



**Town of Walpole**  
**Commonwealth of Massachusetts**  
**Zoning Board of Appeals**

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*John Lee, Chair*  
*Drew Delaney, Vice Chair*  
*Robert Fitzgerald, Clerk*  
*Mary Jane Coffey, Member*  
*David Anderson, Member*  
*Judith Conroy, Assoc. Member*  
*Timothy Hoegler, Assoc. Member*

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**MINUTES**  
**WALPOLE ZONING BOARD OF APPEALS**  
**May 04, 2022**

Present: John Lee (Chair), Drew Delaney (Vice Chair), Mary Jane Coffey (Member), Judith Conroy (Associate Member), Timothy Hoegler (Associate Member)

Absent: Bob Fitzgerald, David Anderson

Also in attendance were Patrick Deschenes (Community & Economic Development), Stephen Natola (Community & Economic Development), and George Pucci (Town Counsel)

Mr. Lee called the meeting to order at 7:00 P.M. and read the public hearing notice.

**Case No. 22-6, Application from Patrick Chahwan, 1079 West Street, Zoning District: Rural Resident District (R). This Application is for a Special Permit under Zoning Bylaws Section 5-B.2.C.2 Schedule of Use Regulations, to expand the square footage of an existing Accessory In-Law Suite.**

Hearing began at 7:02pm

Applicant, Patrick Chahwan, informed the board that he completed an approved in-law suite in 2017 and is now proposing to remove the bedroom from the first floor in order to turn it into an office, and then convert the unfinished attic space into the new bedroom, with an additional bathroom increase the total in-law suite square footage by 461 square feet.

Mr. Deschenes explained that the current square footage of the in-law suite is 896 square feet, which was approved by the ZBA in Case No. 20-17.

Mr. Delaney questioned who will be occupying the in-law suite, and the purpose of the additional office space.

Mr. Chahwan replied that the in-law suite will be for his parents who currently reside in the existing in-law suite. Mr. Chahwan stated that the office space is for his father while working from home.

Ms. Conroy asked if the total square footage of the house was available, because the in-law needs to be less than 33% of the entire house or less than 1,000 square feet.

Mr. Deschenes explained that given the additions the applicant is proposing would put the in-law over 1,000 square feet.

Ms. Conroy stated that the square footage of the house is 3,072 square feet and the unfinished attic space is 452 square feet. For a total of 3,524 square feet. Wondered what the percentage of the proposed square footage of the in-law suite would now be.

Mr. Lee and Ms. Conroy wanted to know the percentage of the proposed in-law suite from the total square footage of the house because the proposed addition would put the in-law suite over 1,000 square feet.

Ms. Conroy stated that the total square footage of the in-law suite would now be 1,348 square feet. Wondered how many in-law suites in Walpole have multiple bedrooms. Felt as though two-bedrooms would deviate from the definition of an in-law suite.

Mr. Lee asked the applicant where the current in-law suite is in the house and if there is a kitchen in the in-law suite.

Mr. Chahwan responded that the in-law suite is adjacent to the house and there is a kitchen.

Mr. Lee summarized the applicant's intent: take the existing master bedroom, turn it into an office, then the unfinished attic on the second floor will become the bedroom for the in-law suite.

Ms. Conroy restated the requirements for the on-law suites: an in-law unit must be less than 33% of the total house or less than 1,000 square feet. Ms. Conroy questioned why this application isn't for a variance because the applicant has already been granted the allowance to have an in-law suite and they want to expand it above and beyond what they already have.

Mr. Lee stated that it is a new application because that is how the applicant filed it and it is what the building commissioner determined.

Mr. Deschenes stated that the building commissioner determined that this application should be a special permit.

Mr. Lee summarizes what the applicant is seeking from the board: the applicant already has a special permit for an existing in-law suite, and now the applicant is asking for another special permit to expand the in-law suite's square footage.

Mr. Chahwan stated that he knows he is going over the allowance, which is why he is applying for the additional special permit.

Mr. Lee stated possible conditions: the proposed office can't be a bedroom, the closets need to be removed, and the house needs to remain a 4 bedroom home.

