

WALPOLE PLANNING BOARD MINUTES OF MAY 21, 2015

A regular meeting of the Walpole Planning Board was held on Thursday, May 21, 2015 at 7:00 p.m. in the Main Meeting Room at Town Hall. The following members were present: John Conroy, Chairman; Richard Mazzocca, Vice Chairman (7:11 p.m.); John Murtagh, Clerk; (7:12 p.m.); Edward Forsberg, Richard Nottebart, Elizabeth Dennehy, Community Development Director; Margaret Walker, Town Engineer.

MPIC: Mr. Conroy read a memo from the Board of Selectmen informing us that Mr. Nottebart's term as the Planning Board's Citizen at Large appointment on the MPIC will expire on June 30, 2015. Mr. Forsberg moved to reappoint Mr. Nottebart. Motion seconded by Mr. Conroy and voted 3-0-0 (Conroy, Forsberg, Nottebart).

Mr. Mazzocca arrived at 7:11 p.m.

Mr. Murtagh arrived at 7:12 p.m.

Route 1/High Plain Street email: Mr. Nottebart and Mr. Murtagh submitted an email that they both received at home from Richard Pilla regarding access improvements to Walmart. Mr. Conroy moved to respond to Mr. Pilla that there is nothing we can do at this point. Motion seconded by Mr. Nottebart and voted 5-0-0.

Atlantic Court Extension: Mr. Conroy moved to post a bond for Atlantic Court Extension for \$201,000 as per recommendation by Margaret Walker, Town Engineer. Motion seconded by Mr. Forsberg and voted 5-0-0.

Mr. Conroy moved to accept a check in the amount of \$201,000 from Larry J. Stern and payable to the Town of Walpole as bond for Atlantic Court Extension. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy moved to endorse a passbook agreement form as submitted by Mr. Stern. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy moved to endorse a Form I to release the Form F Covenant in consideration of an alternative performance guarantee to secure the construction of ways and installation of municipal services required by the covenant dated March 14, 2011 and recorded in Norfolk Registry of Deeds Book 29237, Page 182 for the plan entitled Atlantic Court (Extension) recorded with said Registry of Deeds, Plan Book 610, Plan 80-82 releasing Lot 1, 2, 3, 4, and Atlantic Court (Extension). Motion seconded by Mr. Nottebart and voted 5-0-0.

Brush Hill berm discussion: Ms. Walker asked that a change in berm from vertical to monoberm be considered a field change. Mr. Conroy moved to allow the berm change from vertical to monoberm be a field change as requested by Margaret Walker, Town Engineer. Motion seconded by Mr. Murtagh and voted 5-0-0.

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Southridge Farm Photometric Plan: Mr. Conroy moved to accept a photometric plan as submitted in order to meet a special condition of approval. Motion seconded by Mr. Nottebart and voted 5-0-0.

Olmsted Estates ANR: Sean McEntee stated that town counsel, Ilana Quirk, didn't like the language in the Form F covenant and stated the applicant needs to do a land swap prior to the Form F Covenant being accepted. Atty. O'Brien stated that all the properties have to be in the correct names so there will be no transfers afterwards. There will be no transfers after the covenant is filed. Mr. Nottebart asked if we can sign the ANR before the subdivision is signed and Mr. Conroy stated yes as that stands on its own.

Mr. Conroy moved to endorse an ANR plan of land entitled "Subdivision of land in Walpole, MA" by Glossa Engineering dated May 13, 2015 finding Form A in order and subdivision control not required. Motion seconded by Mr. Mazzocca and voted 5-0-0.

7:41 p.m. Twins Realty Trust, Special Permit Continued Hearing, Case No. 14-18 and Site Plan Approval Continued Hearing, Case No. 14-17: The applicant was represented by Atty. Gerald Blair, Sharon, MA. Ms. Walker stated she is all set and has no further questions.

Mr. Conroy moved to close Case No. 14-18 as requested by Atty. Blair on behalf of the applicant. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Nottebart moved to accept the draft decision as submitted by Atty. Blair for the special permit. He noted that the buffer should remain in its natural state. Motion seconded by Mr. Murtagh and voted 5-0-0.

