



**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*

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**MINUTES  
WALPOLE ZONING BOARD OF APPEALS  
AUGUST 21, 2023**

Present: John Lee (Chair), Drew Delaney (Vice Chair), David Anderson, Judith Conroy, Mark Major and Tim Hoegler

Absent: Robert Fitzgerald (Clerk)

Also Present: Patrick Deschenes, Community Development Director

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.**

Case No. 23-26 opened at 7:00 PM.

Mr. Major and Mr. Anderson recused themselves from the hearing.

Mr. Lee confirmed that Mr. Fitzgerald was absent. He asked the applicant to keep in mind continuation dates of September 6<sup>th</sup> and October 11<sup>th</sup>.

Sean Reardon, TetraTech Peer Review, appeared before the Board. Mr. Reardon explained the proposed change was universally good. There would be less traffic, reduced impervious surface area and a reduced impact on the environment. Mr. Reardon provided two forms of feedback, presentation feedback for the revised plan and technical comments.

Mr. Lee said when the project was originally approved, there was a neighborhood feel within the community as there was a mix of single family, townhome and apartment style homes. Now that the single family homes were removed, that overall connection to the community was gone. He asked Mr. Hale what could be done to make up for this and improve public amenities.

Mr. Hale said the public trail system would be expanded, although would remain pedestrian access only. Mr. Hale did not want an area of the property with public parking access that the property owners could oversee or control.

Mr. Lee argued that the removal of the home ownership component was a huge change to the community. He asked Mr. Hale again what could be done so the project ties in better with the South Walpole community. Mr. Hale said that times had changed since the originally submission and the project was as presented. Mr. Hale said this project would create homes for hundreds of families and moderate income

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housing which would tie into the neighborhood. He did not feel additional measures were needed to forge a cohesive community. Mr. Lee stated there needed to be a tie to the community and opened the discussion to the public.

Bill Hamilton, 31 Eldor Drive, read a letter he wrote to the Board. He expressed concern with potential water contamination.

Kathleen Cleary, 3 Shufelt Road, noted the original plans showed trails maintained by the HOA. Now that the HOA was removed, she asked what would happen to those trails. Mr. Hale said there would be no change to the access of trails. The HOA was only there because of the single family homes. The trails were to remain.

Mark Major, 11 Summer Street, noted he would be speaking as a member of the public and not as a member of the ZBA. Mr. Hale objected and believed this was an ethics violation. Mr. Lee allowed Mr. Major to speak.

Mr. Major asked how traffic would be reduced. He wanted to know what else could be done for traffic remediation and did not believe Mr. Hale was working in the best interest of the Town. Mr. Major also wanted to hear more from Fairfield Properties as they would be the owners going forward. The site had been clear cut which was also a concern.

Mr. Reardon explained how trip generation was calculated. On average, multi-families produce ½ the number of trips of single family homes.

Mr. Hamilton spoke again, he feared the conditions near the emergency exit would be unsafe.

Mark Meleger, 11 Shufelt Road, said the neighborhood agreed to a project that would become a part of their community. The change to this project took away from it being a part of the community. He was concerned with the rental style and feared the constant tenant turnover.

Joanne Mulligan, 23 Butch Songin Circle, said the character of the neighborhood was lost and believed this change made for a completely different project. She said the trees where the proposed single-family homes were going to be did not need to be clear-cut.

Joseph DeSisto IV, 241 Summer Street, was confused by the changes. He expressed concerns regarding the original plan and did not believe that safety standards would be met.

Mr. Delaney said that the applicant made statements regarding rental being the better option as interest rates were too high. He asked Mr. Hale what would happen to his plan 10 years from now. Mr. Hale said he did not know what would happen in 10 years but had to work with the conditions as they are now.

Mr. Lee stated that Mr. Reardon has addressed lighting on the emergency access. Mr. Reardon said that the area should not be lit to which Mr. Hale agreed.

Mr. Meleger said the Fire Chief expressed concern which Mr. Hale responded to in a response letter. Mr. Meleger wanted to hear from Fairfield with their response as they would be the new owners going forward.

