

WALPOLE PLANNING BOARD MINUTES OF JANUARY 21, 2010

The Town of Walpole Planning Board held a regular meeting on Thursday, January 21, 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.

Town Planner's Report: Mr. Johnson went through his report of his activities since the January 7 meeting and anticipated activities up to the next Planning Board meeting on February 4, 2010. The discussion included particular attention to the following items mentioned in the Report:

- Mr. Johnson noted that the Community Development Strategy that Stephanie Mercandetti (Economic Development and Grants Officer) has put together in preparation for an application under the CDBG program that will be heard at the Board of Selectmen's meeting on January 26, 2010, and that a representative of the Massachusetts Department of Public Health will also be present at that meeting to speak on the subject of Biotech
- The Board discussed the status of any activities of Allied Recycling with regard to the Board's duties, noting that there was no qualified site plan pursuant to the Zoning Bylaw anticipated to be before the Planning Board at this time or in the near future, and that the Building Inspector would likely be setting up a Design Review Committee meeting with the property owner before any formal plans for new construction on the site are submitted to Town agencies.
- Mr. Johnson had distributed to the Board members, as a part of his Report and of Other Business on the Agenda, draft copies of the article and related material he had been working on with Ms. Mercandetti and Jack Mee (Building Inspector) to amend Signage sections (Section 7, Signage, and Section 14, Definitions) of the Zoning Bylaw to allow LED Digital Signage, an emerging technology in the signage field. It was assumed that any resulting Town Meeting article would be sponsored by the Board of Selectmen, since they had summoned the study and request to amend the Zoning Bylaw for this purpose.
- Mr. Johnson mentioned that he would like to attend the 2010 Clean Air and Mobility Program information session in Wellesley on the morning of Wednesday, 1/27/10, as this program has potential to be a grant funding source for downtown sidewalk improvements, building upon the information on other related funding sources discussed at the two State Funding Resources sessions that Ms. Walker, Ms. Mercandetti, and he had attended last year. Ms. Walker said she would most likely be attending the meeting as well, and Ms. Mercandetti said she will likely be attending. The Board approved Mr. Johnson's attendance at this meeting with the understanding that this program and any ensuing grant application to create a project that will utilize said grant funding is part of a joint effort of Town agencies and that the Planning Board wouldn't be spearheading any particular related program or project.

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ANRs/Subdivisions/Bonding:

ANR – Highland LLC (David L. Wakefield); North Lewis Park Drive: John Anderson, who prepared the plan, was present to explain the plan to the Board. The proposal is to cut a parcel from a lot and add it to the other neighboring lot. Mr. Wakefield would get part of a present building lot, on which a single family home is under construction, conveyed back to his property as part of a sales agreement. Mr. Conroy moved to endorse the Approval Not Required plan of Highland LLC dated 1-11-2010, finding that the plan does not require approval under the Subdivision Control Law because 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. Mazzocca and voted 5-0-0.

ANR – Richard D. Famiglietti, Executor of Estate of Marjorie L. Famiglietti / Fireside Realty Trust, Robert T. Potter, Trustee; Village Drive/Main Street: John Anderson, who prepared the plan, was present to explain the plan to the Board. The proposal is to cut a parcel from a lot, which will become a new building lot, and add it to a small existing neighboring non-buildable parcel in the process. Mr. Conroy moved to endorse the Approval Not Required plan of Richard D. Famiglietti, Executor of Estate of Marjorie L. Famiglietti / Fireside Realty Trust, Robert T. Potter, Trustee dated 1-5-2010, finding that the plan does not require approval under the Subdivision Control Law because 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 125 feet for the erection of a building in the RB District; and every lot shown on the plan has frontage on a public way, namely Village Drive or Main Street. Motion seconded by Mr. Mazzocca and voted 5-0-0.

The Trails – Request to extend plan endorsement date: Ron Priore, applicant, was present to request an extension to the timeframe to endorse The Trails definitive subdivision plan. A letter requesting an extension had been filed by his engineer for the plan, Rick Merrikin, because the legal documents that need to be recorded along with the endorsed plan had not yet been prepared by Mr. Priore's attorney and therefore had not been received by and reviewed by the Board. The letter from Mr. Merrikin requested an extension to February 28, 2010. Mr. Priore suggested a further extension, to March 15, 2010, to give his attorney more time to draft the legal documents and for the Board to in turn review the documents before endorsement. Mr. Conroy moved to extend the timeframe for endorsement of The Trails subdivision plan to March 15, 2010. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Priore will see to it that a letter is submitted to the Planning Board Office changing the requested timeframe to March 15, 2010 as voted.

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Appointments:

7:37 P.M. T-Mobile, 41 Wagon Road, Case No. 09-11: The applicant was represented by Terri Feuersanger of Tower Resource Management, Agent to T-Mobile Northeast, LLC.

