



**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*

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**MINUTES  
WALPOLE ZONING BOARD OF APPEALS  
July 20, 2022**

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

Absent: Mary Jane Coffey

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

Mr. Lee called the meeting to order at 7:01 P.M.

Mr. Lee informed the public that the ZBA held executive session prior to the public hearing.

**Case No. 22-11, Wall Street Development Corp., 9 & 15 Pinnacle Drive (Map 19, Parcels 182 & 183), Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, Sections 20 through 23, as amended, to allow for the construction of twenty-eight (28) homeownership, non-age restricted, condominium Townhouses. (Continued from 6/1/2022)**

Hearing began at 7:02 pm

Mr. Lee said that Walpole claims they are in Safe Harbor because of its housing production plan. Informed the public that DHCD has revoked Walpole's safe harbor status and Walpole will appeal DHCD's decision.

Attorney Pucci said that the appeal would go to Housing Appeals Committee (the "HAC") and the appeal will stay the public hearing related to Case #22-11.

Mr. Lee informed that the board will continue the hearing until August 17.

**Motion** to by Mr. Fitzgerald, and seconded by Mr. Delaney to continue Case #22-11, Pinnacle Drive, Comprehensive Permit under M.G.L. 40B until August 17

Motion carried, 4-0-0, (Delaney - Aye; Fitzgerald - Aye; Lee - Aye; Anderson- aye)

**Case No. 22-10, Wall Street Development Corp, 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 5/25/2022)**

Hearing began at 7:04 pm

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Mr. Lee said that Walpole claims they are in Safe Harbor because of its housing production plan. Informed the public that DHCD has revoked Walpole's safe harbor status and Walpole will appeal DHCD's decision.

**Motion** by Mr. Fitzgerald, and seconded by Mr. Delaney to continue Case #22-10, Darwin Lane, Comprehensive Permit under M.G.L. 40B until August 17

Motion carried, 4-0-0, (Delaney - Aye; Fitzgerald - Aye; Lee - Aye; Anderson- aye)

Attorney Pucci advised members of the public to check the agenda for these hearings before attending the agenda in August.

**Case No. 22-17, Helio Ferreira, 28 Main Street, Special Permit under Zoning Bylaws Section 5-B.2 of the Zoning By-Laws to allow the construction of and accessory an in-law suite within an existing single-family dwelling.**

Hearing began at 7:07 pm

Mr. Ferreira told the board the he desires to turn part of his house into an in-law suite, he will not be expanding his house.

Mr. Lee read letters from the town engineer and Fire department. Mr. Lee noted that there is a second egress out the back of the house

Ms. Conroy questioned the square footage of the proposed in-law suite and the total house. Mr. Ferreira responded that the square footage complies with the Zoning Bylaw.

Abutter, Jason Dorant, 5 Countryside Lane, stated his desire for increased privacy, a fence, and offered no opposition to the proposed in-law suite.

Mr. Ferreira supported the idea of a fence between his yard and his neighbor's yard. Mr. Lee noted that the board can condition a fence to satisfy Mr. Dorant's request.

Ms. Conroy asked if the 2nd floor main dwelling unit can access the proposed in-law suite. Mr. Ferreira responded that access between the main dwelling unit and the in-law suite is via the first floor.

Mr. Lee stated there will be a condition for no door between the in-law suite and the main dwelling unit.

**Motion** by Mr Fitzgerald and seconded by Mr. Delaney to close the public hearing.

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

**Motion** by My. Fitzgerald, seconded by Ms. Conroy to approve Case #22-17, for 28 Main Street, for an ADU, with standard conditions and a fence at the rear of the property for 150 feet and for the removal of the door between the main dwelling unit and the ADU.

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

**Case No. 22-14, Shawn O'Leary, 6 Philip Road; special permit under 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 7:20 pm.

Mr. Lee recused himself due to a conflict of interest and Mr. Delaney became chairperson.

Mr. Delaney read the public hearing notice and comments from the Health department, Building department, fire department, and from the town engineer. The health department comment required the applicant to file a deed restriction limiting the house to no more than 3 bedrooms. The building department stated that the main dwelling unit is 2,596 square feet and that the proposed ADU is less than 33% of 2,596 square feet.

