

## WALPOLE PLANNING BOARD MINUTES OF APRIL 21, 2011

A regular meeting of the Walpole Planning Board was held on Thursday, April 21, 2011 at 7:00 p.m. The following members were present: John Conroy, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk; Richard Mazzocca, Richard Nottebart, Donald Johnson, Town Planner; Margaret Walker, Town Engineer.

**Atlantic Court Extension Plan Endorsement:** Mr. Viano stated an easement was in place to allow them to get to their property. Mr. Conroy stated he couldn't get endorsement until Toll Bros. bonded Phase V. Ms. Walker stated that town counsel, Ilana Quirk, doesn't think there is an issue with the easement. Mr. Conroy asked if we have anything in writing to confirm this and Mr. Johnson stated no. Mr. Conroy asked if the Form F Covenant is in order and Mr. Johnson stated it is the standard one. It has to go to record at the same time as the plan.

There were no questions from the public.

Mr. Conroy moved to accept the Form F Covenant for Atlantic Court Extension Subdivision dated March 14, 2011 as submitted. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Conroy moved to accept the Operations & Maintenance Plan and Covenant with the Town of Walpole executed March 17, 2011 as submitted. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Conroy moved to accept the Conveyance of Passive/Pedestrian Easement executed March 17, 2011 as submitted. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Conroy moved to accept the Conveyance of Easements and Utilities executed March 17, 2011. Motion seconded by Mr. Murtagh and voted 5-0-0.

Mr. Conroy moved to endorse a definitive plan entitled "Atlantic Court (extension) Definitive Lot Layout Plan of Land in Walpole, MA" drawn by John R. Anderson & Associates, 281 Mylod Street dated January 29, 1999 revised August 27, 2001 and owned by Atlantic Court Realty Trust u/d/t dated February 1, 2000 recorded at the Norfolk County Registry of Deeds in Book 13986, Page 486 and showing five (5) lots. Motion seconded by Mr. Murtagh and voted 5-0-0.

Mr. Viano took the original agreements and the definitive mylar.

**Minutes:** Mr. Forsberg moved too accept the minutes of April 7, 2011. Motion seconded by Mr. Mazzocca and voted 3-0-2 (Conroy, Nottebart abstained).

**Time Cards:** Mr. Conroy moved to approve the planner's time cards as submitted. Motion seconded by Mr. Mazzocca and voted 5-0-0. Mr. Conroy moved to approve the secretary's time cards as submitted. Motion seconded by Mr. Nottebart and voted 5-0-0.

**Barachiah Lane:** Mr. Conroy moved to extend the Form F Covenant on Barachiah Lane up to and including May 1, 2016 per request of David Wakefield, Trustee. Motion seconded by Mr. Murtagh and voted 5-0-0.

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**7:30 p.m and 7:31 p.m. Blades Realty Trust, Iorio Arena, Special Permit for a Common Driveway, Case No. 11-5 (refile) and Blades Realty Trust, Iorio Arena Site Plan Approval, Case No. 11-4 (refile):** Mr. Conroy read the public hearing notices as advertised. The applicant was represented by Rob Truax, GLM Engineering, Holliston, MA. He stated that presently there is a drive aisle in and one out. They want to sell off the rink and the office building will be a separated. He stated they have provided easements documents and drainage easements.

Mr. Truax stated he would like to address the common driveway first and Mr. Conroy stated the hearings will run concurrently. Mr. Truax stated there presently is a paved area that is unstriped. They will not be paving or building anything, they are just painting on the pavement. He has already met with Jack Mee, Don Johnson and Margaret Walker and after a discussion, it was agreed he would file for a hearing.

Mr. Johnson stated the fire chief wants a 10' parking space rather than 9' in order to accommodate a fire truck and ambulance. Mr. Truax stated he was told 8', but doesn't see a problem changing that. Mr. Conroy asked if they are going forward with the parking lot and Mr. Truax stated yes even though Len Simons didn't think they had to. Mr. Truax stated he told him they are here, so they will just do it. Mr. Conroy asked if as soon as they put a stripe down, you are adding a space. Mr. Johnson and Ms. Walker stated yes.

