

## Zoning Board of Appeals

135 School Street

Walpole, MA 02081

May 31, 2021

RE: Issues regarding any future development at 300 Stone Street.

290 Stone Street (lot 1) required a Buffer Zone at time of separation with (lot 2) 300 Stone Street; see July 13, 1970 ANR, 1970 ZBL Section VI pages 20-24 specifically VI-13; VI-16; VI-8. Prior to 1970 ANR 290 Stone Streets side yard buffer had been what is now 300 Stone Street for 338 Stone Street. Following the 1970 ANR the vacant, yet wooded, lot at 300 Stone Street was treated as the de-facto buffer zone for 338 Stone Street. I understand 290 Stone Street ignoring its buffer zone requirement as it relates to a vacant lot (#300) however, if by allowing the applicant to build at 300 Stone Street, the de-facto buffer zone (as it presently acts) is eliminated; there would be a requirement to recreate a true buffer zone on 290 Stone Street. Upon request by 290 Stone Street, buffer requirements may be waived by Planning Board/ZBA to allow a smaller buffer.

### Section VI. Area and Placement Regulations

VI-13. Reduction of Occupied Lots (see current Bylaw Section 6-C. Special Conditions [6-C-10])

“No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, coverage, setback, yard or other provisions of this By-Law applicable to the construction of said building on said lot. This prohibition shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose.”

I specifically refer to ... “or other provisions of this By-Law applicable to the construction of said building on said lot”. This would be true of past, present or future construction. The building setback on 290 Stone Street (< 50’) would be allowed to continue as preexisting nonconforming. The Buffer Zone VI-16 however, would have been required at the time of the July 13, 1970 ANR. The Buffer Zone on 290 Stone Street in 1970 was twenty (20’) feet in width in addition to 50’ ft. Side Yard Width established for LM in Section VI-8 totaling 70’; currently Table 5-G.1.1 sets LM at Forty (40’) feet minimum. The Buffer Zone would still apply today because of Section 9: Non-Conforming Situations specifically 9-2-D Once in conformity, or closer to conformity, cannot revert (i.e. back to no buffer). Without the Buffer Zone, 290 Stone Street (lot 1) would be permitted to revert to nonconformity. Whether 290 + 300 Stone Street are currently in common ownership or not; or whether 300 Stone Street is a vacant lot or not, the Buffer Zone was and still is required on 290 Stone Street. Regardless of whether an adequate buffer existed in 1970, if a home is ever built on 300 Stone Street, it would be on the boundary closest to the LM District. I would think any new owner of a now cleared lot, primarily on the boundary to the LM District, would almost certainly request, through the Building Commissioner, the required 40’ buffer.

VI-16 Buffer Zones

(see current Bylaw Section 5-G Buffer Zones [Table 5-G-1.1.])

"For all uses in non-residential districts and commercial uses as defined in Section IV-2, there shall be established buffer zones where said districts are adjacent to or within any residential district."

290 Stone is a commercial use and adjacent to a residential district

- a. Twenty (20) feet in width in addition to the minimum clearances established in section VI-8
- b. A buffer zone shall provide a fence, or double row of trees, or both...
- c. "The owner of property adjacent to or within residential districts shall cause the buffer zones to be provided and constructed at such time as his property is developed for any of the above uses."

**290 Stone Street was adjacent to (after 1970 ANR), or within residential districts (prior to 1970 ANR)**

- d. "The requirements of this Section shall be applied to the above uses, if existing, only when addition or alterations are made".

**290 Stone Street was existing at time of ANR and the change in lot size is an alteration, hence the Reduction of Occupied Lots (VI-13 above). The ANR created a vacant lot which in turn created the need of a new Buffer Zone.**

VI-8 Setback and Yard Requirements for Buildings (current Bylaw Section 6-B see Table 6-B-1 Dim. Reg.)