Mr. O'Leary desired to build an in-law suite for his mother

Mr. Fitzgerald reminded the applicant that they will file need to file the special permit and the deed restriction with the Norfolk County Registry of Deeds.

Ms. Conroy asked if the in-law suite and the main dwelling unit are connected. Mr. O'Leary replied that the in-law suite and the main dwelling unit are connected.

Mr. Delaney asked if abutters had any comments, there were none.

Mr. Fitzgerald asked what the in-law square footage will be. Mr. O'Leary replied that the in-law square footage is 624 square feet, complying with the Walpole Zoning Bylaw.

**Motion** by Mr. Fitzgerald and seconded by Mr. Anderson to close Case #22-14.

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

**Motion** by My. Fitzgerald, seconded by Ms. Conroy to approve Case #22-14, with standard conditions and a condition to remove excess fill from the foundation and a condition to file a deed restriction at the Norfolk County Registry of Deeds to limit the house to no more than 3 bedrooms.

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

**Case No. 22-7, 1429 Main Street LLC, 1429 Main Street, Special Permit under Zoning Bylaws Sections 2.2.A-B/ 5-B.1.3.g to allow for the modification to the 2014 Planning Board Special Permit Decision, Case No. 14-10 in which the special permit granting authority has changed.**

Hearing began at 7:30 pm

Mr. Lee resumed the position of chair

**Motion** by Mr. Fitzgerald, seconded by Mr. Delaney to continue Case #22-7 until August 17 at the request of the applicant.

Motion carried 4-0-0 (Anderson- aye; Delaney- aye; Lee-aye; Fitzgerald-aye)

**Case No. 22-16, 295 Union Street Fee Owner, LLC, 295 Union Street, Special Permit under 11.3B of the Zoning Bylaws to allow building improvements and site improvements in the floodplain overlay protection district**

Hearing began at 7:33 pm

Mr. McCarthy, RJ O Connell associate, reminded the ZBA that they were waiting for approval from Conservation Commission from the last hearing. The plan has now been approved by the Conservation Commission and issued the order of conditions. The town engineer noted that all comments have been addressed.

Mr. Lee questioned parking situation at the site in the future.

Mr. McCarthy responded that the site is on septic and the tank will be abandoned and parking will be normalized at the site after construction. Noted that the plan shows the proposed sidewalk that the town of Walpole will construct and will provide the town with easements to construct the sidewalk.

Ms. Conroy asked about fencing and providing some privacy for the neighborhood. Mr. McCarthy noted that they may not replace the fence but they are amenable to erecting a fence.

Mr. Lee noted that he will include a fence as a condition of the special permit. Mr. McCarthy noted that the fencing may not be erected, but if it is erected it will comply with the condition of the special permit.

**Motion** by Mr. Fitzgerald, seconded by Mr. Delaney to close case #22-16

Motion carried 4-0-0 (Anderson- aye; Delaney- aye; Lee-aye; Fitzgerald-aye)

**Motion** by Mr. Fitzgerald, seconded by Mr. Delaney to approve Case #22-16 with the conditions outlined in the draft decision and also based on the redevelopment site plans for 295 Union Street dated 06/16/22.

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

**Case No. 22-9, Glaro Development Corp., 51 Route 1; special permit under Table 5-B.1.4.p.ii of the Zoning By-Laws to allow modification to the existing drive-thru at the site**

Hearing started at 7:45 pm

Mr. Garaopolous, noted that all concerns from the previous meeting have been addressed.

Mr. Lee read a letter from the town engineer stating that all of his concerns have been addressed. Mr. Lee noted that the applicant will work with the DOT regarding the future sidewalk on Union Street.

Mr. Lee opened for public comment, there were no comments.

