



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Zoning Board of Appeals
John Lee, Chair
Drew Delaney, Vice Chair
Robert Fitzgerald, Clerk
David Anderson, Member
Judith Conroy, Member
Timothy Hoegler, Assoc. Member
Mark Major, Assoc. Member

**MINUTES
WALPOLE ZONING BOARD OF APPEALS
JANUARY 3, 2024**

Present: John Lee (Chair), Drew Delaney (Vice Chair), Robert Fitzgerald (Clerk), Judith Conroy, Mark Major

Absent: Tim Hoegler and David Anderson

Also Present: Patrick Deschenes, Community Development Director and George Pucci, Town Counsel

Mr. Lee called the meeting to order at 7:00 P.M.

Case No. 23-21, KIG/Silverstrand Walpole, LLC, 981, 989 and 1015 East Street (Map 25, Parcels 164, 165, 166), Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, §§20-23 as amended, to allow the construction of a six story building with 142 apartment units and below grade garage. (Continued from November 20, 2023)

Case 23-21 opened at 7:01 PM.

Mr. Lee stated the applicant requested a continuation to the January 22, 2024 meeting and noted an extension of time was previously granted to January 31, 2024.

Ms. Conroy noted for the record that the continuation date was very close to the extension of time.

Motion: by Mr. Delaney seconded by Mr. Fitzgerald to continue the public hearing to January 22, 2024.

Motion carried 5-0-0 (Lee – aye; Delaney -aye; Conroy -aye; Fitzgerald -aye; Major - aye)

Case No. 22-11, Wall Street Development Corp., 9 & 15 Pinnacle Drive (Map 19, Parcels 182 & 183), Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, Sections 20 through 23, as amended, to allow for the construction of twenty-eight (28) homeownership, non-age restricted, condominium townhouses. (Continued from November 1, 2023).

Case 22-11 opened at 7:02 PM.

Ms. Conroy recused herself.

Mr. Lee stated the applicant requested a continuation to the March 6, 2024 meeting.

Motion: by Mr. Delaney seconded by Mr. Major to continue the public hearing to March 6, 2024.

Mr. Fitzgerald asked when the original application was filed. He expressed concern that the application was incomplete. He feared that if the Board allowed incomplete applications to have multiple continuations without cause from the applicant it would set a precedent.

Mr. Lee agreed and added that the applicant was working closely with the neighbors on possible changes to the plans.

Mr. Deschenes said the original application was filed in 2022 at which point the Town claimed Safe Harbor. The applicant appealed to HAC which remanded the case back to the Board in June of 2023. He acknowledged that the application was lacking information, however he pointed out that two emails had been received from abutters addressing an alternative project to the 40B. The applicant was in the process of considering a project under 40A which would result in less units and was working closely with the neighbors. The emails confirmed that abutters were in favor of the potential of a 40A project over the 40B project. Mr. Deschenes also confirmed that it was within the applicant's legal right to submit a 40A project application at the same time as the ongoing 40B hearing. The applicant may submit the 40A project within the next 60 days prior to the 40B continuation date.

George Pucci, Town Counsel, explained the potential implications of a denial by the Board. He cautioned the Board that if either project dragged on excessively, the Board may have to make a hard decision.

Motion carried 4-0-0 (Lee – aye; Delaney -aye; Fitzgerald -aye; Major - aye)

Motion: by Mr. Delaney seconded by Mr. Major to accept an extension of time to June 28, 2024.

Motion carried 4-0-0 (Lee – aye; Delaney -aye; Fitzgerald -aye; Major - aye)

Case No. 23-31, Bristol Brothers, Corp, with respect to the property located at 534 West Street (Map 32, Parcel 96) for a Special Permit under Section 9.4.A of the Walpole Zoning Bylaws in order to alter/enlarge an existing, non-conforming one-family dwelling, as part of the applicant's Age Qualified Village (AQV) project.

Case No. 23-31 opened at 7:09 PM.

Scott Golding, attorney for the applicant and Taylor Corsano, Project Manager of Crocker Design Group, appeared before the Board. Attorney Goulding explained the relief requested a Special Permit under section 9.4.A. The parcel was part of a larger Adult Qualified Village (AQV) project of 100 homes at Renmar Avenue and West Street, which was approved by the Planning Board. The original project did not include the existing house at 534 West Street, however the applicant has since decided to retain the house and add it to the AQV project. The applicant met with the Building Commissioner and they determined a Special Permit was needed in order to modify the home within the 50 foot AQV buffer.

The home was constructed in 1936 and the westerly side yard setback was non-conforming. Approximately 200 square feet would be added to the front for a master bedrooms suite as well as an attached two car garage at the rear. There was an existing two car detached garage which the applicant planned to demolish.

Attorney Golding pointed out that the MBTA owned land abutting the property and the other abutter was Bristol Brothers the owner of the site and AQV project. The proposed home with additions would be approximately 2,340 square feet and will be made to fit into the proposed AQV development. The second floor of the home would remain the same.

