



**TOWN OF WESTPORT**  
**856 Main Road**  
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## **PLANNING BOARD**

### PLANNING BOARD MEETING MINUTES

April 21, 2020

Chairman Jim Whitin called the meeting to order at 6:02 p.m. with Vice-Chair Robert Daylor and members John Bullard, Bill Sheahan, and Town Planner James Hartnett in attendance. James Watterson was absent.

### **Call to order 6:00 p.m.**

Chairman Whitin read the following notice into the record

*Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Westport Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by following the remote links:*

*An audio recording of this meeting will be posted on the town's website. ([www.westport-ma.gov](http://www.westport-ma.gov)). **The meeting was not recorded.***

### **1. Administrative Items**

#### **a. Approval Not Required (ANR) Pettey - Request by the applicant for endorsement of a 3-lot plan of land located at 963 Sodom Road, Assessors' Map 60, Lots 5 & 5C.**

Sean Leach of SITEC Engineering Inc. was present via Google Meet requesting an ANR approval.

Hartnett reminded the Board this plan was before the Planning Board in October of 2019 with a Special Permit for Flexible Frontage. The applicant is now before the Board to have the Form A Plan approved. The lots have already been approved by the Board for zoning purposes. Hartnett recommended Approval Not Required Endorsement.

### **Motion**

Bullard moved to approve the endorsement of the plan entitled "Approval Not Required Plan of Land in Westport, MA Prepared for Stephen Pettey" dated December 21, 2019, because the plan complies with the provisions of MGL Ch 41 Section 81P. Seconded by Sheahan. Upon a roll call vote being taken, members Bullard, Daylor, Sheahan, and Whitin voted aye and the motion carried 4-0.

#### **b. Chapter 61A Release Part of Map 31, Lot 11, as shown on the ANR Plan dated 12/31/19 as Lot 3.**

Hartnett commented Lot 3 was part of the Form A Plan approved by the Board last month, Lot 3 is currently under agreement. Hartnett recommended the Planning Board vote to release this property from 61A.

### **Motion**

Bullard moved to recommend the release of Lot 3 as shown on the ANR Plan dated 12/31/19 from Chapter 61. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Sheahan, and Whitin voted aye and the motion carried 4-0.

Whitin approved Hartnett to sign the release on the Board's behalf.

**c. Request to waive signatures – Woodland Estates – Covenants**

Josh Farkes from Borrego Solar is requesting to waive the bank signature requirements and accept an unnotarized Covenant because he is finding it difficult to find a bank to sign off on the Form F covenant. Farkes mentioned he would like to close out the plan so he can proceed with obtaining a building permit.

Hartnett added, Borrego filed a subdivision plan to beat the zoning change and they do not intend on recording the plan. Hartnett recommended all the signatures be secured and notarized as required with any other subdivision. Hartnett expressed his concern with the slight possibility the subdivision could get recorded and constructed.

Whitin questioned if the signatures could be waived. Hartnett added it is a Legal document and the Owners could back out of the deal with Borrego and record the subdivision. Hartnett was not in favor of waiving the signatures and would like to contact Town Counsel for suggestions on how to proceed.

Whitin suggested the applicant get suggestions from their counsel.

Whitin asked Hartnett what the result would be if the Covenant wasn't signed.

Bullard asked if the plan could be endorsed and held at the Planning Department until there are original signatures. Hartnett responded the surety should be in place prior to endorsement, not sure what the endorsed plan will do.

Sheahan and Daylor were not in favor of waiving the signatures.

Farkes stated a Form A will be submitted to move forward.

**Motion**

Daylor moved to deny the request. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Sheahan, and Whitin voted aye and the motion carried 4-0.

**d. Meeting Schedule** – Hartnett informed the Board of the two public hearings that will be held on May 19, 2020, at 6:00 p.m.; Plaza 549, and 5 Star Collision.

Hartnett asked the Board for suggestions or recommendations to make virtual meetings easier to review the meetings. Whitin and Sheahan agreed having 11 x 17 copies of plans would be helpful. Hartnett suggested one Public Hearing per virtual meeting.

Whitin asked if a work session was needed before the next Public Hearing meeting.

**e. FY21 Budget** – Hartnett commented that cuts have been recommended by the Town Administrator to the Planning Budget for FY21. Hartnett requested a copy of the budget and hopes to have it for the meeting. The cuts may be limited to the MS4 expense account. Tim had called to request information on this account. \$40,000 was placed in the account this year for MS4 services that allowed us to hire Kleinfelder Engineering. Hartnett is hoping for at least \$20,000 in next year's budget to keep the project moving forward.

Whitin asked if the Town Administrator would be cutting the \$25,000 warrant article that was going to transfer funds from this year's salary account to grant matching funds. Hartnett will confirm with the Administrator.

Bullard asked if states and municipalities were receiving assistance from the Federal Government. Hartnett commented the town is keeping track of costs during the pandemic.

**6:30 p.m. Public Hearing**

**2. Coastal Healing LLC (19-015SPA) (continued from December 17, 2019, January 14, 2020, February 25, 2020)**

Request by the applicant to consider the Special Permit and Site Plan Applications for Coastal Healing LLC for property located at 248 State Road, Assessor's Map 3, Lots 144C & 144E, Westport, MA pursuant to Westport

Zoning By-law Article 15 for Site Plan Approval and Article 25 Medical Marijuana Treatment Center Special Permit, on a request to construct a medicinal marijuana dispensary cultivation and distribution center. Lot size 106,626 s.f.

