

The February 5, 2015 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of the Town Hall.

Chairman Matthew Zuker called the meeting to order at 6:32 p.m. with the following members present:

Matthew Zuker, Chairman
James DeCelle, Vice Chairman
Craig W. Hiltz, Clerk
Mary Jane Coffey, Member (not present)
Susanne Murphy, Member (not present)
Timothy Foley, Associate Member

Also Present:
Ilana Quirk, Town Counsel
Margaret Walker, Town Engineer
Liz Dennehy, Director of Community & Economic Development

Mr. Zuker declared the Board will be going into Executive Session to discuss litigation strategy known as 5th Fairway Development, LLC v. Walpole Zoning Board of Appeals, Housing Appeals Committee No. 2009-09, involving a proposed 40B Comprehensive Permit for land on Baker Street and to discuss litigation strategy regarding litigation known as Barberry Homes LLC v. Walpole Zoning Board of Appeals, Housing Appeals Committee No. 2014-01; and Town of Walpole, et al. v Barberry Homes, LLC, Land Court 2014 MISC 481399-AHS and Robertson v. Barberry Homes, LLC, Norfolk Superior Court NOCV2014-000129 involving a proposed 40B Comprehensive Permit for land on Moose Hill Road. A discussion of the foregoing in open session could compromise the purpose for the executive session. He further stated the board will return to open session at the conclusion of the executive session.

A motion was made by Mr. DeCelle, seconded by Mr. Foley, to go into executive session, under G.L. c.30A, §21 (a)(3), for the purposes and reasons declared by Chairman and with the Zoning Board of Appeals to return to open session thereafter.

The vote was **5-0-0 in favor. (Mr. Zuker – Yes; Mr. DeCelle – Yes; Mr. Hiltz – Yes; Mr. Foley – Yes)**

The Board returned to open session at 7:03 p.m.

7:00 p.m. – Barberry Homes, LLC – Case #21-13

Matthew Zuker read the Public Hearing notice for **BARBERRY HOMES, LLC, Case #21-13**, with respect to property located at 272 Moose Hill Road, East Walpole, MA, which consist of approximately 14.33 acres, as shown on Assessors Map 36 as Lot Nos. 66, 66-1, 62 and is located in the Residence A Zone, to obtain a comprehensive permit under G.L. c.40B in order to allow construction of a rental project with 157 units, 25% of which shall be affordable units.

The application and revised plans are on file with the office of the Board of Appeals at the Walpole Town Hall.

Mr. Zuker thanked everyone for coming to the meeting and stated that he was glad to be moving forward to the next stage. The case before the Board is based on revised plans. There are 17 less units. The town houses that were on the previous plans are now removed. There is a settlement agreement in place and a draft comprehensive permit. The Board voted on this. The Board believes it is in the best interest of the Town. No one's minds are made up. We are still hearing more information. Mr. Zuker requested that if anyone in the audience had any questions to please direct the questions to the Board.

Town Counsel Quirk stated that both sides have agreed to place all of the litigation on hold and extend the deadlines to April 30, 2015 to allow the new plan to be presented. This will be an opportunity for the public to comment on the new plans. A copy of the draft permit will be available.

Mr. Zuker said that the applicant will give a presentation on the new revised plans.

Adam Costa, Attorney for the applicant said, thank you for giving me the opportunity to present this project that has been in the works for some time. Mr. Rob Truax of GLM Engineering is here as well. We have a variety of other consultants who have been hearing this project. We did not invite everyone who is working on the project to be here tonight because we just want to focus on the site design tonight. This project was first proposed in December 2013. The original proposal from 2013 was 174 rental units, 64 one bedroom apartments, 110 two bedroom apartments, three multifamily buildings and a mail kiosk. We have submitted revised plans to the Board. We are now proposing 154 rental units. We are down 34 bedrooms from the original proposal. We want 25% of these units to be low or moderate income. We are proposing three residential buildings; the town houses are now gone and parking spaces to be provided. We are quite close to but not yet in compliance with the bylaw regarding parking. We will request a waiver for that. Mr. Costa stated that the deal is not done. They understand that the settlement agreement is a way for the town and the applicant to work together. The Board is under no obligation to approve that comprehensive permit. We had many discussions about height requirements, discussed water and sewer and talked about system development changes. We have requested a variety of waivers, some are just procedural, and others are more substantive. With that very general overview I am not going to turn the microphone over to Robert Truax.

