

Walpole Planning Board
Town Hall
Tuesday, May 8, 2018
7 pm

Presiding Members: Jeffrey Miller (Chair), Robert Miller (Vice-Chair), James Aldrich (Secretary), Dennis Marcom, Jason Perron, Jeff White, Steve Dalessio (Selectboard Representative). Alternate: Edward Potter. Absent: Alternate Joanna Andros.

Recording: Marilou Blaine. These minutes are unapproved and will be reviewed at the regular June 2018 meeting for corrections, additions and/or omissions.

Meeting Opened: Mr. J. Miller called the meeting to order at 7:05 pm. He thanked everyone for coming. There was a full house. Mr. Miller said the Board had received many letters and petitions asking the Board not to recommend the proposed gas station and convenience store project to the Zoning Board for a Special Exception. The letters and petitions do not have to be read at the meeting. All will be filed with the minutes.

Mr. J. Miller asked the audience to keep their remarks to three minutes and try not to duplicate what someone has already said. Be respectful of everyone speaking, Mr. Miller asked. Be courteous so everyone has a chance to speak.

Roll Call: All board members were present so no alternate was needed to fill in.

Minutes: Mr. Marcom made two additions and one correction to the April minutes. On page 2, in the paragraph marked New Business, in the last sentence Mr. Marcom added the words "approve" to the project and at the end of the sentence added "for a Special Exception." Three paragraphs later he changed the word "used" to "proposed." Mr. Aldrich moved the motion to accept the minutes as corrected. Mr. R. Miller seconded the motion and the motion carried.

Public Hearing #1: Great River Consumer Cooperative Society wants to covert a chicken coop, previously used by Hubbard on Bensonwood property for a store for the Co-op, Map 12 Lot 4-2 and add a parking lot on Map 12, 4-3. Request for a recommendation to the ZBA for Special Exception in a rural/ag district.

Mr. Miller said the president of the Co-op board has asked the Planning Board to again postpone the Co-op hearing, only this time for a few months. Mr. Miller said that when the group decides to come back, they will need to file a new application and notify abutters again of what they plan to do.

Public Hearing #2: D&C Transportation, Orleans, Vt. Map 10, Lot 2, Rural/ag district. Proposed use: Filling station and convenience store with a Drive Thru off of Route 12. D&C is asking the Planning Board for recommendation to the ZBA for a Special Exception for a commercial project in a rural/ag district.

Mr. Jim Phippard introduced himself and explained the proposal. His business is Brickstone Consultants in Keene and D&C Transportation are the owners of the property on Route 12, directly opposite South Street. Using large maps he pointed out the site for the filling station

with a drive thru and convenience store, which is on a terraced area of the 10.2 acre property. The Connecticut River is to the west, there is an open field above the river and at the south end of the property is a forested area. The survey by DiBernardo Associates shows the existing railroad property, which is a separate piece of land that parallels Route 12. The dark line across the middle of the map shows the limit of the shoreline protection area. That's the area within 250 feet of the Connecticut River. The majority of the area for the filling station will be outside this protection area, Mr. Phippard said.

The driveway is deeded to Lot 1 and Lot 2. Lot 2 is where the proposed gas station will be and Lot 1 is where there is a veterinary hospital. D&C's intention is to add one more lane to the driveway so there is one lane entering and two lanes exiting.

There are no wetlands on the property and it is outside the flood plain and outside the recharge area for the town well.

The convenience store will be 6,000 square feet and house a convenience store with a drive thru. People will drive around the north side of the building to the drive thru. There is an island with four pumps for fuel, and in another area is an island with two pumps for diesel. The islands will have canopies over them.

This area was chosen for its line of sight from the highway. Mr. Phippard said there is a good circulation area for cars to pull in and go out. There are 18 parking spaces, with 3 of those dedicated to parking spaces for tractor trailers, and 10 parking spaces at the fuel locations for a total of 28 parking spaces.

While considering this site, Mr. Phippard said they looked at four commercial properties - one at the end of Westminster Street, the former Hubbard building, and two pieces of land near Tractor Supply. Their needs were 2 to 4 acres of land, a highly visible site, a high traffic area. Route 12 is the high traffic area in Walpole, he said. Also considered were no wetlands and being outside the flood plain. A real estate agency came up with 4 locations to be considered.

