

WALPOLE PLANNING BOARD MINUTES OF DECEMBER 2, 2010

A regular meeting of the Town of Walpole Planning Board was held on Thursday, December 2, 2010 at 7:00 p.m. in the Main Meeting Room of Town Hall. The following members were present: John Conroy, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk; Richard Mazzocca, Richard Nottebart, Margaret Walker, Town Engineer; Donald Johnson, Town Planner.

Bird Estates Phase 1 and 2 Residents' Hearing: Ms. Walker stated they are ready for full bond release on Phases 1 and 2. Everything she has asked for has been completed. The board can set a date for the residents' hearing. Mr. Conroy questioned the gazebo. Mr. Macchi stated it was to be worked out by the Historical Commission. Mr. Conroy asked if it was eliminated. Jason Witham stated no, it is complete. Mr. Conroy asked if the yellow house parcel is part of the subdivision. Ms. Walker questioned the legal frontage and Mr. Witham stated it is Washington Street and the property is still owned by Omega. Ms. Walker stated that Mansion Drive is a subdivision on its own. Mr. Conroy stated we never did an ANR on that lot and Mr. Macchi agreed. Mr. Conroy set the public hearing date for January 6, 2011 at 8:15 p.m.

Bird Estates Phase V Bond: Mr. Conroy moved to set the bond for Phase V at \$330,000 as per recommendation of Ms. Walker, Town Engineer. Motion seconded by Mr. Forsberg and voted 5-0-0. It was also noted that the board will hold off filing this vote until the applicant gives us a check in the amount of \$300, which is the fee for setting the bond. Mr. Conroy moved to extend the bond on Phases 3 and 4 until June 3, 2012 as per request of the applicant/developer. Motion seconded by Mr. Forsberg and voted 5-0-0.

Bird Estates Phases III and IV: Mr. Conroy moved to extend the time frames for the Phase III bond (Bond No. 0445047) and Phase IV bond (Bond No. 08934916) up to and including June 3, 2012 as per request dated November 15, 2010 from Jason Witham, Assistant Vice President, Toll Bros. Said bonds were due to expire in 2011. Motion seconded by Mr. Forsberg and voted 5-0-0. Mr. Conroy moved to include a rider on the Phase IV bond increasing the bond amount by \$318,450 in order to accommodate the Phase I off site improvements that are now transferring to Phase IV (Mansion Drive improvements and traffic light design). Motion seconded by Mr. Mazzocca and voted 5-0-0.

Bird Estates Phase 1 and 2 Bond As-Built Waiver: The board is in receipt of a letter dated November 24, 2010 requesting that railroad spikes be used in lieu of stone bounds at four angle points in the Endean Drive right of way where the angle points fall within homeowners' driveways. Ms. Walker stated there are four locations where the bounds are in the driveway. Mr. Conroy asked if the bounds are necessary. She stated there are dozens and we can do without them. Mr. Conroy moved to grant a waiver for the use of railroad spikes. Motion seconded by Mr. Murtagh and voted 5-0-0.

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Walmart Site Plan Approval, Case No. 10-8: Mr. Macchi asked that the decision voted on November 18, 2010 be amended to include the actual site plan approval request to include a 24-hour operation. Mr. Conroy moved to amend the site plan decision to incorporate Mr. Macchi's request. Motion seconded by Mr. Nottebart and voted 5-0-0.

7:35 P.M. Home for Little Wanderers Scenic Road Continued Hearing: Kristin Brown, on behalf of the applicant, stated she believes the material submitted should answer any questions raised. There are revised elevations, a memo addressing the special conditions and comments from the public hearing and a picture of the sign. There is also a fire protection memo and response from the fire department. Mr. Conroy asked if they are cutting only one tree. Ms. Brown stated they are cutting one tree in the right of way, but there are five more on the Longview Farm site.