**Motion** by Mr. Fitzgerald, seconded by Mr. Delaney to close case #22-9

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

**Motion** by Mr. Fitzgerald, seconded by Mr. Delaney to approve the draft decision and the plans dated 07/07/22.

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

**Case No. 22-13, James Delaney, 11 Briarwood Lane; special permit under Section 5-D of the Zoning By-Laws to allow excavation of side hill and trucking in of material to level and grade backyard.**

Hearing began at 7:51 pm

James Delaney, 11 Briarwood Lane, stated that he is trying to regrade his backyard and truck in some material. Believed he has addressed any concerns from previous meeting. Noted that the new plan shows water recharge system and that he plans to have all looming and seeding done by October.

Mr. Lee noted that new plans show removal area and that the soil on locus is not subject to erosion.

Mike Fryeburg of MF Landscape noted that he will be removing 102 yards from the hill.

Mr. Fitzgerald asked for the excavation/ stabilization process. Mr. Fryeburg explained he will remove from the hill and put grade stakes up around the yard to level it off.

Attorney Gregory Sullivan noted that the applicant shows the removal of stumps on the plan, doubted the location of stump was inaccurate, and emphasized no work within the 20 foot setback line and no removal of stumps.

Nick Facendola, Level Design, Stated that he was unsure which stumps are being shown on the plan and stated his concern with the excavation of stumps, noted that no grades are shown in the yellow area of the plan.

Mr. Lee asked if the applicant would be okay with showing the 20 foot buffer on the plan. James Delaney, Applicant agreed with the 20 foot buffer and is okay with staking it.

**Motion** by Mr. Fitzgerald, seconded by Mr. Delaney to close the hearing

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

**Motion** by Mr. Anderson, seconded by Mr. Delaney to approve the special permit based on the plan received on 07/13/22 with conditions: no cutting or removal of earth within 20 foot buffer on the easterly side of locus; staking of 20 foot buffer; curbing needs to be protected; catch basin needs to be protected; loam and seed need to be installed no later than October 31.

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

**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.**

Hearing started at 8:16 pm

Anthony Monahan, 173 High Plain Holding LLC, noted that the proposed development has made the square footage smaller, increased parking spaces, included an affordable unit, amongst other changes.

Andrew Litchfield, 173 High Plain Holding LLC, informed the board that the affordable unit will be 80% AMI in perpetuity, balconies have been removed from the rear of the property and from the 3rd floor, only 3 are proposed, showed renderings, tapering of the yellow centerline has been moved for traffic concerns, new concrete sidewalk, no left turn sign during peak hours, 3 professional offices only on 1st floor, town engineer addressed concerns about water pressure, arborvitaes in the rear of the property due to the dumpster.

Mr. Lee opened up the meeting for public comment

Dan Aluigi, 4 Holland Way, asked for a privacy fence, hoped for a fence taller than 6 feet and concerned about the dumpster. Mr. Lee noted that any fence taller than 6 feet is not allowed under the Zoning Bylaw.

Eduard Lazri, 184 High Plain, stated they were concerned about traffic, dumpster, water pressure and commercial uses. Mr. Litchfield noted that he will be managing the property and will be aware of issues regarding the dumpster.

Ken, 183 High Plain Street, questioned the runoff on the property. Mr. Monahan pointed out the drainage proposals on the plan and noted all drainage will be contained on site.

Mr. Anderson asked if taller arborvitaes could alleviate dumpster concerns. Mr. Monahan said he would be amenable to placing more 10' arborvitaes to alleviate neighbor concerns.

John O'Leary, 776 Washington Street questioned fire department access. Mr. Lee responded that the fire department worked with the applicant to address access concerns.

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

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

**Motion** by Ms. Conroy, seconded by Mr. Delaney to approve Case #22-1 for 173 High Plain Street based on the draft decision and plans dated with a last revision dated 07/14/2022 with conditions: 6 foot fence in the rear of the property, 9 - 10' arborvitaes in the rear of the property parallel to fence; affordable units shall be in perpetuity; sidewalk needs to be redone with concrete; first floor commercial space can be used for professional office space only.

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

**Case No. 22-12, Bristol Brothers Development Corp., Renmar Avenue & West Street, Variance under Zoning Bylaws Section 10-C.2.(a)(3), requiring that an Adult Qualified Village development have a minimum setback along the perimeter of fifty (50) feet.**

Hearing began at 9:10 pm

Mr. Lee read the public hearing notice. Mr. Lee summarized the project thus far: approved by the planning board and site work has started on site. Read a letter from the town engineer noting the site constraints and stated there is no technical engineering work preventing relief and that the project would be better with an approval from the ZBA.

