

WALPOLE PLANNING BOARD MINUTES OF FEBRUARY 4, 2010

The Town of Walpole Planning Board held a regular meeting on Thursday, February 4, 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; John Murtagh, Clerk; Richard Mazzocca; and Richard Nottebart. Donald Johnson, Town Planner; and Margaret Walker, Town Engineer; were also present.

Minutes:

Mr. Conroy moved to accept the minutes of January 7, 2010. Motion seconded by Mr. Forsberg and voted 5-0-0. Mr. Conroy moved to accept the minutes of January 21, 2010. Motion seconded by Mr. Forsberg and voted 5-0-0.

Other Business:

The Board members had a brief conversation about whether there could be a standard condition of approval for site plans whereby site owners would be required to maintain minimum standards for the condition of parking lots such as repairing potholes or broken pavement within a reasonable time. Mr. Johnson will check with Jack Mee, Building Commissioner, to see whether he would be able to enforce such a condition.

Time Cards: Mr. Conroy moved to approve the Town Planner's time cards for the weeks ending 1/22/10 and 1/29/10. Motion seconded by Mr. Forsberg and voted 5-0-0.

Evaluations & Memo from Personnel Board: No action taken.

Printworks – Invoice/Work Order No. 23731: This was for Mr. Nottebart's nameplate. The Board agreed that Mr. Johnson would sign the invoice and payment paperwork on behalf of Mr. Conroy and submit the paperwork to the Town Accountant.

Land Court and Registry of Deeds Signature Letters: The Board members signed these letters, which will notify Land Court and the Registry that there is a new signatory member of the Planning Board. Mr. Johnson will mail them.

Request of Richard A. Gelerman on behalf of REI Properties I LLC to extend the completion date of Plimptonville Crossing site plan (exp. 3/6/10): Mr. Gelerman was present on behalf of the Applicant. Mr. Conroy moved to extend the completion date of Plimptonville Crossing site plan to March 6, 2012. Motion seconded by Mr. Forsberg and voted 5-0-0.

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Request to endorse Site Plan of Cormac Kennedy, Case No. 09-10: Mr. Johnson noted that he had reviewed the site plan as revised pursuant to the conditions of approval, and it appeared to be in order. Mr. Conroy moved to endorse the Site Plan of Cormac Kennedy. Motion seconded by Mr. Murtagh and voted 5-0-0. The Board members then signed the plan.

ANRs/Subdivisions/Bonding:

ANR – Lots 67 (#15) & Lot 68 Walpole Park South, Walpole Park South VIII Realty Trust: Dan Merrikin of Merrikin Engineering presented the ANR Plan to the Board. The ANR Plan is drawn by Paul J. Desimone PLS, 38 Coffee Street, Medway, MA, dated February 1, 2010, submitted on behalf of the applicant by Merrikin Engineering, LLP, 2 Milliston Road, Suite 1C, Millis, MA for property shown as Assessor's Map 54, Parcel 5 and Assessor's Map 47 Parcel 16, Lots 67 (#15) & Lot 68 Walpole Park South. The Zoning District is IND, with a non-applicable portion of a lot associated with an electrical easement that fronts in and is partially within the RA District. The owner and applicant is Walpole Park South VIII Realty Trust, 7 West Street, Walpole, MA, and the 2nd owner is Walpole Park South VI Realty Trust, 7 West Street, Walpole, MA. The owner's title to the land is derived under deed from Walpole Park South VIII Realty Trust, dated November 4, 2003, recorded in Norfolk County Registry of Deeds in Land Court Certificate of Title No. 166334 and 166332, registered in Dedham District Document Nos. 1003505 and 1003503. The purpose of the plan is to swap land between three lots, and increase frontage on one lot and decrease frontage on another lot, all within Walpole Park South. All lots would remain conforming in all respects. Mr. Forsberg asked if the lot fronting on South Street would be buildable, to which Mr. Merrikin explained that technically it would be buildable by zoning, having the frontage and area required for the RA district, but in reality it would not be built upon because it consists almost entirely of land covered by the power line easement of the electrical utility (NSTAR). Mr. Conroy motioned to endorse the ANR plan of Walpole Park South VIII Realty Trust, finding that the plan does not require approval under the Subdivision Control Law because either: (1) every lot shown on the plan has frontage of at least such distance as presently required by the Town of Walpole Zoning Bylaw under Section 6-B which requires 150 feet for the erection of a building in the RA District and has frontage on a public way, namely South Street; (2) every lot shown on the plan has frontage of at least such distance as presently required by the Town of Walpole Zoning Bylaw under Section 6-B which requires 200 feet for the erection of a building in the IND District and has frontage on a way shown on a plan theretofore approved and endorsed under the subdivision control law, namely Walpole Park South; or (3) it shows a proposed conveyance/other instrument, which adds to/takes away from/changes the size and shape of lots in such a manner so that no lot affected is left without frontage as required by the Town of Walpole Zoning Bylaw under Section 6-B, or no frontage is further reduced as a result of this plan. Motion seconded by Mr. Forsberg and voted 5-0-0. The Board members then signed the plan.

