

## WALPOLE PLANNING BOARD MINUTES OF SEPTEMBER 18, 2014

A regular meeting of the Walpole Planning Board was held on Thursday, September 25, 2014 at 7:00 p.m. in the Main Meeting Room, Town Hall. The following members were present: John Conroy, Chairman; Richard Mazzocca, Vice Chairman; John Murtagh (7:06 p.m.), Clerk; Edward Forsberg (7:12 p.m.); Richard Nottebart, Margaret Walker, Town Engineer; and Wayne Feiden, Consultant.

Mr. Conroy opened the meeting at 7:05 p.m.

**Washington Estates:** Mr. Conroy moved to extend the subdivision for two years up to and including September 30, 2016 as requested by Jason Hockman. Motion seconded by Mr. Nottebart and voted 3-0-0. Mr. Hockman had submitted proof from the Walpole Cooperative Bank that the Tripartite Agreement was still valid.

**Minutes:** Mr. Nottebart moved to accept the minutes of August 14, 2014 and August 20, 2014 as presented. Motion seconded by Mr. Conroy and voted 3-0-0.

Mr. Murtagh arrived at 7:06 p.m.

**ANR – Michael Roof, 49-51 Spring Street:** Ms. Walker stated this will be a duplex in the GR zoning district, which is allowed. Mr. Conroy moved to endorse an ANR plan entitled “Plan of Land, Walpole, Massachusetts (Norfolk County) prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA dated September 3, 2014 finding Form A in order and subdivision control not required. Motion seconded by Mr. Nottebart and voted 4-0-0.

**Tall Pines Subdivision Bond:** The applicant was represented by Atty. Mark Gladstone, Canton, MA. Mr. Conroy moved to set the bond for the Tall Pines Subdivision at \$146,000 as per recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Nottebart and voted 4-0-0. Atty. Gladstone stated he will get the bond into the office for review and would like to be put on the October 2 agenda for acceptance.

Mr. Forsberg arrived at 7:12 p.m.

**Mullin Rule:** Mr. Forsberg asked if the Planning Board should adopt the Mullin Rule like the Zoning Board and Conservation Commission are planning on doing. Mr. Feiden stated that once it is adopted the person who missed a meeting would have to certify that they either saw a video or listened to a tape recording and then attest that they did so. Mr. Forsberg stated we should wait to see how this works out with the Zoning Board and Conservation Commission. The board agreed to wait until the Spring to see.

**Legacy Lane Subdivision:** Ms. Walker stated they are not quite ready to proceed with the street acceptance process.

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**Subdivision Rules and Regulations:** Mr. Feiden stated it is time to review these as it has been quite a while since they were done. He stated the good thing about this is it doesn't require a town meeting process. Mr. Conroy agreed that Mr. Feiden should look into this. Mr. Mazzocca stated that moving forward we will see more small subdivisions and asked if what is in our Rules and Regulations appropriate for the smaller subdivisions. Mr. Nottebart stated we need input from both Mr. Feiden and Ms. Walker.

**7:30 p.m. Open Space Special Permit, off North and Fisher Street:** The applicant, SR11, was represented by Atty. Vincent O'Brien, Dover, MA, Sean McEntee and John Glossa, Glossa Engineering, East Street, East Walpole, MA. Mr. Conroy read the public hearing notice and explained the process. Sean McEntee, applicant, stated they filed for an open space special permit for 35 lots and also a conventional plan as required. Mr. Nottebart introduced the board's consultant and stated he is currently the planner for Northampton County.

Atty. O'Brien submitted the green cards to be checked by the board's clerk, John Murtagh, who stated they are all here. Atty. O'Brien stated they have to show the Planning Board what they could do on a conventional subdivision plan and what could be done with the entire site. The conventional subdivision creates the subdivision lots. This subdivision goes from North Street all the way through to Fisher Street. The total number of lots as a matter of right is 48 lots. If they proceeded like that, that is the number of lots they could have, but they don't feel that is the best use of the land. They feel that the open space plan is much better as they are trying to create a small village. They are not proposing a through street to North Street. They want to create condensed lots overall. Mr. Conroy read comments from the Fire Department, Police Department, Sewer & Water Commission, Board of Health, Conservation Commission, Wayne Feiden and Ms. Walker read her engineering comments.

