

WALPOLE PLANNING BOARD MINUTES OF APRIL 18, 2013

A regular meeting of the Walpole Planning Board was held at 7:00 p.m. on Thursday, April 18, 2013 in the Main Meeting Room at Town Hall. The following members were present: Edward Forsberg, Chairman (7:13 p.m.); Richard Nottebart, Vice Chairman; John Murtagh, Clerk; John Conroy, Richard Mazzocca, and Margaret Walker, Town Engineer.

Mr. Nottebart opened the meeting at 7:06 p.m.

Time Cards: Mr. Nottebart moved to endorse the secretary's time cards. Motion seconded by Mr. Mazzocca and voted 4-0-0.

Rob Hennessey, 176 East Street Discussion: Mr. Hennessey discussed the possibility of buying a small piece of land from the Washington Green Association in order to give him the proper square footage at 176 East Street to allow him to build a two family house. He presently lives on Cypress Street and would like to move to this location to live in one part of the two family house and his daughter would live in the other. His lawyer has been talking to Washington Green's attorney and he wants to know if a variance would work. Mr. Mazzocca stated he thinks this is a legal issue and feels Mr. Hennessey should be seeking answers from his own attorney, not the town's attorney.

Minutes: Mr. Forsberg moved to accept the minutes of April 4, 2013. Motion seconded by Mr. Nottebart and voted 4-0-1 (Mr. Conroy abstained).

Request for Comments: It was agreed to write a letter to the Zoning Board re: 7 Woodland Road stating 1) a variance cannot be granted on a lot that doesn't exist and 2) a variance cannot increase a nonconformity.

Also, Hill Realty Trust on Pilgrim Way stating that 1) Lot C is not guaranteed due to wetlands which will reduce the number of lots to three; 2) Presently, there is only a single lot right now and the applicant is seeking a variance to create another lot. They haven't created a new lot so this can't be done; and 3) the applicant cannot ask for a variance on a lot that doesn't exist.

7:36 p.m. Borrego Solar Site Plan Approval, 33 Industrial Road, Case No. 13-2:

Mr. Forsberg read the public hearing notice. The applicant was represented by Dan Merrikin, Merrikin Engineering and David Albrecht, who prepared the plans. The site at the end of Industrial Road is a little under 20 acres with stock piles of dirt, but will be comprised entirely of solar panel arrays. This is a completely passive proposal and no one will work at the site. They are still working with the Conservation Commission. David Albrecht stated that most of the site drains to the wetlands, but a little sedimentation drains to a retention basin. There will be solar panels mounted on racks facing south and the access will be gravel. The site will also have two transformers. All of the electrical conduits will end up at a pole, two of which will have to be installed on Industrial Road. The only impervious surfaces will be the pads.

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They will also provide a 10' landscaped strip. There will be a fence around the site with barbed wire at the top. They meet the required setbacks all the way around. There is very little work proposed in the buffer zone. All trees that are 5' high or less will be kept in place. There will be four ground screws that hold up the racks and they are included in the impervious coverage calculations. There is also a little vegetation in the area. They will provide erosion control around the entire site and additional controls along the edge of the wetlands. They anticipate that this work and the grading and the installation of the racks will take four to five months and look forward to starting this summer. Mr. Merrikin stated there is a frame assembly on the arrays that are about 3'x5 1/2'. They will grass the entire site except for the pad areas. The panels will be 3' off the ground on the bottom and 9' at the top. They are in Overlay Districts 3 and 4; however, no chemicals will be on site. If the panels need to be cleaned, it will be done with water. It will be a passive green use. This site is in the new Solar Overlay District and the lot does comply with what is required in the Industrial zone. Mr. Albrecht stated they have a utility agreement and a lease with Tony Lorusso. They will discuss an emergency plan with both the fire and police departments and will provide an emergency management plan before requesting an occupancy permit. All the materials used to install the panels will be 100% recyclable. They will meet with Michael Laracy, Deputy Fire Chief, on Monday morning.

