

The May 9, 2012 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Acting Chairman James Stanton called the meeting to order at 7:00 P.M. with the following members present:

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

Matthew Zuker, Associate member

7:00 p.m. – Timothy and Theresa Duffy – Case #03-12 (Stanton, Cunningham, Case, Zuker)
(cont'd from 2/8 and 3/7, 4/11/12)

Mr. Stanton read the public hearing notice for **TIMOTHY AND THERESA DUFFY, Case #03-12**, with respect to property located at 30 Edgewood Ave., Walpole and shown on the Assessors Map as Lot No. 42-138, Residence B Zone.

The application is for:

A Variance from Section 6.B dimensional regulations of the Zoning Bylaws to allow an above ground pool with a 15 foot front setback where 30 feet is required.

Ms. Duffy explained that they had a pool professionally installed and went to the Building Dept. for the necessary permit. They informed her of the required dimensions and set backs, and got the necessary permits. Her family used the pool last summer. In order to keep an eye on the kids when in the pool, she wants to add a deck. She hired a contractor who went for a building permit and was told that the pool is not in an allowed area. Mr. Mee informed her that where the pool is located is in violation of the bylaw and she needs a Variance. Ms. Duffy believes she put the pool where she was told to.

Mr. Stanton read the letter from Mr. Mee to Mrs. Duffy dated October 11, 2011 stating that the pool was put closer to the street than approved, and the letter to the Zoning Board dated October 19, 2011, explaining the 6 foot setback is for a side yard or rear yard not a front set back. He recommended one of two options: either move the pool, or obtain a Variance from the Zoning Board.

Ms. Duffy explained that approximately one quarter of the pool is in the front yard, the deck would be in the back.

Mr. DeCelle asked to see the original plan that was originally approved by the Building Dept. because the Board needs to see the topography of the property in order to understand the hardship. Photographs maybe of help as well.

Mr. Case pointed out that the original site plan must be attached to the permit in the Building Dept. and that she can get a copy of that and their file, or the Board can decide on the case now with what is before it.

Ms. Duffy requested to continue the hearing to June 13, 2012.

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, to continue the hearing to June 13, 2012 at 7:30 p.m.

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

8:00 p.m. – Southridge Farm – Case #08-12 (Murphy, Cunningham, Case, DeCelle, Zuker)
(cont'd from 4/11/12)

Mr. Stanton read the letter from Mr. Truax, GLM Engineering, requesting to continue the hearing because he is working with the Town Engineer to resolve outstanding issues.

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, to continue the hearing for case #08-12, to a date to be determined upon notification that the Town Engineer's comments and issues have been resolved.

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

DECISION

John Marini – Plimptonville Crossing – Case #02-12 (Stanton, Case, DeCelle, Zuker)

A motion was made by Mr. Stanton and seconded by Mr. Zuker on behalf of the applicant to withdraw the request for a determination under Section 5.B.4.G.

The vote was **4-0-0 in favor**. (Stanton, Case, DeCelle, Zuker voting)

A motion was made by Mr. Stanton and seconded by Mr. Zuker on behalf of the applicant to grant Special Permit under Section 5-B.3.d of the Zoning Bylaws to allow construction of a 16-unit multi-family project to be connected to public water and sewer.

The vote was **4-0-0 in favor**; therefore the application for **Special Permit is hereby granted**, subject to the following conditions: (Stanton, Case, DeCelle, Zuker)

CONDITIONS:

1. Subject to conditions of Site Plan Approval as issued by the Walpole Planning Board;
2. Subject to an Order of Conditions as issued by the Walpole Conservation Commission;
3. As stipulated by the Applicant at the Public Hearing on April 25, 2012, prior to the issuance of a Certificate of Occupancy, the Applicant shall relocate the driveway entrance of 249 Plimpton Street approximately 25 feet to the north or as otherwise agreed to by the parties.

4. Otherwise to be developed and built in conformance with plan entitled PLIMPTONVILLE CROSSING, 240-242 PLIMPTON STREET, Merrikin Engineering, 730 Main Street, Suite 2C, Millis, MA 02054, dated October 20, 2011, revised on April 24, 2012, and any subsequent revisions thereto, and submitted to the Board on or about April 25, 2012.

REASONS FOR DECISION:

It is the finding of the Board that with the above imposed conditions the applicant meets the requirements of Section 5-B 3.d. of the Zoning By-Laws, in that Board finds that Plimptonville Crossing is consistent with the development of the site for the use proposed. Accordingly, the Board hereby determines that the granting of a Special Permit under this By-Law is warranted.

