

The November 6, 2013 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 7:00 P.M. with the following members present:

Susanne Murphy, Chairman
James M. Stanton, Vice Chairman (not present)
Daniel J. Cunningham, Jr., Clerk
Ted C. Case, Member
James S. DeCelle, Member

Matthew Zuker, Associate Member

6:45 p.m. – Acropolis Property Management – Case #16-13 (cont'd from 10/23/13)
(Murphy, Stanton, Cunningham, Case, DeCelle, Zuker)

George Yousif updated the Board on his work at 476 Fisher St., i.e., the fencing was installed about 3 days ago, showed the Board the location of the chain link fencing, but it does not enclosed the entire area, there is no gate, some of the material has been moved out, but a lot of the fill is still there. Mr. Yousif showed the Board snow fencing, and informed the Board that his engineer, John Glossa, is going to call Mr. DeCelle. The Septic Permit was supposed to be left by the Board of Health, but he does not have it. The fines are scheduled to be paid.

7:00 p.m – John Murphy – Case #18-13

Ms. Murphy read the public hearing notice for **JOHN MURPHY, Case #18-13**, with respect to property located at 20 Rock Hill St., Walpole and shown on the Assessors Map as Lot No. 15-10, Limited Manufacturing Zone.

The application is for:

A Special permit under Section 9.3.A of the Zoning Bylaws to allow construction of a two-story addition to the rear of home 16 feet by 16 feet with a relief request of 20 feet side setback where 40 feet is required.

Joe Denneen, the applicant's builder, explained that the main portion of the house is in Norwood, the construction will be in Walpole, in a Limited Manufacturing Zone.

Mr. DeCelle pointed out the need for the dimension at the existing house where the new addition is to be built. The plan does not show exactly what that dimension is at the closest point. If the 20 foot dimension becomes a problem the applicant can come back before the Board for a modification.

Mr. Denneen explained that the mortgage plan shows 21 feet. He was confident with the dimensions as requested.

Ms. Murphy asked if there were any comments from the public.

Joanne Dolan, 22 Rockhill St., spoke in favor of the addition.

A note was delivered to the Board from Christen and Janet Hanscom, 12 Rockhill St., in favor of the construction.

There being no further comments:

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant, to close the public hearing.

The vote was **5-0-0 in favor**. (Murphy, Cunningham, Case, DeCelle, Zuker voting)

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant a Special Permit under Section 9.3.A of the Zoning Bylaws to allow construction of a two-story addition to the rear of the home 16 feet by 16 feet with a relief request of 20 feet side setback where 40 feet is required.

The vote was **5-0-0 in favor**; therefore the application for **Special Permit is hereby granted**, subject to the following conditions: (Murphy, Cunningham, Case, DeCelle, Zuker voting)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the structure shall be used as living quarters.
2. As stipulated by the applicant at the public hearing, the applicant shall install appropriate erosion control methods to prevent sediments from migrating offsite.
3. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning By Laws in that:

- i. Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.*
The construction shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.
- ii. Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.*
The construction shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.
- iii. Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).*

The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.

- iv. ***Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.***
The construction shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.
- v. ***Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.***
The construction shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.
- vi. ***Shall not adversely effect the character of the immediate neighborhood.***
The construction shall not adversely effect the character of the immediate neighborhood.
- vii. ***Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.***
The construction shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

7:30 p.m. – RSA Media, Inc. – Case #17-13

Ms. Murphy read the public hearing notice for **RSA MEDIA, INC., Case #17-13**, with respect to property located at 2275 Route 1 (Boston-Providence Highway), Walpole and shown on the Assessors Map as Lot No. 53-43, Highway Business, WRPOD 3 Zone.

The application is for:

A Special permit under Section 9.3 of the Zoning Bylaws to allow an existing non-conforming sign (billboard) to have the southerly facing side converted to digital (i.e., electronic messaging center as described in the bylaw).

Dan Merrikin, Merrikin Engineering, explained that the northerly facing digital sign was previously approved by the Board, and this request is for the southerly facing side to also be digital.

Ms. Murphy read the comments from: Lt. Leland, Police Dept., dated October 18, 2013; Planning Board, dated October 23, 2013; Deputy Fire Chief Lacey, dated October 21, 2013; Town Engineer, Margaret Walker, dated October 13, 2013; Conservation Commission, dated November 5, 2013 and Board of Health, dated October 23, 2013.

