

WALPOLE PLANNING BOARD MINUTES OF SEPTEMBER 23, 2010

A regular meeting of the Town of Walpole Planning Board was held on Thursday, September 23, 2010 at 7:00 p.m. at Town Hall in the 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 September 9, 2010 with clerical corrections. Motion seconded by Mr. Nottebart and voted 3-0-0.

Mr. Mazzocca arrived at 7:06 p.m.

Legacy Lane Bond Request: Mr. Conroy moved to set the bond for Legacy Lane at \$68,000 per recommendation of Ms. Walker. Motion seconded by Mr. Murtagh and voted 4-0-0.

Niden Woods: Mr. Conroy read a letter dated September 8, 2010 from Richard Merrikin, Merrikin Engineering regarding drainage improvements on Hummingbird Lane. He asked Mr. Johnson to send a letter to Ms. Rosenfeld requesting her to come to the October 7th Planning Board meeting.

Pinebrook Estates: Mr. Conroy moved to have the board's clerk, John Murtagh, sign a letter dated September 23, 2010 certifying the board voted as follows: 1) to approve the Settlement and Release Agreement and Agreement for Disposition of Bank Passbook Account Number 01-00-016508 for the Pinebrook Estates and 2) to authorize the Chairman of the Planning Board to sign said agreements. Motion seconded by Mr. Mazzocca and voted 4-0-0.

7:20 P.M. Zoning Article Public Hearing: Mr. Conroy read the public hearing notice as advertised. He read a letter dated September 7, 2010 from Margaret Walker stating she has no comment and from the Zoning Board stating they have no comment. Mr. Johnson stated this article was reviewed by town counsel.

Mr. Conroy asked for comments from the public.

Mark Gallivan, Finance Committee, asked what does this do for the town. Mr. Conroy stated Subdivision Phasing has been in existence for about 20 years. If we have a big subdivision, the developer can't build it out all at once, which would have an impact on our schools, etc. There is also a list of things the developer is encouraged to do for the town. This was added to the Zoning Bylaw right after Adams Farm because at that time, we had a lot of 61-A property. This section doesn't affect a small subdivision.

Ralph Knobel, Finance Committee, asked why there is a time limit on this at all. Mr. Conroy stated because we can't have growth control in perpetuity; however, this is the second continuance we have had.

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Josette Burke, Finance Committee, stated the board keeps renewing this and asked if State statute would prevent us from doing that. Mr. Conroy stated the State wouldn't challenge us, but a developer would.

Mr. Forsberg arrived at 7:24 P.M.

There were no further comments. Mr. Conroy moved to close the public hearing. Motion seconded by Mr. Nottebart and voted 4-0-0. Mr. Conroy moved to recommend Favorable Action on Article 2 for the 2010 Fall Town Meeting. Motion seconded by Mr. Nottebart and voted 4-0-0.

Mr. Johnson stated a copy of the board's vote will be sent to the Town Clerk, the Finance Committee and he will be doing a report for town meeting.

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

Ms. Walker left at 7:26 P.M. to attend the Finance Committee meeting.

Michael Shea, 390 West Street Update: Mr. Conroy read a letter dated September 14, 2010 that Mr. Johnson wrote to the building inspector asking for the status of the site plan and special permit for Mr. Shea. Mr. Mee emailed the timetable that he agreed to with Mr. Shea and stated that all building issues should be completed by October 1, 2010.

Walpole Mall: Mr. Conroy moved to endorse the modification for the Walpole Mall (Texas Roadhouse) as presented by Norwood Engineering and reviewed by the Town Planner and Town Engineer. Motion seconded by Mr. Forsberg and voted 5-0-0.

7:38 P.M. Walpole Park South VIII Realty Trust Special Permit, Case No. 10-6 and Site Plan Approval, Case No. 10-7: Mr. Conroy read the public hearing notice for both hearings. He stated the board will proceed with both the public hearings concurrently.

The applicant was represented by Atty. Philip Macchi II, 1256 Washington Street, Norwood, Dan Merrikin, Merrikin Engineering, Millis, MA, and Ray Johnson of TetraTech Rizzo.

Mr. Macchi submitted information in support of the Special Permits they are seeking. He stated that the locus falls entirely within the HB district; however, the property is split between WRPOD 3 and WRPOD 2 areas, the percentages of the split being approximately 64/36. He stated that the Special Permit for hazardous materials will only apply to the portion of the lot located in the WRPOD 3 area.