Mr. Conroy moved to close the hearing for site plan approval, Case No. 14-17 as requested by the applicant. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Conroy moved to grant site plan approval as per the draft decision submitted by the applicant's attorney, Gerald Blair. Motion seconded by Mr. Nottebart. It was agreed that Ms. Walker's special conditions would be added to the decision. Mr. Forsberg asked that the standard conditions be properly numbered and also questioned the condition of long term running of trucks and how that would affect deliveries. Bill Glaropoulos stated that deliveries can be any time as they will be open 24 hours a day. Mr. Forsberg would like a maximum running time. Mr. Conroy asked who would enforce that. It was agreed to remove the wording "long term" from standard condition #23. Motion voted 5-0-0.

7:55 p.m. Open Space Residential Development Special Permit Continued Hearing:

Mr. Conroy stated that since the last meeting, a consultant, Beals & Thomas, was hired. Atty. O'Brien would like to go over the information received since the last meeting. Mr. Conroy read a letter dated May 19, 2015 from Beals & Thomas; a letter dated May 13, 2015 from the

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Conservation Agent, Landis Hershey; a letter dated May 19, 2015 from Liz Dennehy, Community Development Director; comments dated May 19, 2015 from town counsel, Ilana Quirk; and, Mr. Conroy's questions dated April 21, 2015.

Regarding the 750' waiver, Mr. Conroy stated that town counsel didn't answer that question, but did answer it as it pertains to the conventional plan, but he wanted an answer based on the Open Space Permit. Therefore, he feels there is still an issue. Atty. O'Brien stated the board had asked the Conservation Commission and other experts to weigh in and there is a difference of opinion. He had not seen Ms. Dennehy's letter until tonight. Wayne Feiden was the first person to review this and he believes that all the parcels shown and the lot yield are reasonable. Other similar subdivisions had a waiver from the 750' requirement. Ms. Walker's comments were very clear that the low impact design drainage had to be addressed. Regarding Beals & Thomas, some of their points can be rectified and they do say that the lots meet zoning. Mr. Glossa can show how the other issues can be rectified. There is a difference of opinion between Beals & Thomas and Ilana Quirk. Regarding Conservation Commission, they can debate the two crossings. This is a conceptual plan. They lost one lot based on the crossing not being reasonable. He feels notice was reasonable and they do wish to proceed. He feels town counsel best described what this board should do. She said it is our discretion as to whether this works or not. They will move onto a typical subdivision if the board wants to remove lots, although they feel the plan before the board is a better plan. The question seems to be is this a reasonable design. Beals and Thomas stated they will lose five lots and Conservation says they will lose one lot. There was an ANRAD done. Regarding the dead end, town counsel says if you continually allow those, there is no issue. However, John Glossa has a plan that shows eliminating that anyway. It is up to the board to determine what is reasonable. Mr. Glossa addressed the comments from Beals & Thomas. He feels based on past approvals, a waiver from the 750' is reasonable. It is also reasonable to move the two new houses as it is a matter of economics. There is also a retention basis on Mansion Drive in East Walpole that is very deep and therefore it is reasonable that it can be done in this area also. The wetland elevations are at 172. He can't say if they will hit the water table or not. He feels this is a reasonable application of the Rules and Regulations. Regarding the crossings, they will deal with the Conservation Commission to approve this with the two crossings or deal with the Planning Board and show them a plan that eliminates the crossing. They could have made a cul-de-sac and eliminated a crossing by have a longer dead end. He feels it is reasonable to have a 37 lot subdivision with two crossings or one crossing with a longer dead end.

Joe Moraski, North Walpole wants to make sure the Planning Board has a copy of the position statement that was written and signed by many of the neighbors in this area. There were some issues as to whether or not it was received electronically. He wants to make sure it is part of this hearing. He feels the Smith and DiScipio property should not be included. Ms. Dennehy agrees with him that Lots c and D should not be included on the conventional plan. Also, he feels the

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legal notice was erroneous and town counsel addressed that issue. He and the neighbors feel the lot count numbers are messed up. He read from the zoning bylaw regarding the yield plan and stated that the magic word is “buildable” not “reasonable”. Based on all the submissions tonight and the public record and also the position of the neighbors, he feels it would behoove the applicant to withdraw without prejudice as he feels this is on tenuous ground right now.

