

WALPOLE PLANNING BOARD MINUTES OF JANUARY 7, 2010

The Town of Walpole Planning Board held a regular meeting on Thursday, January 7, 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 December 15, 2009 and December 17, 2009, with a correction to the minutes of December 15 whereby the Planning Board did not take a vote that night, as the Board had already voted, on October 15, 2009, to recommend the appointment of Richard Nottebart to fill the vacant seat left by the resignation of Betty Nashawaty. Motion seconded by Mr. Mazzocca and voted 5-0-0.

Other Business:

Draft Town Report: Mr. Forsberg moved to approve the Planning Board's 2009 Town Report as drafted. Motion seconded by Mr. Conroy and voted 5-0-0.

MPIC Update: The Board had no further comments on the Master Plan Five-Year Update Report that had been prepared by the Master Plan Implementation Committee effective November 2009.

Time Cards: Mr. Conroy moved to approve the secretary's time cards for the weeks ending 12/25/09, 1/1/10, and 1/8/10. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Forsberg moved to approve the Town Planner's time cards for the weeks ending 12/18/09, 12/25/09, and 1/1/10. Motion seconded by Mr. Nottebart and voted 5-0-0.

Evaluations: No action taken.

Articles for 2010 Spring Town Meeting Warrant: Mr. Johnson and Ms. Walker noted that the revised FEMA maps were not likely to be ready until at least fall 2010, and therefore any amendments to Section 11 of the Zoning Bylaw to adopt the updated maps would not be necessary until at least the October 2010 Fall Town Meeting or the May 2011 Spring Town Meeting. There were no other articles to be sponsored by the Board for the May 2010 Spring Town Meeting at this time.

ANRs/Subdivisions/Bonding:

The Trails: No action was taken on the request to accept documents and to endorse the plan at this time because the legal documents that need to be recorded along with the endorsed plan had not yet been received by the Board.

WALPOLE PLANNING BOARD MINUTES OF JANUARY 7, 2010 (2)

Oakwood Estates (Shaker Lane) Final bond release request: The applicant, Joe Trolla of Walker Realty Trust, was present, as was Joe Peznola of Hancock Associates, project engineer. Ms. Walker noted that the final inspections for the release of the bond were not complete, because the applicant had not had the Water Department check the hydrants, line gate valves, and lot curb stops (including those appurtenances to the offsite water system, if any, on County Street) to make sure that they are all accessible and operational.

In his letter dated December 22, 2009, Mr. Peznola had requested that the Board consider a waiver from the requirement to install one bound at the tangency point of the Shaker Lane right-of-way along the easterly side of the cul-de-sac subject to the chord distance that had been added to the As-Built Plan allowing accurate field location of the point through swing ties and/or line projection. Ms. Walker noted that the subject point had also been marked on-site and shown on the As-Built Plan with a mag nail. She had no problem with the waiver. Mr. Conroy moved to grant the waiver to not install the bound, and to mark the location of the bound as shown on the As-Built Plan. Motion seconded by Mr. Mazzocca and voted 5-0-0.

Upon further discussion of the remaining inspections to be made before granting the final bond release, Ms. Walker suggested that the bond amount of \$10,000.00 be retained. Mr. Conroy moved to reduce the amount held on the bond for the Oakwood Estates subdivision to \$10,000.00. Motion seconded by Mr. Forsberg and voted 5-0-0.

Appointments:

7:20 P.M. O'Brien, Summer Street - Discussion: John Anderson, on behalf of James and Linda O'Brien, owners of the property at 327 Summer Street that is further described as Assessors Map 55 Lot 78, presented two alternative sketch plans for the subdivision of their lot to the Board. Alternative # 1 was a conventional 5 lot subdivision with a 750' linear foot road providing access to the five lots and terminating in a cul-de-sac, which would become a public way. Alternative # 2 was a 3 lot subdivision with a 610' linear foot road providing access to the three lots and subject to waivers of construction standards to potentially use the existing driveway for access, which would remain a private way. Mr. Anderson said that because of the present state of the economy the O'Briens didn't feel that it was feasible to construct the full 5 lot subdivision at this time, but they would like the Board to consider the 3 lot private way plan for now. The Board noted that generally the private ways that had been approved over the past several years had at least 18' in width of paved surface and a full cul-de-sac to allow emergency vehicles to turn around at the end. Generally the sight distance at the subdivision street's entrance with the way providing access should be about or at least 250', which would need to be checked at the time of formal plan submission.

WALPOLE PLANNING BOARD MINUTES OF JANUARY 7, 2010 (3)

Mr. Forsberg and Mr. Nottebart questioned the ability of the applicant to go back and create a conventional 5 lot subdivision after being approved for a 3 lot private way subdivision with the usual deed restrictions, etc. and whether the applicants would then have to live with what they created in perpetuity. Mr. Johnson was directed to find related case law as to whether the 5 lot alternative plan could be considered a resubdivision or whether upon approval of the 3 lot plan the land as subdivided would be locked in to that private way scenario in perpetuity.

