

**Walpole Planning Board Minutes**  
**Tuesday, January 10, 2023**  
**Town Hall**  
**7 pm**

**Roll Call:** Present Chair Jeff Miller, Vice-Chair Dennis Marcom, Clerk Jason Perron, Jeff Harrington, Joanna Andros, Bill Carmody, Select Board Representative Steve Dalessio. Alternates: Trevor MacLachlan, Travis Adams. Based on the racks of chairs used, there were close to 80 people at the meeting, including the Board.

**Recording:** Marilou Blaine. **These minutes were recorded. They are unapproved and will be reviewed at the regular February 2023 meeting for corrections, additions or omissions.**

**Call to order:** Mr. Miller called the meeting to order a 7 pm.

**Minutes:** Mr. Marcom made a motion to approve the minutes as presented. Mr Perron seconded the motion and the motion carried.

**Old Business:**

**Public Hearing: Recommendation of two petitions to the Walpole Zoning Ordinance to be placed on the 2023 Town of Walpole warrant.** These articles will be voted on by the public at the polls on Tuesday, March 14, 2023.

**Article 1:**

**To see if the Town will vote to amend Article XIV of the Zoning Ordinance of the Town of Walpole.**

**Penalty**

**Any person who violates any provision of the ordinance shall be subject to penalties in accordance with RSA 676:17, or any successor statute as may then be in effect, provided that the amount of the civil penalties to be assessed in accordance with such statute shall be determined in the discretion of the Selectboard.**

This article regards penalties concerning any violations of the Zoning Ordinance. Tom Winmill circulated Article 1 for signatures. There must be a minimum of 25 signatures from registered voters on the petition.

The current article now reads:

Article XIV

Penalty

“ Any violation of this Ordinance shall be made punishable by a fine of not more the \$100.00 for each day such violation may exist after the conviction date; provided, however, that the total fines imposed for any single violation shall not exceed \$500.00.”

This article really is not meaningful, Mr Winmill said. It may be cheaper for a developer to come in and not pay the violation fee and continue the project and just pay \$500 bucks to the

town. It may have been a compromise in the old days to get a result but now it doesn't make much sense.

This petition is a notice that says "Hey, This is what the State of New Hampshire thinks about your violation," said Mr. Winmill. Currently, state legislation say it will be \$275 for the first day of the offense and \$550 each day after that. There is no limit on the number of days that the violator has to pay the penalty.

Mr. Miller explained that if a petition has the required number of signatures on it then it is sent to the Selectboard who notarizes it and sends it to Town Counsel to check the wording of the petition. Then the petition is put on the warrant and will be voted on by the townspeople on March 14, 2023, in the Town Hall, when they also elect candidates running for office. The role of the Planning Board is to either recommend this petition or to not recommend the petition, Mr. Miller said. When this article was first looked by Town Counsel, he said it was illegal. It has been rewritten.

Mr. Miller asked if there were any questions. One gentleman asked why does the article say "at the discretion of the Selectboard." Suppose a Selectboard member has something that may prejudice his feelings toward me? Regarding the phrase "at the discretion of the Selectboard,' there is an RSA, Mr. Dalessio said, that says that all penalties are at the discretion of the Selectboard.

Mr. Miller closed the public hearing.

## **Article 2: To the Select Board**

To see if the Town will vote to amend the Article IV "General Provisions" of the Walpole Zoning Ordinance to include regulations regarding Formula Businesses by adding the following as Section P:

P. Formula Businesses- This Section establishes standards to limit the concentration of businesses that are homogeneous and visually obtrusive for the purpose of preserving the unique and distinctive appeal of the Town's character and commercial development These standards are aligned with the purpose of these Zoning Regulations as described in Article I and are vital to the continuation of the Town's ability to attract both residents and visitors.

1. A Formula Business is a business, including but not limited to retail sales, hotels, and restaurants, that both (a) maintains two or more of the following five standardized features:(1) array of services, menus, or merchandise, with 50% or more of in-stock merchandise bearing uniform markings;(2)trademark, logo, or service mark; (3) architecture, facade, or exterior design; (4) decor or color scheme; (5) uniform (other than name tags); and (b) shares the same or substantially the same two or more features as 10 or more other businesses, regardless of ownership or location.

