

TOWN OF WALPOLE PLANNING BOARD MINUTES OF APRIL 15, 2010

A regular meeting of the Town of Walpole Planning Board was held on Thursday, April 15, 2010 at 7:00 p.m. in the Main Meeting Room, Town Hall. The following members were present: John Conroy, Chairman; Edward Forsberg, Vice Chairman (7:20 p.m.); John Murtagh, Clerk (7:05 p.m.), Richard Mazzocca, Richard Nottebart, Donald Johnson, Town Planner and Margaret Walker, Town Engineer.

Minutes: Mr. Conroy moved to approve the minutes of April 1, 2010. Motion seconded by Mr. Mazzocca and voted 3-0-0.

Timecards: Mr. Conroy moved to approve the secretary's timecards. Motion seconded by Mr. Nottebart and voted 3-0-0.

T-Mobile, 153 Washington Street, Case No. 09-13: Mr. Conroy moved to endorse the mylars as submitted and reviewed by the town planner and town engineer. Motion seconded by Mr. Mazzocca and voted 3-0-0.

The Trails Subdivision: This has been put on the board's May 6th agenda. The applicant is working with his attorney to set up a trust. Mr. Johnson also received an email from town counsel today regarding the covenants and O&M agreements on this subdivision. She has asked that the Planning Board work with the Selectmen on the covenants and O&M agreements. Mr. Conroy would like Mr. Johnson to find out how we are suppose to do that and to follow up on town counsel's email.

7:32 P.M. Walpole Library, 135 School Street, Case No. 10-1: Mr. Conroy read the public hearing notice. The applicant was represented by Katherine Martin of DeVellis & Zrein, Landscape and Architect Engineers, Foxboro, MA; and, Steven Webster of Lerner, Ladds & Bartells Architects of Providence, Rhode Island.

Mr. Webster stated the library will be located on one acre of land at the corner of Stone and School Street. Presently there is a volley ball court and a basketball court at this site which will be removed. He discussed the contours of the lot and the present and proposed landscaping. He stated the library will be 32,000 s.f. and the vehicle access will be as it presently is on this parcel. However, the driveway between the building and Blackburn Hall will be increased to 24' and will accommodate two-way traffic. The main entrance will be in line with the front of the town hall on School Street and a concrete sidewalk will circle the site which will be ADA compliant. Sixty-three parking spaces will be provided.

Mr. Webster stated the new library will have an outdoor educational space. The new building will tie into existing town sewer and town water which is already connected to the town hall and there will be one double catch basin on site. They are proposing to take run-off from the roof and run it through a garden where people will be able to sit outside and read. The landscaping was taken from what is presently in the area and they are

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going to add some large trees on School Street. They are also planning on using a native meadow blend that will not require weekly mowing.

Mr. Webster showed a rendering of the proposed library and stated it will be split into quadrants with access from either side. Plenty of natural light will be provided. Mr. Murtagh asked if this is a “green” project. Mr. Webster stated a portion of the roof will be green and the remainder will be a rubber PVC roof. Mr. Murtagh doesn’t feel that is attractive. Mr. Webster stated that is true but you won’t see it. Mr. Forsberg asked if there will be roof top utilities. Mr. Conroy stated probably. Mr. Forsberg asked if they will be screened and Mr. Conroy stated no. Mr. Webster stated they will try and put a louver around it. Mr. Webster stated it is projected to be south to southeast orientation so they are designing it to get as much solar collection as possible. Mr. Murtagh stated he would like as much “green” as possible. Mr. Webster stated they will do the best they can.

Mr. Nottebart questioned that Mr. Webster had said the HVAC system has not been sized out yet. Mr. Webster stated their mechanical engineers are calculating it out now. Mr. Nottebart asked if it will be seen from the street level and Mr. Webster stated maybe just the very top of it as it will be set way back. Mr. Conroy stated that you could possibly see the louvers when they raise them. Mr. Nottebart asked if the windows will be operable and Mr. Webster stated some will be.

Katherine Martin stated they did receive comments on erosion control last night from the Conservation Commission. They are waiting to address their comments and ours all at once.

