

WALPOLE PLANNING BOARD MINUTES OF JUNE 15, 2017

A regular meeting of the Walpole Planning Board was held on Thursday, June 15, 2017 at 7:00 p.m. in the Main Meeting Room at town hall. The following members were present: John Conroy, Chairman; Joseph Moraski, Marc Romeo, Sarah Khatib, and Elizabeth Dennehy, Community Development Director.

Minutes: Mr. Conroy moved to accept the minutes of May 18, 2017. Motion seconded by Mr. Moraski and voted 4-0-0. Mr. Conroy moved to accept the minutes of June 1, 2017. Motion seconded by Mr. Moraski and voted 4-0-0.

Reorganization: Mr. Moraski nominated Mr. Conroy as chairman. Motion seconded by Mr. Romeo and voted 4-0-0. Mr. Moraski nominated Mr. Romeo as vice chairman. Motion seconded by Mr. Conroy and voted 4-0-0. Mr. Moraski nominated Ms. Khatib as clerk. Motion seconded by Mr. Romeo and voted 4-0-0.

ANR – Kingswood Estates, 44 Bubbling Brook Road: Mr. Conroy stated this subdivision is not bonded and you are looking to change the lot lines. You need frontage on a public way. Atty. Gerald Blair stated it is on a public way. The ANR will not have any impact on this. Ms. Dennehy agrees with Mr. Conroy. Mr. Glossa, Glossa Engineering, stated there is a plan approved and endorsed by the Planning Board. Ms. Dennehy asked why this subdivision just can't be bonded. Mr. Conroy agreed. He stated nothing can be transferred until it is bonded. Mr. Glossa stated they want to reference the actual lots shown on the endorsed Planning Board plan. Mr. Conroy asked at what point monies will be exchanged. Mr. Glossa stated there is not a signed P&S yet. Mr. Conroy stated they can't have their closing until this is bonded and Mr. Glossa agreed. Mr. Conroy stated this looks like a subdivision plan as opposed to an ANR plan. Mr. Glossa stated the buyer knows what he is buying and the seller knows what he is selling. Mr. Conroy stated they want us to go out on a limb. Just bond it. Mr. Moraski asked if there is one buyer for the three lots and Mr. Glossa stated it is Mr. Friedman plus two. Ms. Dennehy doesn't feel this would be harmful to the town. Mr. Conroy stated it is not buildable right now. Mr. Conroy moved to endorse an ANR plan of land entitled "#44 Bubbling Brook Road, Kingswood Estates, Plan of Land in Walpole, MA, dated May 16, 2017 and prepared by Glossa Engineering finding Form A in order and subdivision control not required. Motion seconded by Mr. Moraski and voted 4-0-0.

Atlantic Court Extension Bond Reduction: Mr. Conroy asked the developer, Larry Stern, if this bond is over two years old. Mr. Stern stated it is less than two years. He stated he has many items on the punch list that are completed. His engineer is John Glossa and he won't answer his calls. There might be \$10,000 worth of stuff to do and he will keep working on the list.

Mr. Conroy moved to reduce the bond on Atlantic Court Extension to \$50,000 as per recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Romeo and voted 4-0-0.

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26 Baker Street Preliminary Plan: The applicant, James Brolly, was represented by his engineer, Shawn Hardy, Neponset Valley Associates. He stated they submitted a revised plan on June 8th that reflects comments presented by Margaret Walker, Town Engineer. Mr. Conroy read comments from the Board of Health and Town Engineer that were based on the original submittal. Mr. Hardy stated a lot of the changes were made at the request of the fire department. They have done test pits and are working with a traffic engineer.

Mr. Moraski stated he wasn't happy that he didn't have a 14-day review period. He asked if this is a faux subdivision and are there many waivers. Mr. Hardy stated it was remodeled after a recent subdivision on Peach Street and they are asking for 15 waivers. Mr. Moraski stated his initial reaction is that this reminds him of Article 31, a second dwelling on the same lot. Mr. Hardy stated they have shown they could build out the roadway to the lot in the back. Mr. Romeo stated this is an RB zone, not GR. Ms. Dennehy stated if they had the required frontage they could have done an ANR. She has not reviewed the latest revision; however, because this is a preliminary, she will not have any comment. They are short 50' for the frontage. When they file the definitive plan, they will need a more complete plan.

