

WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 21, 2013

A regular meeting of the Planning Board was held on Thursday, November 21, 2013 at 7:00 p.m. in the Main Meeting Room at Town Hall. The following members were present: Richard Nottebart, Chairman; Edward Forsberg, Vice Chairman; John Murtagh, Clerk (7:08 p.m.); John Conroy, Richard Mazzocca (7:14 p.m.) and Margaret Walker, Town Engineer.

Minutes: Mr. Nottebart moved to accept the minutes of November 7, 2013. Motion seconded by Mr. Forsberg and voted 3-0-0.

Niden Woods: Mr. Nottebart read letters from Margaret Walker, Town Engineer, dated November 20, 2013 and Robert LeBlanc, Tree Warden dated November 20, 2013. There were no questions from the board or public. Mr. Nottebart moved to hold the residents' hearing on December 19, 2013. Motion seconded by Mr. Forsberg and voted 3-0-0.

Mr. Murtagh arrived at 7:08 p.m.

Tall Pines Phasing: Mr. Nottebart read a letter submitted by Rick Merrikin dated May 8, 2013 requesting twenty-five points for the Tall Pines subdivision phasing. Mr. Nottebart moved to grant 25 points as requested. Motion seconded by Mr. Conroy and voted 4-0-0.

Oakwood Estates Form I: Mr. Nottebart read a letter dated November 6, 2013 from Elizabeth Ahern, Walker LLC requesting the Planning Board execute a new Release of Covenant as the original endorsed Form I was not recorded at the Registry of Deeds. Mr. Nottebart moved to re-endorse the Form I covenant as requested. Motion seconded by Mr. Forsberg and voted 4-0-0.

Mr. Mazzocca arrived at 7:14 p.m.

Mansion Drive discussion: As per a letter dated November 5, 2013, Atty. Philip Macchi requested to meet with the Planning Board to discuss the Mansion Drive street acceptance process. Mr. Macchi stated the board accepted the road as is and asked if the board wants the town to accept only to the end of the road or to the end of the lot line. It won't affect Toll Bros. but it will affect the property owner. Toll would like to go to the end of the lot line so the person who lives there now won't be in limbo. As part of the article for street acceptance, they want it to go to the lot line. Mr. Conroy stated this is Omega, not Toll. He feels we should leave it as is. Ms. Walker stated it is not built beyond Hildene Drive. Mr. Conroy feels it should stop at the property line. He moved that the road be accepted to the property line as requested. Motion seconded by Mr. Murtagh and voted 5-0-0.

Evaluation: It was agreed that the board would mail the secretary's evaluation to Mr. Nottebart and he will assemble them before the December 12th due date.

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Budget: Mr. Nottebart will assemble the budget as requested by Mr. Boynton.

7:32 p.m. Prime Acura, Site Plan Approval Case No. 13-9: Mr. Nottebart read the public hearing notice and explained the process to the abutters. The applicant was represented by Don Myers, Norwood Engineering; Matt McGovern, Acura co-owner; and Peter Cronin. Also, presented was Chuck and Tim McCarthy, Sunbird Transport. Mr. McGovern stated they purchased the dealership in 2007 and at this time they need to make a move. They have struck a deal with the McCarthy's to move their Service Department and Parts Department to the rear building located on the McCarthy's property. There will be no footprint changes to the building and customer service will stay in the front where it is presently. The rear building will be all service bays. Presently there are service bays all along the present facility with a lift that moves up and down. They are aware that the noise creates a problem with the neighbors. They will be eliminating all but one door. Acura intends to grow more. Mr. Myers stated the proposal is to relocate twelve bays back and to use about 1/3 of the McCarthy warehouse. The warehouse is 100' x 6000'. The connecting roadway is behind Acura to the side of the building. There will be approximately 15 employees in that area, but zoning requires 44 spaces. There will be no more pavement than necessary. Mr. Myers stated they have been to the Conservation Commission and they did a site walk and then closed the hearing last week. They made some minor changes to the plan and they anticipate an order being issued in December.

Mr. Myers stated they are staying mostly out of the wetlands and the driveway connects to the back of the parking lot. The driveway will be private and will not be used by the public or be accessible for customers to use, but will be restricted to Acura. Mr. Myers stated they have asked for waivers as listed in the application, one of which is a waiver from the traffic report.