Mark Murray, 7 Pheasant Hill asked if this will go to a vote tonight. He is confused about the number of lots so he is not sure how the board can vote tonight. Mr. Conroy stated the board can vote tonight as it is only on lot coverage. Mr. Murray stated he thought the placement of the lots and houses plays into this. Mr. Conroy stated that is why we have our town attorney, Beals & Thomas and Ms. Dennehy for guidance.

Charles Coombs, an abutter, stated his concerns are similar. He feels the lot count has to be correct from the get go. He asked how many buildable lots are on the conventional plan. He feels the missing step is approving the conventional plan. Mr. Conroy stated if we approve 37 lots tonight, it doesn’t mean that is what they will get. That would be only the maximum they could have. Also, if the Conservation Commission says no, it changes the lot count. This doesn’t guarantee them 37 lots. That is just what they could get as the lot count. However, they can walk out of here tonight with a number, but that number might never happen.

Brian DeAngelo, Covey Street asked if privately owned land can be considered as open space after the transfer of property. Mr. Conroy stated it is the Homeowners’ Association is what we put in place and they control it.

Dale Olmsted, Fisher Street thinks the board should take the information submitted and come up with a number. He will be living near there and this will affect him. Mr. Forberg stated that Parcel E is not part of this petition. We are down to the lot count. We need to decide if we want the open space of the conventional plans but regardless something will be built there.

Phil Sanford, North Street stated no one has mentioned the futility of the open space.

Brian D’Angelo, Covey Street asked if the public can hike and walk the open space. Mr. Conroy stated that typically they can but it depends on how this is written. We can’t put any parking there. Mr. D’Angelo questioned the equestrian use and if that will be open to the public. Mr. Conroy stated that has no bearing now, but it will during the public hearing process for the open space or conventional plan.

Paul Viano, 11 Nightingale stated he is a 70 year resident of his property. This open space property is beautiful and he has the intention of moving to this location. He has walked this site his entire life and feels this would be a plus for Walpole. He is hopeful the board will approve this.

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Dale Olmsted, Fisher Street stated his parents are also interested in moving there.

John Murtagh stated the Beal's & Thomas report is well thought out. He is ready to adopt 30 lots tonight. He feels everyone did their homework. Mr. Nottebart stated he doesn't have a problem with the open space concept, but believes they can only build 25 houses. We have been doing this for a long time. He would love to see a reasonable plan put forward to go to Conservation Commission and then come back to us to move forward. He can't and won't approve 37 lots. Mr. Forsberg thinks it is unlikely the houses would be moved. Regarding the lot count, he would compromise on the 32 lots and would be in favor of a paper street and allowing two houses to get their frontage from that. He stated the 750' dead end is in our rules because of the Water Department, but this will be looped back into North Street. This is also a Fire Department issue, but they didn't require access. Mr. Mazzocca stated we don't know what a realistic yield would be, but this is not realistic at all. He agrees with Joe Moraski that a lot has to be buildable to be part of the lot count. It just puts us in a tough position. He also feels that wetlands are an issue. He also feels that Lots C and D have been an issue since the beginning. He feels that the Beals & Thomas report and the input from Ilana Quirk are saying the same thing. You can't include Lots C and D and we have to balance the calculations. They are not buildable lots which brings the numbers down as stated by Beals & Thomas in their report which stated thirty as a maximum and from there go to what is really buildable. Thirty lots are okay with him as long as Mr. Forsberg and Mr. Conroy are correct in the interpretation that we can reduce the number we come up with and it can't be increased. If there are further issues, that number could be dropped.

