

WALPOLE ZONING BOARD OF APPEALS MINUTES OF MAY 5, 2021

A meeting of the ZONING BOARD OF APPEALS was held remotely via Zoom on WEDNESDAY, MAY 5, 2021 AT 7PM. The following members were present on the Zoom Webinar:

John Lee (Chair), Susanne Murphy (Vice-chair), Bob Fitzgerald (Clerk), Drew Delaney, Dave Anderson Patrick Deschenes (Community Development Director); Mike Yanovitch (Building Commissioner); George Pucci (KP Law)

Case No. 20-25, Robert Truax, 300 Stone Street, Remand from Land Court:

Mr. Lee opened the hearing, present was Attorney Brian Almeida on behalf of the Applicant. Mr. Lee explained that the Zoning Board had previously denied the Special Permit application for this property, and asked Mr. Pucci to bring the board up to date. Mr. Pucci reiterated that the ZBA denied the application on the 3-2 vote, the appeal was then appealed by the MA Land Court, and the applicant's attorney then served the Town Clerk with the complaint, which was brought to Mr. Pucci's attention by the Town Administrator in order to answer and defend on behalf of the board. Mr. Pucci stated that the former Community Development Director, Ashley Clark suggested that the board select a peer reviewer to look at the issues that were outlined in the denial, and to possibly look for ways that the board may be able to condition the application. Mr. Pucci stated that the applicant is amenable to paying for suitable peer review, and recommends that the board make a motion to continue the public hearing to a future date and time certain in order to allow for peer review scopes to be submitted to the board, which can then be selected at the next hearing. Attorney Almeida stated that he is in complete agreement with everything Mr. Pucci had relayed. Mrs. Murphy reiterated that she has thorough knowledge of the property. Mr. Lee asked Mr. Yanovitch for any comments he may have, in which Mr. Yanovitch reiterated to the board that the remand is for the purpose of deliberating based on what the bylaw states relating to the specific section that relief is requested, and not personal opinion on that specific lot. Mr. Deschenes stated that he will send out requests for scopes tomorrow morning for peer review services. Mrs. Murphy motioned to continue the public hearing to 6/2/21 at 7pm via zoom, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Delaney-aye; Anderson-aye, the motion carried 5-0-0.

Case No. 05-19-02, Wall Street Development Corp, 48 Burns Avenue, Request for Project Change/Modification to a Comprehensive Permit:

Lee opened the hearing, present was the applicant Lou Petrozzi of Wall Street Development Corp. Mr. Pucci gave a brief summary of the history of the three Requests for Modification, which included the following; Modification No. 1 was denied by the board and appealed by the applicant, and is currently in the jurisdiction of the HAC, Modification No. 3 was denied by the board and a decision was issued, and Modification No. 2 that is before the board tonight has been deemed substantial. Mr. Pucci stated that the deadline for closing the public hearing for this request is tomorrow (5/6/21), and the board would need an extension of time from the applicant in order to keep the public hearing open beyond tomorrow. Mr. Lee asked if the board can vote on the individual items of the modification, in which Mr. Pucci confirmed. The following conditions were voted on;

1. Condition C.1.a: Motion by Mrs. Murphy to approve requested modification, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Fitzgerald-aye; Delaney-aye; Murphy-no, the motion carried 3-1-0.
2. Condition C.1.c: Motion by Mrs. Murphy to approve requested modification, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Fitzgerald-aye; Delaney-aye; Murphy-aye, the motion carried 4-0-0
3. Condition C.2.h: Motion by Mrs. Murphy to approve requested modification, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Fitzgerald-aye; Delaney-aye; Murphy-aye, the motion carried 4-0-0
4. Condition C.2.i: Motion by Mrs. Murphy to approve requested modification with amended language, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Fitzgerald-aye; Delaney-aye; Murphy-aye, the motion carried 4-0-0

5. Condition D.1.e.: Motion by Mrs. Murphy to approve requested modification with amended language, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Fitzgerald-aye; Delaney-aye; Murphy-aye, the motion carried 4-0-0
6. Condition H.9.a.: Motion by Mrs. Murphy to approve requested modification with amended language, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Fitzgerald-aye; Delaney-aye; Murphy-aye, the motion carried 4-0-0
7. Condition H.9.b.: Motion by Mrs. Murphy to approve requested modification with amended language, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Fitzgerald-aye; Delaney-aye; Murphy-aye, the motion carried 4-0-0

Mr. Lee opened the hearing up to the public for comment, which there was none. Mr. Pucci recommended that the board formally close the public hearing at this time, and should schedule a deliberation session for the review of the draft decision that is consistent with the board's votes that were taken tonight in the public hearing. Mr. Pucci stated that then the board can take their final vote issuing the decision on the night of the deliberation session. Mr. Deschenes stated that he can provide Town Counsel with a draft decision by sometime next week and review it with Mr. Pucci on 5/12/21 or 5/13/21 in preparation for a deliberation session. Mrs. Murphy motioned to close the public hearing, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Delaney-aye, the motion carried 4-0-0. The board and Mr. Pucci agreed to hold a deliberation session on 5/19/21 at 7pm via zoom for the purpose of deliberating and voting on a draft decision that is consistent with the boards votes on the modifications request.

Case No. 05-20, Wall Street Development Corp., Dupee Street (Map 35; Parcel 380-1), Comprehensive Permit:

Lee opened the hearing, present was the applicant Lou Petrozzi of Wall Street Development Corp. Mr. Deschenes stated that an updated list of waivers has been submitted by the applicant, and Town Counsel recommend that the board addresses each waiver individually to either approve or deny. The board went through the updated list of waivers, which included the following;

- 3.2.10: list not provided, deny waiver
- 3.2.12: deny
- Subdivision waiver: deny, subject for further clarification of specific waivers sought
- 5.B.3.d.iiii: deny as inapplicable (single-family dwellings proposed- not multi-family)
- 5.D.2.: deny
- 5.D.3.e.: deny as N/A, subject to further clarification
- 5.D.4.a.: Special Permit requirement N/A, waiver denied subject to further conditions
- 6.B.1.c.: N/A
- 6.B.1.: pending final decision
- 6.C.4.: pending final decision
- 6.C.4.A.3.: N/A not within zoning bylaws
- 6.C.4.A.6.: N/A not within zoning bylaws
- 6.C.11.: pending final decision
- Section 13: deny as N/A subject to further clarification
- Stormwater Mgmt.: pending further discussion by the board
- S&W Regulations: deny all
- Building Permit Regulations: deny all

Lee opened the hearing up to the public for comment, which included the following;

- Janis Sellet: thanked board for service
- Tyler Houle: letter submitted to board

At the recommendation of Town Counsel, Mrs. Murphy motioned to close the public hearing, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Delaney-aye, the motion carried 4-0-0. Mr. Pucci

recommended that the board decide on a date and time to review the draft decision and deliberate. The board and Town Counsel agreed to schedule deliberations on the draft decision on 5/26/21 at 7pm via zoom.

Minutes: Mrs. Murphy motioned to approve the minutes of 2/11/21 & 2/22/21 with edits as discussed, seconded by Mr. Fitzgerald, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Delaney-aye, the motion carried 4-0-0.

Murphy motioned to adjourn, seconded by Fitzgerald, roll call vote: Lee-aye; Fitzgerald-aye; Murphy-aye; Delaney-aye. The motion carried 4-0-0.

The meeting adjourned at 10:30 PM
Accepted 7/14/21