

WALPOLE PLANNING BOARD MINUTES OF SEPTEMBER 19, 2013

A regular meeting of the Planning Board was held on Thursday, September 19, 2013 at 7:00 p.m. in the Town Hall Main Meeting Room. The following members were present: Richard Nottbart, Chairman; Edward Forsberg, Vice Chairman (7:08 p.m.); John Murtagh, Clerk, Jack Conroy, and Margaret Walker, Town Engineer.

Mr. Nottbart opened the meeting at 7:03 p.m.

Minutes: Mr. Nottbart moved to accept the minutes of June 13, 2013, July 11, 2013, August 15, 2013, and September 5, 2013 with clerical corrections. Motion seconded by Mr. Murtagh and voted 3-0-0.

Time Cards: Mr. Nottbart moved that time cards do not need to be an agenda item and the chairman or any other board member can approve the secretary's time cards by stopping by the Planning Board office. Motion seconded by Mr. Murtagh and voted 3-0-0.

Swan Meadow Bond: Mr. Conroy moved to accept Cashier's Check No. 1451800284 issued by Bank of America dated September 12, 2013 for \$205,000.00 and to endorse the Performance Secured by Deposit of Money as submitted by James McGrath, 546 Fisher Street, Walpole, MA. Both the check and deposit of money form were reviewed by Marilyn Thompson, Walpole Finance Director. Motion seconded by Mr. Murtagh and voted 3-0-0.

Mr. Conroy moved to endorse the Release of Form F Covenant (Form I) as presented by James McGrath. Motion seconded by Mr. Murtagh and voted 3-0-0.

ANR – Robert Hennessey, Washington Green: Atty. Mark Einhorn was present to represent Washington Green. He stated that Mr. Hennessey wants to purchase 1200 s.f. from Washington Green. 80% of the association agreed to this purchase, but only 75% is needed. There is not a lot of money involved in the sale. The Washington Green project was built under a special permit. He submitted a new plan to the board tonight. Rob Hennessey stated that the triangular piece borders an emergency egress and Washington Green brought the fence across that area so that triangle is now on his property. Nothing will be built on it which is a condition of Washington Green's agreement to give it to him. Mr. Conroy stated he has many issues with thing. We cannot approve this plan because it is incomplete because an ANR has to show both properties entirely and this plan before us doesn't. Mr. Einhorn disagreed and stated this is not a subdivision. They are not subdividing. Mr. Conroy stated you still have to show the property in its entirety on a legal ANR plan. This whole thing will be new. Mr. Einhorn disagreed and stated not Washington Green. Mr. Conroy stated we can't see the frontage for Washington Green without it being on the plan and you have to have frontage on a public way. It needs to be here or the registry will not take this. This lot right now is grandfathered. Mr. Einhorn stated there is a special permit on this so he is not sure if it is grandfathered. It is presently an existing non-conformity.

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Mr. Conroy stated that the special permit has nothing to do with this and when they were in front of the Zoning Board they didn't have a new lot. Mr. Einhorn agreed. Mr. Conroy stated before this property can be transferred you will need a variance and will need a full blown survey. Mr. Einhorn stated nothing new is being built and nothing will be on the ground. Mr. Einhorn stated there is enough frontage. Mr. Conroy stated this is similar to Plimptonville and Iorio, so they will need a site plan because they are creating a new lot and also a special permit from the Zoning Board of Appeal. We can't approve this based on what is before us. Mr. Einhorn stated you could if you believe there is the necessary frontage. The requirement is 100' and they have more than 300'. Mr. Conroy asked if they agree this is a new lot for Washington Green and Mr. Einhorn stated yes by 1200 s.f. Mr. Forsberg stated we need to ask town counsel about the Zoning Board's decision. When they took the 1200' out of Washington Green would the site plan still be viable. Their decision is vague. Mr. Einhorn stated he would like to talk to town counsel himself. Mr. Forsberg stated we will ask town counsel our questions and will forward her answer to you. You can make your comments through us to her, but we can't be left out of the loop. Mr. Einhorn stated that the issue about non-conformity is not before the Planning Board. Mr. Conroy stated you can't make someone conform by making yourself non-conforming. Mr. Murtagh asked if the 1200' will make the rest of Washington Green more non-conforming. He feels we need clarification from town counsel. Washington Green was permitted under a special permit and that will change. Mr. Einhorn agreed and stated he will submit his questions to the board's secretary to be forwarded to town counsel. Mr. Nottebart stated we will also need a site plan showing Washington Green. Mr. Einhorn stated to do a new property survey would cost in excess of \$20k. Mr. Conroy stated the entire property has to be shown for recording purposes. Mr. Einhorn stated he will get the surveyor to show what he can. Mr. Conroy feels that should be question #1 to town counsel.

