

The April 16, 2014 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of the Town Hall.

Chairman Susanne Murphy called the meeting to order at 6:45 P.M. with the following members present:

Susanne Murphy, Chairman
James M. Stanton, Vice Chairman
James DeCelle
Craig Hiltz
Matthew Zuker
Mary Jane Coffey, Associate Member
Timothy Foley, Associate Member

6:45 p.m.- Reorganization of the Board

Motion was made by Ms. Murphy, seconded by Mr. Stanton, to nominate Mr. Hiltz as Clerk.

The vote was **4-0-1 in favor**. (Murphy, Stanton, DeCelle and Zuker voting; Hiltz abstained)

Motion was made by Mr. Zuker, seconded by Ms. Murphy, to nominate Mr. Stanton as Chairman.

The vote was **4-0-1 in favor**. (Murphy, DeCelle, Hiltz and Zuker voting; Stanton abstained)

Motion was made by Mr. Stanton, seconded by Ms. Murphy, to nominate Mr. Zuker as Vice Chairman.

The vote was **4-0-1 in favor**. (Murphy, Stanton, DeCelle and Hiltz voting; Zuker abstained)

7:00 p.m.- Rockland Federal Credit Union- Case #04-14 (cont'd without testimony from 03/26/14) (Stanton, DeCelle, Hiltz, Zuker, Coffey, Foley)

Ms. Murphy recused herself from the public hearing.

Mr. Stanton read the public hearing notice for **ROCKLAND FEDERAL CREDIT UNION – Case #04-14**, with respect to property located at 564 Main Street, Walpole and shown on the Assessors Map as Lot. No. 18-219, Business Zone.

The application is for:

A Special Permit pursuant to Use Table 5-B.1, Section 4.q.ii of the Zoning Bylaw to allow a drive-through for a proposed bank at 564 Main Street.

Dan Merrikin from Merrikin Engineering, the applicant's engineer, was present and discussed the request for a special permit for a drive-through for Rockland Federal Credit Union across

from Stop and Shop. The site is 4.1 acres and there is an existing business situated on that lot. There are wetland areas around the site. Mr. Merrikin has already talked to the Conservation Commission and received a permit. Dan Merrikin mentioned that the business would like to have a 4-way traffic signal matched up with the Stop and Shop traffic light. The business seeks approval for a drive-through. They are proposing one lane for the ATM and the other two lanes for customer service. The Planning Board is reviewing the proposal and the plans have been revised to satisfy all of the Engineering Department's requirements.

Mr. Stanton asked if the entrance point will be matched with the existing traffic signal.

Mr. Merrikin responded yes.

Mr. Zuker wanted to know if the timing on the current traffic light would change and if it would impact the traffic.

Erin Facillio of McMahon Associates, the applicant's traffic engineer, explained that the signal times would be adjusted. She informed the board that they have studied the peak traffic times. There is plenty of room on the site and they are able to maintain the same impact as it is now.

Mr. Hiltz asked what the hours of operation of the drive-through would be.

The Manager of the Rockland Federal Credit Union informed the board that the drive-through would be open 8 a.m. - 4 p.m., Monday-Wednesday and 8 a.m.- 6p.m., Thursdays and Fridays.

Mr. Stanton read comment letters into the record from the Conservation Commission, Board of Health, Planning Board, and the Police, Fire, and Engineering Departments.

Mr. Merrikin mentioned that the issues referenced in the comment letters have all been addressed.

Mr. Stanton asked if any members of the public wished to comment on the proposal. No members of the public wished to speak. He then asked if the applicant had anything else they would like to add.

Mr. Merrikin explained that the applicant would like for the board to vote on this tonight so they could have an answer for when they return to the Planning Board tomorrow evening.

A motion was made by Mr. Stanton, seconded by Mr. Zuker to close the public hearing.