Mr. Conroy stated we keep hearing about reasonable. The applicant chose to go ahead the way they did. Mr. Glossa stated it is a two-step process. Beals & Thomas report says 37 lots conform. Mr. Mazzocca stated that the conservation process plays a big part in this. Mr. Conroy asked if Lots C and D will be part of the open space subdivision and Mr. Glossa stated yes. Mr. Conroy stated then they can't be part of the subdivision. You can't be part of this and also the open space. Mr. Viano stated there will be two ANR lots. Mr. McEntee disagrees. Mr. Conroy asked if when you file, those two lots will not be part of the plan. They can't just disappear. Mr. Viano stated they are two ANR lots subject to the decision that you will approve. Mr. Conroy questioned how they can combine ANR lots that won't even show on the plan. Atty. O'Brien stated yes they are. Mr. Viano stated because you sign the ANR. Mr. Conroy stated you will be rolling them into the big plan. Mr. McEntee thinks that Ilana Quirk is agreeing with them that this is allowable. Mr. Conroy stated they are missing his point. They will not be in the subdivision. They need frontage within the subdivision and these don't have that. MGL says they are either part of the subdivision or they are ANR lots. You can't have both. This will come under subdivision control or MGL not the open space. You could put in a road and you could then get frontage from it, but it will never be part of the subdivision. Mr. McEntee stated it doesn't need to be. Mr. Conroy stated if you add a cul-de-sac, we wouldn't be having this

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discussion. Atty. O'Brien stated if this open space is not approved and they did a typical subdivision, the wetlands wouldn't be part of the lot calculations. He asked that the board read the Beals & Thomas report again about the houses being relocated. Mr. Glossa stated they could get rid of the 750' dead end by doing the conventional plan.

Joe Moraski, North Walpole asked a procedural question. If the board takes a vote, you would have to come out of the public hearing. Would they have to refile again? Also, if you do take a vote, does it require a supermajority? Mr. Conroy stated we can pick a number between 0 and 37 or we can deny this totally. Mr. McEntee stated you have a lot before you for a 37 lot open space subdivision. He is not sure everyone picks a number. Atty. O'Brien stated they can give them 40 lots or 10. Mr. McEntee stated Beals & Thomas is what everyone comes back to. They use the wording "due to" but he feels there is some compromise here. Mr. Conroy stated we have far reaching ability here. We cannot go over 37, but we can give you anywhere in between. He asked what they would like before we close this.

Mr. Viano stated that plan about the house not being relocated results in one less lot or 36 lots. This is an academic exercise. Also, the other lot by Olmsted would reduce it by another lot down to 35. If the board goes with 30 lots, they will come back with a conventional plan. 35 would work here. He believes the basic layout and the permit would have to be the same. There will be changes. Mr. McEntee stated 35 lots and they will move forward and anything less they won't. Mr. Mazzocca asked why they didn't tell us that months ago. Mr. McEntee stated 35 and not move the houses. Mr. Murtagh stated the bottom line is 30. Mr. Forsberg asked for comments from the public as he hasn't heard what the people think comparing the open space plan versus the conventional. The people in the audience will be impacted most. He asked what they prefer. His number is 34 and they are at 35. He would rather see the open space and we could work on it. What do you want?

Joe Moraski stated his personal opinion is he would rather see a conventional plan. Mr. Conroy asked John Glossa to show the conventional plan. He stated if you went with conventional and Lots C and D are not in play, your net effect would be -5 lots so you would be back to 30 on the conventional.

Mr. Glossa stated he is not sure. There might be an ability to squeeze out some more lots. Mr. McEntee stated the wetlands are all in play. There will be between 30-35. Mr. Glossa thinks the board would want the open space by s.f. not percentage.

Phil Sanford stated he would prefer the open space plan. Designers compromise and put together the best plan they can. Exiting a development onto North Street is a horror show. Mr. Conroy stated we are only doing a lot count.

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Jeff O'Donnell, 343 Fisher Street stated he is a co-applicant of Olmsted Estates. His property will jut out into the open space. Whatever the lot count every car will pass by his house. He is a registered civil engineer and it is his opinion that the board should approve the open space and not the conventional because of the traffic.

Charles Coombs, 12 Covey Road stated he believes the open space is a good plan. Atty. O'Brien stated Beals & Thomas say 37 lots, then they go to 35 lots and then reduce that by five so 37 minus 5 equals 32, but minus C & D equals 30 lots.

Paul Viano stated he is in favor of the open space.

Brian D'Angelo asked how many of the buildable lots are actually buildable if they go with the conventional plan. Mr. Conroy stated they are saying that all will be but that doesn't mean that are. Mr. McEntee stated that at the end of the day what matters is the best plan. Mr. Mazzocca stated he would like to amend his previous comments. There is a difference of three lots. The board thought it looked great at the beginning. He is willing to adopt the 35 lot count. Mr. Conroy asked how many lots and Atty. O'Brien stated 37 lots including Lots C and D. Mr. Conroy stated if we wiped out five, you would be down to 32 lots. He asked if the applicant wants to continue this hearing or close and Mr. Viano asked to close the hearing.

