

## WALPOLE PLANNING BOARD MINUTES OF MARCH 16, 2023

A regular meeting of the Walpole Planning Board was held on Thursday, March 16, 2023 at 7:00 p.m. in the Town Hall Main Meeting Room. The following members were present: John Conroy, Chair; John O'Leary, Vice Chair; Catherine Turco-Abate, Clerk; Philip Czachorowski and Sarah Khatib.

Mr. Conroy opened the meeting at 7:00 p.m.

**Minutes:** Ms. Abate moved to accept the minutes of February 16, 2023. Motion seconded by Mr. O'Leary and voted 5-0-0. Ms. Abate moved to accept the minutes of March 2, 2023. Motion seconded by Mr. O'Leary and voted 5-0-0.

**931 Main Street, #22-04 Plan Endorsement:** Mr. Conroy read a letter from Dan Merrikin, Legacy Engineering, Millis, MA requesting plan endorsement. Mr. Conroy moved to endorse the mylars as presented and reviewed by Mr. Balduf, town engineer. Motion seconded by Mr. Czachorowski and voted 5-0-0.

### **7:10 p.m. Spring Town Meeting Zoning Articles Public Hearing:**

Mr. Conroy read each article and Jim Johnson, Town Administrator, Pat Deschenes, Community Development Director and Jim Crowley, Building Commissioner were present to explain the articles and also answer any questions. Mr. Conroy asked if there was a vote from the Select Board to sponsor these articles. Mr. Deschenes stated the Select Board voted 5-0-0 on January 10, 2023 to sponsor and support the articles.

**Article 22 – Amend Schedule of Use Regulations, Table 5-B.1.3.w Section 5-B.2 Accessory In-Law Suites and Section 14 Definitions, in order to provide clarity to the bylaw and to change the use from a Special Permit to by-right within the RA, RB, R Zoning Districts.**

Mr. Deschenes explained this article. Mr. Conroy questioned the way this article was written as the text was underlined with a strike through some of the text. He feels it should have been deleted and replaced with the changes requested. Ms. Khatib felt the Finance Committee could do that because the intent is clear. Mr. Conroy stated the Finance Committee has nothing to do with M.G.L. and zoning. He feels they should remove Section 5.B.2 in its entirety and replace it with the new wording. Ms. Khatib asked if town counsel reviewed this and Mr. Deschenes stated yes. Mr. Conroy stated they did not review them for correctness of each article with regard to zoning. Mr. Johnson stated that according to M.G.L. 40A, Section 5, changes can be made at town meeting. Mr. Conroy stated the only way to do this is to delete the article in its entirety and replace it with what is being proposed. Mr. Deschenes disagreed. Ms. Khatib stated that moving forward is not a disservice to public as the intent is clear and the format can be modified later as needed.

Mr. Conroy asked for public comments.

Bill Hamilton, Eldor Drive, South Walpole stated he agrees with the Chair or the Planning Board.

John Lee, Lincoln Road and Chair of Zoning Board stated they have at least one of these in-law hearings per month and the Zoning Board has approved almost every one and the project ends up better because of the public hearing process. He doesn't think this change will properly serve the community.

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Ms. Abate asked how long he has been on the Walpole Zoning Board and Mr. Lee responded five to six years. Ms. Abate stated the goal is not to vote this article down, but she feels it comes down to transparency.

Ms. Khatib stated she was happy to see the Select Board propose this change. She thinks it is appropriate and feels the building department is capable of handling these requests. She disagrees with the third degree of kinship as it should be open to anyone. Is it better to leave that unit empty or better to give someone a home? Mr. O'Leary thinks this change is allowing a two-family where it is not allowed. Mr. Conroy feels this is a step closer to eliminating zoning in the entire town. He stated there were no comments received from the Sewer and Water Commission or the Board of Health. Mr. Crowley stated it does get sent to the Board of Health through the permitting process. He also stated that according to the building code there can be a door between an in-law and the main house, but it can't be locked. He will give Ms. Khatib a copy of this section. Ms. Khatib asked if this was to be allowed by right, what would be the process. Would the neighbors be noticed? Mr. Crowley stated no. Mr. Czachorowski stated this would be no different than doing an addition to your home. Mr. Conroy stated it is different as you are adding a whole new unit to your home and it could be marketed as a two-family house. Ms. Khatib stated other towns have this as a "by right" project.

Bill Hamilton, Eldor Drive, South Walpole stated the town has a water ban and also had a building moratorium. He feels we can't pump out enough water now.

Mr. Conroy moved Favorable Action on Article 22. Motion seconded by Ms. Khatib and voted 2-3-0 (Khatib, Czachorowski in the affirmative; Conroy, Abate, O'Leary in the negative).

