

## WALPOLE PLANNING BOARD MINUTES OF SEPTEMBER 9, 2010

A regular meeting of the Town of Walpole Planning Board was held on Thursday, September 9, 2010 at 7:00 p.m. The following members were present: John Conroy, Chairman (7:12 p.m.); Edward Forsberg, Vice Chairman (7:06 p.m.); John Murtagh, Clerk; Richard Mazzocca, Richard Nottebart, Donald Johnson, Town Planner; Margaret Walker, Town Engineer.

**Minutes:** Mr. Forsberg moved to accept the minutes of July 15, 2010. Motion seconded by Mr. Mazzocca and voted 4-0-0.

**Time Cards:** Mr. Forsberg moved to endorse the planner's time cards as submitted. Motion seconded by Mr. Nottebart and voted 4-0-0.

**MAPD:** Mr. Forsberg moved to pay a \$75 invoice for annual dues. Motion seconded by Mr. Nottebart and voted 4-0-0.

**Walpole Park South:** as per a letter dated August 26, 2010, Deputy Fire Chief Laracy suggested the town consider utilizing an outside consultant to review any special permits when an applicant is looking to store hazardous material and/or hazardous waste within the WRPOD, specifically Walpole Park South. It was agreed to hold this letter until the scheduled WPS VIII hearing scheduled for September 23.

**ANR:** Town of Walpole and Joseph Lorusso, 350 Summer Street: It was moved by Mr. Conroy, seconded by Mr. Mazzocca and voted 5-0-0 to endorse a plan of land by John Anderson & Associates, 281 Mylod Street dated June 25, 2010 for property shown as Parcels 3-1 (861 s.f.) and 3-2 (2533 s.f.), which are owned by Joseph Lorusso II, trustee of Summer Realty Trust, finding Form A in order and subdivision control not required. Parcel 3-1 is to be retained by Joseph Lorusso II; Parcel 3-2 is to become part of the Summer Street layout. Neither parcel 3-1 or 3-2 is considered building lots. The owner's title to the land is derived under deed from Loring Construction Corp, dated December 6, 1982 and recorded in Norfolk Registry of Deeds, Book 6086, Page 501. The land acquisition is for the alteration of the public way. The existing property has not changed. It was agreed by the Planning Board to waive the filing fee.

**Becketts, Case No. 10-5 Plan Endorsement:** The applicant was represented by John Glossa, Glossa Engineering, 46 East Street. He stated that one of the conditions of approval was to install fencing and they are proposing to change the fence from metal to resin. Mr. Forsberg asked if the condition says 4' and they are now proposing 3'. Mr. Glossa stated that 4' was not in the decision. Mr. Murtagh stated he prefers the resin fence anyway. Mr. Glossa stated that the actual protection would be planters.

There were no further comments or questions from the board or the public.

Mr. Conroy moved to endorse a site plan of land consisting to two pages dated March 26, 2010 titled "Beckett's Restaurant, #1065 Main Street, Site Plan of Land in Walpole, MA" by John Glossa, Glossa Engineering. Motion seconded by Mr. Murtagh and voted 5-0-0.

**Hollingsworth & Vose, Case No. 08-4:** The applicant was represented by Atty. Philip Macchi, II. He stated they are seeking a two-year extension of time up to and including October 15, 2012 as the bridge is still an unresolved issue.

Mr. Conroy moved to grant an extension of time up to and including October 15, 2012. Motion seconded by Mr. Nottebart and voted 5-0-0.

**7:31 p.m. Longview Farm, Site Plan Approval, Case No. 10-3 and Scenic Road:** Mr. Conroy read a letter dated August 26, 2010 from the applicant's attorney, Anjali Chitre, requesting to continue tonight's hearings until November 4, 2010. She also granted the board an extension of time upon which to take action on the two hearings up to and including November 18, 2010. Mr. Conroy moved to accept an extension of time upon which to take action on both applications up to and including November 18, 2010.

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Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy continued these hearings to November 4, 2010 at 7:30 p.m. and 7:31 p.m. as requested by the applicant's attorney.

Mr. Conroy stated the board received a packet of letters on September 8, 2010 from Gerald Pike. He stated that anyone who wrote a letter and wishes to update or change their letter can go to the Planning Board office before the next meeting and do so.

**Bird Estates – Release of Phase I and II bond:** Ms. Walker stated she prepared a punch list dated August 4, 2010 addressing field items, plans, verification of water appurtenances, granite bounds, off site improvements, and items needing to be resolved.