These locations were rejected because: the site at Westminster Street is a dead end road and not visible to traffic; the Hubbard Building on Main Street because there was an existing building that would have to be removed and the traffic flow was not good; and lots of 4-plus acres land near Tractor Supply that were too expensive.

The site that was chosen was on the market for a couple of years and filled all the criteria. The line of site was excellent, good visibility in both directions – and that's good because of the speed of the highway, which is 55 mph, Mr. Phippard said.

In its written proposal D&C says, "The use will not infringe on the primary established use of the district. The primary established use in this district is the pursuit of agriculture. This proposal only affects a 1.5 acre area closest to Route 12 and is a high terrace, 40 feet above the lower 8.74-acre terrace next to the Connecticut River. The soils on the site are identified primarily as 24 B Agawam, and 26B, 26E Windsor. The land capability ratings by NRCs are listed as IIe and IIe and IIIs, which indicate that soils have moderate to severe limitations for field crops."

Mr. Phippard then addressed the Master Plan. He said in a written proposal that “This proposal does not impact housing. There is no existing housing on the property and no new housing is proposed.” In another part of the proposal says, “The 1998 Master Plan states that the town had 23,040 acres of land with 3994 acres being use for agriculture. The use of 1.5 acres for commercial use would represent a 0.03 % change. This is not a significant change and would not infringe on agriculture continuing as the primary use in the district.”

It’s not a very good site for future housing probably because of the highway, Mr. Phippard said. The land is close to the Connecticut River, but there is the 250 foot buffer between the site and the river with the exception of a small corner in the northwest section on the map. The slope going down to the river is steeper than 25 percent. The flood plain follows that slope. This section of the property will remain undisturbed, Mr. Phippard said.

The driveway access will be widened to accommodate trucks turning into the property and the plan minimizes environmental impact by staying off the steep slope. A storm water collection area to the south with substantial sand and gravel will be created. There will be no discharge of water into the Connecticut River.

Utilities will be underground including extending the water line from South Street at the corner of North River Rd. The line goes under Route 12 and is just over 900 feet. The developer pays for that.

Mr. Phippard then explained where the screen plantings would be. Screen plantings will hide the truck parking and delivery area. The plants are six feet tall. There will be plants on the islands, deciduous trees in front of the pumps by the property line and a buffer of arborvitae between the veterinary hospital and the gas station. There will be no alteration to the Rail Trail other than the driveway crossing.

At the north end is the lane to the drive thru and where the propane tanks will be. It will be screened. On the southwest corner will be three underground tanks, double-walled, and all of this is regulated by the NH Department of Environmental Services. The tanks must be permitted and inspected by DES. The fuel lines going to the pumps are also underground, double-walled and controlled by DES. Everything is state of the art, Mr. Phippard said. Canopies are protected with fire protection systems.

The owners recognize the historical and agricultural background of the town so the convenience store will look like a red barn with clapboard siding. It incorporates a steep pitched roof and three cupolas.

The transportation provides safe circulation of vehicles entering and exiting. There was a detailed traffic study by Steven G. Pernaw. A northbound left-turn lane will be added on Route 12 at the intersection, where the driveway, South Street and Route 12 are. A southbound left-turn lane already exists. The existing driveway will be widened to provide one entering lane and two exiting lanes. It is designed to accommodate very large WB-62 tractor trailers.

The driveway permit is from NH Department of Transportation. Mr. Phippard had two meetings already with NH DOT. There will be another meeting after final decisions are made.

The NH Trails Bureau R.O.W. along the front of the site will not be affected by the proposal. Mr. Phippard said that he believed there is a washed out area that affects the connection of the trail on its way south.

In concluding, Mr. Phippard said Walker Road will remain a dirt road and unchanged. The Connecticut River Shoreland Protection area and flood plain will not be impacted, and there are 7 acres remaining for hay planting. There are no plans to touch that area. There are provisions for storm water drainage.

In a small town the word sprawl can be frightening, Mr. Phippard said. "This is not sprawl." This is already a developed area. There is an existing veterinary hospital next door. There will be town water and no new roads or adding to the infrastructure. There is no new road to plow.