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Mr. Macchi stated this application has nothing to do with any other piece of land within Walpole Park South. He stated the site is not in the flood plain. Regarding impervious recharge, it is expected this site will meet or exceed DEP standards.

Mr. Macchi discussed the Procedures for Issuance of Special Permits as per Section 12.4.A. He stated that if anything became a carcinogenic or undesirable, they would remove it without further ado. It was agreed to have the town planner contact Woodard & Curran to obtain a peer review cost. If this is what the board wants, they will just cut a check if it is reasonable quote. Mr. Forsberg asked if this is just an update and review of the current list and Mr. Macchi stated yes.

Mr. Murtagh stated he has a problem with this because they can't identify the uses up there. He asked if they submitted a plan to the Sewer and Water Commission and Conservation Commission. Mr. Macchi stated they did submit to the Conservation Commission, but not to Sewer and Water. Mr. Conroy stated if a tenant goes in there and they have stuff that is on that list, they are all set. Mr. Macchi stated that is almost correct. If they are on that list, it enables Donnell Murphy to go to the Fire Department, Board of Health, Sewer and Water and Building Inspector with specifics. If there is a problem, they would have to come back. Mr. Conroy asked if that would be under the Zoning Board and Mr. Macchi stated yes. Mr. Forsberg stated one board cannot overrule another, so wouldn't they come back to us. Mr. Macchi stated no, it would be a new filing.

Ms. Walker returned at 7:58 P.M.

Mr. Forsberg stated that before they get an occupancy permit, they need approval from the Board of Health and Fire Department and Mr. Macchi stated that is correct. Donnell Murphy stated he is trying to build a "spec" building, which will bring money into the town. It is hard to do it any other way. There is a list from Sewer and Water, Building Inspector, Board of Health, and Fire Department of 250 chemicals if when stored properly do not pose any problem. This is giving him the opportunity to move ahead and build the building. He doesn't have the luxury of going through the process for 6-8 months. He has a certified hydrologist get all the information on the chemicals being used which they present to the Sewer and Water Commission, Board of Health, Fire Department and Building Inspector because without their approval, he can't move forward.

Mr. Murtagh stated we don't know what is going in there and you will be going to the Sewer and Water Commission after the building is complete. Mr. Merrikin stated the application consists of ten pages and he gives a copy to those four entities. This isn't new; Sewer and Water has signed off four times previously. Mr. Murtagh stated he would like to see Rick Mattson sign off this. Mr. Merrikin stated he already has.

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Mr. Mazzocca asked if the chemicals are only in the Area 3 portion and Mr. Macchi stated that is correct. It doesn't apply to Area 2. It will be a challenge, but they will live with that. Mr. Mazzocca asked what if the tenants change. Mr. Macchi stated the process will start over again with the same four town entities giving their approval. This has been going on for almost ten years. Mr. Forsberg asked if these people do an annual inspection of the building. Mr. Macchi stated it is their prerogative to do so if they want. Donnell Murphy stated he does the filing in conjunction with the tenant.

Mr. Conroy questioned that the applicant is proposing to use the same people that the Sewer and Water used for the peer review. Mr. Macchi stated that is correct. Mr. Conroy moved to have the town planner, Don Johnson, pursue Woodard and Curran for a quote to perform a peer review. Motion seconded by Mr. Nottbart and voted 5-0-0. Mr. Johnson stated he will probably get a quote in a few days. He asked if the board wants him to give the quote directly to Dan Merrikin. Mr. Macchi stated Donnell Murphy will just pay it anyway if it is reasonable. Mr. Conroy asked if they could just send them a copy of what they have already done and Mr. Johnson stated yes.

Mr. Macchi stated if something is not on this list, this special permit will not cover it. They are trying to speed up the process, not circumvent it. If there is a tenant who doesn't need a special permit, there will not be one. Any storage will be inside the building, not underground. They submitted two letters with the application signed by Ray Johnson certifying the groundwater recharge and the materials that are allowed on site.

Mr. Macchi stated the Zoning Board of Appeals gave them approval to allow retail use of a building that is up to 25,000 s.f. This approval has nothing to do with the site, only the use of the building. Mr. Merrikin stated the definition of hazardous materials in the bylaw is very broad.