Mr. Conroy stated he is not sure the abutters would want a full blown road. If the board doesn't give them the waivers, they will have to come back with a full blown definitive plan. Ms. Dennehy agreed that what is proposed has less of an impact on the abutters. Mr. Conroy stated they need to prove they can do this as a subdivision without the waivers. Mr. Romeo asked if the house is staying and Mr. Hardy stated yes.

Robert O'Leary, 776 Washington Street feels the plan lacks information that should be on it according to the Planning Board Rules and Regulations. He doesn't feel the plan is adequate and that it should go back to the applicant. He listed the violations he feels pertain to the submittal. Mr. Conroy stated a preliminary is a sketch plan. They will need to do everything that is in the book, but that is not required at this juncture. Mr. O'Leary stated the fate of the backland is still debatable as to the definition of a paper street and access. Mr. Moraski asked him if he wants to submit what he read and Mr. O'Leary stated no as it is a working file. Mr. Conroy suggested he hold his comments and add to them when the definitive plan is filed.

Dan Carrie, 80 Alton Street asked the process for an abutter or for someone that is concerned. He found out about this by word of mouth. Mr. Conroy stated there is no notice to abutters on a preliminary and whatever the board says is not binding. You will be noticed as an abutters when the definitive is filed and also all the different town boards will weigh in. Mr. Conroy informed the applicant that he will need to file for a scenic road hearing.

8:11 p.m. Mr. Conroy stated they are taking the next hearing out of order. John Conroy recused himself.

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8:12 p.m. Union Square Village, 48 Burns Avenue, Case No. 17-01, Continued Hearing:

Mr. Moraski chaired this hearing. He stated the application for site plan approval was submitted and signed by David Norton, Building Inspector on December 27, 2016. Mr. Moraski discussed some background information and asked where do we go from here. We have sought an opinion from town counsel.

John Conroy, 455 Elm Street and an abutter to this project stated this is incredible. The bylaw was changed last year. This is one whole lot with 14 individual houses. Mr. Norton also signed the McSharry application and now he is back tracking. The Planning Board has nothing from David Norton. This hearing was opened on February 15 and has been continued three times without testimony. Mr. Norton did sign the application. Mr. Romeo stated no one is here tonight to represent Union Square. Where is the Building Inspector? Mr. Romeo stated he is pro development, but not pro loop hole. Mr. Conroy asked if we have anything from the Building Inspector saying Mr. Petrozzi doesn't have to go to the Planning Board. Mr. Moraski stated no. Mr. Conroy stated no applicant is present to withdraw, no building inspector is here. He feels the board should just vote this down. Mr. Moraski stated we have a letter from Lou Petrozzi asking to withdraw. Another issue is he is asking for his money back. Mr. Romeo stated he needs to be here. Ms. Khatib stated we have nothing before us to act on. Mr. Conroy stated you have nothing official. He thinks this board needs to take a vote. Ms. Dennehy stated we were not told definitely that Sarah can vote. It was inconclusive. Mr. Conroy read a letter dated June 8th from Lou Petrozzi. He stated that legally this is all we have. Mr. Moraski stated that things have come in for us, but not directly. Mr. Romeo asked if any applicant came in and even if they didn't continue and asked to withdraw what would our action be. Mr. Conroy stated you can't hold them here. Mr. Petrozzi is saying he doesn't need to be here. The only official thing the board has is a letter from Lou Petrozzi. Mr. Romeo stated if he wants to withdraw, then that is what we should do. Mr. Moraski stated he was told this is a loophole that he found. Mr. Conroy stated you people are being asked to allow him to withdraw as he says he doesn't need to be here. Mr. Romeo asked Mr. Conroy if he doesn't think we need to accept his letter and Mr. Conroy stated yes. Mr. Romeo asked if the reason matters. Our fight is with the Building Inspector on the loop hole. Mr. Romeo stated if we move forward with his withdrawal, then the only way back is with a new filing. Ms. Dennehy stated that section of the bylaw is worded strangely. Mr. Romeo asked how we would word a motion. What if we deny the withdrawal and then reschedule the hearing. Ms. Dennehy stated the Zoning Board hearing on this project is July 26.

