

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 10, 2016

A regular meeting of the Walpole Planning Board was held on Thursday, November 10, 2016 in Room 112 at Town Hall. The following members were present: John Conroy, Chairman; Elizabeth Gaffey, Vice Chairman; John Murtagh, Clerk (7:06 p.m.); Joseph Moraski, Marc Romeo, Elizabeth Dennehy, Economic Development Director; and, Margaret Walker, Town Engineer.

Mr. Conroy opened the meeting at 7:01 p.m.

Minutes: Mr. Conroy moved to accept the minutes of October 6, 2016. Motion seconded by Ms. Gaffey and voted 4-0-0.

Boyden Estates: Mr. Conroy moved to set the bond at \$851,000. Motion seconded by Mr. Moraski and voted 4-0-0.

Brush Hill Subdivision Bound Waiver: Ms. Walker stated that two bounds could not be installed where required; one was a drill hole and the second one was along Arlington Lane. She stated she is okay with both these waivers as long as they are taken down below ground level. Mr. Conroy moved to allow the bound waivers as requested. Motion seconded by Mr. Moraski and voted 4-0-0.

Mr. Murtagh arrived at 7:06 p.m.

MOU Discussion: Mr. Moraski feels the town administrator had been given sufficient notice of this being on tonight's agenda, but would agree to put it on the board's December 1st agenda.

Mr. Romeo recused himself at 7:28 p.m.

7:29 p.m. McCurry/Maplewood Condos Continued Hearing, off Pleasant Street, Case No. 16-5:

The applicant was represented by Philip Macchi, Esq., 1256 Washington Street, Norwood, MA. Also, Atty. Gerald Blair, Sharon, MA was present on behalf of two abutters. Atty. Macchi stated this hearing has been continued for multiple months. At the last meeting they were instructed to contact the Town of Norwood Building Inspector, Mark Schubert, regarding a small area that is in Norwood. His response was sent to Walpole's town counsel, Ilana Quirk. Mr. Conroy stated there are two plans, one dated June 2 and the other November 9, 2016. Atty. Macchi stated they are proposing to move the sidewalk completely out of Norwood and they would agree to the Norwood land being labeled a non-buildable area. As far as the character of the neighborhood, David Johnson, Norwood Engineering, can address this. Mr. Conroy asked if we want to look at the plan or do we want to hear from Atty. Blair. Atty. Blair stated he is representing two neighbors. Regarding the correspondence from the Norwood Building Inspector, he doesn't really express an opinion. That opinion cannot really supersede the language that is in the Norwood Zoning Bylaw. The Norwood property is in the Manufacturing zone which means the lot is in two different zoning districts. The split zone was not mentioned in the Building Inspector's letter. He stated that Section 2.4.2 of the Norwood Zoning Bylaw prohibits using manufacturing in a residential zone. Also, 100' of frontage is required, but only 56' is in Walpole. The use of the Norwood portion of the property would violate Norwood's bylaw. Mr. Moraski asked if Atty. Blair sent his letter to Atty. Quirk and the Norwood Building Inspector. Atty. Blair stated he did send it to town counsel, but

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 10, 2016 (2)

not to the Norwood Building Inspector as it is not his place to do so. Mr. Moraski feels someone needs to make a decision on this. He feels it is still up in the air. He feels this information should be re-reviewed by someone. Mr. Murtagh stated he is uncomfortable moving forward until the Zoning Board comes back with a decision as mentioned in Town Counsel's letter. Mr. Conroy stated that is not this board's war. We have something from town counsel and also Norwood's building inspector. He doesn't think this prohibits us from moving forward. Mr. Blair brought up some good points. We could approve this, but Norwood could appeal it. Town Counsel did not reference Atty. Blair's letter. We can go with what we have, but Atty. Blair could take it down from the Norwood perspective. Atty. Macchi stated there is no way this hearing is closing this evening. The Norwood Building Inspector is the Zoning Enforcement Officer, which is who they asked for a zoning opinion and this is what they got. At some point they may be moving ahead at risk but at this time he doesn't object to sending Mr. Blair's letter to town counsel. Atty. Blair was asked if he had something else to send to town counsel and he said no. Regarding active land versus passive, passive land remains vacant and vacant land is allowed anywhere. That the land would remain passive in perpetuity would be an acceptable condition to Atty. Macchi. Further, if the board is going to forward something to town counsel, he would like to know what exactly he is waiting on. Mr. Conroy stated we can forward what Atty. Blair brought up; however, Kopelman & Paige doesn't work for the Town of Norwood. Atty. Blair stated he agrees that he had said he had nothing further to send to town counsel, at that time, but since then he has. He submitted a memo to the board. Mr. Conroy stated he feels this submittal should go to Norwood, not us. David Johnson, Norwood Engineering stated in a memo dated June 9, 2016 from Margaret Walker, she had stated that no building permit will be issued without a street name. Further, the only change to the June 2 plan is the crosswalk.