Mr. Mazzocca asked the life span of the panels and Mr. Albrecht stated the life span of the panels is 30-35 years, but in 20 years there will be more efficient ones available. Mr. Merrikin stated their lease is for 20 years and it could be renewed or de-commissioned or Mr. Lorusso could buy it from them and operate it himself. Mr. Forsberg asked if the town will be noticed of that agreement and Mr. Merrikin stated if it is to be de-commissioned they notice the town and they will have 150 days to physically remove everything or they could abandon the site for a year and it will then be de-commissioned.

Mr. Forsberg read comments from the Police Department, Board of Health, Zoning Board, Sewer and Water, Fire Department and Town Engineer. Regarding the comment from the Sewer and Water Commission, grass will make the run-off go way down even though right now the area is poorly vegetated. Mr. Merrikin stated he will meet with the Deputy Fire Chief on Monday and will report back to the Planning Board.

Ms. Walker asked if they are moving material around or bringing material to the site. Mr. Albrecht stated possibly just loam, but most of it will be removed by the owner. They need about 8,000 yards for grading. Mr. Merrikin stated that the big pile in the middle will go first. Ms. Walker asked how many days of trucking and Mr. Albrecht stated about a month and a half. It depends on where they are going, but it will be about 45 days. Mr. Forsberg asked if that will be coordinated with Ms. Walker and she stated they will go by their own schedule. Mr. Albrecht stated there will be 40-50 trucks per day and they will work with the town regarding the haul route. Ms. Walker stated it will probably be Common Street to the highway. She questioned the existing pipe and catch basin and Mr. Albrecht showed the board what they will be removing and stated that post

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construction they will clean out what is there. Mr. Merrikin asked if she wants the pipe and catch basin removed and Ms. Walker stated it makes no sense to disturb the site. Mr. Merrikin stated they can leave it alone and Ms. Walker stated she would prefer that. If you can't see it there should be no problem. Mr. Albrecht stated they only wanted to remove it so they don't hit it. Mr. Merrikin agreed to block the pipe up at the manhole. Ms. Walker asked about the poles belonging to Nstar and Mr. Albrecht stated they do. Ms. Walker stated a portion of the driveway apron needs to be paved and Mr. Merrikin agreed to do that. Regarding offsite work, Mr. Forsberg asked if the poles Nstar will be putting in will need larger wire and Mr. Albrecht stated no. There is no other off site mitigation required. Mr. Forsberg asked if the grass will need to be cut or maintained and Mr. Albrecht said yes, maybe once or twice a year, but they will hire someone under their O&M umbrella. Mr. Merrikin stated that the O&M agreement is in the package that Mr. Albrecht gave the board tonight.

