

WALPOLE PLANNING BOARD MINUTES OF MAY 6, 2021

The Walpole Planning Board held a meeting on Thursday, May 6, 2021 at 7:00 p.m. via Zoom. The following members were present: John Conroy, Chair; Sarah Khatib, Vice Chair; Phil Czachorowski, Clerk; Catherine Turco-Abate, John O'Leary, and Carl Balduf, Town Engineer.

Mr. Conroy opened the Zoom meeting at 7:02 p.m.

Minutes: Mr. Conroy moved to accept the **minutes of April 1, 2021** as presented. Motion seconded by Ms. Abate and voted 5-0-0.

Mr. Conroy moved to accept the **minutes of April 15, 2021** as presented. Motion seconded by Mr. O'Leary and voted 5-0-0.

Mr. Conroy moved to accept the **minutes of April 29, 2021**. Mr. O'Leary stated that he would like the minutes to reflect that he would like to add that the marking out of the locations on the lots or the ground rather than just the size of the parking spots. Mr. Conroy stated that because the board just received these minutes, we should discuss at another meeting instead of discussing now. Mr. O'Leary agreed.

Regarding the **minutes of March 18, 2021**, Ms. Khatib asked if her suggested changes were made to the notes. Mr. Conroy stated he watched the tape of that meeting and her requested edits were not added to the minutes as we will discuss her changes tonight.

Mr. Conroy moved to approve two of Ms. Khatib's corrections; i.e., that a change be made to reflect "Select Board" and a change be made to change "chairman" to "chair". Motion seconded by Mr. Czachorowski and voted 5-0-0.

After a discussion, Mr. Conroy moved that this board not allow Ms. Khatib to participate in tonight's meeting due to the unknown issues surrounding her oath of office. There was no second to that motion. Ms. Khatib asked that Mr. Conroy read the letter received from Mr. Johnson, Town Administrator, regarding Mr. Conroy's questions about Ms. Khatib. Mr. Conroy stated that he is awaiting information from town counsel, not the town administrator. Ms. Khatib asked if she could read Mr. Johnson's letter and Mr. Conroy said to go ahead as she was going to do it anyway. Ms. Khatib read the letter from Mr. Johnson that was addressed to both her and Mr. Conroy. Mr. Conroy stated he will change his motion to read that we recommend that Ms. Khatib not go forward tonight. Ms. Abate stated this is more on Ms. Khatib, not the board. Mr. Conroy stated that in his opinion in order to protect the interest of the board, the town and applicants and the public she should not participate. There was no second to Mr. Conroy's motion.

Ms. Khatib moved that the minutes be amended to include that the Chair made a motion not to allow her to participate in the March 18th meeting. Motion seconded by Mr. Conroy and voted 5-0-0.

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ANR – Lot 4, Boyden Estates: Mr. Conroy stated that the plan submitted is incorrect as it shows the subdivision is in Middlesex County, not Norfolk County. Therefore, we have no choice but to deny endorsement. Mr. Balduf stated that the Plan References, Book and page also need to be corrected. Mr. Conroy moved **not** to endorse the plan before the board. Motion seconded by Ms. Abate and voted 5-0-0.