Mr. Macchi stated that presently the off site traffic light is part of Phase I bond, but they would like to put it with the Phase IV bond. Also, they would like to move the issues associated with Bird Drive to Phase IV. Mr. Conroy asked if anyone has an issue with moving the traffic signal and Bird Drive to Phase IV. Mr. Forsberg asked about the paving of Mylod Street as it is breaking up already. Mr. Conroy stated that is not part of the bond, but those issues belong to the Road Commissioners. We stop at Mylod Street.

Mr. Nottebart asked about the traffic light. Mr. Conroy stated the applicant has to re-do Route 1A and install a light at the intersection of Bullard and Willett Streets and that was part of the Phase I bond.

Mr. Conroy moved to move to make the traffic light and Bird Drive issues part of the Phase IV bond as per request of the applicant's attorney, Philip Macchi II. Motion seconded by Mr. Forsberg and voted 5-0-0.

Mr. Johnson stated that Phase IV is due for extension in November 2011.

Mr. Conroy placed this on our September 23 agenda.

Mr. Macchi questioned the pavilion. Mr. Conroy stated that has nothing to do with us. Michael Gallahue, Chairman of the Walpole Historical Commission, was present. He stated the pavilion was part of the Memorandum of Understanding, which was done in 2003 and later extended to 2008. Mr. Forsberg stated it wasn't on the plans the board endorsed and Mr. Gallahue stated that was correct. Mr. Forsberg agreed that we don't have anything to do with this. Mr. Macchi stated that the Historical Commission has already signed off on this. Mr. Gallahue stated it is due to expire in 2011. Mr. Forsberg asked what if the pavilion is built, but is not shown on the plans. Mr. Macchi stated that is no problem. Mr. Conroy asked who owns the land. Jason Witham, representative from Toll Bros., stated it is part of the Conservation restriction.

**B&C Floral, Case No. 09-8, Modification Determination:** Bill Glaropoulos, applicant, stated the following needs to be modified: 1) the location of the bins; 2) the guard rail opening; 3) the addition of a speed bump; 4) the addition of a crosswalk. These changes have already been done.

Mr. Mazzocca stated he remembers the guard rail issue being discussed previously and asked what is there now. Mr. Glaropoulos stated they didn't extend it all the way. For some reason, the decision was written that the guard rail will go all the way to the end, but he thought that was a mistake. Mr. Forsberg stated that the condition of a guard rail was to that the cars going south couldn't cross over through the Dunkin Donuts parking lot and then continue south. The Board wanted the guard rail to go all the way to stop that traffic flow. He feels these changes that are being requested would be a major modification and feels what Mr. Glaropoulos has done is a total disrespect for the entire site plan approval process. He stated he is very upset. Further, there is also supposed to be a 4' wall which was not done. He feels that Mr. Glaropoulos should not have made any changes without coming back to the Board first. Mr. Forsberg stated that the Building Inspector also has a problem with these changes and referenced Mr. Mee's August 13<sup>th</sup> letter that was sent to the town planner. Mr. Mee asked that his concerns be addressed with him before he goes back to the Planning Board. Mr. Forsberg feels we were very reasonable. We signed plans and that is what Mr. Glaropoulos should follow.

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Mr. Glaroupolos stated his contractor told him the bins shouldn't be in the middle as they may tip over. Mr. Johnson read the conditions as stated in the decision. Mr. Murtagh stated they have an engineer's stamp showing the blocks holding back the wall. Mr. Nottebart stated this is the stuff that drives him nuts. If everybody that came in front of us built what they wanted to instead of following the endorsed plan, it would be chaos. The applicant should have come back to Board before making any changes. He supports what Mr. Forsberg said and feels it is disrespectful to proceed without proper authorization. Mr. Glaroupolos stated he did what his contractor told him to do. They moved the bins because they wanted to have more room for stock. He didn't think it would be an issue as to where the bins go or how many there are. Mr. Murtagh stated the problem is with his engineer; he poorly advised you. Mr. Nottebart stated he thinks the applicant is a good business person, but we don't want people cutting across the parking lot. Mr. Glaropoulos stated they don't see a lot of people cutting through. Mr. Nottebart stated it only takes one person. He is looking out for himself only, but what about the abutters and the Board. Mr. Glaroupolos stated he feels to do what the decision states will cause people to do a u-turn, which will create more of a problem. Mr. Forsberg stated he would like the work done according to the plan. He asked if they have touched anything in the 25' buffer and Mr. Glaroupolos stated no. Mr. Forsberg asked how the bins being closer to the property line affects the neighbors as they must be 50' closer to the property line. There are also three times as many. He asked how they get the stuff out of the bins. Mr. Glaropoulos stated they use a front end loader. Mr. Forsberg stated that means the equipment will be that much closer to the property line. Regarding the wall, Mr. Glaroupolos stated they moved it back only about 4'. The bins would have been free standing if they didn't move them back. However, they are not here to talk about the bins, but to talk about clearing the land. P.J. Hayes had suggested more bins. Mr. Murtagh stated they still should have come back to make changes.