Mr. Conroy read board comments. Ms. Martin believes they have addressed the Fire Department comments. Ms. Walker reviewed her comments and stated she is concerned about the noise and the hours of operation. Imad Zrein, Devellis Zrein, Inc. stated that given the site and construction, there will be noise for only a week or two. Mr. Conroy stated there will be no crusher on site. Mr. Johnson stated that typical hours of operation would be 7:00 a.m. to 6:00 or 7:00 p.m., Monday through Saturday. Mr. Martin stated this should be a relatively simple process.

Ms. Walker questioned the rain gardens and would like someone to know what is required for their maintenance. She also stated that the drain at Stone and School Street is very shallow. The engineers will have to look at volume as she is not sure the School Street system will take more water. She would like this done prior to the completion of the building. Imad Zrein feels they will build it and test it before construction and will work with the Engineering Department. Ms. Walker stated that regarding the sidewalks, the town needs a minimum of 5’ to run the sidewalk plow and only 4’ is being proposed.

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Mr. Conroy questioned the dumpster. Ms. Martin stated it will be taken off site. Mr. Forsberg would like it screened. Mr. Conroy also discussed the placement of crosswalks. Mr. Forsberg questioned the setbacks. Ms. Martin stated it will be 30' on Stone Street. Mr. Forsberg questioned how tall the trees will be along the front of the building. Ms. Martin stated they are trying to replicate the trees that are on Stone Street. Mr. Murtagh asked for a snow removal plan. Ms. Martin stated that is indicated on the plan already. Mr. Nottebart questioned the 5' walk and asked where the people will come from. Ms. Martin stated that every walkway has to be handicap accessible.

There were no comments or questions from the public.

Mr. Conroy continued this hearing to May 6, 2010 at 7:20 p.m. to give the applicant time to address the outstanding issues.

8:15 P.M. ReMax, 600 Main Street, Case No. 10-2: Mr. Conroy read the public hearing notice and explained the process. The applicant, Michael Gallagher, was represented by James Brady, Esq., Main Street, Walpole and Dan Merrikin, Merrikin Engineering, Millis, MA.

Mr. Brady stated this location is directly across from McDonald's on Main Street and was built in the 1820's. They did appear before the Walpole Historical Commission to find out if the architecture was of historic significance. It was voted to be insignificant and they gave the applicant the go ahead. They did make some agreements with the Historical Commission to preserve some outside granite and other things. The house is a tear down. Mr. Brady stated that Mr. Gallagher owns five ReMax offices, one of which is presently in the Ashmont Plaza. They are proposing to build a colonial building much like one in Foxboro, but smaller. He will move the office from the Ashmont Plaza to this new location and would like to rent out 2,000 s.f. on the bottom floor. He showed a rendering of what the building will look like. Mr. Brady stated it will look like a one-story house from the front because the lot drops off in the back.

Dan Merrikin stated the existing site consists of two parcels. The first piece is 2/3 of an acre and contains the existing house. They also discovered that the existing gravel driveway is on one of the neighbor's property, the Compagnones. They will remove it and landscape that area. The second piece of property is 1/3 of an acre. Both are held in common ownership and when combined equal just over an acre. They will not be disturbing anything within 25' of the wetlands. This property is not shown on the FEMA maps. Cobbs Pond is connected to the wetland behind this property. Applications have been made to both the Zoning Board and the Conservation Commission. They are only filling in 87 c.f. of flood plain and they are replicating by 2-1/2 times. This project is allowed by special permit in a GR district. They are going to demolish the existing house and shed. The new house will be at Route 1-A grade with a sloped style roof and at existing grade in the back. Twenty-one spaces parking spaces will be provided and access will be off Gill Street. The building is under 7500 s.f. and consists of two stories.

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There will be a small portion used for storage. Mr. Merrikin stated they have met with the neighbors and discussed the location of the driveway and why it can't be on Main Street. There is an immediate negativity of adding a driveway to a roadway that probably has 20,000 cars a day. Therefore, because they can have the access on Gill Street, they feel that would be best. There is presently a "no left turn" sign at this intersection because the sight visibility is terrible. They are going to remove the stone wall, which will allow the sight distance to go to 200'. Also, the neighbors' driveways will be much more visible.