Mr. Conroy read the public hearing notice. Ms. Feuersanger stated that T-Mobile had negotiated a lease with the Town to use space on and adjacent to the Wagon Road water tank to cite their wireless communications equipment, as several other wireless carriers already have. The Board of Appeals (ZBA) had approved T-Mobile's special permit for this purpose on January 6, 2010. T-Mobile will be using about 300 square feet of the compound next to AT&T. Access to their facilities will be via the existing gate for the water tank. T-Mobile will be installing three utility cabinets at the base of the water tank, which will be painted the same color as the tank. Their portion of the compound will be enclosed with an unclimbable fence. Their facility will be essentially the same as those of the other carriers.

Mr. Conroy read written comments that had been received from the Board of Health, Police Department, and Deputy Fire Chief. The Board also had a copy of the special permit issued by the ZBA. Ms Walker made comments including (1) Number of scheduled site visits (Ms. Feuersanger said one to two per month); (2) The strip of land not owned by the Town that will be used to access the site (Ms. Feuersanger will obtain the document giving written permission of the Owner, John Hasenjaeger, and will leave a copy with the Board); and (3) The easement on the Town land (Ms. Feuersanger explained that all necessary arrangements with the Town had been negotiated through James Johnson, Assistant Town Administrator).

Abutter Susanne Shroba of 47 Wagon Road expressed concerns over the existing condition of the subject site, noting holes in the fence that surround the entire site, an orange construction barrel that had been left on site, exposed wires in the access road, and an exposed, unlocked high voltage box. She left recent pictures of the site with the Board. Ms Shroba also questioned the procedures that T-Mobile would follow in the event of testing and alarms going off on the site. Mr. Conroy noted a condition in the ZBA's special permit that addressed annual testing of the radio frequency.

Mr. Murtagh directed the Applicant to clean up their act. Ms. Shroba noted easy access to the site was available to anyone, and she noted a rusted cylinder associated with one carrier's backup generator. Mr. Conroy said the Board will forward the pictures to the Board of Selectmen, as the Landowner, along with a cover letter noting the condition of the property, which the Board will copy to Ms. Shroba. Mr. Forsberg directed the Applicant to keep the fence up to standards. Ms. Feuersanger noted that their fence is a separate fence surrounding their equipment specifically. The Board would set a special condition stating that the Applicant is responsible for upkeep and repair of their fence.

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Mr. Forsberg asked if there was battery backup power. Ms. Feuersanger said yes, and a generator would only be brought in only in the event of an extreme emergency (there wouldn't be one left on site).

Ms. Shroba noted that alarms have gone off when no one is around; this can be a noise issue. The Board would set a special condition requiring emergency numbers to be posted on T-Mobile's equipment.

Ms. Feuersanger noted that there would be six antennas mounted at a height of 80 feet. Ms. Shroba noted that the antennas could be seen from at least two nearby homes.

Mr. Conroy moved to grant site plan approval to T-Mobile, Case No. 09-11 as per a plan dated Revised through October 15, 2009 subject to nine (9) standard conditions and subject to seven (7) special conditions that address specific issues raised at the hearing. Motion seconded by Mr. Mazzocca and voted 5-0-0.

8:17 P.M. Cary Orlandi, d/b/a Millbrook Homes, 2255 Route 1, Case No. 09-12:

Mr. Conroy read the public hearing notice. Cary Orlandi, the Applicant, was present. His Engineer, Drew Garvin of Wilson Associates, was also present. Mr. Orlandi gave a general presentation of the site plan. He had met with Jack Mee, Building Inspector, and Michael Boynton, Town Administrator, regarding Stadium event parking, and he had met with the Board of Health, the Deputy Fire Chief and the Plumbing Inspector regarding hooking up water, and a sink tank, which would be pumped, to the model home displayed on site. Mr. Orlandi noted that Stadium event parking would require police details, which he was ok with. He was proposing landscaping in the front of the lot. At the hearing before the Board of Appeals (ZBA) on the evening of January 20, 2010, for requesting a side yard variance for the model home, he had offered a screen of 6' hemlocks at that side yard; but he said he would not fight the opposition expressed at that hearing. In turn Mr. Garvin presented a revised plan showing a smaller model home and future model home location that would meet all setback requirements, numbered parking spaces for event parking, 178 parking spaces, 1,985' of sight distance along Route 1, and the sign moved further into the site. Mr. Conroy reminded them that the revised plan must come back to the Board for review at least 14 days before the next hearing session, and that the revised plan should include an explanation of some type, on the plan, of all changes from the original submission.

Mr. Conroy read written comments that had been received from the Board of Health, Police Department, Deputy Fire Chief, Conservation Commission, and Board of Sewer and Water Commissioners. Ms. Walker went through her comments.