Mr. Murtagh stated he is a big fan of solar as it is clean, silent with no hazardous materials. He likes the landscape and feels it will enhance the entrance coming in. He would like them to finish it off with granite curb. He was concerned with the grass maintenance and asked what they think about surveillance cameras. Mr. Nottebart stated this is a good plan and feels we need to see the agreements. He asked if anyone will review them and Ms. Walker stated she will review what she can even though it is not designated who is suppose to do so. Mr. Nottebart stated this slopes back toward the southwest and Mr. Merrikin stated that is correct and there is also a little piece that will go toward the north. They don't want to run into shade problems. Mr. Albrecht stated they like smooth gentle slopes and would like this site to be a brochure item. Mr. Conroy stated the plan shows the owner as Novis. Mr. Albrecht stated when they first got involved in this project is was S.M. Lorusso and that can't be changed as it is connected to autoCAD that way. Mr. Conroy stated that someone will look at this and think it is Tony Lorusso. He believes that can be changed. Mr. Lorusso stated the land was owned by S.M. Lorusso. They transferred the land to Novis, which is a wholly owned subsidiary of S.M. Lorusso. It is owned by Novis, not S.M. Lorusso. The name Novis came from combining the initials of his grandchildren. Mr. Conroy stated we require a 40' scale on our plans and this one is at 60'. He feels if they are going to leave it this way, the applicant should ask for a waiver. Mr. Merrikin stated it was done this way because they didn't want to segment it into quads. He feels it is cleaner the way it is, but will ask for a waiver. Mr. Conroy stated the plans need to be stamped by a registered land surveyor and Mr. Merrikin disagreed because there are no structures. Mr. Conroy asked him to provide that. Mr. Conroy stated solar panels are not pervious, they are impervious. He feels town counsel should give us an opinion on this. Mr. Merrikin stated the trigger is 15%. From an engineering standpoint, they are not impervious as they are hanging up in the air. Mr. Murtagh stated we had this discussion before and he disagrees with Mr. Conroy. Mr. Conroy stated someone with a stamp needs to provide the answer to that. Mr. Merrikin stated they have received an opinion from Jack Mee. Mr. Conroy stated that letter should have been included in the packet. Mr. Forsberg read that memo from Jack Mee dated January 31, 2013 into the record. He apologized for not

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including that memo in the board's packets. With regard to trucking the dirt, Mr. Conroy asked where it is going. Mr. Lorusso stated not to West Street. Mr. Conroy asked if it would be out of Walpole and Mr. Lorusso stated he doesn't know at this time, but they have been hauling in and out of this site for over 50 years. When they did Walmart, it was over 150 loads per day and when they did St. Francis Cemetery, it was over 100 loads per day. He doesn't know where it will be going right now. Mr. Conroy stated we need something saying where it will be going. Mr. Merrikin asked a condition could be they will provide that before any work is done and Mr. Lorusso stated he is hauling out of there right now and hasn't been telling anyone, he just does it. He doesn't think he can do what Mr. Conroy is asking. Mr. Conroy stated he doesn't care where it goes; he just wants them to agree that the 50,000 yards will be legally disposed of. Mr. Forsberg stated he wants to know the truck route and Mr. Albrecht stated he will provide that. Mr. Murtagh stated these are public roads and is not sure if we can enforce this. Mr. Nottebart asked how many trips a day and for how long. Mr. Lorusso stated 100-150 per day or 300 daily trips in and out, which isn't a problem for Route 1A. Mr. Merrikin stated they do need to find a home for this even though it will probably go in pieces. Mr. Conroy questioned one line in there and Mr. Merrikin stated yes and it will go to the fire department. Mr. Conroy asked if they have a calculation for a bond and Mr. Albrecht stated he will give one to the board secretary. Mr. Conroy stated there is no trigger as to when you give that surety, but it should be prior to the issuance of a building permit. Mr. Murtagh questioned the fencing around the exterior and would like it to be black. Mr. Merrikin stated it is galvanized. Mr. Albrecht stated it will also have three strands of barbed wire on the top. Mr. Nottebart asked if they will have cameras for security and Mr. Merrikin stated no, just the fencing with barbed wire. Mr. Conroy asked if these are the same panels someone would use on their house and Mr. Albrecht stated yes, but probably with a different frame. Mr. Nottebart asked where they are manufactured and Mr. Albrecht replied Taiwan.

John Hasenjaeger, Pinnacle Drive asked if there will be any jobs created and Mr. Albrecht stated only construction jobs. They will employ 40-50 construction workers. Mr. Nottebart stated that Stephanie Mercandetti has been working to make this area better and suggested they touch base with her as a courtesy.