Mr. Merrikin discussed the setbacks and stated they meet what is required. The new building will be 30'7" high and they have taken the walk out in the back into consideration. Mr. Merrikin handed out a scheme of the light fixtures. There will be four poles that are 13' from the ground up and will have 150W of lighting. This is for security lighting only. They will also be shielded so there will be no problem with the neighbors on the left side of the property.

Regarding signage, it will be kept to a minimal as this is a GR district. However, they have submitted a request for a variance to allow for a larger standing sign. They will use granite posts on each side of the property. There are some posts presently on the property but they will be moved.

Mr. Merrikin stated that the land to the rear and the right of the property is owned by the town. The property to the left is owned by the Compagnone's. The applicant will be planting a staggered row of evergreens and will re-grade the existing driveway that is on the Compagnone's land. There will be other shrubs and deciduous trees planted also. He will submit that to the board. Regarding utilities, they are not currently connected to sewer, but will be tying in on Main Street. Rick Mattson has no problem with what is being proposed. There is a 12" water line that runs in front of the property. There will be an underground leaching field located in the front of the property and any extra water will discharge toward the back of the property toward the wetlands. The basin is only 12" deep and is designed to only contain several inches of water. Ms. Walker wants to make sure it doesn't go into Gill Street; therefore, they have re-designed the parking area and added two catch basins. This will also add another layer of stormwater management. They did provide a stormwater management report and an O&M erosion control plan, sediment controls along the back of the property, a construction entrance, and silt sacks on the catch basins on Gill Street.

Doug Eino, Architect, stated he has done two of Mr. Gallagher's buildings, this is the third. They don't want to overwhelm the surrounding residences. They will put a small canopy over the front entrance and added a cupola to break up the roof line so the building doesn't look like a box. The building will have architectural shingles and clapboards and low maintenance siding. They would like to lease out the back two offices. Mr. Merrikin stated there will be no entrance on the front of the building.

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The main entrance to the first floor will be off the parking lot and the main entry to the lower level will be off the back. The neighbors will only see a one-story structure so visual impact will be minimal.

Mr. Conroy read the board comments.

Ms. Walker addressed her comments. She stated that the way the parking lot was graded, it was toward the detention basin. She told the applicant she wants a catch basin because she doesn't want the flow to shed onto Gill Street. Mr. Johnson asked if the Conservation Commission wants anything changed. Mr. Merrikin stated no. There are certain performance standards that need to be met when working in a wetland and they are doing what has to be done. Mr. Merrikin stated he will show snow storage on a revised plan. He will also add the sign location to the plan as questioned by Mr. Johnson. Mr. Merrikin stated that the Compagnone's would like traffic signage also such as "go slow", "children" or the like. He will talk to the police department about that.

Atty. Jim Brady stated they had asked some of the neighbors to come down tonight. He feels this will enhance the neighborhood and to bring down the stone wall will create a positive thing. Last night at the Conservation Commission meeting, the major comment was the issue of the water runoff on the parking lot which Ms. Walker already raised and Mr. Merrikin already addressed. The vice chairman of ConCom was pleased.

Mr. Murtagh stated he would like to compliment the architect on the design and style of the building as proposed. This is similar to the Mechanic Street in Foxboro building. He feels this is a good business for the town and blends into the residential neighborhood quite well. He asked if they have given any thought to solar panels. Mr. Gallagher stated he is not familiar with those. Mr. Murtagh stated that Medway High School is saving about \$15,000 per year by using solar panels. Doug Annino, Architect, stated this will be set up so that Mr. Gallagher can do that if he wants to. Mr. Forsberg asked where the sign will be located and will it affect the sight line. Mr. Merrikin stated the sign will be outside the sight line. Mr. Forsberg questioned the height of the sign. Mr. Merrikin stated there is a standing and a ground sign and he explained the difference. Mr. Forsberg questioned shrub locations and asked for a full landscape plan. Mr. Merrikin stated he does have one now. Mr. Forsberg questioned the grade above Main Street and Mr. Merrikin stated it will be close to the Main Street elevation. Mr. Forsberg questioned screening of the parking lot and Mr. Merrikin stated they will be doing that and will keep everything away from the corner of Main and Gill Street. Mr. Forsberg stated he does not like the "left turn only" sign at the Gill and Main Street intersection and would be in favor of eliminating that restriction once the sight line is improved as it is actually easier to exit Gill Street than Spear Avenue or Gould Street.. Mr. Gallagher stated there are presently three signs in the area. Mr. Mazzocca asked the current condition of the sidewalk on Main Street and will it be impacted by the removal of the stone wall. Mr. Merrikin stated it is in good shape, but it does meander off from the wall. Any damage to it will be

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repaired. Mr. Johnson asked if it is a private or public wall and Mr. Merrikin stated it is on their property.

