

The January 19, 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 6:45 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

**6:45 p.m. – Executive Session re: Pending Litigation**

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, for the Board to go into Executive Session for the purposes of discussing strategy relating to pending litigation because to discuss the matter in open session could impair the Town's position in litigation and with the Board to return to Open Session when the Executive Session is concluded.

The vote was **5-0-0 in favor.** (Ms. Murphy – aye; Mr. Stanton – aye; Mr. Cunningham – aye; Mr. Case – aye; Mr. DeCelle – aye)

**7:30 p.m. – 5<sup>th</sup> Fairway Development Remand – Case #18-08 (cont'd from 1/12/11)**

Ilana Quirk, Esq. and Margaret Walker, Town Engineer, were also in attendance.

Ms. Murphy read the public hearing notice: Pursuant to the provisions of Section 21 of Chapter 40B and Section 11 of Chapter 40A of the General Laws, the Walpole Zoning Board of Appeals will conduct a public hearing on Wednesday, January 12, 2011, beginning at 7:30 p.m., in the Main Meeting Room, in Walpole Town Hall, located at 135 School Street, Walpole, MA, regarding the November 18, 2010 Remand Order issued by the Housing Appeals, with respect to a request by applicant 5<sup>th</sup> Fairway Development, LLC, Case #18-08, that it be allowed to amend its proposed development for 156 Baker Street (on 3.57 acres of land) to construct residential housing under G.L. c.40B, to allow the stormwater for the proposed development to connect to what the applicant asserts is a municipal stormwater drainage system. The property is owned by Paul J. Thurston and Kathryn M. Thurston, Trustees of the B&T Realty Trust, u/d/t 12/1/05. The specific purposes of the remand hearing will be for the Board to consider the design changes proposed by the applicant for the stormwater drainage system for the development, any waivers from local requirements requested by the applicant in connection with the proposed new stormwater drainage design and any waivers from any local moratorium requirement for street opening permits for Baker Street requested by the applicant in connection with the proposed new stormwater drainage design, all as submitted to the Board on December 20, 2010. The Remand Order issued by the Housing Appeals Committee and the remand materials submitted by the applicant to the Board on December 20, 2010 are available for inspection and review at the Zoning Office at Town Hall during Zoning Office hours. Anyone wishing to be heard should appear at the appointed time and place for the remand public hearing.

Paul Thurston introduced P. Haverty, Esq.; Rob Truax, GLM Engineering.

Mr. Truax explained he was hired in the spring to look at the drainage system and come up with a drainage system that would work. The Town Engineer witnessed the testing. They looked at Allen Dam Pond and that area. There is a catch basin on private property in front of the property. They will repave the roadway after the work. The existing catch basin does not work properly now, the plan is to create a swale along the back of the new homes and bring the water through the swale to the catch basin, and mitigate the flow and run off so there is no more runoff after the development is built than there is now. The plan also creates a new low point on the property, two new catch basins, and a berm to prevent water from going into abutting properties. In order to build the new catch basin the existing house had to be raised. They are proposing 16 unit duplexes. There may be some minor revisions to the plan in order to adhere to the Town Engineer's comments.

Attorney Haverty explained that the stormwater system is in excess of the DEP requirements. It would be the same amount of water leaving the property now. He informed the Board that the applicant has received the review from Mr. Chessia, and comments from the Town Engineer and Tom Huston of the Walpole Country Club, and would have comments within two weeks.

Attorney Quirk pointed out that everyone is under a very limited time period, i.e., 60 days from the opening of the hearing, and asked the applicant to give the Board whatever extensions are necessary. There would be a need for more funds for the peer review if there are changes that need to be reviewed.

Attorney Haverty said they would be amendable to an extension if there was a substantial change in the plan. Regarding the additional funds for peer review, he said he would have to speak with his client (the applicant) on that.

Mr. Thurston said that the time line is 60 days from January 12, 2011, which goes into March and he did not see the need for any continuance of time.

Ms. Walker reviewed and responded to numbers 1-21 of the applicant's submittal (see memo dated February 8, 2011 to Susanne Murphy and Zoning Board of Appeals for details). Further, Ms. Walker explained her comments dated January 20, 2011.

Mr. Thurston said he had not yet analyzed the Town Engineer's comments.

John Chessia referred to his letter of January 13, 2011 and pointed out stormwater basins, the four catch basins and the pipe which is proposed to be connected to the existing manhole and connects to Carriage Lane. He also referred to the applicant's hydrologic study which does not show that the water is free flowing or the details of the existing drainage system. Mr. Chessia informed the Board of the issues presented in his report, in part: the proposed drainage plan and the need for information regarding the 100 year storm, the need to address the erosion problem, a detailed erosion plan, an Operation and Maintenance Plan, the need for more information proving they comply with the DEP stormwater standards, the need for an analysis showing the impact the proposed plan would have on the system as it relates to Allan Pond Dam.

Discussion ensued regarding the requested waivers.

Attorney Quirk explained the history of the site starting with the acceptance of Baker St. Attorney Quirk explained that the Walpole Country Club did not need permission from the Town to install a stormwater drainage system onto Carriage Lane because they owned the property.

Also discussed were waivers requested by the applicant in connection with the proposed new stormwater drainage design and from any local moratorium requirement for street opening permits for Baker St. in connection with the proposed new stormwater drainage design.

Daniel Seigenberg, counsel for Walpole Country Club, submitted a peer review of drainage impacts on the Walpole Country Club from Thomas Houston, Professional Services Corp., PC, dated January 19, 2011. Attorney Seigenberg reviewed the report and pointed out the Walpole Country Club's various concerns regarding this project and the current condition of the existing drain that discharges into Allen Dam Pond.

Ms. Murphy asked if there were any comments from the public:

Chuck Sulkala, 12 Carriage Lane, informed the Board there may be some need for curbing on Baker St., and asked how far the curbing would go. Ms. Walker said the narrowness of the street would be taken into consideration.

Mark Gagney, Walpole Country Club Superintendent, informed the Board that he has seen the concrete drain pipe cause sink holes and washouts following storm events. The Country Club has attempted to repair the pipe.

Charlie Rayner, 16 Carriage Lane, was about runoff going onto his property and wants something permanent to stop the flow of water onto his property. He was also concerned about where the snow storage will be located.

Mr. Truax explained the snow would be piled in the middle of the cul de sac or off to the side.

Maureen Smith, 196 Baker St., asked if the plan is to create a swale so the water does not go into her back yard.

Mr. Truax said they are not proposing a swale, but there could be one built.

Dennis Valle, 28 Carriage Lane, explained that he has had water two inches over his pool when there is a heavy rain and does not think the snow will stay in the swale.

John Bilodeau, 145 Baker St., was concerned about workers on his property when they cap off the old pipe.

Mr. Truax said the contractor would remove the pipe, but does not believe anyone would have to go onto his property.

Attorney Seigenberg referred to the issue of the private easement going across the Walpole Country Club property for the applicant's pipe and overburden the system, which is experiencing problems now.

Attorney Quirk informed the Board that the next hearing would be February 9, 2011 and that the applicant's report would be due on February 2, 2011. She asked if there would be enough money left for Mr. Chessia to review the report and attend the next hearing, and asked the applicant if he would be willing to pay extra money if necessary.

Mr. Thurston said, he was not willing at this time.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to continue the hearing to February 9, 2011 at 8:00 p.m. with reports due on February 2, 2011 for the Board and members of the public.

The vote was **5-0-0 in favor.**

There being no further business, the meeting was closed at 10:30 p.m.

Daniel J. Cunningham, Jr.  
Clerk

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Minutes were approved on May 11, 2011.