Mr. Nottebart stated if they decide to go with a conventional plan, he thinks they could have 48 lots, but only 35 with an open space plan. He also questioned the 750'. He feels the idea of this is great as it would not be just a bunch of houses in a subdivision. Atty. O'Brien stated they are trying to avoid coming out onto North Street and there will be access from different directions. Mr. McEntee stated there was a discussion with the police and fire about a fire road, but the fire chief doesn't feel that was necessary, but it is an option. Mr. Mazzocca stated we have seen this plan before, but the people here might want to ask for a little more detail or flavor, like the style of the homes. Atty. O'Brien stated they could meet with the abutters off site. They want to retain all the open areas as open. Mr. McEntee stated they would like to preserve the wide open feel. They are drawing some concepts from other subdivisions. They are thinking about donating the wetlands to the Conservation Commission also. Atty. O'Brien stated they will keep the open space open in perpetuity. Mr. Forsberg questioned the lot count as he came up with 46 on the conventional. He stated it looks like this has been divided into three sections, Olmsted Estates, North Street and the middle. Atty. O'Brien agreed with that statement.

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He stated that the Olmsted and O'Donnell property is not part of the original plan. Mr. Forsberg stated that Lots 1-46 are on the conventional plan, 1-7 is the Olmsted Estates subdivision and 22-33 is off North Street. Atty. O'Brien stated that is the way it would look if they did the conventional plan. Mr. Forsberg stated you have already separated this out, so how can you use all three? He asked if all the lots are buildable and they need to consider the detention basins. He is not comfortable with the way this has been configured. Atty. O'Brien stated that is why they came to us in January. Mr. Forsberg stated then you broke it up. He doesn't have an issue with coming off Fisher Street. Regarding the dead end, the only thing they have offered us is the tie ins on Fisher Street. We would be looking for more. He is surprised that the Fire Department didn't mention a second access road. He thinks we need one to get in there. Also, part of the Maintenance Agreement would be that it needs to be maintained. It could be a wide walking path. He would like Atty. O'Brien to get input from the Deputy Fire Chief on this. He knows that a lot of the residents didn't want the traffic to go through to North Street. He asked if we have a traffic report and would traffic be less or increased by this. Atty. O'Brien stated they can do a traffic count if the board wants. Mr. Glossa asked if they want a traffic report based on the conventional plan and Mr. Forsberg asked if that would matter. The Conservation Commission had stated you had three crossings and if you go to North Street, would that create another crossing? Mr. Glossa asked if it did go through to North Street, would there be more cars. They can commission someone to do a traffic count. Atty. O'Brien feels the effect of a full road to North Street would cause significantly more traffic. Mr. Nottebart stated that conceptually he is okay with this, but realistically he has a ton of issues, some of which are traffic, density, wetlands, he feels there are a lot of conservation issues and feels that will affect their plan, he feels he is looking at a Rubik cube. He feels he can't put his arms around what they are planning on doing and he feels there will be a hardship. He feels they are coming to us with incompleteness. Atty. O'Brien disagrees. He stated in any planning process there are a number of moving parts. Conservation will have more control over this site than anyone. Mr. McIntyre stated that part of the challenge is that they are at two different stages and therefore they are taking a risk. Conservation has been working on this for a while. Mr. Nottebart stated there are wetland issues all over the place. Atty. O'Brien agrees. Mr. Nottebart wishes they were further along with the Conservation Commission. Mr. McEntee stated they are meeting with them next week. Mr. Nottebart stated he is not in full agreement with waiving the roads as he doesn't feel they have demonstrated the hardship. He also got some complaints that the I&I hasn't been paid on another one of Mr. Viano's subdivisions. People bought houses in good faith and now they have to put together an I&I for themselves, which makes him uncomfortable. Atty. O'Brien stated his goal is to give confidence and comfort in whatever direction they go. Mr. Murtagh asked if they are using the lots they sold on North Street to calculate the open space and Atty. O'Brien stated yes. Mr. Murtagh disagrees with Mr. Forsberg with regard to North Street. He feels the road on Fisher Street is the way to go maybe a fire lane on to North Street might be the answer. Atty. O'Brien stated this is an ongoing process.