Mr. Johnson stated the tree warden has said he is okay with this and will work with Nstar. Mr. Conroy added that tree warden had said the tree was not in good shape. Mr. Murtagh asked the location of the tree. Ms. Brown stated it is labeled T6 and it is on their property. Mr. LaPointe explained how they measured the tree and sight distance. Mr. Conroy stated they could alter the entrance itself. Ms. Brown stated they will look at it and will do that if it doesn't create a problem. She stated that could be a condition of approval. Mr. LaPointe stated they should be looking at the "stopping" sight distance not just the intersection sight distance. Mr. Conroy asked if the scenic road tree is cutting down their sight distance and Ms. Brown stated yes. Mr. LaPointe stated it is within the right of way. Mr. Conroy asked if the tree with the guy wire needs to be cut and Ms. Walker stated yes.

Duane Rice, 350 Lincoln Road: asked if the tree warden has looked at this and stated it has to come down. He doesn't understand why this is such a big issue. The tree has been there for years. He doesn't want it to come down until the guy wire is removed. Mr. Conroy agrees that Nstar needs to get out and take care of this and feels this could be a condition of approval. He feels that the town tree warden will have to take this over and follow through with it. Ms. Walker stated there will be a cost to move it.

Jack Shea, 266 Lincoln Road: if you are cutting down the tree and putting in a pole, what difference does that make? Ms. Walker stated it will be put in a different place.

Mark Larsen, 11 Plain Street: they are changing the driveway and asked if that will require a filing for a new curb cut. Mr. Conroy stated they need a curb cut from Engineering. Ms. Walker agreed and stated it will be based on the approved site plan. Mr. Conroy stated they would have to give us a modification to the entrance as presented.

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

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Mr. Conroy moved to approve the scenic road request for the removal of one tree. Motion seconded by Mr. Mazzocca. Mr. Conroy stated that regardless of whether or not the site plan is approved, this tree will come down. The cost of the tree removal shall be borne by the applicant. Motion voted 5-0-0. Mr. Conroy requested that Mr. LeBlanc be given a copy of this decision.

Home for Little Wanderers Site Plan Case No. 10-3 Continued Hearing: Mr. Conroy read a letter dated September 20, 2010 from John Rogers. Present to speak to the continued hearing was Brian Collins, General Manager of Bowdoin Construction. He stated they have done other jobs in Walpole, including The League School. He stated they have prepared a construction management plan and have addressed all the issues raised during recent discussions. Mr. Conroy asked if they submitted the construction management plan and Ms. Brown stated yes and it was revised based on a neighborhood meeting.

Brenda Mosestich, 460 Lincoln Road: stated she went to the meetings and explained her concerns with the Home for Little Wanderers bus schedule, but never heard anything. David LaPointe stated he did inquire about her concerns and was told the schedule will fit in with the town's busing schedule including holidays and early release days.

Jack Shea, 266 Lincoln Road: asked if they have done a project like this on a narrow road in a rural community. Mr. Collins stated yes. Mr. Shea stated he would like some information on some of the projects done in the last five years. Mr. Collins agreed. Mr. Shea stated they are aware it is zoned a rural area. He questioned if they have done a wild life study and did anyone take this into consideration. Are they protected? Are there any dangerous species? Where are they going to go when work starts? How will they be protected? Ms. Brown stated they have met with the Conservation Commission and it would have been considered under their jurisdiction if there was an issue. Mr. Shea asked if there was a study done. Ms. Brown stated no and they didn't indicate there was a problem. If there was an issue, they would have said something. Mr. Shea stated he would like to see recommendations received from a similar project done in the town. Mr. Conroy asked that they send that to the board and we will distribute it. He asked Mr. Shea if he would like to have it emailed to him or would he like to pick it up. Mr. Shea stated he will pick it up.

Karen Taylor, 291 Lincoln Road: asked what the construction calendar looked like. Mr. Collins stated it will be 15 months to completion. Ms. Taylor asked the number of days. Mr. Collins stated it was given to the board along with the hours of operation. They requested 7:00 am to 5:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 .m. on Saturdays. There will be no deliveries until 7:00 a.m. and no work on Sunday or holidays. They will coordinate this work with the Town of Walpole. Ms. Taylor questioned that they will be working six days a week. Mr. Collins stated it is usually five days but they will be on site to clean up and get organized.

