

The September 8, 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 (arrived at 8:15 p.m.)
Ted C. Case, Member
James S. DeCelle, Member (not present)

Meg Kundert, Associate Member
Matthew Zuker, Associate member

6:45 p.m. – Francis Harvey & Sons, Inc. – Case #09-10 (cont'd from 8/18/10)

Ms. Murphy read a letter from the applicant requesting to continue the hearing to September 22, 2010 because they do not yet have the amended plan showing the septic system location.

A motion was made by Ms. Murphy, seconded by Mr. Zuker, on behalf of the applicant to continue the hearing on Case #09-10 to September 22, 2010 at 6:45 p.m.

The vote was **4-0-0 in favor.**

7:00 p.m. – Walpole Country Club – Case #11-10

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.

Attorney Seigenberg, represented the Walpole Country Club and introduced Matthew Smith of Norwood Engineering, Thomas Alighieri President of Walpole Country Club, and Dan Murphy, the previous President.

After some discussion:

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

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

Attorney Seigenberg informed the Board that Ron Forse designed the golf course master plan and submitted additional information. He explained that the 5th hole has the potential problem on the left hand side. The course abuts the property of Paul and Katherine Thurston. It was previously a wooded lot and golf balls have gone onto that property. Mr. Thurston has proposed a 40B development project for that property and he has concerns about golf balls straying onto his property. The applicant is content with the situation as it is, but they are now concerned about the potential of being held liable if golf balls should enter the Thurston property. The applicant's proposal is a proposed solution. They could redevelop the golf hole but there would still be the concern of golf balls going onto this abutting property. The applicant is proposing a 10 foot high fence for 250 feet and then a 30 foot fence for 460 feet two feet off the property line. The applicant also plans to utilize natural vegetation. It is a very expensive fence and the applicant would prefer not to install it, but Mr. Thurston could take legal action against the golf course that could put it out of business, which is a hardship. The use of a golf course in this zoning district is unique. The fence would not affect the neighbors on Carriage Lane. The installation of a net fence is possible, but the net fences are expensive to maintain and balls can go through it. To move the hole would require taking down some trees, change the slope of the hill and other changes, but a fence would still be needed.

Ms. Murphy read the letter from Regnante, Sterio & Osborne LLP, dated September 2, 2010, representing Paul and Katie Thurston regarding their property at 156 Baker St. and the Walpole Country Club proposal opposing the variance requested by the Walpole Country Club and suggested reconfiguration of the course to minimize the potential for golf balls to land on the Thurston property, or a netted mesh screen.

Mr. Smith explained that the fairway has been moved to the west as far as possible according to the golf course designer.

Mr. Thurston explained that upon purchasing the property from Mr. and Mrs. Seavey, who owned it for 55 years, he was served as Adverse Possession Claim by the Walpole Country Club and the Thurston's won the case and the appeal. He has spoken with the president of the country club. He is concerned about the gold balls pinging off the solid wall. Mr. Thurston complained of vandalism and damage to his property. He believes golfers have trespassed onto his property retrieving golf balls. He has experienced theft of tools, chairs and other miscellaneous items. Mr. Thurston asked why they cannot have a 15 foot setback instead of the requested 2 feet. He would like to discuss this entire issue with them.

Dennis Valle, 28 Carriage Lane, said there is no proof that golfers have done damage on the Thurston property, but there have been kids that play in the golf course and sand traps.

Charles Rayner, 16 Carriage Lane, asked if the applicant is living at the Baker St. address.

Mr. Case asked Mr. Thurston if he agreed with the statement in the letter from his lawyer that he would be happy with the netting.

Mr. Thurston said he would like to meet with the Country Club and try to negotiate and settle on a fence. The netted fencing is one possible solution.

Mr. Case asked Mr. Thurston if he would give the Country Club indemnity if they did not build the solid fence.

Mr. Thurston said the Country Club is under court order to prevent any nuisances.

Tom Alighieri, President, Walpole Country Club, informed the Board that he sent a letter to all the members of the Country Club to stay off the Thurston property. The netting is very costly to maintain.

Bob Higgins, Carriage Lane, has been at that location for 31 years and disagreed with reconfiguring the 5th hole.

Mr. Rayner said he has not seen any golfers going over the Thurston's fence since the letter went out to the members.

John Lee, 509 Old Post Rd., supported the fencing because it would be good for public safety, especially if there is future development expected in the area.

Ms. Murphy explained that because there is a lot of litigation going on at both locations, the Board would like to check with Town Counsel prior to taking any action.

Attorney Seigenberg has no object to that.

A motion was made by Ms. Murphy, seconded by Mr. Zuker, on behalf of the applicant to continue the hearing to October 13, 2010 at 7:00 p.m.

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

7:30 p.m. – Walpole Park South VIII – Case #12-10

Ms. Murphy recused herself from this hearing. Mr. Stanton served as Chairman.

Mr. Stanton read the public hearing notice for **WALPOLE PARK SOUTH VIII REALTY TRUST, Case #12-10**, with respect to property located at 3 Walpole Park South Road, Walpole and shown on the Assessors Map as Lot No. 54-13 and portions of 47-16 and 54-5, Highway Business, Water Recharge Protection Overlay District Zone.

The application is for:

Special Permit under Section 5-B.1.4.c of the Zoning Bylaws to allow retail sales and services greater than or equal to 20,000 square feet in a building and its appurtenant parking and landscaping as shown on a plan entitled: "Walpole Park South VIII Site Plan", dated July 1, 2010, prepared by Merrikin Engineering, LLP, 730 Main St., Suite 2C, Millis, MA 02054, as may be amended.

Attorney Philip Macchi, II, represented the applicant and introduced Dan Merrikin, Merrikin Engineering, and the applicant Donnell Murphy. Mr. Macchi informed the Board that they are going to ask for a continuance because the Town Engineer has written some modifications for the Conservation Commission and they want them to be incorporated into the final plans for the Board's vote. The applicant does not yet have a tenant for the proposed building. It is the only

lot in the park that has accessibility and visibility to Rt. 1. The rear of the property has no relationship to the entity. They were just returning from the Conservation Commission meeting and are going to incorporate their comments into the project. The Special Permit is specifically to have the ability to have a retail of 20,000 square feet; however, it is not contemplated to be a high volume retail. The neighborhood is businesses and Gatehouse Condominiums. A Special Permit request has been submitted to the Planning Board as well for impervious cover which could be added as a Zoning Board condition.

Mr. Murphy said he has a potential tenant that would use approximately one third of the building.

Mr. Merrikin explained that the nearest resident is approximately 1,000 feet away. The lot will be leveled; the driveway will be off Rt. 1 at grade. A second vehicle entrance will be off Walpole Park South Drive. There will be 215 parking spaces. There will be no intermingling of truck traffic entering from Rt. 1; they would use Walpole Park South Drive. A new ground water infiltration system is designed per the Walpole Bylaws and DEP storm water management. The sewer is coming from Walpole Park South and will tie into Pine St. via gravity. A hydrant will be installed on Rt. 1. The building will be sprinkled.

Mr. Stanton read comments from: Don Johnson, Town Planner, dated September 7, 2010; Sewer and Water Commissioners dated September 7, 15 and 30; Michael Laracy, Deputy Fire Chief, dated August 24, 2010; Board of Health, dated August 19, 2010; and Warren Goodwin, Traffic Safety Officer, dated August 9, 2010. He then opened the meeting for public comments; there being none:

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, on behalf of the applicant, to continue the hearing to September 22, 2010 at 7:20 p.m.

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

MINUTES

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to accept the minutes of August 18, 2010 as written.

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

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 October 13, 2010.