



Town of Walpole Commonwealth of Massachusetts Zoning Board of Appeals

Zoning Board of Appeals
John Lee, Chair
Drew Delaney, Vice Chair
Robert Fitzgerald, Clerk
David Anderson, Member
Judith Conroy, Member
Timothy Hoegler, Assoc. Member
Mark Major, Assoc. Member

MINUTES WALPOLE ZONING BOARD OF APPEALS OCTOBER 11, 2023

Present: John Lee (Chair), Drew Delaney (Vice Chair), Robert Fitzgerald (Clerk), Judith Conroy, Mark Major and Tim Hoegler

Absent: David Anderson

Also Present: Patrick Deschenes, Community Development Director and George Pucci, Town Counsel

Mr. Lee called the meeting to order at 7:00 P.M.

Case No. 23-26 related to previous 03-20, 55 SS LLC., 51-53-55 Summer Street, Modification to the previously approved Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, Section 20 through 23 as amended, to allow for the construction of a 56-unit apartment style building that will replace the previously approved fifty-six (56) single-family and duplex ownership units located on Lot 2. This modification will also seek to move three (3) of the townhouse style rental buildings from Lot 1 to Lot 2 and eliminate the previously proposed Homeowner's Association. (Continued from September 6, 2023)

Case No. 22-22 opened at 7:01 P.M.

Mr. Major recused himself.

Sean Reardon of Tetra Tech, the Board's peer review agent, said he had no additional comments to add.

Rob Hewett, Fairfield, said updated plans were provided which addressed many of Mr. Reardon's concerns. Mr. Reardon confirmed he was satisfied with these changes.

Bill Hamilton, 45 Eldor Drive, read a letter to the Board. He felt strongly that there needed to be a second exit, better infrastructure, and had major concerns over potential water contamination. Mr. Hamilton felt that there needed to be extensive testing to ensure there was no illegal dumping. He was opposed to the creation of a Quiet Zone as train whistles can save lives especially in a development neighborhood. The emergency exit needed to have a wider road width to allow for two way traffic.

Mark Meleger, 11 Shufelt Road, asked about the amenities and details on the trail expansion. He asked if there would be public parking for the trail and who would be responsible for trail maintenance. There was a need for affordable ownership options and Mr. Meleger expressed opposition to the modification. Regarding amenities, he noted that Fairfield's Milford apartment complex had several amenities and was well built. He asked if that would be comparable to this project. Mr. Lee said the trails would be maintained by the property owner and there would not be any proposed public parking for access to the trail on the applicant's property.

Mr. Hewett noted that the Milford complex was also a 40B project and that the Summer Street location would be built to the same standards and have many of the same amenities.

Kathleen Cleary, 3 Shufelt Road, requested that the trees that were cut down on the site be replanted with a minimum height of 5-ft. She questioned why there was a backup oil generator when there was a gas line in the street.

Mr. Lee asked about offsite roadway mitigation and if there would be any additional funding given to the Town. Mr. Hewitt stated that a contribution of \$125,000 was offered for the development of a Quiet Zone. Mr. Lee added that a contribution of \$500,000 was already agreed to by Omni for traffic mitigation. Mr. Lee stated that now that time has passed and financing needs have changed, additional money funding should be given for this offsite traffic mitigation.

Mr. Hewitt asked if there was still interest in a Quiet Zone. Mr. Lee said that the cost for a Quiet Zone could be upwards of \$1,000,000 which meant the offer to contribute \$125,000 would not be ideal. Mr. Hewitt asked if a finalized donation could be agreed upon tonight. George Pucci, Town Counsel, agreed that would be allowed. It was agreed the applicant would contribute a total of \$625,000 for offsite traffic mitigation.

Ms. Conroy asked what would happen if the project did not exceed the money given by the applicant and there was an excess. Mr. Deschenes said the Board could condition how the money would be allocated. Mr. Reardon added that the donation was part of a project share and the total would well exceed the amount of money given by the applicant.

Mr. Meleger asked for clarification on number of units and percentage of affordability. Mr. Deschenes confirmed there would be a total of 268 units with 25% being affordable.

Mr. Deschenes explained that Peer Review revised the budget due to additional costs. Mr. Lee asked the applicant if they would be willing to pay an additional \$1,500. Mr. Hewitt agreed to the additional cost. Mr. Reardon stated that Tetra Tech would reissue an invoice for the exact remaining amount.