Mr. Lee asked a procedural question. He remembered that the applicant previously applied for a Variance, however withdrew the application because it did not appear the vote would be positive. He asked how the plans were changed to make the relief only a Special Permit and how this would affect the plans approved by the Planning Board.

Attorney Golding explained the previous Variance was sought based on the previously approved AQV site plan calling for the house to be demoed. After consulting the Building Commissioner, it was determined that the modification of the plans would need to be done first in order to return to the Board to request the Special Permit. He added that the expansion of the home was not on the side of the non-conformity. There would be work within the AQV buffer, however the home would not be any more non-conforming than its current state. The front addition would be 50-feet from West Street.

Ms. Conroy asked if the home would be similar in character to the AQV homes. Attorney Golding confirmed that the home would have the same aesthetic.

Mr. Major asked what the plan was for the use of the house and if it would be a model home. Attorney Golding said it would not be the model and would be occupied under the guidelines of the AQV.

Mr. Delaney asked why the driveway appeared to go off of the property. Attorney Golding explained the applicant had ownership on either side of the street.

Ms. Conroy noted that the Town Engineer's letter stated the house would have a new address of 3 Weathervane Drive. Ms. Corsano confirmed that was their plan. Attorney Golding noted it was ultimately up to the Town's Emergency Services as they have the final authority over addresses. Ms. Corsano noted they also had an approved order of conditions from Conservation.

Mr. Lee proposed two conditions. The first was that the house would have an address of 3 Weathervane Drive, or another address that was deemed appropriate by the Town Emergency Services. Second, the plan shall comply with the Fast Track requirements within the Stormwater Bylaw.

Attorney Golding confirmed the Board could close the public hearing.

Motion: by Ms. Conroy seconded by Mr. Fitzgerald to close the public hearing.

Motion carried 5-0-0 (Lee -aye; Delaney-aye; Fitzgerald -aye; Conroy-aye; Major -aye)

Motion: by Ms. Conroy seconded by Mr. Fitzgerald to grant the Special Permit with conditions.

Motion carried 5-0-0 (Lee -aye; Delaney-aye; Fitzgerald -aye; Conroy-aye; Major -aye)

Case No. 22-10, Wall Street Development LLC, with respect to the property located at Darwin Lane (Map 42, Parcels 240 & 227-13) for a Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, Section 20 through 23 as amended, to allow the construction of twenty-eight (28) homeownership, non-age restricted, condominium townhouses in six (6) buildings on approximately 3.44 acres. (Continued from November 20, 2023)

Case No. 22-10 opened at 7:35 P.M.

Ms. Conroy recused herself.

Lou Petrozzi, applicant, appeared before the Board. He noted that plans were revised based on feedback from the Peer Review.

Mr. Lee stated that some issues had been addressed, however there were still several items pending.

Mr. Petrozzi noted that there were two reports that were not completed yet. He believed that should address concerns regarding building in the resource area. The impervious surface area and stormwater changed. Mr. Lee noted there were still concerns beyond those items.

Sean Reardon, Tetra Tech, commended the applicant's engineer, John Glossa, on edits. He said the area was very dense and there was heightened sensitivity if any concerns were missed. He had been unaware of the stormwater report submission when he wrote his review letter, but noted it would not have changed his comments. There did not appear to be any justification for the impervious surface area to be exceeding 15%. The plans showed three times more than what was allowed. Normally a Special Permit should be needed for the exceedance and he noted the plan was very dense where nearly every inch possible was used.

Mr. Reardon addressed the creative sidewalk option. He did not consider the stamped asphalt to be an adequate sidewalk. There needed to be a curb. The applicant had removed all of the curbing which could pose a problem with erosion in the future. While the snow storage placement improved on the plans, Mr. Reardon noted there were no calculations that determined if it was adequate. He noted that four less units would have a positive impact on the site.

Visitor parking was removed. Each unit had four parking spaces, however there was no place for non-resident parking because of the dense layout limiting street parking. Mr. Reardon noted there were an excessive amount of light poles proposed onsite. There were only two that existed on Darwin Lane, however 12 were proposed onsite which was far more than needed. It needed to be determined if the 2:1 slopes would remain stable. This would be a net fill project and it was estimated that 260 truckloads of fill would be needed. It would be very difficult to allow that many truckloads on Darwin Lane. Mr. Reardon suggested that the truck utilize the gravel road at the end of the site onto Town land.

There needed to be a determination if there needed to be additional traffic calming measures as that had not been confirmed by the applicant's traffic engineer. Mr. Reardon committed to keep an open mind, however he was concerned with the proximity to the wellhead in Zone 1.

Mr. Fitzgerald stated it was mentioned the plan did not comply with Stormwater standard #6. Mr. Reardon explained that was due to the exceedance of the impervious surface area.

Mr. Delaney asked about the differences in cul-de-sac length. Mr. Reardon wanted a comfortable layout and deferred to the Fire Chief for final comments regarding that change. A 6-ft reduction to the radius was significant. Mr. Delaney agreed, specifically with the limited open space proposed. He asked Mr. Reardon if there was any concern over the use of fill in such close proximity to the wellhead. Mr. Reardon said his only concern was the traffic on Darwin Lane. He was not concerned with contamination, although it could be conditioned to know where the fill was previously located.

