



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

**Zoning Board of Appeals**  
*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 18, 2022**

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

Absent: Bob Fitzgerald, David Anderson, Timothy Hoegler

Also in attendance were Patrick Deschenes (Community & Economic Development), Stephen Natola (Community & Economic Development)

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

**Case No. 22-4, Thomas J. Powers, 132, 136, 140 Washington Street, Special Permit under Section 5-B.1.3.G of the Walpole Zoning Bylaws to allow for a three-story, six-unit, mixed-use residential development within the Business (B) Zoning District. (Continued from April 20, 2022)**

Hearing began at 7:01pm

Mr. Lee read a request from Mr. Merrikin to continue the hearing until June 1 and to extend the deadline for discussion until July 6.

**Motion:** by Ms. Coffey and seconded by Ms. Conroy to continue the hearing until June 1 and to extend the deadline for discussion until July 6.

The motion carried 4-0-0 (Delaney -Aye; Coffey-Aye; Lee-Aye; Conroy-Aye)

**Case No. 22-6, 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. (Continued from 05/04/2022)**

Hearing began at 7:02 pm

Mr. Lee noted that he spoke with the applicant regarding the absence of board members tonight since there are only 4 board members all votes need to be unanimous.

Mr. Chahwan presented his new plan: he removed closet space, bringing the square footage to 360 square feet and included a home gym totaling 185 square feet when calculating the house's total square footage. Total living space of the proposed in-law is 1,256 square feet. The house's square footage is 3,617 square feet, so the in-law is 34.7% of the house's square footage.

Ms. Conroy questioned the gym space's status. Noted that the applicant is asking the board to count square footage that isn't yet counted towards the house's square footage. Pointed out that the gym space isn't counted towards the house's total square footage on the assessor's page.

Mr. Chahwan replied that the gym space is finished with drywall and hopes to do both the in-law and finishing the gym at the same time. Mr. Chahwan has not pulled permits for the gym in the basement and acknowledged that the gym isn't part of the house's total square footage.

Mr. Deschenes read from by-law section 5.B.2 and clarified the town's definition of "dwelling" and advised the board to look at the floor area percentage rather than the living area percentage.

Mr. Lee asked the applicant about the sunroom connecting the main dwelling unit and the existing in-law suite.

Mr. Chahwan replied that the sun-room connects both the main dwelling unit and the existing in-law suite.

Mr. Delaney asks if the fire department has looked at the current proposed plans and about the garage's connectivity to the house.

Mr. Chahwan replied that the fire department approved the current existing in-law suite and explained how the garage is connected to the house.

Ms. Conroy asked if there was a second egress from the proposed in-law suite.

Mr. Chahwan replied that there is no new egress on the proposed in-law suite.

John O'Leary, 776 Washington Street, questioned the proposed in-law's square footage. Mr. O'Leary reminded the board about the by-law governing in-law suites.

Mr. Lee responded that proposed square footage is 1,256 square feet.

Ms. Coffey commented that the proposed in-law before the board is unlike any the board has seen before and concerned about the size of the in-law.

Mr. Delaney questioned if the office for his in-laws could be located in the basement of the main dwelling.

Mr. Chahwan replied that he has other uses for the basement in the future.

Ms. Conroy felt uncomfortable using calculations based off space that may be completed in the future.

Mr. Deschenes noted that square footage requirements in the bylaw can be altered as a condition of the special permit.

Mr. Chahwan reminded the board that the proposed addition to the in-law is already built, it just needs to be finished to become livable, noted that the board should look at each case on it's own merits

Ms. Conroy advised the applicant to be more creative with walls and look at prior cases and how they arranged the main dwellings and in-laws.

Mr. Chahwan replied that the in-law is on a different foundation and can't easily be repurposed to line-up with the main dwelling unit.

Mr. Chahwan chose to withdraw without prejudice

**Motion:** by Ms. Coffey and seconded by Ms. Conroy to close the hearing for Case No. 22-6.

The motion carried 4-0-0 (Delaney-Aye; Coffey-Aye; Lee-Aye; Conroy-Aye)

**Motion:** by Ms. Conroy and seconded by Ms. Coffey to allow the applicant to withdraw Case No. 22-6 without prejudice.

The motion carried 3-0-0 (Delaney-Aye; Coffey-Aye; Lee-Aye)

**Case No. 22-8, Amer Reda, 140 South Street, Special Permit under the Walpole Zoning Bylaws Section 5.B.4.dd to allow an automotive repair garage.**

Public hearing started at 7:41 pm

Mr. Reda, hoped to open a second location for his automotive repair garage in Walpole. Needs to expand business and plans to do only electrical work on small school buses.

Mr. Lee asked if the applicant owned the unit.

