



**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
Mark Major, Assoc. Member

**MINUTES
WALPOLE ZONING BOARD OF APPEALS
December 6, 2021**

Present: John Lee (Chair), Drew Delaney (Vice Chair), Robert Fitzgerald (Clerk), Mary Jane Coffey, David Anderson, Mark Major (Associate Member), and Judith Conroy (Associate Member, abstained from Case 20-21).

Absent: Timothy Hoegler (Associate Member)

Also in attendance were Patrick Deschenes (Community & Economic Development), George X. Pucci (Attorney, KP Law)

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

Case No. 20-21, Wall Street Development Corp, 48 Burns Avenue (Parcel 20-136) / Union Street (Parcel 20-119) / Brook Lane (Parcel 20-115) / Burns Avenue (Parcel 20-137), On remand from the Housing Appeals Committee, Request for Project Change / Amendment to a Comprehensive Permit under G.L. c.40B §§20-23 to amend the project to include Brook Lane; forty (40) units in eight (8) buildings, instead of the previously approved thirty-two (32) units in six (6) buildings, and utility connections from Brook Lane and eliminate installation of utilities from Union Street.

Applicant Louis Petrozzi displayed a plan of what had previously been approved in January 2020 (thirty-two units in six buildings) and explained his revised plan to construct forty units in eight buildings with an additional point of access on Brook Lane.

Mr. Lee asked how many buildings have changed locations from the original plans, to which Mr. Petrozzi replied that each building has been shifted slightly to accommodate the new configuration. Mr. Lee remarked that because the entire plan is altered, the Board will need to review how the modification has impacted the entire site.

Mr. Fitzgerald requested to see a revised list of waivers as it relates to the modified project. Attorney Pucci confirmed that this would be possible to request those revised waivers.

Mr. Lee opened the hearing up to the public for comments.

Jack Conroy, 38-40 Burns Avenue, voiced his concerns regarding the project. Mr. Conroy cited a section of State rules and regulations (760 CMR 56.03 (7)) that requires applicants for 40B Housing that had recently been denied a project under 40A to wait at least a year after that project was rejected before resubmitting under 40B. Mr. Conroy stated this rule was violated because this project was resubmitted eight days too early.

Mr. Conroy also stated that Wall Street Development Corp. currently has no legal right to use Burns Avenue, a private way, as an easement, and therefore should not be filing plans until the matter is sorted out.

Attorney Pucci stated that Wall Street Development Corp is an eligible applicant under the Project Eligibility Letter, and unless that status is revoked, the issue of easement access has no bearing on the Zoning Board's decision.

Attorney Pucci stated that the issue of the original comprehensive permit filing date has been looked into and refiling slightly too early has no real consequence in this case.

Cathy Campbell, 31-35 Burns Avenue, stated that she agreed with Mr. Conroy that the Wall Street Development Corp should not be allowed to use Burns Avenue due to access issues.

Robert O'Leary of Washington Street, cited a bylaw that states that any lots accessed by a common driveway shall not be subdivided into additional building lots and stated that this project is in violation of the rule. Mr. Lee stated that if the applicant includes this bylaw in its list of waivers, the Board may consider waiving it.

Mr. Conroy asserted that the applicant violated zoning bylaws by clearing trees off the property without getting the proper permit. Attorney Pucci that regardless of the claim's merit, it does not prevent the Zoning Board from hearing and deciding the case.

Cheryl Hayes-Montville, 8 Brook Lane, expressed her disappointment with the lack of transparency with the whole process of this project.

Joseph Sheehan 28 Burns Avenue, complained that the applicant often had loud machinery being operated prior to the agreed upon morning start time. Mr. Lee stated that the complaint should be brought to the attention of the Building Inspector, not the Zoning Board.

Motion by Ms. Coffey and seconded by Mr. Anderson to request a Scope of Work for peer review from Tetra Tech Engineering for this project.

The motion carried 5-0-0 (Lee-aye; Delaney-aye; Fitzgerald-aye; Coffey-aye; Anderson-aye)

Motion by Mr. Anderson and seconded by Ms. Coffey to continue this case until 1/5/22.