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Mark Larsen, 11 Plain Street: stated Plain Street is presently not in great shape and his concern is for the town. He was told there is not a good base under that road right now and asked what type of liability or bond will the town require to insure that any additional expense is borne by the applicant. Ms. Walker stated it is a public road, so we can't forbid them to be on it. Mr. Conroy stated they have the right to use that road like everyone else, but they are not required to fix it because any truck can use it. If it's not normal, they have to fix it, like a bulldozer, etc.

Brenda Moseitch, 460 Lincoln Road: her kids get on the bus at 7:45 a.m. and there will be construction trucks on the road at the same time. Mr. Collins stated that was addressed in the construction schedule.

Mark Larsen, 11 Plain Street: would like a copy of the construction plan. Mr. Conroy stated they are required to keep that on site and asked about neighborhood meetings.

Ms. Brown stated there will be kick off meetings and they will send the neighbors emails of the meetings. Mr. Conroy suggested the neighbors give them their email addresses. Ms. Brown stated they can also access their website. However, any changes could be emailed to the neighbors.

Ms. Walker went over her comments regarding the construction management plan. She stated the gates open at 6:30 a.m. and asked if there can be any thought to not opening until 7:00 a.m. Mr. Conroy stated they are supposed to start at seven, not arrive at seven. He asked if they talked to the police chief and Ms. Brown stated yes. Ms. Walker also questioned the trucks and the amount of days this project will take. Mr. Forsberg asked that the suppliers be noticed of the delivery restrictions. Ms. Walker stated it is restricted between 9 a.m. and 2 p.m. Mr. Forsberg stated yes. Mr. Collins stated it will be part of their contract. Mr. Forsberg asked the town engineer or town planner to take pictures in case they receive complaints. Also a pavement management plan should be on file. He asked that they check with Ms. Walker to find out when Lincoln Road or Plain Street is scheduled for re-paving.

Mr. Conroy read a letter dated November 18, 2010 from Beals & Thomas addressing the Construction Management Plan, roof run-off, pavers for the proposed fire lane, sight distance calculations, rendering of the proposed entry sign, and revised school building elevations. Mr. Conroy read letters received from Christine Bowen, 330 Lincoln Road dated December 1, 2010; Mark Larson, 11 Plain Street dated November 23, 2010; Gene Gilmore, 349 Lincoln Road dated November 18, 2010 and November 28, 2010; Lincoln Road abutters - Rices, Pikes, Gilmores dated November 25, 2010.

Ms. Brown stated there is no further expansion proposed now and the only plan being discussed is the one presently before the board.

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Mr. Johnson read his responses to the letters submitted by the abutters. He questioned the change to the tower. Mike Whittemore stated they have addressed the changes including the slope of the roof and the revised elevations on Lincoln Road. Mr. Forsberg asked if that is a change since May 4 and Mr. Whittemore stated yes. Mr. Conroy stated the school location is zoned for this and it is allowed by right as M.G.L. allows schools to go anywhere. The question was previously asked if this project has to conform to the character of the neighborhood and the answer is no. Mr. Pike stated that a letter submitted years ago by David Conley says differently. Mr. Mazzocca stated he checked out the Dover Act and he also understands the zoning bylaw. We are required to follow the bylaws. The town has an approved bylaw that addresses restrictions, height, etc. and we have to abide by that. The applicant is required to build according to our bylaw. We can't say it doesn't fit with the neighborhood and then deny them. Mr. Pike stated they are not asking the board to address the zoning issues. They have been given relief from the zoning bylaw of the town. Mr. Mazzocca stated no they haven't. Mr. Forsberg stated that is not the case any way as they are conforming to the bylaw.