Ms. Walker reviewed her comments. Mr. Truax stated when the arena was built, this was WRPOD Area 2, but now it is Area 3. Mr. Johnson stated that Jack Mee had some concerns about the dorm and access because they used to be on one lot, but now they have two; however, he couldn't be here tonight. He feels the site plan goes with the totalilty of the land. Mr. Conroy stated we don't approve uses. Mr. Truax stated when they took out the bridge in 2008, the application was changed to a special permit with conditions, but it is not pertinent to the site plan. Mr. Conroy stated we only address the footprint of the building.

Mr. Forsberg asked how many lots now and Mr. Truax stated three. Mr. Forsberg stated the bylaw says you can't further subdivide and Mr. Truax stated he knows that. Mr. Forsberg stated the common driveway is only for Lots 9 and 10 and Mr. Truax stated that is correct. Mr. Conroy stated he assumes that everyone has cross-agreements and Mr. Truax stated yes. Mr. Nottebart questioned Lot 9 being sold and they have access to Lot 11 for additional parking and Mr. Truax stated that is correct. Mr. Nottebart asked if they will clean up in the back and Mr. Truax stated it is a fire road, but they will. Mr. Conroy stated typically they keep the gates shut and it is not used. Mr. Nottebart asked if the security people have an easement to use the front and Mr. Truax stated yes. Mr. Nottebart asked if town counsel reviewed the documents and Mr. Johnson stated no because they are standard documents.

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Mr. Conroy asked if we are supposed to be their legal watchdog and Mr. Johnson stated it is their responsibility. Mr. Truax agreed and stated they will take care of their own legal issues. Chris Musik, safety officer, had no specific comments or concerns. Mr. Conroy read comments received from the town boards. There were no public comments.

Mr. Conroy moved to close the common driveway special permit public hearing. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy moved to close the site plan public hearing. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy reminded the board the vote on the special permit needs to be a supermajority.

Mr. Conroy moved to approve the common driveway special permit, Case No. 11-5, to allow a common driveway for access and egress to the Iorio Ice Arena and Office Building at 2130 Providence Highway on Lot 9 containing the Ice Arena and Lot 10 containing the Office Building as shown on a plan entitled "Common Drive Plan, 2130 Providence Highway, Walpole, Massachusetts" dated December 15, 2010 prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA dated December 15, 2010, Latest revision of March 10, 2011. Said motion was seconded by Mr. Nottebart and voted 5-0-0, subject to eight (8) conditions, which shall be affixed to the final approved plan to be endorsed by the Planning Board.

Regarding the site plan approval, Mr. Johnson stated the board needs to reference the conditions of approval on the original site plan. Mr. Truax stated the gym closed and is no longer there. Whoever buys that building can come in and deal with the building inspector themselves. Mr. Johnson stated that anything that would get built above what is there now needs to come back for approval.

Mr. Conroy moved to approve the Site Plan for Blades Realty Trust, Iorio Arena, Case No. 11-4, under Section 13, Site Plan Review of the Town of Walpole Zoning Bylaw, as amended through March 10, 2011. Said motion was seconded by Mr. Nottebart and voted 5-0-0 subject to one (1) standard condition and four (4) special conditions, which shall be affixed to the final approved plan to be endorsed by the Planning Board.

**8:25 p.m. McDonald's, 595 Main Street, Case No. 11-3 Site Plan Approval Continued hearing:** The applicant was represented by Alan Micale, Ayoub Engineering. He stated they initially opened the hearing on March 17, continued it to April 7 and it was then continued again to tonight. There was no testimony taken on April 7<sup>th</sup>. On March 17<sup>th</sup>, it was apparent that the abutter, Mark Benson, had some issues with this site. They walked the property line with him on a Tuesday and came up with a plan addressing many of his concerns. They made changes to the plans and submitted them to the Planning Board the following Thursday.

