



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

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

**MINUTES
WALPOLE ZONING BOARD OF APPEALS
June 15, 2022**

Present: John Lee (Chair), Drew Delaney (Vice Chair), Robert Fitzgerald (Clerk), Judith Conroy (Associate Member), Timothy Hoegler (Associate Member)

Absent: Mary Jane Coffey, David Anderson,

Also in attendance were Patrick Deschenes (Community & Economic Development), Stephen Natola (Community & Economic Development),

Mr. Lee called the meeting to order at 7:00 P.M. and read the public hearing notice.

Case No. 22-13, James Delaney, 11 Briarwood Lane, Special Permit under Zoning Bylaws Section 5-D of the Zoning By-Laws to allow excavation and filling exceeding one-hundred (100) cubic yards of earth within a residential use.

Hearing began at 7:01pm

Mr. Lee read the public hearing notice and comments from 21 Briarwood Lane's engineer and arborist. Also read from comments from the building commissioner, engineering department, board of health, and the conservation commission.

James Delaney, 11 Briarwood Lane, asked to continue the meeting until later in the night.

Motion: by Mr. Delaney to continue Case No. 22-13 until later this evening, seconded by Ms. Conroy.

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

Case No. 22-14, Shawn O'Leary, 6 Philip Road, Special Permit under Zoning Bylaws Section 5-B.2 of the Zoning By-Laws to allow the construction of an accessory in-law suite onto an existing single-family dwelling.

Hearing began at 7:07 pm

Mr. Lee recused himself because he works for a direct abutter. Explained to the applicant, Shawn O'Leary, that a special permit needs a majority to get passed, so Mr. O'Leary would need 4/4 members vote in the affirmative to approve the special permit.

Mr. Delaney assumed the position of chair and read the public hearing notice.

Ms. Conroy was concerned about Mr. O'Leary not understanding the voting threshold.

Mr. Delaney explained voting thresholds and continuances to the applicant.

Mr. O'Leary opted to continue the public hearing until July 20.

Motion: by Ms. Conroy to continue case 22-14 until July 20, seconded by Mr. Hoegler.

Motion carried 4-0-0 (Hoegeler- aye; Delaney- aye; Conroy-aye; Fitzgerald-aye)

Case No. 22-15, Walpole 1333 LLC, 1337 Main Street, Special Permit under Zoning Bylaws Section 5-B.1.4.q.ii of the Zoning Bylaws to allow for the constructions of a walk-up food service window.

Hearing began at 7:15 pm

Mr. Lee resumed the position of chair and read the public hearing notice.

Mr. Lee read the comments from the fire department and the town engineer. Mentioned that a previous decision from 2011 granted the drive-up window

The applicant, Joe Lorusso, owner of the building, explained that Rita's frozen custard wants to go into the building and desires to put 2 service windows at the front of the building. Plans to put 6 bollards in front of the sidewalk for safety. Additional bollards will be placed along the drive-up side of the building.

Ms. Conroy questioned existing signage and directions for the current drive-up window.

Mr. Lorusso explained that there will be signs and there are arrows to help people navigate to the drive-up window.

Mr. Delaney asked about other tenants in the building and their business hours. Concerned about distance between drive-up window and where the pedestrians walk.

Mr. Lorusso explained that there are dentists, hair dresser, physical therapists, and professional offices with similar business hours occupying the offices. Offered to put signs cautioning vehicles and pedestrians about one another.

Ms. Conroy asked about employee designated parking.

Mr. Lorusso explained that tenants park out back and on the side while customers park in the front.

Mr. Fitzgerald questioned a fence from the edge of the building to the sidewalk.

Mr. Lorusso agreed with Mr. Fitzgerald's suggestion about installing a fence.

Mr. Lee asked about the hours of operation.

Mr. Lorusso responded that he thinks the operation is seasonal and is closed during the winter. He thought the hours were 12-9.

Mr. Delaney asked about lighting in the parking lot.

Mr. Lorusso responded that there are light poles, floodlights, and lights at the drive-thru.

Mr. Lee opened the hearing for public comment, no neighbors were present.

Mr. Lee read the conditions of the special permit; 2 signs: caution for watch pedestrians and caution watch for cars; fence from corner of building to the sidewalk; and installation of bollards.

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

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

Motion: by Mr. Delaney to approve special permit with standard conditions and 4 conditions, seconded by Ms. Conroy

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

Case No. 22-13, James Delaney, 11 Briarwood Lane, Special Permit under Zoning Bylaws Section 5-D of the Zoning By-Laws to allow excavation and filling exceeding one-hundred (100) cubic yards of earth within a residential use.

Public Hearing resumed at 7:36 pm

James Delaney, 11 Briarwood Lane, stated that his uneven backyard is unsafe for his children and desires to move some of the soil on the southwestern side of the yard and truck in fill to fix the grade in the backyard.

