

The December 14, 2011 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 7:00 P.M. with the following members present:

Susanne Murphy, Chairman
James M. Stanton, Vice Chairman
Daniel J. Cunningham, Jr., Clerk
Ted C. Case, Member
James S. DeCelle, Member

Matthew Zuker, Associate member (not present)

6:50 p.m. – Kilani Bros., Inc. – Case #20-11 (cont'd from 10/26 and 11/9) (Murphy, Cunningham, Case, DeCelle, Zuker)

Ms. Murphy read the public hearing notice for **KILANI BROS., INC., Case #20-11**, with respect to property located at 215 Main St., Walpole and shown on the Assessors Map as Lot No. 19-61, Business Zone.

The application is for:

A Special Permit under Section 5.B.4.e of the Zoning Bylaws to allow sales up to six (6) cars, all used vehicles, in a sales room/office to conduct business.

Mr. Dan Merrikin, Merrikin Engineering, represented the applicant and explained the new plan submitted to the Board showing the new draining system. The flow pattern will not be changed and eventually they may connect to a new system planned for installation by Mass. Highway in the future.

Ms. Murphy asked if there were any comments from the public, there being none:

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to close the public hearing.

The vote was **5-0-0 in favor**. (Murphy, Stanton, Cunningham, Case, DeCelle voting)

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant a Special Permit under Section 5.B.4.e of the Zoning Bylaws to allow sales up to six (6) cars; all used vehicles, in (and) a sales room/office to conduct business.

The vote was **4-0-0 in favor**; therefore the application for **Special Permits is hereby granted**, subject to the following conditions: (Murphy, Cunningham, Case, DeCelle voting) (Mr. Stanton was not present for the original public hearing)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the cars will be as shown on the plan submitted at the public hearing.

2. As stipulated by the applicant at the public hearing, the infrastructure must be completed prior to the sale of any cars and as shown on the plan, dated December 9, 2011, Merrikin Engineering. The drainage system to be installed per the design indicated on the plan dated December 9, 2011, Merrikin Engineering.
3. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning Bylaws in that:

- i. ***Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.***
The construction shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.
- ii. ***Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.***
The construction shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.
- iii. ***Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).***
The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.
- iv. ***Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.***
The construction shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.
- v. ***Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.***
The construction shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.
- vi. ***Shall not adversely effect the character of the immediate neighborhood.***
The construction shall not adversely effect the character of the immediate neighborhood.
- vii. ***Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.***
The construction shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

7:00 p.m. – Edward Coolbrith – Case #22-11

Ms. Murphy read the public hearing notice for **EDWARD COOLBRITH, Case #22-11**, with respect to property located at 48 Mill Brook Ave., Walpole and shown on the Assessors Map as Lot No. 11-94, Rural, Water Resource Protection Overlay District Zone.

The application is for:

Special Permit under Section 12-3.C(5) of the Zoning Bylaws to allow the installation of impervious coverage exceeding 15% of the lot area associated with the construction of a single-family dwelling; and any other relief the Board may deem necessary.

Mr. Dan Merrikin, Merrikin Engineering, submitted revised plan, dated 11/5/11, and explained the request to allow more than 15% impervious coverage on a lot for a single-family development. The applicant is in the process of constructing a single-family dwelling on a previously vacant lot and seeks to install impervious surfaces such as a walkway, patio and driveway, which will result in an impervious coverage of 19.0%. The applicant is proposing two roof runoff infiltration field to capture an additional 1 inch of runoff over 1,600 s.f. of impervious surfaces.

Ms. Murphy read the comments from Board of Health, dated November 9, 2011; Town Engineer, dated October 28, 2011 and November 30, 2011; Traffic Safety Officer, dated November 10, 2011; Board of Sewer & Water, dated November 15, 2011 and December 13, 2011; Conservation Commission, dated November 11, 2011.

Ms. Murphy asked if there were any comments from the public; there being none:

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant Special Permit under Section 12-3.C(5) of the Zoning Bylaws to allow the installation of impervious coverage exceeding 15% of the lot area associated with the construction of a single-family dwelling; and any other relief the Board may deem necessary.

The vote was **5-0-0 in favor**; therefore the application for **Special Permits is hereby granted**, subject to the following conditions: (Murphy, Stanton, Cunningham, Case, DeCelle)

CONDITIONS:

3. As stipulated by the applicant at the public hearing, the structure shall be constructed according to the plans submitted at the public hearing.
4. As stipulated by the applicant at the public hearing, the applicant shall notify the Town Engineering Department for a drainage system inspection.
5. As stipulated by the applicant at the public hearing, if the owner or contractor wishes to vary the system components, type, design or location, revised plans and calculations must be submitted to the Engineering Department for review BEFORE installation.

4. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning Bylaws in that:

- i. ***Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.***
The construction shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.
- ii. ***Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.***
The construction shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.
- iii. ***Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).***
The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.
- iv. ***Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.***
The construction shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.
- v. ***Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.***
The construction shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.
- vi. ***Shall not adversely effect the character of the immediate neighborhood.***
The construction shall not adversely effect the character of the immediate neighborhood.
- vii. ***Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.***
The construction shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

DISCUSSION:

Panda Express – Case #18-10

In response to a memo from Building Commissioner, Jack Mee, regarding Panda Express and their request to finalize the outdoor dining patio. Mr. Mee referred to the Board's minutes on this case and Mr. Case's voiced concerns regarding safety and had requested lights around the side, safety poles and bollards be installed to protect the patio area and those within it. The Board's decision had not included lighting, but did include the fencing and bollards. Mr. Mee requested direction from the Board regarding the lighting.

