

WALPOLE PLANNING BOARD MINUTES OF MAY 1, 2014

A regular meeting of the Walpole Planning Board was held at 7:00 p.m. on Thursday, May 1, 2014 in the Main Meeting Room of Town Hall. The following members were present: Richard Nottebart, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk; John Conroy, Richard Mazzocca (7:08 p.m.); and Margaret Walker, Town Engineer.

Minutes: Mr. Nottebart moved to approve the minutes of April 17, 2014 as revised. Motion seconded by Mr. Murtagh and voted 4-0-0. Mr. Nottebart moved to approve the minutes of a special meeting held on April 9, 2014 as submitted. Motion seconded by Mr. Murtagh and voted 3-0-2 (Conroy, Forsberg abstained).

Cheryl and Brian O'Driscoll, 3 High Oaks Court re: street name change: Mr. Mazzocca moved that we ask the developer to change the road name from Lester Gray Drive to High Oaks Court. Motion seconded by Mr. Murtagh and voted 5-0-0.

Foxboro Planning Board: Mr. Grieder, Chairman and Mr. Weinfield, Vice Chairman Foxboro Planning Board were present to thank the Walpole Planning Board for coming to their meetings and participating in discussions regarding what is on Route 1 now and down the road. Mr. Grieder stated they wanted to express their gratitude for our working with their board and they look forward to working with us in the future.

7:42 p.m. John Nassar, Case No. 14-3, 1449 Main Street: Mr. Nottebart opened the public hearing. He read the public hearing notice. Mr. Nassar represented himself. He is proposing a used car sales lot next door to his gas station on land owned by the Heavey's. He has been using the lot next to his gas station for business storage already along with some of the gas station lot, but he wants to leave the gas station as only a gas station. Mr. Nottebart read comments from the fire department, police department, Conservation Commission, Board of Health, Zoning Board who continued their hearing with Mr. Nassar to May 28, and Sewer and Water. He stated that the comments from Economic Development were received today and although they appear to be beyond her scope, he read them anyway. Ms. Walker read her comments and stated there appears to be some things missing from the plan. Her biggest concern is the parking on the westerly side which doesn't conform to the bylaw or curb cut bylaw. Everything to the left of the guard rail doesn't conform and there is no handicap space. Mr. Murtagh feels Mr. Nassar runs a good gas station business, but feels he could tweak this a little. Mr. Conroy feels this is really just a re-striping issue, but there are some things that need to be addressed. He agrees with Ms. Walker's comments that some things need to be added to the plan. There is a curb cut process that needs to be followed.

Mr. Nassar asked what he needs to do. Ms. Walker stated our curb cut policy came out twenty-five years ago. If there is a curb cut there now, we wouldn't take something away from someone. If this has been used like this and is existing, they can continue to do so. Mr. Mazzocca stated there is a lot of room shown on the lot as shown in the aerial photo.

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It looks like a car can back out and stay on the property and then go out the existing entrance. Mr. Nottebart stated the plan needs to be scaled properly. Mr. Conroy asked if they need lighting at night and Mr. Nassar stated no. Mr. Conroy stated no one knows what the Heavy's will do down the road, but Mr. Nassar needs to know how many spaces he actually needs for his business. Mr. Nassar stated he is living downstairs in the house that is on this lot and there are tenants upstairs from him. Mr. Conroy stated you will probably only need six or seven spaces, but you need to put it on the plan. Mr. Nassar stated he knew he needed to do something, but he wasn't sure what. Mr. Nottebart asked the square footage of the building and Mr. Nassar stated he doesn't know. Mr. Forsberg asked how many cars he is looking to put on the lot and Mr. Nassar stated he would like twenty-five, but knows he can't get that. The plan shows twenty-five, but he doesn't know how many he is allowed. Mr. Forsberg asked if he backing his way into this and Mr. Nassar stated yes. Mr. Forsberg stated he will need tenant and customer parking. Mr. Nassar questioned the handicap parking. He asked if he is required to have that even though there will only be 10-15 spaces. Ms. Walker thinks any number up to twenty-five requires one, but suggested he confirm this with Jack Mee. Mr. Nottebart asked how the Zoning Board figures that out and Mr. Conroy stated they are only supposed to issue a special permit. The Board of Selectmen should be telling him how many spaces he can have. The Zoning Board gives the special permit on the use, not the number of cars. They say you can do it and the Selectmen say how many. Mr. Forsberg asked if he will have access over to the current lot and Mr. Nassar stated yes.