Mr. Nottebart stated he feels the sidewalk does need to be repaired and it would be an improvement to get some of the brush out of there. He asked if the area will be policed for trash and Mr. Gallagher stated yes. Mr. Nottebart stated that when you get to Gill Street there is no place to walk. He feels there should be a platform for a better transition. Mr. Merrikin asked if he means change the sidewalk. He will go look at that.

Jim Compagnone, Gill Street: Dan Merrikin had explained that the whole corner will be even with Route 1A. Mr. Merrikin stated that Route 1A dips down when you get to Gill Street. They are within 1' to 1-1/2' of the grade. Mr. Brady stated that the height of the parking lot will be about a 1' higher than Main Street and that won't be a problem. Mr. Compagnone stated he has no problem with the building and what they are proposing to do. He looks at McDonald's now so he is not worried about the sign. He thinks this is a good plan.

Everett Rockwood, 40 Gill Street: thinks this will be a great improvement and that it looks good.

Mr. Conroy stated it was rumored that Walter Pidgeon lived there and asked if it is true. Mr. Brady stated he doesn't think so. He did extensive title for the Walpole Historical Commission and found this house was once owned by the Hartshorn family and the Tilton family. This area was once called Tiltonville. He asked this hearing be continued to May 20th as they are meeting with the Zoning Board and Conservation Commission on May 12th. One of the abutters asked how long this construction will take and Mr. Gallagher stated about five months.

Mr. Conroy continued this hearing to May 20 at 7:30 p.m.

9:10 p.m. Article 30, Donnell Murphy Continued Hearing: Mr. Conroy stated that we left off at the last meeting with the question of testing. Mr. Macchi stated that what is being heard tonight is the first time for them to hear it also as they were not privy to the results prior to this hearing. They need the opportunity to rebut this.

Kevin Muti, Sewer and Water Commission was present along with Kevin McKinnon, hydrogeologist from Weston & Sampson. Mr. Muti stated they met with Dan Merrikin a few weeks ago. Mr. McKinnon did some borings and test pits at that time. Tonight he is presenting his findings and results. Mr. McKinnon stated he has been doing this work for quite some time. The purpose of this investigation was to determine if the parcel in question is in an Area 2 or Area 3. He went out a week from Monday and did three borings as shown on his map in blue. Strategic drift can transmit water very easily. If a contaminant entered the ground in this location, where would it go. The borings conducted by TetraTech were done by an auger rig every ten feet. He has reviewed that report. He went out there with a different rig and dug at 5' intervals.

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He did three borings: 1st at 45'; 2nd at 37'; 3rd at 60' and basically they found stratified drift aquifer deposits. At the lowest elevations of the property, there was indication of glacial lake material and it was intermingled with stratified drift material. He will concede there are some glacial lake sediments in the rear corner; however, the majority of the parcel is stratified drift material. The USDA agrees with this. There are three different soil types on this parcel. All three are described as deep soils with apparent stratified drift material. It is not the best aquifer material, but it is aquifer material with stratified drift. U.S. GIS also put out a Hydro Atlas #484 showing the aquifer favorability. A well would be in the 100 gallons/minute range which is aquifer material – not the best, but it is. When Walpole developed the WRPOD back in the 1980's, they kept this in mind. They want to protect their current resources. They asked the questions: 1) is it stratified drift for the most part – yes; 2) is it greater than 40' in thickness – yes, but not every where. 64% of the parcel was greater than 40' in thickness. For the most part except in some areas in lower portion, it does meet these requirements. In his opinion, it meets the definition of an Area 2 or at least 64% of it. He suggested the board might want to err on the side of caution. Mr. Conroy asked if Mr. McKinnon had a written report. Mr. McKinnon stated no. Mr. Conroy asked if he had boring logs and Mr. McKinnon stated not with him. Mr. Muti stated Mr. McKinnon is only here tonight to give a presentation. Mr. Conroy stated we need documentation to back up what Mr. McKinnon presented. We have maps and verbal input, but nothing for us to act on.

