

The April 25, 2012 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

**7:00 p.m. – William Carino – Case #09-12**

Ms. Murphy read the public hearing notice for **WILLIAM CARINO, Case #09-12**, with respect to property located at 341 Stone St., Walpole and shown on the Assessors Map as Lot No. 34-167, Residence B Zone.

The application is for:

A Special Permit under Section 5.B.3.i of the Zoning Bylaws to allow the use of a portion of a dwelling or of a building accessory thereto as a place for incidental work and storage in connection with his off-premises trade by a resident mason.

Mr. Carino explained he and his son run a masonry business and would like to run it out of the home, which would include storage of small tools, masonry tools and a pick up truck within the fenced in area. They need a permit to operate from the home and need to create a screen to hide the tools. He is proposing a 6 ft. wood fence with a 12 ft. double gate. Mr. Carino said he would remove the wood if it is a problem. There is brick from a previous structure that will be used for a walkway. Eventually, they would like to replace the shed with a nice one.

Ms. Murphy read the letter from the Conservation Commission addressed to Mr. Carino dated April 10, 2012 referring to the 25-foot no alteration area and the order of conditions, specifically condition #14 regarding yard waste and debris piles to be removed from within the 100-foot buffer zone.

Mr. Case informed Mr. Carino that according to the Town Bylaws, no outdoor storage is allowed in a Residential Zone. That would have to be approved by the Conservation Commission, or everything would need to be inside the shed, and a new drawing would have to be made to include a list of the tools and equipment to be stored.

Ms. Murphy informed the Board that she did a site visit and took pictures of the site and was very upset about the condition of the yard.

Mr. DeCelle pointed out that there is an existing driveway that is not shown on the plan.

Mr. Zuker commented that the property has to look like a residence, not a business.

Mr. Carino requested to withdraw the request.

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. Zuker, on behalf of the applicant, William Carino, to grant a request to withdraw without prejudice Case #09-12.

The vote was **5-0-0 in favor;** therefore the application for Case #09-12 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 April 25, 2012 and the Board had no reason to deny the request.

#### **7:30 p.m. – Wal-Mart – Case #10-12 and Case #11-12**

Ms. Murphy recused herself from this hearing.

Mr. Stanton, Acting Chairman, read the public hearing notice for **WAL-MART, Case #10-12 and 11-12**, with respect to property located at 550 Providence Highway, Walpole and shown on the Assessors Map as Lot No. 36-39 – D090901042, Highway Business Zone.

The application is for:

A Variance from Section 7.8.B of the Zoning Bylaws to allow 201.09 square feet where 150 square feet is allowed. Currently 164.01 square feet are already located on the building. The ‘Outdoor Living’ sign is being sized down to 27.7 square feet and an additional ‘Market and Pharmacy’ sign of 65.59 square feet is requested.

Katherine Kem, BRR Architecture, represented Wal-Mart, and explained they would like to keep the current sign, the ‘Outdoor Living’ sign would be replaced with a smaller sign, the ‘Market & Pharmacy’ sign is necessary because the store is expanding to include a full grocery and pharmacy. Only the Wal-Mart sign will be lit. The state of Massachusetts requires recycling, therefore, the applicant is asking that those dimensions not be included in the total signage.

Mr. Case did not agree and requested that the application reflect the recycling sign and be changed from 201.09 sf. to 208.3 sf.

Mr. Stanton asked for comments from the public; there being none:

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, on behalf of the applicant, to amend the application to change the square footage from 201.9 to 208.3.

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

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

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

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, on behalf of the applicant to amend the application to change the square footage from 201.09 square feet to 208.3 square feet where 150 square feet is allowed.

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

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, on behalf of the applicant to grant a Variance from Section 7.8.B of the Zoning Bylaws to allow 208.3 square feet where 150 square feet is allowed. Currently 164.01 square feet are already located on the building. The ‘Outdoor Living’ sign is being sized down to 27.7 square feet and an additional ‘Market and Pharmacy’ sign of 65.59 square feet is requested.

The vote was **5-0-0 in favor**; therefore the application for a **Variance** is hereby **granted, subject to the following conditions:**

#### **CONDITIONS:**

1. As stipulated by the applicant at the public hearing, construction shall be pursuant to the plans submitted at the public hearing.
2. As stipulated by the applicant at the public hearing, there shall be no cone of light from the newly constructed premises shining into neighboring property.
3. This Variance shall lapse within one year, 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 FOR DECISION:**

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.3 of the Zoning Bylaws.

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant or petitioner.*

The Board finds substantial hardship has been shown in relation to the store’s position to Route 1.

2. *Desirable relief may be granted without substantial detriment to the public good.*

The Board finds that the variance for the proposed signage with the imposed conditions will not be detrimental to the public good.

**3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.***

The Board finds that the granting of the above variance with the proposed conditions does not substantially derogate from the intent of the Bylaws.

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

**7:45 p.m. – R-Technologies Inc. – Case #12-12**

Ms. Murphy read the public hearing notice for **R-TECHNOLOGIES INC, Case #12-12**, with respect to property located at 160 Elm St., Walpole and shown on the Assessors Map as Lot No. 25-278, Industrial Zone.

