

WALPOLE PLANNING BOARD MINUTES OF FEBRUARY 20, 2014

A regular meeting of the Walpole Planning Board was held on Thursday, February 20, 2014 at 7:00 p.m. in the Main Meeting Room at Town Hall. The following members are present: Richard Nottebart, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk; Richard Mazzocca (7:06 p.m.), Margaret Walker, Town Engineer; and Ilana Quirk, Town Counsel.

Mr. Nottebart opened the meeting at 7:00 p.m.

Minutes: Mr. Nottebart moved to accept the minutes of February 6, 2014. Motion seconded by Mr. Forsberg and voted 3-0-0.

Sharon Wason, Foxboro Town Planner: Ms. Wason stated she reports to the Planning Board and her secretary reports to the Town Manager; however, she does her evaluations, signs her time cards and the other day to day things. She is staff to the Zoning Board of Appeals for 40-B filings and other issues the Planning Board feels strongly about. Foxboro doesn't have an Economic Development Director, so Ms. Wason goes after grants and performs other functions of the ECD.

Mr. Murtagh questioned the new sign bylaw and asked if the town was noticed. Ms. Wason stated that is part of the general bylaw, not a zoning change and therefore surrounding towns were not noticed. She also stated that she would be willing to meet with Mr. Conroy who is not present tonight at either another meeting or at a mutually convenient time.

Mr. Mazzocca arrived at 7:06 p.m. Town Counsel, Ilana Quirk, arrived at 7:30 p.m.

7:32 p.m. Dedham Auto Continued Hearing, Case No. 13-3: Mr. Nottebart read a letter from Richard Merrikin, Merrikin Engineering, dated February 18, 2014 requesting to withdraw their application without prejudice. It was moved by Mr. Nottebart to allow Dedham Auto, Case No. 13-3 to withdraw their application for Site Plan Approval without prejudice as requested. Motion seconded by Mr. Murtagh. Mr. Forsberg stated they have already done extra paving, so they are coming in after the fact and are already non-conforming. Town Counsel, Ilana Quirk, stated she has been consulted on this issue and recommends that the board dispose of the matter through a motion to withdraw the application without prejudice. Town Counsel recommended the Building Inspector be copied on the withdrawal and the board agreed. Mr. Merrikin stated that the request to withdraw is being done with Jack Mee's knowledge and he is going to help the property owner to address the outstanding issues. Motion voted 4-0-0.

7:36 p.m. Tall Pines Subdivision: Atty. Mark Gladstone and Dan Merrikin, Merrikin Engineering, were present on behalf of the applicant. Town Counsel, Ilana Quirk, stated that all the subdivision docs have been approved as to form by Atty. Shirin Everett of Kopelman & Paige.

WALPOLE PLANNING BOARD MINUTES OF FEBRUARY 20, 2014 (2)

Atty. Gladstone submitted a notarized Form F covenant to the board for the record. Atty. Quirk stated the board should accept the covenants, endorse the subdivision plan and then vote the ANR plan. Also, there needs to be an arrangement for someone to ensure that these all get recorded at the appropriate time. She had urged the applicant to seek legal advice, which they did and that the appropriate assents be obtained and notarized, which did also happen. Mr. Nottebart asked if she is suggesting that someone like himself go to the registry with Atty. Gladstone and Atty. Quirk stated yes. She further stated that the Registry may want to put the endorsed plan on record first, but that doesn't matter as long as all three things are put on record.

Atty. Quirk stated the board needs: 1) to accept the covenants and documents that were approved by Shirin Everett; 2) move to endorse the subdivision plan with the caveat that it will be held in escrow until an ANR plan is submitted to correct the error; and 3) vote the ANR. Mr. Murtagh questioned that we will be endorsing an incorrect plan which we will hold in escrow until we do the ANR to rectify the subdivision and town counsel stated that is correct. Mr. Merrikin stated he needed to adjust the side line on Lot 37 by two or three feet. Atty. Quirk stated the mechanism is to endorse the plan with the error and the solution will be that the ANR will correct the problem. Mr. Merrikin stated this is Land Court and they drew their own plan which doesn't have the circles on it and it is held by the Land Court. Mr. Mazzocca stated Mr. Conroy was under the impression that we couldn't sign an incorrect plan. Atty. Quirk stated the board approved it. Mr. Mazzocca stated he is just reiterating Mr. Conroy's statement. Mr. Nottebart stated town counsel has said it is okay to sign it. Atty. Quirk stated all documents are okay.

There were no board questions or public questions. Mr. Nottebart moved to accept the Form F Covenant, Operations & Maintenance Agreement with the Town of Walpole, and Conveyance of Easements & Utilities as approved by Shirin Everett. Motion seconded by Murtagh and voted 4-0-0. Mr. Nottebart moved to endorse a subdivision plan entitled "Tall Pines Subdivision, Family 6-Lot (Type B) Definitive Subdivision, Plan of Land in Walpole, MA" dated May 7, 2012 (Latest Revision 11/18/13) drawn by Merrikin Engineering, LLP, 730 Main Street, Suite 2C, Millis MA, and Surveyor is Colonial Engineering, Inc., 11 Awl Street, Medway, MA 02053 consisting of sixteen (16) pages with the caveat that this plan once signed by the Planning Board will be held in escrow until such time as an ANR correcting a problem is endorsed by the Planning Board and all will be recorded together. Motion seconded by Mr. Murtagh and voted 4-0-0. The board endorsed the plan.

