

WALPOLE PLANNING BOARD MINUTES OF AUGUST 14, 2014

A regular meeting of the Planning Board was held on Thursday, August 14, 2014 at 7:00 p.m. in the Main Meeting Room, Town Hall. The following members were present: John Conroy, Chairman; John Murtagh, Clerk; Edward Forsberg, Richard Nottebart, and Margaret Walker, Town Engineer.

Mr. Conroy opened the meeting at 7:02 p.m.

ANR – Walmart and High Plain Street: Walmart was represented by Atty. Philip Macchi II, 1256 Washington Street, Norwood. He stated the board has the ANR plan and filing fee, but not a signed application. He asked that board endorse the ANR and hold it until the application is received. The 120-day period is up on September 4th which is the board's next meeting. The delay is that no one at MA DOT is willing to sign the application. The land in question for the ANR is owned by the State. Mr. Conroy stated we can hold a special meeting. Mr. Macchi stated he doesn't think there could be constructive approval without a proper application before the board. Mr. Macchi stated the board could vote to approve and not endorse until the application is received or the board could vote to endorse on the condition that they will stop in and sign it when the application is received. Mr. Conroy feels the best way would be a special meeting and stated we need 48 hours to post the meeting. Mr. Forsberg stated the clock has not started yet.

The board agreed to hold a special meeting when the application is received.

Zoning Changes: Mr. Conroy discussed the proposed changes to the Zoning Bylaw as discussed on July 10, 2014. Mr. Nottebart moved to delete Section 6.C.8.F in its entirety, inserting in its place the words "Reserved for Future Use" and adding the verbiage from Section 6.C.8.F to the "Definitions" section of the Zoning Bylaw and amend the Zoning Bylaw, Section 6B Schedule of Dimensional Regulations Required Setbacks by changing Park, School, Recreation and Conservation – Minimum Side yard Setback (feet): change 25² to 25; Rural – Minimum Side yard Setback (feet): change from 25² to 25⁴; Residence A – Minimum Side yard Setback (feet): change from 20² to 20⁴. Motion seconded by Mr. Murtagh and voted 4-0-0.

Mr. Nottebart to amend the Zoning Bylaw, SECTION 6.C.11 Projections by adding the word "deck" to the second line. Said sentence to read as follows: "Nothing herein shall prevent the projection of eaves, chimneys, or cornices not encroaching more than eighteen (18) inches into the setbacks, unclosed porches, decks, porticos....." Motion seconded by Mr. Murtagh and voted 4-0-0.

Mr. Forsberg moved to amend the Zoning Bylaw, Section 13.2 by inserting the following:

Section 13.2.A: By adding the words "over 3 families". Section 13.2.A will read: "All new multi-family **over 3 families**, commercial and industrial construction;...."

Section 13.2.B: By adding the words "over 3 families". Section 13.2.B will read: "All multi-family **over 3 families**, commercial and industrial additions...."

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Section 13.2.C: By deleting the word “by” and also adding the words “or less than 10% increase in existing parking”. Section 13.2.C will read: “Construction or creation of any new parking lot or the expansion, or redesign of an existing parking lot with more than six (6) parking spaces **or less than 10% increase in existing parking;**”

Section 13.2.E: By adding the words “**and 3**” to the first sentence and the word “conforming” to the third sentence and adding the following “**use change where no physical expansion are being made to a conforming Site or Building.....**” Section 13.2.E will read: All uses requiring a Special Permit under Section 5.B, except for one, two **and 3** family residences, **use change where no physical expansions are being made to a conforming Site or Building**, and for those uses or activities specifically exempted from Site Plan Review in other sections of the Zoning Bylaw; and,.....”

Add a new Section 13.2.G to read: “**Uses that require a Special Permit that meet the requirements of Limited Site Plan Review may be submitted as such without the need for a Full Site Plan.**”

Motion seconded by Mr. Nottebart and voted 4-0-0.