Mr. Lee read letters from multiple departments; board of health stated that the house is on four-bedroom septic and needs to remain a four-bedroom; the fire department stated, the applicant will need to submit plans to the building department and fire department to review life safety

devices; the town engineer, stated that the total square footage of the proposed in-law suite needs to be clearly stated.

Mr. Chahwan stated to the Board that there will be no exterior modifications.

Mr. Lee asked for public input, there was none.

Ms. Conroy is concerned why an office is needed and worries about commercial uses. Feels as though the in-law suite is now too big as the in-law suite would be 44% of the size of the main dwelling.

Mr. Chahwan told the board that there will be no commercial uses with the property.

Mr. Lee informed the applicant that they would be setting a precedent by approving an in-law that is 44% of the main dwelling.

Ms. Coffey thought that the approval of the in-law suite may set a precedent for future cases.

Mr. Chahwan stated that a future addition to this house would put the in-law suite under the 33% threshold. Mr. Lee told that applicant that the board has to consider the application before them.

Mr. Deschenes read from the Zoning Bylaws pertaining to in-law suites in order to highlight that the Board can grant a special permit for an in-law suite that exceed the 33% or 1,000 square feet threshold.

Mr. Delaney felt as though setting a precedent with this application could be used against the board in the future.

Mr. Hoegler worried about the setting of a precedent with this application.

Mr. Lee suggested to the applicant that he continue the hearing and come back with an application the Board is more likely to approve.

**Motion:** by Ms. Coffey and seconded by Ms. Conroy to continue the hearing until May 18, 2022 at 7:00 pm

The motion carried 5-0-0 (Delane-Aye; Coffey-Aye; Hoegler-Aye; Lee-Aye; Conroy-Aye)

**Case No. 22-1, 173 High Plain Holding, LLC, 173 High Plain Street, Special Permit under Section 5-B.1.3.G of the Zoning Bylaws to allow for a three-story, ten-unit, mixed-use residential development within the Business (B) Zoning District. (Continued from April 20, 2022)**

Hearing began at 7:40 pm

Mr. Lee noted that Mr. Anderson and Mr. Fitzgerald are absent tonight but that they will be able to use the Mullin Rule to vote on an future decision.

Dan Merikkin noted his recent submissions per the board's requests: a traffic study and revised site and architecture plans.

Bill Scully, Kimley Horn Traffic Engineer for the applicant gave a presentation summarizing his traffic report. His results were: The High Plain Street and Washington Street intersection currently operates acceptably; crash analysis shows below MassDOT average; future middle school project creates potential peak arrival and departure issues at intersection; proposed development is low generator and has minimal effect on the nearby intersection; and the site traffic can enter and exit project driveway safely and efficiently. Some of Mr. Scully's recommendations were: ADA compliant ramps at sidewalk; maintain visibility with low lying landscape and set back signage; and STOP control on drive with appropriate signage and markings.

Mr. Lee asked what the rating of the High Plain Street and Washington Street intersection was and also about the potential of a "right turn only" sign out of the property.

Mr. Scully responded that the intersection is level service C, in the future overall it will end up level service D & C. Mr. Scully felt that the driveway didn't need to prohibit right turn only and advised that prohibiting a right turn would just shifts the turning problem away from the site and onto other streets.

Mr. Delaney asked if the school is proposing modifications to the intersection and for more information concerning the date about 5 cars leaving in the AM peak hours. Mr. Delaney was also concerned with cars exiting onto a split lane.

Mr. Scully isn't aware of any proposed intersection modifications as a result of the school project. Mr. Scully stated that most of the AM peak traffic entering the site will be related to the commercial use, noted that not everyone leaves at the same time during the AM peak. The peak hours for the traffic report were, 7-9 AM and 4-6 PM.

Ms. Conroy inquired about the location of the site driveway and its proximity to the hashed yellow lines on High Plain Street.

Mr. Merrikin explained that the driveway out of the property is where High Plain Street is basically a single lane. Left of the exit lane starts the divergence from one lane into two lanes. Mr. Merrikin noted his clients are happy to put in a "No Left Turn" sign if the board wishes.

Mr. Lee opens for public comment regarding traffic concerns.

Tim Curtin, 7 Lorraine Road, wondered if the traffic report accounted for Pennington Crossing traffic. Concerned about traffic backing up to Old Post Road.

Mr. Scully responded that Pennington Crossing is accounted for in the traffic report.

