

The April 1, 2015 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of the Town Hall.

Chairman Matthew Zuker called the meeting to order at 6:38 p.m. with the following members present:

Matthew Zuker, Chairman
James DeCelle, Vice Chairman
Craig W. Hiltz, Clerk
Mary Jane Coffey, Member (not present)
Susanne Murphy, Member (not present)
Timothy Foley, Associate Member

Also present:

Jim Johnson, Town Administrator
Maggie Walker, Town Engineer
Ilana Quirk, Town Counsel
Liz Dennehy, Director of Community & Economic Development
Rick Mattson, Water Department Superintendent
John Spillane, Chairman of Sewer & Water Commissioners
Pat Fasinello, Member of Sewer & Water Commissioners
John Chessia, Chessia Consulting Services, LLC
Phil Viveiros, McMahan Transportation Engineers & Planners

Mr. Zuker declared the Board will be going into Executive Session to discuss litigation strategy known as 5th Fairway Development, LLC v. Walpole Zoning Board of Appeals, Housing Appeals Committee No. 2009-09, involving a proposed 40B Comprehensive Permit for land on Baker Street and to discuss litigation strategy regarding litigation known as Barberry Homes LLC v. Walpole Zoning Board of Appeals, Housing Appeals Committee No. 2014-01; and Town of Walpole, et al. v Barberry Homes, LLC, Land Court 2014 MISC 481399-AHS and Robertson v. Barberry Homes, LLC, Norfolk Superior Court NOCV2014-000129 involving a proposed 40B Comprehensive Permit for land on Moose Hill Road. A discussion of the foregoing in open session could compromise the purpose for the executive session. He further stated the board will return to open session at the conclusion of the executive session.

A motion was made by Mr. DeCelle, seconded by Mr. Hiltz, to go into executive session, under G.L. c.30A, §21 (a)(3), for the purposes and reasons declared by Chairman and with the Zoning Board of Appeals to return to open session thereafter.

The vote was **4-0-0 in favor. (Mr. Zuker – Yes; Mr. DeCelle – Yes; Mr. Hiltz – Yes; Mr. Foley – Yes)**

The Board returned to open session at 7:18 p.m.

7:00 p.m. – Barberry Homes, LLC – Case #21-13 (cont'd from 2/5/15) (Zuker, DeCelle, Hiltz, Foley)

Matthew Zuker read the Public Hearing notice for **BARBERRY HOMES, LLC, Case #21-13**, with respect to property located at 272 Moose Hill Road, East Walpole, MA, which consist of approximately 14.33 acres, as shown on Assessors Map 36 as Lot Nos. 66, 66-1, 62 and is located in the Residence A Zone, to obtain a comprehensive permit under G.L. c.40B in order to allow construction of a rental project with 157 units, 25% of which shall be affordable units.

The application and revised plans are on file with the office of the Board of Appeals at the Walpole Town Hall.

Mr. Zuker stated that this meeting is a continuation from March 11, 2015. He also wanted to apologize to the Applicant and the audience for the wait. The Executive Session went longer than expected. The Board appreciates your patience. At our last meeting we had questions regarding the ground water, parking, school buses and drainage. We have our traffic consultant, the Town Engineer and some members from the Sewer and Water Commissioners here with us tonight. That being said lets open it up to the Applicant.

Adam Costa, attorney for the Applicant said this is the third session of the Public Hearing. We have the same members of our team here with us as last time. Dave Carter, Jim Williamson, Jason Sobel and Rob Truax are here tonight. One thing I want to address is the school bus access to the site. When we concluded the last meeting it was suggested that we meet with the school committee regarding pick up for the school buses. Mr. Williamson did have a conversation with Kim Poirier the Transportation Coordinator for the Town of Walpole. She stated that the school buses will not come onto the development but they will pick the students up outside of the development. There will be a safe area for the school children to wait. The bus route that is in existence now will continue to be in existence. It will continue on the same path. I think that addresses that question.

Rob Truax of GLM Engineering representing the Applicant stated that the biggest revision to the plans was that we took off the emergency access road. It was recommended by Ms. Walker that we should put in a drainage structure on Moose Hill Road so we did that. At the last meeting we discussed putting in test pits on the site and monitoring wells. We looked at 2 wells and we are also monitoring a well in Norfolk as well. As of yesterday we measured 2.3 feet (passed out test pit information to the Board to add to the record). Mr. Truax went on to say that they did a mounding calculation as well. All of the information/data is on that sheet he added to the record. He apologized for this information being last minute. He thought that they would get a better read.

Mr. Zuker asked about the basins and the underground leaching systems.

Mr. Truax said that the biggest concern was the lower elevation basins.

Mr. Zuker asked if the Norfolk well is what you are comparing it to.

Mr. Truax said yes. We are hoping to hit a high this month. We will keep monitoring it.

