



Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

Zoning Board of Appeals
John Lee, Chair
Drew Delaney, Vice Chair
Robert Fitzgerald, Clerk
David Anderson, Member
Judith Conroy, Member
Timothy Hoegler, Assoc. Member
Mark Major, Assoc. Member

MINUTES
WALPOLE ZONING BOARD OF APPEALS
APRIL 22, 2024

Present: John Lee (Chair), Drew Delaney (Vice Chair), Judith Conroy, Robert Fitzgerald, Tim Hoegler and Mark Major

Also Present: Patrick Deschenes, Community and Economic Development

Absent: David Anderson

Mr. Lee called the meeting to order at 7:00 P.M.

Case No. 24-1, Wall Street Development, 7 Brook Lane, Special Permit under Section 6-C.4.A of the Walpole Zoning Bylaws for the more than once principal building on a lot. This application is in relation to a proposed fifteen (15) unit residential development at the location. (Continued from March 18, 2024)

Case No. 24-1 opened at 7:00 P.M.

Ms. Conroy recused herself.

Mr. Lee opened the meeting and addressed the comment letters that the Board had received from Engineering, Building, Water & Sewer, and the Fire Department. He then asked the applicant to provide an discuss with the Board changes to the applicant's revised plan.

Mr. Petrozzi, applicant appeared before the Board. He explained that an updated Fire Truck turning radius plan would be submitted to the Fire Department for Comments. Allen Hover, Deputy Fire chief, had submitted a letter which noted the wrong fire apparatus was used, and the plan would need to be revised in order to confirm that the proposed roadway could accommodate the Fire Department's newest apparatus. Mr. Petrozzi said a new plan would be submitted prior to the next meeting.

Mr. Petrozzi further stated that at the last meeting the Board had requested renderings of the homes he was proposing to construct. Mr. Petrozzi then presented to the Board a variety of architectural renderings of what potential dwellings would look like. He further explained that the homes would have their own unique finishes based on the buyer's preferences. He added that many of the concerns in the Town Engineer's letter had been addressed, although there were still some edits that were pending. The project's next steps included a Conservation Commission meeting on May 8th as well as Site Plan Review by the Planning Board. Mr. Petrozzi stated that he would not apply to the Planning Board hearing until after the Zoning Board had granted the requested Special Permit.

Mr. Lee asked if all of the homes would have street level garages. Mr. Petrozzi said yes. Mr. Lee asked if that would raise the height of some of the homes. Mr. Lee stated that the grading of the land allowed for some homes to have walkout basements and that his concern was due to the area had a flooding problem and he did not want the homes to be elevated too high from the roadway. Mr. Petrozzi explained

the flood designation was due to the proximity to Traphole Brook, however that brook was over 200 feet away. He did not believe that flooding would be an issue and noted that the homes would be built one to two feet above seasonal high groundwater and that all groundwater would be recharged.

Mr. Lee made reference to a letter from the Building Commissioner that addressed questions regarding whether this development proposed a common driveway and if it would need to meet buffer zone requirements for multifamily dwellings.

Mr. Lee noted there was still a discrepancy over the ownership over the disputed private road at the end of Burns Avenue. Mr. Petrozzi stated that he would not use any land he did not have the rights to but that with that portion being a private road he did have the right to utilize up to the centerline.

Mr. Lee asked Mr. Deschenes if the Board had information as to the ownership of that road. Mr. Deschenes stated that they did not, but that the concern raised in Carl Balduf, Town Engineer's letter was that the easement was incorporated into the development and that its square footage should be included and its ownership listed within the plan as it would be with any property. Mr. Petrozzi explained that he did not include that rectangle parcel's square footage into the project's total square footage as that would have allowed him to develop up to 16 units which he did not feel was necessary. Mr. Petrozzi further noted that Wall Street Development, LLC was a single family development company and did not build large scale multifamily buildings.

Mr. Fitzgerald referenced the letter from Jim Crowley, Building Commissioner. Mr. Petrozzi believed that application was correct and that the common driveway did not apply to this site. Mr. Deschenes added that there was one ownership to the land which would make a common driveway irrelevant. Mr. Fitzgerald was skeptical and believed the common driveway applied, however suggested it could be something for the Planning Board to discuss.

Jim Crowley, Building Commissioner, explained the common driveway regulations and noted it was for no more than three structures within residential areas. As this project was in a GR zoning district, it was exempt from common driveway regulations as this district allowed for more than one principle building on a lot.

Mr. Major asked about the location of the mailbox. Mr. Deschenes noted it was moved out of the public right of way and into the development.