Mr. Conroy stated his attorney, Philip Macchi, 1256 Washington Street, Norwood, MA was present.

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Atty. Macchi stated that the 65 day time frame to hear this application is long gone and the applicant has extended through the end of the month. The board needs to do something before June 30.

If you don't deny tonight, you constructively grant it on July 1, which would put everyone in this room in a worse position. What you have before you is woefully deficient. This board is not in a great place. The board has nothing in writing to act on. If you opt not to withdraw, you have to deny the site plan. You have to act before June 30th. If he refiles, Sarah would be part of the process. The board has to do something tonight. Mr. Romeo stated if we vote to deny based on no information, it could still go through based on the Building Inspector's prior authorization that they don't need to before this board. Mr. Macchi stated regardless you will need to engage the building inspector. If they need site plan approval, a building permit cannot be issued without it. He strongly recommends that David Norton be here to hash this through.

Mr. Moraski moved to close the hearing. Motion seconded by Ms. Khatib and voted 3-0-0.

Mr. Moraski moved to deny the Site Plan Application for Case No. 17-01 under Section 13, Site Plan Review of the Town of Walpole Zoning Bylaw, as shown on a plan entitled, "Union Square Village" dated December 10, 2016, latest revision June 1, 2017, prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 02746, as may be amended, due to lack of evidence and testimony during the public hearing process and to make the following findings:

- The Applicant did not present any verbal testimony during the public hearing process and from the time of opening the public hearing on February 16, 2017, the Applicant requested that the Planning Board continue the public hearing without testimony until April 20, 2017 and again without testimony until June 15, 2017, at which time the Applicant had sent the Planning Board a letter requesting withdrawal of the Site Plan Application, and had yet to provide any verbal testimony and any clarification or explanation of their Site Plan Application.
- By the Applicant and/or a representative not being in attendance at the public hearing on June 15, 2017, the Applicant denied the Planning Board and abutters their right to ask questions about the proposed project.

Motion was seconded by Ms. Khatib and voted 3-0-0; therefore the Site Plan Application for Case No. 17-01 is hereby denied.

The board took a ten minute break.

Mr. Conroy returned at 9:15 p.m.

9:20 p.m. Echo Estates, 4-Lot Definitive Subdivision, Main Street: Mr. Conroy read the public hearing notice. Mr. Glossa submitted the green cards. Mr. Conroy stated there was no

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preliminary hearing. The applicant, Anthony Rossetti and the owner, John Sanzi, were represented by John Glossa, Glossa Engineering, 46 East Street, East Walpole, MA. He gave the green cards to Ms. Khatib.

Mr. Glossa stated they will leave the sidewalk in a manner that they think MA Highway would like. There is a manhole in front of this property, which he showed and received approval from the Sewer and Water Commission. He also met with Frank and Shirley Brunetta at their house. He stated there will be an easement granted solely to them. He also has an Order of Conditions on this project, which was designed in accordance with stormwater management. In all storms, all the water will stay in the basins and infiltrate into the ground. Mr. Glossa stated they did request one waiver with regard to the scale of the plans. The street name, Echo Way, has been approved by Fire, Police and E911. Regarding phasing, there are restrictions on Lots 1 and 2 that they have to access through the road for 5 points. They did go before the Board of Health and revisions were made to the original plans. He asked that the board close and vote tonight.

Mr. Conroy read board comments that were received. Mr. Glossa stated there was an easement granted in 1986 by Norwood Engineering. Mr. Moraski questioned if all the construction is being done on Lot 49-80 and Mr. Glossa stated yes as the other parcel is wetland. Mr. Moraski asked if that would require an 80,000 s.f. lot and Mr. Glossa stated no as they are to connect to sewer. The lots cannot cover more than 15% of impervious cover. He doesn't think they must file for a special permit. Mr. Moraski stated we don't have a picture of the houses on the lot and Mr. Glossa stated that is not under our purview. Ms. Dennehy stated they need to meet all the setbacks anyway. Mr. Moraski asked if the only access is through this subdivision, will all the other lots on Cyrpress Lane be landlocked. Mr. Glossa stated no, only the wetlands will be landlocked. He stated they have an Order of Conditions. Mr. Moraski questioned input from the Board of Health and Mr. Glossa stated there is nothing here to jeopardize public health. Mr. Glossa explained sight distance. Mr. Romeo questioned the easement to Raphael's. Mr. Glossa stated that is cathodic protection only per Mr. Sanzi. Ms. Khatib questioned a comment from the Fire Department as to whether there is a hazard being next to a commercial property. Mr. Glossa stated it is not a problem as it is separated by 100' or more. There will also be a restriction in the deeds that these lots can't be accessed off Main Street.