Procedures for Elected Officials: Ms. Khatib stated she wants to clear her name as discussed at the March 4, 2021 and March 18, 2021 meetings regarding the swearing in process. She had been told by the town clerk that the town hall was closed and would like to apologize to the people of Walpole for the swearing in oversight. She has come to all the meetings with a thorough review of all agenda items. She was advised by the town clerk that the votes taken during the time she wasn't sworn in may not count. When the board chair became aware he said that town counsel should look into this. The chair composed a two page memo. She feels this could have been a simple request, but it turned rather ugly. There are no challenges to her being on the ballot or on being elected and no challenges to the board's actions during that time. Even after Town Counsel gave an opinion that there are no challenges to her election or any action of the board, the chair did not let it go, but asked for more explanations. Ms. Khatib did read Atty. Goldberg's response to the board. She feels there has been a colossal waste of the town's time and money. The actions of the Chair will not be forgotten. It has created a dysfunction that was not there before. It was petty and unfortunate and she feels that perhaps at this time the Chair owes the Board an apology. Mr. Conroy stated he has now become the bad guy and that Ms. Khatib has attacked him. He stated gloves are off. We met four times at the high school and stated she came down to town hall to get her packet. It is her duty to get sworn in which Ms. Khatib did in October. He asked the town clerk if this was legal and she responded she didn't know. At that time it was her obligation to go to town counsel herself, but you chose not to do that. You thought I was petty, but I speculate you didn't want anyone to come forward. I wanted this cleared up. I don't owe the board anything. You want to shift the blame back to the victims, not who did it. You left me no alternative. This is not about procedures. You are trying to clear the air on what you did. Ms. Khatib stated she used the same language that Mr. Conroy used for the description of the meeting agenda item. Mr. Conroy stated she interrupted him. It is not his word against yours. It comes down to you didn't get sworn in, but had the opportunity to.

Ms. Abate stated we should be able to work together. You said that Jack caused the disconnect, but you called out John O'Leary, Jack and herself after the meeting of October 14, 2020. You said we were being petty. You can't throw stones when you live in a glass house.

Mr. O'Leary had no comment.

Mr. Czachorowski stated we need to work as a board. The logical thing would have been to call Wher and ask what happened. At that hearing, you made the motion not to allow Ms. Khatib to

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vote and he would like that on the record. This is not a healthy situation, but he does think Ms. Khatib is owed an explanation and that the public needs to hear the whole story. Mr. Conroy stated you didn't get sworn in for the WHP, but you didn't participate and told them that. Mr. Czachorowski agreed. Mr. Conroy asked why Ms. Khatib didn't do that as it was incumbent at that time to inform someone. Mr. Czachorowski stated it might have been nice. Mr. Conroy stated nice? What about the next meeting? Mr. Czachorowski stated she made a mistake and we need to move on. Mr. Conroy stated that it is her job to get sworn in. He did zero wrong. Mr. Czachorowski stated things happen. We need to work with each other and help each other. Mr. Khatib stated that on March 4, 2021, you said you were going to ask town counsel for an opinion; therefore, she didn't see the need to say anything. She stated she is not an attorney, so let's talk to our attorney. Mr. Conroy stated she had three shots at this and now he is getting blamed. Ms. Khatib stated no one is blaming anyone. She doesn't appreciate the way he handled this. Mr. Conroy responded that she is all about transparency. His sending her an email is not being transparent. He feels he was 100% transparent. Ms. Khatib suggested we move on.

7:35 p.m. Renmar Subdivision continued hearing: Mr. Conroy stated the applicant has requested to continue without testimony until the board's August meeting. They also granted the board an extension of time. Mr. Conroy moved to accept an extension of time to take action up to and including September 30, 2021 as requested by the applicant. Motion seconded by Mr. Czachorowski and voted 5-0-0. Mr. Conroy continued this hearing without testimony to August 19, 2021 at 7:10 p.m. as requested by the applicant's attorney, Jeffrey Tocchio, Hingham, MA

7:40 p.m. New World .Estates Subdivision, 38 Peach Street: Mr. Conroy read a letter from the applicant's engineer, Dan Merrikin requesting to continue without testimony and also granting the board an extension of time. Mr. Conroy moved to accept an extension of time up to and including July 30, 2021. Motion seconded by Ms. Abate and voted 5-0-0. Mr. Conroy continued this hearing without testimony to June 17, 2021 at 7:10 p.m.

7:45 p.m. Lincoln Estates Subdivision: Mr. Conroy opened the public hearing and read the advertised public hearing notice, noting the green cards are all returned. He stated he is a member of the Gun Club, but he can participate as he is not a voting member, only a dues paying member. He did dig something up that will affect the plan. He found an easement that was presented to the board about twenty years ago by the Gun Club by Ray Allison and Atty. Philip Macchi, Sr. They had to prove they have access. There is an easement that goes back to 1897 that allows the owners to go over the premises, but the application shows there is no easement. The fact that this is not defined means this could be called a floating easement. He is not sure if we can move forward without this issue being resolved. The other thing is he is not sure of the application because it was checked there are no easements. He feels we should ask town counsel to find out if there is an issue or not. We should check that out before we go forward. He asked the applicant to weigh in on this.