Robert Hewett, Fairfield, introduced himself and provided background on the company. They currently had four projects under construction and four that were open in Massachusetts. Fairfield also acts as their own general contractor. He confirmed that all of their sites have three to five full time staff members as

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well as emergency contacts. He noted that Conservation wanted the trail extended approximately 700 feet which he thought was a great suggestion and would consider it among other benefits. Mr. Lee said that would be a positive impact to the community. Mr. Reardon added that the trail system connected to the existing trails off Delapa Circle.

Ms. Conroy asked where the current projects owned by Fairfield were. Mr. Hewett confirmed they were located in Chelsea, Milford, Peabody and Woburn. Ms. Conroy asked how long they had been occupied. Mr. Hewett said several years. Ms. Conroy asked what the average length of the leases were and how much lease turnover they encounter. Mr. Hewett said, on average, 35% of leases were only one year. He added that since Walpole was a desirable area, the lease turnover rate could be lower. Ms. Conroy asked if Fairfield utilizes an exit poll when tenants leave to understand the reason for the turnover. Mr. Hewett said tenants usually move out due to a change of job or purchasing a home. There were instances where tenants were there while they were renovating their homes. Fairfield has a minimum 12 month lease with its developments.

Ms. Cleary asked how many of their projects were of the same magnitude and near a railroad. She said there was a desire for entry level housing and asked if Fairfield would consider an ownership option. Mr. Hewett said many of their projects were near trains. He explained that the units needed to be rentable to have value. Sound attenuation was used to ensure tenants would not be disturbed by the noise of the trains. He added that Fairfield only offers rentals and would not consider ownership.

Mr. Meleger feared that Fairfield would sell the property thus creating a revolving door of owners. Mr. Hewett explained this was treated as any other real estate. He noted Phase 1 would be a 10 year+ hold. Other projects had been held for longer. In the past when projects were sold they were always sold to a company with the same standards of maintenance and care. Mr. Lee added that regardless of who the owner was the decision would be binding in perpetuity.

Mr. Hamilton asked if the Town needed to pump waste would this be considered Residential or Commercial. Mr. Reardon said Residential. Mr. Hamilton did not agree.

Mr. Deschenes said the addendum decision had been drafted and it should be discussed at the next meeting.

Mr. Lee said he received an email from the applicant's engineer requesting an additional Special Permit. Mr. Hale said the original plan used natural gas. He explained there was a provision for a Special permit to allow for a generator to be fueled by Diesel. Mr. Lee said it should be tied into the modification. Mr. Deschenes said he would ask Town Counsel as how to proceed.

Ms. Conroy asked if the Board needed to approve the modification. Mr. Lee said the Board could say no, however the applicant could appeal to HAC and the case could either be remanded back to the Board or decided by HAC. Mr. Deschenes added that the vote required a simple majority and a denial required a reason.

**Motion** by Ms. Conroy, seconded by Mr. Hoegler to continue the public hearing to September 6, 2023.

Motion carried 4-0-0 (Lee –aye; Delaney –aye; Conroy-aye; Hoegler–aye)

**Case No. 23-16, Daniel Martinez, 1245 Washington Street, Special Permit under Section 5.D.4.A for earth removal and Special Permit under 12.3.C (5) in order to increase the impervious surface area in an Area 1 in WROPD. (Continued from May 15, 2023)**

Case No. 22-16 opened at 8:09 PM

Anthony DiMartino, applicant, appeared before the Board.

Mr. Lee asked how tall the proposed evergreen trees on the revised plan would be at time of planting. Mr. DiMartino said the trees would be between 6-8 feet tall.

Mr. Lee asked if the material (soil) would be taken offsite. Mr. DiMartino confirmed material would be removed and used for fill elsewhere. Mr. Lee said a permit to work in a public way would be required and would require a \$10,000 bond and insurance signoff from the Police Department. Mr. DiMartino was aware and prepared to begin that process.

Ms. Conroy asked if the grades and slope of the property directed towards Hidden Lane. Mr. DiMartino said no and that runoff would remain on the site and not shed onto an abutting property. Ms. Conroy asked if the property currently sloped to the right. Mr. DiMartino said there was no slope and any water would be directed towards the catch basins or the rear of the property which was Town Forrest.

Mr. Lee asked how the impervious area was being increased. Mr. DiMartino said he changed the location of the driveway. Mr. Lee asked how that would be accessed. Mr. DiMartino said it would be a horseshoe shape driveway.