Mr. Zuker said that he appreciates the Applicant getting a reading before the hearing. We will ask our Town Engineer and John Chessia what they have to add.

Mr. Hiltz asked if there were any other changes to the plans.

Mr. Truax said just minor things.

Mr. Zuker wanted to know if Mr. Truax had a chance to read Mr. Chessia's report from the previous day.

Mr. Truax said yes he did read it.

Mr. Jason Sobel of Green International, the traffic consultant for the Applicant, stated that he would start with the site distance questions. He mentioned that they put the stopping site distance on the plan. Mr. Sobel then went on to discuss the parking issues. The Town's peer review letter states that we are not at the 85th percentile. We are at 1.89 per unit. I do not disagree entirely with what the peer reviewer states however by definition as we discussed at the last meeting, he felt their data was acceptable. We are very close to the 85th percentile. Looking at the big picture is why we are comfortable with that number. The data we used is from the Parking Generation Study, we feel it is the best data available.

Mr. Zuker invited the Town's Consultant Mr. Phil Viverios to come up and discuss what he found.

Phil Viverios of McMahon Transportation Engineers & Planners, traffic consultant to the Town stated that they looked at the parking supply issues and the handicap spaces. We have 4 major comments: 1. We request that the Applicant clarify the use of the five proposed spaces located within the maintenance building and determine if these parking spaces will be restricted to the use of maintenance vehicles only. Should this be the case, additional parking spaces for residents and guests will need to be provided. 2. We request that the Applicant clarify whether any spaces within the garages will be designated as handicap spaces: if so, the Applicant should confirm that ADA requirements for such spaces are satisfied. 3. We request that the Applicant revise the parking supply for the development to provide, at a minimum, adequate parking to accommodate the 85th percentile peak parking demand, based on ITE data. 4. We request that the Applicant investigate whether parking areas can be expanded to accommodate the minimum design standards provided in the Zoning Bylaw.

Mr. Zuker wanted to know what is required for handicap spaces.

Mr. Viveiros said the Applicant exceeded the amount of spaces required.

Mr. Zuker said that obviously if you had 100 units of 4 bedrooms that is a different count of 100 units of all studios.

Mr. Viveiros said that not every study provides the information about the bedrooms.

Mr. Zuker said the neighbors' concerns are if there will be enough parking on site to make sure there is no overflow into the street.

Mr. Viveiros said that it is hard to say. You would have to look at it like an individual case. The Applicant used numbers from the ITE data. That is not indicative to what this development will be. It is a commonly used study by people in our industry however.

Mr. Zuker mentioned that Mr. Viveiros had a number of 1.94 that he would prefer. The Applicant had 1.85 which is a difference of 9 spaces.

Mr. Viveiros said looking at where the site is located, it is very isolated. The residents would have to drive because there is no public transit readily available.

Mr. DeCelle asked about the excess handicap spots. Having those excess spots, does that take away from the total number of spaces? Would it make sense to use some of the extra spaces as overflow parking?

Ms. Quirk stated that they provided more handicap spaces than they needed.

Mr. Zuker stated that he felt the overall parking will be fine; he is just concerned with the Super Bowl Sunday sort of event when there is an abnormal amount of people. With this study though, will there be enough parking for the average day.

Mr. Viveiros stated that the data is based on the amount of units.

Mr. Zuker invited the Applicant's traffic consultant, Mr. Sobel to respond.

Mr. Sobel stated the IT Parking Generation is based on National data. It does differentiate between urban and suburban locations. The data we used was in just suburban locations. This study is based on the number of units but we did some more digging and looked into the number of bedrooms. We also further supported our number by looking at the Avalon in Sharon. The combination of digging into National Data and researching the Avalon lead to our comfort with the number 1.89. In response to the parking width, the design that we used with the 60 foot parking modules are consistent with a lot of standards. The dimensions that Mr. Viveiros sited from the Highway guide was published in the 1970's, it is quite dated. Based on that we are still comfortable with the dimensions we have on the plan.

Mr. Hiltz wanted to know how recent the data the Applicant is using was.

Mr. Sobel explained that they have just added new data. It is a good spread. A lot of studies are from the early 2000's there are some from the 1960's as well.

Mr. Hiltz asked if the Applicant had answered the maintenance building question regarding the spaces that were located in there.

Mr. Sobel stated that there are 5 spaces and only 1 of those spaces will be dedicated use for a maintenance parking.

Mr. DeCelle wanted to know if there was a reason the Applicant has extra handicap spaces.

Mr. Truax said no, they put a handicap space in the front of each entrance of each building. We are over by 2 spaces. You can un-handicap them if after time you realize you did not need them but it cannot go back and forth on an as need basis.

Mr. Zuker stated that they could find a way to add 9 more spaces but would it be worth it. We understand the neighbors point to make sure it is adequate.