Ms. Khatib stated the green cards are all set.

Mr. Conroy questioned the 1-1/2" line to Brunetta's property. He stated that line needs to be tested before paving. Mr. Glossa stated they can add this to the plan. It is required all pipes get blown out. Mr. Conroy asked that Mr. Glossa put that on the plan and Mr. Glossa agreed.

There were no public comments.

Mr. Moraski moved to close the hearing. Motion seconded by Mr. Romeo and voted 4-0-0.

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Mr. Moraski moved to grant a waiver on the traffic impact statement, fiscal impact assessment and a requested waiver with regard to plan size. Motion seconded by Mr. Romeo and voted 4-0-0.

Mr. Moraski moved to accept a restriction on Lots 1 and 2 for access to Route 1A from Echo Way. Motion seconded by Mr. Conroy and voted 4-0-0.

The board discussed the standard and special conditions. Mr. Conroy moved approve with the board's standard and special conditions and added notes. Motion seconded by Mr. Moraski and voted 4-0-0.

10:20 p.m. Siemens Healthcare, 333 Coney Street, Continued Hearing, Case No. 17-04: The applicant was represented by Atty. Philip Macchi, 1256 Washington Street, Norwood, MA. He stated they met with the neighbors on June 8th to discuss several issues, including fencing, screening, landscaping between the fence line and the actual new buildings, height of parking garage and capacity of garage as suggested by the Board. It was agreed to put in a permanent safety fence between the neighbors on Hale Road and Siemens. They meet the bylaw with regard to parking. This is a multi-year project and the main construction will be done within two years.

Mr. Conroy read comments received from the town engineer, Margaret Walker. Mr. Macchi stated that Siemens is helping the town get a Coney Street grant; therefore, he asks that the board not talk about parts of the project that they don't control. Mr. Conroy stated we have no say over off-site improvements.

Mr. Conroy read comments from the Fire Department, Board of Health and Police Department. Ms. Khatib questioned the fence and asked if it would be privacy or chain link. Mr. Macchi stated the majority wanted chain link so that is what it is. She wants to make sure the residents are getting what they wanted.

Mr. Romeo asked if the fence will be on Siemens' property so they have to maintain it and Mr. Macchi stated yes. Mr. Moraski stated he has many questions regarding square footage, the Development Impact Statement, water storage tank and RA land. Mr. DeBello stated there is a tank on the property for water which holds 250,000 gallons. Ms. Khatib asked if we should address the two year construction deadline in case they can't meet that deadline. Ms. Dennehy stated we can. Mr. Conroy stated we might want to put in phasing.

Mr. Conroy asked for public comments.

Caitlyn Benoit, 42 Hale Road stated she appreciates Siemens working with them. Privacy is a concern for her. This will affect three houses. She would like a wooden fence because it is her backyard and chain link doesn't provide protection from dust. What is her recourse with Siemens if dust comes into her house? She would still like them to go for a variance on the side. They have expanded so many times. What is to keep them from going up another level? Atty. Macchi stated

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they went with the majority. Also, she is correct; her lot runs up against Siemens. It looks a lot less intrusive now. Regardless of what kind of fence, it won't screen anything. It is bigger; they just didn't make it higher. It doesn't work to put all the cars over by Route 95. He asked the board to approve the plans as submitted.

Mr. Conroy asked how much time will you be spending on the Hale Road side. Atty. Macchi stated fence, berm and landscaping and expanding the parking lots below the berm. At some point in the future, they will build the garage.

Mr. Conroy questioned dust control. Mr. DeBello stated the neighbors brought that up. Mr. Conroy stated the Board of Health has the power to shut this down because it is a health issue with dust. Mr. Romeo questioned if there will be trees on top of the berm and Atty. Macchi stated yes. Mr. Romeo stated if Caitlyn Benoit wanted to grow ivy on her fence, would they cut it down? Atty. Macchi stated they won't go on her property, but he can't speak for Siemens.