Mr. Micale stated that some of the changes were: 1) fencing around the trash enclosure will be 8' high; 2 ) there is no outdoor seating proposed now or in the future; 3) there will be new trash cans on site with hinged lids that close automatically; 4) the trash enclosure

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will be closed at all times; 5) the snow storage area was changed; 6) they will be taking down the broken fencing; 7) they reduced the lighting levels a lot.

The applicant feels they have acted in good faith. They are under the gun with this project and would like to approval from the Planning Board so they can move forward. They also need to get their permits from Mass Highway, which will take 2-3 months. He thinks they have addressed everything the way they said they would and have tried to satisfy all concerns of the abutter, Mark Benson.

Mr. Conroy read correspondence from the Conservation Commission, Fire Department, Board of Health, Police Department, Water and Sewer Commission, Zoning Board and Engineering. Mr. Micale stated the Zoning Board appeal period has expired and that has been certified by the town clerk. Mr. Conroy noted there was a packet submitted by Mark Benson, a direct abutter. Ms. Walker stated she is all set with the lighting. Mr. Johnson questioned if they will be using pavers and Mr. Micale stated he is reluctant to do that because they can create problems. Mr. Conroy stated he would like a crosswalk added by the entrance. Mr. Johnson stated there should be no mulch or any gap at the bottom of the fence. Mr. Forsberg stated we have a 6' limit on fencing and asked if they need a special permit to use an 8' fence. Mr. Conroy stated it is not an 8' fence, but an 8' structure. Mr. Micale agreed. Mr. Forsberg questioned the black chain link fence on Connolly's side of the property and Mr. Micale stated it will provide more screening by running a fence on that side of the property. Mr. Forsberg asked if there will be a fence behind the building and Mr. Micale stated no they want it to remain open in the back so they can access the basins. They will run a wooden timber guard rail along the perimeter to allow access to maintain sediment and their swale. Mr. Forsberg asked if there should be a chain link fence to collect the trash and Mr. Micale stated they don't want to block off access. Terry O'Connor, owner of McDonald's, stated they are planning on maintaining this site better than the previous owner. Mr. Johnson stated the lid on the dumpster shall remain closed. Mr. Forsberg asked if they need to notify the Board of Selectmen when they change managers and Mr. Micale stated no. Mr. O'Connor stated they do notice the Fire Department. Mr. Johnson questioned the inter-lot drainage system. Mr. Micale discussed it and pointed out on the plan how it will work. Mr. Forsberg asked that the decision show no outdoor seating. Mr. Micale stated it is also on the plan. Mr. Forsberg questioned the potholes at the entrance to the site and asked if they have the right to repair them. Mr. Micale stated they will repair them. Mr. Forsberg stated they need to be maintained and Mr. Micale stated Mass Highway will tell them what they have to do with regard to repairing the sidewalk, the handicap ramps, etc., which will be addressed as part of this project. Mr. Forsberg stated he likes the earth tones used at the Norwood McDonald's and questioned the color of this roof. Mr. Micale stated they are proposing a much cleaner look. Mr. Forsberg stated he doesn't like the red fluorescent roof and Mr. Conroy stated we can't control that. Mr. Micale stated they are agreeing not to do the red roof. Mr. O'Connor stated he doesn't want to be held to anything down the road when it comes to changing colors.

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Mr. Murtagh stated he shares the same concerns as Mr. Forsberg when it comes to the "circus" look. He feels they have stepped up on everything else. He questioned the sewer overflow problem. Ms. Walker stated they are disconnecting that one and coming out front. Mr. Micale stated that he is not sure if that will solve all the sewer problems, but it will help. Also, they have talked to the Sewer and Water about abandoning lines.

Mr. Nottebart stated he thinks they did a good job. He questioned if any children would go out back and down the hill. Mr. Micale stated there are paths they can't block off. Mr. O'Connor stated there is no parking back there. Mr. Nottebart thinks they should look into that more closely. Regarding the abandoned sewer system, could someone get into it? Mr. Micale stated no and they will fill the pipes and manhole with bonded concrete. Mr. Nottebart questioned if the overflow issue will be gone. Mr. Micale stated the problems should be eliminated, but he doesn't want to say yes at this time.