Atty. Brian Almeida, Connor & Hilliard, Main Street was present with Rob Truax, GLM Engineering. Mr. Almeida stated he ran a title search and the easement didn't show up. They do want to go forward tonight. Mr. Conroy asked if he is telling us that the Gun Club has no easement on this property. Mr. Almeida stated there is nothing definite at this time. Mr. Conroy stated to get from a public road to the back property, there has to be something. This easement has been kicking around a long time ago. The road that goes along the right side of the property near the Home for Little Wanderers also snakes a little onto this property. Mr. Almeida stated there was an agreement to send some kids to camp here, but the owner has since passed away. It is a gray area, but they are in discussion with the Club right now. Mr. Conroy stated this has been in existence for quite some time, but you didn't find it. Mr. Almeida stated no they didn't. Mr. Conroy stated all the attorneys for the Gun Club had it, but you didn't and you still want to go forward tonight? Mr. Almeida stated yes. Mr. Conroy stated they may have to start over when this does come up. Ms. Abate stated the application says no easement, but there is an easement. Don't we need to straighten this out before we go forward? Mr. Conroy stated the attorney is all set. Ms. Abate stated she doesn't see how we can proceed. Mr. Conroy stated they are running the risk with this. They want to move forward, so we will.

Mr. Conroy explained the process and stated the abutters will have an opportunity to speak at the end of the presentation. Mr. Truax put up the plan on the screen and stated the property is located at the end of Deerfield Drive. There are two parcels of undeveloped land. The project is completely undeveloped at this time. There is a gravel access road that goes into the Sportsmen's Club. Mr. Truax described the site and stated there is 60' high difference in elevation from Deerfield Drive. The site is high in the middle and low around the perimeter. Excavators have been on site so they will know what the soil consists of. There is a water line on Deerfield Drive also, but the project will be served by on site systems and he is not sure there is gas in the area. They do meet all the requirements of the board's rules and regulations and they are not requesting any waivers. They have prepared a phasing plan that was presented to the board and was broken down into phases – I, II, and III.

Regarding gravel removal, no access will be through Deerfield Drive for any vehicles. As the homes are being constructed in Phase I, they will then move onto Phase II to get that portion ready to go. The new owners will be allowed to access through Deerfield Drive. They also have to contend with a 60' hill. The Gun Club is an abutter who they would like to screen from the houses and vice versa. The idea is to get the homes down low enough and plant vegetation on the top of the berms as well. The windows on the second floor of the houses will not be able to see the Gun Club. The proposed drainage will have on site recharge with three open basins. Run off will be captured for all the houses and all will have an onsite sewage disposal system. They did reach out to the neighborhood at a meeting outdoors at the Gun Club. There were good things that came out of that meeting.

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Mr. Conroy read comments from the Board of Health, Sewer and Water Commission, Conservation Commission, Fire and Police. The Fire Chief responded no to the Julie Drive proposed street name and yes to the Parson Drive street name. The Police Department submitted some information on the "Discharge of Fire Arms".

Mr. O'Leary stated that the sheet index is incorrect for Pages 1, 2, and 3 and match lines need to be added. He also questioned the phased development plan. Mr. Truax stated the gravel removal will be done in Phase I, bond the road and then start Phase II. Mr. Czachorowski questioned the entrances and asked if there was a traffic study done. Mr. Truax stated yes by Green International and it was submitted with the application. Mr. Czachorowski also questioned the drainage and Mr. Truax explained where the berm and basins are. He stated no water will escape the site and there will be no catch basins on Lincoln Road. Mr. Czachorowski questioned the Board of Health letter and also the removal of gravel. He stated that according to the figures presented there will be 40 loads per day, which seems like a lot of material. He stated it looks like all the trucks will go down Lincoln Road. Mr. Truax agreed they will go toward Walpole. He also stated the amount of gravel removal is similar to Wisteria Ways and there was only one complaint during that operation. Mr. Conroy stated there was 400,000 yards removed and it was done as a trade off so they wouldn't build too close to the river. Mr. Truax stated he thought it was about 500,000. Mr. Czachorowski stated it still seems like a lot of material. Mr. Almeida read Section 5.1-C from the Zoning Bylaw. Mr. Conroy stated this is not under the Zoning Bylaw, but is under Subdivision Control; therefore that section is not pertinent. Mr. Almeida stated he is reading from the Planning Board Rules and Regulations, Section V.1-C.