Mr. Conroy read a memo dated November 8, 2016 from Ms. Walker. Regarding a street name, it is a driveway. Mr. Johnson stated he met with Ms. Walker and Capt. Smith, E911, today to discuss a street name. Capt. Smith will get back to him on Monday. Mr. Conroy stated the plans need to go back out again. Atty. Blair questioned the insufficient buffer. Ms. Dennehy stated we received a determination from the former Building Commissioner and also the present one, both feel that these are detached homes and therefore Section 3-B is applicable, not 3-D. Mr. Conroy asked if we have those determinations in writing and Ms. Dennehy stated yes they are in emails. Mr. Conroy asked for a copy of them for the file. Atty. Blair stated that this board is not restricted by the opinion of the Building Inspector, but they are empowered to interpret the entire zoning bylaw. If this board determines there is an insufficient buffer, they can't grant site plan approval. Mr. Conroy stated the Zoning Board of Appeals will determine that, not us. Atty. Macchi stated they have also filed with Board of Appeals and they will make a determination as to the correct section of the bylaw. He asked that the two emails from the Building Commissioners also go to town counsel as well. Ms. Dennehy stated this board can add provisions that the abutters are appropriately screened. Mr. Conroy stated we are dealing with typical house lots in GR. Ms. Dennehy stated that is correct as long as they receive the proper special permits from the Zoning Board. Mr. Conroy asked if the special permits will trump us and Ms. Dennehy stated that is a legal question, but she thinks so.

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 10, 2016 (3)

Mr. Conroy stated he feels they need a determination from the Zoning Board because whatever we do here going forward could be trumped by the Board of Appeals. He asked that the emails from the previous and present Building Inspectors be forwarded to the Board of Appeals also.

Mr. Conroy asked for comments from the public.

John Gas, 7 Pleasant Street stated that the meeting at the site was not nearly as conciliatory as counsel makes it sound. Fencing was questioned at that meeting. He feels the land should have been surveyed and borders marked. Mr. Conroy stated whatever is shown on the plan is what it is. They can't vary from the plan. Mr. Gas stated they have no way to see where things are. Mr. Conroy stated this is a lot, not a subdivision. It is up to the applicant as to whether or not they want to mark it off. David Johnson, Norwood Engineering, stated that would be on the ground topo survey and they will stake the site out at a later time. They know exactly where the property lines are and they are shown on the plan. The fence is on the property line and that is where it will be constructed. Also there are stakes out on Maguire Park and Pleasant Street. Mr. Gass disagreed and stated it is not properly marked. Atty. Macchi stated when they met with the neighbors they had not staked out the lot lines. Mr. Johnson stated they went out there and did a survey and did a rough stake. It will be exact when they build. Mr. Conroy stated we need new plans dated November 9, 2016 and they should be the same ones as the Zoning Board of Appeals plans. Mr. Macchi granted the board an extension of time up to and including January 31, 2017.

Mr. Conroy moved to accept an extension of time up to and including January 31, 2017. Motion seconded by Mr. Moraski and voted 4-0-0.

Atty. Blair stated he can't come to the January 5, 2017 Planning Board meeting and asked that this be continued to a later January date. Atty. Macchi stated they would like to come back as early as possible. Mr. Conroy continued this hearing to January 19, 2017 at 7:30 p.m. He stated that we need new plans and also information needs to be forwarded to town counsel and the Board of Appeals.

Mr. Romeo returned at 8:49 p.m.

8:50 p.m. Southside Neponset, 545 South Street, Case No. 16-10 Site Plan Approval and Case No. 16-11 Special Permit: Mr. Conroy read the public hearing notices for both the Special Permit and the Site Plan Approval and stated the two hearings will run concurrently. The applicant was represented by Dan Merrikin, Merrikin Engineering. He stated that this site is adjacent to 505 South Street, which is where Tufts Emergency Vet and Richard Shields offices are located. They have filed with the Conservation Commission and are waiting for a decision. The property is about 350' back from the street and is located in an Industrial zone and WRPOD 2 and 3. Mr. Merrikin stated they are proposing a 24' wide two lane drive to access the building area and there will be 9' wide parking spaces. They are proposing 56 spaces and three handicap accessible spaces. The property is 9.78 acres. They will convey the wetlands to the Conservation Commission.

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 10, 2016 (4)

After approvals are granted by the Planning Board and Conservation Commission an ANR will be filed to create Lots 2A and 2B. Lot 2B will be conveyed to the town.