Mr. Nottebart moved to AMEND SECTION 5B.3.r by deleting the words” private guest house, caretaker’s quarters,” such that Section 5B.3.r. shall read as follows: “**Accessory where incidental to a permitted use, including the following: greenhouse, stable, tool shed, playhouse, tennis court, boathouse or other similar building or structure for domestic storage use.**”

AMEND SECTION 5B.4.n by changing “**SPZ**” to “**A**” under HB and LM headings

AMEND SECTION 5B.4.p.i by changing “**X**” to “**SPZ**” under HB heading

AMEND SECTION 5B.4.p.ii by changing “**X**” to “**SPZ**” under HB heading

AMEND SECTION 5B.4.p.iii by changing “**X**” to “**SPZ**” under HB heading

AMEND SECTION 5B.4.p.iv by changing “**X**” to “**SPZ**” under HB heading

AMEND SECTION 5B.5.w by deleting Section 5.B.w in its entirety and inserting in its place the words “**Reserved for Future Use**”.

Motion seconded by Mr. Murtagh and voted 4-0-0.

Town Planner Discussion: Mr. Conroy moved that we submit a request for a warrant article requesting a Town Planner to be paid in accordance with salary structure on file. Motion seconded by Mr. Forsberg and voted 4-0-0.

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Hartshorn Road/Norton Avenue: Ms. Walker stated there will be an article on the Fall Town Meeting to accept these streets and the Selectmen would like the Planning Board's input. Mr. Conroy moved to support the acceptance of Hartshorn Road and Norton Avenue. Motion seconded by Mr. Nottebart and voted 4-0-0.

Southridge Farm: The applicant, P. J. Hayes, was represented by Rob Truax, GLM Engineering. He stated the permits that were approved by the Planning Board will expire in September and asked for a two year extension of time. He stated the drainage will be in in a couple of weeks, but water and sewer will not be in until next year because of a moratorium. Mr. Conroy moved to allow an extension of time up to and including September 19, 2016 on both the Site Plan Approval and Special Permit. Motion seconded by Mr. Nottebart and voted 4-0-0.

Mansion Drive, Bird Estates Street Acceptance: Atty. Philip Macchi stated the town has asked for a different type of seal coat for the street cracks and the contractor would only come out if he could do it at the same time he was doing other town streets. He would like this placed on the Fall town meeting warrant because if they had been allowed to use regular seal coating it would be done, but the town has contracted to have the other process done. Ms. Walker stated the town has a million dollar contract and they will do the smaller streets along with the bigger ones. The contract with the town has to be finished by September 21st. Toll is paying for the entire procedure.

There were no comments from the public. Mr. Nottebart moved to release the bond in its entirety based on Ms. Walker affirming that she is in favor of this. Motion seconded by Mr. Muragh and voted 4-0-0.

Walmart, Case No. 14-6: On behalf of the applicant, Atty. Philip Macchi asked to withdraw this application without prejudice. Mr. Conroy moved to allow the applicant to withdraw without prejudice as requested. Motion seconded by Mr. Murtagh and voted 4-0-0.

7:45 p.m. John Marini, 1429 Main Street, Case No. 14-9, Site Plan Approval and

7:46 p.m. John Marini, 1429 Main Street, Case No. 14-10, Special Permit: Mr. Conroy informed the applicant that there are only four members present tonight and the special permit will required a 4-0-0 vote for approval and the 3-0-0 vote for the site plan to be approved. Mr. Marini stated he wants to proceed with four members.

Mr. Conroy read the public hearing notice and explained the process to the public and the applicant. The applicant, KAM Construction Management Corp. and 1429 Main Street, LLC were represented by Atty. Paul Schneiders, Canton, MA and the Site Engineer, Paul Brodmerkle, Site Design Engineering. Regarding the Special Permit application, Atty. Schneiders stated the existing house is in both a Business zone and a Residential zone; however, the proposed building would entirely be in the Business zone. He stated that the application conforms to the following sections of the Zoning Bylaw: 5-B.1.3; 5-B-1.3g(ii) and also the eight conditions stated in Section 2B of the Zoning Bylaw. Further, both the uses and dimensions of this project are in complete accord with all relevant sections of the Zoning Bylaw.

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Regarding Site Plan Approval, Atty. Schneiders stated the applicant meets the minimum lot area, minimum frontage, front yard setback, side yard setback and rear yard setback as required by the Zoning Bylaw.

The Site Engineer, Paul Brodmerkle, stated they will define the entrance with a curb cut to the north and raised landscaping planters to the south. They will be taking out the two-family house and putting in this mixed use project.