Ms. Conroy noted that the Water and Sewer Commission did not comment. Mr. Lee said that as this was only a modification to the already approved project, they did not need to request the applicant provide them with a presentation.

Mr. Abbott, Water and Sewer Commission, said there were major concerns at the beginning of the project and they wanted the applicant to explain the plans for the utilities. He was not sure if the applicant was planning to go to their next meeting as it was requested by another Board member. Ms. Conroy was satisfied with the explanation.

Mr. Delaney asked if there were any plans to add additional plantings. Mr. Hewitt said the meadow would be seeded with wildflowers. Mr. Delaney asked if the Order of Conditions was still valid. Mr. Deschenes stated the Order of Conditions had been updated through the Conservation Commission.

Mr. Delaney asked the applicant about the deliveries that were made at 1AM the week before. Mr. Hewitt said there was an unfortunate miscommunication that has since been handled with the Town and that the subcontractor had been reprimanded. Mr. Lee went over consequences if it were to happen again.

Mr. Meleger asked if additional trees could be planted. Mr. Hewitt said there was no plan to plant in addition to what was shown on the plans.

Ms. Cleary asked how the meadow would be maintained. She preferred additional trees and feared the wildflowers would not be maintained and turn to weeds.

Motion by Ms. Conroy, seconded by Mr. Delaney to continue the public hearing to November 20, 2023

Motion carried 5-0-0 (Lee –aye; Delaney –aye; Conroy -aye; Fitzgerald-aye; Hoegler –aye)

Case No. 22-10, Wall Street Development LLC, with respect to the property located at Darwin Lane (Map 42, Parcels 240 & 227-13) for a Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, Section 20 through 23 as amended, to allow the construction of twenty-eight (28) homeownership, non-age restricted, condominium townhouses in six (6) buildings on approximately 3.44 acres. (Continued from September 6, 2023)

Case No. 22-10 opened at 7:56 PM

Ms. Conroy said she would recused herself from Wall Street Development cases and stepped down.

Mr. Petrozzi said there was no new submittals and hoped to hear feedback from peer review as well as set up a working group meeting to go over the received comments.

Mr. Reardon discussed his comment letter. He noted the project was very close to a water supply and the density well exceeded the 15% per State rules. There was also a steep drop to the rear of the site. The existing subdivision on Darwin Lane sheds water which flowed toward the project site. Mr. Reardon said he would prefer the water from offsite be routed around the project. The systems should be more robust and the proposed snow storage areas were too small. The parking of for the mail boxes needed to be moved out of the public right of way and entirely within the project site.

Mr. Fitzgerald noted the high density in a wellhead area. If the project exceeded 15% impervious area, the applicant needed to ensure the development would not degrade the area.

Mr. Reardon said there was a list of requirements needed for the special permit, however the applicant had not provided any of the requirements so no peer review comments had been made yet.

Mr. Lee asked Mr. Reardon if he had seen this density of development so close to a water supply in MA. Mr. Reardon stated that he had never seen something this dense. He added that Zone 1 had very strict rules.

Mr. Abbott, Water and Sewer Commission, said the comments from the Commission had not changed. There were concerns with its density and proximity to four additional wellheads. The topography to the rear was challenging and will need restrictions on road salt and yard fertilizers. As this was located close to the wells, there should be a delineation at the 400-ft perimeter with fencing.

Mr. Reardon said there would be a high change of rear encroachment as residents would want to expand their livable footprint.

Mr. Petrozzi said the property owner gave the Town an opportunity to purchase the property however Town Meeting did not want to explore that option. Mr. Abbott acknowledged the Town had an opportunity to purchase and he was interested in the opportunity, however the price was too high. He added the appraised value was very low.

Dennis Murphy, attorney for abutters, addressed this issue in a previous letter to the Board. The land was appraised at \$150,000 and the property owner offered the land to the Town for \$379,000. He believed this project was not in the interest of affordable housing, rather to maximize the profit of the developer. The Board needed to prioritize the protection of the water supply. The regulations for the WRPOD cannot be waived even for 40B projects. Mr. Murphy commended Mr. Reardon's peer review letter. As there were still many outstanding items, Mr. Murphy suggested the Board request an extension of time as well as a timeline for when items should be submitted.

Bill Hamilton, 45 Eldor Drive, expressed concerns over potential water contamination.