Mr. Conroy asked that the design be presented to Deputy Fire Chief Mike Laracy for his comments before any formal plan submittal.

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.

Mr. Macchi noted that the Water Department was in possession of a deed granting ownership of the water main in McKinley Avenue to the Town, of which he would obtain a copy and supply it to the Planning Board office for the record. Ms. Walker indicated that this could be done before plan endorsement.

Mr. Conroy noted a copy in the file of an email message from Cheryl Sullivan of 5 McKinley Avenue, which referenced the pavement width of McKinley Avenue as not encompassing the 40' roadway width. Ms. Sullivan was present. She noted roadway markers 4 ½' – 5' up in the air, and the roadway is not 40' wide. Mr. Babcock noted that the right-of-way of McKinley Avenue is 40' wide and the paved area is within the 40' width. Ms. Sullivan asked if trucks could drive the present paved width of McKinley Avenue. Mr. Babcock said construction trucks couldn't go outside of the right-of-way. Ms. Sullivan asked what is the guarantee to the present residents of McKinley Avenue and Hobart Street that McKinley Avenue won't be trashed during construction of Legacy Lane. Mr. Babcock suggested taking pictures before construction and then repairing any damage done during construction of Legacy Lane. Mr. Macchi stated McKinley Avenue is a public way that is constructed but not accepted by the Town. Everyone on the street has an interest to the center of the street, and no one can block it. The general contractor for construction of Legacy Lane would have a bond. He suggested that pictures are taken by the Town and by the applicant before construction, and the DPW would verify that the pictures are a true representation of the condition of McKinley Avenue. Mr. Johnson asked if this situation might be akin to a permit for blasting, whereby an insurer takes pictures before the blasting work commences and then checks after the work is done to determine if any property damage has resulted. Ms. Walker thought there should be a specific bond amount to cover any damages to McKinley Avenue.

WALPOLE PLANNING BOARD MINUTES OF JANUARY 7, 2010 (4)

Mr. Conroy said the Board will be contacting Town Counsel for an opinion of how the status of McKinley Avenue (if a private way?) reflects the ability to post a performance guarantee that will assure the present residents of McKinley Avenue and Hobart Street that their interests in McKinley Avenue are protected if damage to its existing state were to result from the applicant's activities relative to the construction of Legacy Lane. Mr. Macchi indicated that the subdivision is already there and approved. Ms. Sullivan asked how many builders there would be. Mr. Conroy said the Board can't tell, but there will be a method put in place to assure that McKinley Avenue will not be damaged.

Richard Carty of 10 McKinley Avenue stated there will be damage to McKinley Avenue from 18 wheelers.

Girard Amirault of 4 McKinley Avenue said the Town only cold patches McKinley Avenue. Water [referring to drainage?] is not done right. A concrete drainpipe has been damaged; he has asked the Town for 22 years to repair it, and the Town won't repair it.

Mr. Conroy noted the letter in the file that had been received from Attorney Stephen Paul Rahavy, which is dated November 23, 2009, that pertains to the subdivision plan previously approved for the subject property in 2007 (entitled Malo Terrace), and that this letter and related correspondence and information would also be sent to Town Counsel, for a determination as to whether the deed restriction referenced in Attorney Rahavy's letter is applicable to the current plan and/or the subject land in perpetuity, or whether the land can be re-subdivided.

Mr. Carty asked if it had been determined that wells would be feasible if Town water could not be connected to the subdivision, to which Mr. Babcock responded yes, they appear to be, subject to approval by the Board of Health.

Mr. Carty asked in reference to the water main deed is there enough water pressure to service 3 more houses, to which Ms. Walker said she was not aware of any reported pressure issues.

Mr. Carty asked about the covenant executed by the previous owner/subdivider, the Wood family, which restricted the development of the property to 2 homes. Mr. Macchi responded that there was nothing stopping resubdivision. If the 2 lots were built, it would never go back. Mr. Carty said the 2 lots were approved prior to the 3 lot public subdivision to which Mr. Macchi said resubdivision was their basic right to do. Mr. Conroy said Ken Wood (the previous owner) wanted to do only 2 lots; he didn't want to do the full buildout of the property. Mr. Forsberg noted that to obtain waivers from the Planning Board's Rules and Regulations Governing the Subdivision of Land to construct a private way that would only service the 2 lots, he had had to demonstrate to the Board that he could obtain full buildout of the 3 lots if he were to follow the standards of the Rules and Regulations, which he had done at the time he filed his subdivision plan.

WALPOLE PLANNING BOARD MINUTES OF JANUARY 7, 2010 (5)

Mr. Carty asked if Mr. Nottebart would be voting on the plan since he was not at the first hearing session, to which Mr. Conroy said he could sit in on the hearing but he couldn't be the deciding vote in the event of a 2-2 vote; he could abstain too.