Mr. Lee explained the Board's main concerns: safe sight distances for entering and exiting the site.

Eduard Lazri, 184 High Plain Street, wondered what methodology the traffic engineer used. Concerned about the traffic engineer being swayed by the applicant. Mr. Lee answered that the traffic engineer used existing formulas to determine the data.

Maria Aluigi, 8 Holland Way, wondered what time of day and the dates the traffic data was gathered. Mr. Scully, responded that the traffic count was gathered on Wednesday March 16 and the analysis occurred afterwards.

Eve Piemonte, 180 High Plain Street, questioned why weekend traffic wasn't accounted for and questioned the commercial use on the site, and what measures are being taken to prevent people from using abutting driveways to turn around. Mr. Scully didn't anticipate people using abutting driveways to turn around, said that the models used to predict traffic and the peak traffic hours for High Plain Street are weekdays, and didn't analyze certain commercial uses on the site because of the existence of other nearby commercial uses with heavier traffic.

Mr. Lee asked if somebody can safely make a turn across the double yellow crosshatch. Noted that street line adjustments aren't the applicant's choice to make.

Mr. Scully recommended to extend the double yellow line and shorten the yellow crosshatch. Mr. Scully noted that technically, a person can't take a left turn over a yellow hashed line and suggested to modify the taper of the yellow line. Pointed out how the existing homes currently cross over the yellow striped lines as well.

Mr. Merrikin informed the Board that they could put in certain conditions, such as a "no left turn" sign or for the applicant to obtain approval from the Roadway Commissioners to modify the hashed striping of the yellow line in front of the driveway. The Select Board serves as the Roadway Commissioners and oversees High Plain Street local jurisdiction.

Joyce Sheehan, 28 Burns Avenue, questioned some of the proposed signage. Mr. Lee told Ms. Sheehan that the traffic engineer didn't see the "No Left Turn" sign as necessary.

Kenneth, 183 High Plain Street, noted how amazon drivers create traffic problems. Mr. Lee explained that the site will have parking for deliveries.

Maria Aluigi, 8 Holland Way, wondered about the turning implications if people can't turn left out of 173 High Plain Street.

Mr. Merrikin presented the changes to the architecture plan and the site plan. The architecture plans now include the gross floor area of the residential space compared to the commercial space in order to show compliance with the bylaw. The site plan showed snow storage, and changes to the landscape plan. The one issue still to be addressed is the fire department's concerns about ambulance access. Mr. Merrikin informed the Board that the applicant is looking at two options.

These options include either a 9-unit proposal with 1 affordable unit or an 8-unit all market rate design. The 9-unit proposal allows a 2 parking spot reduction and the 8-unit proposal allows a 4 parking spot reduction. The 8-unit proposal allows the footprint of the building to be reduced, reducing the commercial space and allowing for more green space.

Mr. Lee called the proposal, "a step in the right direction" given the prevalence of all residential property abutting the site. Mr. Lee advised the applicant to scale back as much as possible in order to fit the character of the neighborhood.

Mr. Merrikin noted that the 8-unit proposal is the bottom line for the applicant. Mr. Merrikin feels that the current proposal is the best thing given the range of potential uses in the business zoning district.

Mr. Lee told the applicant that they are allowed to build 3 stories of commercial and that the applicant needs to balance what is good for the future tenants of the building and good for the neighborhood.

Dan Aluigi, 8 Holland Way, questioned where the snow removal will go. Mr. Merrikin responded that snow can go on the green areas as shown on the plan.

Eduard Lazri wondered if all the neighbors wanted commercial if the board had to listen to them. Mr. Lee responded that that applicant decides what they will propose and that the Board always takes neighborhood input into consideration.

Mr. Delaney told Mr. Merrikin that a reduction in units would help to alleviate his traffic concerns.

Ms. Coffey thought there was an attitude coming from the applicant and that the applicant was dictating what they were going to do. Felt as though the traffic report didn't reflect the reality of the neighborhood.

Mr. Merrikin apologized for the attitude and felt as though this proposed use is better than 100% commercial. Reiterated that the amount of traffic from this site is smaller in comparison to other nearby uses.

Mr. Hoegler felt as though a lot of business uses wouldn't work on the site. Voiced his support for an affordable unit.