Mr. Nottebart read comment letters received from Sewer and Water, Fire, Police, Board of Health and Engineering. Ms. Walker asked if this opens up a whole new site plan review for 295 Union Street as she is concerned with the ground water. She stated they can test now or do it during the construction phase. Mr. Myers stated the driveway will encroach a little bit into the wetlands because of the 40' buffer zone between commercial and residential. Mr. Nottebart asked if that is away from the neighbors and Mr. Myers stated yes. Mr. Nottebart read a letter submitted from the neighbors along with signatures. Mr. Murtagh asked if we need a complete site plan review of the entire site and he also questioned the residue that builds up in the parking lot. Mr. Myers stated they will be using sodium free de-icer, so the residue is the same as it is now. Mr. McGovern stated they maintain fairly new vehicles and they are not a collision center. Mr. Murtagh asked if they can accommodate the 18' roadway as suggested by the Deputy Fire Chief. Mr. Myers stated yes but the Conservation Commission has more jurisdiction than them. Mr. Murtagh stated he would like a landscape designer to work with the neighbors. Mr. Forsberg questioned the strip of town owned land shown on the plan and asked the width.

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Mr. Merrikin stated there was a 10' strip between the commercial property and residences that was used as a walking trail, which was taken over by the town. Mr. Forsberg also feels we need a landscape plan to show what is existing and what is in the buffer. We need to know there is sufficient screening. He asked if there is much going on in the back building and will any remodeling trigger an oil separator or floor drains. Mr. Myers stated no as it is used now for dry storage. Everything will be on the concrete. Mr. McGovern stated it is a dry shop. Mr. Forsberg stated it doesn't matter as you are changing the use of the building and thinks they will need an oil separator. Mr. Myers stated they did ask for a variance and Mr. Forsberg stated they would need it from the State Plumbing Code and the town can't give that. He also questioned the placement of the doors and the width of the driveway. Mr. Myers stated he needs to talk to the Fire Department and Conservation Commission about the road width. Mr. Forsberg stated what we could ask for speed bumps as a condition to be done at a later date. Mr. Conroy asked why the Fire Department would care how wide that is. Also, he is not a big fan of rain gardens as they are a California thing not New England because of frost. Regarding the letters from the abutters, he asked if they will be happy if the stuff they asked for is done.

Darren Phinney, 19 Killeen Road stated it would be helpful. Mr. Conroy asked if it would be an improvement of what you have now and Mr. Phinney stated no. Mr. Conroy asked if the existing building is on pavement. Mr. Myers stated it is used now as truck parking and there are some trailers. They will meet the required parking code. Mr. Conroy asked if they are going to pave more and Mr. Myers stated no. Mr. Conroy stated this is similar to the Walpole Mall so the whole site is in play. You can't carve out one little piece and he feels the whole site has to comply. Mr. Myers doesn't agree. They are showing the entire site for discussion purposes. Mr. Conroy stated it will not be one site plan for all of 295 Union Street and Acura. It is all in play. To segregate your site would mean you have to do an ANR. We just can't look at little pieces. Mr. Myers stated they have tried to show sufficient information. They have shown the buildings, the access, the wetlands, the septic system. They tried to show everything on the site and he feels there is enough information in the application to allow review of the entire site. Mr. Conroy stated this is for the whole site. We can't isolate just the roadway. We need everything shown on the plan. Have you looked at all the zoning issues and do you comply with HB requirements. If not, you would need to seek a variance. Mr. Myers stated it is either in compliance or it is pre-existing nonconforming. However, he is not a lawyer. Mr. Conroy stated there are questions that need to be answered. You have a sign variance and a 50' setback for the cars and what is before us being new would make that go away. Mr. Myers asked what is new about the Acura site plan. Mr. Conroy stated this is a new site plan application. You have created a new site plan and he feels the applicant should check with their attorney. Mr. Nottebart agrees with Mr. Conroy as some of the letters go back to the 1980's and feels they should be doing discovery on this. Mr. Conroy stated they should check the current zoning to make sure you are not giving anything up. Your attorney could give an interpretation as to whether or not this stuff goes away.

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The Highway Business District was created in the last few years. Now you are coming before us with a new building and we have new rules. We don't want to create problems down the road, but this area seems to have a big history. Mr. Conroy asked if this would be used by their employees only or the general public and Mr. McGovern stated employees only. Mr. Conroy feels they should make sure this is being done right. Mr. Mazzocca asked if the drive-in area is a change and Mr. McGovern stated no. Mr. Mazzocca asked if there is a need to bring in a great amount of fill and Mr. Myers stated no, only a few inches is all. Mr. Myers stated he has revised plans and a cover letter with him here tonight. Mr. Mazzocca stated that Rodman made a mess at the end of Shufelt Road in South Walpole and he doesn't want to happen here.