Mr. Nottebart continued this hearing to October 3, 2013 and possibly October 17, 2013 if needed. Mr. Einhorn stated he will confirm which date.

7:40 p.m. Lincoln Road/High Street Joint Scenic Road/Shade Tree Continued Hearing: The tree warden, Bob LeBlanc was present. He stated this hearing was continued from August 15, 2013 to allow him time to meet with the neighbors regarding trees that were cut down in error by NSTAR, which he did on August 28 as requested by the Planning Board and approximately 20-25 people were present. He informed the board that Mr. Hayes from NSTAR is also present tonight. He stated that NSTAR cut down the trees on High Street in Walpole instead of Medfield by mistake.

Mr. LeBlanc stated there will be planting done. On September 10th he met with Mr. Hayes and a representative from Weston Nursery to come up with a planting plan. He feels the 28 plants presented were both reasonable and salt resistant. All plants will be purchased from and installed by Weston Nursery.

Mr. Nottebart asked for public comments.

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Mr. Doyle, High Street stated he is pleased with the immediate response from the town and also with NSTAR as they are assuming responsibility for their error. The plan looks fine to him, but he questioned why the plants will be so far off the road. Mr. Hayes stated they are set back so they will have space to grow and to buffer the guard rail. It will also stop the salt and snow from destroying them. It will also allow maneuver room for the people driving there. Mr. Nottebart asked if the path to the high tensions will be blocked and Mr. LeBlanc stated this will provide a visual barrier and the gates will be a physical barrier. Mr. Doyle stated it has been difficult to keep the locks on the gates. Mr. Hayes agreed and stated there is some activity in the area. Mr. Nottebart asked when the work is scheduled to be done and Mr. Hayes stated it will probably be an October installation although he doesn't have a specific date. Mr. Nottebart asked if there are any other issues with the town and Mr. LeBlanc stated no. Mr. Doyle stated that most of the neighbors were concerned with weed control and pesticides. Mr. Murtagh asked who will do the watering and Mr. LeBlanc stated it will be joint maintenance and after they are established it will be okay. Mr. Hayes stated they will have a one year warranty issued by Weston Nursery. Mr. Forsberg asked if it could be a lifetime warranty by NSTAR. Mr. Hayes stated that if one dies within a year, it will be replaced. Mr. Doyle stated the trees that were taken down were hardy. Mr. Nottebart asked about pests and Mr. LeBlanc stated he will work with Weston Nursery. Mr. Forsberg stated as long as the neighbors and tree warden are happy, he is okay.

Mr. LeBlanc stated that regarding Lincoln Road, there are six or eight trees within the road right of way and within the cutting field up by the landfill. It is mostly trees that have grown up on the side of the road, but not significant shade trees.

Mr. Nottebart read a letter dated September 19, 2013 from Bob LeBlanc. Mr. Conroy feels that the issue of cutting the trees on High Street should be in front of the selectmen as we are only concerned about the scenic road trees. Mr. LeBlanc stated he sought advice from town counsel and she told him to work with NSTAR to remediate the problem. Mr. Conroy stated we have no power in this.

Mr. Nottebart moved to close the public hearing as there were no more questions. Motion seconded by Mr. Murtagh and voted 4-0-0.

Mr. Conroy moved to approve the plan for High Street as presented. Motion seconded by Mr. Murtagh and voted 4-0-0. Mr. Nottebart moved to approve the plan for Lincoln Road as presented. Motion seconded by Mr. Murtagh and voted 4-0-0.

7:55 P.M. Bird Estates Continued Residents' Hearing: The applicant was represented by Philip Macchi I. He respectfully asked to withdraw and stated they will re-submit for the Spring 2014 town meeting. A few things changed and the Tree Warden had asked that the 75 maple trees be removed. This time frame will also allow the Town Engineer to continue working on this.

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Mr. Nottebart moved to allow the applicant to withdraw without prejudice. Motion seconded by Mr. Murtagh and voted 4-0-0.

Jeff Alpert, Homeowners' President stated he attended the last meeting and commented at that time that they were pleased with everything going on with Toll Brothers with one exception which is the basin was not draining properly. He talked with Bill Keaton and Mr. Macchi stated this issue is still on their radar.

