

The June 13, 2012 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. – Vincent Serratore – Case #17-12

Ms. Murphy read the public hearing notice for **VINCENT SERRATORE, Case #17-12**, with respect to property located at 12 Nightingale Farm Rd., Walpole and shown on the Assessors Map as Lot No. 8-43, Rural Zone.

The application is for:

A Special permit under Section 5-B of the Zoning Bylaws to allow the garaging of more than three (3) automobiles. Proposal to construct a two-car unattached garage.

Rob Truax, GLM Engineering, represented the applicant and explained that the applicant is proposing to build a detached two-car garage. The new garage would match the existing attached garage. They have an Order of Conditions from the Conservation Commission because there is a wetland in the back of the site and a man-made drainage basin. The applicant is going to maintain the basin. He does not know of any toxic run off on the site.

Ms. Murphy read the comments from: Traffic Safety Officer Musick dated May 30, 2012, Deputy Fire Chief Laracy dated May 10, 2012, Conservation Agent Hershey dated May 7, 2012, and Board of Health dated May 23, 2012.

Ms. Murphy asked if there were any comments from the public; there being none:

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to close the public hearing.

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

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant a Special permit under Section 5-B.3.M of the Zoning Bylaws to allow the garaging of more than three (3) automobiles. Proposal to construct a two-car unattached garage.

The vote was **5-0-0 in favor**; therefore the application for **Special Permit 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, the structure shall be used as a two-car unattached garage.
2. As stipulated by the applicant at the public hearing, the second story of the garage shall be used for storage only.
3. This Special Permit 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:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning By Laws in that:

- i. ***Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.***
The construction shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.
- ii. ***Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.***
The construction shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.
- iii. ***Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).***
The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.
- iv. ***Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.***
The construction shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.
- v. ***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 construction 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.
- vi. ***Shall not adversely effect the character of the immediate neighborhood.***
The construction shall not adversely effect the character of the immediate neighborhood.

vii. *Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.*

The construction shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

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

DISCUSSIONS:

Wal-Mart – Case #10-12 and 11-12 – Modification

Discussion ensued regarding the email dated May 23, 2012 from Kathy Kem, BRR Architecture, informing the Board that the sign size square footage breakdown for the Outdoor Living sign was incorrect. However, the overall square footage is not changed. Ms. Kem asked if the approved Variance would still be in affect. The Board made the following vote:

A motion was made by Mr. Stanton, and seconded by Mr. Cunningham, that the Board determine that correcting the dimensions of the individual signs for a total of 208.03 s.f. of signage which is less than the 208.3 s.f. originally granted in the Variance constitutes a minor modification to the Variance granted in Case No. 10-12 and Case No. 11/12 and that the Board modify the decision for Case No. 10-12 and Case No. 11/12 accordingly. Therefore, the Board modifies the decision in Case No. 10-12 and Case No. 11/12 by:

1) Striking the number 208.3 and inserting the number 208.03; and

2) Striking “The ‘Outdoor Living’ sign is being sized down to 27.7 square feet and an additional ‘Market and Pharmacy’ sign of 65.59 square feet is requested.” and substituting: “The Walmart/Spark sign will be 86.84 s.f. ±, the Market & Pharmacy sign will be 65.59 s.f. ±, the Outdoor Living sign will be 49.47 s.f. ± and the Recycle sign will be 6.13 s.f. ± the total of which will be 208.03 s.f.” in place thereof.

The vote was **(5-0-0) in favor**; therefore the modification is hereby made and no further action is necessary. (Stanton, Cunningham, Case DeCelle, Zuker voting)

CONSISTENCY

This decision is consistent with the purpose and intent of the Zoning Bylaws.

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

ZBA Reorganization

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to appoint Susanne Murphy as the Chairman, James Stanton as the Vice Chairman, and Daniel Cunningham as the Clerk.

The vote was **6-0-0 in favor**. (Murphy, Stanton, Cunningham, Case, DeCelle, Zuker voting)

MINUTES

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to approve the minutes of March 21, 2012, April 11, 2012 and April 25, 2012 as written.

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

7:30 p.m. – Timothy and Theresa Duffy – Case #03-12 (cont'd from 5/9) (Stanton, Cunningham, Case, DeCelle, Zuker)

Ms. Murphy recused herself from this hearing.

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 informed the Board that she contacted a surveyor who advised her that the slope of the yard would have to be at least 10 feet in order to be significant. He believed it would be a waste of her money to survey her property. Ms. Duffy submitted a copy of the plan that showed where she drew the location of the pool. She explained again that the John Naff in the Building Dept. told her she could build the pool as shown on her plan and signed off on the plan after it was built. The As Built Plan shows she put the pool in a different spot.

Mr. Case explained that once a plan is stamped it cannot be changed.

Mr. Zuker said he drove by the house, saw the pool; it is a uniquely shaped lot.

Mr. DeCelle explained that the Board needs something that shows why you can not put the pool any where else on the lot. A paper trail needs to be established, in order for the Board to approve the request.

Mr. Case said if the surveyor would make a statement in writing that there is no where else the pool can be located on the lot, the Board would have something concrete to base it's decision on.

Mr. Stanton asked Ms. Duffy if she would like to continue the hearing or have the Board make it's decision.

Ms. Duffy chose to have the hearing continued.

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, on behalf of the applicant, to continue the hearing for Case #03-12 to July 18, 2012 at 7:30 p.m.

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

There being no further business, the meeting was closed at 8:30 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on September 12, 2012.