

The April 24, 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

Matthew Zuker, Associate Member

7:00 p.m. – Hill Family Trust - Case #04-13 (contd. From 3/20/13) (Murphy, Stanton, Cunningham, Case, DeCelle, Zuker)

Ms. Murphy read the public hearing for **Hill Family Realty Trust, Case #04-13**, with respect to property located at 24 Pilgrim Way, Walpole and shown on the Assessors Map as Lot No. 27-59 & 27-86, Residence B Zone.

The application is for:

A Variance from Section 6-B of the Zoning Bylaws to allow the applicant to create a new buildable Lot 2 with a total of 60.01 feet of frontage (in two locations), where 125 feet is required; and

A Variance from Section 6-B of the Zoning Bylaws to allow the applicant to create a new buildable Lot 2 with a “circle” of less than the required 100 foot-diameter.

Ms. Murphy read the letter from the applicant dated April 24, 2013, requesting to continue the hearing per the neighbors request to review the revised plan.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to continue the hearing to May 15, 2013 at 7:30 p.m.

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

7:30 p.m. – Charles Ford – Case #06-13

Mr. Stanton recused himself from this hearing.

Ms. Murphy read the public hearing notice for **CHARLES FORD, Case #06-13**, with respect to property located at 7 Woodland Rd., E. Walpole and shown on the Assessors Map as Lot No. 28-207, Lot B, General Residence Zone.

The application is for:

A Variance from Section 6-B of the Zoning Bylaws to allow the reconfiguration of two existing lots held in common ownership, so as to create a new Lot D for a new single-family house, with said Lot D having 8,676 square feet where 15,000 square feet is required, and

A Variance from Section 6-B of the Zoning Bylaws to allow said Lot D to have a 90.3 foot frontage where 100 feet is required.

Charles Ford introduced his brother-in-law Bill Germino who will also be present information to the Board. Mr. Ford submitted a revised plan and presentation packet. His brother-in-law would like to live in the proposed house. They have lived as neighbors before and wish to do that again. He sent a letter to some of the closer neighbors explaining his proposal.

Mr. Germino explained that the site is located near Bird Park. General Residence and Residence B are part of the general area. One of the lots would be in nonconformance and pointed out other lots in the area that are nonconforming. Mr. Germino said the general make up of the neighborhood is very similar to what the applicant is requesting.

Mr. Ford explained that in 1926 this was two lots in common ownership. With a Special Permit he would build a two-family building according to the Bylaws, but that is not what he wants to do. He could also build a second building with a Special Permit and have two principle buildings. Mr. Ford referred to the hardships stated in page 19 of his submittal. Which included that it would be difficult to finance, and decide ownership, and possibly he would have to rent to his brother-in-law, and it would be almost impossible to sell.

Mr. Germino referred to the new plan; the proposed structure would meet all the set back requirements. The lot line is drawn a little different in order to make the required circle fit. The structure on the plan is an approximate idea of what would be built and the intent is to keep with the style and character of the neighborhood. Lot C has 15,000 s.f. The house would be in style with the neighborhood, and would consider different options, possible even a modular home which would be less noise during construction for the neighbors.

Ms. Murphy read comments from the Sewer and Water Commission regarding the Town Sewer system.

Mr. Ford informed the Board that they are connected to Town Sewer.

Ms. Murphy read comments from the Conservation Commission, Town Engineer, Margaret Walker, Police Dept., Fire Dept., and the Planning Board

Ms. Murphy asked if there were any comments from the public.

Dr. Joseph Bickford, 1 Woodland Rd., submitted a letter from his Attorney Thomas Nannicelli and commented that the Bylaws exist to protect the density of the areas. He believes that no hardship has been proven.

Kevin McCormick, 312 Pleasant St., informed the Board he directly behind the house and wants to protect his family property. The proposed lot is 57% of what is required. He also said the water flow would be a major problem. He now experiences runoff and has flooding in his basement. He believes construction and removal of foliage would cause the problem to worsen.

The septic system in the rear of the house has been abandoned. When water overflows onto his property it sometimes emits a foul odor.

Gail Bickford, 1 Woodland Rd., submitted a picture that may help the Board and informed them that the Buffington family had owned the house and sold a piece of that land to a neighbor which made the lot smaller. They have lived in their house for 46 years and have a patio and flower beds. Their property would be looming over the proposed house.

Robert Hanley, 137 Bruce Rd., informed the Board that he used to live at the applicant's house from 1993 to 2004, there is a septic system and leach field, which he had pumped twice a year. He went before the Zoning Board a number of years ago to see if he could build on that lot and he was told it was an unbuildable lot. He was told he could build over his driveway, but would have to remove the garage and septic system. He sold the home.