8:03 p.m. Dedham Auto Mall, Case No. 13-3 Continued Hearing: Rick Merrikin, Merrikin Engineering was present along with Tom Jamali, the applicant. Mr. Merrikin stated the issue is he would redesign the plan as requested, but the improvements are quite expensive and Mr. Jamali as a lease holder cannot afford to do this work. He had anticipated that the landowner would help out, but he declined. Mr. Merrikin stated he has spoken with the Building Inspector and asked if they remove the basin that was put in could they go back to the 1983 special permit, which would then resolve the issues before them. Mr. Mee is leaning toward that, but wants to talk to town counsel. If that is the case, they will withdraw without prejudice. Mr. Merrikin requested an extension of time which will give them time to talk about this. They are willing to remove the basin and proceed under the old permit. Ms. Walker stated there is no sense to go over this now. Mr. Merrikin gave the board an extension of time up to and including November 30, 2013. Mr. Nottebart moved to accept and extension of time up to and including November 30, 2013. Motion seconded by Mr. Murtagh and voted 4-0-0. Mr. Nottebart continued this hearing to November 7, 2013 at 7:30 p.m.

Beckett's, Main Street: Mr. Conroy stated the applicant's attorney, James Brady, Main Street, had asked for two pool tables and then changed it to ten after the hearing was closed. There should have been a public hearing with notice to the abutters regarding this change. Beckett's came before the Planning Board under Section 4-p-ii and there is also a Parking Code change from 3 to 6 as per the Zoning Bylaw. The applicant never gave us a parking plan at the public hearing and therefore he feels the application was deficient. They need to file a site plan to address parking as it was never brought up, filed or addressed. Mr. Nottebart stated we did this without any problems. Mr. Conroy stated it is up to them and they should come back to us. Mr. Murtagh stated pool tables come under the Board of Selectmen and Fire Chief. He is not concerned about the tables. Mr. Nottebart stated he is concerned about the parking availability. Mr. Conroy stated that this has nothing to do with pool tables. They owe us a complete submission. Mr. Nottebart stated that one of the major issues is safety and parking. Mr. Murtagh stated the Fire Chief will take care of the interior. Mr. Conroy stated when they changed uses, they didn't address the parking. They should demonstrate now many people and how many spaces. Mr. Nottebart hears what Mr. Conroy is saying and he does agree. It seems like the Board of Selectmen wanted this to happen. Mr. Forsberg had no comment. It should have been included. Mr. Murtagh stated it is water under the bridge. We should have been tougher. We were asleep at the wheel as we should have caught this. Mr. Conroy stated absolutely not. If they didn't ask for a waiver then it is

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understood they have to comply. Mr. Murtagh stated he is not going to put a guy out of business.

Mr. Conroy moved to send a letter to town counsel to ask for her opinion. Motion seconded by Mr. Nottebart and voted 2-2-0 (Conroy, Nottebart in the positive; Forsberg, Murtagh in the negative). Motion did not carry. Mr. Conroy stated he will take this up on his own. Mr. Nottebart asked the board how they feel about two pool tables versus ten pool tables. Mr. Murtagh stated that two or ten doesn't matter. Mr. Nottebart stated they said two and everybody knew it. Mr. Forsberg didn't recall. The applicant should have addressed parking. He doesn't know if we missed it or not. Mr. Conroy stated there was a shell game across from McDonald's that never should have happened and neither should this.

8:22 p.m. Plimptonville Crossing, Case No. 13-8 Major Modification: Mr. Nottebart read the public hearing notice. The applicant, John Marini, was represented by Atty. Paul Schneiders, Canton, MA. He submitted a letter to the board requesting to withdraw without prejudice. Mr. Nottebart moved to allow the applicant to withdraw without prejudice. Motion seconded by Mr. Murtagh and voted 4-0-0. Mr. Conroy stated they will have to go back and re-create the buffer and asked what Mr. Mariani is going to do. He stated they can't be given a certificate of occupancy until the site plan is complete. Mr. Schneiders stated they didn't violate any bylaw. Mr. Conroy moved to send a letter to Jack Mee letting him know we had some issues with the buffer and the abutters are concerned also. We feel as though the buffer zone has been violated and we ask that you look into this and take the appropriate action. The owner admitted he went 20' into the buffer. Further, occupancy certificates cannot be issued until the site plan is complete. Motion seconded by Mr. Nottebart and voted 4-0-0.

It was moved, seconded and voted to adjourn. The meeting adjourned at 8:50 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 10/3/13