Mr. Truax stated that the Applicant does not want it to be a problem either. We tried to compare it to something equivalent, which we did when we looked at the Avalon Sharon.

Mr. Sobel stated that after speaking with someone in the leasing company at the Avalon Sharon, she stated that they did not have a problem there with the number of parking spaces.

Mr. Zuker felt that was a similar scope of project. He then asked Mr. Chessia to speak.

John Chessia of Chessia Consulting Services LLC, the Town of Walpole's consultant stated that the plan does show site lines but he has never seen them drawn like they are on the Applicant's plan.

Mr. Sobel explained that there are 2 different types of site distance. There is stopping site distance and intersection site distance.

Ms. Quirk said she believes Mr. Chessia is looking for the triangle on the plan that is typically used to show site distance.

Mr. Chessia stated he will defer the comment in his report about the site distance. In terms of the other comments, we are down to very few issues. The main issue is the ground water adjustment. I also have a problem with the mounding. There is a calculation that states they have 800 feet of sand; I just don't think that is right. I cannot imagine that there would be 800 feet of sand. That has a big impact on the variable in regards to the numbers. Mr. Chessia felt that those numbers needed to be adjusted with real data. If the sand was actually 800 feet down, he felt that the Town would have a well there. There are some discrepancies.

Mr. Zuker wanted to know if Mr. Chessia felt that some of those numbers should be different.

Mr. Chessia said that he did not have much time to look at these new numbers. If the mound comes into the basin then you would have to raise the basin. We are not that far off. It could however be off enough that you would have to raise it.

Mr. Zuker wanted to know if there was a number Mr. Chessia would want it to be.

Mr. Chessia said you do not want the mound to break the surface of the basin. The mound has to be able to drain. If water is coming through the bottom then it would impact it. Their numbers are close. They might have to adjust the basin. You can have a 2.6 mound without having to change anything. Mr. Chessia believes they just need to look at that a little more. We are not hugely off. This was the biggest issue remaining.

Mr. Zuker said assuming the Applicant does the mound over.

Mr. Chessia felt they should revise their counts. It could be OK but there is a little more to look at.

Mr. Truax said they will take care of it.

Mr. Zuker opened the meeting up to the public.

Laura Vaites of 12 Johnson Drive expressed her concern with the water regarding the trout and the water temperature not going above 65 degrees. She had concerns with the water getting too warm if the Applicants catch basins released water into the stream.

Mr. Zuker said that he appreciates Ms. Vaites hard work

Ms. Quirk mentioned that the Zoning Board only has jurisdiction over the local concerns. A local bylaw would need to be in place to control what Ms. Vaites is suggesting. Also at the last meeting Mr. Chessia indicated that the designs would be consistent to the cold water fishery requirements.

Mr. Zuker mentioned that there must be a State law in place.

Ms. Quirk said the Applicant will have to comply with the State requirements.

Ms. Vaites mentioned that her biggest concern is knowing that this cold water fishery exists. What is the Applicant going to do to monitor this?

Mr. Truax stated that this project still needs to be filed with the Conservation Commission. This issue is going to come up. There are guidelines we need to meet. The idea is to put the water back into the ground water and that it is cold. This will go through an order of conditions through the State. All of these issues will be looked at.

Mr. Zuker said if someone is not doing what they are supposed to do then repercussions will happen. It seems like there will be a discussion at the Conservation Commission. The better forum to discuss these issues would be with the Conservation Commission.

Ms. Vaites mentioned that at the last meeting she had recommended the developer use organic landscaping. She wanted to state that she did not suggest this to be unreasonable. Harsh chemicals destroy what is already there. Ideally you would want any green space you have to be

safe. It works out well to be eco-friendly. It is a huge selling point to be green. She hopes the Applicant would seriously consider it.

Mr. Zuker said that the Board cannot require that but he would recommend that as well. However it is up to the Applicant. He hopes they are listening to that recommendation.

Angela Moore of 237 Moose Hill Road wanted to know if the Applicant has any plans to have speed bumps. The Avalon in Sharon flows out onto Coney Street which is a busy street. Moose Hill Road is very curvy.

Mr. Zuker noted that the Applicant has raised cross walks.

Mr. Truax said they are called speed humps.

Mr. Zuker said those are put in for a safety standpoint.

Mr. Truax mentioned that there is one near the recreation area and some others between the buildings.

Mr. Costa stated that it is an explicit condition that those speed humps be there.

Mr. Zuker explained that they are shown on the plan internally.

Ms. Moore stated that it is nice they have them internally but she is concerned about people coming out onto Moose Hill Road.

Mr. Hiltz mentioned that if there was a speed bump going into the development that it could cause a backup of cars who are trying to go into the development and that would cause more traffic concerns on Moose Hill Road.