At this point, Mr. Phippard concluded his remarks and Mr. Miller opened this section of the Public Hearing to statements and questions from the public.

NOTE: Many letters and petitions were hand-delivered or received by email from townspeople. All asked the Board not to recommend the gas station proposal to the Zoning Board. Many speakers references their letters and in the minutes the name of the speaker is noted and a couple of sentences about their letter. The letters focused on many different topics: view, lighting and noise pollution, increased traffic, the Master Plan, an aquifer, legislation. All were eloquent, heartfelt and informational.

The first speaker was Ray Boas, Elm Street. His statement focused on the five sections of the Master Plan and noted that all the sections had some emphasize on Walpole's rural setting. The five sections are: Goals and Objectives, Population and Housing, Natural Features, Traffic and Transportation and Land Use Analysis and Plan. He made arguments that the proposal is inconsistent with the Master Plan. "It is clearly stated that 'Walpole is not Walpole without is farms and farmland.' "

Todd Neilsen identified himself as a landowner and family man who has lived in Walpole for 25 years and wants to keep it as a rural community. Mr. Neilsen said he went to the D&C website and saw "a very pretty picture of a barn." But in the front of the site, the main thing that's advertised is trucks – "giant fuel tankers." D&C's main business is the sale and distribution of petroleum products, Mr. Neilsen said. That means the town will be seeing fuel tankers, with 24-hour access and with the lights coming on at any time in the night. He asked if this is what the town wants at its southern entrance to town.

Sarah Lynch, who lives at 58 South Street, was next up to speak. Her letter was about her situation as a visual abutter with "direct full view to the land that D&C purchased..." She was concerned about the decrease in the value of her property, as well as lights, noise and increased traffic. She said 28 percent of her land tax bill is because of her view of corn fields, mountains and the Connecticut River. She's lived in Walpole for 21 years.

Jerod Walters, 69 South Street, has lived in Walpole for 20 years. His home overlooks D&C property and 15.5 percent of his land tax is a view tax. His concerns are noise, light pollution and safety at the intersections. Mr. Walters said he'll be looking at a barn "but I've never seen a barn with gas pumps." He wrote, "Allowing developers to buy ag land with the intent to

change a portion of it into commercial land, devalues our other commercial property and undermines our master plan.”

Peter Palmiotto, 66 Elm Street, is also a visual abutter. He is an environmental scientist so his concerns were with the environment. His letter focused on the gas station’s affect on the character and its impact on the town. He had concerns for the town aquifer and the project being adjacent to the Connecticut River. Other topics were “Traffic and Safety,” “Walpole’s Town Gateway” and “Eroding of the Town’s Character.” His letter says, “the incremental loss of farmland puts the town in jeopardy. If farms go, so does the character of the town, which since its founding in 1762 has been why people come to, live in, and raise families in Walpole, NH.”

He included maps with farmland ratings and soil ratings, a comparison of land values of natural resources and a map showing where the aquifer in Walpole is near the gas station area. There are four other gas stations within 3 miles and it will impact businesses in the village, Mr. Palmiotto said.

He concluded that the proposal is the wrong source of fuel – that what the town needs is an electric charging station. He asked the owner of D&C Transportation, Paul Saba, who was at the meeting, if he would withdraw his application.

Mr. Phippard said that he and his client were going to see this through.

Rich Francis made three observations: there are four gas stations within 2.7 miles; if this gas station is built there will be more gas stations than churches, and there will more gas stations than banks - “and that’s just unheard of.”

Chuck Shaw spoke next. His veterinary hospital is on the lot next to the proposed gas station. He purchased the property in 1995. His well is within a 500 foot radius of the gas tank and would no longer be functional for drinking water. His main concern was safety. The volume of traffic leaving Walker Road would increase 1640 percent, Dr. Shaw said. Another major consideration is the fog - not only in the spring - but in September when it doesn’t burn off until about 10 am. He submitted two photos showing the fog on July 1, 2018 at 6 and 7 am. Another of his concerns was poor air quality that will increase with the number of vehicles going in and out of the station.

