

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 18, 2010

A regular meeting of the Town of Walpole Planning Board was held on Thursday, November 18, 2010 at 7:00 p.m. in the town hall main meeting room. 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.

Minutes: Mr. Conroy moved to accept the minutes of November 4, 2010. Motion seconded by Mr. Forsberg and voted 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. Murtagh and voted 5-0-0.

Evaluations: Mr. Conroy asked the board submit the planner's evaluation to him and he will compile them.

FY12 Budget: Mr. Conroy moved to keep the budget for FY12 the same as the budget presently in place for FY11, except for the changes in salaries. Motion seconded by Mr. Forsberg and voted 5-0-0.

Scenic Road Hearing: Mr. Conroy read a letter dated November 12, 2010 from Robert LeBlanc, Tree Warden, informing them of the immediate removal of a hazardous tree at 156 Baker Street. He also read a letter requesting a Scenic Road hearing for two trees; one located at 866 North Street and one at 504 High Street. The hearing for the removal of these trees is scheduled for December 2.

Cambridge Environmental: Mr. Conroy moved to pay Invoice No. 12505 in the amount of \$3,878.75 for a peer review performed for Walpole Park South VIII. Motion seconded by Mr. Mazzocca and voted 5-0-0. Mr. Conroy stated he would like back up information when the final report is submitted.

CVS: Mr. Conroy read a letter dated November 17, 2010 from Atty. Philip Macchi informing the board that the checklist for CVS has been completed and asked the board to inform the Building Inspector so he may issue the final certificate of occupancy. Mr. Johnson submitted some pictures and stated he is all set. Mr. Conroy asked the planner if he has checked this over and is sure it is 100% all set. Mr. Johnson stated yes and feels all issues have been taken care of. Mr. Conroy asks if everything on the plan has been met and Mr. Johnson stated yes to the best of his knowledge. He stated that the dumpster enclosure is a little bigger than what was required. Mr. Forsberg asked if the lot striping is all set and working all right. Mr. Johnson stated yes. Mr. Macchi stated he hasn't heard there is a problem. Mr. Conroy asked the planner to send Jack Mee a letter stating we are all set.

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ANR – Village Drive and Main Street: Mr. Johnson stated that this ANR was originally approved on January 21, 2010. Mr. Forsberg asked if the lots will remain the same and just the lines are changing. Mr. Johnson stated yes. Mr. Nottebart stated the house is already up. Mr. Forsberg asked what is changing. Mr. Johnson stated they are making less of an angle on the back lot line. Mr. Conroy noted that both the lots have the proper frontage and the setbacks are all set. Mr. Nottebart asked why the change. Mr. Johnson stated it is a new buyer and he wanted the lot shaped differently. Mr. Conroy moved to endorse an ANR plan dated November 1, 2010 by John Anderson & Associates, 281 Mylod Street finding Form A in order and subdivision control not required. Motion seconded by Mr. Mazzocca and voted 5-0-0. It was noted that Lots 1A and 2A shown on the plan are a re-division of Lots 1 and 2 as shown on a plan by John Anderson & Associates dated January 5, 2010 and recorded in Norfolk Registry of Deeds Plan Book 599, as Plan No. 31 of 2010. Said property is shown as Assessors' Reference as Parcels 19-11 and 19-251, Zoning District Residence B. Further, a portion of Lot 2A is located within the Business zone. The owner of record is Starr Realty, Inc., 66 Gould Street, Walpole, MA.

The Trails Subdivision: Mr. Johnson stated he had a meeting scheduled with Ron Priore earlier today, but Ron didn't show up. Mr. Mee is holding off issuing anything until all issues have been resolved. Mr. Conroy stated the issue is that Mr. Priore didn't follow up and request a modification prior to requesting a certificate of occupancy for the first lot and he still hasn't done that. This is similar to Commerford's Corner. Mr. Johnson stated that Mr. Priore has to come in to modify the plan or come up with \$25,000 as agreed and as per a condition of approval. Mr. Conroy asked if he told him that and Mr. Johnson stated yes. Mr. Conroy asked him to send a letter to Mr. Priore to inform him that he can't possibly get a certificate of occupancy. Ms. Walker asked how you get a certificate of occupancy on a street that doesn't exist. Mr. Conroy stated you can have more than one plan recorded. Ms. Walker stated he has to go by the latest plan recorded. She asked if he has frontage on both streets. Mr. Conroy stated yes. She stated he would like to pave before the snow flies and thinks he is in a bind. Mr. Conroy asked who is doing the roadway and Ms. Walker stated Murphy on Water Street. Mr. Conroy asked that Mr. Johnson follow up on this and copy the board with his findings.

