

The January 9, 2013 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 7:00 P.M. with the following members present:

Susanne Murphy, Chairman
James M. Stanton, Vice Chairman
Daniel J. Cunningham, Jr., Clerk
Ted C. Case, Member
James S. DeCelle, Member (not present)

Matthew Zuker, Associate member

Decisions Pending: Evelina Gourdoukis – Case #29-12 (Stanton, Cunningham, Case, DeCelle, Zuker)

Mr. Stanton informed Attorney Brady that Mr. DeCelle was not present and the vote would be with a four-man Board. The Board decided to delay its decision to its next meeting on January 23, 2013. Attorney Brady said he would email an extension on the original application Case #21-12 to February 27, 2013.

7:00 p.m. – RKS Realty – Case #30-12

Ms. Murphy read the public hearing notice for **RKS REALTY, Case #30-12**, with respect to property located at 14 Renmar Ave., Walpole and shown on the Assessors Map as Lot No. 40-1, Limited Manufacturing Zone.

The application is for:

A Special permit under Section 12.3.C.4 of the Zoning Bylaws to allow an increase in impervious surface greater than 15%.

Michael Cabral represented the applicant and introduced Chris Kirby the Engineer. Mr. Cabral referred to the 2006 decision, Case #19-05, where the Zoning Board allowed impervious cover up to 30%. In that decision, the prohibition of outside storage is not under the Conditions; they want to clarify whether or not it is a condition. If it is a condition, this application is to remove that condition. He said that outside storage is allowed in the Limited Manufacturing district as of right. Nothing else at the site has changed. He agreed that there is now material stored outside. The Building Commissioner and Town Engineer were not sure whether or not it is allowed or not allowed, because it is not listed under the Conditions, but under the Reason for the Decision in the #19-05 case.

Mr. Stanton asked the applicant if he had agreed not to store equipment outside.

Richard Saccone, owner of the property, said he did not agree willingly, but he felt he had to agree in order to get the permit. He is storing equipment outside because he has no where else to put it. He informed the Board that the impervious cover on his lot is below 30%. He does not yet have an occupancy permit for the addition.

Mr. Cabral informed the Board that they went before the Planning Board and they suggested the applicant come before the Zoning Board regarding the outdoor storage. The equipment is maintained inside the building. Excavators, loaders, dump trucks are stored in a fenced in area outside. There is no oil containment under the equipment outside; there is a complete drainage system in the paved area.

Ms. Murphy read comments from the Town Engineer, Margaret Walker, dated December 20, 2012; Building Commissioner, Jack Mee, dated January 8, 2013; Lt. Joseph Zanghetti, Police Dept., dated December 10, 2012; Michael Laracy, Deputy Fire Chief, dated December 24, 2012; Sewer and Water Commissioners, dated December 31, 2012; Board of Health, dated January 9, 2013; Planning Board, dated January 7, 2013; and the Conservation Commission, dated December 17, 2012.

Ms. Murphy asked if there were any comments from the public, there being none:

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant, to close the public hearing.

The vote was **5-0-0 in favor.** (Murphy, Stanton, Cunningham, Case, Zuker voting)

A motion was made by Ms. Murphy, and seconded by Mr. Cunningham, on behalf of the applicant to grant Special Permit under Section 12 of the Zoning Bylaws to allow expansion and/or modification of the existing Special Permit to include outdoor storage use and or any other relief required by the Board.

The vote was **5-0-0 in favor**; therefore the application for **Special Permit is hereby granted**, subject to the following conditions: (Murphy, Stanton, Cunningham, Case, Zuker voting)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the Applicant shall provide copies of the MSDS sheets for all chemicals stored on the property as required by the Fire Chief.
2. As stipulated by the applicant at the public hearing, storage and maintenance of the hazardous or toxic materials shall be as outlined on the MSDS sheet submitted at the public hearing.
3. As stipulated by the applicant at the public hearing, all storage shall be as represented to be in compliance with Fire Regulations.
4. As stipulated by the applicant at the public hearing, all disposal shall be consistent with representations made by the applicant in an interview with Town Engineering, Margaret Walker, under letter dated February 26, 2006.
5. As stipulated by the applicant at the public hearing, all agreed upon conditions stated in the letter from Town Engineer, Margaret Walker, dated February 26, 2006, shall be included and made a condition of the Special Permit.

6. As stipulated by the applicant at the public hearing, the applicant shall comply with the Operation Maintenance Manual submitted at the public hearing.
7. As stipulated by the applicant at the public hearing, storage of contractor equipment and material outside shall not include any hazardous materials, including oils, drummed items, which shall be stored inside.
8. As stipulated by the applicant at the public hearing, impervious cover shall not increase past 30%.
9. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning By Laws in that:

- i. ***Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.***
The use of the property shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.
- ii. ***Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.***
The use of the property shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.
- iii. ***Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).***
The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.
- iv. ***Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.***
The use of the property shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.
- v. ***Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.***
The use of the property shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.
- vi. ***Shall not adversely effect the character of the immediate neighborhood.***

The use of the property shall not adversely effect the character of the immediate neighborhood.