Mr. Forsberg stated that changes out back will not enhance the buffer. In fact, when they take down the trees, the back will be wide open. Mr. Nottebart questioned if the plantings were done according to the plans. Mr. Mazzocca read the condition in the decision as it relates to the plantings to be used for stabilization. Mr. Conroy told Mr. Glaroupolos we didn't write that, his guy did and he should be talking to him. He stated he will need to resubmit a plan and come back. Mr. Forsberg stated he wants the abutters to know what is going on. He made a motion that these changes be considered a major modification. Motion seconded by Mr. Conroy. Mr. Conroy explained that a major modification would require a new filing, new advertising and abutters noticed, whereas a minor modification doesn't require that. Mr. Murtagh stated he thinks this would be a minor modification. Mr. Forsberg stated the neighbors need to know what is going on. If he was an abutter, he would have an issue with this. Mr. Murtagh stated he hates doing that to a small business. Mr. Forsberg stated it is not our fault that he made those changes. Mr. Conroy stated both members have valid points and this does affect the abutters. If these changes were done out front, it wouldn't matter. The abutters should be told what is going on. Mr. Nottebart agrees that small businesses should succeed. Mr. Forsberg stated that what was constructed is well beyond the plan and feels the abutters should be notified. Mr. Glaroupolos stated they also proposed a 1200 s.f. building that they are not going to do. Mr. Conroy stated they will be changing the plan again by removing the building. Mr. Conroy stated that any changes to the plan, either by adding or deleting, is a modification. Mr. Glaroupolos stated he thinks all the abutters are happy.

Motion voted 3-2-0 (Conroy, Forsberg, Nottebart voting for the motion; Mazzocca, Murtagh voting against the motion).

Mr. Conroy explained to Mr. Glaroupolos what he has to do as far as filing for a new hearing. He asked if he can represent himself and Mr. Conroy stated yes. Mr. Forsberg stated he needs to pay attention to the special conditions that have already been approved. Mr. Conroy asked Mr. Johnson to inspect this site to find out what is and isn't done with the bins, guard rail, etc. before Mr. Glaroupolos comes back. Mr. Forsberg stated he will be required to have a fence. Mr. Conroy disagreed with him. He stated only if the area is accessible as per the building code and this isn't. Mr. Forsberg stated Big Y had to terrace there back area. Mr. Conroy stated that was because they wanted to use the uniblok pavers. Mr. Forsberg asked Mr. Johnson to check with Mr. Mee.

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Mr. Johnson stated he will go over this with Mr. Mee and Ms. Walker. Mr. Nottebart stated he wants to make sure the Building Inspector is comfortable with this before the application is refiled. Mr. Conroy stated that Mr. Mee has no say in this. We need to do the checking on our own site plans. Mr. Glaropoulos stated there is very little activity or business going on out back now.

**Winter Estates:** The applicant was represented by Atty. Philip Macchi II and Rick Merrikin, Merrikin Engineering. Mr. Merrikin stated they are here because the conservation agent, Landis Hershey, wants them to bring this subdivision to storm water management standards. He is also not sure if the town engineer has had the opportunity to review this. Ms. Walker stated she hasn't. He is asking that this be considered a minor modification to the subdivision plan of record. Mr. Conroy stated we can't modify anything to do with the roadway without notice to the abutters, but this appears to be part of the utilities which we can address tonight. This is controlled by the Conservation Commission. Nothing else would be changing according to Mr. Merrikin.

Mr. Mazzocca asked how many lots are in this subdivision and Mr. Merrikin stated nine lots and it is located off Winter Street.

Mr. Conroy stated they still need to bring the plan back to us as they are only asking that we determine whether this change is a minor or major modification. Mr. Merrikin explained how the groundwater is measured. Mr. Merrikin also asked about eliminating the fence around the detention basin.