Mr. Conroy read the comment letters received from the boards and committees. Mr. Conroy read a letter dated August 12, 2014 from the Building Inspector stating he had met with the applicant during the Design Review process and with Mr. Marini individually at which time he requested a modification of the plans showing the required buffers as per Section 5B.3 of the Zoning Bylaw, but has not received anything to date. Mr. Brodmerkle stated they will take Mr. Mee's letter under consideration. Mr. Conroy asked if he agrees or disagrees with Mr. Mee and Mr. Brodmerkle stated they are further away than what the building inspector stated. Mr. Forsberg stated it is presently a vacant residential lot. Ms. Walker read her comments. She calculated 19 spaces needed for parking as they need two per unit, not per bedroom. Mr. Brodmerkle stated they have provided 17 spaces. Mr. Conroy stated that Ms. Walker provides those numbers for the board. Regarding lighting, Ms. Walker stated the board will need documentation. The glare of lights should not spill onto other properties. She also questioned the fill and Mr. Brodmerkle stated there is not a big change in the cut and fill of the property. Ms. Walker stated the dumpster is in the residential portion of the property. Mr. Conroy stated they will need their own trash pick-up as there are six units. Ms. Walker stated they will also have to deal with Mass Highway. Mr. Forsberg questioned the impervious cover. Ms. Walker stated this is in the aquifer and right now it is one whole lot so there is no issue. There is no lot line there now, but it could be an issue later. Mr. Conroy stated we are dealing with the whole lot and Ms. Walker stated that is correct. Mr. Forsberg stated we have to protect the neighbors. He questioned the rear lot. He feels this is similar to Walpole Place on Route 1 as they don't have a lot line, they have a DZBL. Atty. Schneiders asked what section Mr. Forsberg is referencing and he stated Section 5.g.1, Page 36 of the Zoning Bylaw. Mr. Forsberg stated he has spoken with Jack Mee regarding the dumpster on the residential portion of the property. Mr. Brodmerkle stated they can't ANR this, but they can create a cul-de-sac for the back property. Mr. Nottebart stated he is also having an issue with the parallel and perpendicular issue. He asked if the applicant is aware of what the board is looking for and Mr. Brodmerkle stated yes. Also, their lighting is residential lighting, not business. Mr. Nottebart stated he doesn't understand the traffic flow. He doesn't want to make this tough on the neighbors. He questioned if the building could face the street, but the Fire Department doesn't think it is a problem the way it is presented now.

John Marini stated he has a colored rendering of the building, but he forgot to bring it tonight. He met with the Building Inspector and he will make the side of the building look like the front of the building. Mr. Nottebart stated he was at the DRC meeting. He told Mr. Mee he would also be sitting on this when it came before the Planning Board. Mr. Murtagh feels this would be an excellent use on Route 1-A and thinks this is a positive for the town.

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He feels they should work with Jack Mee to make this work. He thinks there should be two more parking spaces and the landscaping seems too sketchy to him. He would like to see a landscape design plan. Mr. Marini agreed that after he gets approval from the board, he will get a landscape architect on board. Mr. Conroy stated they can resolve the parking count; however, Jack Mee's comments can affect the entire site. He asked if the height will be under 52' and Mr. Marini stated yes.

Mr. Conroy asked for comments from the public.

Ken Chamberlain, 18 Marion Street questioned the wall by Dunkin Donuts and the fact that the parking area curves. Mr. Brodmerkle stated the DZBL came after the house was built. Mr. Chamberlain questioned the back land and asked if they are touching that and Mr. Brodmerkle stated not at this time and they may or may not in the future. There will be a piece of undisturbed land between Dunkin Donuts and this property. Mr. Conroy questioned the easement from the gas station and Mr. Brodmerkle stated that was well in the past. Mr. Conroy asked him to mark out the two corners from Route 1-A up a couple of hundred feet. He wants everyone to see actually where everything is so there will be no questions. He asked him to stake out the four corners and Mr. Brodmerkle agreed.

Mr. Jovanna, 1439 Main Street stated he owns the house behind the gas station and asked if the new building will be closer to Route 1-A. Mr. Brodmerkle stated yes. The current house is coming down and the new one will be right on the street. They tried to keep it as far away from his house as possible. Mr. Jovanna questioned the change in use. There has been nothing there for two years or more and now there will be seventeen cars or more. Also, the gas station has used cars there now. This is essentially a residential area and he would like a fence up the side. There is a massive tree to the entrance of the property and 2/3 of it is on his property. He asked if that tree will remain and Mr. Brodmerkle stated it will be taken down.