The vote was **5-0-0 in favor**. (Stanton, Zuker, Decelle, Hiltz, and Foley voting)

A motion was made by Mr. Stanton, seconded by Mr. Zuker, on behalf of the applicant to grant a **Special Permit** pursuant to Use Table 5-B.1, Section 4.q.ii of the Zoning By-Laws to allow a drive-through for a proposed bank at 564 Main Street.

The vote was **5-0-0 in favor** (Stanton, Zuker, DeCelle, Hiltz, and Foley voting); therefore the application for a **Special Permit** is hereby **granted, subject to the following conditions:**

CONDITIONS:

1. The site in question is depicted on a plan entitled “Rockland Federal Credit Union, #564 Main Street, Site Plan” prepared by Merrikin Engineering, LLP, with a latest revision date of March 26, 2014 (the “Site Plan”).
2. Approval shall be obtained from MassDOT for the proposed driveways and signalized intersections. Except for the demolition of existing facilities on the site, no work may commence until either a temporary construction access permit or a final access and signalization modification approval is obtained from MassDOT.

REASONS FOR DECISION

The Board finds that the proposed site is zoned for and intended for the business use which is the subject of this application due to its location on Main Street, where such uses are common. The Board further finds that the site design provides for adequate circulation in a manner which is appropriate for inclusion of a drive-through with the proposed bank.

FURTHER FINDINGS

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaws, which requires that:

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:

(a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;

The section of the bylaw which refers to the granting of the requested special permit is section 4.q.ii of the Use Table 5-B.1. This section has no specific criteria or standards associated with the required special permit being requested. The Board therefore finds that this criterion is not applicable.

(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;

The Board finds that the site is situated on Main Street, a main thoroughfare through Walpole, in an area which is predominantly commercial in nature. The only proposed driveways are to Main Street. Bank drive-throughs do not generate large amounts of traffic and this use is not expected to cause any adverse effect in that regard. As such, the Board finds that this criterion is met.

- (c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;***

The site is zoned for businesses and the proposed bank is a use permitted by right. The drive-through which is the subject of this permit is only expected to generate moderate amounts of traffic, which will not adversely affect the immediate neighborhood. The site is surrounded by commercial uses and Conservation open space. As such, the Board finds that this criterion is met.

- (d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

The Board finds that as noted on sheet 3 of the site plan, the proposed development complies with the various dimensional criteria of the Zoning Bylaw, including lot coverage. The site does not abut residentially zoned property and as such, there are no specific buffer zone requirements. As such, the Board finds that this criterion is met.

- (e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that a bank with a drive-through is not known to be dangerous due to fire, explosion, emission of wastes, or other causes. As such, the Board finds that this criterion is met.

- (f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds that the use proposed in this request is a typical commercial use found along Main Street and that such use of a bank with drive-through is not known to be associated with noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard which would adversely affect the immediate neighborhood. As such, the Board finds that this criterion is met.

- (g) Shall not adversely effect the character of the immediate neighborhood; and***

The proposed uses will occur within an area properly zoned for business uses and that the inclusion of a drive-through with the proposed bank is a reasonable use of the land and will not adversely affect the character of the immediate neighborhood. As such, the Board finds that this criterion is met.

- (h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.***

The Board finds that the proposed activities are commercial in nature and suited to a business-zoned parcel of land on Main Street. The zoning Bylaw intended for such activities to occur within the Business zoning district. As such, the Board finds that this criterion is met.

Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

7:30 p.m.- James L. Diamond, Jr.- Case #05-14 (cont'd from 03/26/14) (Murphy, Stanton, DeCelle, Zuker)

Mr. Stanton read the public hearing notice for **JAMES L. DIAMOND JR. Case- #05-14**, with respect to property located at 759 Cedar Street, Walpole and shown on the Assessors Map 39 and Lot No. 19, Residence A Zone.

The application is for:

A Special Permit under Section 9.4.A of the Zoning Bylaws to allow an addition onto an existing non-conforming structure and a Variance from Section 6-B.1 of the Zoning Bylaws to allow for a 10ft sideyard setback where a 20ft minimum sideyard setback is required, as specified in Section 6-B.1.