Robert Truax of GLM Engineering Consultants, INC. stated that he is going to discuss what changes have happened since the applicant has come before the Board a year ago. The townhouses have been removed. What we have now is three residential buildings on site. They are set quite far back from the street with two lanes coming in. The road goes around the entire site. In addition to that there is a gated secondary emergency access which is to be only for emergency vehicles. I will speak to that later. There is a good amount of planting. We are going to buffer on the North side. There is an existing row of 35 foot evergreens. Along this boundary there will be a 5 foot retaining wall. Any headlights coming in will hit the wall which will help deflect the lights from the neighboring houses. The swimming pool has been moved back and

we are trying to work something out for a recreation area in this front area. It could be a grassy area or a playground.

Mr. Truax noted that the site slopes from Moose Hill Road to the rear of the property. There is a large wetland area; we will not increase the flow going to the wetlands. As far as the water system goes the applicant will run a water line from Route 1 to Johnson Road. All of the sewer will be pumped up to Route 1. The system will be pumped into the existing sewer system. As for gas, electric and utilities, that will be a discussion for later. There will be new pavement from Johnson Drive to Route 1. Regarding the emergency road access, the applicant received a letter from the Fire Chief that states that the emergency access road is not needed. The applicant was going to take it off the plan but decided to defer to the Board regarding that. There will be no 3 bedroom units, all of the units will be 1 or 2 bedrooms.

Attorney Costa mentioned that there is a new policy in effect that states that all new 40B require at least 10% to be 3 bedrooms. This will most likely be the last project you will see that will be all 1 or 2 bedrooms. He also noted that he had spoken with Town Counsel earlier and that she is aware that there has been a revised set of plans submitted. The only changes that were made were to the drainage, extra catch basins were added. The applicant has many consultants but they are not all here tonight. They stated that they would be happy to bring them to a later meeting.

Mr. Zuker noted that Mr. John C. Chessia of Chessia Consulting Services LLC was at the meeting tonight. He felt that it would be helpful for him to speak on the revisions.

Mr. Chessia of stated that he did not have time to look over the new plans that came in on Tuesday. Therefore his comments will be referencing the plans submitted previously. Mr. Chessia has mentioned that he has met with the engineer a couple of times to go over the plans. One of the issues he noticed was in the run off/ponding area, the grading is a problem, and it does not have a berm. In this section it would slope off. The soils are good. However the testing was done in the fall. In the fall we tend to have a dry period and the water level tends to be lower. If you do the testing in March or April the information will be more accurate. There is a formula in the DEP bylaw that states how to get the correct number if you do not test in March or April. If the water table is higher than the bottom of your system needs to be above it.

Mr. Chessia then touched on the parking situations. He said if you have a lot of cars then there is more potential that something could leak out of them. The applicant would need some sort of system to prevent the gases from the cars from going into the Storm water. The recommendation he had was to have them design a system and have a condition that you have a final plan regarding the roofs, gutters and piping and where all of that water from a rain storm would go. The other issue is the catch basins. Each catch basin can only capture a certain amount of water. We need more details on these. The applicant has a good amount of area; Mr. Chessia would suggest that they find a different area to put the snow, not on the wetlands. There are good soils. Potentially add another underground system. Mr. Chessia stated if the Board accepts the plan then there should be a condition that there is a storm water prevention plan. There are still some things the Board will need more information on. Mr. Chessia stated that the applicant has come a long way from their previous plans. A few tweaks still need to be made.

Mr. Zuker wanted to know what Mr. Chessia felt in regards to the site distance and the traffic issues.

Mr. Chessia stated that the town has hired someone to review the traffic consultant's information. He has received a copy of the consultants review. He believes they should show a site distance. Based on the documentation he saw from the Town's consultant and the Applicant's consultant, they meet the requirements. It should be on the plan however. He mentioned that he is not rendering an opinion he is just stating what he feels from looking at the reports.

Mr. Zuker asked when the applicant tested the basins.

Mr. Chessia stated that it was October-November. The highest water typically would be March or April. Due to the fact that it is very sandy the hillsides are tougher. With good soils it is pretty close.

Attorney Costa said that what were submitted are concept plans. These are not construction level plans. Some of what the Town's consultant touched on is in the new plans. The applicant will be responsible for the peer review fees that are part of the permit.

Mr. Truax added that the snow removal has been addressed in the new plans. He also noted that this project will have to go through the Conservation Committee as well.

Mr. Zuker mentioned that the Town Engineer, Maggie Walker is here with us tonight. He asked Ms. Walker if there was anything she would like to add or address.