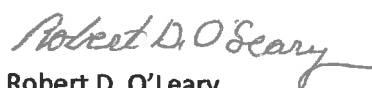
Limited Manufacturing: Required Setback Distance 50 ft.; Required Side Yard Width 50 ft.;  
Required Rear Yard Depth 25 ft. where the rear yard abuts a Residential District.

6-C-3-B Contiguous Buildable Lot Area (the current Bylaw)

It does not appear that the contiguous buildable lot area has been calculated for 300 Stone Street. Neither the Flood Zone "Resource Areas" or all area south of the north edge of the perennial stream show calculations. South of the stream would not be a contiguous buildable area of the lot and the T.O.W. Wetlands Bylaw 561-1 indicates water resources include but are not limited to flood control.

Has it been determined whether 300 Stone Street meets the 12,000 square feet (60% minimum lot area of 20,000 [District RB]) as defined by 6-C-3-B? If as a result of topographical features, the lot (300 Stone St.) fails to meet 6-C-3-B, a variance could be requested.

Cc: Building Commissioner



Robert D. O'Leary  
776 Washington St.  
Walpole, MA 02081

NOT  
OFFICIAL

NOT  
OFFICIAL

H.A. Morse Corp.

L.C. No. 14729D

H.A. Morse Corp.

LOT 1  
56,070 S.F.

LOT 2  
27,045 S.F.

STONE STREET

STONE STREET

now or formerly  
Libby

APPROVAL UNDER SUBDIVISION  
CONTROL LAW NOT REQUIRED.

PLANNING BOARD - TOWN OF WALPOLE

*[Signature]*  
12/13/70

WALPOLE, MASS.  
SCALE: 1" = 40'  
MAY 15, 1970  
NORWOOD ENGINEERING CO., INC.  
CIVIL ENGINEERS  
NORWOOD, MASS.



Noted: legality of deeds  
Dedden, Mass.  
Received July 17, 1970, with  
Filed as No. 567, 1970 at 11:26 a.m. 550  
/Attest: *[Signature]* Register

*John Cullton*

*Zoning  
By-Laws*

of the  
TOWN OF WALPOLE



*1970*

*Prepared by the*  
WALPOLE PLANNING BOARD

on the principal street (whichever allows the greater number of signs). provided that each such sign does not exceed forty (40) square feet in area.

**SECTION VI.**

**AREA AND PLACEMENT REGULATIONS**

**VI - 1. Lot Area and Frontage in Residential Districts.**

In all Residential Districts, no building except a one-story building of accessory use, shall be constructed on a lot having less than the "Required Lot Area," or having less frontage on at least one street than the "Required Lot Frontage," specified in the following table for the district in which said lot is located, and not more than one building constructed as a dwelling or so used, shall be located on each such lot:

District	Required Lot Area	Required Lot Frontage
Rural	40,000 sq. ft.	200 ft.
Residence A	30,000 sq. ft.	150 ft.
Residence B	20,000 sq. ft.	125 ft.
General Residence	15,000 sq. ft.	100 ft.

**VI - 2. Determination of Lot Frontage and Area.**

For the purposes of this section, lot frontage shall be measured along the exterior street line from one side of the lot to the other, and also between said side lines along a line which marks the required building setback on such lot, and the longer of said distances shall be considered as the frontage of such lot. However, the shorter of such measurements shall not be less than eighty (80) percent of the required frontage. In determining lot area, no portion thereof within the exterior line of any street shall be included.

**VI - 3. Dwelling in Business Districts.**

In a Business District, no building shall be constructed as a dwelling, or so used, on a lot having less area or frontage than the amount required for its construction in the abutting Residential District (or, where more than one such district abuts, in the particular district nearest to the building in question).

**VI - 4. Lot Area and Frontage in Limited Manufacturing Districts.**

In a Limited Manufacturing District, no building except a one-story building of accessory use, shall be constructed on a lot having an area of less than forty thousand (40,000) square feet, or having less than two hundred (200) feet of frontage on at least one street.