7:35 P.M. Walmart, Case No. 10-8 Continued Hearing: The applicant was represented by Philip Macchi, II, 1256 Washington Street, Norwood. Also, present was Ron DiNapoli, Vin Roberts, Jim Cranston, Bohler Engineering; and Gary McNaughton. Mr. Macchi stated that after the last hearing, Mr. Johnson was going to meet with the abutters. Also, they have put everything on the plan that was requested. Regarding the traffic light, he spoke with Don Johnson as to how to better reconstruct the area. Mr. Cranston stated the fence will be repaired and maintained. Additionally, the fence has been extended along the back property line. The area is fully screened as is the compactor in the truck well. Gary McNaughton, McMann Associates stated it is a difficult entranceway because of vehicles coming from Route 1. The grade of the driveway and the median island also affects this.

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Part of the island disappears along with the landscaping. They are trying to come up with better signage. The driveway has been resurfaced with striping. They are looking at pulling the island back, but it does serve a purpose as people would be cutting the corner. They will put in additional landscaping which will be reflected on the site plan. The other problem area is the driveway exiting onto Route 1. The signage proposed for this location would be "one way" and "no left turn" and requires additional approval from DOT.

Mr. Macchi stated that regarding the Route 27 light, they will stipulate that within six months of plan endorsement, they will meet with Mass Highway and the Board of Selectmen. Also, he was approached by Michael Boynton by telephone. There is some interest by a developer with regard to the Boston View location and they have expressed an interest in access from Route 1. He didn't tell Mr. Macchi the name of the developer.

Mr. Johnson asked if Walmart would consider meeting with the Selectmen regarding the changes to the intersection before requesting a final certificate of occupancy. Mr. Macchi stated they would like to have it all done first. Mr. Forsberg asked about buying land from the State. Mr. McNaughton stated the entire strip from Route 1 to Walmart's entrance is involved. Mr. Forsberg asked if there could be an escrow account to ensure this gets done. Mr. Macchi stated they never thought about that. They would prefer the State give it to the town and if not they will ask for an easement. It needs to be part of this road. Mr. McNaughton stated that Route 27 is all under the jurisdiction of the town, but the State owns further back.

Mr. Conroy read new comments that were received. Ms. Walker stated that her comments have been resolved. Mr. Murtagh stated his issue with the intersection has been addressed and asked if they will take it up with the Board of Selectmen. Mr. Macchi stated yes. Mr. Conroy questioned store hours. Mr. Macchi stated that he had received a copy of the conditions from Mr. Johnson and a lot of them have been addressed already even though they seem to be a little different from what was discussed at previous meetings. The construction start time is okay, but he would like to be able to work until 7 p.m. Also, the deliveries need to be discussed. Trash pick up is okay. Trailer trucks being prohibited during the night is fine. Also, snow storage was not shown on the plans. It never has been and they don't want to do that. They would accept it as a condition, but don't want to show it on the plan. There has never been a problem.

Robert Purpura, High Plain Street: questioned the chain link fence and asked if they are going to replace it with a stockade fence as chain link does nothing for sound problems and doesn't like that they are proposing to start before 6:00 a.m. every morning. The other issue is the lighting. The Garden house is lit up 24 hours a day and it shines all the way up to where he lives. He presented pictures to the board.

Mr. Macchi stated there is outside storage now, but part of this request is to bring the fork lift inside and also to address lighting.

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Helena Knight, 14 Orchard Drive: Mr. Johnson came to her property and saw the plastic bags that were everywhere. They did replace the fence yesterday morning and also picked up the bags. However, the rest of the fence will be falling down and asked when that will be addressed. Mr. Macchi stated they will add a condition that the fence will be maintained. Mr. Nottebart asked that they will fix it now and maintain it going forward. Mr. Johnson stated that is a standard condition of approval and the building inspector will enforce the conditions as part of zoning.

Mr. Conroy wants to review the special conditions. He asked the following condition be added: within six months from the date of endorsement of the plan, the applicant shall meet with the Board of Selectmen to begin the process for widening the road in that area and the synchronization of traffic flow. Also, within six months the applicant shall meet with the DOT. Further, Walmart shall advise the Planning Board every six months following the date of endorsement of the plan on the status of progress for a period of three years. No Certificate of Occupancy shall be issued until the applicant has presented evidence that they have approached the Selectmen and DOT. Mr. Conroy further stated that the landscaped island that is presently there will be upgraded.

