

## WALPOLE PLANNING BOARD MINUTES OF MARCH 17, 2011

A regular meeting of the Town of Walpole Planning Board was held on Thursday, March 17, 2011 at 7:00 p.m. The following members were present: John Conroy, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk; Richard Mazzocca (7:30 P.M.), Richard Nottebart, Donald Johnson, Town Planner, Margaret Walker, Town Engineer.

Chris Musick, Safety Officer was present to introduce himself to the board. He stated that the Police Chief has asked him to attend our meetings when necessary. It was agreed to forward upcoming agendas to him.

**Walpole Park South VIII:** As per a transmittal letter from Atty. Philip Macchi II dated February 16, 2011, Mr. Macchi submitted an "Addendum to Amended and Restated Agreement" for the board's signature. Mr. Conroy moved to sign the agreement as presented. Motion seconded by Mr. Nottebart and voted 4-0-0. Mr. Macchi took the endorsed addendum.

**CVS, Case No. 09-5:** Atty. Philip Macchi submitted a letter dated March 1, 2011 stating that snow storage was in the wrong area and asked for guidance to see if the plan can be modified or if the board will require a new hearing. After a brief discussion Mr. Forsberg moved to determine this change to be a minor modification. Motion seconded by Mr. Nottebart and voted 4-0-0.

**Walmart, Case No. 10-8:** The applicant was represented by Atty. Philip Macchi II and Matt Smith, Bohler Engineering. Mr. Smith stated they are looking to build a new wall in front of the existing wall and move the driveway over 2', making it go from 30' to 28' wide. They would also like to make minor changes to the footprint of the building. Mr. Murtagh asked the height of the new wall and Mr. Smith stated it will be about 30', but the slope will be less and more stable. The wall will not be wider, just longer. Mr. Nottebart asked if there are any concerns or issues from the Fire Department regarding the storage of pallets and Mr. Macchi stated no. Mr. Conroy asked if they will backfill the old wall when the new one is up and Mr. Smith stated yes. Mr. Nottebart asked if there are any regulations regarding acid and explosion of the battery storage. Mr. Conroy stated it is not under our jurisdiction. Mr. Murtagh asked if the fence issues were worked out with the neighbors and Mr. Macchi stated yes as far as he knows. He gave them the district manager's phone number and has never heard back from them. He stated they have also met with MADOT regarding the traffic light and it is now in process. Mr. Forsberg asked that the height of the wall be noted on the plan and Mr. Smith agreed.

Mr. Conroy moved that the changes presented be a minor modification. Motion seconded by Mr. Nottebart and voted 4-0-0.

Mr. Mazzocca arrived at 7:30 p.m.

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**Pine Street Discussion:** Atty. Philip Macchi I and Rob Truax, GLM Engineering were present to represent Paula and Joe Verderber. Mr. Macchi and Mr. Truax discussed access to the back property off Pine Street for a 41 unit Age Qualified Village. Mr. Conroy stated when the actual application is filed, it will be in front of the board as a site plan.

**Michael Shea, 390 West Street, Case No. 09-3:** The applicant was represented by Rick Merrikin, Merrikin Engineering. He stated that along the railroad tracks there was a slope with a 4' wall which they would like to modify. Mr. Shea doesn't need to screen the back unless he stores stuff there. Mr. Merrikin is asking the board to waive the requirement to build a retention basin as they will be putting in some underground filtration. He is also requesting this change be determined a minor modification. Mr. Conroy asked Ms. Walker for comment. She stated she would agree that it could be a minor modification unless it involves the retention basin. Mr. Conroy agreed with her. He stated they would have to do a re-design. Mr. Merrikin stated they want to forget about eliminating the basin. Mr. Murtagh asked what would be the alternative to that retention basin and Mr. Merrikin stated they would build an infiltration system. Mr. Murtagh asked if it will be underground and Mr. Merrikin stated yes. He stated they will be coming in at some point to ask for a modification for the other side. Ms. Walker questioned the Certificate of Occupancy. She stated Jack Mee will not issue one until they deal with this. Mr. Conroy stated this is under one ownership so they have to comply with the entire approved site plan. Mr. Merrikin agreed. Mr. Conroy asked when they will do the site plan and Mr. Merrikin stated it will be ready in 4-5 weeks. He is only here tonight because Mr. Johnson and Mr. Mee requested him to. Mr. Johnson stated that Jack Mee cannot issue a CO until the site plan is finished. Ms. Walker stated they need the retention basin to be built. Mr. Conroy asked how long that will take and Mr. Merrikin stated they are ready now. Mr. Conroy stated they need to get it done. Mr. Forsberg stated there cannot be too much screening for this place.