Ms. Walker stated that there was no need to go over her comments as most of them have been addressed. There are a couple of minor things she would like to ask. Ms. Walker was concerned with the construction level details and paving details.

Mr. Zuker noted that a lot of Ms. Walker's comments are technical.

Ms. Walker said that yes, most of her items are technical. She noted that she needs to go through the plans with a fine tooth comb.

Mr. Zuker wanted to know if the Board would receive another letter regarding the new plans from Ms. Walker.

Ms. Walker said yes.

Mr. Zuker invited the public to speak and ask questions.

Patricia Curran of 261 Moose Hill Road asked if there was anything sort of truck plan. Will the trucks be coming down Johnson Drive, Moose Hill Road? Are 10 wheelers going to come at us all day? It's a small street with young children.

Mr. Zuker stated that there is a storm water plan that will outline some of these things. There are state guidelines that the applicant will have to follow. Mr. Zuker wanted to give the applicant a chance to address this concern.

Attorney Costa said that the applicant does not object to a trucking or construction plan. He did not believe that there is one in the comprehensive permit. We can propose a condition that addresses what concerns the neighbors might have.

Mr. Scott Curran of 261 Moose Hill Road asked if they had any details regarding cleanup. The applicant mentioned they would be piping up Johnson Drive. Would you be piping in both directions?

Mr. Zuker stated if construction moved forward, in this case because it is a small road with a lot of neighbors, maybe we could get some key components from the neighbors and address that then. In terms of piping, there is no work being done on Johnson Road. It is piping Moose Hill TO Johnson Drive.

Mr. Scott Curran wanted to know the schedule because there are some special needs students on the street as well. He wanted to know if there would be a police detail.

Ms. Walker mentioned that the Town requires the applicant to hire the police detail.

Mr. Zuker mentioned that the Board could send a note along to the Police to ask about the detail.

Mr. Curran mentioned that he has a draft of the latest drawing. His concern is that he does not want to see a great big pile of snow. When will the applicant designate the snow removal?

Mr. Zuker asked Mr. Traux to please show where the snow will be located.

Mr. Truax stated that the applicant will go towards the parking areas. In this type of winter we would have to remove some of it. Typically it will just get pushed to Moose Hill. We have some area where we can put snow storage. It's for the excess snow; otherwise they are just going to push it off to the side.

Mr. Zuker stated that the applicant would just have mounds of snow. Having a plan in place would be good.

Mr. Truax stated that ideally they would put it on the lawn area.

Ms. Quirk mentioned that in the draft permit that has been discussed, snow will be piled in the correct places. The Fire Chief can indicate when the snow should be transported.

Ms. Angela Moore of 237 Moose Hill Road mentioned that on earlier plans there was a mailbox facility that was close to the entrance. At a prior meeting, she mentioned that this could cause a

backup. The neighbors on Moose Hill have a hard time pulling out of our driveways now. Are you thinking of having speed bumps, considering the high density.

Mr. Zuker said that there are speed bumps inside the development. At the front it is just a landing and there is a stop sign coming out of the development.

Mr. Truax mentioned that the mailboxes will be put in the clubhouse. There will be a mail center. It will not be in the entrance way.

Ms. Moore wanted to know in terms of feet how far back is that building.

Mr. Truax stated that the closest building is 500 feet from the street

Mr. Zuker noted that the mailboxes will be dedicated in the clubhouse. What about waste and garbage.

Mr. Truax explained that it was moved as well. The recycle center is as far back as we could get it. It looks like a garage with windows. The residents would put their recycles and garbage in the designated areas. You will not see a dumpster on the site. The Avalon in Sharon has the same setup. Trucks would come once a week.

Mr. Foley wanted to know if they could condition the time for pickup.

Ms. Quirk stated that yes; there would be a conditioned time.

Ms. Kathy Hinds of 262 Moose Hill Road explained that they have never had pooling where the applicant is saying there is pooling. The dirt is a foot deep, this area dries out.

Mr. Zuker wanted to know since Ms. Hinds' property abuts what would be the emergency access road what are her thoughts regarding the fire chief's comment stating the road would not be necessary.

Ms. Hinds explained that she does not mind it being a gated exit only for emergency purposes. When she looks at this design, she feels that all of the buildings are close together. If one of the buildings catches fire then they all might go up in flames. Given the safety of the neighborhood and the residents of that development she would think it would be prudent to have that emergency road access.

Mr. Zuker explained that the design will need to be carefully looked at.

Ms. Hinds mentioned she would mourn the loss of the greenery but it is what it is.

Mr. Curran asked what the height of the garage would be.

