

The October 13, 2010 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 7:00 P.M. with the following members present:

Susanne Murphy, Chairman
James M. Stanton, Vice Chairman
Daniel J. Cunningham, Jr., Clerk
Ted C. Case, Member
James S. DeCelle, Member

Meg Kundert, Associate Member
Matthew Zuker, Associate member

6:30 p.m. – Executive Session to discuss pending litigation

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to go into executive session for the purposes of discussing strategy related to pending litigation because to discuss the matter in open session could impair the Town's position in litigation and with the Board to return to open session when the executive session is concluded.

The vote was **5-0-0 in favor.** (Murphy - aye, Stanton - aye, Cunningham - aye, Case - aye, DeCelle - aye)

7:00 p.m. – Walpole Country Club – Case #11-10 (cont'd from 9/8/10) (Murphy, Stanton, Case, Kundert Zuker)

Ms. Murphy read the public hearing notice for **WALPOLE COUNTRY CLUB, INC., Case #11-10**, with respect to property located at 233 Baker St., Walpole and shown on the Assessors Map as Lot No. 35-138, Rural B Zone.

The application is for:

Variance from Section 6.C.7 of the Zoning Bylaws to allow the erection of a ten (10) foot high fence for three hundred (300) feet and the erection of a thirty (30) foot fence for four hundred sixty (460) feet; said fencing to be erected two (2) feet off the property line along the fifth hole of the golf course and as shown on the Board of Appeals Plan Hole 5 Walpole Country Club, Walpole, Mass. Prepared by Norwood Engineering and filed herewith.

The hearing is continued from September 8, 2010.

A motion was made by Ms. Murphy, seconded by Mr. Zuker, on behalf of the applicant to amend the application for a Variance from Section 6.C.7 to Section 6.C.8.D and F of the Zoning Bylaws.

The vote was **5-0-0 in favor.**

A motion was made by Ms. Murphy, seconded by Mr. Zuker, on behalf of the applicant the Zoning Board finds that a Variance from Section 6.C.8.F of the Zoning Bylaws is not applicable. The Zoning Board is going to consider a Variance from Section 6.C.8.D.

The vote was **4-1-0 the motion passed.** (Murphy, Stanton, Case, Zuker in favor, Kundert opposed)

A motion was made by Ms. Murphy, seconded by Mr. Zuker, on behalf of the applicant to grant a Variance from Section 6-C.8.D of the Zoning Bylaws to allow the erection of a fence not to exceed ten (10) feet in height for three hundred (300) feet and thirty (30) feet in height for four hundred sixty (460) feet.

The vote was **4-1-0 the motion passed,** subject to the following conditions: (Murphy, Stanton, Case, Zuker in favor, Kundert opposed)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, construction of the fence shall be in the location as depicted in the plan entitled “Board of Appeals Plan Hole 5 Walpole Country Club, Walpole, Mass” dated May 28, 2010 as revised June 22, 2010 prepared by Norwood Engineering and submitted at the public hearing.
2. As stipulated by the applicant at the public hearing, all fencing shall be maintained on both sides in perpetuity.
3. As stipulated by the applicant at the public hearing, there shall be no additional lighting.
4. This Variance shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.Lc.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS FOR DECISION:

It is the finding of the Board that the applicant was able to meet the requirements for Section 2.3 of the Zoning Bylaws.

1. Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant or petitioner.

The Board finds that the applicant has shown substantial hardship due to the fact that absent construction of the fence the applicant may be prevented from utilizing Hole 5 of its golf course without a redesign of the golf course which would result in even greater expense and a decrease in the quality of the golf course.

2. Desirable relief may be granted without substantial detriment to the public good.

The Board finds that the proposed fence is a significant distance from the nearest public way, Carriage Lane, and will not be visible by the general public.

3. Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.

It is the finding of the Board that granting the request for the proposed fence would not nullify or derogate from the intent or purpose of the bylaw in that the fencing is required because of the topography and shape of the lot; the of the nature of the golf course abutting private property; and the safety of the abutting properties.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

7:30 p.m. – Sean and Jessica Dacey – Case #15-10

Ms. Murphy read the public hearing notice for **Sean and Jessica Dacey, Case #15-10**, with respect to property located at 31 Chandler Ave., Walpole and shown on the Assessors Map as Lot No. 39-35, Residence A Zone.

The application is for:

Variance under Section 6.B of the Zoning Bylaws to allow addition of front entrance/mud room of 6 feet with a setback of 23.5 feet to also include a 3 foot overhang.

Mr. Dacey presented his request to construct an addition of a front entrance/mud room of 6 feet onto the front of his existing home. He presented a letter from John Glossa, Glossa Engineering, explaining the solid testing he had done in the fall of 2003 on this property for the replacement of the septic tank and leach field. Mr. Glossa stated that the front yard of the house does not provide the necessary area for a leach field, so the rear yard was chosen for the location of the replacement system, 10 feet from the rear of the house. Mr. Dacey pointed out that the hardship is that a mud-type room cannot be added to the rear of the home because of the topography of the lot and the placement of the septic tank and leach field. He also pointed out that there are a number of other homes in the area with the same type of entranceway.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to grant a Variance under Section 6.B of the Zoning Bylaws to allow addition of front entrance/mud room of 6 feet with a setback of 23.5 feet to also include a 3 foot overhang.

The vote was **5-0-0 in favor**; therefore the application for a **Variance** is hereby **granted, subject to the following conditions**: (Murphy, Stanton, Cunningham, Case, DeCelle voting)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, construction of the entrance, mud room and 3 foot overhang shall be pursuant to the plans submitted at the public hearing.
2. This Variance shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS FOR DECISION:

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.3 of the Zoning Bylaws.

- 1. Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant or petitioner.*

The Board finds that the applicant has shown substantial hardship due to topography of the lot and the location of the septic system.

- 2. Desirable relief may be granted without substantial detriment to the public good.*

The Board finds that addition is in keeping with the homes in this residential area.

- 3. Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The Board finds that relief may be granted without nullifying or derogating from the intent or purpose of this bylaw in that the applicant was able to show appropriate hardship and that the addition is in keeping with the residential area.

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 10:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on February 9, 2011.