Mr. Nottebart questioned why we don't have the report as we need to be able to refer back to something. Mr. Murtagh it is hard to understand without the logs and borings. Mr. McKinnon stated he will bring them in as soon as he can. With regard to the map Mr. McKinnon presented, Mr. Conroy asked if everything in the yellow is in Area 2 because it is less than 40' and his findings can flip-flop based on borings. Mr. McKinnon stated that is correct. Mr. Conroy asked if that would lead him to believe we shouldn't trust our aquifer maps and Mr. McKinnon stated yes. Mr. Conroy stated that everywhere throughout the town is suspect. Mr. McKinnon stated not everything. He has already proposed a re-delineation. All areas should be protected in the same manner even though there is a high degree of variability. Mr. Conroy stated the State has zones 1, 2, and 3 and that is what they recommend. You can't drill holes in the entire town. Mr. McKinnon agreed. He stated there are some potential aquifer districts that are not being protected now. Mr. Conroy stated you showed us all the maps done by computer modeling and asked if they are actual. Mr. McKinnon stated no as not all are based on field work. Also, some field work and interpolation is in the GIS maps. Mr. Conroy asked Mr. McKinnon if he was an engineer would he rely on these maps and Mr. McKinnon stated no. It is done on field work also. Mr. Conroy stated he has an overview. Before you design anything, you need to dig and find out what is below there. Mr. McKinnon stated that is correct.

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Mr. Conroy asked questioned glacial lake and asked if it is stratified. Mr. McKinnon stated it is fine sand and silt and not termed stratified drift. Mr. Conroy asked how far he drilled and Mr. McKinnon stated until bedrock. Mr. Conroy asked stratified – glacial/ stratified – glacial and Mr. McKinnon stated that is correct. He asked about the upper elevations and Mr. McKinnon stated stratified drift. Mr. Conroy asked 100% and Mr. McKinnon stated yes. He stated that lake sediments come in layers of ½” – 1”. Mr. Conroy stated he finds it interesting that this flip-flopped.

Mr. Forsberg asked if an area has to be designated Area 1 or 2 and do you have to have so much of sediment. Mr. McKinnon stated they take the information given and you do the best you can to delineate the WRPOD you want to set up. Mr. Forsberg asked if there is a minimum area required and Mr. McKinnon stated no. There is a high degree of variability. The majority is stratified drift, but you do have lake sediment mixed in; however, it will not impede the flow to a wetland. He went out there one week after the rain and there wasn't even one puddle. That says something.

Mr. Conroy asked if they have different ways of defining 1-2-3-4 from what we have. He asked if they better definitions. Mr. McKinnon stated yes. Mr. Conroy asked if they have more of a technical basis. The only thing we have is what is in the book. He asked if there is something different. Mr. McKinnon stated it is very difficult to nail down because it has a lot to do with the environment. It needs to be observed and interpreted by a geologist. He would put in some more restrictive language for the special permit granting authority as it is wishy-washy now. Mr. Conroy stated that Mr. McKinnon previously had stated a pump wouldn't give you enough draw from a well. Mr. McKinnon stated you can put a well there, but it would only produce 100 gallons per minute. The water is 30' down. Mr. Conroy stated this wouldn't be a Zone 1 for DEP. Mr. McKinnon stated it is within a Zone 2. Mr. Merrikin stated that clearly some of this is not in Area 2. The USDA map doesn't tell us a whole lot about this. One of the issues at stake is buried river stratified drift, not just stratified drift. Ray Johnson stated he would like to see a report. Stratified drift transmits water easily unlike fine sand and silt. He read some definitions from the 1983 IEP report that was prepared for the School Meadow Brook aquifer and the basis of the WRPOD district. The definition of IEP is a coarser sand and gravel deposit. They can debate all night, but you only have deltas where you have water coming into a lake or an ocean. No where in this area do the materials meet the bylaw definition of stratified drift. Ray Johnson presented soil that was taken from this site and also a site in Wellesley to show the difference in the soil needed for a well. It is all not one type or another. Mr. Merrikin stated it is fine sand with clay in it and he doesn't think this meets the definition of stratified drift. Atty. Philip Macchi stated he read the bylaw and stated we have to look at solely the bylaw. It means 40' solid, not pancaked. He asked if the definition needs to be updated; yes it does. He stated that recently there was a Longmeadow case that went to a judge and the judge did find for the developer. The only thing the town can look at is the bylaw and does this meet the terms of the bylaw. It doesn't.

