

The April 27, 2011 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

Matthew Zuker, Associate member

**7:00 p.m. – Executive Session**

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to go into executive session for the purpose of discussing strategy related to pending litigation because to discuss the matter in open session would 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.** (Ms. Murphy – aye; Mr. Stanton – aye; Mr. Cunningham – aye; Mr. DeCelle – aye; Mr. Zuker – aye)

**7:30 p.m. – 5<sup>th</sup> Fairway Development Remand – Case #18-08 (cont'd from 2/9/11) (Murphy, Stanton, Cunningham, Case, DeCelle, Zuker)**

Ms. Murphy read the public hearing notice, i.e., pursuant to the provisions of Section 21 of Chapter 40B and Section 11 of Chapter 40A of the General Laws, the Walpole Zoning Board of Appeals will conduct a public hearing on Wednesday, January 12, 2011, beginning at 7:30 p.m., in the Main Meeting Room, in Walpole Town Hall, located at 135 School Street, Walpole, MA, regarding the November 18, 2010 Remand Order issued by the Housing Appeals, with respect to a request by applicant 5<sup>th</sup> Fairway Development, LLC, Case #18-08, that it be allowed to amend its proposed development for 156 Baker Street (on 3.57 acres of land) to construct residential housing under G.L. c.40B, to allow the stormwater for the proposed development to connect to what the applicant asserts is a municipal stormwater drainage system. The property is owned by Paul J. Thurston and Kathryn M. Thurston, Trustees of the B&T Realty Trust, u/d/t 12/1/05. The specific purposes of the remand hearing will be for the Board to consider the design changes proposed by the applicant for the stormwater drainage system for the development, any waivers from local requirements requested by the applicant in connection with the proposed new stormwater drainage design and any waivers from any local moratorium requirement for street opening permits for Baker Street requested by the applicant in connection with the proposed new stormwater drainage design, all as submitted to the Board on December 20, 2010. The Remand Order issued by the Housing Appeals Committee and the remand materials submitted by the applicant to the Board on December 20, 2010 are available for inspection and review at the Zoning Office at Town Hall during Zoning Office hours. Anyone wishing to be heard should appear at the appointed time and place for the remand public hearing.

Attorney Ilana Quirk suggested addressing the deadline for the public hearing with the applicant.

Ms. Murphy read the letter from Attorney Haverty, dated March 22, 2011, requesting on behalf of 5<sup>th</sup> Fairway Development, to continue the hearing scheduled for March 23, 2011 to the Board's regularly scheduled hearing date at the end of April. The Applicant further agreed to toll the time for the Board to act pursuant to the Remand Order for a period commensurate with the period associated with this continuance request. Additional review fees would be addressed if and when a revised drainage plan is submitted.

Attorney Quirk suggested finalizing a date certain or close the public hearing this evening.

Attorney Haverty said that his client, the Applicant, has instructed him to request that the hearing be closed this evening.

Rob Truax, GLM Engineering, in behalf of the Applicant, gave an overview to date: he has done revisions to the plan in February that also addressed the Town Engineer's comments, and summarized the plan. They still want to tie into Baker St. from Carriage Lane. They redesigned the drainage system using a new filtration rate. Revised the erosion control program, included a new stormwater management plan and made updates per Chessia Engineering and Town Engineer's comments. The concept remains the same.

Margaret Walker, Town Engineer, gave an overview of her letter dated February 8, 2011, regarding the waivers requested by the Applicant, the municipal storm drain connection policy and the sewer system. (see file for document)

Attorney Quirk asked Attorney Haverty if the Applicant is going to apply to the Sewer and Water Commission.

Attorney Haverty said they will apply with the Sewer and Water Commission.

Attorney Quirk informed the applicant that there has not been time since the receipt of the revised GLM Report for Mr. Chessia to review it for the Town, and asked if the applicant would allow time for that review.

Attorney Haverty requested that the hearing be closed and that Mr. Chessia then review the report. He did not have authority to allow the hearing to be continued and he had been instructed by the applicant not to participate in any hearings beyond this evening's.

Attorney Quirk informed Attorney Haverty that Mr. Chessia and the abutters are going to want to review the report, prior to the close of the hearing.

Attorney Haverty hand wrote an extension to May 25, 2011, dated April 27, 2011. Attorney Quirk read the letter into the record.

Attorney Quirk asked what legal right his client believes he has to create the infrastructure from Baker St. to Carriage Lane and how that would work to the point where the easement exists to Alton St., and the right for the Town easement to go through Walpole Country Club.

Attorney Haverty said there is an existing storm easement connection and his client is proposing to extend it to the intersection of Carriage Lane and Baker St. They believe any applicant has the right to do this and said he could bring the HAC case law to the next hearing. He believes that the system is within the public right of way.

Attorney Quirk reminded him that in February she provided a package of information showing the history of the Baker St. acceptance in the 1800's with no sewer line. The owners of Carriage Lane put in the infrastructure and laid private pipes that went onto the Walpole Country Club property. She did not know of any Town acceptance of the drainage or the piping in Baker St.

Attorney Haverty said he would have to check out that information.

Ms. Murphy asked if there were any comments from the public.

Mr. Higgins, 2 Carriage Lane, referred to the 14 page peer review report submitted at the previous hearing. He said that Mr. Truax had only been allowed to do a limited scope of the drainage by his client. He asked how the Board intended to handle Mr. Chessia's criticisms in his peer review report.

Attorney Quirk said the deadline has been extended to May 25 in order to allow Mr. Chessia to review the applicant's latest report.

Attorney Seigenberg, attorney on behalf of the Walpole Country Club, said he sent a letter dated January 31, 2011 to the Zoning Board which was his opinion of the rights to the easement onto Walpole Country Club property. The February 11, 2011 revisions were reviewed by Thomas Houston, who submitted his report, a copy of which was given to the applicant. The major criticism is that there is no design or calculations of the site.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to accept the extension to May 25, 2011 at 8:00 p.m., from Mr. Haverty on behalf of 5<sup>th</sup> Fairway Development, LLC.

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

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to continue the hearing for 5<sup>th</sup> Fairway Development, LLC, to May 25, 2011 at 8:00 p.m.

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

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.....