Regarding the actual site, Mr. Merrikin stated that the project site is 9 plus acres and there is a wetland system in the bottom right corner of the property, but there is no work proposed within 200'. Their application before the Conservation Commission was for land disturbance and was approved last night. The proposed building is 117,000+ s.f. and will be one level. There will be terracing wall systems and the parking will be in the front of the building with an in and out onto Route 1. There will be a secondary car entrance through Walpole Park South and truck traffic will be behind the building. The Fire Department has indicated they are okay with this layout. This is a big building to be used for warehouse uses, office uses and some retail component such as a tile or carpet place. Parking will be divided up with 40% for retail and 60% for the remaining warehouse and office uses. They are proposing 215 parking spaces and seven handicap spaces, one of which will be van accessible. They are allowed 35% impervious cover, but are proposing to use only 30%. Mr. Merrikin stated that they have designed a drainage system that complies with the zoning bylaw. Walpole Park South is a former gravel pit and no run-off leaves the park.

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The back loading area will have a series of catch basins with an oil/water separator. There will be an underground leaching field under the pavement and also an overflow pipe. They are proposing to have catch basins in the front along with an underground leaching field. The vast majority of a 100-year storm is being recharged. They are providing more than what is required by DEP. They can't increase the peak rate of runoff. There are a lot of checks and balances and they satisfy the requirements under the bylaw for the impervious special permit.

Mr. Merrikin stated that because of the potential for retail use, there will be pole mounted fixtures along the front of the building and provided the board with a lighting analysis. There are no abutters that will be worrying about the lighting, although nothing will be pointed out. Regarding landscaping, the area will be loamed and seeded and will have a terraced low growing area. There will be landscaping along the front of the building and no paving proposed in the buffer, but there will be a slope planted with trees. Ms. Walker questioned a wall in the buffer. Mr. Merrikin stated he feels it is not prohibited as long as it is part of the screening.

Mr. Conroy read comments received from the Safety Officer, Board of Health, Sewer and Water, Conservation Commission, Zoning Board of Appeals, MPIC, Deputy Chief Laracy, and Town Engineer. Mr. Merrikin stated that when the new report comes back from Woodard & Curran, they will forward that information to the Board of Health, Building Inspector, Sewer and Water and Fire Department. Mr. Forsberg stated he would like this report to be part of both standard and special conditions. Mr. Macchi stated he will provide the board with about eight pages of special conditions.

Ms. Walker stated that Sewer and Water met while she was on vacation, but they now have all her comments. Mr. Murtagh asked if the applicant thinks it is necessary to make a presentation to the Board of Health and Sewer and Water. Mr. Merrikin stated not until after the report is received from Woodard & Curran. Ms. Walker stated that her memo dated August 18, 2010 with sixteen items was also forwarded to the Zoning Board of Appeals and Sewer and Water.

Mr. Merrikin stated that the Bay Circuit Trails is somewhere in this area and the Alliance would like to relocate a section of the trail that is presently along the edge of Route 1 to a less hazardous place. Mr. Merrikin stated that Donnell Murphy may be willing to let them have a trail and is thinking about it.

Regarding Ms. Walker's comments, Mr. Conroy stated there is no need for her to discuss them tonight as the applicant has already submitted revised plans. Ms. Walker stated they talked about addresses and whether or not it should be Route 1 or Walpole Park South itself.

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Mr. Merrikin stated that all the curbing throughout the Park is Cape Cod berm and that is what they are proposing here also. They will also prepare an inter-lot easement for the basin similar to other shared basins in the park. Mr. Nottebart questioned if the sewer will run by gravity and Mr. Merrikin stated it will be pumped up by force main to Pine Street and then into the town's system.

Mr. Mazzocca asked if there will be signage on Route 1. Mr. Merrikin stated there will be a monument sign for the whole Park, wall signs for each tenant, a Park directory, an address monument and ground signs, but nothing will be up in the air. Mr. Mazzocca asked what if a retailer wants one and Mr. Merrikin stated they will have to come back before the Board if that happens. They may have to come back for a standing sign. Mr. Mazzocca asked if there is presently a guardrail on Route 1 and Mr. Merrikin stated there is for a short distance, but there is no sidewalk. Mr. Nottebart questioned the curbing. Mr. Merrikin stated it is sloped granite both in and out. Mr. Nottebart asked if there will be signage for people coming in so the cars don't queue up there and Mr. Merrikin stated he is not sure that is necessary. They did add three or four bike racks at the suggestion of the Board of Health. Mr. Nottebart asked how much occupancy is existing now in the other buildings and Mr. Murphy stated 100% and also has an existing tenant looking to expand now. Mr. Murtagh asked about the exterior of the proposed building. Mr. Murphy stated it will be similar to the other seven block buildings with a flat roof and interior drains. Mr. Murtagh asked if part of this building will be retail and Mr. Murphy stated he doesn't do retail in the park, and really doesn't want to at this time.