Mr. Merrikin stated that the revisions are all done and will be meeting with the fire department on Monday. Mr. Albrecht stated they have incorporated Ms. Walker's comments onto the plans already. Mr. Merrikin stated they are meeting again with the ConCom on April 24th. Mr. Forsberg asked Ms. Walker if she will go to town counsel if she finds any issues and Ms. Walker's stated no, but she will report them to the Planning Board as everything has to be done within the confines of a public hearing. Ms. Walker stated she will get any questions or issues to Kate to send to town counsel or she can wait until the next meeting and then send information to town counsel. Mr. Murtagh asked what she anticipates going to counsel and Ms. Walker stated she is not sure as this is a new bylaw. Mr. Mazzocca stated they should just set another hearing date. Mr. Forsberg agreed as he doesn't want to back Ms. Walker into a corner.

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Mr. Forsberg continued this hearing to May 2, 2013 at 7:15 p.m.

8:55 p.m. Kevin Randall, 54 High Street discussion: Mr. Forsberg read an email stating Mr. Randall is not going forward at this time with 54 High Street.

9:00 p.m. Dedham Auto Mall, Route 1, Case No. 13-3: Mr. Forsberg read the public hearing notice. The applicant was represented by Dan Merrikin, Merrikin Engineering. The applicant, Tom Jamali, was also present and he stated he leases the property in question from the Lestan's. Mr. Merrikin stated this is an after the fact situation. Mr. Jamali leased the property a year ago, which is located at 623 Providence Highway, two up from S&E Auto and two down from the gas station on Route 27. Mr. Jamali has cleaned up the area. Mr. Mee had asked Mr. Jamali to file for site plan review so everything you see on the plan is already here. There are no proposed changes to the building or utilities. They are looking for site plan approval stating that the paved areas are okay. The site is about two acres of land and the back half is all green space. There is a 40' buffer with no work proposed, which is presently all vegetated. The site is being used for used auto sales and has been in existence forever under a number of different entities. The septic system is in the back and that will not change. The primary purpose of the plan is for storage areas and parking spaces; i.e., 6 to 14 are needed, one of which is a handicap space. All the other spaces are vehicles for sale. He didn't see the site before it was paved. Mr. Jamali was trying to clean up the mess and make the property look nice. All setbacks are met. This property has had vehicles parked for sale in the front 50' and Mr. Jamali was not aware of this being a violation until now. Mr. Merrikin thinks the Planning Board should change the Zoning Bylaw regarding this and he stated he would draft an article for Fall town meeting if the board wants. Mr. Nottebart asked what he would propose and Mr. Merrikin stated 15' for landscaping. Mr. Nottebart asked why they call themselves Dedham Auto and Mr. Jamali stated they have service centers in Norwood and Dedham across from Legacy Place. Mr. Mazzocca asked if this is high end like Dedham and Mr. Jamali stated he is trying not to be. He spends a lot of time in Walpole. Mr. Merrikin stated he just got Ms. Walker's comments and needs to work on them.

Mr. Forsberg read a letter dated April 13 from Jack Mee. Mr. Merrikin stated he would like something in the board's decision in case the bylaw does get changed. Mr. Jamali also wants to go back before the Selectmen to change his Class 2 license to allow for more cars.

Mr. Forsberg read correspondence from the Police Department, Fire Department and Sewer and Water. Mr. Merrikin stated they will be meeting with the Deputy Fire Chief on Monday. There is no gate proposed at this time on the property and there is a discrepancy with the number of storage spaces on this site. They will show more than sixty because he will use this plan to go to other boards. You are approving a site that can't be used until the Zoning Board and Selectmen issue permits. Ms. Walker suggested a right turn only sign. Mr. Merrikin stated he doesn't want to go to DOT for