Mr. Conroy moved that the addition of the back wall and a screen fence be considered a minor modification. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy stated he would like Mr. Merrikin to get a letter from Jack Mee stating he agrees with Mr. Merrikin. Mr. Merrikin agreed.

**7:50 p.m. and 7:51 p.m. Blades Realty Trust, Site Plan Approval Case No. 11-1 and Blades Realty Trust Common Driveway Special Permit Case No. 11-2:** Mr. Conroy read the public hearing notices and stated the two hearings will run concurrently. The applicant was represented by Rob Truax, GLM Engineering, Holliston, MA. He gave a board a copy of a revised plan. He stated Iorio presently sits on one parcel of land, although previously it was on two separate lots. Also, when this was originally developed in 1995-96, it was zoned LM. They now want to separate the rink parcel and sell it.

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They are here for a common driveway because these two buildings are accessed by one driveway from Route 1. The drive will be 30' wide, will branch off into the office building and will provide access to the rink building. Before doing the ANR, the special permit needs to be in place.

Mr. Truax stated that Mr. Iorio's attorney, Len Simons, is also present.

Mr. Conroy stated the issue is we have a plan showing three lots, but they don't exist at this point. You can't advertise something in anticipation of something happening. At this point, we have advertised something that doesn't exist. Mr. Truax stated the common driveway doesn't exist until you approve it, similar to a subdivision. Mr. Conroy stated the second driveway has to be left open. Mr. Truax stated they would be leaving a 9' wide parking space open as requested by the fire chief. The rink has an easement. Mr. Simons stated this was originally designed as one ownership and they have designed easements to go with this.

Mr. Truax stated he filed all the applications were originally submitted at the same time, but he took back the ANR to allow for the proper time frames. Mr. Conroy suggested they proceed with the ANR application and refile and readvertise the common driveway and site plan approval applications. Mr. Simons asked if the property is described by street address and Mr. Conroy stated yes. It has been advertised for something that is non-existing and feels it should be pulled back and readvertised. Mr. Conroy stated it would be helpful if they could dig up the original site plans. Mr. Iorio stated there were actually four buildings originally. Mr. Truax asked the board to waive the filing fees for the special permit and site plan applications that will be refiled. Mr. Simons asked that the two applications before the board be withdrawn without prejudice.

Mr. Conroy moved to allow the applicant to withdraw the applications for a common driveway special permit and site plan approval without prejudice. Motion seconded by Mr. Nottebart and voted 5-0-0. It was agreed to waive the filing fee when these two applications are refiled.

**ANR – Blades Realty Trust, Route 1:** Mr. Conroy moved to endorse an ANR plan entitled "Plan of Land Walpole, Massachusetts" dated December 15, 2010 for Blades Realty LLC, 32 Forest Road, Millis, MA prepared by GLM Engineering, 19 Exchange Street, Holliston, MA finding Form A in order and subdivision control not required. Motion seconded by Mr. Mazzocca and voted 5-0-0.

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It was noted on the plan that 1) the common driveway shall never be considered for acceptance as a town road and all maintenance and repair of the common driveway and drainage facilities shall be the responsibility of the owners of the properties served by the common driveway; 2) all lots accessed by the common driveway (Lots 9 and 10) shall not be further subdivided so as to create additional buildable lots; 3) Lot 11 does not conform to Section 6.B.1 as the lot cannot accommodate the required circle. Therefore, it is not to be considered a buildable lot in its current configuration.

The owner's title to the land is derived under deed from Shore Cambridge dated July 1995 and recorded in Norfolk Registry of Deeds, Book 10961, Page 43. Said property is shown on the Assessors' maps as Map 54, Parcel 17 and 18. The name of the applicant is Blades Realty LLC, 36 Forest Lane, Millis, MA.