**VI - 5. Exceptions for Existing Lots.**

Notwithstanding the foregoing provisions, a dwelling for not more than one family (where otherwise lawful) or any other permitted building may be constructed on a lot having less than the required area and frontage, if all other requirements of this By-Law are complied with, and, prior to the effective date of the requirements in question, said lot:

1. Was laid out and recorded in conformity with the area and frontage requirements, if any, applicable to the construction of such a dwelling or other building on said lot at the time of said recording, and provided

N  
gr  
in  
VI  
A  
ap  
dal  
the

and  
any  
VI -  
In a  
any  
mitt  
said

Rura  
Gene  
Busin  
Limit  
Indus

VI -  
In all  
of an  
of its  
lot th  
the di

Dis  
Rur

greater number of signs).  
 forty (40) square feet

**PERMITTED REGULATIONS**

any building of accessory nature "Required Lot Area," "Required Lot Frontage," which said lot is located, being or so used, shall be

- Required Lot Frontage**  
 200 ft.  
 150 ft.  
 125 ft.  
 100 ft.

to be measured along the front, and also between said building setback on such lot, the frontage of such lot. shall be less than eighty (80) per cent of the area, no portion thereof

used as a dwelling, or so much amount required for its use where more than one such building in question).

**Permitted Districts.**

except a one-story building on an area of less than forty or two hundred (200) feet of

used for not more than one detached building may be constructed and frontage, if all other conditions, prior to the effective

with the area and frontage requirements of such a dwelling at the time of recording, and provided

further that said lot did not, on said effective date, adjoin other land of the same owner available for use in connection therewith, or

2. Was shown on a final or definitive subdivision plan duly approved by the Walpole Planning Board.

No lot on which a building is constructed under the provisions of this paragraph shall thereafter be reduced or changed in size or shape so as to further increase its non-conformity with the area and frontage requirements hereof.

**VI - 6. Other Exceptions.**

A lot, tract or parcel laid out and recorded prior to the effective date of the applicable area and frontage requirements hereof, and not, on said effective date, adjoining other land of the same owner available for use in connection therewith, may be:

1. Divided into two lots, where each lot resulting from such division has not less than eighty (80) per cent of the required lot area and frontage, or
2. Divided into as many lots as practicable, each having the required lot area and frontage, plus one remaining lot having not less than eighty (80) per cent of the required area and frontage;

and a dwelling for not more than one family (where otherwise lawful), or any other permitted building, may be constructed on each such lot.

**VI - 7. Lot Coverage in All Districts.**

In all Districts, no building shall be constructed so as to cover, together with any other buildings on the lot, a larger portion of the lot area than the "Permitted Lot Coverage" specified in the following for the district in which said lot is located:

District	Maximum Permitted Lot Coverage Including Accessory Buildings or Structures
Rural, Residence A, Residence B	25%
General Residence	30%
Business	75%
Limited Manufacturing	50%
Industrial	70%

**VI - 8. Setback and Yard Requirements for Buildings.**

In all districts, no building shall be constructed so as to be nearer to the line of any street than the "Required Setback Distance," or nearer to the side lines of its lot than the "Required Side Yard Width," or nearer to the rear line of its lot than the "Required Rear Yard Depth," specified in the following table for the district in which said lot is located:

District	Required Setback Distance	Required Side Yard Width	Required Rear Yard Depth
Rural	30 ft.	25 ft., except that a detached accessory building having a setback of at least 150 ft. may be constructed within 6 ft. of the side lines of its lot.	30 ft., except that a detached accessory building may be constructed 10 ft. of the rear line of its lot.

