

WALPOLE PLANNING BOARD MINUTES OF DECEMBER 17, 2015

A regular meeting of the Planning Board was held on Thursday, December 17, 2015 at 7:00 p.m. in the Main Meeting Room, Town Hall at 7:00 p.m. The following members were present: John Conroy, Chairman; Richard Nottebart, Vice Chairman; John Murtagh, Clerk; Elizabeth Gaffey, Richard Mazzocca, Margaret Walker, Town Engineer; Elizabeth Dennehy, Community Development Director.

Mr. Conroy opened the meeting at 7:05 p.m.

Minutes: Mr. Conroy moved to accept the minutes of December 3, 2015. Motion seconded by Mr. Nottebart and voted 5-0-0.

Jiten Hotel, Route 1: Mr. Conroy read a letter dated December 15, 2015 from Atty. William O'Connell, 1333 Main Street, Walpole requesting the filing fees be waived for the application refile for the Jiten Hotel. The initial filing was withdrawn without testimony on December 3, 2015 due to the lack of a complete abutters list. Mr. Conroy moved to waive the filing fee as requested. Motion seconded by Mr. Nottebart and voted 5-0-0.

High Meadow Subdivision Drainage: Mr. Conroy read a memo dated December 11, 2015 from Margaret Walker, Town Engineer requesting that information be forwarded to town counsel regarding a drainage easement. She stated she will put the information together and give to the board's secretary to send off to town counsel. Mr. Conroy moved to send a letter to town counsel as requested by Margaret Walker. Motion seconded by Mr. Mazzocca and voted 5-0-0.

Commerford's Waiver: Ms. Walker stated that Mr. Commerford requested that the board waive the placement of some of the bounds as they would have to be in places that can't be accessed, such as in the stone walls that can't be moved. Mr. Nottebart stated that Mr. Commerford keeps asking for changes and asked if this is legitimate and Ms. Walker stated yes and this is not uncommon. Mr. Conroy asked if they can survey this if they have to and Ms. Walker agreed. Mr. Conroy moved to allow the waiver as requested by Mr. Commerford. Motion seconded by Mr. Mazzocca and voted 5-0-0.

Tall Pines Bond Reduction: Mr. Nottebart asked Ms. Walker if she looked at this request closely and she stated yes. Mr. Conroy moved to return \$22,644.90 to the applicant as per recommendation of Margaret Walker. Motion seconded by Mr. Nottebart and voted 5-0-0.

Olmsted Bond Acceptance: The applicant was represented by Atty. Vincent O'Brien, Dover, MA. He stated they have provided a fully executed bond and request that the board either accept or reject it this evening. Mr. Conroy stated we have gone through many renditions and now it was all set to go, but what we here is a couple of issues: 1) the original bond that everyone said was good has an incorrect date. On the page you are asking us to substitute is signed by the

PLANNING BOARD MINUTES OF DECEMBER 17, 2015 (2)