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The sole determination is whether or not it is 40' or less and if it isn't, you can't do anything but find Ray Johnson is correct. We have four holes that say one thing and three holes that say something else. They have to meet 100% of the definitions and the Planning Board has to support that this is Area 3. Not to do so would defeat our bylaw. Is it buried river stratified drift throughout? If there is 1" that isn't, it breaks it as the bylaw says "all", not "majority". Mr. McKinnon stated that with regard to whether there is 1" of this or 1" of that, there is a high degree of variability and that is not what he thinks the bylaw means. This area need to be protected as it goes into our wells. He can bring in a sample of coarse or fine material too.

Mr. Macchi stated this has nothing to do with the bylaw. Mr. Mazzocca read the bylaw out loud. He stated he doesn't see where it says 100%. Mr. Macchi stated it doesn't say it can be less than 100%. Mr. Muti stated it is the charge of the Sewer and Water Commission to protect our water. At the moment, there are three crisis areas in town, two of which are Walpole Park South and Metal Bellows. It is not his problem that the petitioner went out and purchased this land and now we have to change the designation. His charge is to protect the water supply of this town. The petitioner knew it was Area 2 when he bought the land. The majority of that property is in Area 2; therefore, it should be left in Area 2. Mr. Macchi stated that Metal Bellows happened because of the PCB that can't be used any more. Those same chemicals could be used right up to this property line. The argument that he knew it when he bought it is not the applicant's fault. He would like to analyze the report when it comes out as he is hearing this for the first time tonight. You are protecting the town, but the landowner also has some rights. Back in November, his client offered to pay for this testing and the Sewer and Water Commission refused this money. That shouldn't be used against them. Mr. Muti stated it is their intent to remain independent from the petitioner's funding. Mr. Macchi stated what about peer review.

Mr. Merrikin stated he would like to address the fact that Mr. Muti says they shouldn't be here. He is here to explore inconsistencies and to try and rectify a mistake in the bylaw. Mr. Muti stated we have to follow the bylaw. It will be a while before they can re-do the town and they know they need to do that. But, right now there is a bylaw on the books and they have to follow it. They are meeting with the Selectmen on Tuesday and FinCom on April 26th. Mr. Conroy stated we don't meet again until after town meeting. Mr. Macchi stated they don't have the report yet either. Mr. McKinnon stated he will have the report on Monday. Mr. Muti stated the Finance Committee will cast a recommendation at town meeting. Mr. Macchi stated they also asked for the report. They haven't made a recommendation yet either. Mr. McKinnon stated that the last time they were before FinCom, they hadn't been out to the site. Mr. Murtagh stated he would like to get the report before voting. Mr. Conroy stated we don't have a meeting before then. Mr. Nottebart asked what happens if we don't vote tonight. Mr. Conroy stated we have to make a recommendation at town meeting. Mr. Macchi stated the board could hold it until that day. Mr. Conroy stated he is not one for having a public meeting at the high school.

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Mr. Mazzocca asked if there is anything in the report that you didn't tell us about tonight. Mr. Muti stated no. It is a technical documentation. What you are hearing tonight is in layman's terms of what was found. The document will only be a technical document. The board needs to be assured they can make a decisive decision on that. Mr. Mazzocca stated there are two engineers giving their opinion as to what they have seen. However, the water supply of the town is involved. Mr. Conroy stated we need to see a report.