District	Required Setback	Required Side Yard Width	Required Rear Yard Depth
Residence A	30 ft.	20 ft., except that a detached accessory building having a setback of at least 150 ft. may be constructed within 6 ft. of the side lines of its lot.	30 ft., except that a detached accessory building may be constructed 10 ft. of the rear line of its lot.
Residence B	30 ft.	15 ft., except that a detached accessory building having a setback of at least 100 ft. may be constructed within 6 ft. of the side lines of its lot.	30 ft., except that a detached accessory building may be constructed 10 ft. of the rear line of its lot.
General Residence	30 ft.	10 ft., except that a detached accessory building having a setback of at least 100 ft. may be constructed within 6 ft. of the side lines of its lot.	30 ft., except that a detached accessory building may be constructed 10 ft. of the rear line of its lot.
Business	25 ft.	6 ft., unless the wall adjoining a side lot line be a firewall used either as a party wall or with its outer face coincident with said line.	20 ft., for a dwelling, except that a dwelling in which all rooms open onto a street or onto a yard or exterior court at least 20 ft. in depth may be constructed within 6 ft. of the rear line of its lot; 6 ft for all other buildings.
Limited Manufacturing	50 ft.	50 ft., and where it abuts a railroad right-of-way, none	25 ft., but where the rear yard abuts a Residential District, 50 ft., and where it abuts a railroad right-of-way, none
Industrial	25 ft.	10 ft., but where the side yard abuts a Residential District, 50 ft., and where it abuts a railroad right-of-way, none	10 ft., but where the rear yard abuts a Residential District, 50 ft., and where it abuts a railroad right-of-way, none In Business, Limited Manufacturing, and Industrial Districts the required setback shall be used for no purpose other than walks, drives, landscaping, flag poles, lights and signs or fences as permitted elsewhere in these By-Laws.

In the where then b yard w  
VI - 9.  
For the sured fi the str distance parallel  
VI - 10.  
In all Clearan the ave therefo main bu building interven having t lot).  
VI - 11.  
In all d equipme no struc shall, ex nearer tl respectiv ever, suc in area, fence or shall hav and the point. Fo presents the stree  
VI - 12.  
On an ex (by para reduced for each the front vided, h than fift feet in a District,

0 ft., except that a detached accessory building may be constructed within 0 ft. of the rear line of its lot.

Required Rear Yard Depth 30 ft., except that a detached accessory building may be constructed within 10 ft. of the rear line of its lot.

30 ft., except that a detached accessory building may be constructed within 10 ft. of the rear line of its lot.

20 ft., for a dwelling, except that a dwelling in which all rooms open onto a street or onto a yard or exterior court at least 20 ft. in depth may be constructed within 6 ft. of the rear line of its lot; 6 ft for all other buildings.

t., but where the rear yard abuts a Residential District, 10 ft., and where it abuts a railroad right-of-way, none

t., but where the rear yard abuts a Residential District, 10 ft., and where it abuts a railroad right-of-way, none Business, Limited Manufacturing, and Industrial Districts required setback shall be 10 ft. for no purpose other than walks, drives, landscaping, flagpoles, lights and signs or fences permitted elsewhere in these Laws.

In the case of a lot which abuts the point of intersection of two streets and where the included angle is less than 45 degrees, such intersection lines shall then be considered as "side lines" of the lot, from which the "required side yard width" shall be measured.

#### VI - 9. Determination of Setback.

For the purposes of this Section, the required setback distance shall be measured from the nearest exterior line of the street in question; except that where the street has a right-of-way width of less than forty (40) feet, the setback distance shall be measured from a line on the lot twenty (20) feet from and parallel to the center line of said street.

#### VI - 10. Setback Exceptions.

In all districts, except where subject to the provisions hereof on "Corner Clearance," a building may be constructed as near to the line of any street as the average of the setbacks of the dwellings or other main buildings nearest thereto on either side. Where, in determining the average setback, the nearest main building on either side is more than three hundred (300) feet from the building in question, such side building shall not be counted, but instead the intervening space shall be considered as though occupied by a main building having the required setback (whether or not said space is laid out as a separate lot).

#### VI - 11. Setback and Side Yards for Other Uses.

In all districts, no open storage or display of goods, products, materials or equipment, no gasoline pump, vending machine or other commercial device, and no structure of any type over three (3) feet in height or ten (10) feet in length shall, except as hereinafter provided, be located nearer the line of any street or nearer the side lines of its lot than the minimum setback and side yard width, respectively, required for a building on the same portion of the same lot. However, such clear space may contain: (a) a lawful sign not over one square foot in area, (b) a mailbox, flagpole, or utility pole, (c) a retaining wall, and (d) a fence or an above-ground wall, provided that no such wall and no solid fence shall have a height of more than three (3) feet at any point between the street and the required minimum setback line or more than six (6) feet at any other point. For the purpose of this provision, a "solid fence" is defined as one which presents more than a 25 per cent obstruction to visibility from any point on the street, sidewalk or abutting lot.