There were no comments from the public. Mr. Nottebart moved to accept and extension of time up to and including June 30, 2014 as requested by Mr. Nassar. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Nottebart moved to continue this hearing to June 5, 2014 at 7:30 p.m. Motion seconded by Mr. Murtagh and voted 5-0-0,

8:20 p.m. Kingswood Estates Definitive 3-Lot Subdivision: Mr. Nottebart informed the applicant that the board could possibly change due to an upcoming election and asked if he wanted to go forward tonight. Mr. Glossa stated they want to proceed. Mr. Nottebart read the public hearing notice. Mr. Murtagh stated all the green cards were submitted. Mr. Glossa stated they want to withdraw the waiver requested for the width of the street as requested. He stated this area is surrounded by wetlands and Lot 1 is twice what is required, Lot 2 is 172,000 s.f. and 238,000 s.f. He has not made any revisions since submitting this plan. The Fire Department has asked them to move the hydrant and they will do that. They are showing a force main for the sewer connection, but they have not done any testing. They will also approach Westwood to see if they would allow the connection of three house lots into their system. Previously, they had said yes, so he doesn't see any issues. They are not sure where the driveways will go, as that will be up to the developers. There is a lot of ledge all down Bubbling Brook Road. Mr. Taylor's house is existing along with two new proposed houses. They are keeping in mind the proximity of the wetlands. They will create a berm and start 25' from the wetlands. When they were doing the preliminary, the board asked them to see both the School Department regarding buses and also the Fire Department, which they did.

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Mr. Taylor also spoke to the neighbors about the sewer system, which will cost the homeowners \$7,000 to \$10,000 after the subdivision is approved instead of \$30,000 to \$40,000 before the subdivision process. They are in the process of writing up a proposal to exclude Lot 2 from the covenant as Mr. Taylor's house was subject to a previous variance. It doesn't make any sense to encumber Lot 1 as it has access from Bubbling Brook Road. He will get a formal request to the board. Mr. Nottebart read comment letters from the Fire Department, Conservation, Police, Sewer and Water, Board of Health and Engineering. Mr. Walker read her comments. She asked if the town will have jurisdiction over the system that is in Walpole and Mr. Glossa stated yes. He stated they will do test pits, but are not proposing to excavate. The total length is a little less than 500' from Trailside to the end of the cul-de-sac. Ms. Walker stated she will discuss street lights with Mr. Glossa. He stated he will put a note on the plan. He also stated they are going before Conservation in two weeks for a Notice of Intent.

Mr. Murtagh asked what lot they are excluding from the Covenant and Mr. Glossa stated Lot 2 which has the existing house on it. Mr. Murtagh questioned the upland and Mr. Glossa stated they have at least the minimum required for each lot. The wetlands were flagged by Michelle Granier. Mr. Murtagh feels this is a win-win for the neighbors as they will be able to tie into the sewer. Mr. Glossa stated they will have to go to Westwood and gain their permission. CDM-Smith stated the system and pipes are large enough to handle the flow for what is being proposed. Right now, the three houses would be automatically approved. Mr. Conroy stated that all utilities are underground as there is no more option to do otherwise. Regarding the covenant, once this is approved and recorded, the covenant is in place only until it is bonded. He doesn't see what the issue is because when you have to do the road, it will be bonded and the covenant goes away. Mr. Glossa stated he will try to phrase this better in writing, find some precedent and present the rationale as to why it should be done this way. It is not a project killer, but feels it could potentially trip up Tom Taylor in the future. He is 99% sure this has come up before. Mr. Conroy stated this is similar to 576 Common Street. Mr. Glossa stated he will add clarity as to why this is an issue. Mr. Forsberg asked if the forced main is a 1-1/2" main and Mr. Glossa stated no it is 2" and the laterals are 1-1/2". Mr. Forsberg stated he counts nine houses to be serviced by this. Mr. Glossa stated the O'Hare house is already connected through a culvert 15' below the street. Westwood is responsible for their town and Walpole for our town. Ms. Walker stated this is similar to Rustic Road. Mr. Forsberg asked why we are responsible if we don't collect any fees. All the money is going to Westwood. Mr. Glossa stated he will talk to Rick Mattson about that. Mr. Conroy asked if they are using Walpole water and Mr. Glossa stated yes. Mr. Conroy stated they will be billed for our water. Mr. Forsberg asked Mr. Glossa to get something in writing clarifying this and also can they give us language on the maintenance. Mr. Glossa agreed.

