

The February 9, 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

Meg Kundert, Associate Member  
Matthew Zuker, Associate member

**7:00 p.m. – Herbert Jacobs – Case #01-11 (Var 6C8D)**

Ms. Murphy read the public hearing notice for a Variance from Section 6.C.8.D of the Zoning Bylaws to allow a six (6) foot solid fence along the front of the property line.

On February 9, 2011 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a Variance from Section 6.C.8.D of the Zoning Bylaws to allow a six (6) foot solid fence along the front of the property line.

Mr. Jacobs presented his request for a Variance and explained he asked two fence companies for estimates to install the fence. The reason for the fence was to alleviate car and truck noise and the glare of the lights exiting Raffael's Banquet Facility across the street. The fence would also protect any children playing in the front yard from traffic on Main St. Mr. Jacobs submitted 12 signatures of neighbors who are in favor of granting this Variance. He informed the Board that he has driven from Shoreview Lane onto Main St., and there is no visibility hindrance caused by the fence. Mr. Jacobs believes the driveway on Shoreview Lane would be used as the main driveway.

Ms. Murphy read the letter from the Traffic Safety Officer, Warren Goodwin, informing the Board he was unable to determine whether or not there are visibility concerns caused by the 6 foot fence because of the huge snow banks. Also read were memos from the Planning Board and Michael Laracy, Deputy Fire Chief, with no comment.

Mr. DeCelle requested that the applicant indicate on the plans where the fence is with the specific dimensions in relation to the property line and from the gutter line to the fence. Discussion ensued regarding the fence, the gate and information required in order for the Board to make a decision.

Mr. DeCelle requested the applicant submit certified plans that indicate where the fence is in relation to the property line and the specific dimensions from the gutter line to the fence.

Mr. Jacobs said he would be happy to get that information.

Mr. Zuker asked the secretary to request comments from the Building Commissioner, Jack Mee.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to continue the hearing to February 23, 2011 at 7:30 p.m.

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

**7:30 p.m. – Anthony Abate – Case #02-11 (SP 5Bdd)**

Ms. Murphy read the public hearing notice for ANTHONY ABATE/SUFFOLK AUTO BODY, INC., Case #02-11, with respect to property located at #25 Merchants Way, Unit #3, Walpole and shown on the Assessors Map as Lot No. 32-79-0, Limited Manufacturing Zone.

The application is for:

A Special Permit under Section 5.B.dd of the Zoning Bylaws to allow auto body repair establishment for metal crafting, auto body repair, auto body painting, paint spraying or interior customizing cars, trucks; and all types of motorized vehicles.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to amend the application for a Special Permit under Section 5.B.dd to a Special Permit under Section 5.B.4.dd.

The vote was **5-0-0 in favor;** therefore the application is amended to 5.B.4.dd. (Murphy, Stanton, Cunningham, Case, DeCelle voting)

Andrew Abate, co-owner with Anthony Abate (who was unable to attend), explained that the business is run according to the current standards. The existing spray booth will be moved from their current location to this new location. They will only have the amount of cars that are being worked on. They do not like leaving cars outside because of the liability.

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, seconded by Mr. Cunningham, on behalf of the applicant, to grant Special Permit under Section 5.B.4.dd of the Zoning Bylaws to allow auto body repair establishment for metal crafting, auto body repair, auto body painting, paint spraying or interior customizing cars, trucks; and all types of motorized vehicles.

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 an auto body repair establishment for metal crafting, auto body repair, auto body painting, paint spraying or interior customizing cars, trucks; and all types of motorized vehicles.
2. As agreed to by the applicant the existing fire suppression system will be extended into his spray booth.
3. As agreed to by the applicant a determination will be sought from the Conservation Commission to determine whether or not approval is required for the auto body repair establishment from that Commission.
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 3B of the Zoning By Laws 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.**

**8:00 p.m. – 5<sup>th</sup> Fairway Development Remand – Case #18-08 (cont'd from 1/12/11) (Murphy, Stanton, Cunningham, Case DeCelle, Kundert, Zuker)**

Ms. Murphy read the letter from Regnante, Sterio and Osborne, dated February 8, 2011 requesting a continuance of the hearing to March 9, 2011 and requesting to extend the 40 days making their April 21, 2011.

Mr. DeCelle said he could not attend the March 9, 2011 meeting.

Ms. Murphy asked Mrs. Thurston if March 23, 2011 would work for them versus March 9.

Kate Thurston agreed to the March 23, 2011 continuance date.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to grant 5<sup>th</sup> Fairway Development's request to continue the public hearing from February 9, 2011 to March 23, 2011 at 7:00 p.m. as requested on behalf of 5<sup>th</sup> Fairway Development in the letter from Paul Haverty, Esq., dated February 8, 2011.

Further, the Zoning Board voted to accept the extension of forty (40) days to conduct the public hearing, also requested on behalf of 5<sup>th</sup> Fairway Development in the letter from Paul Haverty, Esq., dated February 8, 2011.

The vote was **4-1-0 the motion passed.** (Murphy, Stanton, Case, DeCelle in favor. Mr. Cunningham opposed)

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

Daniel J. Cunningham, Jr.  
Clerk

ev

Minutes were approved on May 11, 2011.