Mr. Stanton reiterated that at the last public hearing Mr. Diamond decided to go forward with a four-member board. In order to prevail, he will need to have all four members vote in the affirmative.

Mr. Diamond agreed.

Chairman Stanton questioned if the addition will be 10 feet from the lot line.

Mr. Decelle asked if it will be two stories.

Mr. Diamond explained that yes it will be 10 feet from the lot line and it will be two stories.

Ms. Murphy wanted to know the elevations, if the house was a ranch style and if Mr. Diamond had a picture of what the final product would look like.

Mr. Diamond did not believe he had the elevations, that yes it is a ranch and explained that he could pull up what the house would look like on his phone.

Mr. DeCelle wanted to know how many bedrooms the house would have.

Mr. Diamond explained that the house currently has three bedrooms now and that they want to add another. He also informed the Board that he had spoken to the Board of Health on March 11, 2014 and mentioned that he will have to sign paperwork stating that the house would only have four bedrooms. The only concern from the Board of Health was the number of bedrooms.

Mr. Stanton read the comments from the Police Department, Fire Department, Conservation Commission, and Planning Board into the record. All reported that they had no concerns. The

Board of Health stated that they did not have any concerns but they noted the restriction that the house will only have four bedrooms.

Mr. Zuker cited that the Board must decide whether the proposal increases or does not increase its non-conformity. He doesn't believe that both a Special Permit and a Variance is necessary.

Mr. Hiltz explained that is the vote finds that it is more detrimental that you do not need a Variance if the Special Permit is not granted. If you don't it is not a contractual obligation.

Mr. Stanton questioned why the addition was being built where it was shown on the plan.

Mr. Diamond explained that there is no other location on the property and that the ranch houses are small in the area.

Mr. Stanton asked if there were members of the public that wished to comment on the proposal. There were none.

Board members asked Mr. Diamond if the neighbors had any reaction to the new addition.

Mr. Diamond explained that Ralph and Kim Royal do not have a problem with the addition. In fact, his neighbor has helped him with some of the finishing work. He also informed the Board that he has not had any contact with his other neighbors, the Carey's, but that he did not believe they would have a problem.

Ms Murphy asked who the architect will be.

Mr. Diamond responded that Mark Shriver who works for the Callahan Company will be his architect. He explained that he did not have any plans as of yet because he didn't want to spend the money on something that may not go through. He also mentioned that when he was at the hearing on March 26th that the Board did not have any problems at that time.

Ms. Murphy and Mr. Decelle explained that they had misread the plans. They did not realize the addition was going up.

Mr. Stanton asked whether it would be a hardship to increase the setback to 12.2 feet, for instance, from the lot line.

Mr. Diamond said he would not have a problem with that. He would need to talk more with his architect.

Ms. Murphy and Mr. Decelle thought that it might be a good idea to have some letters from his neighbors explaining that they did not have any concerns with the addition. That having those letters would be good to have on file. It helps with the paper trail. If someone questioned this Variance then the board can explain that they have letters from the neighbors and that no one disputed the request.

Mr. Stanton explained that they need the elevations. The board needs the additional information to have a complete record.

Mr. Diamond explained that he had something with the elevations on it. He just did not have it with him tonight.

Ms. Murphy agreed that she would also like to see the elevations, particularly the front and side elevations to see how it would look from the public way..

Mr. Stanton would like to continue the hearing to a date where Mr. Diamond could provide the Board with the elevations and a letter from the neighbors.. He asked Mr. Diamond if the next regularly scheduled meeting of the Board on April 30th would be sufficient time. Mr. Diamond responded yes, that the board could put him on the agenda for April 30, 2014 at 7:15 p.m.

A motion was made by Mr. Stanton, seconded by Mr. Zuker, to continue the hearing to April 30, 2014 at 7:15 p.m.