- vii. ***Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.***

The use of the property shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

- viii. ***Pursuant to Section 5B of the Zoning Bylaws, outdoor storage is allowed as a right in the LM District.***

The outdoor storage is not detrimental to the neighborhood and is compatible with the current use of the property and with the character of the neighborhood.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

7:30 p.m. – Albert Giandomenico – Case #31-12

Ms. Murphy read the public hearing notice for **ALBERT GIANDOMENICO, Case #31-12**, with respect to property located at 65 Common St., Walpole and shown on the Assessors Map as Lot No. 33-221, General Residence Zone.

The application is for:

A Special permit under Section 5.B.4.1 of the Zoning Bylaws to allow an office of a doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession not a resident of the premises, or the studio or office of an artist, musician, teacher, real estate or insurance agent not a resident of the premises or a group of such offices.

Also request a Special Permit under Section 8.3 Table 8.3.1 Parking code 4 of the Zoning Bylaws, if required or a Determination from the Board that the existing parking on the property is adequate for the use of the building with 5.B.4.1 use Special Permit.

Ms. Murphy read a letter from Thomas Nannicelli, 89 Common St., dated January 7, 2013, in support of the application.

Attorney Edward Giandomenico represented the applicant and was available for any questions.

Discussion ensued regarding the square footage of the three floors, the use of the building and the available parking spaces.

Michael Boynton, Town Administrator, informed the Board that the third floor will be non-occupied and therefore, no sprinkler system is necessary. There are 20 parking spaces on the property and parking on Common Street. Town Meeting voted to sell the property. The exterior of the building needs to be maintained in its current historical character, with no expansion of parking created on abutting properties. Selling the property is part of community development and was the best option for the building. The professional use of the building needs to be consistent with the RFP. The Purchase and Sale Agreement has not yet been signed because the

proposed buyers need the Special Permit in order to purchase it. The Town and Town Counsel are very supportive of this proposed use.

Mr. Case pointed out that according to the square footage, a total of 23 parking spaces are required and there being 20 parking spaces on site and three parking spaces in front of the building on Common St. the requirement for 23 parking spaces is met.

Attorney Giandomenico informed the Board that the applicant may have to come before the Board again in the future for a sign.

Ms. Murphy asked if there were any comments from the public, there being none:

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to close the public hearing.

The vote was **5-0-0 in favor.** (Murphy, Stanton, Cunningham, Case, Zuker voting)

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant Special Permit under 5.B.4.1 of the Zoning Bylaws to allow an office of a doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession not a resident of the premises, or the studio or office of an artist, musician, teacher, real estate or insurance agent not a resident of the premises or a group of such offices.

The vote was **5-0-0 in favor**; therefore the application for **Special Permit is hereby granted**, subject to the following conditions: (Murphy, Stanton, Cunningham, Case, Zuker voting)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the structure shall be used as a Special permit under Section 5.B.4.1. of the Zoning Bylaws to allow an office of a doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession not a resident of the premises, or the studio or office of an artist, musician, teacher, real estate or insurance agent not a resident of the premises or a group of such offices.
2. As stipulated by the applicant at the public hearing, the conditions contained in the RFP and subsequent deed restrictions shall be the appropriate conditions to add to the Special Permit.
3. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning By Laws in that:

- i. Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.*

The Special Permit shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.

- ii. Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.*

The Special Permit shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.

- iii. Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).*

The lot coverage is greater than the coverage allowed in the zoning district in which the premises is located, which was grandfathered in for the Old Library for the Town of Walpole, but the Special Permit shall not increase the lot coverage allowed in the zoning district in which the premises is located.

- iv. Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.*

The Special Permit shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.

- v. Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.*

The Special Permit shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.

- vi. Shall not adversely effect the character of the immediate neighborhood.*

The Special Permit shall not adversely effect the character of the immediate neighborhood.

- vii. Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.*

The Special Permit shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

* * * * *

Further a motion was made by Ms. Murphy, and seconded by Mr. Cunningham, on behalf of the applicant to grant a Special Permit under Section 8.3.1 Parking Condition 4 to allow the Special Permit for the property at 65 Common St., Case #31-12.

The vote was **5-0-0 in favor**; therefore the application for **Special Permit is hereby granted**, subject to the following conditions: (Murphy, Stanton, Cunningham, Case, Zuker voting)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the structure shall be used as a Special permit under Section 5.B.4.1. of the Zoning Bylaws to allow an office of a doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession not a resident of the premises, or the studio or office of an artist, musician, teacher, real estate or insurance agent not a resident of the premises or a group of such offices.
2. As stipulated by the applicant at the public hearing, the conditions contained in the RFP and subsequent deed restrictions shall be the appropriate conditions to add to the Special Permit.
3. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning By Laws in that:

- i. Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.*
The Special Permit shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.
- ii. Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.*
The Special Permit shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.
- iii. Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).*
The lot coverage is greater than the coverage allowed in the zoning district in which the premises is located, which was grandfathered in for the Old Library for the Town of Walpole, but the Special Permit shall not increase the lot coverage allowed in the zoning district in which the premises is located.
- iv. Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.*
The Special Permit shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.
- v. Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.*
The Special Permit shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.

vi. *Shall not adversely effect the character of the immediate neighborhood.*

The Special Permit shall not adversely effect the character of the immediate neighborhood.

vii. *Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.*

The Special Permit shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

There being no further business, the meeting adjourned at 9:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on February 13, 2013.