2.The total number of Formula Businesses in the Town of Walpole at anyone time shall be limited to 12. When this limit is reached, no new Formula Businesses maybe established unless an existing Formula Business closes, adapts so that it no longer qualifies as a Formula Business, or relocates outside of the Town boundaries.

3.If a business in current operation becomes a Formula Business by means of additional locations being established, this business shall count toward the total number of Formula Businesses but shall not be considered as a Formula Business being established.

4.Formula Businesses shall not include post offices, places of worship, schools, government facilities, banks, gasoline fueling stations, professional offices, or health care facilities.

This is a little bit more controversial than Article 1, Mr. Winmill said. He cited the goals that were adopted in the town's first Master Plan in 1998:

1. To develop Walpole into a reasonable economic center.
2. To manage its commercial activity regarding type and intensity along Route 12.
3. To prevent and minimize all development along Route 12.

The hope is to preserve the individual character of Walpole's identity, Mr. Winmill said. New businesses seem to be just formulas with standardized products and architecture that are produced by the thousands around the world. Right now, our zoning regulations can't prevent developers from doing what they want and these developers are re-branding our town into "Dollar Storeburg." Do we want this or do we want to decide for ourselves what we want in town?

Historically, Walpole has rejected much of this in the past to keep it beautiful, Mr. Winmill continued. There was the Pulp Mill fight and the vote against Walmart and other big box stores when an ordinance was drawn stating buildings no larger then 40,000 square feet could be built in Walpole. Uncontrolled business growth is not good for our property values and Formula Businesses can be stopped from coming in.

This petition allows up to 12 Formulas Businesses. These are already that many in town. He named Dunkin, Subway, Dollar General, Family Dollar, Tractor Supply, Agway, Walgreens, Car Quest, NH Liquor Store, Ocean State, LaValley's, US Cellular, Jiffy Mart and maybe Jake's. These businesses are pay minimum wages and the staff is not permanent. Don't decide to defer the yes vote on this article because you need to make a study, Mr. Winmill asked. It's time to act. Dunkin is at the door knocking and what 's behind them? The time to act is now. You will rue the day when a beautiful home in the village is torn down for a formula business and the townspeople will be helpless to do anything about it.

Many people spoke to Article 2: some for, some against. Not everyone identified himself or herself. One thing agreed upon by everyone at the meeting was that since the village is also zoned commercial, the same commercial as Route 12, something should be done right away to have some distinction between the two commercial locations so we don't wake up some morning with a Taco Bell on Winchester Street.

Here are some of the comments and questions,

Tom: (Not Tom Winmill) “My feeling is that Walpole cannot afford to tap the brakes on commercial development. It would immediately put the tax burden on property owners. Can retired folks afford to stay in their homes? To me Walpole has become more like Keene. Big fire trucks, we buy a new cruiser every year and now we have big sidewalks. We paid \$170,000 for a snow blower. With the thirst for tax dollars, we can’t afford it.”

John: “ If this ordinance were in a few years ago, would it have prevented the gas station that proposed a few years ago?” Mr. Miller said “no.”

Dave: “How many Formula Businesses are already in town? I suspect it has already reached the limit of 12. What good is this article if we already have so many Formula Businesses here already? “

Woman in back of room: “How are we going to enforce this in the future?”

Steve. “What about all the property left?” What are these property owners supposed to do if a Formula Business approaches them about selling their property? Mr. Dalessio said he counted 14 Formula Businesses here already.

Tom Winmill said Burdicks chocolate are not a Formula Businesses yet. It must have 10 stores.

Transplanted resident: He spent 50 years in a small shoreline town in CT. “The saying was it’s good for the tax base. It isn’t good for the tax base. It’s like an eating machine. These towns (he lived in) are in trouble now. It never grows the tax base. I’ve seen it in my lifetime. It’s bad.”

Unidentified woman? “I hope the Planning Commission can encourage stores like Toadstool to come to Walpole.”

Previously some applauded the fact that we had a Hungry Diner and a local pizza place.