### **Article 23 – Amend Section 2 Administration, Subsection 2.7 Subdivision Phasing by removing the section in its entirety.**

Mr. Conroy read the article. Mr. Deschenes stated this is a "clean up" article.

No board comments.

Bill Hamilton, Eldor Drive, South Walpole stated this was originally done so there would be no overdevelopment which could affect our water supply.

Mr. Conroy moved Favorable Action on Article 23. Motion seconded by Mr. Czachorowski and voted 5-0-0.

### **Article 24 – Amend Section 13, Site Plan Review, Subsection 13.14 Appeals by amending the appeal time from 30 days to 20 days:**

Mr. Conroy read Article 24. Mr. Deschenes stated this will make the appeal period for site plan approval consistent with other appeal periods.

No public comment.

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Ms. Khatib stated she doesn't like a Planning Board appeal going before the Zoning Board as it could pit one board against another.

Mr. Conroy moved Favorable Action. Motion seconded by Mr. Czachorowski and voted 5-0-0.

**Article 25 – Amend Table 6-B.1 Dimensional Regulations to adjust the minimum side yard setback and building height requirements within the HB district:**

Mr. Conroy read Article 25. Mr. Deschenes stated the height is presently 40' and this would reduce it to 25'. The town has a limited amount of HB areas.

Mr. Conroy asked for comments from the public.

John Lee, Lincoln Road and Chair of the Zoning Board stated two buildings which come to mind are Walmart and the new hotel. If this is approved, the buildings can be higher by one more story, which would be in his opinion jamming a lot into a small area. He also questioned the side setbacks.

Board Comments:

Mr. O'Leary asked if there is input from other towns. Mr. Deschenes stated what is being proposed is less than what Norwood and Foxboro presently have.

Ms. Abate stated she only saw one building with five stories and all the others were four stories. She has no problem with setbacks, just concerned about the height. She feels they would need a variance or special permit to go to five stories. Mr. Deschenes stated that Norwood zoning doesn't allow for that flexibility.

Mr. Czachorowski agrees with the proposed change.

Ms. Khatib stated she agrees with this as long as the Fire Department has no problem. She questioned if a building could go another 12' beyond the 55'. She would like a clarification of this. Mr. Crowley stated if the first floor is dedicated to parking you would get a bonus floor on top. He explained "screen from view" versus "interior parking". He prefers to keep all the dealer businesses on Route 1. A high-rise puts this in a different building code category. Ms. Khatib stated it could go up an additional 12'.

Mr. Conroy stated he would like something from Deputy Fire Chief Paul Barry stating he is ok with this change. Regarding the buffer requirement, he doesn't feel there would be an issue with regard to the side yard as this would be business to business and residence to business is covered elsewhere in the bylaw.

Mr. Conroy moved Favorable Action. Motion seconded by Mr. Czachorowski and voted 3-1-1 (Khatib, Czachorowski, O'Leary in the affirmative; Abate in the negative; Conroy abstained).

**Article 26 – Amend Schedule of Use Regulations, Table 5-B-1.3.m and Table 5-B.1.3.n, in order to provide addition relief for the garaging capacity of residential vehicles:**

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Mr. Conroy read the article. Mr. Deschenes stated the amount of residential vehicles at someone's home is not always in compliance with the bylaw. People often violate the three vehicles in a Residential district restriction. Mr. Conroy asked if he could build a five-car garage by right. Mr. Crowley stated you can only build a three car unless you get a Special Permit from the Zoning Board.

Public Comments:

Bill Hamilton, Eldor Drive, South Walpole, stated we should convert the sludge site up by the prison to a reservoir to supply us with more water. He would like the board to support the MWRA converting this property to a reservoir. It is completely surrounded by the Corrections Department and fed by the Stop River. Mr. Conroy asked if he had presented that to the Sewer and Water Commission and Mr. Hamilton stated yes he did at their February 27<sup>th</sup> meeting.

Mr. Conroy moved Favorable Action. Motion seconded by Ms. Abate and voted 4-1-0 (O'Leary voted in the negative).

**Article 27 – Amend the use of a two-family detached dwelling within the GR District from a Special Permit requirement to a by-right:**

Mr. Conroy read the article. Mr. Deschenes spoke to the article.

Mr. O'Leary feels this article is misleading to the public on what should be a single family residence. Ms. Khatib asked the Board of Assessors the percentage of current parcels within the GR district that were at least 30,000 s.f. and they responded that it was only about 18% of the GR parcels.

There were no public comments.

Mr. Conroy moved for Favorable Action. Motion seconded by Ms. Abate and voted 4-1-0 (O'Leary voted in the negative).