Endorsement of the plan by the Planning Board should not be construed to be a determination of conformance with the zoning regulations.

**Home for Little Wanderers:** Mr. Johnson and Ms. Walker stated they have reviewed the plans and have no issues with them. Mr. Conroy moved to endorse the site plan entitled "The Home for Little Wanderers Longview Farm in Walpole, Massachusetts (Norfolk County)" by Beals and Thomas, Inc., 144 Turnpike Road, Southboro, MA latest revision date of January 6, 2011. Motion seconded by Mr. Nottebart and voted 5-0-0.

**Time Cards:** Mr. Conroy moved to approve the board secretary's time cards as submitted. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy moved to approve the town planner's time cards as submitted. Motion seconded by Mr. Mazzocca and voted 5-0-0.

**Emergency Tree Removal:** Mr. Conroy read a letter from the tree warden, Robert LeBlanc, dated March 1, 2011 advising the board of the removal of three trees at 468 Lincoln Road which are within the road layout and are an immediate danger to pedestrians and vehicles.

**FEMA Article:** Mr. Conroy read a letter dated February 14, 2011 from Margaret Walker, Town Engineer which stated that the town received notice from FEMA in a letter dated February 9, 2011 that the new maps and study will not go into effect during 2011. Therefore, the proposed town meeting article should not move forward at this time. Mr. Conroy moved to withdraw the FEMA article as presented. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy asked that a copy of Ms. Walker's letter be attached to our letter to the Selectmen.

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**8:30 P.M. McDonalds, 595 Main Street, Case No. 11-3:** Mr. Conroy read the public hearing notice as advertised. The applicant was represented by Alan Micale, Ayoub Engineering and Terry O'Connor and Paul Ferrin, owners of McDonalds. Mr. Micale stated they are requesting permits to rebuild since it was originally built in 1969 and needs to be updated. The first 200' is zoned Industrial and then Business after that. They are proposing to demolish the existing restaurant and work within the existing site. They have already met with the Zoning Board, Board of Health, Water Department, Fire Department and Police Department. They will replace the existing restaurant and basement, which consists of 5,000 s.f. with a 4,000 s.f. building, plus a side-by-side drive through. They will relocate the driveway slightly. All parking spaces will be taken out of the front setback and will be replaced with green space. There is adequate parking and the spaces will be restriped. The trash enclosure will be relocated. There is also a landscape plan.

As per the Water Department, there will be a new sewer connection and they will fill in a manhole. They will be relocating a utility pole and have already met with NStar. Comments that were made have been addressed on the revised plan. They will move the dilapidated fences on site and will rely on the arborvitaes that are already on site. They have done a lighting plan and all lights will be shielded.

Mr. Conroy read comments from the town boards. Chris Muscik, Safety Officer, stated that any trees at the end of the driveway need to allow for proper sight distance for leaving and entering the site. Ms. Walker stated that most of her comments have already been incorporated. Mr. Micale stated they did contact MA DOT already. Mr. Conroy asked if he knows MA DOT will require granite curbing and Mr. Micale stated yes. Mr. Conroy questioned the sidewalk. Mr. Micale stated it is on their property and they want to do what is required by MA DOT both now and later. Mr. Forsberg asked if they should have a crosswalk and the Safety Officer stated there is already one there and there are plans to repaint it in the spring. Mr. Micale stated there are also plans for significant improvements to the sidewalk and drainage. Mr. Johnson stated he is not sure how the board wants to handle the landscaping on the south side of the site. Mr. Micale stated the direct abutter, Mark Benson, has concerns about the abutting property line, but he has not spoken with him. Mr. Murtagh asked if they are looking for a curb cut and Mr. Micale stated yes. Mr. Murtagh asked if there will be a continuation of granite curbing throughout the site and Mr. Micale stated no, it will be bituminous concrete. Mr. Murtagh asked him to think about granite curbing throughout. Mr. Micale stated it is very expensive. Mr. Forsberg questioned snow storage and Mr. Micale stated they will remove whatever snow possible because it would hurt business not to. Mr. Nottebart asked if they are planning on resurfacing the entire parking lot and Mr. Micale stated yes. Mr. Mazzocca asked if there will be any outside picnic tables and Mr. Micale stated they are removing them and they will not be put back. Mr. Mazzocca asked the number of seats now and Mr. Micale stated 50. Mr. Nottebart stated that presently when the traffic queues up on Main Street, it is a mess. Mr. Micale stated they have addressed that problem. There will be room for 16 cars to queue up.