Mr. Reda replied that he is leasing the unit and just wants to conduct his business legally.

Mr. Lee explained that a special permit's purview is to ensure that the neighbors/ neighborhood is protected, the proposed use fits within the zoning bylaw. Asked the applicant for hours of operation.

Mr. Reda replied that his hours of operation are Monday to Friday 8am-5pm and Saturday 8am-2pm.

Mr. Lee asked about the parking situation and how many units the special permit is for.

Mr. Reda replied that he is planning to take two rear units and that he doesn't anticipate lots of parking needs, probably 4 or 5 spaces, doesn't have lots of customers going in and out, cars will mainly be inside.

Mr. Lee questioned how many vehicles the applicant will have parked outside during normal business hours.

Mr. Reda replied that he expects 2 or 3 vehicles, and that all work will be done inside the unit.

Ms. Conroy noted that the application is for a special permit and questioned the plot plan.

Mr. Deschenes replied that the plot plan submitted with the application is from the original special permit back in the 1980's. No changes are proposed to the outside of the building and the plot plan shows the lot's boundaries.

Ms. Conroy asked which units the applicant is going to lease and if there was a floor plan.

Mr. Reda replied that there will be no modifications to the building.

Ms. Conroy assumed that 140 South Street has a condo association and that the applicant will be leasing from a condo unit owner. Felt that the applicant needed to be the condo association and the unit owner.

Mr. Reda replied that he is aware that he is leasing from a condo unit owner.

Mr. Lee replied that the board doesn't know the terms of the condominium association and it is the condominium's owner and the applicant's responsibility to abide by the condominium association's terms. Mr. Lee reiterated that the board is just looking if the use is an allowed use and what conditions to put with the special permit.

Ms. Conroy felt that Mr. Bardol and the condo association needed to vote to allow the proposed use.

Ms. Coffey clarified that if the board grants the special permit and the condominium association has a problem, the problem lies with the condo owner, not the town of Walpole.

Ms. Conroy questioned if all the owners in the condo association were notified via the abutters list.

Mr. Lee expressed his comfort that the condominium association doesn't need to comment on this application.

Mr. Delaney asked what specific type of mechanical work the applicant does.

Mr. Reda explained that he mainly does electrical fleet service work for pupil transport vehicles, adhering to 7D regulations in Massachusetts. All vehicles are operable and prepared for inspection. No work will be completed outside of the unit.

Ms. Conroy read from the prior decision, saying that the uses on the site are restricted to the uses listed in 3.b.5.a and 3.b.5.c of the Zoning Bylaws. Also, that the uses should be limited to the uses allowed in the limited manufacturing district for office and warehouse uses in accordance with section 3.b.5.c and 3.b.5.a. Noted that the limitations from 1988 clearly dictated the uses of the property. Also read conservation commission's comments recommending to limit vehicle storage to only the front of the building.

Mr. Lee read letters from various departments; conservation commission suggesting to limit vehicle storage to the front of the building; town engineer, no comment, recommend the ZBA consider the parking needs of an automotive repair shop.

Mr. Delaney asked if the applicant sells cars at their Canton site and about the storage of hazardous material at 140 South Street.

Mr. Reda replied that there will be no hazardous material storage on the site, they do not sell cars and they don't deal with tires. Asked about sign permits.

Mr. Deschenes and Mr. Lee replied that signs would have to comply with Section 7 of the Zoning Bylaw.

Drew Womack, 113 South Street, voiced his concern about the lack of green space, parking, storage, and the current use of the property.

Mr. Lee told the applicant that his concerns are an enforcement issue and recommends that Mr. Womack reach out to the building inspector. Also, discussed possible conditions the board may place upon the applicant.

Mr. Lee explained that given the uniqueness of the applicant's proposed use, there would be no exact match in the table of use regulations, so it falls to whatever use matches most closely.

Ms. Conroy asked if the special permit could be used by another person on the property for the use of automotive repair.

Mr. Lee replied that the Special Permit and its conditions will be conditioned solely to these 2 units and prohibit full automotive repair.

Mr. Lee advised Mr. Reda that if he decides to close the public hearing tonight, there is a 4 member board and he will need a unanimous vote, as opposed to a 5 member board where solely 4/5 members is necessary.

Ms. Conroy read from another decision and noted that there are 45 parking spaces and asked Mr. Reda how many parking spaces currently are being used by other employees and businesses. Mr. Reda replied that he is unsure how other businesses are using their parking spaces. Noted that he doesn't like vehicles to stay multiple days, prefers to have cars done quickly.

John O'Leary, 776 Washington Street, feared excluding something that the applicant does from his Special Permit.

Mr. Lee gave the applicant the decision to close the hearing and advised the applicant that he would need a unanimous board decision, or if he chooses to continue the hearing, the applicant would only need 4/5 of votes.