Mr. Delaney asked how the applicant would ensure materials did not get into the roadway and asked if there was a plan to mitigate dust and debris. Mr. DiMartino said an orange fence would be used as well as a sprinkler to control dust. Mr. DiMartino also stated that the site would be swept daily.

Ms. Conroy asked what would happen if the swale failed. Mr. DiMartino said water was currently going onto the neighbor's property. The new plan would direct water to the rear towards the Town Forrest.

Ms. Conroy asked how for the distance between the edge of the driveway and the neighbor's. Mr. DiMartino said at least 30 feet.

Mr. Delaney asked if there area would be stabilized prior to additional work being done. Mr. DiMartino said the work would be done in a specific sequence beginning with the backyard then the swale.

Matthew Kennedy, 1 Hidden Lane, said he currently did not have a problem with rain runoff and believed the flattening out of this property would only provide additional support.

Steven Hendricks, 1231 Washington Street, believed that drainage proposed would be sufficient and did not have a concern with the revised plan.

Mr. Lee went over conditions to be included in the decision.

Mr. Delaney asked if all equipment could be kept on site. Mr. DiMartino confirmed he could accommodate that.

**Motion** by Ms. Conroy, seconded by Mr. Delaney to close the public hearing.

Motion carried -0-0 (Lee –aye; Delaney –aye; Anderson -aye; Conroy-aye; Major–aye)

**Motion** by Mr. Delaney, seconded by Ms. Conroy approve the Special Permit under Section 12.3.C to increase the impervious surface area.

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

**Motion** by Mr. Delaney, seconded by Ms. Conroy approve the Special Permit under Section 5.D for Earth Removal.

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

**Case No. 23-17, Joseph Dorsett, 104 Main Street, Special Permit under Section 9.3.C of the Walpole Zoning Bylaws for the expansion of an existing parking lot as it relates to a non-conforming use within the properties zoning district. (Continued from June 7, 2023)**

Case No. 22-17 opened at 8:40 PM

Brent Tardiff, project engineer, appeared before the Board. He submitted revised plans. At the previous meeting, the Board requested a 20-ft setback, consistent with Zoning Bylaws, Section 8.7.D, which was now shown on the revised plans. Mr. Tardiff also met with abutters regarding mitigation and agreed to install a three foot fence to help with headlight glare. Mr. Deschenes explained that the current six foot fence proposed within the front yard setback would need to be reduced to three feet. Mr. Tardiff said the fence could also be moved further south. He acknowledged problems with noise on the patio and believed the lattice could be changed to solid panels to mitigate noise from that area.

Mr. Tardiff explained a 6-ft fence would be installed along the opposite side of route 1A to further mitigate light and noise from the residents of Christina Drive. Mr. Lee stated that the Board could not condition something on another property.

Mr. Tardiff explained there was an update to the handicap spaces. Handicap spot #1 would accommodate a van.

Ms. Conroy asked several questions regarding how the additional parking spaces were calculated. Mr. Tardiff said he worked backwards from 50% expansion framework. Mr. Deschenes added that this fell under parking code 3, with a minimum parking count requirement based on fixed on unfixed seating. The calculations were comprised of the floor area dedicated towards dining space. He explained as the code only referenced a minimum, the applicant was allowed to propose additional parking spaces. Ms. Conroy did not agree with the petition. Mr. Lee explained that this was a non-conforming use to the property therefore could be expanded by 50%. Ms. Conroy believed it was too much of an increase for this area and believed this should have been a variance.

Mr. Lee noted the plans were improved since the last meeting and was pleased the applicant met with the neighbors.

Paul Quinn, 12 Christina Drive, thought a fence was going to be installed along the rear of the properties along 1A. Mr. Lee explained the Board could not condition something on another property.

Mr. Quinn asked if the new parking would be paved. Mr. Lee said the plan indicated paving. Mr. Quinn stated opposition due to noise and said it was a detriment to the neighborhood.

Robert Quinn, Paul Quinn's brother, submitted a letter for the meeting in July which he could not attend. He was happy with the changes that were made so far. A bollard needed to be installed so cars could not park directly in front of the restaurant. He noted that Section 9.3 of the Walpole Zoning Bylaw stated "at the time use became non-conforming". Mr. Quinn believed the property likely became non-conforming in 1923 and the square footage at the time would need to be investigated to determine how much that non-conformity could be increase. Mr. Quinn guessed that it would likely be less than what the applicant proposed. He added that the site was not in compliance with their existing Special Permit and believed it would be inappropriate for the Board to issue another Special Permit.