Donnell Murphy, West Street: as the applicant, he is astounded at this. He uses the water supply in town and doesn't want it to be affected. He would be hiring 200 people. They have offered restrictions and safeguards to the town and will do whatever uses are allowed. They have admitted that some of the Area 2 is incorrect. Walpole Park South has been an asset to the town in their search for development. There will be restrictions on the uses. It is so frustrating to build in this town. This is a political block as to what is happening here. He is one of the largest taxpayers. He doesn't want the water supply to go down.

Mr. Macchi stated they have a covenant with the town that is more restrictive than our bylaw. They will have more protection to be in Area 3 with a covenant in place than in Area 2 without a covenant. Mr. Muti stated they had all these protections in place for Walpole Park South. Put together what is going on: Ray Johnson is the geological engineer and represents Walpole Park South. Mr. Conroy stated that Mr. Muti said they are protecting the water and it may be tainted; but, because you work for Sewer and Water, you guys are on one side and these people are on the other side. We are up against time. We don't meet again before town meeting. We have no report from you and we have to give a report to town meeting. We need to vote on this.

Mr. Forsberg stated the difference between Area 2 and 3 is the prohibited materials. Area 3 has to have a special permit from the ZBA, Planning Board or Board of Health. Mr. Macchi stated that Area 3 with a covenant has more protection than Area 2 without it. There will be a chart of every chemical and quantity. You will not have that in Area 2. We have done the study, research and borings and this is an Area 2. He agrees with Mr. Conroy that we need to have these findings in writing or in a report.

There were no further questions.

Mr. Conroy moved to close the hearing. Motion seconded by Mr. Murtagh and voted 5-0-0.

Mr. Conroy made a motion for Favorable Action on Article 30. Mr. Forsberg seconded the motion for discussion.

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Mr. Forsberg stated that at the last meeting that based on the facts presented, he would have to vote in favor of this. He doesn't think we have enough facts to disapprove the applicant's presentation. Also, the only difference is a special permit which could be controlled. His one question is: what is the difference in quantities. Mr. Macchi stated it would be "household quantities" in Area 2; in Area 3, it could be more than "household quantities" by Special Permit. He stated they can paint a line across the floor of the proposed building separating the building into Area 2 and Area 3. Mr. Forsberg stated that district delineation is usually the majority of the lot. The majority is in Area 3, but we don't have anything in Section 11 as far as the delineation of the district.

There were no further comments. Motion voted 2-1-2 (Conroy, Forsberg in favor of the motion; Mazzocca opposed to the motion; Nottbart and Murtagh abstained).

Discussion on Articles 24 and 25: Mr. Conroy read a memo dated March 24, 2010 from the Conservation Commission in opposition to Article 25. Mr. Boynton submitted the proposed Section 13 of the Zoning Bylaw to the board. He stated the new Section 18 in the handout states what was intended to always be the case, which is that all wetland protection bylaws and regulations of the town and the regulations and statutes of the Commonwealth are to remain applicable and in full force within the WBOD. The Selectmen voted this change. Town Counsel also agreed that this doesn't change the scope of the article.

Stephanie Mercandetti, Economic Development and Grants Officer, walked the board through the changes before them. Mr. Forsberg asked if the Planning Board does the special permit no matter what even if there is no site plan associated with it. Ms. Mercandetti stated yes. She further said that Article 24 has no changes. Mr. Forsberg asked if this conflicts with anything else we have now. Mr. Boynton stated there has been great debate on whether or not Level 3 or 4 can be done now. There are different interpretations. It is more clearly addressed now. Siemens did say that in 2006 they came in under a medical manufacturing use. Mr. Forsberg stated they need to go to the Board of Health first and we won't see anything until they act on it. Mr. Boynton stated that is correct. Ms. Mercandetti agreed also. Philip Macchi, II stated there may be multiple filings all at once and there is also a mandatory condition of approval.

Mr. Forsberg stated he thinks there should be a special permit for a building over a certain size. He agrees with Ms. Muti that anything over 100,000 s.f. needs to have a special permit so we can add special conditions. Mr. Boynton stated to do that now would be adding another use and we could get into a scope issue. Mr. Mazzocca stated that is an issue that goes back to the 2009 Fall town meeting. Mr. Boynton feels that anyone who has watched Sam Lipson's presentation would know there is more risk going into Stop and Shop than into one of these facilities. Mr. Lipson says we should protect the people working in those labs rather than the person down the street.