Mr. Conroy asked Mr. Johnson if he reviewed Mr. Benson's submittal and questions. Mr. Benson stated he got to see the plans after the walk around. He wasn't happy with the location of the dumpster and the also the rear of the property not being fenced at all. He feels it will be an invitation to kids. He has a beehive in his backyard and he doesn't want it disturbed. He doesn't want people being able to go out back because it leads to his property. His brother is an engineer and thinks some things should be changed. The pipe is asbestos, not reinforced concrete as stated by Mr. Micale. That is probably what is on his property and he doesn't want it there. Regarding the timber retaining wall, it does hold back about 10-11" of soil plus it is all different heights. Mr. Conroy questioned the fence along the back. Mr. Micale stated the grade drops off, so he doesn't know how he would do it. For security, he could possibly put a 4' black chain link fence further down the slope, but they do need to access the drain back there. Mr. O'Connor stated they will keep the property clean. Mr. Conroy asked if the drainage is at the bottom of the slope and Mr. Micale stated no, it is right at the top. Mr. Nottebart asked why they don't want to put a fence toward the top. Mr. O'Connor stated they don't want a fence anywhere out back and feel it is a visual issue. Mr. Benson stated it is a mess out back. Mr. Nottebart stated he still doesn't know why they don't want a fence back there. Mr. Micale stated they are trying to do something for water quality upgrade and wants to watch for sediment build up. There is not a lot of area to do that back there. They don't want any restriction that would keep something from working properly. No one around them has a fence to keep people from coming on to McDonald's property.

Mr. Benson questioned the public hearing notification process and stated he didn't know anything about this until he received a copy of the hearing in the mail. Mr. Conroy stated he was noticed properly and legally according to the town and state requirements. Whether or not an applicant chooses to meet with any abutters prior to a public hearing is their choice. Mr. Micale stated their plans have been available since they first filed their application.

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Mr. Conroy suggested they put a 4' chain link fence around the area in question in the back. Mr. Benson asked if it could be 5' and Mr. Conroy stated no, they don't need to do one that high. Mr. Conroy questioned the pipe. Mr. Micale stated if it is asbestos, they will do their best to remove it. They will check it out and will get it off Mr. Benson's property. Mr. Mazzocca asked how much is exposed and Mr. Micale stated he is not sure. It was called reinforced concrete, but they will take care of it if it is asbestos on Mr. Benson's property. Mr. Conroy asked Mr. Benson if he will allow them on his property and Mr. Benson stated yes. Mr. Conroy questioned the timbers. Mr. Micale stated they are not having a problem with the timbers, but will replace any that need to be replaced when they are doing the fence. They are looking at setting the fence posts deeper in the ground. Mr. Conroy asked if the fence will be a typical 6' vinyl fence and Mr. Micale stated yes. Mr. O'Connor stated they have gone from 90' of fence to being required to have a lot more and it is pricey. Mr. Micale asked if they can go with wooden stockade versus vinyl due to cost. The board agreed to allow 6' wooden stockade fencing. Mr. Murtagh stated it will probably blend better also.

Mr. Benson stated he would like the timbers gone. He doesn't like them coming on his property to do repairs, as they have done in the past. Mr. Micale stated they will deal with any issues with regard to the timber wall when necessary, but for now there is not a problem and they don't want to spend any money to fix something that isn't broken. Mr. Benson questioned the trash enclosure and feels it should be moved to the other side of the property. If the cover isn't closed, the stuff will blow out. He would like them to be a good neighbor. Lately, there has been a major improvement. Mr. Micale stated they can take the dumpster area and turn it which will get it another 20-30' away from Mr. Benson's property. They have looked at all angles in the back but they are restricted because of space and the electrical system. Mr. O'Connor stated that no outside eating and a closed dumpster should solve 80% of the problems.