Michael Fryeburger from MF Landscape, presented the limitations in the backyard due to the septic system, desired to remove part of the hill in the center of yard and redistribute fill throughout the yard. Current grade is about 20%, desires to lower grade down to about 5% and create a play area.

Mr. Lee was initially concerned that proposal was for a gravel operation.

James Delaney responded that he has no plans for a gravel operation and that most material will stay on the property. Sole desire is to level the backyard.

Mr Fryeburger estimated that the amount of fill to be moved is 102 cubic yards and that he would be bringing in more material.

Mr. Delaney asked about the type of soil and physical restrictions currently on the property.

Mr. Fryeburger was unaware of the types of soil and noted that there are already trees removed in the southwestern part of the lawn.

Mr. Lee asked how far off from the neighbor's property line the excavation will be.

Mr. Fryeburger remarked that the excavation will be 20 feet from the property line and that the grade will be less than 30%. Currently discussing new landscaping after excavation is complete.

Ms. Conroy read from 5-D.3.C, regarding excavation at a residence. Asked how much loam will be brought in around the foundation and the intended desired use in the backyard.

Mr. Fryeburger estimated about 8 yards of fill for use around the foundation. Noted that the dirt that will be excavated will be spread around the property in addition to bringing in top soil. Plans to bring in equipment via Old Farm Road.

Mr. Lee noted that the ZBA received a report from Daniel Cathcart, certified arborist pertaining to land use analysis for 11 Briarwood Lane detailing potential erosion at 21 Briarwood Lane, and recommended the installation of a retaining wall at 11 Briarwood Lane and that the limits of excavation be shown on the plan. Also read from a report from Level design by Nicola Facendola pertaining to negative impacts of the natural environment and a disadvantageous change in topography.

Mr. Fryeburger expressed his desire to remove current material and restore grade and noted that excavation would be far from driveway.

Gregory Sullivan, attorney for 21 Briarwood Lane expressed that his clients don't wish to stop construction, but to prevent damage to the property at 21 Briarwood Lane property. Noted a lack of landscaping shown on the excavation plan, wanted the plan to show erosion control measures and trees to be removed and landscaping to be planted.

Nicola Facendola, Level Design Group, asked that a detailed plan with work area, landscape plan for the slope, and proposed grading be provided. Mentioned that Hinckley loamy sand is present on locus.

Dan Cathcart, of Plant Healthcare Consultants, concerned with the removal of trees and stumps may result in damage to the property at 21 Briarwood Lane. Suggested to grind stumps instead of pulling.

Mr. Lee asked that the driveway of 21 Briarwood Lane be shown on the plan.

Mr. Delaney asked the age of the driveway at 21 Briarwood Lane and what test Mr. Facendola took to know that the driveway is correctly installed.

Mr. Facendola believed that the driveway was installed in the 1920s and that the driveway has no issues at the moment.

Mr. Fitzgerald stated that the board needs to see the limit of work, plantings, 2 pine trees, final grading, and proximity to the driveway at 21 Briarwood Lane.

Mr. Sullivan asked that 2 large pine tree stumps be shown on the plan.

Ms. Conroy questioned the purpose of the applicant needing to seek a special permit for excavation or filing.

James Delaney asked to continue the hearing to July 20

Motion: by Ms. Conroy to continue Case #22-13 to July 20, seconded by Mr. Delaney

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

Case No. 22-9, Glaro Development, 51 Boston - Providence Highway, Special Permit under Zoning Bylaws Section 5-B.1.4.p.ii of the Zoning Bylaws to allow modifications to the existing drive-thru at the site.

Hearing began at 8:47 pm

Mr. Lee read the public hearing notice and comments from the health and fire departments stating they have no objections to the special permit request. The Town Engineer asked that the plans show the removal of curbing and trees, needs to show all parking spaces, amongst other suggestions.

Mr. Merrikin stated that there is no wetland area near locus. Also gave a summary of the proposed changes: small addition to the building, make a dual window configuration, escape lane and a double drive-thru lane. Highlighted that peak hour traffic can queue to Union street. All parking requirements are currently satisfied and will continue to be satisfied after the renovation. Explained the addition and removal of green space around the site.

Mr. Fitzgerald questioned the logistics of a dual window drive-thru.

Mr. Garapolous explained that the first window is a pay window in peak times and the second window is a pick up window.

Mr. Lee asked about the addition to the building.

Mr. Merrikin responded that the addition will contain one of the new windows.

Mr. Lee brought up the new sidewalk suggested by the town engineer along Union Street.

Mr. Merrikin said that his applicant will have Mr. Merrikin prepare a plan showing a sidewalk along Union Street and to submit an application to MassDOT on the town's behalf. The town of Walpole will need to participate with Mr. Merrikin, since the town will be the applicant.

Ms. Conroy questioned if the entrance is in Norwood and if the applicant is going before any boards in Norwood as part of this work. Asked about a retaining wall on the property line to the west. Questioned if locus is in the floodplain and if the topography of locus is changing.