Mr. Czachorowski questioned the basins. Mr. Truax stated it is a recharge basin, which will put the water back into the ground. He also questioned the meeting with the abutters. Mr. Truax stated it was a good meeting. They discussed Deerfield Drive sidewalks. The abutters would like the sidewalk to go all the way out to Lincoln Road and the applicant is amenable to that. Ms. McManus, Lincoln Road, is an abutter to Lots 24, 22, and 21 had some questions. The applicant agreed to stake out her lot line and will work with her to protect her property and will put in some plantings for her. Her driveway now catches all the water from Lincoln Road. There was a berm put in from the Gun Club entrance to Ms. McManus' driveway so there is a lot of crushed stone out there, but there is no culvert under her driveway. They will put a catch basin before her driveway to catch the water coming down the street. They will talk to the town engineer and come up with something. They are also working with the Water Department now to improve this area. Mr. Czachorowski is concerned about the number of trucks involved with the gravel removal and also the amount to be removed. He would like Mr. Balduf to check this out. Mr. Conroy questioned the Board of Health comments which stated they are waiting for something from the applicant. Ms. Abate asked for a clarification on the gravel removal also. She stated they mentioned industrial subdivisions. She asked if they are referencing the gravel from the roads and gravel from the houses. Mr. Truax stated yes.

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Ms. Abate stated that subdivision control allows you to construct the roads, but not the lots. She asked if they have the right to cut these lots down and Mr. Truax stated yes if they meet the requirements of the board's rules and regulations.

Ms. Khatib questioned the easement and also the road way going to the Gun Club. Mr. Truax stated they have no intention of rebuilding the road. Ms. Khatib agrees with the Chair that this project has significant excavation and she is concerned with that also as it is outside the norm. If the bylaw were to apply, it does say that it is ok to remove earth if incidental to the construction of single family homes. She wants to make sure the town is protected or request that they get a special permit for gravel removal. Mr. Truax asked what she is suggesting and Ms. Khatib stated gravel removal and plan be provided. Mr. Conroy also questioned the water fees and phasing. Mr. Truax stated they will pave the first 150' off Lincoln Road, but won't pave the first portion of the road. They will build the section out to Deerfield. It will be brought to rough grade, but not paved during gravel removal. Mr. Conroy stated if you are not paving, then it is not a road. You would have to put in a temporary cul-de-sac and there has to be a way in and out. It is not a road without binder on it. Mr. Truax stated there will probably not be any binder for three years, but it will be bonded. Mr. Conroy stated it is all about fire trucks and they will not go down a dirt road. He asked them to think about that. Mr. Truax stated he will talk to the fire chief about it. Mr. Conroy questioned the gravel removal. He said under Subdivision Control, Section I-5-9-C, slope easements and Section V-1-C Special Permit from the Zoning Board would be necessary for the road itself. We have no jurisdiction over the lots, just the roads. He would like verification from the applicant on this. Our Subdivision Control strictly deals with the roads themselves and side slopes. We need you to tell us why you think you can do this.

Mr. Conroy asked for comments from the public.