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Attorney Jerry Blair, representing the abutter to the immediate south of the subject site, Goddard School, stated that the site plan is only used for design. The Zoning Board of Appeals was not aware of stadium event parking at their hearing the previous night. This would cause tailgating, generating noise, smoke, and dust. The school, which educates six to twelve year olds, has been there since 2001, and has no stadium parking. Stadium parking would produce noxious conditions. The Zoning Board will see the new plan on February 10. Stadium event parking is prohibited because it is a noxious use. The HBD District does not include model home sales. This use is not delineated. Residential neighbors are affected by tailgating long before and after stadium events. The site is in the WRPOD Area 3, has been vacant three and a half years and is not grandfathered. The site is about ninety percent impervious. Parking cars should not be permitted. That could be a danger to the aquifer with grease leaking into the ground. No reviewers mentioned this problem. There are no plans to treat drainage. The property is higher than the school. There are five porta-johns to be installed. Crowds are expected with no way to police the action. Neighbors continue to suffer with noise, debris, drinking, and fights. No height of model homes is mentioned. Placing them that close to the school is a threat to the school; people could begin peering into the school building through their low windows. The ZBA application was not withdrawn. These are site plan issues. Safety is an issue. The two residential homes are a prohibited in the HBD District. That there are no drainage studies or standards is of concern to the school.

Mr. Conroy asked if the school is open during stadium events. Mr. Blair answered, 7:00 AM to 6:30 PM. He further stated that stadium events occur on weekdays, and partying for evening events begins by 3:00 PM with all the offensive and obnoxious uses. He said there is parking for two hundred cars. Mr. Conroy asked Mr. Blair if his client has parking, and Mr. Blair said yes. Mr. Conroy said low windows are not an issue, and he noted that stadium parking is not controlled by the Planning Board; the Board of Selectmen sets events parking conditions. Mr. Blair said partially correct; but noxious uses are prohibited, so the ZBA has say; if this were brought before the ZBA, they would find noxious uses. Mr. Conroy said no one will live in the homes. The applicant has been required by the Town to hook up to plumbing, via the Plumbing Inspector. Mr. Blair said don't mix a residential use, it still is a home. Mr. Forsberg said what if it never came off the trailer. Mr. Blair answered it is not a chattel but real estate. He said the pavement is nonconforming, and a special permit is necessary for a paved area of greater than 2,500 square feet in the WRPOD Area 3.

Mr. Blair agreed to leave a listing of his thoughts and things he said on the matter of the site plan.

Elaine McKay, 44 Irving Drive, noted her home is directly behind the property, about one hundred and fifty feet behind. Parking is her concern. She could have eight hundred people in her back yard three hours after events, with noise until 3:00 AM. Exiting traffic would create a bottleneck. Toilets would encourage people to stay.

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Mr. Conroy said the parking issues are under the Board of Selectmen, the Planning Board is here only for the businesses. Mr. Garvin stated that the back fence is the same, parking and the forty foot buffer zone are the same, and no fires or tents would be allowed. Mr. Conroy noted again that the Board of Selectmen conditions parking.

Shelly McLane, of 42 Irving Drive, said she has a three, a six, and an eight year old. Their quality of life is affected by the noise and problems of tailgating. Parking is part of their business. Mr. Conroy said if the lot gets trashed, it may not be worth it. The property is all wooded in back and the plan has not taken the proposed use all the way back.

Dr. Shelly Alexander, owner of the Goddard School's first concern is the children, who are six weeks to six years old. She is worried about the drainage and her school does not allow stadium parking. Her school is on high alert for sex offenders, a serious problem. Rowdiness and security breeches have happened.

Mr. Orlandi stated that at the ZBA meeting he said he will not fight opposition to the variances, he will submit a letter. Approximately fifteen customers a week will look over the mobile homes. There will be no tailgating or drinking, and parking will be for no more than one hour before or after stadium events. Model homes change every five years. They unbolt, and would be removed quickly, and no one would live in them. People won't buy model homes if the site is trashed.

Mr. Mazzocca inquired about the existing building, and its lighting. Mr. Orlandi explained that it is a company with parts storage. It has four or five employees who work basically 9:00 to 5:00. The lights are facing away from the residential area into the site.

Mr. Mazzocca questioned whether people would wait until one hour before a stadium event. He asked if there had been any previous parking on the site, and Mr. Orlandi didn't know. Dr. Alexander stated that for the past fifteen years that they have been there, the landlord told them to keep an eye on illegal parking.

Mr. Orlandi commented that the original plan was for two porta-potties, now there are five because they were asked to put in three more.

Mr. Forsberg states that the measurements of the buffer area should be on the plan, a fence on three sides is to remain on the plan, a dumpster should be screened, and questioned whether a plant tent requires a 40' side yard setback (will be checked with the Building Inspector).