Ruth Chamberlain, 18 Marion Street asked if they will be leaving the buffer near the trees and bushes. Mr. Brodmerkle stated they will not be doing any work beyond the zoning line. Mr. Conroy stated that Mr. Marini did the work on Plimpton Street and it looks good.

There were no further comments.

Mr. Schneiders granted the board an extension of time upon which to take action up to and including October 31, 2014. Mr. Conroy moved to accept an extension of time up to and including October 31, 2014. Motion seconded by Mr. Nottebart and voted 4-0-0. Mr. Conroy continued this hearing to October 2, 2014 at 7:30 p.m.

Joe Moraski, RTM Precinct 8 re: Zoning Bylaw Change: Mr. Moraski stated he was here to represent some of his neighbors that live on Nightingale Farm Road. He is here to ask the Planning Board to consider submitting an article sometime in the future, not necessarily this Fall, and that would require Limited Site Plan review for Dover Amendment uses.

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He has been working with Stephanie Mercandetti on this and she told him that both Newton and Framingham requires a limited site plan review for such projects. Ms. Mercandetti reviewed the draft that he made and then returned it to him. He is not asking for this to be on the Fall town meeting. He is turning this over to the Planning Board as he has done everything he can at this time. He would like the board to review this and determine if there is a need. He would like the Planning Board to take this over as a potential bylaw. Basically, all residents in town should be allowed to obtain information on Dover use projects. He is not seeking for a response tonight. Mr. Conroy stated we are looking to hire a town planner and feels that with both Ms. Mercandetti and a planner on board, we could do this. He hopes that Mr. Moraski supports our request for a planner. Mr. Moraski feels the people on Nightingale Farm Road could have been treated better than they were.

Mr. Nottebart supports this request and agrees with Mr. Moraski. He stated we actually asked the people last year to do a limited site plan, but they said no because it wasn't required. With both a planner and Ms. Mercandetti, we would have a way to do it. Mr. Forsberg stated we can't prevent the use, but they need to abide by the Zoning Bylaw to a certain extent. We would be verifying that they are conforming with the Zoning Bylaw. This would create a forum for the residents. Mr. Moraski agreed. Mr. Murtagh stated he will be one of the biggest cheerleaders. We would have an avenue to make them come before the Planning Board. Mr. Conroy stated that until we have a planner, Stephanie Mercandetti should be the leader on this as she has already previously done this.

9:00 p.m. Al Marhama Islamic Burial Service, Route 1 and Foxhill Road, Case No.

14-11: Mr. Conroy informed the applicant's engineer that we only have four members sitting tonight and they are entitled to five. Christian Farland stated they will go forward. Mr. Conroy explained the process. He read the public hearing notice. Also present was Ryan Sawyer, the applicant's attorney. Mr. Farland stated the property contains 2.98 acres of undeveloped land and there are two isolated wetland areas not protected by the State, but they are protected by the town's bylaw. They did file a Notice of Intent and received approval from Conservation last night, which approval was based on a revised set of plans that the Planning Board doesn't have. Those plans show less impact than the ones the board has now. This is on the corner of Route 1 and Fox Hill Drive. They are proposing a 2600 s.f. maintenance building and parking spaces. They have also met with the Board of Health. The septic will be behind the building. There is only 3% impervious cover on the entire property. Stormwater drains into the State's subsystem. It will sheet flow over the grass area and then into a detention basin. Post development run-off will be less than pre-development. It will be an improvement to the stormwater. Prior to submission, they did meet with the Design Review Board and addressed comments. They will have a barrier fence along Route 1 to prevent someone from walking onto Route 1. He also met with Margaret Walker after the first meeting with ConCom. He feels her comments were addressed on the revised plans. He showed the board a revised layout with the roadway moved, which was approved by Conservation last night. The stormwater basin is along Route 1 and will be shallow.