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Other Business (continued):

Request of the owner of #15 Walpole Park South for a minor modification of Site Plan approval for Walpole Park South VI: Dan Merrikin of Merrikin Engineering presented this request for a minor modification to the drainage system approved on the site plan for Walpole Park South VI (Case No. 98-4), and a rendering of the modification, to the Board. The ANR plan that the Board had just approved would accommodate the site plan modification. Mr. Conroy motioned to determine that the proposed modification to the drainage system shown on the site plan entitled "Layout WPS VI Site Plan of Land in Walpole, MA" latest revision February 8, 2010 by Merrikin Engineering is a minor modification. Motion seconded by Mr. Forsberg and voted 5-0-0. Mr. Conroy motioned to approve the minor modification to the site plan with the understanding that the modification will be shown on the site plan for the adjacent vacant lot when a site plan is submitted for that adjacent vacant lot, noting that the lot (land area) will be getting larger and that there would be no net effect on the detention basin. Motion seconded by Mr. Forsberg and voted 5-0-0.

Appointments:

7:40 P.M. Legacy Lane Definitive Subdivision Continued Hearing: The applicant was represented by Philip Macchi, Esq., 1256 Washington Street, Norwood, and by Bob Babcock of Dunn McKenzie, project engineer.

Ms. Walker said she had two outstanding items that could be addressed with special conditions of approval.

Mr. Macchi said when we were here in January Ms. Walker had a list of concerns, all of which have been accommodated. The legal documents don't have to be changed, except that sight easement documents will need to be reviewed before endorsement of the plan.

Mr. Conroy said Town Counsel's response to the Board's inquiry about the covenant language put forth by the previous owners does not prohibit a three lot subdivision. He read the email response from Town Counsel. "What was approved previously does not bind them."

Town Counsel's other response was to the Board's inquiry as to the ownership of and guarantee for the necessary repairs, if any, of McKinley Ave due to construction of the subdivision. Counsel indicated that occupancy may be held until the subdivision is complete, but surety may also be posted. Mr. Conroy questioned, if you sell lots who is responsible for occupancy? Surety should be posted instead. Mr. Macchi suggested the road contractors meet with Ms. Walker before any work is done and post a bond for maximum damage to McKinley Avenue before any work is done. Mr. Conroy said the

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bond is posted by the owner of the subdivision. Mr. Macchi asked if the posting of a bond by a well known contractor in town would be acceptable. Mr. Conroy noted that in Brush Hill subdivision John Hasenjaeger and P.J. Hayes are partners in ownership of the land in the subdivision in order that P.J. Hayes could post the surety bond. Mr.

Macchi suggested a tripartite agreement, in which case the bank has an interest in the tripartite. He said when McPhee gets ready to begin construction they will come in for an amount and the bank will not release any funds until the last lot is done. Mr.

Mazzocca inquired, it's not town's road, how can the town enforce a bond, to which Mr. Macchi responded, put in a condition of approval of the subdivision that the applicant must post a bond for McKinley Avenue. Mr. Mazzocca inquired, is the town liable, to which Mr. Macchi responded, it is no different from subdivision roadway construction.

Mr. Mazzocca asked, what if one owner points a finger, to which Mr. Macchi responded, the Town Engineer verifies. Mr. Mazzocca asked, why would the town get involved, to which Mr. Conroy responded, the town would set up this mechanism in the best interest of the residents, but can landowners do work? Mr. Macchi said he would send a copy of the statute allowing construction on private ways to the Board.

Mr. Macchi then presented several plans to the Board showing the numerous lots created on McKinley Avenue over the years.

Mr. Forsberg said the town is not on the hook for construction of McKinley Avenue because the tripartite is not released until the Planning Board is satisfied that all construction has been completed. Who decides where we draw the line on road impact? Mr. Conroy said the Planning Board will deal with roads. The bond will be in place until completion of road. Mr. Macchi said the road is bonded.

Rose McPhee, applicant, said the time frame (for construction) is immediate. Mr. Murtagh asked, how long? Mr. Macchi said two years, as in the covenant.

