



**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
April 6, 2022**

Present: John Lee (Chair), Drew Delaney (Vice Chair), Mary Jane Coffey (Member), Robert Fitzgerald (Clerk), David Anderson (Member), Judith Conroy (Associate Member), and Timothy Hoegler (Associate Member)

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.

Mr. Lee started the meeting by resolving the discrepancy between the number of associate members currently on the Zoning Board of Appeals, and how many can legally serve per the Walpole Zoning Bylaws. Mr. Lee informed the board about Mark Major's intention to step down as an associate member. The Board's associate members are now only Judith Conroy and Timothy Hoegler.

Mr. Major arrived at the public meeting and Mr. Lee informed him that the Board accepted his resignation.

Ms. Conroy stated she felt uncomfortable how this was not on the agenda expressed how she felt this warranted more discussion. Stated she thought this was a violation of open meeting law.

Mr. Lee responded that he was directed by Town Counsel on how to proceed.

Case No. 22-1, High Plain Holding, LLC, 173 High Plain Street, Special Permit under Section 5-B.1.3.G of the Zoning Bylaws to allow for a three-story, ten-unit, mixed-use residential development within the Business (B) Zoning District. (Continued from March 2, 2022)

Agenda item began at 7:02 P.M.

Mr. Lee read the applicant's letter stating their desire to continue their hearing until April 20.

Motion: by Mr. Anderson and seconded by Mr. Fitzgerald to continue the case for 173 High Plain Street until April 20, 2022.

The motion carried 5-0-0

Fitzgerald-aye; Delaney-aye; Anderson-aye; Lee-aye; Coffey-aye

Case No. 05-20, On Remand from the Housing Appeals Committee (HAC) mediated revision to the previously denied comprehensive permit application, Wall Street Development Corp., HAC Docket No. 21-04, to review proposed changes to the ingress and egress of the project site from High Plain Street (Route 27), Dupee Street (Map 35, Parcel 380-1), Walpole, MA, Zoning District RB - Residence B District (Continued from 3/16/2022)

Agenda item began at 7:04 P.M.

Mr. Lee stated at the last hearing the Board discussed their views on the project. Mr. Lee also stated that a draft decision had been written and that he had provided edits to emphasize public safety concerns with the project.

Mr. Fitzgerald stated that he wanted to confirm that all the original contents were within the current decision had not been changed as the Board's focus was on the proposed new turning radius and moving of the utility pole.

Mr. Lee confirmed with Mr. Fitzgerald that he was correct.

Motion: by Ms. Coffey and seconded by Mr. Anderson to close the hearing.

The motion carried 5-0-0

Fitzgerald-aye; Delaney-aye; Anderson-aye; Lee-aye; Coffey-aye

Motion: by Ms. Coffey and seconded by Mr. Delaney. to approve the denial of the Dupee Street development.

The motion carried 3-2-0

Fitzgerald-nay; Delaney-aye; Anderson-nay; Lee-aye; Coffey-aye

Case No. 22-5, Giuseppe Petruzzello, 4 Deborah Drive, Variance under Section 6.B.1(3) of the Walpole Zoning Bylaws to allow an attached shed (10'x 24') to the rear of a pre-existing conforming detached garage (22' x 24'), wherein the attached shed creates a 15' setback, where 30' is required.

Agenda item began at 7:11 P.M.

Mr. Lee recused himself from the public hearing, as he stated he worked for Norfolk County Aggie School, which is an abutter to the project, and Mr. Delaney would be chairing the meeting.

Mr. Delaney read the public hearing notice.

Pasquale Straccia, attorney for Mr. Petruzzello, gave background on Mr. Petruzzello and his reasons for seeking a variance. Attorney Straccia stated that his client's property is oddly shaped lot, with a drain easement on property impacted the location of where to place the proposed structure. Attorney Straccia stated that the structure is well built, away from the road, within a wooded secluded area, and doesn't disturb neighbors.

Mr. Delaney noted that the garage has been before the Board before and that he has asked Building Commissioner James Crowley here to provide case history.

Mr. Anderson asked Attorney Straccia to clarify that the garage and shed are already built and that the attached shed is in violation of the rear yard setback.

Attorney Straccia clarified that his client is looking for permission to allow the structure to stay on the lot. Noted that the shed is used for tool storage.

Ms. Coffey had issue that the property owner is looking for a variance after the board didn't give a variance to allow for construction. Ms. Coffey found that seeking a variance after the fact flies in the face of the Town's Zoning Bylaws. Found it disconcerting that the applicant obtained a letter from the Aggie in support of the shed.