Mr. Murtah stated the building exists and you are not changing the footprint and Mr. McGovern stated that is correct. Mr. Nottebart stated he worked on the casino and doesn't think this is as bad as Rodman, but has the potential to be. He questioned the size of the warehouse and asked if the rest of the building is occupied and Chuck McCarthy, Sunbird Transport, stated yes. Mr. Nottebart questioned why the Board of Health didn't reference a pump station. He asked if Acura is parking cars there now and Mr. McCarthy stated yes.

Phyllis Nixon, 15 Killeen Road: The road will be directly behind her property and she is not in favor of it. She questioned the wetlands and how this will affect her property as the water will be pushed around. She feels the wildlife will be affected and they will never see that again in this area. Mr. Mazzocca asked if there is presently a water problem. John St. Germain, 7 Killeen Road stated he has gone through five sump pumps in twenty years and presently is using two sump pumps at the same time. Mr. Mazzocca asked if he has consulted with an attorney or engineer and Mr. St. Germain stated no. Mr. Phinney, 19 Killeen Road stated he has proposed to put a two car up but was told he needed to do a wetland survey as the water goes down the side of his property. The area is a swamp in the late winter and early spring and he feels that taking out the trees will cause problems.

Mary Jane Coffey, 10 Killeen Road stated they have lived here for 47 years. They have sump pumps that they use and also put in French drains due to the water there. If there are three days of rain, there will be a problem. She is higher than the others and she still has a water problem. She thanked Mr. Conroy for his concerns and comments. They are not in favor of this and would like them to have to go around using Route 1 to Union Street. Clair took down trees and then left. The doors to the bays were not supposed to be left open but they are. She feels it is not her responsibility that they don't have proper ventilation. Every day, people who work there use those car beepers to locate a particular car and it is very annoying. She knew that because they live near Route 1 there would be businesses there, but she wants to know exactly what is happening. She doesn't want to see this proposal happen and wants that to go on record. She doesn't understand how the Conservation Commission approved this.

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Robert Massarelli, 17 Killeen Road stated he was concerned with permeable asphalt. The Conservation Commission said they couldn't street sweep this area; they have to vac it as they don't want the sand to be deposited into the wetlands. Also, there are some large red maples and white oaks to be taken down. He has a sump pump that runs three months a year and he is concerned about the extra water that will be added to this area.

Peter Nixon, 15 Killeen Road stated he is also concerned with the water. There is not a lot of wiggle room with the new road and he questioned what will happen when it snows. If you push stuff to the right side, you are putting it into the wetlands. He understands that it is an improvement to the business, but the sump pumps and water problems are legit. Mr. Forsberg feels they need a landscape plan. Usually when we have a project that comes in, people don't have a water problem. We can't allow the applicant to create more problems for abutters. This should be documented on Prime's part so we are guaranteed the water issues won't be worse. They should be making it better for the abutters not worse.

Darren Phinney, 19 Killeen Road stated they are proposing one door that will be adjacent to the abutters, but he feels it should face Route 1. He doesn't want this project at all. He asked if this one door can be moved to Route 1 as the noise is a problem.

Bob Ielapi, 11 Killeen Road asked if they will address the area where they took out the trees. Mr. Conroy stated that right now there are a lot of legal issues to be answered. We don't have a choice to approve or disapprove. If they conform, we have to approve this. He thinks that step one in all this is they have to go back from a legal standpoint and find out where they are headed. Mr. Nottebart asked the applicant if he understands what the board is looking for. Mr. McGovern asked about town counsel and Mr. Conroy stated after your counsel looks at this, we will check with our town counsel if we need to.

Ann Marie St. Germain, 7 Killeen Road asked how they will get rid of the snow as there will be a sign that says no plowing or sanding. Mr. Myers stated they will be using permeable pavement. Also, the Conservation Commission has asked for a snow storage area at the edge of the road. Ms. St. Germain asked if that is behind Dunkin Donuts and Mr. Myers stated yes. She asked if they will also be bringing the snow from the main dealership and Mr. McGovern stated no. Ms. St. Germain stated there is no fence between her house and Acura, who has extended their area. They took up the grass and now it is hardpacked. Cars are parked behind her house. She doesn't know if they are compliant or if they are parking more than what they are approved for. They have extended their own site parking beyond what was approved in 2002. She did let the Building Inspector know, but never received a response. Mr. Nottebart asked her that with regard to the noise on site, did she make a complaint to the Building Inspector and Ms. St. Germain stated yes, but didn't get a response. Mr. Conroy stated the Building Inspector wants those complaints in writing, which discourages people from making complaints. Ms. St. Germain stated they are also not maintaining the fence clearly.