Mr. Murtagh asked, how is the damage determined? Mr. Macchi responded, we will have lots of photos. Ms. Walker will set the bond amount before construction and the bond will be in place before construction. Ms. Walker said, what satisfies me may not satisfy the residents. We can't build what is there now. Mr. Macchi and Mr. Conroy replied, what if we put back what's there now – e.g., replace 1 ½" of pavement with 1 ½" of pavement. Mr. Macchi added, plus, they (the McPhees) will use it too. There may be two tripartites, one for McKinley before any construction starts and one for the subdivision. Mr. Conroy said we will probably add the cost of construction of the subdivision to the McKinley tripartite rather than having two separate tripartites.

Mr. Nottebart asked, do the neighbors have any say at all? Is it all on Ms. Walker? Ms. Walker asked, how do the neighbors have a say? Mr. Forsberg replied, their residents' representative would sign the back of the pictures. Ms. Walker said get the pictures first (not like Lakeview Drive Extension).

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Chris Knight, 20 McKinley Avenue asked, owns the water line? Mr. Macchi responded, there is a deed from Sanborn granting the water main to the town. Mr. Knight asked, what if it has to be replaced? Mr. Babcock responded, it is an eight inch main. Ms. Walker responded, if replaced the bond is used to make the repair.

Cheryl Sullivan, 5 McKinley Avenue asked, what about the covenant? Is McPhee subject to that covenant put forth by the Woods family for the Malo Terrace subdivision? Mr. Conroy responded, provided that they use that subdivision. Ms. Sullivan asked, was the covenant removed? Mr. Conroy responded, the deed gave them rights to that subdivision. Mr. Macchi said, according to Town Counsel they can re-subdivide then that covenant disappears. Mr. Forsberg said, a whole new subdivision is not binding on that one. It may be different if they had started.

Mr. Conroy moved to grant the requested waivers. Motion seconded by Mr. Mazzocca and voted 5-0-0.

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

Mr. Conroy made a motion to approve the subdivision as amended through January 14, 2010, with 25 standard conditions, and 9 special conditions including requirements for money-based surety to cover any damages to McKinley Avenue. Motion seconded by Mr. Murtagh and voted 5-0-0.

8:33 P.M. B&C Floral, 1415 Main Street, Case No. 09-8 Continued Hearing:

Bob Babcock of Dunn McKenzie and Basilios (Bill) Glaropoulos, applicant, were present to discuss the amendments made to the plan since the last hearing session, pursuant to revisions made to the plan and drainage report through February 1, 2010.

Mr. Babcock discussed drainage concerns that Ms. Walker had had in earlier reviews, which had either been addressed on the plan or in the drainage report as revised. Regarding Ms. Walker's request to show sewer connections, Mr. Babcock noted that the site actually has a septic system, which is located to the front of the building.

Traffic control issues were then discussed. Mr. Forsberg noted that he had visited the site since the last hearing session, and he suggested that all access to the rear of the site should be via the driveway to the right side of the building, and be controlled with stop signs and an attendant. Mr. Nottebart noted that he had also visited the site and suggested that there be controlled access at both sites with gates. He also suggested that parking in the B&C Floral lot for cross pedestrian usage between that lot and the neighboring Dunkin' Donuts lot, and for motor vehicle traffic crossing over from the Floral lot onto the Dunkin' lot, should be controlled by a guardrail with an opening for a crosswalk from

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the Floral lot to the Dunkin' lot, in order to restrict cross traffic that would go between the two lots, increasing pedestrian and vehicular traffic safety. Mr. Glaropoulos said he would rather use speed bumps than a guardrail, to avoid U-turning in the Floral lot. Mr. Babcock suggested the guardrail would extend from the landscaping island at the southerly corner of the site up to the hachured area in the parking lot, with a five foot opening for a crosswalk to the front door of the Dunkin' Donuts building. It was agreed it would be a wooden guardrail. Mr. Forsberg asked whether concrete curb stops should be installed, to which Mr. Glaropoulos questioned the ability to plow. Mr. Glaropoulos said there have been no accidents as it is. Mr. Murtagh asked whether the Dunkin' Donuts trucks would still be able to use the rear of the B&C Floral lot, via the driveway to the left of the building, to turn around in back, to which Mr. Glaropoulos said he had no problem.

The setting of special conditions of approval to address issues brought forth in this and in previous hearing sessions was then discussed. This included driveway access, the guardrail installation, enhancement to the buffer zone at the rear of the lot, the access easement across the Dunkin' Donuts lot, the installation of a grease/oil trap in the rear storage building, delineating of handicapped parking spaces, construction and trash collection hours, and the prohibition of overnight running of truck motors on the site.