Mr. Reda opted to close the hearing.

**Motion:** by Ms. Coffey to close the hearing for Case No. 22-8, seconded by Mr. Delaney.

Motion carried 4-0-0 (Lee-aye; Delaney- aye; Coffey-aye; Conroy- aye)

Ms. Conroy felt as though there were a lot of unanswered questions regarding parking, future use of the space, condo association, and felt as though the special permit was going away from the original decision of limited manufacturing use for the space.

Mr. Lee outlined the conditions of the special permit; the hours of operation would be limited to Monday to Friday, 8am to 5pm and Saturday 8am to 2pm; the special permit is for units 8 & 9; the special permit is for auto repair limited to electrical customization of cars, trucks, or motorized vehicles used for transporting people, not allowed for general automotive maintenance and repair; no auto sales on site; and no outside storage of parts, tires, and associated materials.

**Motion:** by Mr. Lee to approve the special permit with the conditions outlined.

Motion failed to carry 3-1-0 (Lee-aye; Delaney- aye; Coffey-aye; Conroy- nay)

**Case No. 22-7, 1429 Main Street LLC, 1429 Main Street, Special Permit under Zoning Bylaws Sections 2.2.A-B/ 5-B.1.3.g to allow for the modification to the 2014 Planning Board Special Permit Decision, Case No. 14-10 in which the special permit granting authority has changed.**

Public hearing started at 8:50 pm

Attorney Christopher Alphen, of Blatman Bobrowski, Haverty & Silverstein LLC, explained that his clients are looking for a modification to a mixed use special permit issued in 2014 by the planning board, is before the ZBA because they are now the Special permit granting authority. Mentioned that both the building commissioner and town council agreed that the ZBA is the correct authority to issue a modification to the 2014 special permit. Informed the board that the decision was issued alongside site plan review to approve the mixed-use development, yet the decision encumbers all of lot 40-149. Stated that his applicant wished to create a new parcel in the rear of the lot and remove it from the special permit/ site plan, so that it is not encumbered by

the decision. Mentioned that the planning board also needs to modify the site plan and get their proposed subdivision approved

Mr. Lee noted that the front parcel still meets zoning requirements and won't create a non-conforming lot. Mentioned that the applicant can create an unbuildable lot in the rear if they choose to do so. Questioned the sliver of land on the southwest side of the lot.

Mr. Alphen responded that the sliver of land is solely for illustrative purposes. Mentioned that he will be meeting with the planning board with a definitive subdivision and propose to extend Marion Street in order to create the rear part of the lot as a buildable lot. Wanted to separate the rear lot since the entire lot is currently encumbered by the planning board's special permit prevents the construction of a house.

Mr. Lee questioned the planning board's intent regarding lot development/ open space.

Mr. Alphen responded that he reviewed the planning board's special permit and it doesn't call for open space in the rear of the lot. Responded that nobody is doing anything with the rear part of the property and it is currently underutilized. Felt that his client has a right to the rear part of the property and can take the land away from the condominium association.

Mr. Lee questioned the green shaded area on Marion Street.

Mr. Alphen responded that locus is lot 40-149.

John Glossa, Glossa Engineering, responded that the layout of Marion Street touches lot 40-149.

Mr. Lee read a letter from KP Law, Jonathan Eichmann, felt that the ZBA could approve a special permit modification reducing the subject lot size as shown on the proposed plan prior to planning board approval of the plan. ZBA should condition the approval that the plan can't take effect until the plan in question is approved by the planning board and recorded.

Mr. Alphen stated that he has no disagreements with the letter from Mr. Eichmann and that he has a definitive subdivision plan in front of the planning board.

Mr. Lee read a summary from Mr. Deschenes, the project was approved in 2014, at which time the SPGA was the planning board, article 16 of the Autumn 2015 town meeting changed the SPGA from the PB to the ZBA for the use in General residence and Business zoning districts. Any modifications must meet current zoning laws. The applicant is in front of the planning board in order to change their plan of record, the purpose of which is to divide the lot into 2 lots.

Mr. Deschenes noted that the conditions from PB decision 14-10 are the existing conditions with the property.

Mr. Lee asked if the planning board's decision considered green space on locus.

Mr. Deschenes answered that green space may have been referenced in the site plan approval.

Mr. Lee asked if the abutters or town benefited from the subdivision of the lot.

Mr. Alphen reminded the board that the two lots are separate ownership by right if there is a plan to divide the property into two lots. Questioned the purpose of underutilizing the lot since only one use is governing the entire space. Felt as though the condominium association had no interest in maintaining the rear part of the lot. Responded that the town will benefit from proper use of the lot and the proposed cul-de-sac.

Ms. Conroy questioned why the condominium association would want to maintain the rear part of the lot since there are two owners.