Teese Gohl, 31 Wentworth Road asked about the traffic coming out of South Road. He said in the morning it already takes minutes to get on the highway and people are going very fast. He anticipates that a traffic light will be needed there, which will make the wait longer. He added that another light may be needed up by the Westminster Bridge.

Mr. Phippard said he agrees that the speed limit should be less but this decision is are up to NH DOT, which is entirely responsible for transportation and road decisions. He suggested that either the Planning Board or Selectboard could request a lower speed at that location. He added that the zoning of the property doesn’t change. It will remain rural/ag with a commercial use.

Mr. R. Miller commented on the speed. He said he travels that route every day. It's posted at 55 mph but in reality it's 60, 65 mph.

Lynn DeWald represented the Wantastiquet Local River Committee, which is a subcommittee of the Connecticut River Joint Commissions. She lives in Walpole. She asked for clarification on the amount of land of the proposed project and how much land would be within the shoreline protection area. Mr. Phippard answered about 1 ½ acres for the project and a small corner where the propane tanks would be in the shoreline protection area.

Ms. DeWald said "the mission of the organization is to preserve and protect the visual and ecological integrity and sustainable working landscape of the Connecticut River Valley. The 17-mile segment from the NH Route 123 bridge between Walpole and Westminster down river to the Brattleboro/Dummerston town line is classified as 'rural agriculture.'" That means it is primarily used for agriculture, forest management and dispersed or clustered residential development.

Alicia Flammia, Chair of the Walpole Conservation Commission, read a letter approved by the Commission the previous night. She said that agricultural lands have experienced the greatest loss of acreage in Town, most recently along Route 12 in the commercial district. The Commission was concerned with the slope of the land having a "high transmissivity," meaning any small drips or spills of oil would run into the Connecticut River.

"The proximity of D&C's proposed gas station and convenience store to the Connecticut River, the classification of this property's soils as prime agricultural land, the location of adjacent working farmland to this proposed development and the availability of existing commercially zoned lands in Walpole are cause for concern," the Conservation Commission letter says.

Sydney Palmiotto, age 12, Elm Street, said her home overlooks the gas station. Sydney said she is concerned with light, noise and air pollution from the gas station. She said she has had type 1 diabetes for 10 years and many people have said that air pollution increases type 1 and 2 diabetes. She opposes the gas station.

Someone from the audience said that many people here may not know that an application for this property years ago for a commercial enterprise that had far less impact and far less traffic and it was denied.

John Sise of County Road is concerned about litter. He sees beer cans alongside of the road. He asked how many people can buy beer after 1 am. He's also concerned about young kids with alcohol and tobacco being sold in the store. His other concerns were about crime and the high volume of traffic at night to get fuel at the station. There's only one bridge that those trucks can come over, Mr. Sise said. That will add to the noise pollution. "Once I get on the road I can go straight down to Keene. Lets keep Keene in Keene," he added.

Jeff Colley, 84 Old Keene Road, emailed a seven-page single-spaced letter. Since he would live near the gas station, his life will be impacted by it. He summarized what was in the letter and said he and his wife were trying to understand how a commercial venture such as a gas station could go into a rural/agricultural district. They researched their questions in NH's Land

Use Manual, Walpole's Master Plan and looked up Special Exceptions. RSA 674:33, which says, "All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinances."

He cited Peter Louglin, author of "New Hampshire Practice, Land Use and Zoning," which states that "legal custom turns to common law for guidance when an ordinance is silent on explicitly allowed use and assumes that such uses are said to be accessory to the primary use."

There are two tests for allowing a commercial use in an agricultural area, Mr. Colley said. One test is to ask if the proposed use is customarily and usually found in connection to the primary use of an agricultural district. The second test is to ask if the proposed use is one that complements or enhances agricultural activity.

Eric Merklein, North Main Street, had a telephone conversation with the owner, Mr. Paul Saba. He said Mr. Saba said that if he saw the town did not want this gas station, "he would not fight this. What do you say?" Merklein asked Mr. Saba.

Mr. Saba said this is the first time we've been before the Board.

Mr. Merklein said he wanted him to keep his word.

Mr. Saba said he thinks what he is doing is a good thing for the town.