Mr. Nottebart asked if consumption is the basis for how they figure what the MWRA bill is. Mr. Glossa stated he doesn't know as they should only be collecting a percentage, not the full fee. He will look into this.

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There were no further questions. Mr. Nottebart moved to continue this hearing to June 5, 2014 at 7:45 p.m. Motion seconded by Mr. Mazzocca and voted 5-0-0.

Lot 8 Warren Lane: Mr. Nottebart read a letter from John Shalbey, 12 Warren Lane requesting a determination from the board that a change to his lot be considered either a field change or a minor modification. Mr. Shalbey was represented by John Glossa. He stated this lot includes part of the detention basin for the subdivision. This is a lot that had to fill some of the wetlands and the finished elevation is 6' above those wetlands. He ended the design with a headwall, but now they need amend the order of conditions for this, which they have requested already and will meet with Conservation on May 14, 2014. They are asking to fill in the ditch and replace it with a pipe instead. By filling in the ditch, they are not changing the drainage calculations. It will work the same. John Shalbey is asking that since the Conservation Commission and Ms. Walker are either going to bless this or not and if they give this a go ahead, can the Planning Board deem this a minor modification. He is asking the board how to proceed. The Conservation Commission does advertise this in the paper, but they don't notice abutters. Mr. Conroy stated you are just changing the transportation method and Mr. Glossa stated that is correct. Mr. Conroy stated you are not changing the basin at all but the methods to cover it over. He feels this has to be requested by the developer. Mr. Glossa stated he can add his name to the application. This work will be done by the contractor of record, P.J. Hayes. He will ask Mr. Viano to send the board a letter. Mr. Conroy asked Ms. Walker if this is as simple as Mr. Glossa is saying. Ms. Walker stated it could be but the docs need to be changed also. Her concern was that there was only a little change to a wall at Niden Woods and they had to refile. Mr. Forsberg stated this is out of the detention basin. Mr. Glossa stated he will be going to ConCom first. Mr. Conroy stated if the Conservation Commission goes along with this, could it be considered a minor modification or a field change. Ms. Walker stated it is more than a field change. Her issue is someone could come back in a couple of years and question why it moved. It should be made part of the public record. Mr. Forsberg agreed, it would make for a cleaner record for the future. Mr. Nottebart asked if we are okay with a minor modification after what Atty. Quirk said. Mr. Forsberg stated we have done this for the past 100 years. Ms. Walker stated this is not a major modification. Mr. Murtagh stated Jack is correct that Mr. Viano's name should be on this. Mr. Nottebart stated we will ask him to write us a letter seeking a minor or major modification determination.

9:30 p.m. John Santos, 1900 Main Street, Case No. 14-2 Continued Hearing:

Mr. Nottebart opened the hearing. The applicant was represented by Melissa Young, Mr. Santos' partner. Ms. Young submitted revised plans consisting of three pages showing the dumpster being moved and the placement of the light poles, among other things. She submitted a letter from the Plumbing Inspector stated she doesn't need a gas/oil separator. Mr. Forsberg stated that could be an issue down the road as any building with a garage door needs a gas/oil separator; however, there can instead be a bollard in front of the garage or a holding tank. Ms. Young stated that Chris' Texaco put them in and DEP made them take them out. Jack Lee had said they were all set.

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Mr. Forsberg read the State Code 248 CMR 10.09 (1)(b). He is not sure how DEP can override the State Code. Ms. Young stated the purpose is to protect the water from contaminants. They don't do oil changes there. There are oil separator directions on how to take care of this. Mr. Forsberg disagreed and feels there could be issues in the future. Mr. Conroy stated they have done everything we asked. He wants her to know that the Board of Selectmen will tell them how many cars, not the Zoning Board. Mr. Murtagh asked Ms. Young if they talked to the Conservation Agent about moving the dumpster and Ms. Young stated they moved it as much as they possibly could. Mr. Murtagh feels they have done all we wanted and more. Ms. Young asked to close the hearing. Mr. Nottebart moved to close the hearing. Motion seconded by Mr. Conroy and voted 5-0-0. Mr. Nottebart moved to approve Case No. 14-2 with the board's standard conditions and three special conditions. Motion seconded by Mr. Conroy and voted 5-0-0.

Items for May 15, 2014 agenda: summer schedule; board discussion re: town planner/adm. Board secretary; discussion/vote of organizational structure

It was moved, seconded and voted 5-0-0 to adjourn. The meeting adjourned at 10:20 p.m.

Respectfully submitted,

John Murtagh, Clerk

Approved 5/15/14