Mr. Major asked Mr. Reardon what he needed to see to be comfortable with the development's proximity to the wellhead. Mr. Reardon explained it was in the regulations and there was a 15% impervious maximum for a reason. The applicant's proposal to exceed 15% impervious lacked the required information needed in order to justify the increase. This concerned Mr. Reardon.

Dennis Murphy, attorney for abutters, stated the elephant in the room was the density. Regarding the impervious area, the plans proposed 45.3%. According to Attorney Murphy, State law preventing impervious exceeding 40% in this area. He explained that the project needed to comply with the local bylaws and this made the proposed project unable to be approved by the Board. He suggested the Board ask the applicant to show a compliant plan at 15% impervious surface area and one at 40% then discuss

the best option for the site. It was noted that DEP had previously submitted comments which supported Mr. Reardon's review.

Attorney Murphy stated that new test pits should be done as the validity and usage of the most recent ones were limited. There was no finding of redox feature. In order to find proper groundwater data, the testing should be done between March and May. The new plan proposed an update to the sewer main from 6 to 8 inches with a force main. He said the Board could ask for a plan without it as the upgraded sewer main would be a big expense. It could be feasible to do a smaller project without the expense of a sewer upgrade making the project uneconomic.

Attorney Murphy noted he submitted a checklist on behalf of the neighborhood with concerns. He said that some items had been resolved, however there were still many pending items.

Joe Parlon, 1165 Main Street, had several concerns. The elimination of visitor parking to create snow storage would entice people to park illegally along Darwin Lane. It would also prohibit emergency vehicles as they have gotten large over time to adequately service growing populations. He agreed with Mr. Reardon that the sidewalk solution went against the community standards. He said it was disingenuous of the applicant to propose stamped asphalt as a solution to a sidewalk.

Mr. Parlon expressed concern over the use of fill. Previous projects at this site all denied the use of the Town's access road as it could only be used for Town vehicles and NStar. The use of that road to drive in fill was a concern as it was so close to the water supply. Debris could fall off of the trucks and contaminate the water. Mr. Parlon ended by saying he was very passionate about the Town of Walpole and reminded everyone the privileges we have in the Town and it was everyone's responsibility to protect the residents and water.

Thomas White, 20 Darwin Lane, said the project was too dense and in close proximity to the water supply. He added that there was no room on the site for recreation which was a concern.

Mr. Lee said there were still many pending items. Mr. Petrozzi said he wanted Mr. Reardon to review the stormwater in advance of the next meeting and would have the additional reports. He recommended the hearing be continued for 30 days.

George Pucci, Town Counsel, agreed that the hearing could be continued to allow for Mr. Reardon to review the pending items. He said the Board should be prepared to close the hearing and it would behoove the applicant to address the Board's concerns.

Mr. Petrozzi said there was no urgency to close the public hearing as he agreed to an extension of time until the end of April. Mr. Lee said the Board had asked for revisions and progress had not been made. Mr. Pucci added that if the plans changed and the Board was making progress, the hearing could remain open.

Mr. Lee asked Mr. Petrozzi if he needed additional time to gather pending materials. Mr. Petrozzi said he would be ready at the next meeting.

Mr. Petrozzi reminded the Board that he originally proposed a less dense project and the Board refused and claimed Safe Harbor (Original application in 2021). He offered to work with the Board and said the Board refused to work together. He did not think it was right for the Board to have concerns over the new density when there was an opportunity for a less dense project. Mr. Deschenes stated that the Board acted on its rights to claim Safe Harbor. Mr. Petrozzi felt the Board ignored the prior plan (12 unit plan) and now he was choosing to pursue a 28 unit plan.

Mr. Lee reminded Mr. Petrozzi that he could revisit the less dense project at any time. Mr. Petrozzi acknowledged that was an option, but said that was not something he wanted to pursue. He said the Board could have chosen to not invoke safe harbor in exchange for a less dense project and since they did not, this was the plan that was now being proposed.

Mr. Pucci asked Mr. Petrozzi if the 28 unit plan proposed was some form of punishment to the Board for their claim of Safe Harbor. He noted for the record that was a stunning statement for the applicant to make during a public hearing.

Motion: by Mr. Delaney seconded by Mr. Major to continue the public hearing to February 7, 2024.

Motion carried 4-0-0 (Lee -aye; Delaney-aye; Fitzgerald -aye; Major -aye)

Minutes:

It was discussed that going forward, the Board would consider the approval of minutes at the beginning of the meeting.

Motion: by Ms. Conroy seconded by Mr. Delaney to approve the minutes from December 6, 2023.

Motion carried 5-0-0 (Lee -aye; Delaney-aye; Fitzgerald -aye; Conroy -aye; Major-aye)

Adjournment

Motion: by Ms. Conroy seconded by Mr. Major to adjourn.

Motion carried 5-0-0 (Lee -aye; Delaney-aye; Fitzgerald -aye; Conroy -aye; Major-aye)

Meeting adjourned at 8:31 P.M.