The vote was **4-0-0 in favor**. (Stanton, Zuker, DeCelle, and Murphy voting) (Hiltz, Coffey and Foley were not present for the March 26th hearing)

8:00 p.m.- Lot 5A-Route 1 Realty Trust-Case #01-14 (cont'd without testimony from 03/26/14) (Stanton, DeCelle, Hiltz, Zuker, Coffey, Foley)

Ms. Murphy recused herself from the public hearing.

Mr. Stanton read the public hearing notice for **LOT 5A-ROUTE 1 REALTY TRUST, Case #01-14**, with respect to property located at 555 Boston-Providence Highway (Route 1), Walpole and shown on the Assessors Map 36 and Lot Nos. 20-2 and 20-3, Highway Business Zone.

The application is for:

A Special Permit under Section 5-B.1.4.n of the Zoning Bylaws to allow certain service establishments dealing directly with the consumer, as specified in Section 4.n within the existing building at 555 Boston-Providence Highway, which is currently under construction.

Dan Merriken from Merriken Engineering, the applicant's engineer, was present to discuss the request for a special permit. He explained that this Special Permit would be for Walpole Place located on the southbound side of Route 1 across from Walmart. Construction is expected to be completed in the next three weeks. The project has already received site plan approval. The reason for the request is that the property owner, Donnell Murphy, has a couple of tenants who would like to go into Walpole Place. A nail salon and a hair salon both need Special Permits. The application would cover a barber, nail salon, dry cleaner, dress making and a dance studio. Some of these businesses might not go in to Walpole Place but they would like to deal with this

now. We developed an extensive landscaping plan to mitigate concerns of the neighbors. No neighbors are here today so that should show you that they are satisfied. He informed the Board that he would like to receive approval tonight as the application was filed in January and the hearing has been continued a couple of times without testimony due to quorum issues. They have a tenant that would like to move in as soon as possible..

Mr. Hiltz stated that the tenant already has their sign up.

Mr. Merriken apologized and explained that if they were not granted this special permit then they would have them take their sign down.

Mr. Stanton asked how many store fronts will Walpole Place have.

Mr. Murphy explained that it is designed for 10 stores but there will most likely be seven. The stores that they are proposing are compatible with commercial uses currently already on Route 1.

Mr. Stanton read the comment letters from boards and departments into the record. He noted that the Police Department requested that the noise be monitored. And that the Board of Health had concerns with the venting and wanted to make sure all vents were pointed towards Route 1 and not towards the neighbors.

Mr. Merriken explained that he had already addressed that concern and that the vents would be pointed towards Route 1.

Mr. Hiltz mentioned that since they were possibly discussing potential businesses that he wanted to make sure that there were no 24-hour places going in there. He also expressed that he would like to make it a condition.

Mr. Merriken said that under the Special Permit the hours would be from 7:00 a.m. to midnight. He said that he had no problem if the decision included a condition that they will not put in a 24-hour store. The Board of Health's concern about venting and the hours will also be added as conditions.

A motion made by Mr. Stanton, seconded by Mr. Zuker, to close the public hearing.

The vote was **5-0-0 in favor**. (Stanton, Zuker, DeCelle, Hiltz, and Coffey voting)

A motion was made by Mr. Stanton, seconded by Mr. Zuker, on behalf of the applicant to grant a **Special Permit** pursuant to Use Table 5-B.1, Section 4.n of the Zoning By-Laws to allow certain service establishments dealing directly with the consumer as specified in the following conditions, within the existing building at 555 Boston-Providence Highway.