Jeff Tocchio, Counsel for Bristol Bros Development, stated that the site is 55 +/- acres and that they got approval from February 24 for 100 single family condominiums for seniors. Informed that board that there are multiple zoning districts all encompassed by the Age Qualified Village overlay, there is an Eversource easement cuts through the site, and that locus used to be a quarry. Presented the revised plan before the planning board in November 2021 showing improve road layout/ public safety, earth removal, and layout - resulting in fewer abutters on Forest Road. Explained where variance is sought: near the entrance on West Street to the west is a paper subdivision and Map Lot 32/96 owns to the center of the paper street under M.G.L. Chapter 183 Section 58. Desired to repurpose 534 West Street, noted that the Planning Board prohibited the applicant from seeking more units. Explained that houses 1, 2, and 3 on the

proposed plan would be used as the clubhouse, model home, and sales office. Noted that houses 2 and 3 are within the 50 foot setback on the proposed plan. Explained that the properties to the west are a train line and no one is living there so no one would be affected by the variance. Asked the board members for any comments.

Mr. Fitzgerald asked about the 50 foot setback. Mr. Tocchio explained that the 50 foot setback originates from Broadway, a paper street. Explained that the proposed layout allow for a better layout, drainage, and slopes.

Mr. Fitzgerald asked how the advantages derive from the granting of a variance. Mr. Tocchio explained that the proposed layout would allow the 3 houses to be kept in the front of the property and to build 100 houses in the development which allows for more green space and privacy.

Mr. Lee asked where exactly the relief is being sought on the site. Mr. Tocchio explained that relief is being sought along 50 feet along the west property line along the paper street identified as "Broadway". Mr. Lee noted that almost half of building #1 is in the setback.

Mr. Delaney asked what the applicant's intentions are for 530 West Street. Mr. Tocchio responded that they don't intend to destroy the house at 530 West Street.

Mr. Tocchio went over the statutory criteria for a variance; situation where the soil, shape or topography are uncommon in the neighborhood; the triangular parcel separated by a paper street, derelict fee statue of which the applicant is not availing themselves; increased amounts of ledge than anticipated; literal enforcement would cause financial hardship;

Mr. Fitzgerald noted that the home at 534 West Street is legally non-conforming and questioned why it would need to be demolished. Mr. Tocchio explained that since the property lines are being erased in order to merge with the overall Age-Qualified Village (AQV) the original preexisting property lines would be erased and would erase the legal protections.

Mr. Lee reminded the applicant that they have a 55-acre project and that the bar for seeking a variance is difficult. Noted that there was originally no problem with removing the house at 534 West Street.

Mr. Tocchio noted that the easement was incorrectly surveyed and in reality there was a slight difference in the property line on the ground. Noted that the situation on locus is extremely unique.

Mr. Fitzgerald noted that Mr. Tocchio admitted the original project can be built, so he questions the current hardship and noted that the home at 534 West Street was planned to be demolished. Mr. Tocchio responded that he felt it was very important to preserve the home at 534 West Street for financial purposes.

Lorna Jaffarian, 531 West Street, spoke against the 100 unit plan, felt as though there was too much development occurring, and noted traffic/ speeding concerns.

Mr. Tocchio supported putting speed signs on West Street for traffic calming.

Mr. Lee advised the Ms. Jaffarian to speak with the Select Board since speeding is an enforcement issue.

**Motion** by Mr. Fitzgerald, seconded by Mr. Anderson, to continue the hearing until September 7, 2022.

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

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### **Minutes Review**

Item began at 10:15 pm

Mr. Fitzgerald and Ms. Conroy made minor corrections to the minutes.

**Motion** by Mr. Fitzgerald to accept the minutes of the June 01 meeting, seconded by Mr. Delaney

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

### **Adjournment:**

**Motion** by Ms. Conroy to adjourn, seconded by Mr. Anderson.

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

Meeting adjourned at 10:18 pm