attorney from the Hartford and witnessed by a notary. The date is December 10. It was stated this is not the original from the Hartford. Atty. O'Brien stated you have the original with an error and an original without an error. Mr. McEntee stated he actually went to the attorney's office today and his notary stated they addressed this on the 10th. Mr. Conroy asked who has the power of attorney and Atty. O'Brien stated the Hartford's attorney. However, either the bond is acceptable or it's not. It is hard to please you. Mr. Conroy stated you should have had a signed note with it. Atty. O'Brien stated the board can accept the bond as signed or not to accept it. They are requesting that the board sign this. They believe they have satisfied MGL Section 81U. Mr. Conroy stated this is a third party bond, correct? Atty. O'Brien stated correct. Mr. Conroy stated he is not sure that is totally allowed. Atty. O'Brien stated you just did that two years ago. Mr. Conroy stated the surety is between three parties. Atty. O'Brien this is a bond, not a surety. They feel this is a proper bond. Mr. Conroy asked if we have something from P.J. Hayes. Atty. O'Brien stated they believe they completely comply with the statute. If the board doesn't accept this, that is their prerogative. Mr. Conroy stated if something happens, no one will look at anyone other than the board. You said I am hard to please. Atty. O'Brien stated no he said you are difficult to please. Mr. Conroy asked the position of the other two owners. He is sure this is headed to court. We have a bond here and the other owners are not party to this. Atty. O'Brien stated all the parties are off the hook because of the covenant. If you have and your town counsel feels this bond is deficient you can deny this. Mr. Conroy stated that town counsel is another issue. When town counsel tells me to white out a date, that is not right. Atty. O'Brien stated they have provided a bond that they believe complies with the statute. There are other parties who have purchased lots, it is not just us that are involved. He stated they believe you have a valid bond and comply with the statute. You are not meeting until January 21 or 22. He is not sure what will go on in the meantime. Mr. Conroy stated you said we are harming another party and he has damaged other people. He asked them to go back to the minutes of April 7, 2013 regarding Northridge Farm. Atty. O'Brien asked if that bond worked out and Mr. Conroy stated he doesn't know, but there is an issue with it. Atty. O'Brien asked the board to either accept or reject this. Mr. Conroy asked if he thinks it is fair to come to us at 2:30 in the afternoon and say the board will hurt other people if they don't accept the bond. Atty. O'Brien feels this is *di minimus*. Mr. Conroy stated the Hartford Company is huge and they have a lot of expertise. Atty. O'Brien agreed. Mr. Conroy asked why did they put down a date that is incorrect. Atty. O'Brien stated it didn't apply to their signature. The board should either accept or reject. Mr. McEntee stated that two years ago there was a lot of negotiating with the Northridge Farm bond. When they started this bond, it was suggested that they use that bond. It should have been deleted. Mr. Conroy stated we had two clerical errors. Your counsel and ours said it was okay. Mr. McEntee stated that is correct. Mr. Conroy stated this is not a clerical error. You have the wrong date and also the wrong owner. What do you consider a major error. If you had come back with today's date, he would sign it. If the insurance company finds a loophole to get out of that, they will. His duty is to protect the town.

PLANNING BOARD MINUTES OF DECEMBER 17, 2015 (3)

Atty. O'Brien feels the town is protected. Mr. Conroy asked why they didn't get a note from the agent stating they are fine with this. He can't sign something that has been modified. Atty. O'Brien stated it depends on what it is. It is either acceptable or it isn't, but to wait six weeks doesn't seem reasonable when I assume your town counsel said it was acceptable. Mr. Conroy stated that town counsel has said it was acceptable numerous times. Mr. Mazzocca stated that Jack is absolutely right to look at this in detail. He stated he is not familiar with this. He does happen to think it is not a material issue here. It is just a date as to when the vote will be taken. He is comfortable with it as town counsel has said the error is immaterial and the ownership issue has been resolved. He thinks it is okay to proceed. Mr. Conroy asked what the board wants to do with Northridge. Mr. Mazzocca stated he is not familiar with that and feels town counsel can address that and direct us. Mr. Nottebart stated he understands where Rich is at. He feels we need to get moving on this for Mr. Olmsted and the others have money in this. He would be willing to do an intermediate meeting. He asked Mr. Conroy what would satisfy him on this. Mr. Conroy stated to put on the current date. There is also one other issue. Ms. Walker just received the O&M plans today. Mr. Viano stated those plans were approved by town counsel as part of the decision and recorded. Mr. Conroy stated we have never had a chance to review them as you brought them in today. Mr. Viano stated he only went to the registry to get recorded copies. Mr. Murtagh stated that Mr. Mazzocca nailed it on the head. If we can vote on it, we should. He asked Ms. Dennehy her opinion. Ms. Dennehy stated that at this stage we have multiple confirmations that everything appears good to go. Also the town's financial person stated this is a viable company and town counsel did respond that the board could feel comfortable with this and move forward tonight.