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Mr. Mazzocca asked if this is remodeled after any other restaurant in the area and Mr. Micale stated it is similar to the Norwood McDonalds. They will have the same type of look. Mr. Mazzocca asked if there will be a setback issue when the State does their work in a few years. Mr. Micale stated no as they have more than adequate space. They are not utilizing the State's drainage system, so that will not be an issue. The only issue will be the sidewalk.

Mr. Mazzocca questioned the 14' drop off in the back of the property and asked what is there now. Mr. Micale stated an old guard rail and a fence are presently there. They are trying to clean everything up. They are looking at a 6' vinyl fence on the left and a 4' black chain link fence and will not be touching the existing retaining walls. Mr. Mazzocca asked if there is a drop now on the right side of the property. Mr. Micale stated there is a 3 ½' drop at the back corner.

Mr. Nottebart asked if they are going to clean up all the fences that are falling down and Mr. Micale stated yes. Mr. Nottebart asked if they are planning to demolish the building and then be out of business for a while. Mr. Micale stated they will be out of business for 90 to 120 days. Mr. Mazzocca asked if there will be an overhang at the pick up window and Mr. Micale stated there will be a small metal trellis. It will have a sleek look.

Mr. Forsberg stated originally he didn't like the building being setback 16' and doesn't remember this being changed. Mr. Micale stated that had to come forward because they needed the space to get the proper timing. It should also eliminate any queuing problems onto Main Street. He stated it is all about timing. Everything is laid out to be efficient. It won't work if they have to move the building back. It is only the front right corner that is at 16' and the rest of the building will be setback 25'. Mr. Forsberg questioned the screening of the dumpster and asked the height. He would like that listed on the plan. Mr. Micale stated it will be 8' trex. Mr. Forsberg questioned the storage container and Mr. Micale stated it is being removed and incorporated into a new building. Mr. Forsberg asked if there will be any outside dining and Mr. Micale stated no. Mr. Forsberg asked if there is a landscape plan for the front and Mr. Micale stated yes. There will be 15' of green and perennials which will be kept low. Mr. Forsberg asked if the sewer is being changed from the back to the front and Mr. Micale stated yes. He asked if it will go to a pump station and Ms. Walker stated no. Mr. Micale stated it will be a shorter run on the new building. Mr. Forsberg asked if all the lights are shielded and Mr. Micale stated yes. Mr. Forsberg stated an issue is the spillage and the bulbs. Mr. Micale stated it will be flat and recessed inside the box. Mr. Forsberg asked if there will be a fluorescent red roof and Mr. Micale stated no. It will be a sharp building. Mr. Nottebart asked if this is a building or unique to us and Mr. Micale stated typical. Mr. Forsberg stated that customers exit near the drive through and asked if there are signs to caution the pedestrians. Mr. Micale stated there will be a guardrail which will not allow people to go right into the drive lane.

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Mr. Johnson stated they have looked at this with the Design Review Committee. Mr. Murtagh asked if they have a back up generator and Mr. Micale stated no. Mr. Murtagh stated there should be more "green". Mr. Micale stated there are things that are being done and they are trying to use energy-saving equipment. Mr. Conroy questioned the width of the second lane and asked if it is wide enough for trucks because sometimes it is not plowed too well. Mr. Micale stated yes. They will be on top of the negative things. Mr. Conroy stated in Attleboro, they used stamped concrete or pavers which is good as it really defines where a person should walk. Mr. Micale stated he will look into that.

Mr. Nottebart questioned the food prep area in relation to where deliveries will be made. Mr. Micale showed him on the plan and stated deliveries will be made during off hours as it would hurt business to do that during peak times.

Mr. Conroy asked for public comments.