Mr. Conroy moved to determine the changes as presented by Mr. Merrikin for the Winter Estates subdivision be considered a minor modification. Motion seconded by Mr. Murtagh and voted 5-0-0. It was agreed to place this on the September 23 agenda.

**The Trails Subdivision:** Mr. Conroy moved to re-endorse the Form I for Lot 11A only in order to correct the notary date which was incorrectly changed by the applicant. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy asked for proof of recording of the Form I for our records.

**The Trails Subdivision Phasing:** As per a letter dated August 13, 2010, the applicant's engineer, Rick Merrikin, requested ten points which would allow a 100% build-out in Phase 1 of the development schedule according to the Development Phase Table for a 1-5 lot subdivision. The points are requested as follows: five points under Section 2.7.D because the project abuts Adams Farm and also a portion of the subdivided land has been offered to the town as a gift; five points under subsection (1) as a portion of the subdivision area is now becoming a "natural area" across open space parcels.

Mr. Conroy moved to grant the applicant ten points as presented. Motion seconded by Mr. Nottebart and voted 5-0-0.

**Brush Hill Subdivision:** The board is in receipt of a Bond Inquiry through the Hartford Insurance Company. It was agreed that this will be filled out and returned as requested.

Regarding the street acceptance of Berkeley Drive, Mr. Hasenjaeger stated he has done what the Planning Board asked him to do which was to get the street ready for acceptance. He is requesting that the street acceptance process be started. He stated that the town planner told him he may have to ask for a Planning Board waiver to do this because the subdivision is not phased. He is not looking for a bond reduction. This subdivision was started in 1994. He asked if he needs to ask Macchi & Macchi to craft a waiver that meets with town counsel's recommendation. He asked if he needs one and how does he prepare that.

Mr. Johnson contacted town counsel for input. Mr. Conroy stated asked if everyone saw town counsel's emailed response regarding this subdivision as asked by the town planner. Everyone stated they had. Mr. Conroy asked Mr. Mazzocca if it is up to the board as to how we want to do it and Mr. Mazzocca stated yes. Mr. Conroy stated we can't be stuck with utilities or drainage problems and feels we should be granted easements. Mr. Hasenjaeger stated that all the easements have been granted up front and the town

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actually owns everything now. Ms. Walker stated that the easements are not effective until after town meeting accepts this street. Mr. Conroy stated we need easements to get back onto the accepted sections if it affects the unaccepted portions. Mr. Hasenjaeger stated the town already owns this. Ms. Walker stated the easements are official but not until town meeting accepts this. She will review the documents. Mr. Macchi stated he will meet with Ms. Walker and Mr. Johnson.

Mr. Conroy stated he is concerned that Mr. Hasenjaeger owns the entire subdivision and it is bonded. He doesn't want him to do something that shuts the town or us off from accessing this portion. Mr. Hasenjaeger stated that the Water Department controls any water issues. Mr. Mazzocca asked if there is an issue with heavy machinery going down to the areas not yet developed. Mr. Hasenjaeger stated there are two ways of access, so the answer is no. Mr. Mazzocca asked if this has ever been done before and Mr. Conroy stated we have never been asked. Mr. Hasenjaeger asked if Mr. Macchi if they will draft the easement. Mr. Macchi stated he will review this. Mr. Conroy stated this request is for the acceptance of Berkeley Drive in its entirety. He asked Mr. Hasenjaeger to request a final bond release for Berkeley Drive to us and we will forward it to Ms. Walker. He told Mr. Hasenjaeger that this will not take place until the Spring 2011 town meeting. Mr. Hasenjaeger agreed.

**CVS Modification:** Mr. Conroy asked if this is all done. Mr. Macchi stated the bollards aren't done yet. Mr. Johnson stated that Mr. Mee has not issued the final Certificate of Occupancy yet as there are still some outstanding issues. Mr. Conroy asked the planner if all the modifications have been "clouded" on the plan. Mr. Johnson stated yes. Mr. Forsberg asked if the issues we had are on this plan and Mr. Johnson stated yes and everything that needed to be addressed is "clouded".

Mr. Forsberg moved to endorse the minor modification plan for CVS. Motion seconded by Mr. Conroy and voted 5-0-0.

**Walpole Mall Minor Modification #6 (Texas Roadhouse):** Mr. Myers, Norwood Engineering, had submitted a plan on August 24, 2010 showing the modification as voted by the Board. Mr. Conroy asked Mr. Johnson to ask Mr. Myers to provide a signature block for endorsement and also asked that the modification be "clouded" on the plan.