Mr. Zuker explained that this was very important to the Board. There would be no living space above that 4th floor. Due to the grade of the building in the back, it would be taller but it would not look it.

Mr. Truax (showing the rendering from the architect) the buildings are all 50 foot 3 inches. The only one that is different is this rear building. It is dropped down so there are 5 live in levels. We have units in the basement that is on the side that faces the woods. The garage is one bay, single story. There will be a foundation wall in back.

Mr. Curran noted that the rec area is close to the neighbor to the south of your property and has a pool in their backyard.

Mr. Truax showed the aerial, here is the rec area, here is the wall and here is your neighbor's pool. There is also a hill that slopes down.

Ms. Hinds said, going back to the elevation you have just shown. The units that are in the basement are half above the ground and half below. I am concerned that you will have a water problem in there.

Mr. Zuker asked what the foundation is made up of.

Mr. Truax said all slabs. We will have full foundations.

Ms. Moore said that she did not understand the umbrella permit.

Ms. Quirk stated that with a comprehensive permit it requires the Board to sit and give the permit for all permits (i.e. water & Sewer) however under the 40B the applicant is asking for the ZBA to give all permits. The Board will ask the Sewer and Water to be at our next meeting to hear everything.

Mr. Zuker explained that we are waiting to have a report from Weston and Sampson and then we will invite the Sewer & Water Commission to our next hearing.

Ms. Helena Knight of 14 Orchard Drive wanted to express her concern regarding the Route 27 intersection. She felt that this is a very dangerous intersection and what wanted to know what would be done.

Mr. Zuker stated that he believes she is talking about the Route 1 intersection and that the applicant agreed to better signage. The applicant has agreed to look more into that.

Attorney Costa stated that the subject was going to be further discussed. It is not entirely in our control. The applicant is proposing to have a de-acceleration lane, replace the existing signage. We are committed to having those discussions.

Ms. Knight wanted to know if there would be another Public Hearing.

Mr. Zuker stated yes there will definitely be another Public Hearing.

Brian Atkinson of 301 Moose Hill Road had a question regarding parking. He does not want to see the cars on the street.

Mr. Zuker reiterated what the applicant's attorney stated which was they were almost there. As of right now they are at an 1.89 to 2 ratio.

Mr. Hiltz said that the Town bylaw applies to the whole town we are looking at this particular application and site. The 40B regulations provide waivers in order to balance the benefit for affordable housing. We need to work with the developer to figure out what is needed.

Mr. Atkinson mentioned that he looked at the bylaw as well. The parking spot situation is the law. Where do they anticipate those cars to go?

Mr. Zuker said there will be parking for residents, vendors, visitors. There will be parking at the clubhouse etc.

Mr. Atkinson said that Moose Hill is not a big street. There will be a problem if cars start parking on the side of the street.

Mr. Zuker said it is his hope that they will contain the parking.

Attorney Costa stated that he is not a traffic consultant but he knows that the applicant would not design the project that would not have adequate standards. A one size fits all approach does not work for us. We are trying to require 2 spaces per unit. There are smaller units. We have all one and two bedroom units. We feel we will have sufficient parking for all units and other visitor parking.

Mr. Truax stated that you could post no parking on the street however that would apply for the people who currently live on Moose Hill Road as well. If someone has a cookout then the residents that live there now would not be able to park on the street either. I do not think you would want to post that.

Mr. Hiltz said we would have to ask the traffic engineer that with the parking designed as it is now, would there be any parking flowing onto the street.

Ms. Walker mentioned that if the Board decided they do want to post a No Parking on the street sign that it would have to go through the Board of Selectmen because it is a public way.

Mr. Truax stated that they could look into similar projects and get some ideas. We are looking at 157 units. We are shy 15 or 16 units. We are not talking about large, vast units. When we say 1.89 we are close.

Georgia Beliveau of 18 Orchard Drive said, speaking of parking spaces. Are they assigned per apartment? Are they going to be specified? How many total parking spaces are there?

Mr. Truax stated that there is a total amount of 296 parking spaces. We haven't discussed assigning spaces to any unit yet. As of right now it is just general parking.

Mr. Zuker asked how many spaces are in front of the clubhouse.

Mr. Truax answered 6 or 8. We will find some similar projects before the next Public Hearing.

Ms. Beliveau asked if there will be any restrictions for the use of the pool. She felt that would draw more people to the area. All of these units might want to celebrate the 4th of July. They will have their friends over etc. If I had unit A and I have 2 cars and then unit B has friends staying for the weekend. Where will everyone park?

