

## WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 20, 2014

A regular meeting of the Planning Board was held on Thursday, November 20, 2014 at 7:00 p.m. in the Town Hall Main Meeting Room. The following members were present: John Conroy, Chairman (7:20 p.m.); Richard Mazzocca, Vice Chairman (7:36 p.m.); John Murtagh, Clerk; Edward Forsberg, Richard Nottebart, and Margaret Walker, Town Engineer.

Mr. Murtagh opened the meeting at 7:07 p.m.

**Minutes:** Mr. Murtagh moved to accept the minutes of November 6, 2014. Motion seconded by Mr. Forsberg and voted 3-0-0.

**Warren Lane subdivision:** Ms. Walker questioned the replacement of street trees. She said that some people wanted them in different places. Mr. Forsberg wants street trees and feels they should be put in the way it presently is. Ms. Walker stated that Mr. Viano has acknowledged they have to put them in. Mr. Nottebart moved to support the placement of the street trees for Warren Lane as per the board's Rules and Regulations. Motion seconded by Mr. Murtagh and voted 3-0-0.

**Time Cards:** Mr. Murtagh moved to endorse the secretary's time cards. Motion seconded by Mr. Nottebart and voted 3-0-0.

**Town Planner discussion:** Jim Johnson, Acting Town Administrator was present to discuss the town planner position. He gave the board an update on the Economic Development position, which has been advertised. Regarding the planner position, he stated that the board will probably be asked by the Selectmen and the Finance Committee who the planner will report to. The only other position that doesn't report to the town administrator is Dennis Flis who reports to the Board of Assessors.

Mr. Conroy arrived at 7:20 p.m.

Mr. Nottebart asked what salary amount we should put in our budget and Mr. Johnson stated it will be hard to go from 0 dollars to \$70-75,000 as some Finance Committee members will not like that. Mr. Murtagh feels that a combined position of Economic Development and Planner would be more beneficial to the town. Mr. Johnson stated there is the question of a conflict, but doesn't think that would be a problem. He stated ideally it would be nice to have someone part time that is retired to start the position off. Mr. Forsberg stated he asked Stephanie Mercandetti if Medway has a planner and she stated they use a planning firm. Mr. Conroy stated things are really no different than they were two months ago and Mr. Johnson agreed. Mr. Nottebart asked if he would support us seeking our own planner reporting to us and Mr. Johnson stated he won't get in the way. Mr. Conroy stated you won't get in the way and Mr. Johnson stated no. His biggest challenge is putting together a budget as there are a lot of variables.

Mr. Mazzocca arrived at 7:36 p.m.

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 20, 2014 (2)

**FY 2016 Budget:** Mr. Conroy moved to request \$15,000 for a consultant in the FY 2016 budget and \$75,000 for a planner. Motion seconded by Mr. Nottebart and voted 4-0-0.

**Beatty, Chestnut Street:** Josh Allen submitted a wall diagram as requested in their 2012 decision. It was forwarded to Michael Yanovitch, Building Inspector, for review and he said it was okay. Mr. Conroy stated it needs to be incorporated into the site plan that was approved and needs to be endorsed.

**January Meetings:** it was agreed to meet on January 8 and January 22, 2015.

**Barberry - Request for Comments:** Mr. Conroy stated we should ask the Zoning Board what is the legal status of Paul Verrochi's frontage now. What will be the legal status of his frontage per the proposed plan. Our opinion is that it should be made into a subdivision roadway to give Mr. Verrochi his legal frontage.

**7:45 p.m. John Marini, 149 Main Street, Case No. 14-9 Site Plan Approval Continued Hearing and Special Permit, Case No. 14-10 Special Permit Continued Hearing:** Mr. Conroy reminded the applicant that there will be only be four members voting on these two applications as Mr. Mazzocca missed one of the meetings. Atty. Paul Schnieder stated that the last time they were before us was August 14 and since then they have met with town officials. They agree with 100% of Ms. Walker's comments. He discussed with the board the issues raised by town counsel and stated the plans will be revised to meet those issues. Mr. Conroy read the comments received from town boards and committees. Atty. Schneider stated the proposed fence has been cut down to 6' so they don't need a variance. Mr. Forsberg asked if the applicant has to enhance the buffer as it goes to the property line. Mr. Conroy stated no. Atty. Schneider stated the buffer runs through the middle. Town counsel said yes to a buffer on the right side but not to the rear. Mr. Forsberg disagrees with that. Atty. Schneider stated they can give them a buffer if the board wants. They are planning to put in a cul-de-sac and put the house on the far side. Mr. Forsberg stated if you split this it will make the business lot nonconforming without the buffer. Mr. Murtagh stated he read town counsel's comments and he is satisfied and feels they can cross that bridge when they come to it. Mr. Forsberg stated Ms. Mercandetti also brought this up. Atty. Schneider stated he has the buffer regulations and the comments from town counsel which say you can reduce it. The Planning Board can do it if requested by the petitioner. The 13' buffer allows this property to be used and also allows for landscaping. Mr. Conroy stated that we agree the east side of Main Street has no issues, and also the north and south sides are okay. We are only talking about the west side of Main Street. Atty. Schneider agreed. There has to be 26' and they want to provide 13' between the residential line and the building. Paul Brodmerkle agreed. Mr. Forsberg stated the buffer has to be between their lot and the abutting properties. Mr. Conroy stated they don't need a buffer next to the house. The question is how do you go from no buffer to 26'.

