

## WALPOLE PLANNING BOARD MINUTES OF MAY 27, 2015

A special meeting of the Walpole Planning Board was held on Wednesday, May 27, 2015 at 6:30 p.m. in the Council on Aging Room at Town Hall. The following members were present: John Conroy, Chairman; Richard Mazzocca, Vice Chairman; John Murtagh, Clerk; Edward Forsberg; and Richard Nottebart. Also present was Elizabeth Dennehy, Community Development Director.

Mr. Conroy opened the meeting at 6:35 p.m.

### **Open Space Residential Development Special Permit Deliberation/Decision:**

Mr. Conroy requested Ms. Dennehy to provide a brief overview of the proposal and the Consultant's (Beals and Thomas) findings, which were incorporated in the record at the May 21, 2015 public hearing. Mr. Conroy provided an explanation of the Special Permit process and the provisions of Section 10D of the Zoning Bylaw pertaining to Open Space Residential Development (OSRD).

Mr. Mazzocca questioned to what extent the Definitive Subdivision Plan could potentially deviate from the OSRD Plan currently before the Board and the subject of the Special Permit request. Ms. Dennehy noted that Section 10D 7.F. specifically outlines changes that would be deemed significant and that such changes would potentially result in the Applicant having to request an amendment to the Special Permit.

Discussion was held between all of the Board members concerning the trails and the open space areas.

A motion was made by Mr. Conroy, seconded by Mr. Nottebart and voted 5-0-0 that trails shall be utilized for walking and passive recreation purposes, only.

A motion was made by Mr. Conroy, seconded by Mr. Nottebart and voted 5-0-0 that all open space shall be subject to the provisions of a Tree Management Plan, said Plan to be submitted with the Definitive Subdivision Plan and to be approved by the Planning Board.

A motion was made by Mr. Conroy, seconded by Mr. Nottebart and voted 5-0-0 that the established Homeowners Association, trust and/or corporation shall be responsible for generating the funds necessary to adequately maintain all open space and trails, pursuant to the contents of the Tree Management Plan (to be established at time of Definitive Subdivision Plan submittal).

A motion was made by Mr. Conroy, seconded by Mr. Nottebart and voted 5-0-0 that no motorized vehicles are allowed on the trails.

Mr. Forsberg questioned if trails could be required on Lots C & D (numbered 36 & 37 on the OSRD Plan), whereas they are private property. Mr. Conroy indicated that they could be potentially, since those lots are included as part of the proposal/plan.

Discussion was held between all of the Board members concerning accessibility of the open space areas and trails.

A motion was made by Mr. Conroy, seconded by Mr. Nottebart and voted 5-0-0 that all open space shall have a minimum of one access point for the general public and potentially two or more when the Definitive Subdivision Plan is submitted for areas that can support this. The present trail from North Street to Fisher Street shall be kept in existence and shown on the Definitive Subdivision Plan. Minor

adjustments to the trail layout may be considered if they are necessary, subject to review and approval by the Planning Board during the Definitive Subdivision Plan review process.

Mr. Conroy explained that the Board would need to make a finding pursuant to Section 10D of the Zoning Bylaw and after considering eight factors as outlined in the Bylaw.

A motion was made by Mr. Nottebart, seconded by Mr. Murtagh and voted 5-0-0 to find that the proposed OSRD has less of a detrimental impact on the tract of land than a Conventional Subdivision Plan and the proposed OSRD further advances the interests of the community with respect to the following factors: OSRD achieves greater flexibility and creativity in the design of residential developments; OSRD promotes permanent preservation of open space, scenic vistas, agricultural land, forestry land, wildlife and rare species habitat and other natural resources in a manner that is consistent with the Master Plan and Open Space & Recreation Plan; OSRD promotes a more efficient and compact form of development that consumes less open land and natural materials and conforms to existing topography and natural features; OSRD reduces the total amount of disturbance on the Site; OSRD furthers the goals and policies of the Master Plan and Open Space & Recreation Plan; OSRD facilitates the construction and maintenance of housing, streets, utilities and public services in a more economical and efficient manner; OSRD Plan and supporting documentation complies with all the provisions of Section 10D of the Zoning Bylaw; and Proposed construction of housing, landscape and streetscape is in harmony with the overall architectural heritage and historic character of the Town.

Mr. Conroy said that the Board would need to vote on the lot count in order to facilitate further discussion on the proposed project as a whole. Mr. Nottebart said that after evaluating all of the information presented during the public hearing process and spending a significant amount of time reviewing the report of the Consultant (Beals and Thomas), as well as the comments made by the Community Development Director and other Town Departments, he felt that although the open space concept is a good one, Lots C & D should not have been shown as being divided into a total of seven lots on the Conventional Development Yield Plan and that a final maximum number of allowed newly created lots should be 30.

Mr. Murtagh said that after reviewing the report of the Consultant (Beals and Thomas) and comments made by the Community Development Director and the Conservation Commission, he felt that approximately 28 lots was reasonable and that the absolute maximum number of lots that he would be comfortable with was 30.