Ms. Gaffey stated she does understand the chairman's caution. It seems like twice we have been told the bond is okay and twice there were errors. She wished town counsel could have been here tonight. We have been through this one before and it was wrong. Now it has come back again and the dates are wrong. What makes her nervous is that we are would be saying it is okay and it is not. There is no disrespect to anyone, but why couldn't they have put today's date of December 17 on this. He could have given us the courtesy of giving us today's date. Atty. O'Brien stated it is unfortunate that there was an issue with the plan that affected our relationship. They are trying to do the right thing. He feels that the date is immaterial and that it is the board's decision. They would like to move forward with this. Mr. Nottebart asked how quickly could everything be put in the right format. Atty. O'Brien stated tomorrow. Mr. Mazzocca, Mr. Murtagh and Mr. Nottebart stated they are willing to vote tonight. Mr. Conroy stated he sees a differently book and page and would like to know why. Mr. McEntee stated the bond references the recorded decision and the recorded covenant makes reference to the plan.

Mr. Mazzocca moved to release the Form F covenant and accept the bond as presented. Motion seconded by Mr. Nottebart and voted 4-1-0 (Mr. Conroy voting in the negative).

PLANNING BOARD MINUTES OF DECEMBER 17, 2015 (4)

Mr. Conroy stated that the release of covenant was not on the agenda, but he will let it go. Atty. O'Brien said thanks.

8:03 p.m. Meadowbrook, 164 Pine Street, Case No. 15-6, 15-7 and 15-8 Continued

Hearings: Mr. Conroy moved to accept an extension of time up to and including March 1, 2016 for the site plan approval and special permits as granted by the applicants, Paula and Joseph Verderber. Motion seconded by Mr. Nottbart and voted 5-0-0. Mr. Conroy continued these hearings to January 21, 2016 at 8:00 p.m., 8:01 p.m. and 8:02 p.m.

8:05 p.m. Peach Street Continued Hearing: Mr. Conroy moved to accept an extension of time up to and including February 15, 2016 as per the applicant's attorney, James Brady, Main Street, Walpole, MA. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Conroy continued this hearing to January 21, 2016 at 7:29 p.m. as requested by the applicant's attorney, James Brady, Main Street, Walpole, MA.

8:10 p.m. The League School, 250 Moose Hill Road, Case No. 15-13 Site Plan

Approval: Mr. Conroy read the public hearing notice. The applicant was represented by John Masaro, High Point Engineering and Frank Gagliardi. Mr. Masaro stated the address for this is Moose Hill Road. The site is occupied by a home which they plan to demolish to make room for a new building. The plan is pretty straight forward. There will be 20 proposed parking spaces and today they have eight which are located to the rear of the building. There will be two handicap spaces. There will probably be 22 residents that are supervised 24 hours/day, 7 days a week. There will be three shifts per day. There will be vans coming in and out to take students off campus for various reasons and there will be a link to the main school. The lot is bordered by a wetland and they are providing stormwater management that it doesn't have today. They are before the Conservation Commission on January 13 for review of this plan, which was designed to fit into a residential neighborhood. Mr. Conroy read comments received from the Board of Health, Fire Department, Conservation Commission, and Zoning Board. Ms. Dennehy stated they have held a design review meeting so most of the comments were addressed at that time, in particular the Fire Department was interested in the driveway as well as maintaining the access between the house and rest of the facility. The parking exceeds what is required and the landscaping along the front of the building provided. This is really just a rebuild of what currently exists and an upgrading of the facilities. Mr. Gagliardi stating they will not be using on street parking. Ms. Walker asked if this will be primarily accessed through Moose Hill Road. Mr. Gagliardi stated yes, except most of the staff will come in through the main entrance. It will have a Moose Hill Road address. Ms. Walker stated it could be a 911 issue. Mr. Gagliardi stated they will work that out. Ms. Walker asked if anyone looked at the increase in traffic as they are going from eight to 22 spaces. Mr. Gagliardi stated the traffic will not increase that much. Ms. Walker stated she would like someone to measure the traffic circulation.