Mr. Forsberg asked what happens if after three years we still don't have traffic lights. Mr. Macchi stated there is nothing they can do if the Selectmen and DOT don't cooperate. That is why they have a back up plan; however, they don't anticipate a problem. Mr. Forsberg asked what would be a realistic time frame. Mr. McNaughton stated 18-24 months, but they are hoping more like nine months. It will however be less than three years. Mr. Johnson asked if it would be easier if DOT grants an easement. Mr. McNaughton stated there are a lot of unusual circumstances. Mr. Macchi stated the board can make it four years if that is what they want.

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

Regarding conditions of approval, Mr. Conroy asked that Condition #3 be changed by adding another line: all existing fences shall be repaired prior to a certificate of occupancy and maintained for the life of the site plan. Also, regarding Standard Condition #26 which addresses snow storage, he asked that the following be added: This will be shown on the plan prior to endorsement. Mr. Nottebart asked who actually plows in front of StorGuard and Mr. Macchi stated they have a shared contract with Walmart.

Regarding hours of operation, Mr. Macchi stated they would like to be able to start sweeping between 6-7 a.m. Monday through Friday. Mr. Forsberg stated they should start at the commercial side, not the residential side.

Mr. Conroy moved to approve the site plan for Walmart, Case No. 10-8 with 31 standard conditions and 5 special conditions. Motion seconded by Mr. Murtagh and voted 5-0-0.

8:20 P.M. Walpole Park South VIII Site Plan Approval Case No. 10-07

Continued Hearing: The applicant was represented by Dan Merrikin, Merrikin Engineering and Philip Macchi, Esq., 1256 Washington Street, Norwood, MA.

Mr. Merrikin stated they did meet with the Sewer and Water Commission last week and made a presentation to them focusing on the Impervious Cover Special Permit request and site plan approval request. Once they have the finalized report from the consultant, they will go back and meet with Sewer and Water again. Sewer and Water asked them to connect the drainage system all together. Most of the run-off is recharged. They asked them to add another treatment device onto the pipe as another measure of protection and Mr. Murphy agreed to do that. He submitted a letter dated November 12 stating where the stormceptor will be and an updated profile which could be a condition of approval. Water and Sewer made a comment about loading and unloading in this area. He doesn't feel the letter from Sewer and Water is the consensus. The loading doors only access portions of the building that are in Area 2 and they can't not have loading in this portion of the building. There will be no hazardous materials in this Area 2. There is no reason for truck traffic to circumvent the Area 2 portion of the building. All the issues have been addressed by the Sewer and Water Commissioners; therefore, they would like to go forward with site plan approval and impervious cover special permit.

Mr. Macchi stated they stipulated to Sewer and Water they would not go forward until they meet with them on the other special permit. They will be discussing all the correspondence in the file, but not the peer review. Their next meeting is December 13. The applicant is waiting to hear about the peer review and until they do they can't have a definite appointment with Sewer and Water.

Fire and Police insisted that the fire lane be in place at the end of the building and that is not an option. Mr. Conroy stated we received an invoice for about half the peer review amount. We will pay this and the remainder when we receive the final report. Mr. Forsberg asked if the Board of Health reviews this report. Mr. Merrikin stated they will go back to Sewer and Water, Health Board, and Fire Department when they get the final report. Mr. Forsberg asked if the list has to be approved by both Fire and Board of Health and Mr. Macchi stated yes. Mr. Johnson stated they have met with both Robyn and Mike Laracy on what they already have on site. Mr. Merrikin stated they are just providing an opinion; they don't need a vote. The board can use the opinion if they want. Mr. Macchi stated if there are changes, they will work with Mr. Johnson. They are staying out of it.

Mr. Macchi requested an extension of time on the hazardous material special permit up to and including January 31, 2011. Mr. Conroy moved to accept an extension of time up to and including January 31, 2011. Motion seconded by Mr. Nottebart. Mr. Mazzocca asked why there are two special permits. Mr. Johnson stated that is the way it was advertised. Mr. Conroy stated we can vote one up and one down if we want. Motion voted 5-0-0.