Mr. Conroy moved to close the public hearing as requested by Mr. Viano. Motion seconded by Mr. Murtagh and voted 5-0-0.

Mr. Mazzocca stated we need a number before we vote and Mr. Conroy agreed. Mr. Murtagh and Mr. Nottebart both agree on 32 lots. Mr. Mazzocca and Mr. Forsberg agree on 35 lots. Mr. Conroy stated the issue is Lots C and D and are they included in the 32 or 35 lot count.

Mr. Murtagh moved to approve the open space lot count at 32. Motion seconded by Mr. Nottebart. Mr. Mazzocca feels this is a very long process and in the last half hour we got more information and we are about to vote. He would like to discuss it among the board. Mr. Nottebart stated we don't have to vote tonight. Mr. Murtagh withdrew his motion and Mr. Nottebart withdrew his second.

Mr. Conroy stated we will take this up after the next hearing.

10:05 p.m. Marini, 1429 Main Street modification determination: Mr. Marini was represented by Atty. Paul Schneiders, Canton. He stated that notice of tonight's meeting was sent out to the abutters and also the neighbors on the surrounding streets by certified mail. He stated they will be putting in a 184'x26' wide buffer along the southwest portion of the property, which is longer than what town counsel said they should do. They are basically doubling what was originally approved. Additionally, the trees will be 16' high.

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Paul Brodmerkle, Site Design, stated he spoke directly with the Lynches and they want a 6' high chain link fence with wind screen which will be 104' across the back.

Suzanne Caravaggio, Marion Street stated she is in favor of extending the 6' high vinyl fence along her property. Mr. Lynch stated he is in favor of Mr. Marini going forward. He is concerned about Marion Street, which is a dead end but now looks like it has been opened up. He asked if this will be used for access during construction and Mr. Brodmerkle stated no. Mr. Lynch questioned snow storage behind the commercial building and Mr. Brodmerkle stated that is part of the original approval. He also questioned the egress and Mr. Brodmerkle showed him on the plan what is proposed. Mr. Conroy asked Mr. Brodmerkle to point out what is already approved on the plan and he stated that the only changes re to the buffer zone area. Atty. Schneider stated there will be 237' of fencing installed.

Johannos Siloka, Main Street stated that at an earlier meeting they talked about trees up to Marion Street, but it didn't show anything about that on the plan they received.

Amanda Lynch stated that Marion Street does seem to be an open area and asked if there will be access through there afterwards. Mr. Conroy stated that all the parking is out front of the new building so there is no reason to come in or out of Marion Street. Ms. Lynch stated she doesn't want it opened up with access back to Route 1-A. Mr. Conroy asked if they would put in posts or boulders and Mr. Marini stated they will put up a fence.

Suzanne Caravaggio stated it is great they are making progress, but her question is how will this play out. Is there a written agreement that will state what will happen and also what will the fence look like and how it will be paid for. She doesn't think they should be liable for any part of this. Also, she doesn't want a chain link fence as it doesn't provide screening. They have no protection and construction will be starting soon.

Mr. Conroy stated that special conditions of approval would be that the applicant will install the fencing at no expense to the abutters; the builder can't get an occupancy permit until all is done; and, he has to put the fence in now. Ms. Caravaggio has concerns when the trees will be going in. Will they have the same situation? The fence will only provide a certain amount of screening. Mr. Conroy stated they have to wait to plant trees as the Fall will probably be the best time to plant them, but he is not sure. He also questioned that the fence will be white vinyl and Mr. Brodmerkle stated it will be white stockade. Mr. Marini stated it will be 6' high. Ms. Caravaggio asked that she be involved in what the fence will look like on her property. Mr. Conroy stated it will be a 6' white vinyl stockade fence. Mr. Brodmerkle stated there will be a chain link with windscreen for Mr. Lynch and it will be back a few feet on Mr. Marini's property. The finished side will go toward Ms. Caravaggio's house. Ms. Caravaggio stated that the fence will go where the pre-existing fence was and it will all be on her property. Mr. Nottebart asked if the neighbors know where the boundary lines are and Mr. Chamberlain,