Mr. Forsberg informed Mr. Benson he can call on the building inspector to enforce this. Mr. Benson stated these issues have been ongoing for a long time. Mr. Benson doesn't think it is fair that this place has been dumping trash on his property for years. His problem is with the back corner of the site. Mr. Conroy asked Mr. Micale if they would move the dumpster over and Mr. Micale stated they would move it 18-20' and put up a stockade fence around it and also hinged lids on the trash cans. They are willing to make a good effort to be a good neighbor. Mr. Benson stated he just doesn't want the dumpster on his side. Mr. Micale stated they just can't make the site work by putting it elsewhere. Mr. Conroy stated we don't know if this will be a perfect solution, but we can't make the applicant rearrange their restaurant. Mr. Benson questioned the wooden guard rail in the back. Mr. Micale stated there will be a new 6' curb around the property perimeter. Mr. Benson questioned the curb cut and asked how the drainage will impact his property. He just got the revised plans from Ms. Walker today and his brother wanted to review them, but he hasn't given them to him yet. Mr. Conroy stated that Ms. Walker can help him with this.

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Mr. Micale stated there will be a small cut in the curb to allow for drainage and they created an overflow riprap swale. The water will be directed to stay on their property. The Engineering Department has reviewed and okayed this and they feel it does what it is suppose to do. It also provides for some water quality improvement.

Mr. Benson asked if any fence issues could be repaired in a timely manner because a while ago the fence was down for a long time. Mr. O'Connor stated there was a previous owner then and hopefully Mr. Benson will let them know when there is a problem so they can fix it. Mr. Conroy told Mr. Benson he can also go see the Building Inspector with any issues and he can institute a fine. Mr. Benson stated he didn't know there could be a fine. Mr. Conroy stated there can be a fine in conjunction with the enforcement of zoning violations. Mr. Benson stated he will deal with the new owners first and then go to Jack Mee if he has to.

Mr. Conroy asked Mr. Benson if he has any further comments and Mr. Benson stated he is all set. Mr. Forsberg stated he would like the storage containers addressed in our decision. Mr. Micale stated there is a note on the plan stating it is being removed. Mr. Conroy stated that is also in our zoning bylaw.

Mr. Conroy suggested the timber retaining wall could be retrofitted with rebar drilled into the underlying concrete retaining wall for stabilization. Mr. Benson stated he would be satisfied with that.

There were no further comments or questions. Mr. Conroy moved to close the public hearing. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Conroy moved to approve the site plan for McDonald's, 595 Main Street, Case No. 11-3 under Section 13, Site Plan Review of the Town of Walpole Zoning Bylaw, as amended through April 7, 2011. Motion seconded by Mr. Nottebart voted 5-0-0 subject to thirty-one (31) standard conditions and ten (10) special conditions, which shall be affixed to the final approved plan to be endorsed by the Planning Board.

**Brush Hill Subdivision:** Ms. Walker discussed her latest punch list dated April 6, 2011, Mr. Johnson stated he wanted to discuss the traffic island. Ms. Walker stated it was part of the subdivision plan. Mr. Conroy stated the island could be a problem with plowing. He stated it can be kept in the bond as an off site improvement. He also asked Ms. Walker to tell John Hasenjaeger to ask the Board of Selectmen if they want the island or not.

**High Oaks IV:** Ms. Walker discussed her bond reduction figures dated April 21, 2011. Mr. Conroy requested she do a breakdown for the board showing how much the prices would be today versus 2004. Mr. Walsh wants a reduction, but prices have gone up and we need to be able to show him the comparison.

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**Oakwood Estates:** Mr. Johnson stated they were supposed to be finished in June. Mr. Conroy stated they can ask for an extension of time or come before the board.

**Planning Board Meetings:** It was agreed there would be no Planning Board meeting held on May 5<sup>th</sup> as we have not received any new filings; however the board would be meeting on May 19<sup>th</sup>.

It was moved, seconded and voted to adjourn. The meeting adjourned at 10:15 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 6/2/11