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 20, 2014 (3)

He feels they have more than enough and Mr. Brodmerkle agreed. Mr. Forsberg asked if they have a proposed ANR line and Atty. Schneider stated not yet. Mr. Forsberg stated he has no problem if the property in the back has the proper buffer when they do the ANR. Mr. Brodmerkle stated asked what happens if this is restricted to their ownership. Mr. Forsberg stated the ANR line would have to be the buffer line at the same time. Atty. Schneider stated if worse comes to worse, they could lose that rear lot. They will worry about this down the road. Mr. Murtagh stated that is their problem. We have to deal with what is in front of us. Atty. Schneider stated they need to deal with a waiver from 26' to 13' or they can't do it. Mr. Forsberg stated you have 26' so you don't need it. Mr. Conroy asked where do you need to go from 26' to 13' as there is no requirement from business to business. Atty. Schneider stated town counsel said they did. Mr. Conroy stated that if business to business you don't need a buffer as the purpose of the buffer is to protect the residents from the business zone. Mr. Nottebart agrees with Mr. Conroy and that town counsel is wrong. Atty. Schneider stated the key word is "zone" not "use". Mr. Conroy stated she is under the impression this is a residential parcel, which it isn't. It is a residence in a business zone. He further stated that when they ANR the lot, you will have a 26' buffer behind the building, which will lap over into the residential property.

Mr. Homolko, a direct abutter, stated he doesn't want any cars against the property line. Atty. Schneider stated if the board approves the site plan, it is approving the 13' and the special permit goes away. Mr. Conroy moved that the drawing which entitled "Buffer Easement Landscaping Plan for Proposed Building, 1429 Main Street in Walpole, MA" dated September 30, 2014 and prepared by Site Design Professionals, 1200 Providence Highway, Sharon, MA be part of the site plan and special permit. Motion seconded by Mr. Nottebart and voted 4-0-1 (Mr. Mazzocca abstained).

Atty. Schneider stated that with regard to Section 8.7A, they couldn't give up the 13' buffer and give up the parking spaces, so they put seven spaces in front as they had nowhere else to put them. The immediate abutter also has parking in the front as does Dunkin Donuts and the gas station. Mr. Forsberg asked the width of the grass strip out front and Mr. Brodmerkle stated 6'. Mr. Forsberg asked if signs will be on the building and Mr. Brodmerkle stated yes. Mr. Forsberg asked if Ms. Walker is okay with the parking and she stated yes. Ms. Walker read her comments dated November 17, 2014. Mr. Murtagh questioned the parking and asked if the spaces could be put somewhere else. Atty. Schneider stated no and also they are not doing anything different from what Dunkin Donuts and the gas station are doing.

Ms. Walker stated she is all set. There were no public comments. Mr. Conroy continued this hearing to December 18, 2014 at 7: 15 p.m. to vote the decision. Mr. Schneider asked if he needs to be at that hearing as it is just a decision and Mr. Conroy stated yes he should.

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 20, 2014 (4)

**8:35 p.m. Dedham Auto Continued Hearing, Case No. 14-14:** Both the applicant, Tom Jamali and his engineer, Rick Merrikin, Merrikin Engineering, were present. Mr. Merrikin asked to continue the hearing without testimony as they are proceeding with the design test holes on Tuesday with Ms. Walker. He also gave the board an extension of time up to and including February 28, 2015.

Mr. Conroy moved to accept an extension of time up to and including February 28, 2015. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy continued the hearing to January 22, 2015 at 7:30 p.m. as requested by the applicant's engineer, Rick Merrikin.

**8:40 p.m. Olmsted Estates Subdivision Continued Hearing:** The applicant's attorney, Vincent O'Brien was present along with the applicant, Michael Viano and Sean McEntee and their engineer, John Glossa.