Tall Pines Subdivision – ANR: Daniel Merrikin, Merrikin Engineering, stated that because the roadway got changed, the circle changed by approximately 3 ½ feet on Lot 37. Ms. Walker stated she checked the plan and it is okay. Mr. Merrikin stated it is shown as Lot 34 on the original plan and Lot 37 on the ANR. There were no further questions. Mr. Nottebart moved to endorse an ANR plan as submitted by Dan Merrikin entitled "LC Plan 13037L, Plan of Land in Walpole, MA" dated December 2, 2013, finding Form A in order and subdivision control not required.

WALPOLE PLANNING BOARD MINUTES OF FEBRUARY 20, 2014 (3)

Further, no determination as to compliance with all zoning requirements was made by the Planning Board. Motion seconded by Mr. Mazzocca and voted 4-0-0.

Mr. Mazzocca moved to nominate Mr. Nottebart as an escrow agent and to accompany Atty. Gladstone to the Registry of Deeds. Motion seconded by Mr. Murtagh and voted 4-0-0. The endorsed plan and the endorsed ANR were left in the Planning Board office.

8:12 p.m. High Oaks IV Modification: Mr. Nottebart opened the hearing and turned it over to Town Counsel, Ilana Quirk. She stated she had submitted a draft decision on February 7 which incorporated the changes the board talked about at previous meetings and has since modified that. The restrictive covenant will state that the single family house will be 4500 s.f. and have a three car garage. She understands there was an issue about that being in the covenant. The Planning Board does have the authority to accept this type of covenant which would expire in 99 years as per a court case, Murphy vs. Hopkinton. She believes this is in proper order. The deed and street waiver will no longer be deeded to this. Also, the reference to the town planner will be left in. Mr. Mazzocca and Mr. Murtagh have no questions. Mr. Forsberg stated that regarding the money being a gift to the town, why wasn't it referenced to be used for repair of the town fields so it can't be used for the purchase of computers or the like. Atty. Quirk stated that is the intent. Mr. Forsberg stated he would like that language put in there and Mr. Nottebart agreed. Atty. Quirk stated she will fix that by adding it will be for recreational use or ball fields. The board agreed that recreational purposes should be added.

There were no questions from Atty. MaGahane or the public.

Mr. Nottebart moved to close the hearing. Motion seconded by Mr. Murtagh and voted 4-0-0. Mr. Nottebart moved to grant the modification request for High Oaks IV as set forth in the February 7, 2014 draft modification decision with a revision to Paragraph 8.3 to insert the wording "for recreational purposes" after \$200,000 with the exhibit between High Oaks IV LLC and the Town of Walpole to be attached. Motion seconded by Mr. Murtagh and voted 3-1-0 (Mr. Forsberg voted in the negative). Atty. Quirk stated the covenant will be voted when the board endorses the plan.

643-703 Main Street Modification Endorsement: Mr. Nottebart moved to endorse a plan consisting of one page entitled "643-703 Main Street Site Plan Modification Plan of Land in Walpole, MA" dated June 30, 2004, latest revision December 4, 2013 by Merrikin Engineering, Millis, MA. Said change was determined to be a minor modification on January 9, 2014. Motion seconded by Mr. Mazzocca and voted 3-1-0 (Mr. Forsberg voted in the negative).

WALPOLE PLANNING BOARD MINUTES OF FEBRUARY 20, 2014 (4)

Winter Estates Modification Endorsement: On September 9, 2010, the Planning Board voted that the changes presented by Merrikin Engineering to bring the stormwater management system into compliance with the new DEP regulations was a minor modification; on October 7, 2010, the Planning Board voted to grant a minor modification to the Winter Estates Subdivision to amend Sheets 7 and 8 (Grading & Utilities), Sheet 14 (Drain Details), and Sheet 17 (Drain Profile) to bring the stormwater management system into compliance with the new DEP regulations, but modified plans were not endorsed.

Mr. Nottebart moved to endorse the above minor modification as voted on October 7, 2010. Motion seconded by Mr. Murtagh and voted 4-0-0.

Plimptonville Crossing Modification Endorsement: On February 6, 2014, the Planning Board voted that the changes to the buffer zone as presented by Atty. Paul Schneiders and drawn by Cosmos Associates be a minor modification.

Mr. Nottebart moved to endorse the minor modification as voted on February 6, 2014. Said plan is entitled "Landscape Plan, Plimptonville Crossing, Walpole, MA" dated July, 2013 by Cosmos Associates, 5 Longview Street, Natick, MA. Motion seconded by Mr. Mazzocca and voted 3-1-0 (Mr. Forsberg abstained).

Repetitive Petition Fee: Mr. Nottebart moved to set the fee for a Repetitive Petition at \$250 based on the fee schedule for a subdivision repetitive petition. Motion seconded by Mr. Mazzocca and voted 4-0-0.

Foxboro Sign Bylaw: Mr. Nottebart moved that we send a letter to the Board of Selectmen with a copy to Mr. Boynton and Ms. Mercandetti to let them know that we have been made aware of an upcoming bylaw change in Foxboro as it relates to signage. Further, there is also a potential sign bylaw change in Sharon, both of which could impact the Walpole community due to the proposed large size and illumination and the Planning Board is asking them to become involved. Motion seconded by Mr. Murtagh and voted 4-0-0.

It moved, seconded and voted to adjourn. The meeting adjourned at 9:30 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 3/6/14