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Mr. Conroy stated he requested information from the town on what they have done in the past with the Water Treatment Plants and the DPW. He read a letter dated November 9, 2010 from Sewer and Water. He asked Ms. Walker if she saw the email attached to the November 9th letter. She stated yes and that she is okay with it. Mr. Conroy asked Mr. Merrikin if he is doing the covenant and he stated yes. Mr. Conroy asked if the only change they wanted was the stormceptor and Mr. Macchi stated yes. The only thing not done is the peer review. Mr. Murtagh stated he is glad they met with Sewer and Water and he is happy with the outcome. Mr. Forsberg questioned the stop sign at the entrance to Route 1 and asked if there will be any arrows or signage. Mr. Merrikin stated a request to DOT could be a condition of approval. Mr. Mazzocca questioned the condition of the fill. Mr. Merrikin stated they don't test fill and they will bring in gravel and loam, mulch, etc. Mr. Mazzocca asked if it is certified to be clean. Mr. Merrikin stated they can't bring in garbage and no one will sell contaminated fill. Mr. Mazzocca asked how do we know that. Mr. Merrikin stated they don't test fill that they buy from a supplier. Mr. Conroy stated they can. He further stated that a condition can be that all fill will come with a certification. Mr. Merrikin agreed. Mr. Forsberg asked that it be written certification. Mr. Merrikin stated that the vast quantity is coming from on site. Mr. Nottebart asked how many yards have to be brought in and Mr. Merrikin stated he doesn't know yet. Mr. Nottebart asked if Mr. Mazzocca feels they should certify their own soil. Mr. Mazzocca stated no, just what is coming in. Mr. Forsberg asked that they copy the Planning Board with the certification.

Bill Hamilton, South Walpole, submitted a letter from EOEa dated June 19, 1986. He stated the reason the town wanted this was because it is not in perpetuity without the signature of the Secretary of the Environmental Affairs and to date, we don't have that. Who will be responsible for the covenant? He is not sure. He feels that covenant should be a conservation restriction in perpetuity. He was also at the Sewer and Water meeting when the applicant presented and the truck route was a concern. You can say they won't be delivering to the loading dock in Area 2, but no one will tell you what is on the truck that is going somewhere else. That is a serious consideration. We have to be careful about allowing that activity in Area 2. If anything happens in that area, it will be devastating to the town. He wrote a letter to the MWRA. He knows there were concerns as to how to manage the hazardous materials. We need two charcoal activated filters at a cost of \$8,000. He doesn't think there should be any truck traffic in this area as it is too risky. He understands there needs to be a road for the fire department, but there should be some type of gate that is controlled by the fire department. He thinks it would be a big mistake approving this tonight. We need more information.

Tom Driscoll, Precinct 4: He senses a level of comfort that the soil will be coming from the site. He doesn't think we should be comfortable. He is not sure who the consulting engineer is, but they were told it would be an outside professional with no inside interest. Please don't accept the fact that the soil there is clean. Mr. Hamilton stated he is not sure if the board is aware that the MBTA did sell a lot of their fill to us which was very hazardous. The town found out in time and stopped the process.

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Mr. Macchi stated that regarding the conservation restriction Mr. Hamilton handed out, the agreement is a covenant between the landowner and the town of Walpole which runs in perpetuity and settles a court case. It was drafted by town counsel. You can do more under the zoning bylaw than you can do under the agreement. The Conservation restriction runs for thirty years and the one they have is in perpetuity.

Mr. Merrikin stated that regarding the truck issue, a truck going through an Area 2 is a typical activity. Sewer and Water did not express any concern. Route 1 goes right through this area and Water and Sewer did question that. The worse soil in this entire parcel of land is next to Route 1. There was a lot of silt. There are no toxic spills in Walpole Park South. They have been testing for years and nothing has been detected for five years.

Ray Johnson, TetraTech Rizzo: stated they have not found anything in the groundwater, even after many years of testing. They have done extensive monitoring throughout the park. They are planning to close out this site in the next couple of months. Mr. Driscoll stated this man, Ray Johnson, comes forward as an independent party and this is an insult to him and the Board. This area was classified as rural originally. At one time the town was going to take this land by eminent domain. The Selectmen along with Kopelman & Paige said there was no reason to do this. If you want to believe this independent expert, DEP promised them that the landowner would pay for this. Mr. Hamilton stated the Planning Board denied this, not the Board of Health. The Town Clerk didn't get the necessary information within twenty days. Mr. Conroy stated he cannot find that it was ever zoned rural and then rezoned in the early 1970's. Mr. Murphy stated the town rezoned the front part to LM. Mr. Conroy had asked the town clerk to check to see if this was ever voted to be taken by eminent domain. Mr. Hamilton stated there were two articles. He was on the Board of Selectmen from 1982-1997 during this and on the Conservation Commission before that.