Mr. Merrikin informed the Board that the State Regulations include the concerns of the Police Dept.

Ms. Murphy asked if there were any comments from the public; there being none:

A motion was made Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant, to close the public hearing.

The vote was **5-0-0 in favor**. (Murphy, Cunningham, Case, DeCelle, Zuker voting)

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, that the Board grant to RSA Media, Inc., a **SPECIAL PERMIT** under Section 9-3 of the Zoning By-Laws to allow the existing non-conforming non-accessory sign (billboard) at 2275 Boston-Providence Highway to be altered by converting the southerly facing billboard surface to digital.

The vote was **5-0-0 in favor**; therefore the **Special Permit** is hereby **granted, subject to the following conditions**: (Murphy, Cunningham, Case, DeCelle, Zuker voting)

1. The billboard shall continue to be operated in accordance with the various requirements of the Special Permit issued under Case #06-07 and Case #05-13, except as specifically altered by this Special Permit.
2. The new digital billboard face shall be operated in strict compliance with MassDOT regulations pertaining to such facilities.
3. The surface area of the new digital face shall be no larger than the existing billboard face.

REASONS FOR DECISION:

It is the finding of the Board that the Applicant was able to meet the requirements of Section 9-3 of the Zoning By-Laws, in that with the above imposed conditions the Board finds that the proposed billboard alteration will not be substantially more detrimental to the neighborhood than the existing non-conforming billboard. Accordingly, the Board determines that the granting of a Special Permit under this By-Law is warranted.

Section 9-3 Special Permit Requirements

A nonconforming use may be continued to the same degree and for the same purpose but may be altered, expanded or extended only with a special permit from the Board of Appeals in accordance with the provisions of Section 2.2, provided further that the Board finds such alteration, expansion or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use.

The billboard in question already exists and was reconstructed in 2007 pursuant to a special permit from this Board, which allowed the billboard to be relocated and reconstructed further away from adjacent properties. The billboard has operated in this condition since that time.

Earlier this year, this Zoning Board granted a special permit allowing the northerly facing billboard to be converted to digital. The Board finds that changing the second,

southerly face of the billboard to digital in accordance with MassDOT regulations will not result in any substantial detriment to the neighborhood. On the contrary, the availability of the billboard face for periodic municipal and emergency use provides a public benefit.

Section 2-2 Special Permit Requirements

Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for special permit:

- (a) Does and shall comply with such criteria or standards as shall be set forth in the section of the Bylaw which refers to the granting of the requested special permit;**

The Board finds that the proposed use complies with the requirements of Section 9-3 as described herein. This requirement is therefore met.

- (b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The Board finds that a billboard does not generate any vehicular traffic. This condition is therefore met.

- (c) Shall not have a number of residents, employees, customers, or visitor, so as to adversely affect the immediate neighborhood;**

The Board finds that a billboard does not generate residents, employees or customers. Visitors are limited to periodic maintenance and billboard advertisement changes, which will not adversely affect the immediate neighborhood given that the billboard lies within a parking lot of a commercial use in a Highway Business zone. This requirement is therefore met.

- (d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that the existing billboard is nonconforming in this regard and exists in its current location and dimensions by virtue of a previously issued Special Permit.

- (e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of waste, or other causes;**

The Board finds that a digital billboard does not present any unusual risk of fire, explosion, emission of waste or other similar conditions. This condition is therefore met.

- (f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;**

The Board finds that a digital billboard does not generate any noise, vibration, dust, heat, smoke, fumes, odor or other nuisance or serious hazard. Furthermore, in accordance with MassDOT regulation, illumination levels in the evening hours are significantly reduced and that such regulations prohibit the creation of glare concerns. The Board therefore finds that this condition is met.

- (g) Shall not adversely effect the character of the immediate neighborhood; and**

The Board finds that because the billboard is already in existence and because it resides on a commercial restaurant property in a Highway Business zone, the conversion to digital will not adversely affect the character of the immediate neighborhood.

- (h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.**

The Board finds that the proposed alteration of a non-conforming sign is consistent with the requirements of Section 9-3 and that this condition is therefore met.

Consistency: This decision is consistent with the purpose and intent of the Zoning By-Laws.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

There being no further business, the meeting adjourned at 8:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on March 26, 2014.