Mr. Zuker mentioned all of that information could be in the Lease. He felt that the traffic expert might be able to answer these questions.

Ms. Quirk stated they could condition the pool hours in the permit. You could say the pool would not be open later than 10 p.m. We will send this to the Board of Health for them to review as well.

Ms. Moore mentioned instead of assigned parking spaces, perhaps a sticker can be given to the residents of the complex. If there is security then they can monitor that. They should know who is there.

Ms. Zuker asked if there was going to be cameras on the property.

Town Counsel stated yes and that the management might want to have a sticker plan.

A resident of Moose Hill Road wanted to know if there was a lighting plan.

Town Counsel said the 0.5 foot candle on all lighting shall be shielded so it would be a lighting plan that should be submitted to the Building Inspector as well.

Mr. Zuker said at this time we have some questions regarding parking, traffic and peer review of the sewer pump station. We are looking to continue this meeting until March 11, 2015 perhaps.

Attorney Costa wanted to know where the meeting is going so they can be prepared. He stated that I know you mentioned you were waiting for the Weston and Sampson review. Do you need our traffic consultant present as well?

Mr. DeCelle stated that if the traffic consultant does not come perhaps to have the question answered does 1.89 spaces per unit work.

Attorney Costa stated that they can definitely do that.

Mr. Zuker felt it would be beneficial to have the applicant's traffic consultant at the meeting. If we could have an expert here and our Town Engineer could have more research for our side then we would be able to answer all of these questions. I think that would be helpful.

Attorney Costa said that they would be happy to have their consultant attend the next public hearing. He mentioned that they can put something in writing from our consultant to your consultant.

Mr. Zuker felt that the more experts here to be able to explain certain things are always helpful.

Attorney Costa mentioned that the applicant has also submitted architectural plans and landscaping plans. Do we need anyone representing these plans at the next public hearing?

Mr. Zuker felt that those plans speak for themselves.

Mr. Hiltz said there has been a lot of discussion on site lines, perhaps one or the other. The site lines on the entrance.

Mr. Zuker said that the traffic consultant could handle that beforehand. It seems like the big issues are parking and traffic.

Attorney Costa stated that the applicant will make sure these questions are answered. He also mentioned that Rob Truax will be at the next Public Hearing as well.

Mr. Truax wanted to add that the residents, who are viewing the new plans, make sure you look at the previous plans as well. The new plans are only the civil drawings.

Mr. Hiltz wanted to know if the Board could have the plans on a PDF.

Mr. Truax stated that he could put it on a thumb drive.

Mr. Zuker said that would be a good idea.

Mr. Hiltz asked the Town Engineer if she felt having one of their experts on hand would be a good idea.

Ms. Walker mentioned that she felt the Traffic Consultant should definitely be at the next Public Hearing.

Ms. Quirk mentioned that they might need to have a discussion regarding the potential for the peer review funding. You might want to have a motion to enter into a change order. He would give an estimate. I know Weston and Sampson has already been funded.

Deb Robertson of 241 Moose Hill Road stated that she has some documents from Laura Vaites. She mentioned that Ms. Vaites could not be at the meeting tonight but she wanted to submit the documents to the record.

Mr. Zuker said that they would review that information for the next meeting.

Mr. Hiltz mentioned that if Ms. Vaites has electronic copies of this material and she could submit that information to our secretary as well, that would be helpful.

Mr. Curran mentioned that time and time again, people who miss the Walmart turnoff will come down our street to turn around. He stated that there will be no way that two trucks will be able to go down that road together and get by each other.

Mr. Zuker said that he believes that having a document in place in regards to trucking or construction would be beneficial.

Ms. Quirk mentioned that the draft permit requires a preconstruction meeting.

A motion was made by Mr. DeCelle, seconded by Mr. Hiltz to authorize the chairman to work out the details for additional funding as needed for the town consultant.

The vote was **4-0-0 in favor** (Zuker, DeCelle, Hiltz and Foley voting)

A motion was made by Mr. Zuker, seconded by Mr. Foley to continue this meeting to March 11, 2015 at 7:00 p.m with an executive session to take place at 6:30 p.m.

The vote was **4-0-0 in favor** (Zuker, DeCelle, Hiltz and Foley voting)

A motion was made by Mr. DeCelle, seconded by Mr. Foley to adjourn the meeting at 9:10 p.m.

The vote was 4-0-0 in favor (Zuker, DeCelle, Hiltz and Foley voting).

Craig W. Hiltz
Clerk

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Minutes were approved on May 13, 2015.