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Mr. Conroy stated we will need an extension of time if we have to continue this hearing. Mr. Farland stated their P&S runs out on September 12, 2014. Mr. Conroy read the comments received. Mr. Forsberg stated that lighting is not shown on the plan. Mr. Farland stated that emergency lighting will be at the entrance only. Mr. Forsberg questioned security lighting and Mr. Farland stated that is on the building. Mr. Forsberg questioned a dumpster and Mr. Farland stated there will be a small roll-out inside the garage. Mr. Forsberg asked if seven parking spaces would be enough and Mr. Farland stated yes as people will be parking along the perimeter. They anticipate one or two funerals a week. Ms. Walker stated Walpole only owns about 100' up Fox Hill Drive.

Mr. Nottebart questioned who is the closest abutter and Mr. Farland stated the Cook's. Mr. Nottebart stated he is concerned with this being a Water Resource Protection area and he would like more information. We need to get this right. He also questioned the DIS not being done. Mr. Farland stated this is a matter of right so he doesn't think they need to do that.

Mr. Nottebart stated his concerns are: equipment storage, dumpster, traffic to the site, WRPOD area. Mr. Murtagh stated this is in our Water Resource Area and he questioned if they need a special permit for this use. He asked them to explain the procedure to the board. Mr. Farland stated they do a "green burial" where the body is wrapped in a shroud and that is it. Mr. Murtagh asked for some scientific data on the decomposing of a body. Mr. Nottebart asked if they use embalming fluids and Mr. Farland stated no, this is all non-toxic.

Mr. Conroy stated we have two different signatures, the applicant and the property owner and the application is not dated by the client. If it's a corporation, we need approval to proceed. Everything needs to be dated. The applicant is in Area 3 and it is not checked off in the application or advertised that way. Is there a reason you didn't check that off? Mr. Farland stated he will look into that. Mr. Conroy stated that the WRPOD is a big issue in this town. He asked if they have met with the Board of Health and Mr. Farland stated yes, several times, but there were no comments made. One member wanted to have cement-lined caskets, but that is not required. There were no other concerns. Mr. Conroy stated we need something from them in writing. Mr. Farland stated he will check with them again. Regarding Section 35, Mr. Conroy asked if they have filed with DEP and Mr. Farland stated not yet. Mr. Conroy stated that needs to be done first so he doesn't think we can move forward yet. Mr. Farland stated that could be a condition of approval and Mr. Conroy stated if you change anything on the plan, you would need to refile with us and start the process over. Regarding Section 37, Mr. Conroy asked if they are storing anything like fertilizer, etc. and Mr. Farland stated no. Mr. Conroy stated this has not been filed properly as it was not advertised as WRPOD. However, we will ask town counsel if we need to start over or not.

Mr. Conroy asked for public comments.

Mr. Cook, 2222 Route 1, Walpole presented diagrams to the board. He stated that last night's meeting with Conservation was a continuation of their July 9th meeting; however, they were never notified. He stated that the office building at the top of the hill is in Walpole and in 2007

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they illegally dumped heavy metals and hazardous materials into the wetlands. He didn't like the way things were going that day so he called Ralph Pinney. 2800 gallons were dumped into that wetland. Safety Clean stated it was only 75 gallons. After the spill, the next day it rained and the wetland turned into wet milky stuff. The driver was fined \$5,000 and Safety Clean was fined \$9,000. There was a lot work done on the property as they were going to put up a building. They found an underground level that is approximately 5-6' with 18-22" of stone that is all rusted. The brook that starts beside the Red Wing goes to South Street and it was brown. They did take samples. Chris Farland said he went down 17' and didn't find anything. Chris Farland said that three times last night. Someone used a different ruler because they hit water at 9'1" and 8'5", but Mr. Farland said it was 17'. Something is wrong. Mr. Cook stated he read on line about Islamic burials. A man will be wrapped three times and tied at both ends and put in the ground, but women are wrapped five times. He submitted a letter from Mr. Pinney. Mr. Cook stated the decomposed bodies will affect the drinking water and it will affect the ground water.