Mr. Deschenes said the existing Special Permit was issued incorrectly and was not relevant. Mr. Lee said they were currently not in good standing. Mr. Robert Quinn believed the garage was used by the residents and not by the restaurant.

Ms. Conroy found from the Building Commissioner that the restaurant had occupancy for 68 people. Mr. Deschenes requested the Building Commissioner be present for the next meeting. If the Special Permit was issued incorrectly, after 7 years the use would be allowed as nonconforming. Mr. Robert Quinn said he would work with Staff to investigate the Special Permit.

Marianne Randall, 84 Main Street, said the current plans showed the fence through the tree line. She asked if it could be moved so trees would not be cut down.

**Motion** by Ms. Conroy, seconded by Mr. Delaney to continue the public hearing until September 18, 2023 as well as an extension of time until December 1, 2023.

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

**Case No. 23-24, Kyle Laidman, 424 Common Street, Special Permit under 12.3.C of the Walpole Zoning Bylaws for the modification to a pre-existing, non-conforming one-family dwelling that exceeds the impervious surface requirements for a residential use within the Water Resource Protection Overlay District.**

Case No. 23-24 opened at 9:27 PM.

Kyle Laidman, applicant, appeared before the Board. He requested a Special Permit under 12.3.C of the Walpole Zoning Bylaws in order to construct an addition. He explained he father needed to live with him so he needed more space. This configuration allowed for maximum privacy. He noted on the plans, the home already exceeded the limit of 15% impervious area and the additional would increase that to 23%. RIM Engineering from Mansfield conducted all site calculations.

Mr. Lee explained that the projection in to the side yard setback was allowed as the parcel was deficient in frontage. He asked Mr. Laidman if this was going to be an in-law suite. Mr. Laidman said it was not an in-law suite.

Mr. Laidman requested to close the public hearing.

**Motion** by Ms. Conroy, seconded by Mr. Delaney to close the public hearing.

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

**Motion** by Ms. Conroy, seconded by Mr. Delaney to approve the Special Permit under Section 12.3.C to increase the impervious surface area.

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

**Case No. 23-27, Monika Saxena, 18 Arbor Court, Variance under 6-B.1 of the Walpole Zoning Bylaws for the construction of a portico within the front yard setback.**

Case No. 23-27 opened at 9:35 PM.

Monika Saxena, applicant, appeared before the Board. She requested a Variance in order to replace an existing front portico.

Mr. Lee asked her for a hardship. Ms. Saxena explained she had an existing front yard setback of 32-ft. She said that a two foot front portico was not enough to prevent rain and it often caused a safety concern on the front stairs. By allowing her to project into the front setback, it would create a safer entrance.

Mr. Lee noted that other departments did not express concern. He did not believe this situation however was a true hardship as defined under the bylaws.

Mr. Major agreed with Mr. Lee and asked Ms. Saxena if she had an alternative solution. Mr. Deschenes explained in section 6.C.11 of the bylaws there was a provision to allow for a deck upto 4 feet into the setbacks and an 18-in projection for a roof.. This would allow Ms. Saxena the roofed portico she wanted, minus a reduction of roughly 6 inches.

Mr. Lee suggested Ms. Saxena work with Town Staff on this alternative solution. Mr. Lee explained the options to proceed if she decided to withdraw the application vs. if the Board voted to deny the variance.

Ms. Saxena requested to withdraw the application.

**Motion** by Ms. Conroy, seconded by Mr. Delaney to accept the applicant’s request to withdraw without prejudice.

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

**Minutes:**

Mr. Delaney noted he was absent from the July 17<sup>th</sup> meeting and noted that needed to be changed on the minutes. The July 17 minutes would be approved at a later meeting.

Several changes needed to be made on the July 26<sup>th</sup> meeting. The Board called out changed to be made. The minutes were approved on the condition that Staff corrected pages 1 and 5 prior to posting on the website.

**Motion** by Mr. Major, seconded by Mr. Delaney to approve the meeting minutes from July 26<sup>th</sup>.

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

**Adjournment:**

**Motion:** by Ms. Conroy seconded by Mr. Major to adjourn.

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

Meeting adjourned at 9:53 P.M.