a fence enclosing the entire site. Ms. Krueger stated there will be 80' before her property begins. Mr. Conroy stated a condition of approval would be that the fence needs to be put up before any construction actively begins. Mr. Rice asked about the timing of the plantings and what if the applicant runs out of money. Mr. Conroy stated they will have to upgrade the old site plan to bring the area into compliance and it will have to go out to bid. Mr. Rice asked who plants the trees and Mr. Conroy stated the contractor as it will be part of the bid. He asked if the applicant has a planting schedule and Ms. Rosalla it will be next Spring because they will not survive if they are planted in the Fall. Mr. Conroy stated that a condition of approval will state as soon as they are able. Mr. Conroy asked if this is funded and Mr. Mattson stated yes. Mr. Nottebart asked if it is through capital budget and Mr. Forsberg stated yes and town meeting.

Mr. O'Brien, 33 Alton Street, stated he is confused with the engineer's letter especially with regard to drainage. When it rains, they have water in their cellars for up to five weeks and there will continue to be a problem because of the soil. Their back yard is like a Petrie dish and it is stagnant water. There is also radon in the neighborhood. How do we test for that? He feels we should consider the need for more testing and neighborhood surveys. The horizontal flow of water creates erosion. He asked if the tanks could be placed somewhere else and he was told no. Mr. Merrikin stated that short of redesigning the water tank system, it would not be practical. Ms. Rosalla stated they did do borings on the site and never hit bedrock. Mr. O'Brien stated that his property values have been reduced. He stated there should be a soil test to test the ground water to see if there is a leak below the soil. Also, they should be offered a tax rebate because of the effect on their property values. Mr. Conroy stated they can apply for a rebate or an abatement. Mr. Forsberg stated it appears that the flooding is from ground water not run-off water. He suggested it could be taken off site and Ms. Rosalla stated they didn't look at that. Mr. Conroy stated they could maybe bring it over to Highland Street and Ms. Rosalla stated that would be too far. Mr. Conroy stated it has been done and is a worthy suggestion that should be looked into. Retention basins are a cheap way out and it can be done here. He is not saying move the tank, but mitigate the water. Mr. O'Brien asked about continued erosion. He stated he has sink points in his backyard now. Mr. Conroy asked that the engineer from Wright Pierce and our Town Engineer go out to the site and take a look. Mr. O'Brien asked that a study be done. He encourages a dialog between Mr. Mattson and Mr. O'Brien.

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Charlie Quigley, Assistant Town Engineer, stated the consultant did their original run-off study using typical industry standards. The goal is to match pre and post conditions. Mr. Murtagh asked that they take the proper precautions because of the lead on site. Also, part of our approval should be the condition of a maintenance plan. He asked who determines the color the tanks are painted as it should be done so they blend. Mr. Mattson stated they are usually light blue to blend in with the sky line. Mr. Nottbart wants to go see the site. He asked if Ms. Walker has verified the information presented and Mr. Quigley stated yes. Mr. Mattson wants to make sure the 1991 plan is pulled. Mr. Nottbart asked if the Planning Board did the site plan in 1991 and Mr. Mattson stated no the ZBA did it.

Mr. Conroy stated 1) everything has to be in compliance; 2) there will be a meeting between the residents, town engineer, Rick Mattson, and Wright Pierce to see what is causing the problems in that area; 3) meet with Charlie Quigley to review his comments; 4) maintenance schedule; 5) Rick Mattson will be the point person; 6) fence and trees; 7) High Plain Street needs to be addressed. Mr. Forsberg stated we want the perimeter fence in place before any construction begins so kids can't get into the site. Mr. Conroy stated it will either be a temporary construction fence or a permanent fence.

Mr. Mattson granted an extension of time for the board to take action on this application up to and including April 30, 2012. Mr. Conroy moved to accept an extension of time on which to take action up to and including April 30, 2012. Motion seconded by Mr. Forsberg and voted 5-0-0. Mr. Conroy continued this hearing to April 19, 2012 at 8:00 p.m.

**ANR – Lot 28, 400 Old Post Road:** Mr. Conroy allowed the applicant to withdraw the ANR filed for Lot 28 without prejudice as per request of the applicant's engineer, Rick Merrikin. Motion seconded by Mr. Mazzocca and voted 5-0-0.

**Atlantic Court Extension:** Mr. Viano asked to withdraw a request for a bond figure. Mr. Conroy stated there was no vote necessary. He asked that the Conservation Commission be given a copy of Mr. Viano's letter.

**Barachiah Lane:** Ms. Walker stated that Mr. Wakefield needs to request a bond modification.

Mr. Forsberg asked that we add buffer zone language to the agenda at a future time.

It was moved, seconded and voted to adjourn. The meeting adjourned at 11:15 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 4/5/12