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Mr. McGovern stated they replaced a major portion of the fence last year. The neighbors disagreed with that statement.

Paul Keane, 13 Killeen Road stated he contacted Acura directly, not the town, about the plantings and the fence line and the maintenance of them. There are three dead trees in this area. He emailed Joe Pollito in 2009 with no response, so he is still concerned. Mr. Nottebart asked if he copied the town officials and Mr. Keane stated no. Mr. Chuck McCarthy, Sunbird Transport, stated he noticed that someone is out cutting trees and it is not them.

Marilyn Norton, 11 Killeen Road asked if they are moving over there regardless or is it contingent on this driveway being approved. Mr. Nottebart stated that what they do is triggered by approval from the town's Building Department. They can do what they want if they drive around using Route 1.

Darren Phinney, 19 Killeen Road asked if the warehouse is being renovated if this doesn't go through and Mr. McGovern stated he feels it addresses public safety to put the road in.

Greg White, 118 Coney Street stated he is more concerned with what Jack Conroy said about the applicant asking for waivers, change in use, no use variance, etc. They will be starting at square one. He feels they need to go see an attorney as the plan needs to be complete. The whole neighborhood is being impacted, but the people on Route 1 will not be impacted daily, but the neighborhood will be.

Peter Cronin, Prime General Manager stated they will try to solve the problems as they want to be a good neighbor. Mr. Murtagh stated they need a landscape architect for the neighbors and feels Prime should work with both the neighbors and the landscape architect. Mr. St. Germain asked the hours of operation and Mr. McGovern stated Monday through Friday from 7:00 a.m. to 5:00 p.m. and 8-4 on Saturdays, with no Sundays. Mr. Myers asked when the commission would be available to continue this hearing and Mr. McGovern asked for a December continuance. Mr. Nottebart stated we could put them on the December 19th agenda at 7:15 p.m. The applicant agreed with that date and time. Mr. Nottebart stated we also need an extension of time and Mr. Myers agreed. Mr. Nottebart moved to accept an extension of time up to and including January 31, 2013. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Nottebart moved to continue this hearing to December 19, 2013 at 7:15 p.m. Motion seconded by Mr. Murtagh and voted 5-0-0.

9:28 p.m. Jalapeno's Grill, 960 Main Street, Special Permit Case No. 13-10 and Site Plan Approval, Case No. 13-11: Mr. Nottebart moved to waive the reading of the public hearing notice. Motion seconded by Mr. Mazzocca and voted 5-0-0. Mr. Nottebart read the comments received from the various town boards and committees.

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The applicant was represented by James Decelle, Decelle & Burke Associates, 149 Independence Avenue, Quincy, MA. He stated they are seeking approval for one pool table. Further, the existing site is 98% building and parking is not a requirement because it is located in the CBD. The patrons use the public lot behind the building and also there is limited parking on Main Street. Mr. Decelle stated he had come into the office and went through the file earlier today. Mr. Murtagh stated he is concerned with the comments provided by the deputy fire chief. Also, Mr. Dorronsoro has a history of doing things without proper permits. Mr. Decelle stated he thought it was allowed under the license that he already has. Mr. Murtagh stated he is okay because they are not blocking any egress from inside the building to outside. Mr. Forsberg had no comment. Mr. Conroy asked if they have filed with the Board of Selectmen yet. Mr. Decelle stated they are waiting to see if they receive approval and if not they will remove the pool table. Mr. Conroy asked if there is any talk of fines and Mr. Decelle stated he had started the process and then got a letter from Jack Mee. He is working to clean this up.

There were no comments from the public. Mr. Nottebart moved to close the public hearing. Motion seconded by Mr. Murtagh and voted 5-0-0. Mr. Forsberg moved to grant the special permit as requested. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Nottebart moved to grant site plan approval as requested. Motion seconded by Mr. Mazzocca and voted 5-0-0.

Mr. Murtagh moved to adjourn. Motion seconded by Mr. Mazzocca and voted 5-0-0. The meeting adjourned at 9:40 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 12/19/13