Kim Williams, Deerfield Drive stated when she went to the meeting at the Gun Club it was so noisy and loud. She spoke to police department and they think they will get a ton of calls and will have to respond to them which will be a drain on the department which has to be considered. Shooting goes on until after 10:00 at night. She stated they hear the Gun Club now, but they are used to it. There is also a 60' hill between them and the Gun Club as a buffer. Once that goes they will be impacted also and it will eventually trickle down to affect their house values. She feels this has not been considered at all. They bought their house which at this time is quiet and private. They are surprised that hill will be taken down and replaced with a 20' berm and all the natural habitat will be affected. They would like to preserve as much as they can of the hill. She asked if there will be any concessions for the neighbors. Regarding the 500' where they can't shoot, how much of an exception to that is there? Mr. Conroy stated he only knows what Luke Parlon of the WPD told him. We have received what the police gave us and nothing more. Ms. Williams stated it is so loud.

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Michael Lydon and Marie Lytz, 522 Lincoln Road stated they were not aware of the Saturday meeting at the Gun Club and would like notification in the future. It seems clear looking at the plans this feels more like an excavation with houses rather than a housing project with excavation. They feel that is a lot of gravel.

Attorney Richard Gellerman, Norwood, MA wanted to go on record as representing the owners of the property, not the applicant.

Kim Williams, Deerfield Drive stated that at the Gun Club meeting there was a mention that they would mark off the 20' buffer along the perimeter, but it has not been done yet and she thinks it would be a good thing to know, even though she feels that 20' is not enough. Regarding sidewalks, how do we know that what the applicant says will be done? Mr. Conroy stated there will be a decision and also a bond in the event that the developer walks away. The bond company would have to come in and finish it or the town will finish it. It would have to be finished as per the approved plan and decision. Ms. Williams asked if we will have a lot of meetings coming up. Mr. Conroy stated they have to go to the Conservation Commission and the Board of Health. Every subdivision needs approval from the Board of Health. There are many outstanding issues including police issues, Board of Health issues, easements, the Gun Club and adverse possession and issues raised regarding the Boy Scouts use of the roadway, so this will be going on for a while. Ms. Williams asked if they will be re-noticed and Mr. Conroy stated no. We will tell you when the next meeting will be tonight.

Mr. Conroy stated that the 90 days will be up on May 31, 2021, so we will need an extension of time. Attorney Almeida granted an extension of time up to and including July 31, 2021. Mr. Conroy moved to accept that extension of time up to and including July 31, 2021. Motion seconded by Ms. Abate and voted 5-0-0. Mr. Conroy continued this hearing to June 17, 2021 at 7:15 p.m.

Attorney Almeida asked about the return of the filing fee. Mr. Conroy asked that he send a letter with back up documentation as to why they think that should happen. He stated this needs to be separate from the subdivision before us.

Regarding gravel removal, Mr. Balduf stated this is not his strong suit and agreed it should be someone from outside. The groundwater table can also be addressed by an outside consultant. Mr. Conroy agreed that Mr. Balduf could handle what we normally address, but this is more about putting dirt onto a truck and how that would all operate, which is not really a part of subdivision control. Ms. Khatib also feels this is outside of what we typically do. Our duty is to protect the town and the residents. She personally is not totally comfortable and would like a consultant to make sure things are done right. Mr. Conroy stated there should be a plan in place for wheel washing stations, street sweeping and the like. Mr. Conroy moved we seek a consultant to review the gravel removal operation and write up a plan for the board.

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Motion seconded by Mr. Czachorowski and voted 5-0-0. Mr. Balduf agreed to check on some names we could use. Mr. Conroy stated that if Mr. Balduf needed some names, he could supply him with a few. Mr. Balduf stated he was good with that happening. Mr. Truax asked that be done sooner rather than later so the process gets started.

Mr. Conroy questioned the Scenic Road hearing. Mr. Truax stated he didn't think that had to be done as Lincoln Road is on their property and they could just deed the town a piece of property when they do the street acceptance process.

Mr. Conroy repeated that this hearing is being continued to June 17, 2021 at 7:15 p.m.

Mr. Conroy moved to adjourn. Motion seconded by Mr. O'Leary and voted 5-0-0. The meeting adjourned at 9:45 p.m.

Respectfully submitted,

Philip Czachorowski, Clerk

Accepted 9/16/21