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Mr. Conroy stated he has a problem with the lot count. He stated the lots they don't control don't count. Atty. O'Brien stated that since they have been sold, they took them out of the count. Mr. Conroy stated that Olmsted Estates is out. We are dealing with an open space plan just in the middle. We should be using what "is" not "was". Mr. McEntee feels the spirit of the bylaw is what the property can support under a conventional subdivision. They proceeded in consult with the Planning Board down this path. The lot count in the middle may not be economical for them and they may have to go back to a conventional plan. Mr. Conroy stated we thought they were going to come back with just the space in the middle. We need a dissertation on why this works. Mr. Nottebart stated another issue is that some of the conventional plan might not work with the wetlands. Mr. Conroy stated if we approve the open space plan, it has nothing to do with Olmsted Estates and the 40' waivers. Atty. O'Brien stated the Planning Board and the Conservation Commission asked to see everything. Mr. Conroy agreed but what was submitted was part of another subdivision. Atty. O'Brien stated you need to see what is going on around this. Mr. McEntee asked if Mr. Conroy is saying if Olmsted Estates doesn't go, this plan can't. Atty. O'Brien stated the entire plan is what could happen – ANR plans, small subdivision, open space plan. Mr. Feiden stated that clearly he needs to do this, but a lot of towns have gotten away from this type of plan. Is this a good project? This board has an incredible amount of discretion. He stated they still need to look at the overall piece. Mr. Forsberg stated he is not in favor of the North Street access, but would there be less traffic if it was done. Atty. O'Brien feels it would be more, not less. Mr. McEntee stated they already commissioned a traffic engineer for Olmsted Estates but they can add to the scope of the work. Mr. Forsberg asked Mr. Feiden how much detail does the conventional plan have to show to get a lot count. Atty. O'Brien stated that one of the things that makes this appealing for them is they don't have wells and septics. Mr. Forsberg asks if they include the open space and conventional lots together and Mr. Feiden stated yes. Mr. Conroy asked the applicant to show us what you did regarding Section 10-D on a checklist.

Mr. Conroy asked for public comments.

Bill Hamilton, South Walpole referred to a previous Isaacs open space plan from years ago and stated the Planning Board thought it was great, but the taxpayers didn't and that is why there is Adams Farm. He doesn't feel an open space subdivision is in the best interest of the town. He asks that the Planning Board not consider the beauty of the open space plan, but what it does for the taxpayer.

Joe Moraski, Buckboard Drive stated he appreciates the scrutiny the board gave the plans and how well they represented the people in the neighborhood, particularly Mr. Forsberg's comments, but he is opposed to any access onto North Street regardless of the plan. The traffic and width of North Street and the fact that it is a scenic road creates a problem. He agrees with the Planning Board regarding the count. It is somewhere around 70 acres, but the public hearing

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notice says 31 acres, which is just the middle of the property. Whatever is approved under a conventional plan for the middle will become the number of lots to be built in an open space plan. The number 35 for the open space plan is inaccurate. It has to be a lower number. If it was a conventional plan, the board would have to consider roadways, etc. and there should only be 26 lots. Also, regarding Parcels B, E and F, he is confused with this. Mr. McEntee stated they would consider donating this to Conservation. We need to know that no one can come back later on and build on them. He agrees with the rest of the board's comments. Mr. Conroy questioned the abutters' list used – was it just the open space or everyone. Mr. McEntee stated they did the whole Buttimer's property which was 96 people.

Philip Sanford, 455 North Street stated he agrees with Joe Moraski. We don't need more traffic on North Street.

Fran Wall, Buckboard Drive thanked the board. He stated he is confused as he is looking at two maps; one shows through access onto North Street. He agrees there should be an impact study. He questioned the flow of traffic. He feels one plan impacts North Street, but the other one doesn't as it comes in from Fisher Street. Mr. Conroy explained the two plans, conventional versus open space. He stated the conventional plans are what they could do with lot count. They need to show they could do 48 lots and we can give them no more than 48 on the open space plan. The first sheet is just for a count, then it goes away and the second sheet comes into play. Mr. Wall asked then how many lots with the second plan and Atty. O'Brien stated the number is 48. Mr. McEntee stated if Olmsted Estates was approved and the conventional plan goes forward, that is what they would get. Atty. O'Brien stated their goal is to convince the board that the open space plan is a better project.

Peter Martin, 19 Covey Road asked what if the plan you want falls through and then you go back to the conventional plan will access be on North Street? Atty. O'Brien stated they don't know. Mr. McEntee stated they would go back to the drawing board. Mr. Martin asked does allowable mean access off North Street and Atty. O'Brien stated yes. Mr. Conroy stated they could do that with the open space plan also. He doesn't know any developer who will put in 300' of road that they don't have to.