Joseph Parlon, 1165 Main Street, said his father's property abuts the project. He reviewed the 2022 Water Quality Report and MA DEP SWAP Report and expressed major concerns regarding water contamination. He found the area of the project to be highly susceptible to contamination.

Mr. Lee noted there was a lot of work that needed to be done on the project and asked Mr. Petrozzi when he could submit updated plans. Mr. Petrozzi said that the comments from peer review needed to be discussed and he did not want to update plans until an agreement could be made on how to interpret the applicable regulations. He requested a working session with Mr. Reardon and Town Staff.

Mr. Reardon wanted to focus on addressing WRPOD regulations and determine if drinking water would be impacted otherwise the project could not move forward. A Special Permit is typically required if the impervious surface for a residential project area in an Area 1 exceeds 15%.

George Pucci, Town Counsel, said that Mr. Petrozzi should reply to the peer review letter and agreed with Mr. Murphy that it's up to the applicant to decide if they want to submit materials. If Mr. Petrozzi chose to not submit updated materials, the Board would need to take action.

Mr. Petrozzi noted discrepancies in Mr. Reardon's letter with his interpretation of the regulations. Mr. Reardon said the WRPOD had allowed as-of-right activities. There were provisions in the Special Permit criteria that Mr. Petrozzi needed to demonstrate he could meet. Mr. Petrozzi agreed to address Mr. Reardon's concerns. Mr. Pucci suggested materials be submitted well in advance of the meeting.

Motion by Mr. Delaney, seconded by Mr. Hoegler to continue to November 20, 2023.

Motion carried 5-0-0 (Lee – aye; Delaney-aye; Fitzgerald – aye; Major – aye, Hoegler – aye)

Case No. 23-21, KIG/Silverstrand Walpole, LLC, 981, 989 and 1015 East Street (Map 25, Parcels 164, 165, 166), Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, §§20-23 as amended, to allow the construction of a six story building with 142 apartment units and below grade garage. (Continued from September 6, 2023)

Case No. 23-21 opened at 8:55 PM.

Mr. Reardon said he did not have the opportunity to review all of the new material.

Mr. Engler said the peer review letter contained good feedback and many of the concerns had been addressed in the most recent revision. There were some pending items that would take roughly 4-6 weeks to finalize.

Mr. Lee asked about the height. Mr. Engler said that would remain the same.

Regarding traffic, Mr. Lee noted the crosswalks would be at East Street, Glenwood Avenue and Main Street. Daniel LaCivita, Vanness and Associates, confirmed there would be no crosswalk directly in front of the building. Mr. Lee said that the site distances were acceptable and traffic had been properly addressed.

Mr. Reardon said that the issue of public sewer needed to be addressed and should be rerouted.

Mr. Lee asked if there would be unassigned parking. Mr. Engler submitted a lot of information on parking previously and confirmed there would be unassigned parking. He noted a lot of progress had been made on this project and was confident more progress could be made by the next meeting.

Mr. Reardon had concerns regarding changing certain aspects of the current sewer system. He added he could recommend conditions that would need to be addressed prior to construction or building permits.

Mr. Lee believed progress was being made and they would be able to discuss waivers at the next meeting. Mr. Engler said an updated waiver list would be provided.

Steven Meltzer, Liberty Station, did not believe there was enough parking. He added that parking during construction should be addressed. Mr. Engler said he could include a parking section within the Construction Management Plan. Mr. Reardon said that information could be helpful now. Mr. Lee asked if during construction, parking will be onsite or close by. Mr. Engler said it would be up to the contractor. They would keep as many cars on site as possible, but would likely reach out to the abutting strip mall to possibly lease spaces on a temporary basis. Ms. Conroy noted that there were new businesses that were opening in that area and there may not be many available spaces nor should their construction take away from the opening of new businesses.

Motion by Ms. Conroy, seconded by Mr. Major to continue the public hearing to November 20, 2023.

Motion carried 5-0-0 (Lee – aye; Delaney-aye; Conroy -aye; Fitzgerald – aye, Major – aye)

Board Business:

2024 meeting dates would be confirmed at a later hearing. The Board asked staff to confirm the dates of Spring Town Meeting to ensure there was no conflict.

Adjournment:

Motion: by Mr. Hoegler seconded by Ms. Conroy to adjourn.

Motion carried 6-0-0 (Lee – aye; Delaney-aye; Fitzgerald – aye; Conroy -aye; Major – aye, Hoegler – aye)

Meeting adjourned at 9:27 P.M.