Mr. Pike stated that the board has an obligation to the abutters that this project doesn't infringe on the neighbors and their lives in the town of Walpole. The board needs to protect the abutters. It is the board's responsibility. Mr. Conroy stated we are responsible for safety as a Planning Board including site distance, civil engineering, etc. We can't address how the kids go from one building to another. Mr. Pike stated he takes exception to Mr. Conroy's statement. He feels the board has more responsibility to the neighborhood than what he said. The board could tell them to move the dorm down back. Mr. Conroy questioned if it was ever moved and Mr. Pike stated that it was down behind the Gilmores. He asked so the board is not addressing the neighbors' concerns? Mr. Conroy stated you are infringing on the applicant's rights. If you put a shed in your backyard, does your neighbor have a right to make you move it? Mr. Pike stated yes. Mr. Conroy disagreed. He stated he knows the abutters and Mr. Pike are not happy, but everyone needs to understand we are a Planning Board and we rule on the footprint of the project. Height control is addressed within Section 13 of the Zoning Bylaw. He asked if the applicant can build what is approved without any problems and Ms. Brown stated yes, without a problem. Mr. Conroy stated the abutters have been told what they are going to build with regard to height, texture, size. We can't control that but they have said what they will do.

Mr. Murtagh stated he was alarmed from day one with the size of what is being proposed. He agrees with Mr. Mazzoca and his heart goes out to the neighbors. He feels they could reduce the size of the building.

Mr. Nottebart stated he understands and feels for Mr. Pike. The applicant has made changes and a lot of good has come out of discussions. They have spent a lot of money on the changes and have made a good effort to rectify the neighbors' concerns. Mr. Gilmore stated he disagrees with that statement. The new library fits in with what is in the area, but this building does not. They have lost the neighborhood.

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Mr. Conroy stated we are here to uphold the laws whether or not the neighbors disagree. He will not vote on anything that is not proper. The board cannot vote with their hearts. We have tried to make sure that everything they want to do has been reviewed. This has been a long process and we are bound by certain things. Mr. Pike stated they said that to move the dorm behind the other dorm was “do-able”. He is asking this board to require them to do that for the wild life and the neighbors. Mr. Whittemore stated they didn’t say “do-able”, but stated there is lots of space. Mr. Conroy asked if he can say why the dorm can’t be moved and Mr. Whittemore they want it where it is because the relationship between the buildings and site dictates that the best place is where it is.

Mr. Nottebart asked if this is his specialty and Mr. Whittemore stated yes. There are age and gender issues they want to control. They would lose control if it is moved. Mr. Murtagh asked so you can’t put it where Mr. Pike suggests and Mr. Whittemore stated they don’t want to. They need to maintain flexibility on how to handle different ages, genders etc.

Mr. Forsberg stated he feels a gable roof will be more in line with the neighborhood as a flat roof would make it look like just a lot of roofs similar to Walpole Park South.

Mr. Conroy asked for comments from the applicant on Mark Larsen’s letter dated November 23, 2010. Mr. LaPointe stated they provided a buffer zone which they felt complied with a variety and size of plant materials. They followed the zoning bylaw and feel this is in compliance. They would be open to changing to some of the species Mr. Larsen suggested. They will be revising the site plan to show those changes. They will be using EcoLawn which is a turf-grass mix. He also stated the Cape house will remain. Mr. Larsen stated the zoning bylaw says trees not shrubs. Mr. LaPointe stated the zoning bylaw is confusing, but has agreed to use some of Mr. Larsen’s ideas. Mr. Murtagh asked them to work with Mr. Gilmore and the neighborhood. Mr. Larsen asked the height of the sign. Mr. Johnson stated he will get him a copy of the 5’ wide 2-1/2’ high sign.

Jack Shea, Lincoln Road: questioned the trucks and asked if there will be anyone responsible for traffic control. Brian Collins stated that is the responsibility of the Police Department and they will take care of it as it pertains to on site traffic. Mr. Forsberg asked if they are all set with the Fire Department and Mr. Whittemore stated yes. Mr. Forsberg questioned the underground propane tanks and asked the dimensions. He has spoken with Deputy Chief Laracy about this. He would like to see some dimensions on the plan as to where the tanks will be located.