Mr. Conroy stated we are not experts, but when you put something into the ground, we need to know if it is hazardous. If this was not in Area 3, it would be different. It is incumbent upon the applicant to prove that their burial procedure will not create hazardous conditions to our groundwater. Mr. Cook stated he previously invited the Conservation Agent, Landis Hershey, onto his site to measure the test holes to see that the water runs everywhere. Mr. Murtagh asked if there has been any contact with DEP and Mr. Cook stated they were noticed. Mr. Farland wants the Planning Board to realize that the tests done out there were done by a certified evaluator and witnessed by the Board of Health. The site did come up clean. Mr. Pinney submitted a letter stating that in 2008 the site was clean and he will give a copy of that letter to the board. Mr. Conroy stated we won't argue over a foot or two.

Mrs. Cook, 2222 Route 1 stated that next to the site, they did clean up their property but the Striar site never did. She asked how many plots and Mr. Farland stated it will be for 3400 people. Mrs. Cook asked Mr. Farland to explain how that many could be buried there and he stated he will supply that information to the board.

Ted Case, 1 Fox Hill Drive stated no one on the board has cemetery expertise. He asked why they entertained going through this until we have a letter from DEP saying this site has been approved. He feels that should be done first and then maybe the board could proceed. Who wants 3400 bodies next to them? There is a brand new Vet Tech Surgery Hospital on the other corner and his building services our military. He questions what is going on.

Mr. Conroy stated we will ask town counsel if 1) we should be going forward prior to DEP approval per Ch 141, S35 and 2) is this application properly before us with no advertising of the WRPOD area.

Mr. Cook stated he was told that Highway Business is 150' back from the road and asked if that is correct. Mr. Conroy stated it is 50' and asked if they meet that. Mr. Farland stated yes. Mr. Cook questioned the driveway being paved as heavy rains will cause this to wash down. The roadway will be 5' wide. Mr. Conroy stated he is surprised that the Conservation Commission

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approved a gravel driveway because of this being in the aquifer. Mr. Farland stated that is what they preferred.

Mr. Case asked what gets done in the building on site and does the garage need an oil separator and drains. Mr. Conroy asked if the bodies are prepared on site and Mr. Farland stated no, it is done off site. Mr. Conroy asked if there are markers and Mr. Farland stated they use flat stones. Mr. Forsberg stated they do need water/oil separators and would need a variance if they don't want to do that.

Jonathan Cook, 2222 Route 1 questioned the test pits. Mr. Case wanted to see how the bodies will be buried. Mr. Conroy stated the board would like more information on this site.

Ryan Sawyer, the applicant's attorney, stated he understands the water concerns. Also, 3400 spaces can take years to fill out. They don't want to contaminate the town's ground water. They are trying to accomplish a goal for a client with guidelines. Mr. Conroy stated he hasn't heard anyone object to a cemetery tonight. The problem is it is in our aquifer. One key issue is that you didn't advertise it that way. Mr. Murtagh asked if the town engineer oversaw the test pits. Mr. Farland stated no, the Board of Health did. Mr. Conroy stated we have received a different plan, so this has to be reviewed. We need an extension of time and they need to get their act together and come back. Atty. Ryan stated he would like to come back before the board early in September. Mr. Conroy stated the September 4 is booked so the first available time would be September 18th. Mr. Farland granted the board an extension of time on which to take action on behalf of the applicant up to and including September 30, 2014. Mr. Conroy moved to accept an extension of time up to and including September 30, 2014. Motion seconded by Mr. Nottebart and voted 4-0-0. Mr. Conroy continued this hearing to September 18, 2014 at 7:55 p.m.

Mr. Conroy recused himself.

10:20 p.m. LA Realty Trust, 119 Pleasant Street, Case No. 14-8 Continued Hearing: The applicant was represented by Atty. Philip Macchi, 1256 Washington Street, Norwood, MA. Mr. Macchi asked that this hearing be suspended without testimony and continued to September 18 in order to move forward with a four member board. He granted the board an extension of time up to and including October 1, 2014.

Mr. Murtagh moved to accept an extension of time up to and including October 1, 2014. Motion seconded by Mr. Nottebart and voted 3-0-0. Mr. Murtagh continued this hearing to September 18, 2014 at 8:00 p.m. as requested.

The board agreed to release all emails regarding LA Realty Trust to Atty. Macchi as requested.

Millbrook Avenue Bond Reduction: Mr. Murtagh moved to reduce the bond on Millbrook Avenue by \$470,000 as per recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Nottebart and voted 3-0-0.

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It was moved, seconded and voted to adjourn. The meeting adjourned at 10:30 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 9/18/14