Jeff: You must consider the commercial land in Walpole is very limited along Route 12. The Planning Board is looking at other property in town but hasn’t come up with anything yet. It is finite. “How would the town land owners with commercial land, who have been paying a high tax rate for commercial land all these years, feel if there appraisal dropped because of this article?”

Wife of transplanted resident: “What is the argument for commercial development when the town has to pay for improving the infrastructure. What is ratio to support these undertakings?”

Steve: “Most of the infrastructure cost is paid by the developer – water, sewer. It hasn’t cost the taxpayer anything.”

“Unknown gentleman: I’m confused about what is commercial land. If you go Troy or to Charlestown, every building on the Main Street is now in some way commercial.” It could be housing a real estate or lawyer’s office or a small store.”

Unknown gentleman: “We have quality of life issues in town. What do we want in the future? We have to carefully think this thing through. “

Dave: “How could this article work? The Planning Board hasn’t had a chance to think this (petition) through.” Changing the commercial district so there’s a Route 12 commercial district and a village commercial district will take some thought.

Mo: Mo has lived in Walpole 53 years. He owns a piece of property on Route 12. “I see that development in town is tough. Back in 1988 my mother didn’t want to sell when Real to Reel wanted to buy our property for its business. I also passed up an opportunity to sell that land as well. I love having Pete’s Stand down the road. But that’s my choice. I have a feeling that what you are trying to do is to tell me who I can sell my property to. It should be my choice. Not yours. Is that fair? You are really targeting four or five people. They have been there for years. Don’t take away my opportunity to sell if that’s my choice.”

Rich: “It seems to me the situation about having an ordinance isn’t directed at Route 12 but you should head up towards town. It’s not too late. I definitely would clearly separate the village from Route 12.”

Jeff: “If that were to happen, it would take a year of study. The town of Jaffrey has a Formula Business plan just for the downtown area.”

Lois: What about a historical commission that oversees the older homes? She said she didn’t mean a strict commission that prohibits all kinds of things.

Jeff: “The Planning Board looked into creating a historic district several years ago but it was overwhelmingly turned down.”

Another woman in the back of the room: “We should try and move on. The village is only one affected area. Every business still has to get approval and each has several hurdles to meet. What can the Planning Commission do to help develop local businesses to locate on Route 12?

Jeff: “There really not much. We have commercial requirements. Unless you go to the Selectboard to try and get any kind of incentive.” Mr. Dalessio said the town did do that when Hubbard Farms needed some property.”

Joanna: Ms. Andros thought it was important to have local businesses on Route 12. But, she asked, who can afford to create a such a business and buy land? The town must make it more affordable and possible for local businesses. “How much of money stays in the community and doesn’t go to a corporate office? We’re looking for a balance. I feel this article allows for more local development.”

Dave: “If you look at the Master Plan, I think someone said it was developed in 1998 - that was 25 years ago.”

Jeff: “The Master Plan was updated in 2020 and one of the things it said was to discourage big box stores.”

France: “It sounds as if this is not a proactive positive move. I think what we need is the opposite because we do want local people to be able to move here. We’re talking about aesthetics really. And I’m all for it. But I need to think about how we can encourage local people to develop small businesses here. We need young people. We need more economic development the way we want it to be. We have to think about both sides.”

With no further questions, Mr. Miller closed the public hearing.

### **Decision:**

#### **Article 1**

Mr. Perron made a motion to recommend this article. Mr. Harrington seconded the motion.

**The Planning Board voted to recommend Article 1. It passed 7 yeas - 0 nay votes.**

#### **Article 2**

Discussion:

Mr. Perron I agree with keeping the character of the town but in practice who decides how this can be done.

Mr. Dalessio said he thought smart development is good for the town but this is too restrictive and could create problems down the road. “I would not recommend it but go forward in 2024 with a carefully thought out plan that creates smart development. I like the idea of split districts. It’s a good one. We should consider Drewsville and also talk to the North Walpole zoning people and bring them into the conversation.”

Mr. Marcom said if he could vote yes for the village tonight, he would do that. Sometimes you may not want to vote for something but don’t have the legal backing to do so. You can’t say no to a Starbucks and yes to a Dunkin. It would be great to have a local coffee shop. Mr. Marcom said he has always encouraged every local business planning to build on Route 12.