The vote was **5-0-0 in favor** (Stanton, Zuker, DeCelle, Hiltz and Coffey voting); therefore the application for a **Special Permit** is hereby **granted, subject to the following conditions:**

CONDITIONS:

1. The site in question is depicted on a plan entitled “Walpole Place, #555 Boston-Providence Highway, Site Plan” prepared by Merrikin Engineering, LLP, with a latest revision of March 22, 2013.
2. Any combination of the following uses are permitted within the subject building:
 - a. Barber or beauty shop (including nail and other similar beauty salons);
 - b. Business or trade school;
 - c. Clothing rental establishment;
 - d. Coin operated or other self-service dry cleaning establishment;
 - e. Collection station for laundry or dry cleaning;
 - f. Dancing or music school;
 - g. Dressmaking or millinery shop;
 - h. Hand or self-service laundry;
 - i. Household applicant repair shop;
 - j. Interior decorating studio;
 - k. Photographic studio.
3. Any exhaust systems for barber or beauty shops (including nail and other similar beauty salons) shall be directed towards Route 1.
4. All uses listed in condition 2. above and subject to this special permit shall have operating hours sometime between 7:00 am and midnight.

REASONS FOR DECISION

The Board finds that the proposed site is zoned for and intended for the commercial and business uses which are the subject of this application due to its location on Route 1, where such uses are common. The Board further finds that the site is suitable for such uses and that the applicant has gone to significant lengths to install planted buffers and fencing between the site and the nearby residential properties.

FURTHER FINDINGS

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaws, which requires that:

(2) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:

(i) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;

The section of the bylaw which refers to the granting of the requested special permit is section 4.n of the Use Table 5-B.1. This section has no specific criteria or standards associated with the required special permit being requested. The Board therefore finds that this criterion is not applicable.

- (j) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;***

The Board finds that the site is previously approved by the Planning Board under Site Plan Approval and contains adequate driveways, parking areas, and pedestrian access suitable for the proposed use as a multi-tenant commercial building. The site has direct vehicular access to Route 1 and has no direct access to the surrounding residential neighborhoods. As such, the Board finds that this criterion is met.

- (k) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;***

The site is intended and approved for multi-tenant commercial use, which is a common use along Route 1. The Board finds that the approved commercial tenant uses will be typical for such zoned commercial activity and will not generate a number of residents, employees, customers, or visitors as to adversely affect the immediate neighborhood. As such, the Board finds that this criterion is met.

- (l) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

The Board finds that the site plan has been previously approved by the Planning Board under Site Plan Approval and that it complies with the various dimensional criteria of the Zoning Bylaw as enumerated on sheet 3 of the site plan, including lot coverage. The Board further finds that the Planning Board has approved a specific buffering plan pursuant to Section 5-G, which includes new plantings and stockade fencing. As such, the Board finds that this criterion is met.

- (m) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that the uses proposed in this request are typical commercial uses which are not known to be dangerous due to fire, explosion, emission of wastes, or other causes. As such, the Board finds that this criterion is met.

- (n) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds that the uses proposed in this request are typical commercial uses found along Route 1 which are not known to be associated with noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard which would adversely affect the immediate neighborhood. The applicant has agreed to an extensive buffering plan to the nearby residential properties and all light fixtures are full-cutoff, pointing downward, with appropriate shielding. As such, the Board finds that this criterion is met.

- (o) Shall not adversely effect the character of the immediate neighborhood; and***

The proposed uses will occur within a commercial multi-tenant building presently being constructed in accordance with a Site Plan Approval issued by the Walpole Planning Board and lies in an area of Route 1 which is properly zoned for such areas. As such, the Board finds that this criterion is met.

(p) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that the proposed activities are commercial in nature and suited to a multi-tenant building such as is being constructed at 555 Route 1. The zoning Bylaw intended for such activities to occur within the Highway Business zoning district. As such, the Board finds that this criterion is met.

Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

8:30 p.m.-Discussion on policies and procedures with Michael Boynton, Town Administrator

Town Administrator Michael Boynton, met with the Board to discuss policies and procedures.

There being no further business, a motion was made by Mr. Stanton, seconded by Mr. Zuker, to adjourn the meeting at 9:45 p.m.

The vote was **5-0-0 in favor**. (Stanton, Zuker, DeCelle, Hiltz and Murphy voting)

Craig W. Hiltz
Clerk

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Minutes were approved on June 25, 2014.