Mr. Merrikin stated that the Bylaw requires two spaces per dwelling unit and that 11 spaces would be available for commercial spaces. Parking constraints restrict potential commercial uses.

Ms. Conroy agreed with Ms. Coffey about the attitude coming from the applicant, and that the phrase "bottom line" sounds like blackmail. Felt as though the first floor commercial isn't a big priority, and to just look at the abundance of commercial space in downtown Walpole. Felt as though the priority for this project has always been to build out to the max and testing the waters throughout the hearings. Ms. Conroy felt that including the one affordable unit was a nice offer,

but possibly rescinding the offer, has left a sour taste with Ms. Conroy. Felt that downsizing the footprint of the building was extending an olive branch to the board. Also, under the impression that the affordable unit should be affordable as a condition.

Mr. Merrikin stated that the board can include almost anything as a condition. Advocated for good communication between the Board and the applicant during the public hearing but did caution against harmful conditions. The conditions have to be acceptable to the Board, applicant, and the neighbors.

Ms. Conroy noted that the turning radius was changed under the assumption that all the responding emergency vehicles would be coming from Walpole Center. Emergency vehicles coming from Route 1 would have a hard 90 onto the site. Ambulances may not be able to make a turn coming from Route 1. Noted that the building is 8 feet from the property line. Concerned about emergency vehicle access on 2 out of 3 sides of the building. Reiterated that there is no bottom line in this process and that there needs to be some give and take.

Mr. Merrikin pointed out that vehicles coming from Route 1 aren't dependent on the curb and that the minimum side yard setback is 6 feet. Mentioned that he spoke with the fire department about the site's safety. Felt as though the 20% reduction offered by the applicant is a very significant reduction, though the low demand for commercial space was unique at this time.

Mr. Lee agreed that the current proposal - commercial on the first floor, some residential on the second floor - is a good use. Felt that the applicant needed to look at the scale of it and need to take the neighborhood characteristic into account.

Bill Hamilton, concerned about the capacity of the Washington Street sewer. Mr. Lee told Mr. Hamilton that a statement from the Water and Sewer department about the capacity at 173 High Plain Street.

Robert O'Leary, 776 Washington Street, stated that he was concerned about traffic.

Mr. Merrikin asked to continue the hearing until June 1, 2022.

**Motion:** by Ms. Coffey and seconded by Mr. Hoegler to continue the hearing until June 1.

The motion carried 5-0-0 (Delane-Aye; Coffey-Aye; Hoegler-Aye; Lee-Aye; Conroy-Aye)

**Case No. 20-21, Wall Street Development Corp, 48 Burns Avenue (Parcel 20-136)/ Union Street (Parcel 20-119)/ Brook Lane (Parcel 20-115/ Burns Avenue (Parcel 20-137), On remand from the Housing Appeals Committee, Request for Project Change/ Amendment to a Comprehensive Permit under G.L. c.40B §§20-23 to amend the project to include Brook Lane; forty (40) units in eight (8) buildings, instead of the previously approved thirty two (32) units in six (6) buildings, and utility connections from Brook Lane and eliminate installation of utilities from Union Street (continued from 3/16/2022)**

Public hearing started at 9:12 pm

Ms. Conroy recused herself from the hearing as she is an abutter to the project.

Mr. Lee stated that the applicant, Wall Street Development, was not currently present and had left before the hearing opening. Mr. Lee thought it was necessary to consider closing the case.

Attorney Pucci, Town counsel, reminded the board that there were going to be revised plans submitted in accordance with the peer review recommendations, but they were never submitted. Noted that the applicant had alerted Mr. Deschenes about an alternate plan, however, no alternate plans had been submitted. Advised that the Board is running out of time to close the public hearing and that the Board would have 40 days to issue a decision following the close of the public hearing but would have time to deliberate on the decision during those 40 days.

Attorney Pucci stated that he did not see any other option other than to close the public hearing at this time. Attorney Pucci also stated that the applicant had just recently before leaving the meeting, emailed Mr. Deschenes an offer to continuing the hearing until May 18, 2022 and extend decision deadline to June 2, 2022. However, Attorney Pucci advised that this proposed decision deadline would be less than the Board would have normally that the deadline to issue a decision under 40B is 40 days from the close of the public hearing. Attorney Pucci stated that he would recommend against accepting that offer as it would put the Board in disadvantageous position.