Sharon Wall, Buckboard Drive asked what the impact would be to the schools and does the board contemplate the impact to the schools or buses. North Street is already a problem and this plan will bring in more traffic to the area. Are those factors considered? Mr. Conroy stated we don't get into schools. A person has the right to develop. In North Walpole a lot of kids go to private school. If the developer meets the bylaw we have to give them approval. The scenic road can cause some issues. The Fire Department is okay with them not coming out to North Street. Maybe Sean McIntee could ask the Walpole Fire Department which way they prefer to come in.

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Bill Hamilton, South Walpole stated there seems to be an agreement that the open space plan will produce less traffic on North Street. How do you pass that? Atty. O'Brien stated it doesn't connect out to North Street. John Glossa stated there is no entrance onto North Street. Mr. Hamilton asked who benefits from the open space plan. He thinks it is the developer. Mr. Conroy stated it is in our bylaw. Do you want to maintain a road with 200' of frontage or 80'.

Philip Sanford, 455 North Street asked if the conventional plan is a viable plan. It seems it would be a poor idea to dump the traffic onto North Street. Mr. Conroy stated they are doing the conventional plan for lot count only. Mr. Moraski asked where we go from here. They are submitting this plan in two weeks to the Conservation Commission. What will happen? Mr. Conroy stated we need them to give us an extension of time. Atty. O'Brien stated that at this moment, they think this is a good plan. He gave the board an extension of time up to and including November 30, 2014. Mr. Conroy moved to accept an extension of time on which to take action on the Open Space Plan for SR II up to and including November 30, 2014 as per the applicant's attorney, Vincent O'Brien. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy stated they have a long road and asked if they will be ready to move forward on the same date as Olmsted Estates and Atty. O'Brien stated yes. Mr. Conroy continued this hearing to October 16, 2014 at 7:31 p.m. Mr. O'Brien asked that he be emailed a copy of the extension.

**9:10 p.m. Dedham Auto Mall Refile, Case No. 14-14, 623 Boston Providence Highway:**  
Mr. Conroy read the public hearing notice. The applicant, Tom Jamali, stated that last year they added some existing pavement which caused an issue. His engineering company is not here tonight, but his contractor, Paul, who will help do the work is here. Mr. Conroy read the public hearing comments. Ms. Walker stated she will be glad to give the applicant copies of her comments if they call her office. She reviewed her comments. Mr. Jamali stated he is not adding any parking spaces. Ms. Walker stated that doesn't matter, it still needs to be addressed. There are still outstanding issues because the plan didn't change. Mr. Feiden stated they could decrease the curb cut going in and out to 24'. There is also no landscaping shown. Mr. Mazzocca asked if he has gone before the Board of Selectmen yet to ask for more cars on the property and Mr. Jamali stated no and has decided to stay with 60 cars. They are not changing anything except the paving that has already been added. Mr. Forsberg asked if the Zoning Board approval from 1983 still stands and if they are looking to increase from the 60 cars. Mr. Jamali stated no. Mr. Forsberg asked regarding the buffer if they will take care of the rear of the property and Paul, the contractor stated they will. Mr. Forsberg questioned the 50' setback out front and asked if they are exempt from when Route 1 was widened. Ms. Walker stated that was done in 1985 and she doesn't know the answer. Ms. Walker stated the Board of Health had issues with paving over the septic and she agrees with them. Mr. Nottbart stated they were represented by Mr. Merrikin before and asked if they have a new engineer. Mr. Jamali stated no, he doesn't need one. Mr. Nottebart stated he doesn't have a grasp of what we are doing tonight. He thinks Ms. Walker's issues are important.

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Mr. Jamali asked if he should meet with Ms. Walker. Ms. Walker stated his engineer will have to take care of this because there will be plan changes. Paul, the contractor, feels this can be addressed by Ms. Walker. Mr. Conroy stated they have to comply with Highway Business. His biggest comment is around the drainage and calculations which we need. We can't go forward if you haven't given us the information required. Also, Landis Hershey wants stormwater management to be addressed. Mr. Nottebart asked if David Alson, Wompatuck Road has talked with Tom Jamali. Mr. Alson stated he questioned the trees and berm. Ms. Walker stated that is not on the plan at this time. Mr. Alson stated he is happy with the discussions. Mr. Jamali wants to meet with Ms. Walker. Mr. Forsberg would like to move in a timely manner. It's been a year and a half and you have been nonconforming since that time. Mr. Jamali stated he is trying to do this within their budget and is not sure if they should just take out the paving.