Ms. Dennehy said that after review of the Consultant's (Beals and Thomas) report, that it appeared 30 newly created lots was the maximum number of allowable lots that could be considered as reasonable. She noted that the report from the Conservation Commission made it seem as though another lot may be deducted and that the Consultant also identified issues with drainage structure placement, but that even in not considering those comments, 30 lots appeared to be the maximum if the Board accepted the findings of the Consultant in that Lots C & D appear to only have been included to increase the lot yield on the Conventional Plan.

Mr. Mazzocca said that he understood the reasoning of setting the lot count at 30, but that the Board ought to consider the benefits of an OSRD overall and that if a difference of one or two lots would affect whether or not the OSRD concept would be built, that this warranted further thought.

Mr. Forsberg said that the OSRD concept would be less detrimental to the environment and that the abutters appeared to be in favor of the concept during the public hearing process. He felt that two lots should be deducted from the count derived from Lots C & D, bringing the total to 35 and then he felt that lot numbers 17, 18 and 19 should also be deducted, resulting in a count of 32 lots. He noted that he would be agreeable to a final number between 30 and 32 lots.

Mr. Conroy said that from a technical viewpoint, by including Lots C & D on the Conventional Plan that it resulted in a net increase of five lots and that when you look at the OSRD Plan there are no proposed changes to Lots C & D and they're essentially not part of the plan. He also noted that one of the roads on the Conventional Plan appeared to be approximately 900' in length and that dead-end roadways greater than 750' required a waiver from the Subdivision Rules and Regulations. He explained that the lots shown adjacent to this roadway on the Conventional Plan could likely be deducted, as the Conventional Plan is supposed to be based upon reasonable application of the applicable regulations and that needing a waiver was not reasonable.

Mr. Forsberg stated that if the Applicant filed a conventional subdivision plan, that they may extend the roadway out to North Street and probably would not require waivers, which the abutters expressed concern over early in the process. Mr. Conroy said that while the possibility may exist, it appears to be unlikely and that the Board needs to evaluate the proposal before them and make a decision that is based on technical information.

A motion was made by Mr. Murtagh, seconded by Mr. Nottebart and voted 5-0-0 to set the maximum allowable number of newly created lots at 30.

A motion was made by Mr. Conroy, seconded by Mr. Nottebart and voted 5-0-0 to grant the Applicant's request for a Special Permit with conditions under Section 10D of the Zoning Bylaw, with the conditions being that:

1. The maximum allowable number of newly created lots is 30.
2. Approval of the OSRD and granting of this Special Permit shall be followed by the submittal of a Definitive Subdivision Plan, in accordance with Section 10D of the Zoning Bylaw, and the Definitive Subdivision Plan shall not show more than 30 newly created lots.
3. The open space shall be protected and managed in accordance with Section 10D of the Zoning Bylaw and M.G.L. Chapter 40A, Section 9.
4. The protected open space shall be subject to a recorded Conservation Restriction as defined under M.G.L. Chapter 184 and shall be conveyed, by easement or fee, to one or more of the following:
  - a. The Town or the Walpole Conservation Commission;
  - b. A non-profit organization, the principal purpose of which is the conservation of open space;
  - c. A corporation or trust owned jointly or in common by some or all of the owners of lots within the OSRD. If such a corporation or trust is utilized, ownership thereof shall pass

with conveyance of the lots in perpetuity. Documents creating such trust or corporation shall be submitted to the Planning Board for approval and shall thereafter be recorded. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot, in accordance with Section 10D of the Zoning Bylaw.

In any case where such land is not conveyed to the Town or the Walpole Conservation Commission, a restriction enforceable by Town shall be recorded providing that such land shall be kept in an open or natural state and shall not be built upon for residential use or developed for accessory uses such as parking or roadway.

5. Prior to the issuance of a Building Permit, the Board shall review the final Conservation Restriction approved by the Executive Office of Energy and Environmental Affairs (EEA) to determine that it is in substantial compliance with the approved plans and the Conservation Restriction presented during the public hearing. If the final Conservation Restriction is not in substantial compliance, the Applicant shall seek an amendment to this Special Permit.
6. Trails shall be utilized for walking and passive recreation purposes only. No motorized vehicles are allowed on the trails.
7. All open space shall be subject to the provisions of a Tree Management Plan, said Plan to be submitted with the Definitive Subdivision Plan and to be approved by the Planning Board.
8. The established Homeowners Association, trust and/or corporation shall be responsible for generating the funds necessary to adequately maintain all open space and trails, pursuant to the contents of the Tree Management Plan (to be established at time of Definitive Subdivision Plan submittal).
9. All open space shall have a minimum of one access point for the general public and potentially two or more when the Definitive Subdivision Plan is submitted for areas that can support this. The present trail from North Street to Fisher Street shall be kept in existence and shown on the Definitive Subdivision Plan. Minor adjustments to the trail layout may be considered if they are necessary, subject to review and approval by the Planning Board during the Definitive Subdivision Plan review process.

It was moved, seconded and voted to adjourn. The meeting adjourned at 7:45 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 6/18/15