What he hasn't done is the development part. "As written I would vote against this, but if it were about the village, I would vote for it."

**Mr. Perron made a motion to NOT recommend Article 2. Mr. Marcom seconded the motion.**

**The Planning Board voted to NOT recommend Article 2. It passed 6 yeas, 1 nay.**

As he leaving someone asked what people could do if they favored article 2. Mr. Miller said there is an official ballot at the March 14 vote session for election of candidates for offices. The petition articles will be on that too.

**Public Hearing:**

**Subdivision/Condo Lots:** Avanru Development Group LLC:  
Tax Map 12, Lot 13-3 into 3 lots, 2A, 2B, 2C.

**Public Hearing:**

**MBP Management Group, Dunkin 2,000 square-foot coffee shop and drive-thru site plan.** Tax Map 12, Lot 13-3, Route 12, 234.8 feet on Main Street, pond and wetlands to the south. Fieldstone Land Management Group is handling the application. The driveway permit for Dunkin arrived on January 10.

These two groups met as one entity on Tuesday night because a vote on Dunkin's current site plan application can not take place unless the Subdivision/Condo Lots application is approved. Fieldstone Management Group Civil Engineer Chad Branon represented Dunkin at the meeting. Jack Franks, president of Avanru Development Group LLC, represented the condo lots.

Mr. Miller said that he had met with the town attorney about the issue of condo lots and basically he agreed with the attorney's position that the condo subdivision as presented has to correspond with our current subdivision regulations. The acreage and frontage of those two lots, 2C and 2B, have no frontage and so the Board cannot approve the subdivision as you presented. And as far Dunkin site, we have to have it clarified what that lot is. So as far as the development of the plan we have two options until we get the clarification of land for the site. The Board can put it on mutual hold until you decide what you want to do or when the land meets the subdivision regulations. We need a decision by next month because of the 65-day time limit. We'd like to work until we can reach some kind of agreement but you could withdraw the application and come back later. That's up to you.

RSA 672:141 defines "subdivision" as the division of the lot, tract or parcel of land into 2 or more lots, plats, sites, or other division of land for the purpose, whether immediate or future, for sale, rent, lease, condominium conveyance or building development.

Currently this here it's not compatible with our zoning ordinance and we can't approve the subdivision. After the conversation with our town attorney, this is the right path.

Mr. Marcom backed up what Mr. Miller said by saying in that in the information we got from the town attorney RSA 356-B:5 B says in his letter "Municipal Ordinances. No zoning or other land use ordinance shall prohibit condominiums as by reason of the form of ownership inherent therein. Neither shall any condominium be treated differently by any zoning or other land use ordinance which would permit a physically identical project or development under a different form of ordinance." Frontage, acreage and the rest must meet our requirement.

Mr. DiBernardo said I think where we differ is that it's not a division of land, it's a difference of ownership. Mr. Miller said it's a division of land.

Mr. Branon said there is a distinction between land condos and condo units. In condo units you don't have setbacks. You don't have any acreage requirements. None of those regulations apply. The word condominium is only referenced once in your subdivision regulations.

After a lot of back and forth Mr. Branon asked if they could meet in two months to sort this out. It would be March 14. Mr. Miller said that would be over the 65 day limit. However, if it's mutually agreed that we will meet again on that date to resolve these issue, the Board could agree to do that.

The Planning Board, Dunkin and Avanru will continue both applications and there is mutual agreement to extend the deadline beyond 65 days, Mr. Miller said. If we're in agreement we'll extend the 65-day clause and revisit it at that time. If we continue we these applications we don't have to re-notice abutters and create a new legal.

And that is what was agreed to by both parties.

**Workshop:**

Mr. Miller announced a workshop for the fourth Tuesday.

**Adjournment:**

Mr. Perron made a motion to adjourn. The motion was seconded by Mr. Marcom and the motion carried.

Respectfully submitted,  
Marilou Blaine  
WPB Secretary

cc. WPB, ZBA, Town Offices, The Walpolean  
Posted: Inside the Town Offices, on the bulletin board outside the Post Office.