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this, but can put it on their own property if she would like. Mr. Forsberg stated he went by this site today and the property does look better than it did. There is only about 25' from the pavement on Route 1 to the pavement in the parking lot. It doesn't matter what the board thinks right now as it is in their permit right now and they have to abide by that until it is changed and/or the bylaw changes. Also, there is a 40' buffer which has been a dumping spot for the past few years and there should be more vegetation than what is presently there. Mr. Mazzocca stated everyone wants business and right now there is a hurdle put up by the zoning bylaw and the Board of Selectmen. Mr. Jamali stated there is so much space and because 60 cars don't take up much space, it looks empty. Mr. Mazzocca feels we should allow more than 60 cars and that we should also change the bylaw regarding the 50' buffer along Route 1. Mr. Conroy stated we can only deal with what is approved and what is allowed by the zoning bylaw. We can't have "future" on our plans. If you are approved for 60 cars, then that is what you need to show. Mr. Merrikin stated the Selectmen would like to see a site plan showing the number of cars the applicant wants and the Selectmen are the last stop in the process. The Planning Board can approve whatever they want, but it would be up to the Zoning Board and Selectmen to grant a number. Mr. Conroy doesn't feel this is parking, it is outside storage. Mr. Merrikin agrees with him. They can designate the outside storage and the number of cars and the other agencies can allow more cars. Mr. Forsberg stated the number of cars doesn't matter to the Planning Board and Mr. Conroy agreed and stated it is outside storage. It is a site plan. They will need gas traps. He asked Mr. Merrikin if they have them and he stated no as this has been in existence for thirty years. Mr. Conroy stated that bylaw was put in because we were having problems twenty years ago. We were a dumping ground for the auto auction and those cars were leaking as they were not like new cars. He stated they need to show lighting on the site plan. Also, S&E Auto was before the HB change. Mr. Merrikin stated it was LM prior to HB and that called for 50' also. Mr. Forsberg suggested they talk to Jack Mee as the Planning Board doesn't know what would be considered a violation and he only acts when there has been a complaint, so there must have been one.

Mr. Nottebart agrees with Mr. Mazzocca. He asked how long Mr. Merrikin has represented this site and Mr. Merrikin stated this is the first time. Mr. Nottebart stated if the Selectmen or Building Inspector asks for something, they need to do it. He would like him to be actionable on what people ask him for. Mr. Murtagh agrees with Mr. Nottebart. He feels the bylaw is to blame and that is a problem. The sooner it is fixed, the better. Mr. Conroy reminded the board we have to go by the bylaw for now so they have to show the 50' setback on the plan. If there was not a 50' requirement, the property would be worth more. Mr. Nottebart agreed and stated it is what it is and they have to comply. Mr. Forsberg stated there is a \$300/day fine for a violation.

David Alson, 11 Wompatuck Road, stated he would like this to be successful, but he has concerns with the site. He lives directly behind it. The prior owner did take down trees and that changed the view from his deck. When he got this notice, he learned about the buffer zone requirements. He understands why Mr. Jamali did what he did, but

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something happened to the property that abuts him. He submitted pictures and asked that something be done to the 40' buffer in the back of the property. Mr. Merrikin stated the central area doesn't have trees in it. Mr. Alson stated he would like to work out his concerns. He likes what is at the Dedham location and wants the same in Walpole. Mr. Merrikin stated they will work on that. Mr. Alson stated it is more than just cleaning up. He would like mature spruces trees planted. Mr. Merrikin agreed to work with him and the Lestan's. Mr. Alson stated the trees were removed about two years ago. Mr. Jamali stated he has only been there for one year. Mr. Conroy stated this is Mr. Lestan's problem as owner of the property.

Mr. Merrikin gave the board an extension of time up to and including July 30, 2013 to take action on this application. Mr. Forsberg moved to accept an extension of time up to and including July 30, 2013. Motion seconded by Mr. Conroy and voted 5-0-0. Mr. Forsberg continued this hearing to June 13, 2013 at 7:30 p.m.

Walpole Place Endorsement: Mr. Conroy moved to endorse the site plan for Walpole Place. Motion seconded by Mr. Mazzocca and voted 4-0-0.

Summer Schedule: The board agreed to the following summer schedule: June 13, 2013; July 11, 2013; and August 15, 2013. It was moved, seconded and voted to adjourn. The meeting adjourned at 10:15 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 5/2/13