Mr. Merrikin stated that the setbacks are more than adequate. They are proposing five light poles and the entrance will be illuminated. The water line will be from South Street and heat will be propane tanks for the tenants. There will be no discharge as everything will be infiltrated into the ground and recharged. There are no specific tenants at this time, but possibly a daycare. Right now it is a multi-tenant commercial building. Mr. Conroy stated we can't grant a special permit when you don't need one. He suggested that they have an ANR ready to be endorsed on the night this is approved. Mr. Merrikin stated he wanted the special permit in anticipation of the ANR. Mr. Conroy stated if it is done in conjunction and referenced in the decision, this will be a one step process. Mr. Shields asked if it won't be recorded until after approvals and Mr. Conroy stated that is correct, but we will refer to it in our decision.

Mr. Conroy read board comments. Mr. Merrikin stated there are no hazardous materials proposed at this time. They do have revised plans and Ms. Walker's comments are on the revised plans. They also have to address the comments from the Conservation Commission. Mr. Conroy read a letter from the Board of Assessors. Ms. Dennehy read her comments.

Ms. Gaffey asked if the propane to be used for the heat will be stored above ground or underground. Mr. Merrikin stated they are not sure yet. The bylaw doesn't stipulate one way or the other in the WRPOD. Ms. Gaffey asked if they will be going to the Sewer and Water Commission and Mr. Merrikin stated yes. Mr. Romeo stated he thinks they have done a good job with this filing. Mr. Murtagh stated this is a nice building and questioned the ANR. Mr. Merrikin stated they are going to chop the lot into two parcels and give a 6.87 acre parcel to the Conservation Commission. Mr. Murtagh stated he doesn't see a landscape plan, but doesn't think it is necessary here. Mr. Moraski questioned the hydrants. Mr. Merrikin stated they will meet with the Fire Department. Mr. Moraski stated the Board of Health requested a sidewalk and asked if they mean on South Street or the driveway. Mr. Merrikin stated the Board of Health likes to encourage walking. Ms. Dennehy feels a sidewalk would give a pedestrian a false sense of security if they are put in. Mr. Moraski questioned a chain link fence as a safety factor. Mr. Merrikin stated it is in the back in case of a daycare. Mr. Moraski also saw the lack of a landscape plan. He is not concerned but feels anything up there should be drought resistant. Mr. Merrikin agreed. Mr. Conroy asked why propane and Mr. Merrikin stated there is no gas on the street. Mr. Shields stated this building will be similar to the building at 505 South Street.

Deborah Baker, 609 South Street stated she has been there for forty years and asked what would warrant a traffic study. Ms. Dennehy stated if the proposed use would generate a lot of traffic or if sight distance was an issue because of the proximity to an intersection. The town engineer does weigh in on this. Mr. Moraski stated regarding the Conservation Commission comments, they asked for an easement when they get the conservation land. Mr. Merrikin stated the Conservation Commission will have all the frontage and Mr. Shields would rather not give an easement. The Conservation Commission

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 10, 2016 (5)

is okay with that. Mr. Shields stated that if a daycare is out back, they don't want to encourage people out back. Mr. Merrikin stated he will submit new plans to the Planning Board on Monday and also an ANR plan.

Mr. Merrikin granted the board an extension of time up to and including December 25, 2016 to take action on both the site plan and special permit. Mr. Conroy moved to accept an extension of time up to and including December 25, 2016 on which to take action on both the special permit and site plan. Motion seconded by Mr. Moraski and voted 5-0-0. Mr. Conroy continued the hearing for Case No. 16-10 and 16-11 to 7:04 p.m. on December 1, 2016.

9:31 p.m. Kingswood Estates: Mr. Conroy moved to go into executive session to discuss litigation on Kingswood Estates. Motion seconded by Ms. Gaffey and voted 5-0-0 (Conroy, Gaffey, Murtagh, Moraski, Romeo). Mr. Conroy asked for a roll call vote: Gaffey: yes; Murtagh: yes; Moraski: yes; Romeo: yes; Conroy: yes. The Planning Board went into executive session at 9:32 p.m. and will not be returning to regular session.

Mr. Murtagh left the meeting at 9:34 p.m.

Ms. Gaffey moved to come out of executive session. Motion seconded by Mr. Moraski and voted 4-0-0 (Conroy, Gaffey, Moraski, Romeo). Mr. Conroy asked for a roll call vote to come out of executive session: Ms. Gaffey: yes; Mr. Moraski: yes; Mr. Romeo: yes; Mr. Conroy: yes. The Planning Board went out of executive session at 9:36 p.m.

Mr. Conroy moved to adjourn. Motion seconded by Mr. Moraski and voted 4-0-0. The meeting adjourned at 9:40 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 12/1/16