The application is for:

A Special Permit under Section 12.3.C.2 of the Zoning Bylaws to allow the operation of a manufacturing facility at that location.

Michael Rigoli, R-Technologies, explained that he is leasing the space from Mr. Lorusso and that he currently has a small machine shop/assembly company in Norwood. A history of the building and Material Safety Data Sheets were submitted as part of the application.

Mr. Lorusso informed the Board that the building has had various uses in the past which included chemicals, trucks and trailers. He explained that there are floor drains that go into a tight tank and then the material is professionally taken out.

Mr. Rigoli explained that the oils on the premises would be used for the necessary cutting tools and equipment. He would have 2 to 4 55 gallon drums and a small cabinet storing cleaning supplies, the one gallon type. The Fire Dept. has approved containment pallets with absorbing pads next to it. Mr. Rigoli submitted a letter from BETA Engineering regarding the storage of the materials and quantities.

Ms. Murphy read comments from: Jack Mee, Building Commissioner, dated April 25, 2012; Margaret Walker, Town Engineer, dated April 6, 2012; Michael Laracy, Deputy Fire Chief, dated April 18, 2012; and Kevin Muti, Board of Sewer and Water, dated April 12, 2012.

Ms. Murphy asked is 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.2 of the Zoning Bylaws to allow the operation of a manufacturing facility at that location.

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

**CONDITIONS:**

1. As stipulated by the applicant at the public hearing, the structure shall be used as a machine shop.
2. As stipulated by the applicant at the public hearing, all chemicals on site shall be stored inside the building. There shall be no outside storage or use of toxic or hazardous materials.
3. As stipulated by the applicant at the public hearing, all necessary departments shall be updated with a list of the chemicals and quantities being stored on site.
4. As stipulated by the applicant at the public hearing, and required by the Deputy Fire Chief Laracy, the storage of two 55 gallons of oil shall be stored on containment pallets.
5. As stipulated by the applicant at the public hearing, and required by the Deputy Fire Chief Laracy, the storage of oil, five gallons or less, shall be stored in a flammable liquid storage cabinet.
6. As stipulated by the applicant at the public hearing, and required by the Deputy Fire Chief Laracy, a Class D fire extinguisher shall be added within the shop area.
7. The applicant acknowledges that this Special Permit does not limit or constrain the application of any and all safety or public health rules and regulations by the Fire Department or Board of Health.
8. As stipulated by the applicant at the public hearing, and required by the Board of Health under its Toxic and Hazardous Materials Regulation that the materials are registered with the Board of health prior to the business opening.
9. This Special Permit does not release the Applicant from any reporting and/or approval requirements under other applicable Town, State, or Federal By-Laws, Rules, Regulations, or Statutes.
10. 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 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. – John Marini – Plimptonville Crossing – Case #02-12 (cont'd from 2/8/12 and 3/7/12) (Stanton, Case, DeCelle, Zuker**

Ms. Murphy recused herself from the hearing.

Mr. Stanton, Acting Chairman, read the public hearing notice for **JOHN MARINI, PLIMPTONVILLE CROSSING, Case #02-12**, with respect to property located at 240-242 Plimpton St., Walpole and shown on the Assessors Map as Lot No. 18-193 and 194, General Residence, Flood Plain Zone.

The application is for:

A Special Permit under Section 5-B.3.d of the Zoning Bylaws to allow construction of a 16-unit multi-family project to be connected to public water and sewer.

A determination under Section 5-B.4.G that a modified buffer shown on the plan is adequate.

Attorney Paul Schneiders represented Mr. Marini, and explained that there have been minor changes in the plan that include everything being removed from within the buffer and therefore,

that issue has been addressed. There will be 52 parking spaces. They have been meeting with the neighbors and are addressing their concerns.

Mr. Stanton read the Conservation Commission comments dated April 25, 2012. Mr. Stanton asked if there were any comments from the public.

Al Franz, 249 Plimpton St., was concerned about the driveway being directly across from his driveway. There had been a previous discussion with Mr. Merrikin regarding the relocation of Mr. Franz's driveway. Mr. Franz suggested the driveway be located between his existing two maple trees.

Mr. Marini said he wants his engineer to work with Mr. Franz. Mr. Merrikin agreed to work with Mr. Franz.

Charlie Carr, 236 Plimpton St., asked about everything being removed from the buffer and was concerned about runoff from the construction.

Mr. Merrikin explained that the decks and bulkheads that were within the buffer zones have been omitted. They will add trees to upgrade the buffer zone. Regarding the Conservation Commission comments he said they are in the middle of producing the erosion control plan.

Mr. DeCelle said that could be a condition along with the moving of Mr. Franz's driveway northerly from its current location.

Attorney Schneiders said he would email a draft decision to the secretary.

A motion was made by Mr. Stanton, seconded by Mr. Cunningham, on behalf of the applicant, to close the public hearing.

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

There being no further business, the meeting was closed at 8:30 p.m.

Daniel J. Cunningham, Jr.  
Clerk

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Minutes were approved on June 13, 2012.