Mr. Merrikin responded that no work is being done in Norwood. The sidewalk will be a separate plan prepared for the town. Responded that the retaining wall will be 1 foot off the property line with a guard rail on top and there will be no disturbance to 295 Union Street. Noted that the property is drawn in the floodplain zone A, but the area with work being done is 2-7 feet higher than the established 100 year flood elevation for the brook. Plans to go for a request for determination of applicability before the conservation commission. Explained that the slope will be softened on locus.

Mr. Fitzgerald asked about impervious surfaces on site.

Mr. Merrikin noted that there is about 900 square feet on impervious coverage and provided a storm water report to the planning board as part of site plan review. The existing impervious coverage is 81.2%, proposed to 83.4% after the renovations.

Ms. Conroy brought up parking areas to accommodate large trucks.

Mr. Garapolous responded that there is signage to direct larger trucks.

Mr. Merrikin noted that he had some minor plan changes to make and will be going before planning board and conservation commission.

Mr. Lee asked Mr. Merrikin to update the plan considering the comments from the town engineer.

Motion: by Mr. Hoegler, to continue the hearing until July 20, seconded by Ms. Conroy.

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

Case No. 22-16, 295 Union Street Fee Owner LLC, 295 Union Street, Special Permit under Zoning Bylaws Section 11.3.B of the Zoning By-Laws to allow building and site improvements in the Floodplain Protection Overlay District.

Hearing started at 9:12 pm

Mr. Lee read the public hearing notice and comments from the town engineer, conservation commission, and health department.

Brian McCarthy, RJ O'Connell, civil engineers for the project. Locus is located in the floodplain protection overlay district. Warehouses are the current use. Majority of the site consists of wetlands and riverfront resource. Sunbird occupies one building, while the other warehouse is vacant. The application is for the 60,000 square foot warehouse on site. Noted that there are two special permits for the property regarding improvements to the eastern warehouse and tesla car delivery. Increasing flood storage after renovations.

Mr. Lee asked if the buildings will have the same footprint and the current use of the building. Questioned the parking arrangement with the 99 restaurant.

Mr. McCarthy responded that the building will continue to be a warehouse and that the footprint of the building is not increasing. Answered that there is a lease for roughly 40 spaces with access thru the 99 parking lot.

Mr. Lee asked the applicant to return to the ZBA with the accepted plans from the conservation commission.

Mr. McCarthy explained that the storm water basin will be moved another 10 - 12 feet from the no alteration wetland line.

Ms. Conroy asked if new fencing will be placed along Union Street.

John Meador, Casco Real Estate, responded that they will be removing the current chain-link fence.

Mr. Deschenes read from the town engineer's letter asking the applicant for a 10' right of way easement during construction of the sidewalk.

Mr. McCarthy asked that he be alerted when work begins on the sidewalk.

Mr. Delaney asked if the transformer is within the 25' foot buffer and about oil containment.

Mr. McCarthy replied that the transformer is about 20' feet from the 25' foot buffer and referred members to the utility detail for more detail regarding oil containment.

Motion: by Ms. Conroy, to continue the hearing until July 20, seconded by Mr. Hoegler.

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

Minutes Review

Item began at 9:45 pm

Mr. Delaney corrected a scrivener error in the May 04 minutes

Ms. Conroy noted that she was missing from one case in the May 04 minutes.

Mr. Hoegler noted that he was present at the May 25 meeting.

Motion: by Ms. Conroy to accept the minutes of the May 04 meeting, seconded by Mr. Hoegler.

Motion carried 4-0-1 (Lee-aye; Fitzgerald-abstain; Delaney-aye; Conroy- aye; Hoegler - aye)

Motion: by Ms. Conroy to accept the minutes of the, May 18 meeting, seconded by Mr. Delaney.

Motion carried 3-0-2 (Lee-aye; Fitzgerald-abstain; Delaney-aye; Conroy- aye; Hoegler - abstain)

Motion: by Ms. Conroy to accept the minutes of the May 25 meeting, seconded by Mr. Hoegler.

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

Board Business:

Item began at 7:50 pm

Mr. Deschenes discussed releasing unused money from the 53G account and that the board needs to vote to release these funds. There is money to release from the Burns Avenue case and the Moosehill Road case.

Motion: by Mr. Fitzgerald to release excess peer review money for the Moosehill 40B project and the Burns Avenue 40B modification, seconded by Mr. Delaney.

Motion carried 4-0-1 (Lee-aye; Fitzgerald-aye; Delaney-aye; Conroy- abstain; Hoegler - aye)

Ms. Conroy brought up the idea of including a project's existing square footage and percentage on a form for in-laws and mixed use projects. Also, asked for a clarification from the building commissioner regarding how to calculate a house's square footage.

Adjournment:

Motion: by Ms. Conroy to adjourn, seconded by Mr. Fitzgerald.

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

Meeting adjourned at 9:54 pm