Ms. Walker noted that no drainage is shown. Mr. Garvin said there is one drain in the corner of the lot, which may be plugged.

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Mr. Orlandi explained that the when the Board of Health issued their comment letter they didn't know that the floor drain in the existing building has a gas trap.

Mr. Forsberg noted that the hard surfaced parking is existing.

Mr. Nottebart requested nursery hours. Mr. Orlandi will supply. There will be no fertilizers, only plants, soil, mulch, and landscape pebbles.

Mr. Conroy said if the tent will be temporary it may not need to be on the plan (will check with the Building Inspector). Mr. Orlandi said it would be taken down at the end of the season. Mr. Conroy said the site plan should reflect only business, and structures shown on the plan should only reflect the business to be conducted. Temporary structures and stadium parking need not be on the plan.

Mr. Blair said the ZBA can rule on noxious uses.

Mr. Johnson noted that the 65th day for the site plan application was February 18, 2010, which was the likely date that the hearing would be extended to. In order to have adequate time to address the issues brought up at the hearing and to amend the site plan as discussed, Mr. Orlandi requested an extension to the date for final action on the site plan to March 15, 2010. Mr. Conroy moved to extend the timeframe for final action on Mr. Orlandi's site plan application to March 15, 2010. Motion seconded by Mr. Forsberg and voted 5-0-0. Mr. Orlandi will see to it that a letter is submitted to the Planning Board Office that will request the timeframe extension to March 15, 2010 as voted. Mr. Conroy continued the hearing on the site plan to February 18, 2010 at 7:45 P.M.

Other Business:

Time Cards: Mr. Conroy moved to approve the Town Planner's time cards for the weeks ending 1/8/10 and 1/15/10. Motion seconded by Mr. Forsberg and voted 5-0-0.

Evaluations: No action taken.

Law of the Land memo Re: Timeframes for Local Governments to Act on Wireless Telecommunications Facilities Permit Applications: Mr. Johnson provided the Board members with a copy of this memo, which clarified that a recent FCC Ruling requires that local governments act on Wireless Communications Facilities:

- Within 90 days from submission of a request for collocations; and
- Within 150 days from submission of a request for all other wireless facility siting operations.

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Town Administrator's proposed 2011 Budget – Planning Board: Mr. Johnson provided the Board members with a copy. The amount was \$200 less in General Expenses than the Board's request. This is the budget that the Town Administrator will present to the Finance Committee. The budget is \$121,875 in Salaries and Wages, and \$5,350 in General Expenses, for a total of \$127,225.

Community Development Strategy: This matter had been discussed as part of the Town Planner's Report earlier in the evening. Mr. Johnson provided the Board members with a copy of the Community Development Strategy.

Proposed Revisions to the Zoning Bylaw – Sign Regulations, Sections 7 and 14: This matter had been discussed as part of the Town Planner's Report earlier in the evening. Mr. Johnson provided the Board members with copies of the draft Zoning Bylaw amendment and related explanatory materials.

Kopelman & Paige Re: Changes to the Open Meeting Law that will become effective on July 1, 2010: Mr. Johnson provided the Board members with a copy of this letter, which described these changes.

Correspondence:

Hancock Court Ext. – copy of recorded Form I (Release of Form F): This form had been received from the Applicant's attorney.

Board of Selectmen Re: copy of Allied Recycling's Class II and III license renewals letter: This matter had been discussed as part of the Town Planner's Report earlier in the evening.

Brush Hill Bond Status Inquiry Form: This form had been received from the Applicant's insurer. Ms Walker will fill out the form and return it to the insurer noting that the bond is for a subdivision, not a bond for a Town project.

Foxborough Commuter Rail, Meeting on January 19: Mr. Mazzocca asked if the PowerPoint presentation that was given by the MBTA at the meeting was available. Mr. Johnson had a black and white copy, but he would check to see if a color copy or the PowerPoint file were available, and would get a copy to the Board members.

MAPC/MPO Re: Clean Air and Mobility Program: This matter had been discussed as part of the Town Planner's Report earlier in the evening.

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MAPC Re: FY 2010 District Local Technical Assistance (DLTA) Funds: Mr. Johnson noted 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 that the Board had developed in May – June 2009. Under this program, the funds are allocated by MAPC on a rolling application basis to fund their services to member communities. He will continue to monitor the program. MAPC expects to have allocated its DLTA funds by March 31, 2010 and expects to have completed the funded projects by the end of calendar year 2010.

MAPC Re: Recovery Zone Economic Development Bonds: Mr. Johnson noted that the Town is eligible for this program by virtue of being in an Economic Target Area (ETA).

Adjournment:

Mr. Forsberg moved to adjourn the meeting. Motion seconded by Mr. Nottebart and voted 5-0-0. The meeting was adjourned at 9:50 P.M.

Respectfully submitted,

John Murtagh, Clerk