PLANNING BOARD MINUTES OF DECEMBER 17, 2015 (5)

Mr. Nottebart stated they didn't submit a locus of the existing property. He asked Mr. Conroy if we can look at the entire parcel and Mr. Conroy stated no as this is a separate parcel. Ms. Walker stated you can drive through from the Moose Hill Road property to the school on Route 1. She asked the footprint of the existing house and Mr. Gagliard stated it is roughly 2500 s.f. Ms. Dennehy stated it is roughly the same. Mr. Murtagh stated we know what great work the League School does and we appreciate that. He asked if this comes under the Dover Act and Ms. Dennehy stated yes. Mr. Gagliard stated they want to do it right. Mr. Nottebart stated that is a nice courtesy. Mr. Murtagh asked if they have a landscape architect and Mr. Gagliard stated yes. Mr. Nottebart asked what they are going to do with the new building and Mr. Gagliard stated sixteen students will live there. Ms. Gaffey stated the application says "Weymouth" and that needs to be corrected. She also questioned the address. Ms. Walker stated they will get the same address back. Ms. Gaffey questioned the handicap spaces. Mr. Nottebart asked why there was a variance issued before and Ms. Dennehy stated maybe because of the sign. Mr. Conroy stated he has no problem with this.

There were no public comments.

Mr. Conroy moved to accept an extension of time up to and including February 28, 2016 as requested by the applicant. Motion seconded by Mr. Murtagh and voted 5-0-0.

Mr. Conroy continued this hearing to February 4, 2016 at 7:30 p.m.

8:35 p.m. Olmsted Estates Modification: Mr. Conroy read the public hearing notice. The applicant was represented by Atty. Vincent O'Brien, Dover, MA and also John Glossa, Glossa Engineering. He also questioned the \$1,000 filing fee. John Glossa, Glossa Engineering, submitted the green cards. Atty. O'Brien stated that with regard to the filing fee, this is a modification. They are not creating new lots. Mr. Conroy disagreed and stated they are. Atty. O'Brien stated yes they will be creating one lot. Mr. Conroy stated this is a new hearing. Atty. O'Brien stated the underlying subdivision was closed. Mr. Conroy stated that is correct. This is brand new. That other one is over and this one is new. He asked if Atty. O'Brien agrees this is a new subdivision and he stated no as they have an underlying subdivision that is approved. This is a minor modification to an existing subdivision. Mr. Conroy stated this has gone out to everyone and it needs to be reviewed from start to finish. He doesn't feel it fits under the \$1,000 category. Atty. O'Brien stated his presentation this evening was to be modified anyway because there were a number of requests that the Engineering Department wanted and they know there will be additional information. They will make every effort to do this well in advance of the hearings. Mr. Conroy asked if they are asking to table the fee for right now and Atty. O'Brien stated yes as he can only go by what he is reading. If there is a different practice, he will take care of it. Mr. Conroy feels they should have asked the Planning Board how much the fee is.

PLANNING BOARD MINUTES OF DECEMBER 17, 2015 (6)

Atty. O'Brien stated he will let John Glossa present an overview. They did go before the Conservation Commission and they approved it subject to a final plan from John Glossa.

Mr. Murtagh stated the green cards are in order.

Mr. Glossa explained the plan. He stated they changed the lot lines on Lots 3,4,5, and 6, but no new lots were created. This subdivision could stand alone in case Roscommon doesn't get built. He would have to add a temporary turnaround on the revised plans. He was asked to come off the end of the proposed water main and connect back into Emerald, but that is a construction thing. He feels that would help the water circulation better. They have already started to revise the plans and they will be ready in a week or so.