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Marion Street, stated yes. He is fine with the fence, but has other concerns, one of which is the snow storage area. When they start moving the snow from around the town, he doesn't want it to turn up here making this a snow dump. He could bring in snow from his other properties in town. He would also like to see a few trees to make sure Marion Street is blocked off permanently. Why is he going to all this expense when he is not putting something there. He was in favor of a house and a cul-de-sac. There should have been a 50' buffer and he doesn't know how he got away without having it. He questioned the new building and asked if it will be street level. Mr. Conroy stated that has all been previously approved. Mr. Chamberlain doesn't think this was approved properly as there should have been a bigger buffer zone. That whole neighborhood has been disturbed. Mr. Nottebart stated he respects his opinion, but he doesn't know what the snow farm is all about. His question was are you okay with the fence and Mr. Chamberlain stated yes he is. Mr. Nottebart feels this property will be cleaned up. Mr. Chamberlain asked if they are going to put a house in there and Mr. Brodmerkle stated they will be back with a cul-de-sac to try and put in a house later. Mr. Conroy asked if the fence will encompass almost the whole lot and Mr. Brodmerkle stated yes. Mr. Conroy asked if it will protect the neighborhood and if it will be put up ahead of time by being done first and Mr. Brodmerkle stated yes. Mr. Lynch questioned if it was a rent-a-fence and Mr. Conroy stated no this will be a 6' chain link fence with wind screening. Mr. Chamberlain asked when they will be starting the back property and Atty. Schneiders stated maybe not all neighbors want a house back there. Mr. Murtagh feels Mr. Marini has paid a heavy price. He feels he has stepped up and has even put in 100' of buffer that town counsel said they don't need. He feels Mr. Marini has gone overboard. He also recommends the trees should be done late fall. Mr. Marini stated they are scheduled for the first week of September. Mr. Murtagh stated his concerns have been satisfied and now he wants to move on.

Atty. Schneiders requested that the changes to the original plan such as a chain link fence for the Lynches, a fence at the end of Marion Street, and a white vinyl stockade fence for the Caravaggio's be deemed a minor modification. Mr. Nottebart hopes the neighbors are satisfied and feels Mr. Marini has stepped up. Mr. Forsberg stated that during the hearing his interpretation of the buffer is what you have here now. What is proposed satisfies what he wanted. He suggests they put in language that the fence be constructed prior to a building permit. Mr. Marini stated he needs a building permit for the fence. Mr. Nottebart asked if they would agree to thirty days. Mr. Marini stated he would go thirty days from the issuance of a building permit. Mr. Chamberlain stated give him the permit and if he doesn't do what he is supposed to, he can be stopped. Ms. Caravaggio stated they need to file for a permit. Mr. Conroy stated the site plan needs to be completed prior to being issues an occupancy permit. He also stated we can endorse the November 5, 2014 plan.

Mr. Conroy moved that the changes to the November 5, 2014 site plan be considered a minor modification. Motion seconded by Mr. Nottebart and voted 5-0-0.

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Mr. Conroy moved to approve the minor modification for 1429 Main Street. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Conroy moved to approve the following modifications:

- An additional buffer will be 26'x184' long;
- 124' on the 1429 Main Street property will have 6' vinyl fencing next to the Lynch property;
- All fencing costs will be borne by the applicant;
- The fence will be put in within thirty days of the permit being issued;
- There will be a fence on Marion Street so there can be no egress;
- A 6' vinyl stockade will be installed the entire length of the Caravaggio property as discussed;
- A chain link fence with windscreen will be installed the length of the Lynch property as discussed

Motion seconded by Mr. Nottebart and voted 5-0-0.

The board endorsed the site plans dated November 5, 2014 and April 21, 2015.

Open Space discussion: It was agreed to hold a special meeting on Wednesday, May 27, 2015 at 6:30 p.m. to discuss and vote the lot count for the Open Space Residential Development.

It was moved, seconded and voted to adjourn. The meeting adjourned at 11:20 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 6/18/15