Atty. O'Brien stated that the town engineer has been reviewing the plans. Also, the Conservation Commission did close and voted an Order of Conditions, which they will receive next week. Most of what is left is just clean up. Mr. Glossa stated the Conservation Commission had objected to the 25' no disturb buffer, which they addressed and also added a pre-treatment area to give some quality to the area. He also stated that one of the changes is the terminology as the detention basin is now called a grass swale. He would ask the board to close the hearing and issue an approval based on the plans and changes to be made to them. Mr. Conroy stated we won't have the actual date of the plans if we do that. Ms. Walker feels there is too much here even though most of it is an easy fix, but it still has to be done. Regarding the detention basin, she asked if it is 2' above the seasonal high ground water and Mr. Glossa stated the basins are dry. Ms. Walker stated this board needs to grant them a waiver and Mr. Glossa stated it is on the plan. Mr. Conroy stated it needs to be stated we are fully aware of this. Ms. Walker stated it needs to be stated that the basins are dry. If they are supposed to be dry we need to ensure that that is what they end up being. Mr. Forsberg questioned the basin on the split lot and asked how you can have an agreement because of the split. Ms. Walker stated the basin is on Lot 10 with an easement to Lot 9. There needs to be something in the deed for Lot 9 and an agreement granting an easement from Lot 9 to Lot 10. It needs to be in the O & M. Atty. O'Brien stated the O&M will supersede. Mr. Glossa stated they would prefer it all on one lot. Atty. O'Brien stated they do have the trail easements shown on the plan. Mr. Glossa stated he will be meeting with Landis Hershey and also the Deputy Fire Chief per his request. Mr. Nottebart stated he feels we should have an Order of Conditions from the Conservation Commission as part of our decision. Mr. Glossa stated they voted an Order but have not as yet issued it. There were two conditions: a grass swale and revised plans needed. Mr. Nottebart asked if that has been done and Mr. Glossa stated he has to meet with both Ms. Walker and Ms. Hershey, but has been getting bounced around. Mr. Nottebart stated he would like all this stuff buttoned up before we vote.

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 20, 2014 (5)

Mr. Glossa asked if the board will close the hearing and vote. Mr. Nottebart stated the chair has indicated that he doesn't want to close and vote and he agrees with him. Ms. Walker stated she needs to check what plan town counsel used in checking the plans. Atty. O'Brien stated he would like town counsel's comments that were received today.

Mr. Conroy asked for public comments.

Paul Cangiano, Fisher Street stated the development isn't changing much depending on the waiver. At the last meeting safety was discussed. The questions were general and the answers were very specific. The questions he asked were very specific regarding the traffic analysis. He asked the police what he needed to look into and these were the answers: stopping and sight distance, traffic volume, crash rate studies where the street is entering. He went to the site today and there isn't a visible sight distance at all as there were shrubs in the way. He would also like any mention of McKinley Avenue removed from the record as the waiver is from that entrance onto Fisher Street. Another issue had to do with safety. If you ask the police a specific question they will give a specific answer. What is the "vicinity of 353 Fisher Street"? He questioned the accident report also. Fisher Street was a safe street, but if you look at the true data, it really isn't. He doesn't think a waiver should be given. He questioned another direct abutter and stated that all the letters sent to them at 355 Fisher Street went to Fannie Mae, not the direct owner of the house. They own it, not Fannie Mae. He has a letter from them as they couldn't make it tonight due to health reasons. There are three people benefitting from the waiver – his parents at 373 Fisher Street, 355 Fisher Street and 343 Fisher Street. If they don't want to tie in it becomes a zero value. Both he and his neighbors don't want to tie in, so there is no benefit to anyone but the applicant.

Mr. Cangiano showed the board some pictures he took of the area on his cell phone. With regard to the waiver, if two out of the three abutters disagree, that is 66%. The third abutter is Mr. O'Donnell, who has a financial investment in the parcels. Data is not subjective and asks the board to deny the waiver. If the waiver is denied, he doesn't have an issue with Olmsted's house being torn down and the entrance to the subdivision being put there. Mr. Conroy stated you have us the information but it doesn't say why they shouldn't be on Fisher Street at all. Mr. Cangiano stated it is all generalized information. Mr. Conroy stated that Fannie Mae is the owner of the property at 355 Fisher Street per our Assessors records, which is governed by M.G.L. Mr. Cangiano stated that Fannie Mae doesn't own it. Mr. Conroy stated you really don't know that. Regarding the police report, you gave a list of all of Fisher Street from Main Street to North Street, but it doesn't say where on Fisher Street. He would like some kind of back up to where exactly on Fisher Street the police are talking about. Mr. Cangiano agreed to do that. Mr. Conroy stated that Ms. Walker would like to review some of this and if Mr. Cangiano could get the information to us in a couple of days, there will be time to review it.