Hartnett had conversations with Attorney Corey and Diego Bernal regarding the hearing and strongly recommended a continuance for several reasons, namely the traffic study was just filed on April 15, 2020, and we haven't received comments back from SW Cole.

Attorney Brian Corey was present via virtual meeting along with the applicant, Diego Bernal.

Attorney Corey will address the traffic report at the next meeting. Attorney Corey and Mr. Bernal agreed to continue the hearing to May 12, 2020, at 5:00 p.m.

Bullard added his concern about having too many items on the agenda and suggested continuing to another day.

### **Motion**

Bullard moved to continue the Public Hearing to May 12, 2020, at 5:00 p.m. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Sheahan, and Whitin voted aye and the motion carried 4-0.

### **7:00 p.m. Public Hearing**

#### **2. Instigator Enterprises, Inc. (20-002SP-FF)**

Request by the applicant to consider the Special Permit for Modification of an approved Flexible Frontage lot for Instigator Enterprises, Inc. for property located between 323 and 337 Pine Hill Road, Westport, MA, Assessor's Map 37, Lot 9. Pursuant to the Town's Flexible frontage for reduced density By-Law, Article 23, the applicant is requesting a modification to an approved Flexible Frontage lot.

Bob Rogers of G.A.F. Engineering was present representing the applicant Instigator Enterprises, Inc. Mike Coppa and Rogers were present via a virtual meeting. Rogers is requesting to modify the clearing limits and is requesting to adjust the building envelope to make a buildable lot.

Hartnett informed the Board a flexible Frontage Special Permit was granted on 12/6/16 for this property. The applicant would like to amend the previously approved special permit altering the building envelope and clearing area. The previous building and clearing area extended into the wetlands. At the time of the filing, the wetlands had not been flagged. The applicant is also proposing to move the driveway easement at Pine Hill Road about 25' south, this is the location of the constructed access path.

Hartnett added the change appears to be relatively minor and the following sample findings of fact and conditions have been added for the Board's review.

Mitch Fishman of 337 Pine Hill Road was present via virtual meeting. Fishman asked if the property would be turned into a commercial property and added he would like some type of screening to maintain privacy.

Rogers commented there was no change to the driveway and the area between the property line and the driveway was not going to be cleared.

Janet Radcliffe of 339 Pine Hill Road was present via virtual meeting questioned if additional structures would be added to the property.

Julia Radcliffe of 127 F Pettey Lane was present via virtual meeting. Ms. Radcliffe asked if the 63x63 ft southeast section of lot 9 could remain in its natural state.

Janet Radcliffe questioned the location of the septic and how many trees would be coming down. Rogers responded the septic can only be within the building envelope.

Janet Radcliffe and Fishman were satisfied with the outcome.

Hartnett read the Sample Findings of Fact and Sample Conditions into the record.

Rogers felt the 1500 c.f. of roof runoff amount was excessive for a single-family home and should be deleted from the Conditions.

Daylor agrees to have a runoff infiltration system requirement modification and agrees to the 63x63 southeast area to remain in its natural state.

Bullard asked if the South triangle next to Fishman's house should also be included in the condition to not be cleared. Jim will add to the Conditions that no structures along the driveway nor in the 50x50 triangle shall be built.

#### **Motion**

Bullard moved to close the public hearing for Instigator Enterprises, Inc. Seconded by Sheahan. Upon a roll call vote being taken, members Bullard, Daylor, Sheahan, and Whitin voted aye and the motion carried 4-0.

#### **Motion**

Bullard moved to grant the approval of the Flexible Frontage lot for Instigator Enterprises, Inc. for property located between 323 and 337 Pine Hill Road, Westport, MA, Assessor's Map 37, Lot 9. Pursuant to the Town's Flexible frontage for reduced density By-Law, Article 23, subject to findings and conditions as stated. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Sheahan, and Whitin voted aye and the motion carried 4-0.

#### **4. Matters not Reasonably anticipated**

Hartnett informed the Board an MVP East Beach Steering committee meeting is scheduled for April 30, 2020, at 6:00 with Woods Hole Group via Gotomeet.

Daylor asked if a Town Meeting date had been set. Hartnett replied the date was still undecided.

Hartnett added the FEMA maps needed to be updated. Whitin asked if items can be approved without a town meeting via the governors order and have Select Board vote on the changes. Whitin suggested having the Select Board vote and send it to the Attorney General.

Whitin asked to be updated on the sewer grant. Hartnett commented a sketch was sent of the proposed gravity line but they need to verify where the pipe is. Hartnett will request an extension of time with the state due to COVID 19.

Hartnett mentioned he received the MS4 stormwater plan and is working with Kleinfelder and other departments on the Stormwater Management Plan.

Whitin asked if the budget for the MS4 work will be cut in half. Hartnett stated that it may be cut.

#### **5. Planners Report**

#### **6. Correspondence**

Nadine will put the correspondence in the drop box at a later time.

#### **7. Minutes**

March 24, 2020

#### **Motion**

Bullard moved to approve March 24, 2020, as written. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Sheahan, and Whitin voted aye and the motion carried 4-0.

## **8. Invoices**

WB Mason - \$40.79

### **Motion**

Daylor moved to approve the invoice. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Sheahan, and Whitin voted aye and the motion carried 4-0.

### **Adjournment**

The members unanimously adjourned at 8:00 p.m.

Respectfully submitted,

James Hartnett, Town Planner

Nadine Castro, Assistant Town Planner II