Ms. Conroy reviewed what a variance is: financial hardship, character of the neighborhood, and topography of the land. Questioned if the applicant pulled a permit to build the attached shed. Informed that applicant that they created a non-conforming situation by constructing an attached shed on conforming garage and that the Board can't create something that is non-conforming. Told the applicant they could have built a tool shed elsewhere on their property in order to achieve the same use as the attached shed. Desired to hear from the building commissioner.

Attorney Straccia replied that no permit had been pulled to construct the attached shed.

Mr. Anderson noted his discomfort with the applicant creating a self-induced hardship and that the applicant is asking for forgiveness instead of permission.

Attorney Straccia recognized that the applicant is seeking forgiveness, believed that the attached shed meets the criteria for granting a variance. Believed the Board was holding events of the past against the applicant.

Mr. Fitzgerald recalled that at pervious hearings the Board was accused of being prejudiced against the applicant, took strong exception to that accusation. Affirmed that the Board will make a decision based on the facts and as it applies to the Bylaws.

James Crowley, building commissioner, gave a history of the project; owner wanted a 24' x 32' garage, which was too close to rear setback, denied it and gave permission to build a 22' x 24', yet upon inspection a foundation had been poured for a 34' garage, applicant applied for a variance yet withdrew without prejudice and built a garage to comply with zoning setbacks. Neighbor complained that the applicant the built an attached shed in violation of the rear setback after the construction of the garage.

Mr. Delaney confirmed with Mr. Crowley that the applicant had poured the foundation before seeking for the original variance.

Ms. Conroy asked if the supporting abutters were present or if they had written letters.

Attorney Straccia informed Ms. Conroy that abutters at 2 Debra, 6 Debra, and the Aggie had written letters to the board in support.

Mr. Delaney opened for the public to comment.

Bill Buckley, assistant director of Norfolk County, read a letter from Norfolk County's attorney asking the board to continue the hearing since they were incorrectly notified.

Mr. Deschenes informed Mr. Buckley that abutters were notified by the certified abutter list compiled by the Walpole Assessor.

Mr. Delaney identified the voting members, Mr. Anderson, Mr. Fitzgerald, himself, Ms. Coffey, and Ms. Conroy and asked Mr. Straccia if he wanted to close the hearing.

Mr. Straccia was okay with closing the hearing.

Giuseppe Petruzzello, applicant, states that he built a foundation without a permit because the town hall was closed due to covid. When he didn't get a variance, he built a garage 24' x 24', in compliance. Stated that the pitch of the foundation causes rain to enter the garage, the shed helped to alleviate garage flooding.

Mr. Delaney informed the applicant that there was a grey area between what the applicant told the Board and what the applicant did.

Mr. Petruzzello told the board he pulled a permit to build the garage slab and then a second permit to construct the garage.

Mr. Anderson informed the applicant that he created a self-induced hardship by constructing his concrete slab incorrectly.

Mr. Petruzzello pointed out how he can't use his lot due to it's shape and that the shed isn't harming anybody.

Motion: by Ms. Coffey and seconded by Ms. Conroy to close the hearing.

The motion carried 5-0-0

Fitzgerald-aye; Delaney-aye; Anderson-aye; Conroy-aye; Coffey-aye

Motion: by Ms. Coffey and seconded by Mr. Anderson for a denial of the variance under Section 6.B.1(3) of the Zoning Bylaws for 4 Deborah Drive.

The motion carried 5-0-0

Fitzgerald-aye; Delaney-aye; Anderson-aye; Conroy-aye; Coffey-aye

Minutes Review: 3-16-2022

Agenda item began at 7:40 P.M.

Mr. Lee resumed the chairmanship

Ms. Coffey recalled Mr. Fitzgerald said "this board would be derelict in their duty" if they denied Dupee Street.

Mr. Fitzgerald said that was incorrect, and he never said "the board would be derelict in their duty"

Ms. Conroy was concerned that words are being consolidated and put forth with a different light on them.

Mr. Lee asked all board members to go through the minutes and send any correction to staff and the corrections can be voted on at the next meeting.

Department Updates:

Mr. Deschenes told the board that ZBA applications have been reformatted and more up to date.

Adjournment:

Motion: by Mr. Anderson and seconded by Mr. Delaney to adjourn. The motion carried 5-0-0

Fitzgerald-aye; Delaney-aye; Anderson-aye; Coffey-aye; Lee-aye

Meeting adjourned at 7:54 P.M.