Mr. Forsberg asked if there is a standard O&M for the gas/oil separators and Mr. Merrikin stated yes. Mr. Forsberg stated he doesn't want them to overflow. Mr. Merrikin stated these get checked twice a year. Ms. Walker stated they would do more if there were an extraordinary storm. Mr. Forsberg asked if they will have lights out in front of the building and Mr. Merrikin stated no, only out back for loading purposes. Mr. Forsberg stated he would like a stop sign entering onto Route 1 from the new building. Mr. Merrikin agreed.

Mr. Johnson stated that he and Philip Macchi talked about the road work that is going on and it is applicable to this request also. He reminded the board we can't condition anything on someone else's work. Mr. Johnson stated that most of his comments have been covered. Mr. Conroy stated he would like signage on the Jersey barrier showing "no left turn" coming out of the proposed building driveway onto Route 1.

Bill Hamilton, South Walpole: had heard this was similar to four other requests, but he doesn't think so because those buildings were in Area 3 and this is in Area 2. Mr. Conroy stated that only part of the building is in Area 2 and the other in Area 3. Mr. Hamilton feels the higher restriction applies to this building as a portion is in Area 2 and the same tenant could be in both parts of the new building; therefore, the board should not issue any permits for Area 2. Mr. Conroy stated the board would only be issuing a permit for Area 3.

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Mr. Hamilton stated you are saying an imaginary line divides Areas 2 and 3. Mr. Conroy stated you want the imaginary line to be in Area 2. Mr. Hamilton stated the more restrictive zone should apply. He asked if Mr. Conroy believes in WRPOD. Mr. Conroy stated what he doesn't believe is that the line is imaginary. Mr. Hamilton stated you are issuing a permit to an Area 2. The Bird landfill problems in West Walpole have made it all the way down to Mine Brook. This Area 2 is the last place we can go for a well. Mr. Conroy stated now you are saying it is a real line. Mr. Conroy asked if Mr. Hamilton thinks that hydrochloric sulfuric acid is bad to store up there and Mr. Hamilton stated he is not sure. Mr. Conroy stated that all the water treatment plants in town have that acid on site. We have more chemicals at the Delaney Pump Station than all over town. Mr. Murtagh stated we need clarification. Mr. Conroy stated we have it. Mr. Forsberg stated Mr. Merrikin talked about defining that line within the new building and asked if he has anything solid. Mr. Merrikin thinks they can come up with a way to permanently define it. Mr. Conroy stated it is an arbitrary line. Mr. Merrikin stated no, it is shown on the plan and that is what they are using. Mr. Forsberg asked if there is any way to protect Area 2 from Area 3. Mr. Macchi that can be reviewed when the board discusses the conditions. Mr. Merrikin stated everything will be double contained in the building. Mr. Macchi stated there are about ten similar sites in town and four belong to Mr. Murphy. Mr. Murtagh asked if D. Foley's on Summer Street has a similar one and Mr. Merrikin stated they have a whole room dedicated to chemical storage. Mr. Murtagh asked if they are in a split zone and Mr. Merrikin stated no, all Area 3. Mr. Conroy asked if the DPW yard is in Area 1 and Mr. Merrikin stated yes. Mr. Conroy stated there are five bays there that house a lot of chemicals.

There were no further questions or comments.

Mr. Macchi granted an extension of time to the Board for both applications up to and including October 31, 2010. Mr. Conroy moved to accept an extension of time upon which to take action on both the special permit and site plan approval up to and including October 31, 2010. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy continued the two hearing to October 21, 2010 at 7:30 p.m. and 7:31 p.m.

ReMax, 600 Main Street: The applicant was represented by Atty. Jim Brady and Dan Merrikin, Merrikin Engineering, who were present for a modification determination regarding the sidewalk in front of the new building. Mr. Brady stated the overlay to the sidewalk as per Special Condition #3 would cost his client about \$15,000; therefore, they are requesting relief from that special condition and request this change be considered a minor modification. Mr. Forsberg asked if there is a chance that Mass Highway will let you just overlay it and Mr. Brady stated no. Mr. Nottebart asked what would they be allowed to do and Mr. Brady stated nothing. They would be trespassing to do anything to the sidewalk. Mr. Murtagh asked what they are looking for and Mr. Brady stated to eliminate Condition #3 from the decision.