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Mr. Boynton stated he understands the concerns about the next 100,000 s.f. building, he understands the fears of what Levels 1, 2, 3 and 4 are all about, he understands all those issues, but feels that his concerns and those of the Selectmen were mitigated by Mr. Lipson's presentation.

Mr. Forsberg asked when you go to the actual containment area, what is the criteria and specifics. He was told before it depended on what you are using and asked if that is listed some place. Mr. Canary stated all details are well documented. He believes they need to have a third party review and provide written documentation and signature. All information is available on the CDC website. It is key card access to various locations inside the building and people are granted access to these places as they are training qualified. Mr. Forsberg stated he would like to know who we are dealing with. Mr. Canary stated that part of the requirements of the Board of Health is they have to maintain on record who these people are. Mr. Forsberg asked if changes would be updated and Mr. Canary stated yes. Mr. Forsberg stated he feels more comfortable because of the changes before us tonight.

Mr. Mazzocca stated what he is hearing from other members is this would be the same as any other site plan. He thinks there is no Planning Board in the State that has dealt with this issue. We will be saying it is okay for this business on this site to operate on Bio safety Level 3. Mr. Boynton stated that what you are saying is true, but the use of materials is being approved by the Board of Health. Mr. Mazzocca stated that by the time it gets to us, we will know what those materials are. Mr. Boynton stated that is correct. Mr. Canary stated it will take him a year to build the site and it costs about \$5,000/square foot. It is extremely expensive. He is in a Catch-22 situation; the Board of Health needs to approve the materials and use and where they are stored; the Planning Board needs to approve the building and won't do so until Board of Health approval is received. Mr. Macchi stated there is another piece and that is the Board of Health will be the materials go-to people. Robin and another member will have access to everything as far as the Bio-level 3 goes, but they will have to sign confidentiality statements. They will report back to the Board of Health with what you can and cannot do. Mr. Forsberg stated that the facility needs to be built before the Board of Health allows them to use it. Mr. Canary stated it needs to be built, people hired and trained. Ms. Mercandetti stated that in addition the Board of Health information will have to be renewed on an annual basis.

Mr. Murtagh questioned the Bio 2 special permit and asked if that would have a negative impact. Mr. Boynton stated it would be a problem with what we presently have. Mr. Canary agreed. He stated they have somewhere between 100,000 s.f. to 150,000 s.f. that fits into that category and they have 200-300 different materials that would fit into that category. It would be most difficult to go back through the process. Mr. Murtagh stated it would probably be difficult for both Siemens and the town. Mr. Nottebart asked if we are treading into a dangerous territory. Mr. Conroy stated there is nothing in our book that would stop a Level 4. Mr. Mazzocca stated he is not sure that someone could come in and do any level right now. He feels that is open to interpretation.

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He feels it needs to be defined. Mr. Boynton stated we do have a biotech facility in this town. What is proposed here is greater levels of scrutiny. This is a beautiful facility. Mr. Mazzocca stated another issue is that half of this property is zoned residential. He asked if this is the only overlay district in town. Mr. Johnson stated no, there are two others. Mr. Mazzocca stated we are changing a residential parcel to a biotech parcel and he is not comfortable with that. Mr. Conroy stated that the residential portion will still require a buffer zone next to the industrial or manufacturing portion. He asked if the parcels are separated by water and Mr. Macchi stated yes, by Traphole Brook. Mr. Conroy questioned if Level 4 is done by any private companies and Mr. Mr. Canary stated most are operated by the federal government, but there is one that isn't and they do work for universities. There is only a total of 10-12 facilities in the entire world.

There were no further questions or comments.

Mr. Conroy moved to recommend favorable action on Article 24. Motion seconded by Mr. Forsberg and voted 5-0-0.

Mr. Conroy moved to recommend favorable action on Article 25 as amended and presented tonight. Motion seconded by Mr. Murtagh and voted 4-1-0 (Mr. Mazzocca voted against the motion).

Article 26: Mr. Boynton stated that the reference to timing was removed.

It was moved, seconded and voted to adjourn. The meeting adjourned at 11:35 P.M.

Respectfully submitted,

John Murtagh, Clerk

Accepted 5/6/10