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 20, 2014 (6)

Joe Moraski, Buckboard Drive stated that this plan versus the open space plan have both been filed with the Planning Board and there is information on both. Therefore, shouldn't the hearings be run in tandem? Mr. Conroy stated no. Mr. Moraski stated that would seem logical that Olmsted Estates run until at least the 18<sup>th</sup> of December because of the open space plan. Mr. Conroy stated we are treating them separately. Mr. Moraski stated the developer has an application before the Army Corp. of Engineers and both subdivisions are wrapped into that report. These are both related. Mr. Conroy stated they don't have to go together, it is up to them not us. If something changes with one and the other hearing is closed and voted, then they would have to start over again. Mr. Moraski stated there are mutual plans and they are running at a risk. If this gets approved these lots are no longer a part of an Open Space yield plan. He has had difficulty in following the plans that were in the Planning Board office. He had to sit down with Ms. Walker and discuss what plans we are using for Olmsted Estates and what for the Open Space. He feels the applicant is running at a tremendous risk. Mr. Murtagh stated it makes sense what Mr. Moraski is saying, but it is entirely up to the applicant. Mr. Conroy stated if this was his plan, he would be waiting. We can't approve the open space until Olmsted is done. Mr. Nottebart stated the chair tried to schedule these on the same night and he is not sure how we got off that schedule. Mr. Moraski stated he remembers that meeting and thought that was the way we were heading. Mr. Nottebart stated we legally can't make them do that. Mr. Murtagh stated it would be easier for us to give that waiver. Atty. O'Brien stated this project has three owners involved. Secondly, if the open space were approved as an open space plan, that would be the first step. If it isn't approved, we need to go back to square one any way. They acknowledged to the Conservation Commission and now to us that they will be limited to what they can tie into. Regarding Paul Cangiano, they confirmed the ownership at the Registry of Deeds. The total number of people to benefit is not three, but seventeen. Mr. Conroy stated when all the issues are addressed, we will close this. Where you tie into the Open Space Plan should be on the Olmsted Plan. We have to discuss the traffic and we also need to know how this affects the lot count.

Mr. Glossa stated the Fannie Mae property owner was Sherry Wolent. He designed her septic, which is a jet system with a blower on it and is supposed to pump 24/7. There is a waste water engineer that checks this four times a year. It is a very expensive system which cost them about \$32,000 to have it installed. It should be costing Ms. Wolent about \$5,000 a year to run it now. It would not cost \$5,000 to tie in or prevent her from having a pool. He has done at least 20, but more like 30-40 systems on Fisher Street. The sewer is a huge benefit to all these people on Fisher Street. Mr. Cangiano stated that would be the homeowners' decision as to whether or not they benefit on this. What is the value of good will is important. Mr. Conroy asked them to summarize this according to what they want and what they are giving. There are three waivers requested. If they moved the roadway, it will mean a new hearing.

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 20, 2014 (7)

Mr. Moraski asked if the roadway was extended it would be for both the Open Space plan and Olmsted and Mr. Conroy stated that is correct. Mr. Forsberg stated there should be some affordable housing within this subdivision. Westwood does that and it works well. Mr. Viano stated they didn't consider that for this one. Mr. Forsberg stated we are not looking for multi-family, but individual homes. Atty. O'Brien stated the town of Westwood owned them. The density would also have to be increased.

There were no further questions. Mr. Conroy moved to continue this hearing to December 18, 2014 at 7:05 p.m.

**9:45 p.m. Cumberland Farms Continued Hearing, 1340 Main Street, Case No. 14-12:**

The applicant was represented by Atty. Peter Pulchaski and Phil Henry. Atty. Pulchaski stated that the Conservation Commission closed their hearing and an order of conditions is forthcoming. They believe they have complied with everything the Planning Board wants. Phil Henry, Civil Design Group, reviewed everything with the Board. He stated there are no material site plan changes. They had a conservation commission hearing and added a few immaterial things such as notes regarding removal of debris and dumpster notes per request of Landis Hershey. He met with Margaret Walker a few weeks ago and she suggested five conditions of approval that they have no issue with. There have been no substantial changes since they were last before the board. Mr. Conroy stated he likes the way they updated the sheets separately. Ms. Walker discussed the special conditions she suggested. Mr. Henry stated they agree with her comments and accept them as conditions of approval. Mr. Conroy read Mr. Feiden's comments. Mr. Nottebart asked if they have been working with the other tenants and Atty. Pulchaski stated that Cumberland Farm is doing that.

Mr. Conroy moved to close the hearing as requested. Motion seconded by Mr. Nottbart and voted 5-0-0. Mr. Conroy moved to approve the application for site plan approval with the board's standard conditions and Ms. Walker's special conditions. Motion seconded by Mr. Nottebart and voted 5-0-0.

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

Respectfully submitted,

John Murtagh, Clerk

Accepted 12/18/14