Mr. Ford said he would check to see if the septic system is still operating. He had assumed it was old and not in use.

Dr. Bickford asked to see the new plan and commented that the picture submitted by the applicant was misrepresenting the area.

Joseph Perez, 7 Vose Lane, was concerned about the size of the proposed house and the houses in the neighborhood, said the Town required the lots to be 20,000 s.f.; was concerned what the house would look like; and the amount of trees that would be removed; also concerned about the new construction and the gas lines in the street. The gas company has said they know the lines are old, but don't have the money to replace them, so they keep patching up where there are leaks.

Beverly Veglas, 14 Park Lane, asked how the Town can allow a 2,000 s.f. house to be built on a lot less than the required 15,000 s.f.

Joseph Hopkins, 9 Woodland Rd., asked how many of the lots are not in compliance and how many are 8,000 s.f.

Mr. Ford said there are a few on Pleasant St.

Mr. Hopkins did not like the garage being in front of the house because there is nothing like that in the neighborhood. Also, the grade of the land drops 6 feet from the front and possibly more in the back.

Judy Stanton, 5 Park Lane, said a house should not be built on half of the required lot size. All the homes are unique in the neighborhood and she does not want the character taken away.

Mark Breen, 14 Woodland Rd., built an in-law off the back of his house and made the addition fit in with the character of the existing house at added expense.

Jane Cargill, 16 Woodland Cir., their addition did not change the character of the neighborhood.

Rachael Jackson, 294 Pleasant St., informed the Board that they have a 16 foot hill and they have a water problem and is afraid this construction would cause a landslide.

Jim Olivett, 298 Pleasant St., said he was mostly concerned about the water problem; he has installed blocks to prevent the land and silt from flooding his driveway.

Mr. Ford thanked everyone for coming and informing him of their concerns.

Mr. Germino said the style of the house was not decided and he is open to the architectural character of the house, and possibly design a system that would help the neighbors with the drainage issues.

Dr. Bickford said there is no room on the site to put a garage; it would have to be in the front.

Ms. Murphy asked if there were any further comments; 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, Cunningham, Case, DeCelle, Zuker voting)

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to grant a Variance from Section 6-B of the Zoning Bylaws to allow the reconfiguration of two existing lots held in common ownership, so as to create a new Lot D for a new single-family house, with said Lot D having 8,676 square feet where 15,000 square feet is required, and

The vote was **0-5-0 in favor**; therefore the application for a **Variance** is hereby **denied**. (Murphy, Cunningham, Case, DeCelle, Zuker voting)

REASONS FOR DECISION:

It is the finding of the Board that the applicant was not able to meet the requirements of Section 2.3 of the Zoning Bylaws, the plans were not complete, and the proposal lacked specifics in details.

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A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to grant a Variance from Section 6-B of the Zoning Bylaws to allow said Lot D to have a 90.3 foot frontage where 100 feet is required.

The vote was **0-5-0 in favor**; therefore the application for a **Variance** is hereby **denied**. (Murphy, Cunningham, Case, DeCelle, Zuker voting)

REASONS FOR DECISION:

It is the finding of the Board that the applicant was not able to meet the requirements of Section 2.3 of the Zoning Bylaws, the plans were not complete, and the proposal lacked specifics in details.

RSA Media – Case #05-13

Ms. Murphy read the public hearing notice for **RSA MEDIA, INC., Case #05-13**, with respect to property located at 2275 Route 1 (Boston-Providence Highway), Walpole and shown on the Assessors Map as Lot No. 53-43, Highway Business, WRPOD 3 Zone.

The application is for:

A Special Permit under Section 9.3 of the Zoning Bylaws to allow an existing non-conforming sign (billboard) to have the *northerly facing side converted to digital (i.e., electronic messaging center as described in the bylaw).

Daniel Merrikin, Merrikin Engineering, explained the request for one side of the billboard, previously approved in 1997, to be made digital, which is environmentally safe. There is a similar sign at Patriot's Place which was the DOT's test board. It was found to be safe and not a traffic safety hazard. MassDOT has strict regulations that parallel the Walpole Bylaws, which Mr. Merrikin submitted to the Board. There is a Town sign fee. The sign would not be an animated image, but is static. The state mandates that the owner of the billboard provide public service announcements when appropriate on this board, i.e., Amber Alert, town meeting dates, etc. remotely controlled by the Town. The Police Department was in favor of the sign. Mr. Merrikin submitted letters from abutters, Mrs. Smith and Mr. and Mrs. Weinstein, in support of this proposal.