The motion carried 5-0-0 (Lee-aye; Delaney-aye; Fitzgerald-aye; Coffey-aye; Anderson-aye)

Case No. 21-19, Linda Nalbandian, 11 Maude Terrace, Special Permits under Section 5.B.2. and 5-B.2.C.2 of the Zoning Bylaws to allow an Accessory In-Law Suite as an accessory to an owner-occupied, single family dwelling that exceeds 33% of the total building size of the primary dwelling.

Keith Nalbandian explained his request for a special permit to construct a two-bedroom In-Law Suite above a three-car garage for his mother, which would exceed standard size regulation under Section 5-B.2.C.2.

Mr. Lee read comments from Deputy Fire Chief Paul Barry, stating that in the event that the special permit is approved, building plans will need to be submitted to the Fire Department for an inspection for compliance with fire safety guidelines prior to occupancy.

Mr. Lee read comments from Town Engineer Carl Balduf, describing proposed changes to the plan's underground water infiltration system and retaining walls, as well as a warning that the driveway opening must not exceed 24 ft. Mr. Nalbandian stated that his driveway's opening is currently 21 ft. and will not be expanded beyond that.

Mr. Fitzgerald asked the applicant how much excavation will need to be performed for the project. Mr. Nalbandian stated that because the land slopes downward already, very little digging is required.

Mr. Lee asked if there will be any doors separating the In-Law Suite from the rest of the house, to which Mr. Nalbandian replied that the doors have been removed for flow of travel between the two parts.

Ms. Conroy asked if the Board has ever approved an In-Law Suite this large, as it would almost double the size of the existing house. Mr. Lee stated that this was not typical.

Mr. Nalbandian stated that his In-law Suite is not over 1,000 sq. ft., and only exceeds the 33% limit because his house is very small. If his house were larger, a similarly sized In-Law Suite would not violate the guidelines. He stated that even after completion of the project, his house would be smaller than the largest houses on his street.

Mr. Lee asked why the plans include two bedrooms in the In-Law Suite. Mr. Nalbandian replied that if the entire floor were one room it would be too large, so they split it into two rooms and will use the second room as an office.

Ms. Conroy voiced concerns about the precedent that would be set if the Board approves a Special Permit for an In-Suite of this size. Ms. Coffey stated her agreement with Ms. Conroy's concerns.

Mr. Fitzgerald stated that there does not seem to be any justification for an In-Law Suite with two bedrooms, and suggested that a smaller one with only one bedroom would be more likely to be approved by the Board.

Ms. Conroy suggested that the applicant include more square footage of the proposed addition into the floor plan of the primary unit so that the floor plan of in-law suite would not be has significant.

Mr. Majors stated that having support from neighbors would be beneficial towards the applicant's proposed Special Permit to have an in-law suite of this size.

Motion by Mr. Fitzgerald and seconded by Ms. Coffey to continue this case until 12/15/21.

The motion carried 5-0-0 (Lee-aye; Delaney-aye; Fitzgerald-aye; Coffey-aye; Anderson-aye)

Minutes Review 11/17/21

Mr. Fitzgerald addressed two minor spelling/grammar mistakes.

Motion by Mr. Fitzgerald and seconded by Mr. Majors to accept the 11/17/21 meeting minutes as amended.

The motion carried 5-0-0 (Lee-aye; Delaney-aye; Fitzgerald-aye; Hoegler-aye; Major-aye).

The next meeting is scheduled for December 15th 2021.

Master Plan Consultant Interview

Mr. Deschenes announced that the Barrett Planning Group is planning to meet over Zoom with Town leaders to discuss sections of the Master Plan and asked if the Board would like to be included.

The Board agreed to the idea and Mr. Deschenes stated that he would send out an email following up with them about the meeting.

Adjournment

Motion by Ms. Coffee and seconded by Mr. Anderson to adjourn.

The motion carried 5-0-0 (Lee-aye; Delaney-aye; Fitzgerald-aye; Coffey-aye; Anderson-aye)

The meeting was adjourned at 8:50 P.M.

Respectfully Submitted: Kevin Sanderson