Mr. Lee opened the hearing up to the public.

Joyce Sheehan, 28 Burns Avenue, questioned the decision considering the lack of material before the board. Mr. Lee responded that the lack of information prevents the board from making a proper decision. The submitted plans can't be built as shown.

Mr. Deschenes stated that the previously submitted plan and comment letters would be what the Board would need to base their decision off of given the situation.

Jack Conroy, 48 Burns Avenue, voiced his support of closing the hearing.

Cathy Campbell, 35 Burns Avenue, questioned if Wall Street Development would be able to appeal to HAC again and if HAC can solely work with Wall Street Development in the future.

Mr. Pucci informed Ms. Campbell that Wall Street Development wouldn't have to file a new appeal, HAC retains jurisdiction until the process is complete on the modification proposal. Told the Board they can look at their records, condition it, or just deny it and outline the denial reasons. Warned that the risk always exists that the HAC may become a local permitting authority and local needs may not be properly addressed. HAC may order the Board to issue a permit with minimal conditions. Warns that the developer may propose a modified project and HAC may approve the modification.

Mr. Lee told Ms. Campbell that closing the hearing would cut off any discussion and subsequent meetings would be for deliberation and board approvals.



Ms. Coffey noted that it feels like Wall Street Development is running out the clock.

Joan Cofsky, 29 Burns Avenue, questioned what the board would discuss considering that no new plans have been submitted. Mr. Lee responded that the board can only go off of what has been submitted to the board.

Robert O'Leary, 776 Washington Street, asked if the Board was going to allow any disturbances within the buffer around the project.

Mr. Deschenes responded that the applicant can't built within the 25 foot buffer from the wetlands. However, the applicant only has to comply with the DEP superseding order of conditions.

**Motion:** by Mr. Delaney to close Case No. 20-21 to close the hearing, seconded by Mr. Hoegler.

Motion carried 4-0-0 (Lee-aye; Fitzgerald- aye; Delaney-aye; Hoegler- aye)

**Motion:** to schedule deliberations for the Wall Street Development Burns Avenue project for May 25 at 7pm by Mr. Hoegler, seconded by Ms. Coffey.

### **Board Business**

Discussion started at 9:33pm.

Ms. Conroy rejoined the board

Ms. Conroy was concerned that an ANR came in without a time stamp or a fee.

Mr. Lee explained there is no fee because this is all part of the Comprehensive Permit process. Also, that Attorney Amy Kwesell has advised the board that it is appropriate for them to sign the ANR

**Motion:** to sign the ANR by Mr. Delaney, seconded by Mrs. Coffey carried 3-0-0 (Lee-aye; Delaney-aye; Coffey-aye)

### **Minutes Review: 4/6/2022**

Agenda item began at 9:37 pm

Mr. Lee asked that the Ms. Conroy's statements regarding the third associate member be corrected.

**Motion** by Ms. Coffey to approve minutes for the April 6, 2022 Meeting, seconded by Mr. Delaney.

Motion carried 5-0-0 (Lee-aye; Conroy- aye; Coffey-aye; Delaney-aye; Hoegler- aye)

**Minutes Review: 4/20/2022**

Agenda item began at 9:39 pm

There were no comments

**Motion:** by Ms. Coffey to approve minutes for the April 20, 2022 Meeting, seconded by Mr. Delaney.

Motion carried 5-0-0 (Lee-aye; Conroy- aye; Coffey-aye; Delaney-aye; Hoegler- aye)

**Adjournment:**

Mr. Delaney questioned why the board was meeting on May 25<sup>th</sup> to hear a 40B case for Darwin Lane.

Mr. Deschenes explained that Wall Street Development believes Walpole is no longer in Safe Harbor and has applied for a 40B on Darwin Lane. Also, that a special hearing date was necessary in order to comply with the regulator timeframe of opening a hearing within 30 days of submitting an application.

**Motion** by Ms. Conroy to adjourn, seconded by Ms. Coffey.

Motion carried 5-0-0 (Lee-aye; Conroy- aye; Coffey-aye; Delaney-aye; Hoegler- aye)

Meeting adjourned at 9:44