Ms. Murphy read comments from Town Engineer, Margaret Walker, dated March 13, 2013; Fire Dept., Dep. Fire Chief Michael Laracy, dated March 26, 2013; Police Dept., Lt. Joseph Zanghetti, dated March 12, 2013; Board of Health, dated March 27, 2013; Sewer & Water Comm., Patrick Fasanello, dated March 27, 2013 and Conservation Comm., Landis Hershey, dated April 19, 2013. Ms. Murphy asked if there were any questions from the audience.

Mr. Lack, represented the application, and informed the Board that the sign would change at 10 second intervals with 6 announcements per minute.

Ms. Murphy asked if there were any further comments; 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, DeCelle voting)

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, that the Board grant to RSA Media, Inc., a **SPECIAL PERMIT** under Section 9-3 of the Zoning By-Laws to allow the existing non-conforming non-accessory sign (billboard) at 2275 Boston-Providence Highway to be altered by converting the northerly facing billboard surface to digital.

The vote was **5-0-0 in favor**; therefore the **Special Permit** is hereby **granted, subject to the following conditions**:

CONDITIONS:

1. The billboard shall continue to be operated in accordance with the various requirements of the Special Permit issued under Case #06-07, except as specifically altered by this Special Permit.
2. The new digital billboard face shall be operated in strict compliance with MassDOT regulations pertaining to such facilities.
3. The surface area of the new digital face shall be no larger than the existing billboard face.

REASONS FOR DECISION:

It is the finding of the Board that the Applicant was able to meet the requirements of Section 9-3 of the Zoning By-Laws, in that with the above imposed conditions the Board finds that the proposed billboard alteration will not be substantially more detrimental to the neighborhood than the existing non-conforming billboard. Accordingly, the Board determines that the granting of a Special Permit under this By-Law is warranted.

Section 9-3 Special Permit Requirements

A nonconforming use may be continued to the same degree and for the same purpose but may be altered, expanded or extended only with a special permit from the Board of Appeals in accordance with the provisions of Section 2.2, provided further that the Board finds such alteration, expansion or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use.

The billboard in question already exists and was reconstructed in 2007 pursuant to a special permit from this Board, which allowed the billboard to be relocated and reconstructed further away from adjacent properties. The billboard has operated in this condition since that time.

The Board finds that changing one face of the billboard to digital in accordance with MassDOT regulations will not result in any substantial detriment to the neighborhood. On the contrary, the availability of the billboard face for periodic municipal and emergency use provides a public benefit.

Section 2-2 Special Permit Requirements

Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for special permit:

- (a) Does and shall comply with such criteria or standards as shall be set forth in the section of the Bylaw which refers to the granting of the requested special permit;**

The Board finds that the proposed use complies with the requirements of Section 9-3 as disrobed herein. This requirement is therefore met.

- (b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The Board finds that a billboard does not generate any vehicular traffic. This condition is therefore met.

- (c) Shall not have a number of residents, employees, customers, or visitor, so as to adversely affect the immediate neighborhood;**

The Board finds that a billboard does not generate residents, employees or customers. Visitors are limited to periodic maintenance and billboard advertisement changes, which will not adversely affect the immediate neighborhood given that the billboard lies within a parking lot of a commercial use in a Highway Business zone. This requirement is therefore met.

- (d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that the existing billboard is nonconforming in this regard and exists in its current location and dimensions by virtue of a previously issued Special Permit.

- (e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of waste, or other causes;**

The Board finds that a digital billboard does not present any unusual risk of fire, explosion, emission of waste or other similar conditions. This condition is therefore met.

- (f) 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 Board finds that a digital billboard does not generate any noise, vibration, dust, heat, smoke, fumes, odor or other nuisance or serious hazard. Furthermore, in accordance with MassDOT regulation, illumination levels in the evening hours are significantly reduced and that such regulations prohibit the creation of glare concerns. The Board therefore finds that this condition is met.

- (g) Shall not adversely effect the character of the immediate neighborhood; and**

The Board finds that because the billboard is already in existence and because it resides on a commercial restaurant property in a Highway Business zone, the conversion of a face to

digital will not adversely affect the character of the immediate neighborhood.

(h) 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 Board finds that the proposed alteration of a non-conforming sign is consistent with the requirements of Section 9-3 and that this condition is therefore met.

Consistency: This decision is consistent with the purpose and intent of the Zoning By-Laws.

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

8:30 p.m. – James J. Clarkin – Case #07-13

Ms. Murphy read the letter from Mr. Clark requesting to withdraw this application without prejudice.

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

There being no further business, the meeting adjourned at 10:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on September 4, 2013.