Jack Conroy, 34-36 and 38-40 Burns Ave, presented an ANR plan from 2017 which showed four lots in question, including Mr. Petrozzi's. He expressed concern that the plan Mr. Petrozzi was using for his proposal was incorrect as there was no ownership identified on one of the parcels and the dimensions of said parcel had changed since 2017. Furthermore, Mr. Conroy pointed out that part of the cul-de-sac was within the parcel where no ownership had been established.

Rob Truax, project engineer, explained that Burns Avenue turned into a private way after Mr. Conroy's properties and that typically, property owners that abut a private way own to the centerline of the street. He added that there was previously a house that had frontage on the private way which was allowed. The plan showed the cul-de-sac did go onto the public way, but encroached no more than to the centerline of the street which is what Mr. Petrozzi had the right to do.

Mr. Conroy disagreed and explained there was active litigation on this matter with the applicant. A legal opinion was needed to see who had the rights to the property.

Mr. Petrozzi explained this was a civil matter between himself and the direct abutters. He had a legal opinion he could produce. There would either be a judgement from the court or an agreement and that he had attempted to resolve the problem previously. He reminded the Board he had an approved comprehensive permit which he could build on which also allows for the cul-de-sac to be to the centerline of the street. He respects the claims made by the Campbell's.

Mr. Lee stated that all ownership of property usually needs to be identified on the plan. Mr. Petrozzi stated that it could be researched over a 100 years back. He stated he had deeded rights over that parcel and he did not need to prove anything. Mr. Lee asked how the Board could approve something that did not have the ownership identified. Mr. Truax reminded the Board that the private way had nothing to do with the project.

Mr. Conroy explained that in 1972, there was a rule that was meant for people to maintain needs for the area to remain a private road. Mr. Petrozzi cited a section of Massachusetts General Law he claimed allowed anyone that abutted a private way had the rights to improve it. He only proposed to improve up to the centerline of that private way.

Cathy Campbell, 31-35 Burns Ave, was advised in 2018 that the dispute would be resolved if she surveyed her land. She hired a surveyor and proved that part of that way is shown under her ownership on her deed. In 2017, she argued this point at the Planning Board meeting. Previously, she met with Mr. Petrozzi and his team and was told that the last person to purchase the property could change the lot lines. She explained that Mr. Petrozzi is currently doing site work for his comprehensive permit. A silt fence was installed on her property. She explained that Mr. Petrozzi moved the silt fence to be in line with property stakes done by Mr. Truax. She was also concerned that requirements within the 40B decision were not being adhered to. Mr. Deschenes explained that Mr. Petrozzi had met the criteria for pre-construction and noted the criteria she was referencing was prior to the issuance of a building permit, which has not been applied for yet.

Mr. Petrozzi admitted there was an error in the erosion controls and understood Ms. Campbell's confusion.

Ms. Campbell asked if the public would have access to all documents pertaining to pre-construction. Mr. Deschenes confirmed the public could access all documentation via the Town's website and the project's webpage.

Cheryl Hayes-Montville, 8 Brook Lane, was concerned for the neighbors over lot line disputes. She was confused how the project made it so far if this had not been resolved. Mr. Lee summarized that the problems originated over access on Burns Ave. The Zoning Board granted Mr. Petrozzi a comprehensive permit as he received a Project Eligibility Letter from MassHousing which made the issue of access no longer a matter for the Zoning Board. Ms. Hayes-Montville asked the Board to consider the neighborhood and said that 15 homes was much better than 20. She noted that while site work has started, Mr. Petrozzi had been communicating with the neighbors and there have been no problems with his staff. He has stayed true to his word.

Mr. Conroy asked if there was a deed going back to show Mr. Petrozzi had rights to the parcel of land in question if it could be forwarded to him for his records.

John O'Leary, Washington Street, asked questions pertaining to trash disposal and other elements that will be addressed in Site Plan Review. He further provided a brief history of the property and did not believe the private way had any bearing on the project.

Motion: by Mr. Fitzgerald seconded by Mr. Hoegler to continue the public hearing until June 5, 2024.

Motion: carried 5-0-0 (Lee -aye; Delaney -aye; Fitzgerald – aye; Major- aye; Hoegler -aye)

Minutes

Ms. Conroy returned to the meeting.

Mr. Fitzgerald pointed out there was a typo of Maguire Park in the minutes. Staff agreed to correct the typo.

Motion: by Mr. Delaney seconded by Mr. Major to approve the minutes with edits from April 3, 2024.

Motion: carried 6-0-0 (Lee -aye; Fitzgerald-aye; Delaney – aye; Conroy -aye; Hoegler- aye; Major -aye)

Adjournment

Motion: by Ms. Conroy seconded by Mr. Major to adjourn.

Motion: carried 6-0-0 (Lee -aye; Delaney-aye; Fitzgerald –aye; Conroy -aye; Hoegler- aye; Major -aye)

The meeting adjourned at 8:13 P.M.