Mr. Merklein continued that Mr. Phippard stated that the available land is too expensive. But it is not up to the town to become part of an investment portfolio to allow anyone to come in here and tear apart what we consider to very precious agricultural land. "If they don't have the financial wherewithal to buy land in a commercial area, that's not our problem."

Jeff Gehrung, 53 South Street, said he and his family and guests enjoy the view they have. He said an exception like this will lead to more requests for exceptions. "This is one of the main gateways to the town. The establishment such as a gas station and convenience store will adversely impact our property values. Why is this necessary?" he asked. "Who does this benefit? Certainly not the Town of Walpole." He was also concerned about the businesses in the village and the noise at all hours of the day and night from vehicles getting gas available 24 hours a day.

Andrew Dey, 69 Elm Street, looked at the proposal from a recreational perspective – and for those people in town who enjoy walking, running, skiing on rural land in town. He wanted to clear up the perception that the Rail Trail was broken. "The Rail Trail is alive and well and gets a lot of use by people in this room." He said his family moved from Alstead surrounded by 100 acres and were concerned that living in the village they wouldn't have access to nature. They were wrong.

It really is easy to connect with nature, he said. Three ways to find nature close to the village are the Mill Pond Trail, the Academy Ravine Trail and the Rail Trail, "where you can go either way for miles."

Mr. Phippard said his client has asked to explain that this was the first hearing when he could hear from the public - other than what he has read in The Clarion. Mr. Phippard said he had a few phone calls and those were in favor the project. "The last thing Paul Saba wants to do is

hurt the town of Walpole,” Mr. Phippard said. He continued, “After hearing the speakers at the meeting, Mr. Saba has decided to withdraw the application.”

There was applause and shouts of glee that went on for over a minute. At this point Mr. J. Miller closed the hearing. Some people went over and thanked Mr. Saba for listening to their thoughts.

New Business: Avanru, Jack Franks, Building C on the original plan, Lot 1, where the Co-op was going to go: Request for a Public Hearing for a commercial building.

Mr. Franks distributed a preliminary drawing of a proposed plan for Building C on his property on Route 12, the one directly behind the pump house. Mr. Franks said the building would be four store fronts. He said the building is a structural steel building with brick and mortar exterior.

The Board asked him to submit a new site plan and include all the information about lighting, parking, plantings etc.

Mr. Franks said that none of those things had changed. He already had an alteration of terrain. It's still the same traffic, layout, parking, lighting and landscaping. It's exactly the same footprint.

Mr. Perron, who was not on the Planning Board when Mr. Franks went before the Board several years ago to submit his plans, asked why, if these things had already been approved, did they have to be approved again.

Mr. J. Miller said that it's been a while since everything was approved and people in town want to know what's happening on Route 12. He can resubmit those plans, but we want to what's going on.

Mr. Franks said all the power, water, sewer and telecommunications has already been installed. The only thing the Board doesn't have is an elevation of the building.

Mr. J. Miller said he still wanted him to have a site plan review with plans for the landscape, parking, lighting, storm water drainage because the town needs to know what he's doing.

Mr. R. Miller made a motion to hold a public hearing next month (June). The motion was seconded and the Board approved the motion. Mr. Franks will notify the secretary if he can get all the information together by the June meeting or has to wait another month to have the public hearing in July.

Request for a Public Hearing to add two changes to the wording to the site plan that was decided at its April workshop meeting.

Mr. Dalessio requested a public hearing in June on changes to the site plan that were discussed at the April workshop regarding Complete Streets and editorial comments. Mr. R. Miller seconded the motion and it carried.

Charbonneau subdivision: The Charbonneaus have decided not to register their subdivision at this time. A letter was written and placed in their file saying that the subdivision approval was good for one year from the date of the approval at the April 2018 meeting.

Mr. Aldrich made a motion to adjourn the meeting. The motion was seconded and passed by the Board.

Respectfully submitted,
Marilou Blaine, Secretary

Posted: Inside the Town Offices, on the bulletin board outside Walpole Grocery, town website www.walpolenh.us

cc: WPB, ZBA, Town Offices, North Walpole Commissioners, The Walpolean