



Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

Zoning Board of Appeals
John Lee, Chairman
Susanne Murphy, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Drew Delaney, Member
David Anderson, Associate Member

DECISION – WALPOLE BOARD OF APPEALS CASE NO. 20-40

APPLICANT

Louis Petrozzi, Wall Street Development Corp.

LOCATION OF PROPERTY INVOLVED:

**48 Burns Avenue
Walpole Assessors Map 20, Parcels 115, 119, 136 & 137**

APPLICATION:

An ADMINISTRATIVE APPEAL of the Zoning Enforcement Officer's Violation Notice and Cease & Desist regarding the property at 48 Burns Avenue for the violations of the Comprehensive Permit #05-19 that is currently under appeal, specifically, Condition #A.7.: requiring compliance with all local regulations unless waived; Condition # A.13: requiring compliance with various conditions prior to any site clearing, tree removal or grading.

NOTICE OF HEARING:

Pursuant to Massachusetts General Laws, Chapter 40A, Sections 8 and 11, notification of a public hearing for Case 20-40 was advertised on January 6, 2021 and January 13, 2021 in a newspaper of local circulation (*Times Advocate*). The language of this public hearing notice was as follows:

**Town of Walpole
Zoning Board of Appeals**

Notice is hereby given that the Board of Appeals of the Town of Walpole will hold a **PUBLIC HEARING** via **ZOOM WEBINAR** on **WEDNESDAY, January 20, 2021 at 7:00 P.M.** on an Application from **Louis Petrozzi of Wall Street Development Corp., Case #20-40**, with respect to property located at **48 Burns Avenue, Walpole, MA**, Zoning District GR.

This Application is for an Administrative Appeal of the Zoning Enforcement Officer's Violation Notice & Cease & Desist regarding the property at 48 Burns Avenue for the violations of the Comprehensive Permit #05-19 that is currently under appeal, specifically, Condition #A.7.: requiring compliance with all local regulations unless waived; Condition # A.13: requiring compliance with various conditions prior to any site clearing, tree removal or grading This Application may be viewed at the office of the Board of Appeals

RECEIVED
21 APR - 7 PM 2:28
TOWN OF WALPOLE
TOWN CLERK

BACKGROUND AND DELIBERATION:

On November 30, 2020, Walpole Building Commissioner & Zoning Enforcement Officer Michael Yanovitch issued a Violation Notice and Cease & Desist Order (the "Order") to Wall Street Development Corp. for beginning site work at 48 Burns Avenue without a final recorded comprehensive permit. A comprehensive permit was issued for the 48 Burns Avenue project, was appealed, and is still under review by the Massachusetts Housing Appeals Committee. By beginning site work before all appeals are dismissed and the permit is recorded with the registry of deeds, the applicant (Wall Street Development Corp.) was found to have been in violation of the following conditions of the comprehensive permit #05-19 dated January 6, 2019:

1. Condition #A.7. The Project shall comply with all local regulations of the Town of Walpole and its boards, commissions and departments unless specifically wavered herein
2. Condition #A.13. The Applicant shall submit to the Board prior to any construction of site development activities (including site clearings, tree removal, grading, etc.) on the Site, whether or not pursuant to a building permit.

In addition to the Violation Notice Cease and Desist Order issued on November 30, 2020, there are two letters on the record related to case number 20-40. The first letter dated January 20, 2021 is from the Town to the Board detailing the reasoning for why the Violation Notice Cease and Desist Order was issued. In summary, the letter stated that there are no active zoning permits for the site (due to the comprehensive permit being appealed and under review by the Massachusetts Housing Appeals Committee) and that the work being conducted currently exceeds the by-right activity allowed under local Zoning Bylaws and has therefore created a zoning violation. A second letter dated February 23, 2021 is from the applicant to the Board. In this letter the applicant states their disagreement to the issuing of the Violation Notice Cease and Desist and also provides their rebuttal to the arguments raised in January 20, 2021 letter from the Town.

A hearing before the Board was opened on January 20, 2021 and continued without testimony from the applicant. On the subsequent hearing date of February 24, 2021 a letter from the applicant brought forward on the same day of the hearing resulted in the hearing being continued to March 24, 2021. At the March 24, 2021 public hearing testimony was heard from Commissioner Yanovitch and the applicant. No one from the public spoke in favor or against the application.

At the March 24, 2021 public hearing, the hearing was closed and the matter at hand was deliberated and voted upon. The Board members who were present to deliberate and vote:

John Lee, Chairman
Susanne Murphy, Vice Chairman
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Drew Delaney, Member

Through the public hearing process, it was determined by the Board that the arguments raised by the Building Commissioner & Zoning Enforcement Officer were substantial and the decision to issue the Violation Notice & Cease and Desist valid. The Board found that the work conducted at the site exceeded what was allowed by-right and that this work should cease & desist until the applicant can satisfy the requirements of the comprehensive permit.

VOTE OF THE BOARD:

MOTION made by Ms. Murphy and seconded by Ms. Coffey to close public hearing for case number 20-40.

In Favor: John Lee, Chairman

Susanne Murphy, Vice Chairman

Robert Fitzgerald, Clerk

Mary Jane Coffey, Member

Drew Delaney, Member

Opposed: None

The vote was five (5) in favor and zero (0) opposed resulting in a **vote of 5-0** which approved the motion and therefore closed the public hearing. **The result of this vote closed the public hearing for case number 20-40**

MOTION made by Ms. Murphy and seconded by Ms. Coffey to deny the appeal and uphold the Cease and Desist Order

In Favor: John Lee, Chairman

Susanne Murphy, Vice Chairman

Robert Fitzgerald, Clerk

Mary Jane Coffey, Member

Drew Delaney, Member

Opposed: None

The vote was five (5) in favor and zero (0) opposed resulting in a **vote of 5-0** which approved the motion by a super majority. **The result of the vote denied the applicant's appeal and upheld the Cease & Desist Order.**

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS

Robert Fitzgerald *RF*
Robert Fitzgerald, Clerk

Date: April 7, 2021

RF/am

cc: Town Clerk Engineering Planning Board
 Board of Selectmen Building Inspector Conservation Commission

This decision was made on March 24, 2021 and filed with the Town Clerk on April 7, 2021.