Mr. Conroy stated the applicant needs to make some revisions. Ms. Brown stated she was under the impression that the board would vote tonight and address Mr. Whittemore’s comments after the vote. Mr. Conroy stated that the landscape is now changing. Ms. Chitre, the applicant’s attorney, asked if the board would be willing to close the public hearing process with regard to comments. An extension of time would be given solely to review what new comments are made.

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Mr. Conroy stated that Mr. Whittemore's comments don't affect anything, but the landscape plan will. Ms. Chitre stated they do conform with today's bylaw but are simply coming back to address Mr. Larsen's letter. Mr. Conroy stated she is asking the board to leave it open only to discuss the landscaping and that is all we would allow comment on. Ms. Chitre stated that is correct. Mr. Forsberg stated we should leave it open in case there is a problem and a change has to be made. If you close, you may have to refile. Ms. Chitre stated they are willing to grant the extension on the landscaping only, not the entire site plan. She again asked that the board only consider the landscape plan at the January hearing. Mr. Conroy stated if something is found to be amiss, we will discuss it. Mr. Johnson stated we need to discuss the water line and the location of the water tanks. Ms. Brown stated that having to make changes piecemeal is costly. They would like to do one clean plan.

Mr. Conroy questioned that they will be giving the extension based on only the landscaping. Ms. Chitre stated they would like to close tonight on everything other than landscaping. Mr. Conroy stated that if something comes in and that portion is closed, you have to start over. Ms. Chitre stated they could do a modification.

Mr. Conroy stated no because we wouldn't have an approved plan. Ms. Chitre again asked the board to vote tonight and treat the landscape plan as it currently stands because it does conform to the zoning bylaw. Mr. Conroy stated there are some things on the landscaping plan that don't comply with the town engineer's letter. Ms. Chitre stated that can be handled. Mr. Conroy stated you are asking us to close tonight and vote. Do you agree that we don't have a complete set of plans. Ms. Brown stated yes. She asked for a complete list of the conditions so they can be appropriately addressed as they want to put those changes on the revised plans. Mr. Johnson stated he has some notes from tonight which he will turn around. Ms. Brown and Ms. Chitre agreed to continued the hearing.

Mr. Conroy moved to accept an extension of time up to and including January 31, 2011 per request of the applicant's attorney, Anjali Chitre. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Conroy continued this hearing to January 20, 2011 at 7:30 p.m.

Mr. Conroy asked Mr. Johnson to get the information they requested along with Ms. Walker's information and to copy the board.

New Fisher Lane: Mr. Conroy read a letter dated November 29, 2010 from John Walsh requested a waiver for street trees for the New Fisher Lane subdivision. Mr. Conroy moved to allow the street trees waiver. Motion seconded by Mr. Mazzocca and voted 5-0-0.

High Oaks IV: Mr. Conroy moved to allow a bond release for Millbrook Avenue. Motion seconded by Mr. Nottbart and voted 5-0-0.

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Hollowdale Farm: Mr. DeLapa has requested a final bond release. Ms. Walker stated that he removed about 80% of the pavement and put down new binder, but it didn't come out very well. She told them she wanted to wait on the release because the binder doesn't look good. Mr. Conroy asked if they have done everything else and Ms. Walker stated they are not ready for a total release. She doesn't recommend they get any money back for asphalt until March. Mr. Conroy stated we can't give him a final at this time. Mr. Conroy asked that we write a letter to Mr. DeLapa stating that he asked for a final bond release and according to Ms. Walker they are not complete at this time so we can't honor his request.

Oakwood Estates: Mr. Conroy moved to extend the Tripartite Agreement up to and including June 1, 2011 as per request of the applicant. Motion seconded by Mr. Nottebart 5-0-0.

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

Evaluations: Mr. Conroy asked that a meeting be posted for Wednesday, December 8, 2010 at 7:00 p.m. in Room 212 to discuss evaluations.

Zoning ByLaw Amendments: Mr. Johnson stated there are bylaw amendments that should be on the May 2011 spring town meeting. The board agreed.

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

Respectfully submitted,

John Murtagh, Clerk

Accepted 1/6/11