Ms. Moore said that it would slow people down when they enter and exit the area.

Mr. Zuker mentioned that the stop sign would stop them. He doesn't quite see how a speed bump will slow them down; they have to stop at the stop sign.

Ms. Moore said that the way the road curves there is still a problem with visibility.

Mr. Zuker said that Route One is a tough turnout. It is an existing tough road. We are hopeful that the DOT will do something.

Scot Curran of 261 Moose Hill Road asked to view the plans. He was nervous with the landscaping being removed that it would affect his house with headlights. He also was concerned about the radius being adequate for the Fire Department.

Mr. Zuker stated that the Fire Department has looked at the plans. They are OK with what the Applicant is proposing.

Mr. Costa stated just to clarify, we are not eliminating the landscaping, we are just pulling it back.

Ms. Vaites asked if the Walpole Police could get something to help the rate of speed approaching Moose Hill, perhaps one of those speed checkers.

Mr. Zuker said that there is not much the Board can do regarding that concern. He would suggest that the residents of Moose Hill have a conversation with the Walpole Police Department and request a speed meter. The Applicant has heard how important it is for the DOT to do something about this.

Ms. Vaites stated that no matter how we look at it, there will be a backup.

Brian Atkinson of 301 Moose Hill Road said the Walpole bylaw states 2 cars per unit which would equal 314 parking spots. The spots designated just for maintenance, are those included in the total parking count.

Mr. Zuker said that the maintenance spots are included in the total parking count.

Mr. Atkinson said the developer is asking the Board to give a waiver for parking. The plans submitted are lacking 18 spots by the Town of Walpole's own regulations.

Mr. Zuker said that he understands. However he would hate to have too much pavement and parking for spots that are never used.

Mr. Atkinson said that he is going by the Town's regulations. This area is very isolated with no public transportation readily available.

Mr. Zuker said it is common for these types of projects to ask for waivers regarding these sorts of things. It is a fine balance. He would hate to pave for spaces that are not needed, if he felt the Applicant needed those 18 spaces then the Board would require it.

Deb Robertson of 241 Moose Hill Road said instead of making more spaces maybe you should reduce the number of units. This way it will not be too large. This is going to destroy our neighborhood.

Mr. Atkinson wanted to know if there were more spots that were going to be used for people not living at the complex.

Mr. Hiltz stated the numbers supplied are multi use. It goes into the overall calculation.

Ms. Vaites stated that what was originally space for the underground garage is now filled with units.

Ms. Quirk stated that the Town and Applicant agreed to reduce the total number of units. It was originally going to be 174 units and now it is down to 157 units.

Mr. Zuker mentioned that the town houses are gone. The back building is 5 stories because of the slope. No units are above the 4th floor except that back building.

Ms. Vaites asked if there was any storage designated for these units. She felt it be more beneficial to make that bottom ground apartments into a storage area instead.

Mr. Truax said regarding the building with the units in the bottom, the back section of the bottom floor are units and the front section is storage.

Mr. Zuker said the Applicant lowered the units and lowered the spaces. I think we've addressed it the best we could. There is storage and outside bicycle spaces. That back building only abuts Siemens.

Mr. Costa said the parking ratio went from 1.8 to 1.89 so it actually went up.

Mr. Zuker stated moving forward it seems that the last main issue to be determined is the mounding for the groundwater. I would ask that we meet back here in 2 weeks. We can meet on April 15, 2015 after the two cases we already have on the agenda. I think that would give us enough time to wrap up this final item.

Ms. Quirk said that she would recommend counsel go back and forth between now and the next meeting. There were some recommendations Mr. Chessia had that need to be discussed. The Town will also need an extension on the litigation. I would ask for a month. Hopefully we will have everything settled before April 30, 2015 however if we could have a cushion that would be beneficial.

Mr. Costa said that he was going to ask the Board for permission to talk with Town Counsel before the next meeting as well. He agreed to the extension.

A motion was made by Mr. Hiltz, seconded by Mr. Foley to accept the applicant's extension to May 29, 2015.

The vote was **4-0-0 in favor** (Zuker, DeCelle, Hiltz and Foley voting)

Mr. Zuker apologized to Ms. Walker for never getting to her.

Ms. Walker stated it is not a problem. Mr. Chessia and Mr. Viverios said everything she needed to hear.

A motion was made by Mr. DeCelle, seconded by Mr. Foley to continue the hearing until April 15, 2015 at 7:00 pm.

The vote was **4-0-0 in favor** (Zuker, DeCelle, Hiltz and Foley voting)

A motion was made by Mr. Hiltz, seconded by Mr. Foley to adjourn the meeting at 9:33 p.m.

The vote was **4-0-0 in favor** (Zuker, DeCelle, Hiltz and Foley voting)

Craig W. Hiltz
Clerk

kb

Minutes were approved on May 13, 2015.