**Article 28 - Amend the use of a three-family detached dwelling within the GR district from a Special Permit to by right.**

Mr. Conroy read the article. Mr. Deschenes explained the article.

There were no public comments.

Mr. O'Leary feels it should go through the Special Permit process to allow for public input. Mr. Conroy stated a three-family residence is allowed in this district and it typically blends in with the neighborhood.

Mr. Conroy moved Favorable Action. Motion seconded by Mr. Czachorowski and voted 4-1-0 (O'Leary voted in the negative).

**Article 29 – Amend Schedule of Use Regulations, Table 5-B.1.2.g.i and Section 8 Parking Regulations, Table 8.3.1 Parking Code and Requirements in order to establish a reduced parking requirement for residential developments within the CBD:**

Mr. Conroy read the article and Mr. Deschenes explained the article. He stated that the CBD has the commuter rail within this district and also involves larger apartment buildings.

There were no public comments.

Ms. Abate thinks this works better on paper as it shifts the burden to the Walpole Police and DPW. She doesn't have a problem if it was just for studio apartments and feels there needs to be a solution.

Mr. Conroy moved Favorable Action. Motion seconded by Ms. Abate and voted 2-1-2 (Khatib, Czachorowski voted in the affirmative; Abate voted in the negative; O'Leary/Conroy abstained).

**Article 30 – Amend Section 5-D Excavation or Filling of Earth, Subsection 5-D.3 Activities Allowed, and Subsection 5-D.4 Activities Requiring a Special Permit in order to provide clarity and flexibility within the bylaw:**

Mr. Conroy read the article and Mr. Deschenes explained it. Mr. Conroy read a letter that was submitted tonight by Keith Zive, 4 Pilots Way stating he was against this article and the proposed changes.

Mr. Conroy stated there is no policing of this and by the time there is an issue, the work has been done.

Mr. Conroy asked for public comments.

Kate Watson, 7 Pilots Way stated she is opposed to any changes because this is a terraced neighborhood. If anyone changes their land, it will impact her. She feels 200 cubic yards is a vast amount of soil on a lot. If there is more than 100 cubic yards being moved there should be an engineered plan. She further feels the abutters should not be impacted by their abutters moving soil around. She asked who would monitor the wetlands if this is allowed. Mr. Conroy stated that is a separate issue. Mr. Deschenes stated the proposed change is to clean up this bylaw. Excavation would be an incidental use. Mr. Conroy stated he understands this would make things clearer, but he is not sure about the cubic yards allowed.

Kevin Plunkett, 7 Pilots Way stated 200 cubic yards would be allowed per year and that could be done every year. Mr. Conroy asked how would a year be defined and Mr. Crowley, Building Commissioner stated when they start working on it, it would be one year from that date. Part of the reason behind this is the way it was written needs clarification. Mr. Crowley stated that they will be back before the Planning Board to clarify this with input from Engineering. Mr. O'Leary asked what is a cubic yard and Mr. Conroy explained it. Mr. O'Leary asked if the Conservation Commission will look at this and Mr. Conroy stated they will if there is an issue. He asked if this would be a civil matter and Mr. Crowley stated yes if there is an issue.

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Mr. Czachorowski is concerned with drainage. He feels that this article should come back in the Fall. Ms. Khatib feels this should be made consistent with what requires a Special Permit and what doesn't and feels this is an opportunity to define what is not incidental. Mr. Conroy feels what would be more telling of this would be the grade change. He asked if this would be better off monitoring grade change or the amount of fill. Mr. Crowley agrees that it should be related to both.

Ms. Khatib moved to remand this article back to the Planning Board. Motion seconded by Mr. Czachorowski and voted 5-0-0.

Mr. Czachorowski thanked Mr. Deschene for doing all this work. Mr. Deschenes stated he is trying to absorb as much as he can and if anything comes up in the future he would like to have further discussion with the board. Mr. O'Leary thanked the public for showing up and also Mr. Crowley.

**9:30 p.m. Bruin Court Continued Hearing:** Mr. Conroy read a letter from Atty. Philip Macchi, Norwood, MA asking to continue tonight's hearing without testimony and granted the board an extension of time on which to take action.

Mr. O'Leary moved to accept an extension of time up to and including April 30, 2023. Motion seconded by Ms. Abate and voted 5-0-0. Mr. Conroy continued this hearing to April 20, 2023 at 7:30 p.m.

Mr. Conroy moved to adjourn. Motion seconded by Mr. Czachorowski and voted 5-0-0. The meeting adjourned at 9:35 p.m.

Respectfully submitted,

Catherine Turco-Abate, Clerk

Accepted 4/20/23