The Board discussed the issues and confirmed the conditions as stated in the Case #18-10 decision. Therefore, conditions number 3 and 4 remain as required.

7:00 p.m. – Edward Coolbrith - #22-11

Ms. Murphy read the public hearing notice for **WALPOLE LIBRARY BOARD OF TRUSTEES, Case #23-11**, with respect to property located at 143 School St., Walpole and shown on the Assessors Map as Lot No. 33-38, General Residence Zone.

The application is for:

A Variance from Section 7.7 of the Zoning Bylaws to allow a total of three signs at the new library, in a Residential District. The signs to be 8 square feet, 18 square feet and 32 square feet, a total of 58 square feet, where 10 square feet is allowed.

Mr. David Wildhauer, Library Board of Trustees, presented the request for three signs on the new library property. The signage was not in the original design which was an oversight. The Permanent Building Committee declined to purchase the Variance, therefore, the Library Board of Trustees decided to submit the request. The existing library sign has been moved from the old library to the new library at one of the entrances. However, it is one-sided and he would prefer a two-sided sign. He also informed the Board that some of the meeting rooms have already been rented out to some other towns.

Ms. Murphy commented that two of the signs have already been installed prior to the Zoning Board's approval.

Mr. DeCelle pointed out that the proposed sign at the corner of Stone and School Streets shows brick on the bottom half of the sign which is a concern because it may obstruct vehicular and pedestrian traffic visibility at that corner. He informed the applicant that additional Variances would be required.

Ms. Murphy asked if there were any comments from the public; there being none:

A motion was made by Ms. Murphy, seconded by Mr. Zuker, on behalf of the applicant, **Walpole Library Board of Trustees**, to grant a request to withdraw without prejudice Case #23-11.

The vote was **5-0-0 in favor**; therefore the application for Case #23-11 is hereby **withdrawn without prejudice**. (Murphy, Stanton, Cunningham, Case, DeCelle voting)

REASONS FOR DECISION:

It is the finding of the Board that the applicant requested withdrawal without prejudice at the hearing on December 14, 2011 and the Board had no reason to deny the request.

8:00 p.m. – Nicholas Panagopoulos – Case #24-11

Ms. Murphy read the public hearing notice for **NICHOLAS PANAGOPOULOS, Case #24-11**, with respect to property located at 54 Water St., Walpole and shown on the Assessors Map as Lot No. 57-11, Residence B Zone, Water Resource Protection Overlay District Area 3.

The application is for:

A Special Permit under Section 12-3.C(5) of the Zoning Bylaws to allow the installation of impervious coverage exceeding 15% of the lot area associated with the construction of a garage for an existing single-family dwelling; and any other relief the Board may deem necessary.

Mr. Dan Merrikin, Merrikin Engineering, represented the applicant and explained the applicant resides at the existing dwelling at 54 Water St. The structure pre-dates the Water Resource Protection Overlay District bylaw. The applicant is seeking to construct a 3-car garage off the rear edge of the existing driveway; and a small driveway turnaround between the home and garage to facilitate turning movement. The new garage will eliminate the existing shed and concrete pads, reducing their impervious cover. Mr. Merrikin submitted a revised plan, dated November 14, 2011, in answer to comments made by the Town Engineer regarding the original plan.

Ms. Murphy read the comments from the Town Engineer, dated October 28, 2011; Deputy Fire Chief, dated November 2, 2011; Sewer & Water Commissioners, dated November 15, 2011; Traffic Safety Officer, dated November 10, 2011; Board of Health, dated November 9, 2011.

In answer to the Deputy Fire Chief's concerns, the stadium parking lot is just behind this property on a separate parcel of land.

Ms. Murphy asked if there were any comments from the public; there being none:

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant a Special Permit under Section 12-3.C(5) of the Zoning Bylaws to allow the installation of impervious coverage exceeding 15% of the lot area associated with the construction of a garage for an existing single-family dwelling; and any other relief the Board may deem necessary.

The vote was **5-0-0 in favor**; therefore the application for **Special Permits is hereby granted**, subject to the following conditions: (Murphy, Stanton, Cunningham, Case, DeCelle voting)

CONDITIONS:

1. As stipulated by the applicant at the public hearing, the structure shall be used as a garage to be constructed in accordance with the plans submitted at the public hearing, dated October 28, 2011, revised 11/14/11
2. As stipulated by the applicant at the public hearing, the applicant shall notify the Town Engineering Department for a drainage system inspection.

3. As stipulated by the applicant at the public hearing, if the owner or contractor wishes to vary the system components, type, design or location, revised plans and calculations must be submitted to the Engineering Department for review BEFORE installation.
4. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L.c.40A, Section 17, if substantial use has not sooner commenced except for good cause.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2B of the Zoning Bylaws in that:

- i. Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.*
- ii. The construction shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.
- iii. Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.*
- iv. The construction shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.
- v. Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).*
- vi. The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.
- vii. Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.*
- viii. The construction shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.
- ix. Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.*
- x. The construction shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.
- xi. Shall not adversely effect the character of the immediate neighborhood.*
- xii. The construction shall not adversely effect the character of the immediate neighborhood.
- xiii. Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.*
- xiv. The construction shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

DISCUSSION:

Vote on Evaluation

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to approve the Evaluation for 2011 for the Board Secretary, Evelyn Splaine.

The vote was **5-0-0 in favor**; therefore the 2011 Evaluation was approved. (Murphy, Stanton, Cunningham, Case, DeCelle voting)

MINUTES

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to approve the minutes of November 9, 2011 and October 26, 2011 as written.

The vote was **5-0-0 in favor**. (Murphy, Stanton, Cunningham, Case, DeCelle voting)

There being no further business, the meeting was closed at 9:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on January 11, 2012.