Mr. Conroy read comments from the Board of Health, Fire Department and Conservation Agent. Ms. Walker stated the board needs to make sure that the proper notes are on the plan that may have to be built depending on the timing of the second subdivision. Mr. Conroy stated they are constructing a new cul-de-sac, but it may be temporary. Mr. Glossa stated it has to be that Roscommon is not being built without a future road connection. It is like Atlantic Court. It will be on both plans to make sense. Mr. Conroy stated you have two separate entities. Ms. Walker asked when the board thinks it is appropriate for the cul-de-sac to be removed and Mr. Conroy stated timing is everything. Mr. Glossa stated it is a matter of staying on top of these things. Ms. Walker questioned Parcel J and asked how it will make Lot 5 whole. Mr. Glossa stated that Lot 5 can't be a buildable lot until Roscommon is finished. They will give the board an ANR plan, but they would prefer that be done at the end so Parcel J will be a buildable lot. Mr. Conroy stated he is totally lost with Parcel J. Is that lot in this subdivision now? Mr. Glossa stated yes. Ms. Walker stated Lot 5 is Parcel J or at least a part of it. Mr. Conroy asked why it is on Sheet 3. Atty. O'Brien stated Lot 5 is a non-buildable lot. Mr. Conroy stated it is not part of the subdivision, so it shouldn't be on this plan. Mr. Glossa stated prior to you approving this plan, they will come in with an ANR plan. Atty. O'Brien agrees and stated they will talk about this off the record. He totally agrees. Mr. Nottebart stated he can't follow this. He doesn't feel everyone is on the same page. He asked if Mr. McEntee could put Atty. O'Brien in charge that everything that comes before the board is accurate. One of the parts of this whole process is there are two different subdivisions. Atty. O'Brien stated they weren't sure where this road was going to go in Steps 1 and 2; now, they are at Step 3 and 4. He doesn't want to respond to comments piecemeal. Mr. Nottebart asked that he keep it easy for us to understand. Ms. Dennehy stated the board needs a traffic study submitted for this. They are saying it is a modification, but it is also connecting to a thirty plus lot subdivision. A traffic study could be part of Roscommon or this filing, but either way we need one. Also, the sewer, water and drainage needs to be reviewed. Atty. O'Brien asked for a copy of Ms. Dennehy's comments. Ms. Dennehy questioned the waiver for a dead end. She asked how long this is and stated she is looking for the definition of a dead end. There are thirty lots with only one way in and out.

PLANNING BOARD MINUTES OF DECEMBER 17, 2015 (7)

Mr. Glossa stated that was addressed. Atty. O'Brien asked that this discussion be tabled so he can talk to his engineer. Ms. Gaffey asked if we treat this as a new plan with a full review and Atty. O'Brien stated yes. They have to do all the procedural steps that mirror the subdivision process. The question is is this a new subdivision or a modification. Ms. Gaffey asked if he is saying he is going to address the waivers they asked for. Mr. Glossa stated they were told to do it this way. Mr. Nottebart stated his only issue is really safety. Mr. Murtagh asked if they have given revised plans to the Conservation Commission and Mr. Glossa stated yes and they approved this as an amendment. Mr. Murtagh feels they need a traffic impact study. Mr. Glossa stated they did one for Roscommon and that was 30 houses. Mr. Conroy stated 28 houses. He asked if Lot 8 is the same we just bonded and Mr. Glossa stated yes. Mr. Conroy asked what lots have changed and Mr. Glossa stated Lots 2,3,4,5, and 6. Mr. Conroy asked if they can only sell three lots and Atty. O'Brien stated yes. Mr. Glossa stated that Lot 2 changes only slightly. Mr. Conroy stated they can't sell them if they change. Atty. O'Brien stated if you find that our request for modification is not approvable, then we go back to the way it was approved. Mr. Conroy stated he doesn't understand, but it appears that the owners of the lots are different than they were in July of 2015. Atty. O'Brien stated same owners, different lots. It was done with the anticipation it would be done right. Mr. Conroy asked if this is the actual ownership that it was on July 27 and John Glossa stated he doesn't know. Mr. Conroy stated that has been represented incorrectly. This could be appealed. Atty. O'Brien stated he is not sure. Mr. Conroy stated the latest sheet is July 27, 2015 and this was filed in November. Atty. O'Brien stated they needed that to get going on this. Mr. Conroy stated this shows the closings happened in October, but the plan shows it was July. Atty. O'Brien stated he will get the information timely and Mr. Conroy stated how about timely and correctly. That is paramount.

There were no public comments.

Atty. O'Brien asked about putting this on with Roscommon. Mr. Conroy stated this is on its own. Mr. Nottebart stated this is key to the other one. Ms. Dennehy stated Roscommon is scheduled for January 21, 2016. Atty. O'Brien stated the ultimate timing of this is this has to be approved first. Mr. Conroy stated Roscommon will not open until this is done. It can't exist until this is done. We will do this the way it should be done. He doesn't appreciate comments from the back.

Mr. Conroy continued this hearing to February 4, 2016 at 7:31 p.m.

Mr. Conroy moved to adjourn. Motion seconded by Mr. Nottebart and voted 5-0-0. The meeting adjourned at 10:00 p.m.

Respectfully submitted,

John Murtagh, Clerk

(Accepted 1/21/16)