Mr. Conroy asked who Mr. Murphy bought the property from. Mr. Murphy stated Clair. They only owned a small triangle and National Grid owns about three pieces of land before the Sharon/Walpole line. Mr. Conroy stated he would like testing done when they start digging and moving the dirt over and asked that the results be sent to the Planning Board and Board of Health. Mr. Murtagh asked how the monitoring system works and Ray Johnson explained it. He stated they will continue to do the annual monitoring every spring for the Board of Health. Mr. Driscoll stated that the Board of Health voted unanimously last December to go back to DEQE to ask them to have Ray Johnson's work audited due to a blatant conflict. There is a question regarding Ray Johnson's credibility. Ray Johnson stated he never had any such communication with the Board of Health. He is a licensed person and has submitted everything necessary to the State. He would never compromise that license for any reason. DEP doesn't hire consultants as they have a licensed site program. DEP said they were ready to close out the site.

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Mr. Conroy read a letter dated August 18, 2010 from the Board of Health. Mr. Driscoll stated he would like Robyn Chappell to forward the Board of Health minutes to the Planning Board to supply to board with the vote they took. Mr. Conroy stated it is not relative to this project. Mr. Conroy told Mr. Driscoll he doesn't want to hear the word "credibility" again. He told Mr. Driscoll that his issue is with the Board of Health and therefore he should go see them.

Mr. Murtagh agrees with Mr. Forsberg that a condition for the Area 2 site is there should be signage for the emergency vehicles. Also, all the soil moved on or off site should be tested. Mr. Macchi stated it will be certified. Ray Johnson stated anything moved from Area 3 to Area 2 will be checked. Mr. Murtagh stated that will alleviate the fears of the people.

Mr. Nottebart stated that the issue bothering him is that Tom Driscoll accused him of being "bought out". He doesn't like the way Mr. Driscoll talked to him and the board tonight and he doesn't like the way he is being treated. He agrees with some of the issues concerning the fire road. He has not heard anything to keep him from voting in favor of this application. He doesn't like that Mr. Driscoll implied that we don't do our homework.

There were no further questions. Mr. Conroy moved to close the public hearing for the impervious cover special permit as it pertains to Case No. 10-7. Motion seconded by Mr. Forsberg and voted 5-0-0.

Mr. Conroy moved to grant a Special Permit for Case No. 10-7.A under but not limited to Section 12:3.C(4) of the Town of Walpole Zoning Bylaws to allow a non-residential use that will render impervious more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of the lot, but not more than the impervious coverage permitted in the underlying district (HB: 90%), as shown on a plan entitled "Walpole Park South VIII Site Plan of Land in Walpole, MA" dated July 1, 2010 prepared by Merrikin Engineering, LLP, 730 Main Street, Suite 2C, Millis, MA 02054, as may be amended. Motion seconded by Mr. Mazzocca.

Mr. Mazzocca stated we are talking about two different things right now. He feels we need to have just one special permit that covers everything. Mr. Macchi stated the applicant wants two separate requests under one case number. He reminded the board they are not taking a vote on the hazardous materials. Mr. Macchi stated that the decision can be written to show "n/a" where and when applicable.

Motion voted 5-0-0 subject to three conditions of approval.

Mr. Conroy moved to close the public hearing for Walpole Park South VIII, Case No. 10-6 Site Plan Approval. Motion seconded by Mr. Mazzocca and voted 5-0-0.

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Mr. Conroy moved to approve Case No. 10-6, Walpole Park South VIII Site Plan Approval subject to 31 standard conditions and 13 special conditions. Motion seconded by Mr. Forsberg. Motion voted 5-0-0.

Toll Bond: Ms. Walker stated the applicant wants to transfer the bond from Phase I to Phase IV, but some items need to be in place before releasing Phase I. Mr. Conroy asked her to put the items that need to be completed in writing. Ms. Walker agreed.

High Oaks IV: Ms. Walker stated that John Walsh would like a release for Millbrook Avenue only and asked if the board wants to let him do that. Mr. Conroy stated yes. She stated this is similar to Berkeley Drive at Brush Hill. She stated there is a gate on both ends of the street. Mr. Conroy stated he needs to give keys to the Fire and Police Departments. Ms. Walker asked if the board cares that there is no turnaround. Mr. Conroy stated we need a temporary cul-de-sac. Mr. Forsberg stated the road is paved.

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

Respectfully submitted,

John Murtagh, Clerk

Accepted 1/6/11