Pursuant to Section 5-B 3.d., in General Residence Zone (GR), a dwelling for occupancy for more than three families is allowed, provided that:

- i. such dwelling is connected or to be connected with the public sewer system at the time of construction,
- ii. such dwelling is located on a lot having an area of at least 30,000 square feet with an additional 10,000 square feet for each dwelling unit in excess of three to be accommodated,
- iii. a fifty-foot buffer zone shall be required where the adjacent lot has a single-family dwelling or is a vacant lot.

FINDINGS OF THE BOARD:

As to each element of Walpole Zoning By-Law Section 5-B (Use Regulations – Residential), Subsection 3.d., the Board found as follows:

- i. such dwelling is connected or to be connected with the public sewer system at the time of construction.*

The Board found that the development will be connected to public sewer system as shown on Page 6 of 13 of Plans.

- ii. such dwelling is located on a lot having an area of at least 30,000 square feet with an additional 10,000 square feet for each dwelling unit in excess of three to be accommodated.*

The Board found that the lot has an area of approximately 214,378 square feet including 96,200 square feet of upland area. The area required under the by-law is 160,000 square feet, of which 96,000 square feet must be upland area. Therefore the Board found that the plan clearly meets the requirement of the by-law.

- iii. a fifty-foot buffer zone shall be required where the adjacent lot has a single-family dwelling or is a vacant lot.*

The Board found that Page 1 (cover) and Page 3 of the Plan illustrate where the 50-foot buffers are located. The Board found that no buffer is required along the boundary of the

adjacent lots at 254 Plimpton Street (Assessors Parcel 18-194), because the lot does not contain a single-family dwelling.

The Special Permit sought by the Applicant is also subject to a Section 2 (2B) Special Permit. As to each element thereunder, the Board found as follows:

The Project:

(a) does and shall comply with such criteria or standards as set forth in the special permit sections of the By-law.

(b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.

The Board found that the type of vehicular traffic will be personal use vehicles almost exclusively, since this is a strictly residential development. The Board accepted the findings of the Applicant's Traffic Analysis study. Any increase in pedestrian traffic is anticipated to be minimal as there are sixteen (16) proposed residential units (a net increase of 14 residential dwellings on Plimpton Street). Said foot traffic may be to and from the Plimptonville commuter rail stop.

(c) shall not have a number of residents, employees, customers or visitors so as to adversely affect the immediate neighborhood.

The Board found that with only sixteen (16) new homes (a net increase of 14 residential dwellings on Plimpton Street), the increase in the number of residents on Plimpton Street will not adversely affect the immediate neighborhood. There is not expected to be many families residing at Plimptonville Crossing, more likely "empty-nesters." (The master bedroom of each unit will be located on the first floor.) As this is strictly a residential project, the Board found that there will be no employees or customers to speak of. Regarding visitors, the Board found there is adequate extra parking space for visitors.

(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.

A review of the plans show that the proposed complex will comply with the applicable dimensional requirements.

(e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission or wastes, or other causes.

The Board found that there will be none of these potential dangers from this modest residential development.

(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 found that there will be none, except for perhaps during the construction phase. In any event, these factors would be controlled to the extent possible during construction.

(g) shall not adversely effect the character of the immediate neighborhood.

The Board found that although most of the properties on Plimpton Street are single-family homes, the structure currently on the site is a two-family dwelling. In addition, a two family home was recently constructed at 265 Plimpton Street. (That parcel is zoned General Residence (GR), as is the parcel in this application.) However, other structures nearby do include apartment buildings. The Board further found that preliminary architectural renderings of the project show that Plimptonville Crossing will exhibit a colonial-style design. The Plimptonville Crossing Condominium Association will ensure the property is properly maintained, in compliance with any and all conditions imposed by the various Walpole permit granting authorities. Therefore, the Board found that the Plimptonville Crossing development shall not adversely effect the character of the neighborhood.

Given the design of the units, and the landscaping agreed to by the Applicant, the Board finds that the project will improve the look of the proposed location from its current status; especially in light of other alternative uses of the property, which would, the Board found, possibly negatively impact the character of the immediate neighborhood.

When completed, Plimptonville Crossing will be a modest, handsome, residential condominium. It will be comparable to many other small condominiums found throughout Walpole, also located within GR-zoned areas.

(h) shall not be incompatible with the purpose of the zoning by-law or the purpose of the zoning district in which the premises is located.

The Board found that the proposed use is not incompatible with the purpose of the Zoning by-law or the purpose of the zoning district in which Plimptonville Crossing is located. In fact, this project is entirely consistent with the states uses of General Residence zoning.

In addition to the eight conditions above, the ZBA also finds:

A fifty (50') foot buffer is required

The Board found that the Applicant has proposed a 50 foot buffer along the south easterly side, to be surrounded in part by a fence to further protect abutting residences. The fence will be a six [6] foot vinyl screen as agreed to by the applicant and abutters.

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 was closed at 9:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on September 12, 2012.