Mr. Conroy moved to accept an extension of time up to and including November 30, 2014 as per Mr. Jamali. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy continued this to October 16, 2014 at 8:15 p.m.

**9:30 p.m. Al Marhama Islamic Burial Service, Case No. 14-11 Continued Hearing:** Mr. Conroy moved to accept an extension of time on which to take action up to and including October 31, 2014 as submitted by their attorney, Jay Peabody, Partridge, Snow & Hahn, LLP, 1700 West Park Drive, Suite 200, Westborough, MA. Motion seconded by Mr. Nottebart and voted 5-0-0. Mr. Conroy continued this hearing to October 16, 2014 at 8:00 p.m.

**9:32 p.m. L. A. Realty Trust, 119 Pleasant Street, Case No. 14-8 Continued Hearing:** Mr. Conroy recused himself. The applicant, Leigh Ann Leutzen was represented by Philip Macchi, 1256 Washington Street, Norwood. He submitted responses addressing everyone's comments and he asked that it remain in the record. He doesn't think that the conversion of a one-family to a three-family has ever had such information and background done. Mr. Mazzocca stated he is okay with his previous questions now and Mr. Murtagh agrees. He doesn't feel there is the need for a joint meeting with the Zoning Board. He feels this should be treated like any other normal case. He feels we should vote tonight and let them move on to the Zoning Board. Mr. Nottebart agrees. The reason this think got so much attention is because the applicant is one of us and we were concerned about a conflict. We signed a disclosure that we would be fair and we all felt there was no need for a combined meeting with the Zoning Board. He is comfortable if Ms. Walker is. Mr. Forsberg stated his only question is does Ms. Walker have adequate information and she stated yes and is good with this. Mr. Forsberg stated we wanted an outside consultant and got one. He is not in favor of a joint meeting with the ZBA. Mr. Feiden stated he is okay with this also.

Mr. Mazzocca asked for public comments.

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Alicen Schwartz, Pleasant Street is commented on multiple units and tenants. She said the traffic comments are all well and good, but you people don't live across from it. She has tenants upstairs herself. The trash from this house will be put in front of her house. There is a traffic and safety issue. Mr. Mazzocca stated our role is not to approve going from a one to a three family as that will be before the Zoning Board. Mr. Macchi stated this house has been vacant since it was bought. Mr. Nottebart questioned the driveway. Mr. Macchi stated there are no easements, only LA Trust. There is no prescriptive easement. Mr. Nottebart asked if the use of the driveway can be opposed and Mr. Macchi stated that is another issue which is beyond this board. Mr. Nottebart asked if it belongs to the house on the left and Mr. Machi stated no. He asked that the board consider closing the hearing.

Larry Pittman, Rhoades Avenue asked if this is a common ownership going from a one family to a three. Mr. Macchi stated it is zoned General Residence. Mr. Pittman stated he isn't asking Mr. Macchi. Mr. Mazzocca stated it is allowed by zone. They have to go to the Zoning Board because they are going from a one family to a three family. Mr. Pittman asked if this has occurred other places in town and Mr. Macchi stated yes it has. All these houses on Burns Avenue went through this process. Mr. Pittman stated that town counsel recommended a joint meeting and asked why they aren't okay with that. Mr. Mazzocca stated the only benefit was it was clearing two boards with one stone and we already had it half done. There was also nothing pending before the Zoning Board.

Mr. Macchi feels all issues have been resolved. At the time that town counsel sent that recommendation, there were issues. Mr. Nottebart told Mr. Pittman that town counsel was only saying it was a way that could be done. She wasn't advocating it, but wanted to put it on the table. We are looking at this as a site plan. He is comfortable with what he sees here.

There were no further questions. Mr. Murtagh moved to close the hearing as requested by Mr. Macchi. Motion seconded by Mr. Nottbart and voted 4-0-0. Mr. Macchi stated the plan is dated September 17, 2014 not September 15<sup>th</sup>. Mr. Mazzocca moved to approve Case No. 14-8 with the board's standard conditions and one special condition stating that the applicant has agreed to a stipulated special condition that the existing vegetate buffer between the locus and the adjacent McMullen property will be maintained. Motion seconded by Mr. Murtagh and voted 4-0-0.

Mr. Macchi will have the conditions put on the final plan prior to endorsement.

It was moved, seconded and voted to adjourn. The meeting adjourned at 10:15 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 10/16/14