Mr. Alphen responded that the master deed contain a clause which permits the developer from taking away the rear part of the property away from the condo association. Agreed with Ms. Conroy that the condo association shouldn't maintain the rear of the property and that the rear of the lot is currently being underutilized. Stated that the parcel should have been taken away before they got approval and the subdivision should have happened first.

Mr. Lee felt as though the ZBA was being asked to modify something without the full picture and questioned why the ZBA would allow the creation of 2 lots.

Ms. Conroy asked what percentage of ownership the applicant still has in the condominium association.

Mr. Alphen, responded that he doesn't think the applicant has any ownership and questioned why that is relevant.

Ms. Conroy responded that if the applicant was an owner in the condominium association then they would have some responsibility to maintain the property. Questioned how the condo was marketed to the condo buyers regarding what could happen down the line.

Mr. Alphen thought that Ms. Conroy's question was out of the purview of zoning law and the recorded master deed which stipulated that the rear part of the lot could be taken at any time.

Ms. Conroy read from Carl Balduf's letter, stating he had no objections to the modification of the special permit. Mr. Balduf pointed out that the existing conditions doesn't match the accepted site plan.

Mr. Glossa, stated that the site meets federal handicap space requirements, informed the board that the retaining wall is for engineering purposes, and felt that the existing conditions constituted substantial compliance. Stated that the Marian Street dead-ends and the proposed cul-de-sac will benefit the town in terms of accessibility and safety.

Mr. Lee asked what the applicant's intent was after it is subdivided and where the zoning lines would be to the proposed subdivision.



Mr. Alphen responded that the back lot is 100% residential.

Renee Maloof, 1 Marion Street, preferred a dead-end street vs. a cul-de-sac, worried about her house being incorrectly numbered if the subdivision is approved.

Cassie Braithwaite, 1429 Main Street Residence B, told the board that all her windows look on the rear of the property and that the master deed said that the rear of the lot was referred to as an unbuildable lot. She preferred to see greenery vs a house and that the slope of the rear of the lot distorts reality. Questioned if the condominium association has been paying property taxes on the entire lot. Preferred to see affordable housing vs a single- family home. Told the board that Marini improperly billed the condominium association for landscaping and fears it happening again.

Mr. Delaney asked if Marini approached the residents to discuss this possible subdivision.

Ms. Braithwaite told the board that residents were asked to sign a letter to approve additional work on the property, only a few residents approved.

Ms. Conroy asked how many people are on the homeowner's board and asked why 5 owners are listed on the assessor's page

Ms. Braithwaite responded that there are 3 people on the homeowner's board and that one person owns all 3 commercial units.

Stephen Lynch, 8 William Street, was concerned about future clear-cutting of the land and the removal of the buffer zone, stated that the trees were a condition of occupancy.

Mr. Alphen responded that this would be a conversation with the planning board, but they would be happy to condition a buffer zone.

Mr. Deschenes read from the previously approved special permit condition calling for a buffer along the property. Reminded the board that the only thing before the board is the special permit decision, not site plan review.

Mr. Lee asked Mr. Alphen if the subdivision moved forward if the original conditions would still apply.

Ms. Conroy asked Mr. Glossa if the cul-de-sac went in, what the actual parcel size and frontage would be.

Mr. Glossa showed the proposed lots of the subdivision is successful. He proposed a new cul-de-sac with an 88 foot diameter. Explained that there is a small amount of land from the southern lot with frontage in order to comply with the inability to have a 1 lot subdivision. Explained that the proposed lot is 20,740 square feet in the RB zone. The proposed lot needs 125 feet or frontage, it exceeds this along with the 100' circle.

Ms. Conroy asked about the circumference of the cul-de-sac and where the 125' of frontage stops

Mr. Glossa explained that the circumference goes around the entire cul-de-sac.

Mr. Lee asked if the ZBA needed to close the hearing tonight and make a decision or if the applicant could go before the planning board.

Mr. Alphen suggested to go the planning board tomorrow and see how things go and they will return before the ZBA.

Mr. Lee wanted both boards to be on the same page as to what is going on here.

**Motion:** by Ms. Coffey to continue the hearing until June 1 seconded by Ms. Conroy.

Motion carried 4-0-0 (Lee-aye; Conroy-aye; Delaney-aye; Coffey-aye)

### **Minutes Review: 05/04/2022**

Agenda item began at 10 pm

Mr. Lee asked to discuss the minutes at a later date.

### **Board Business: Summer Schedule**

Board decided to cut the July 6 and August 3 meetings from the schedule.

### **Adjournment:**

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

Motion carried 4-0-0 (Lee-aye; Conroy- aye; Coffey-aye; Delaney-aye)

Meeting adjourned at 10:05