Mr. Conroy made a motion to approve the site plan as amended through February 1, 2010, with 23 standard conditions, and 8 special conditions to address the issues brought forth in the hearing sessions. Motion seconded by Mr. Murtagh and voted 5-0-0.

ANRs/Subdivisions/Bonding (continued):

Request of Wisteria Ways Corp. to extend Wisteria Ways II Form F (exp.3/18/10) and bond: John Walsh of Walsh Brothers Construction, the Applicant/Developer of the subdivision, had submitted a letter to the Planning Board dated January 15, 2010 requesting a two year extension. Mr. Conroy mentioned that this subdivision has been phased over several years. The covenant is to extend construction dates for the remaining portion of Lavender Lane, and all of Daylily Lane and Red Gate Road, which have not begun construction. The bond covers remaining construction of a portion of Gristmill Lane. Mr. Conroy motioned to extend the subdivision and Form F covenant for Wisteria Ways II for two years, up to and including March 18, 2012. Motion seconded by Mr. Forsberg and voted 5-0-0.

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Other Business (continued):

Articles to amend the Zoning Bylaw, that are scheduled for the Spring 2010 Town Meeting Warrant (Set hearing date(s)): The Board of Selectmen had submitted two petitioned Zoning Bylaw amendment articles to the Planning Board: (1) a proposed zoning map amendment changing land within Walpole Park South from Water Resources Protection Overlay District Area 2 to Area 3, for which the Board set the hearing for March 18, 2010 at 7:30 pm in the Main Meeting Room in Town Hall; and (2) a proposed text amendment that would allow a special permit for Assisted Living within the R zoning district that abuts County Street (Route 109), for which the Board set the hearing for March 18, 2010 at 8:15 pm in the Main Meeting Room in Town Hall.

Correspondence:

Engineering Department Re: Plans and Documents relative to Joseph Lane: Ms. Walker had given the Board a copy of a response letter from Applicant/Developer Mike Federico's lawyer to her letter with regard to items needing to be completed, as discussed a few meetings back, and a copy of as-built plans and a plan to amend the layout line. Mr. Johnson provided the Board members with a copy of his letter, for discussion, and possible action at a future meeting, and with a reduced copy of a portion of the plan showing changes to the layout line. He noted that at this point the applicant wishes the street to remain private, and to adjust the layout and lot lines with an ANR plan.

Town Administrator Re: Open Meeting Law Changes: Mr. Johnson provided the Board members with copies of these additional memos from Town Counsel relative to changes to the Open Meeting Law that will become effective on July 1, 2010.

Home for Little Wanderers Re: Neighborhood Meeting: The neighborhood meeting was taking place at the same time as the Planning Board meeting (evening of February 4, 2010). Mr. Johnson noted that the Home for Little Wanderers would likely be meeting at least once more with the Design Review Committee before submitting formal applications to the various Town agencies.

Requests for Comments:

ConCom re: NOI, 4 Mill Pond Road, Roger Turner, Applicant: Mr. Johnson had drafted a letter dated February 4, 2010 addressed to the Conservation Commission regarding this application, which he presented to the Board. In the letter, it was stated, "Since this particular filing before the Commission requires no Planning Board action, the Board has no specific comments on this application at this time." Mr. Conroy signed the letter. Mr. Johnson would submit the letter to the Conservation Commission within the next few days.

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Town Planner's Report:

Mr. Johnson noted the particular item in his report that referenced the brief discussion at the January 21, 2010 Planning Board meeting of the **FY 2010 District Local Technical Assistance (DLTA) Funds** that will be available from MAPC over the next several weeks, which are being allocated on a rolling basis through March 31, and that that this program could under some circumstances be used to fund planning projects, potentially including the Scopes of Services for the Economic Development Overlay Zoning Districts/future 43D sites that the Board had developed in May – June 2009. He noted that Stephanie Mercandetti (Economic Development and Grants Officer) and he have been considering that this MAPC funding source may be employed for a study of the area around and including the Bargain Outlet site for such an overlay district. Upon his inquiry to the Board as to whether this pursuit is worthwhile, the Board agreed that this funding source and study should be pursued. He would develop a draft application to be submitted to MAPC, which he would have ready for Board discussion at the February 18, 2010 Planning Board meeting

Adjournment:

Mr. Conroy moved to adjourn the meeting. Motion seconded by Mr. Forsberg and voted 5-0-0. The meeting was adjourned at 9:28 P.M.

Respectfully submitted,

John Murtagh, Clerk

Accepted 3/4/10