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Mr. Conroy stated we conditioned you to go on someone else's property; which never should have happened. We can't burden you through someone else's property. Mr. Brady stated if this condition is unenforceable by the board, he doesn't want his client to be in trouble two to three years from now. Mr. Merrikin stated that the back edge of the sidewalk belongs to the State.

There were no abutters present. Mr. Conroy stated the applicant has paid \$200 for this determination.

Mr. Conroy moved that the removal of Special Condition #3 from the Site Plan decision be considered a minor modification. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy moved to strike Special Condition #3 from the Site Plan decision for ReMax, Case No.10-2, 600 Main Street as it is unenforceable. Motion seconded by Mr. Nottebart and voted 5-0-0.

Commerford's Corner: The applicant was represented by John Rhodes, Norwood Engineering. He stated the plan before the board updates Sheet 5A in the approved subdivision plans. Mr. Mazzocca stated we already voted this change to be a minor modification. Mr. Rhodes stated that is correct. Mr. Conroy asked what we are doing with the poles. Mr. Rhodes stated they are shown on the plan with a note. Mr. Conroy asked about the progress and Mr. Rhodes stated he is not involved with this.

Peter Commerford stated he contacted Nstar, gave them a deposit, and asked them to do a plan for moving the poles. They came back and said they would not relocate poles per a private request and returned his check. He asked Ms. Walker what to do. She checked and got the same answer; therefore, he is not sure what to do. Mr. Conroy stated Mr. Commerford could convey those three little pieces of land to the town. Mr. Rhodes asked what if the Board of Selectmen said they want the poles moved. Mr. Commerford asked if the town owns those pieces of property, does the town instead of him have to request to move the poles as he doesn't own it any more. Mr. Conroy stated he doesn't know the answer and stated he feels Mr. Commerford would have to talk to Nstar.

Mr. Rhodes asked if the board is adverse to the methodology of the way the poles are moved. Mr. Conroy stated you can hook them up to your truck, just as long as it gets done. They can ask which is easier and let Nstar make the choice. Ms. Walker stated that the Selectmen as road commissioners could go to Nstar. She thinks you would have to talk to both of them. Mr. Rhodes thinks the Board of Selectmen hold the cards here. Mr. Murtagh suggested they get on the Selectmen's agenda to ask them to write a letter to Nstar. Mr. Forsberg stated there would be two votes: 1) to eliminate the street paving; and, 2) approve this plan with the extension of the roadway.

Mr. Forsberg moved to rescind Special Condition #18 and to approve the extension of Kevin's Way to meet the current edge of pavement on Summer Street as per Sheet 5A of a plan dated September 22, 2010.

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Mr. Conroy stated we will endorse Sheet 5A upon removal of the poles. We can vote, but not sign. Mr. Mazzocca stated he drives by this site every day and it is not looking great right now.

Motion seconded by Mr. Conroy and voted 5-0-0.

Mr. Forsberg asked if he can pave to the edge of Summer Street without the plan being signed. Mr. Conroy stated he has approval, but we will not sign anything until after the poles are gone. Mr. Rhodes asked if he can do work under this approval and Mr. Conroy stated yes. He can do what he wants.

Villa Terrace: Mr. Conroy asked the town planner to ask the applicant's attorney why we don't have the ability to make a claim. Mr. Johnson stated he will forward Ms. Walker's comments to their attorney tomorrow along with the board's question.

APA Meeting: It was agreed the town planner will go to this meeting scheduled for 4:00 p.m. on Wednesday, September 29th.

General Issues:

- Mr. Conroy stated he feels the board was not well prepared at the last meeting to discuss the modification requested for B&C Floral as they had no decision or plans in front of them.
- The board asked that they be emailed the location, date and time of any new hearing received that will be coming before the board.
- Regarding continued hearings, Mr. Conroy asked that the secretary continue to put minutes of hearings in the folders and asked that in addition to the minutes, the planner prepare a history of outstanding action items for each application. Mr. Forsberg stated that when a hearing is continued and the plans need to be revised, it would be helpful to the board to have those plans before them and to be able to reference outstanding items.

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

Respectfully submitted,

John Murtagh, Clerk

Accepted 10/7/10