Mark Benson, Main Street: stated the first he heard of this project was three weeks ago when he was noticed for a ZBA hearing. He is not sure where the building is going – closer or farther away from his driveway. The retaining wall is 16" lower than the grade of the parking lot. They tried to fix this twice with landscape timbers that rot away and then stuff goes onto his property. He has been living there since 1982 and McDonalds is terrible to deal with. He has tried to speak with a manager many times and has gotten nowhere. Stop and Shop involved him in their project, but McDonalds did not. He has not had any input on this. He has an issue with trash. His lot is 700' deep and 500' of it is littered with trash. He doesn't want to see this place. He is not sure who he should be dealing with in town. His family has owned this house since 1922. Mr. Conroy stated that is why we have these public hearings. You need to be protected. Ms. McFarland stated she tried to contact him and is willing to meet with him. She understands his concerns. She apologized that he wasn't involved earlier. She stated trash issues will be addressed. They don't want to just walk onto his property, but if he will allow them to, they will pick up the trash every morning. Mr. Benson stated he thinks he would like a solid fence. The chain link fence on the other side belongs to Connolly's. He worked with David Conley, who was the building inspector before and there were still problems. His biggest issue is trash and the shape of the retaining walls. Maybe they could use concrete blocks and bring everything up to grade. About eight years ago, eight sections blew down and were not fixed for four months. Also, the sewer overflowed and the restaurant was shut down until it was fixed. Mr. Conroy stated he can't believe the applicant didn't contact Mr. Benson.

Mr. Conroy asked the applicant to meet with Margaret Walker, Town Engineer, Don Johnson, Town Planner, and Mark Benson, the abutter. Mr. Benson showed the board pictures of his property and the McDonalds site. Mr. Murtagh asked what would resolve the problem. Mr. Benson stated he doesn't know. The fence has to touch the ground and he would like it as high as possible. They also need to empty the trash more often.

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Mr. Micale agreed to meet with everyone on site. Ms. McFarland stated the new trash cans have a cover and that should help the trash problem. She thinks they can work this out. Mr. Benson asked if the board can delay a decision until his issues are addressed and Mr. Conroy stated yes. He explained the lighting which must be shielded and pointed downward. Mr. Benson asked if the driveway is closer or farther away. Mr. Micale stated it is closer.

Mr. Conroy stated that the manager's name and phone number will be on file with us so everyone will know who the manager is and how to contact him. He asked when the applicant could meet with Mr. Benson and Mr. Johnson. Mr. Benson stated it would have to be after 4:00 on a weekday because he works. It was agreed by everyone to meet on Tuesday, March 22<sup>nd</sup> at 4:30 p.m. at McDonalds on Main Street. Ms. McFarland stated they can all walk the site.

Nizam Azar, 606 Main Street: he lives across the street from McDonalds and he understands the trash issue as it gets caught in his fence. He would like to meet with them also. Mr. Conroy asked the applicant if they send people out to pick up the trash and the owners of McDonalds stated yes.

Mr. Conroy continued this hearing to April 7, 2011 at 7:30 p.m.

**Atlantic Court Extension Subdivision:** Mr. Johnson stated he and Ms. Walker have not had an opportunity to review the mylars. Michael Viano, the applicant, gave the new board members some history on this property. He stated this is a four-lot subdivision. When it was approved, the decision stipulated the Planning Board would not endorse the subdivision plan until Phase V was bonded by Toll. Mr. Johnson stated he and Ms. Walker need to confirm the documents before the board endorses the plan. He stated this will be done by the next meeting. Mr. Conroy put this on the board's April 7<sup>th</sup> agenda. Mr. Viano took the original plans and original Form F covenant with him.

**Panda Express Minor Modification Endorsement:** Mr. Conroy read a letter dated February 7, 2011 from Don Myers, Norwood Engineering stating he enclosed one set of plans (3 sheets) for signature by the Planning Board. Mr. Conroy stated he gave us three copies of one sheet and feels we need one set of three sheets. He also would like a mylar. He placed this on our April 7<sup>th</sup> agenda.

**High Oaks IV Partial Bond Release:** Ms. Walker stated she is not ready to discuss this tonight, but will be on April 7<sup>th</sup>. Mr. Conroy placed this on our April 7<sup>th</sup> agenda.

The board secretary and town engineer left at 10:30 p.m.



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**Planner's Evaluation:** The board discussed the planner's evaluation and goals with him.

It was moved, seconded and voted to adjourn. The meeting adjourned at 11:30 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted April 7, 2011