Mr. Conroy moved to allow an extension of time for the Walpole Mall up to and including October 31, 2012 as per request of the applicant's attorney, Philip Macchi II. Motion seconded by Mr. Nottebart and voted 5-0-0.

**Niden Woods:** Mr. Conroy read a memo dated August 10, 2010 to the town administrator from Margaret Walker regarding "Work on Town Property" in response to a letter dated August 3, 2010 from Rick Merrikin, Merrikin Engineering regarding Hummingbird Lane Drainage Improvements.

Mr. Conroy read a letter from Ellen Rosenfeld dated September 2, 2010 updating the Board on the status of the Niden Woods subdivision. Mr. Conroy questioned the sidewalks and Ms. Walker stated they have a binder coat on it. Mr. Forsberg asked about erosion issues and Ms. Walker stated they have been addressed. Mr. Murtagh asked how many houses are in the subdivision and Mr. Conroy stated they were approved for 13 houses and four lots are left to be built.

Mr. Johnson stated that due to erosion issues, maybe we should make them put in the granite curbs now. Also, two years is almost up. Mr. Forsberg suggested we write a letter. Mr. Conroy asked Mr. Johnson to check when the two years will be up. He stated we need to point out that date to the applicants as they have to know that. Mr. Johnson stated that erosion and basin problems need to be addressed. Mr. Conroy stated the curb should be up because of the erosion issues. Mr. Forsberg stated a letter should be sent to Ms. Rosenfeld seeking an extension of time and also to inform her that the curbing has to go in due to erosion.

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Mr. Conroy moved to send a letter to Ellen Realty Trust regarding the expiration of the two-year bond period and they need to request an extension of time for their covenant. This must be done or we will take action. Also, they need to have the granite curbing put in this Fall to prevent further street erosion. Motion seconded by Mr. Forsberg and voted 5-0-0.

**Commerford's Corner:** Mr. Conroy read an email from Peter Commerford dated September 9, 2010 informing the Board that neither he nor his engineer will be able to attend tonight's Planning Board meeting due to the fact that all the paperwork is not completed at this time. He asked that he be put on the Board's September 23 agenda for endorsement of the minor modification.

Ms. Walker stated that Nstar will not move the poles on a public street to private property. Mr. Commerford had said that previously to her, but she checked on her own. Mr. Murtagh asked if Mr. Commerford continues to work at his own peril there and Ms. Walker stated yes.

Mr. Conroy stated that one of the reasons we didn't get his plan is because John Rhodes had a meeting somewhere else tonight. We also give people sixty days to get plans endorsed. He asked Mr. Johnson to talk to John Rhodes regarding the status of this subdivision. He feels we are going in circles with this subdivision.

**Pinebrook Estates:** it was agreed to put this on our September 23 agenda.

**Land Use Permit Extensions:** The Board is in receipt of an email from Kopelman & Paige regarding Land Use Permit Extensions.

**Subdivision Updates:** Updates were received from Ellen Rosenfeld on Niden Woods; John Walsh regarding High Oaks IV; Elizabeth Ahern regarding Oakwood Estates; John Walsh regarding Wisteria Ways II and New Fisher Lane; Rosemarie McPhee on Legacy Lane; Anthony Delapa on Hollowdale Farm; and, Kevin Sullivan regarding Hancock Court Ext. Mr. Conroy asked the Planner to check the status of the Villa Terrace bond now.

Mr. Conroy asked Mr. Johnson to check out the securities being held on these outstanding subdivisions and obtain any extensions needed.

**MHP Meeting:** As part of the town planner's report, Mr. Johnson asked to attend a September 30<sup>th</sup> MHP workshop as it relates to the activities of the MPIC. Mr. Forsberg moved to allow the planner to attend the September 30 meeting for a cost of \$25.00. Motion seconded by Mr. Mazzocca and voted 4-0-1 (Mr. Conroy abstained).

**Michael Shea, West Street, Site Plan Approval Case No. 09-3:** Mr. Conroy requested that we send a letter to Mr. Mee asking him to let us know the status of this property as there are indications that the building is being used before the Certificate of Occupancy has been issued.

It was moved, seconded and voted to adjourn. The meeting adjourned at 10:35 p.m.

Respectfully submitted,

John Murtagh, Clerk

**Approved: 9/23/10**