Thomas Benoit, 42 Hale Road stated they were at a presentation last Thursday and he doesn't think the way the vote was taken was done in a professional manner.

Caitlin Benoit stated this has created a discord in the neighborhood. They would rather no fence than a chain link.

Atty. Macchi stated they have to maintain the fence. It is not reasonable for them to pick and choose neighbors. Mr. Romeo asked if they gave the neighbors a copy of the landscape plan. Mr. Benoit, 42 Hale Road stated they asked for it but was told they had to wait until tonight. Mr. Moraski urged they be given a copy. This is a risky project for Siemens. They mentioned the "eventual" parking garage.

Mr. Benoit, 42 Hale Road stated they were told on May 18 to come and fight for the variance. They are grateful that the town is working with them. He is concerned with pile drivers damaging his foundation. Mike Perry, Siemens, stated the area they need to excavate is on the Hale Road side. Close proximity to the parking area is necessary. Mr. Conroy asked how much dirt they are retaining and Mr. Perry stated he is not sure.

John Buckley, 62 Hale Road stated the night they voted for the fence was quick. He thought chain link would blend in. He asked if it is possible to accommodate the people who are directly affected. We should help the people where this is going in their backyard. He doesn't really want a fence. He stated give the stockade to those people that need stockade. They want something in writing to not allow to garage to go higher. Mr. Romeo stated they would have to come back before this board if it changed. He asked if there is anything that can prevent them from adding another floor and can we condition this. Mr. Conroy questioned the legality of the fence. Atty. Macchi stated the neighbors have put them on notice. If the board demands them to not do it, they would not do it. Mr. Romeo

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asked would it be appropriate to allow the residents' time to rethink their vote. Atty. Macchi stated he is going to ask to close tonight. Ms. Khatib asked if Siemens can put a chain link fence at the ends and a wooden fence in the middle. Atty. Macchi responded you asked for a fence and we are giving you a fence.

Katie Buckley, 62 Hale Road questioned a variance and why would the board not recommend them doing that. Mr. Conroy stated there could be an issue because of where it would be. Ms. Buckley stated it doesn't make sense.

Neighbor, 70 Hale Road stated she is in support of moving the garage and parking over to Route 95. She is also concerned about the timing of this project. The neighborhood will be affected for a number of years.

Julie McClure, 259 Coney Street stated her house is affected. Once they start construction her fence will fall down. They were concerned with property values. No one will want to buy a house with construction in the backyard. They want their privacy and safety for their children. She has concerns with dust, fumes, and this being an eyesore. She feels Siemens could work with them a little more. They have Route 1 and the mall.

Mr. Macchi stated as far as Hale and Sandra Roads, they are public ways. The met with the Board of Selectmen and this is where they ended up. Dust has been discussed and they feel they are being responsive to the neighbors. Mr. Romeo questioned the trees and Atty. Macchi stated spruce, red pine and white pine. Mr. Conroy stated we are at an impasse. Regarding the garage, Siemens can't move everything to one side. He is hearing from everyone here tonight that this is an attractive nuisance. Siemens is not going to give us an extension of time. We can leave the fence type open to see what the abutters agree to as there has to be one fence. One of the neighbors asked if it is stockade will it be maintained and Mr. Conroy stated yes. We can condition this.

Linda Orlando, Hale Road asked why the people who prefer stockade have it. Another abutter asked if the chain link fence was ordered yet and why can't the first four houses have stockade and the rest chain link. Atty. Macchi stated they can't order anything until this board approves this.

Mr. Moraski moved to close the hearing. Motion seconded by Mr. Conroy and voted 3-0-1 (Ms. Khatib abstained). Mr. Conroy moved to approve this application with the board's standard conditions and one special condition regarding a 6' fence. Motion seconded by Mr. Moraski and voted 3-0-1 (Ms. Khatib abstained).

It was moved, seconded and voted 4-0-0 to adjourn. The meeting adjourned at 11:50 p.m.

Respectfully submitted,

Sarah Khatib, Clerk (accepted 8/17/17)