#### VI - 12. Side Yard Exceptions.

On an existing lot specifically exempted from the frontage requirements hereof (by paragraph VI-5), the required side yard width for a main building may be reduced one foot for each ten (10) feet in a Rural or Residence A District and for each five (5) feet in a Residence B or General Residence District by which the frontage of said lot is less than the minimum specified for its district; provided, however, that the side yard distance shall not be so reduced to less than fifteen (15) feet in a Rural or Residence A District, or less than ten (10) feet in a Residence B District, or less than six (6) feet in a General Residence District, and provided further that if the width of said lot any point through



the building exceeds the frontage thereof, said width (rather than frontage) shall be used in determining the amount of side yard reduction.

#### VI - 13. Reduction of Occupied Lots.

No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, coverage, setback, yard or other provisions of this By-Law applicable to the construction of said building on said lot. This prohibition shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose.

#### VI - 14. Projections.

Nothing herein shall prevent the projection of eaves, chimneys or cornices not exceeding eighteen (18) inches in width, or of uncovered steps, unroofed porches, window sills, or belt courses into any required yard or other open space.

#### VI - 15. Corner Clearance.

In all Residential Districts, no building shall be constructed within the triangular area formed by the exterior lines of intersecting streets and a line joining points on such lines twenty-five (25) feet distance from their point of intersection (or, in the case of a rounded corner, the point of intersection of their tangents), and no structure, no tree, shrub or other planting, and no open display, storage or other open use shall be located within said triangular area in such a manner as to interfere with traffic visibility across the corner.

#### VI - 16. Buffer Zones

For all uses in non-residential districts and commercial uses as defined in Section IV-2, there shall be established buffer zones where said districts are adjacent to or within any residential district.

- a. Buffer Zones shall be twenty (20) feet in width in addition to the minimum clearances established in Section VI-8.
- b. A buffer zone shall provide a fence, or a double row of trees, or both, to properly screen the view, except where Section VI-15 is applicable. Evergreen trees shall not be less than five (5) feet high and not less than six (6) feet apart, and deciduous trees not less than eight (8) feet high and not over fifteen (15) feet apart, the spacing of trees in one row centered on the spacing of trees in the other; and said trees shall be not less than sixty (60) per cent evergreen species. A natural growth of trees may be acceptable if it satisfies the intent of this section. Fence, trees and planting shall be subject to Site Plan Approval. Any trees which die must be replaced; fences shall be maintained.
- c. The owner of property adjacent to or within residential districts shall cause the buffer zones to be provided and constructed at such time as his property is developed for any of the above uses.
- d. The requirements of this Section shall be applied to the above uses, if existing, only when additions or alterations are made.

### SECTION VII.

#### VII - 1. Building Height

In all districts, no "Height" specified on is located:

District  
Rural, Residence A,  
Residence B,  
General Residence  
Business  
Limited Manufacturing  
Industrial

#### VII - 2. Height Determination

Maximum building height of the Town of Walpole shall not exceed the height of ventilators, skylights, soil pipes and other projections nor to domes, towers or buildings.

#### VII - 3. Additional Height

In addition to the maximum height located within the adjacent lot shall have a horizontal distance of more than its horizontal distance in the District, or greater if in a General Residence District shall not apply if the height is measured from the nearest exterior wall.

### SECTION VIII.

#### VIII - 1. Buildings and Uses

Any lawful building existing at the time of the adoption of this Ordinance shall be continued although not conforming use which shall be allowed for a consecutive months shall be allowed.

#### VIII - 2. Change of Use

No non-conforming use shall be continued.