Gary McPhee, owner/applicant, said note that McKinley Avenue is in bad shape now. Mr. Conroy said he is not responsible for further work than what is there now.

There were no further questions. Mr. Conroy continued this hearing to February 4, 2010 at 7:30 P.M.

8:48 P.M. Glaropoulos, 643-703 Main Street, Case No. 09-2 Continued Hearing:

The applicant had submitted a letter to the Board dated November 30, 2009 stating that he had decided not to move forward at this time with expansion plans for the subject site at this time; therefore the applicant, Bill Glaropoulos, who was present, was requesting to withdraw the site plan for property at 643-703 Main Street (Case No. 09-2), without prejudice. Mr. Conroy moved to allow Mr. Glaropoulos to withdraw the site plan for property at 643-703 Main Street (Case No. 09-2), without prejudice. Motion seconded by Mr. Forsberg and voted 5-0-0.

8:50 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. Mr. Babcock discussed the drainage system. Mr. Conroy asked about traffic signage, and the dumpster in back of the building. Mr. Glaropoulos said the dumpster was needed there for access from the greenhouse. Mr. Forsberg and Mr. Conroy asked about opening gates in the fence in the front of the building to access the back of the building, and Mr. Glaropoulos said there is currently room for access, and this is how trucks currently access the rear of the property, by driving across the cross-hatched area in the parking area and driving through the open gates. The driveway on the Dunkin' Donuts (south) side of the lot would be used to enter the rear of the property with no exiting allowed, and the driveway on the opposite (north) side of the lot would be used to exit the rear of the property only with no entrance allowed. There would be more traffic in the rear than at present, but there would not be 18 wheelers on a regular basis, except for deliveries, and a Bobcat would be used to move materials. There would be gates at the driveways to the rear of the lot that would be locked at night. Mr. Conroy and Mr. Johnson said there should be an easement across the neighboring Dunkin' Donuts property for access to the rear of the property on that side of the lot, which Mr. Glaropoulos would supply within a week so that Mr. Johnson could review it before the next hearing session.

Abutter Steven Lynch, 80 Williams Street, said he was ok with the plan. He noted that there is no flooding and no trash from the property now. He said the proposal is one of the better things he's seen proposed for the site.

WALPOLE PLANNING BOARD MINUTES OF JANUARY 7, 2010 (6)

Mr. Babcock said he would be able to address Ms. Walker's comments about drainage.

Mr. Johnson noted outstanding issues for the next hearing session being drainage, the dumpster location, and the construction and grading of the wall and tying the fence into the grades at the top of the wall. Mr. Forsberg asked about additional buffer zone landscaping with trees, and Mr. Babcock responded that there is significant tree cover in the buffer zone presently, but the tree cover is thinner at the low part of the wall, the east side.

Mr. Conroy suggested that during construction only the exit drive should be used. Mr. Johnson and Mr. Forsberg asked that there would be gates and directional signage at both the entrance and exit to the rear of the site, to which Mr. Babcock and Mr. Glaropoulos said they will be there and will be shown on the site plan.

Mr. Conroy moved to accept an extension of time to take action on the site plan up to and including February 28, 2010 as per request of the applicant, Basilios (Bill) Glaropoulos, and per the letter, dated January 7, 2010, from Mr. Glaropoulos. Motion seconded by Mr. Mazzocca and voted 5-0-0. Mr. Conroy continued the hearing on the site plan to February 4, 2010 at 7:45 P.M.

Correspondence:

Foxborough Commuter Rail, Meeting on January 19: The Board thought that this meeting would be more appropriately be attended by the Town Administrator and that Mr. Johnson need not go as this is not in the Planning Board's purview. Mr. Johnson noted that, initially, he was apparently the only Town of Walpole official notified of the meeting, by email, but that he had forwarded notice of the meeting, via email, to the Town Administrator and Economic Development & Grants Coordinator.

Tower Resource Management re: Extension of time period for T-Mobile Site Plan Review: Mr. Johnson had received a letter, dated January 7, 2010, from Terri Feuersanger of Tower Resource Management, applicant for the site plan review application of T-Mobile for property at 153 Washington Street, requesting that the time period for final action on that T-Mobile Site Plan Review application be extended to March 15, 2010 and that the hearing be set for February 18, 2010. Mr. Conroy moved to extend the time period for final action on the T-Mobile Site Plan Review application for property at 153 Washington Street to March 15, 2010 and to set the hearing for February 18, 2010 at 7:30 P.M. Motion seconded by Mr. Forsberg and voted 5-0-0.

WALPOLE PLANNING BOARD MINUTES OF JANUARY 7, 2010 (7)

Adjournment:

Mr. Conroy moved to adjourn the meeting. Motion seconded by Mr. Nottebart and voted 5-0-0. The meeting was adjourned at 9:32 P.M.

Respectfully submitted,

John Murtagh, Clerk