



**TOWN OF WESTPORT**  
**856 Main Road**  
**Westport, Massachusetts 02790**  
**PLANNING BOARD**

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**PLANNING BOARD MEETING MINUTES**

**December 6, 2016**

Chairman James T. Whitin called the meeting to order 6:15 p.m. with Vice-Chairman William D. Raus, Clerk Marc De Rego, Member Andrew Sousa and Town Planner James Hartnett in attendance. Member David Cole was absent.

**Harrison-Parsons (16-004SP-FF) Request by Andrew Erickson for a Flexible Frontage Special Permit pursuant to Westport Zoning By-Law Article 23, for property on the westerly side of Pine Hill Road between 323 and 337 Pine Hill Road, Westport, MA 02790, Assessor's Map 37, Lot 9.**

Whitin read the public hearing ad into the record.

Sean Leach from Sitec Engineering was before the Board. He noted there is an existing approved unused (for 30 years) subdivision road. The applicant's proposal for flexible frontage is to use the 100"+/- frontage on Pine Hill Road for one lot that would have derived its frontage from the cul de sac of the approved subdivision. The old subdivision was never constructed and it would appear that the original applicant may not be around to do so. The applicant is looking to access the land for only one lot which is in contrast to a yield plan that could create 3 more new lots based on construction of a new roadway.

Hartnett noted the Flexible Frontage By-Law Design Standards the Board should keep in mind when rendering a decision:

- 23.3.1 Retain Existing Roads and Laneways – The proposed drive would be located on the north side of the property away from the existing dwellings.
- 23.3.2 Reduce potential number of driveways – The design shows one additional driveway.
- 23.3.3 Preserve stone walls and edge of field vegetation – The existing stone wall located at the rear of Lot 1 shall remain with the exception of the driveway opening.
- 23.3.4 Site Buildings Carefully – The proposed building envelope is located on the north side of the property, away from existing dwellings and beyond the 100' buffer from the wetlands.
- 23.3.5 Use Existing vegetation and topography to buffer and screen new buildings – The clearing area limits the clearing and buffers the proposed single family dwelling.
- 23.3.6 Minimize Clearing of Vegetation – Addressed with maximum clearing area.
- 23.3.7 Minimize slope disturbance – addressed.
- 23.3.8 Keep traditional access open – The proposed design does not restrict any existing access.

This parcel is part of a subdivision that was approved on August 1, 1973, unfortunately at the time the construction of the subdivision was not secured with a performance guarantee. If the flexible frontage special permit is granted, the construction of the road may not be required.

Hartnett read the responding departments' comments from Board of Health (approval), Conservation (approval with modification), Westport Fire Department (approval) into the record.

The abutter from 337 Pine Hill Road submitted a letter with concerns that their privacy screen and their enjoyment of peace and quiet are maintained.

Whitin discussed allowing the abutter the privacy and Leach explained that the design is such to allow the abutter privacy. The proposed driveway would be close to the stone wall property line and is as far

from the abutting property as possible. If approved, this lot cannot be further subdivided. Raus asked who owned the road. Leach stated that the original owners, the Parsons still own the roadway, original right of way.

Whitin stated that this by-law allows the reduction of the number of driveways, yet there is an additional driveway to the south. Leach stated that the other option is to build a subdivision road yet the request is for one lot and only needs one driveway.

Applicant, Andrew Erickson of 2 Glen Road stated that in the section of the old cul-de-sac, there is a sink hole and a steep grade and this was another reason to suggest access from Pine Hill Road and applying for Flexible Frontage.

Hartnett read sample Findings of Fact and Sample Conditions into the record:

The Board found that the reduction in frontage meets the purpose and intent of the Flexible Frontage By-Law by allowing for a better design by providing restrictions on further lot division, limiting areas to be cleared and reducing the number of house lots, thereby reducing disturbed areas and storm water runoff. The applicant submitted a yield plan showing that a minimum of three lots could be developed under a traditional subdivision, by granting this special permit the applicant would be limited to one lot. The Board found that the Flexible Frontage design standards were utilized to the maximum extent feasible as defined in section 23.3 of the Zoning By-law.

Sample Conditions:

1. A plan suitable for recording shall be submitted with the following statements and conditions:
  - a) "Subject to a Special Permit pursuant to the Town's Flexible Frontage By-Law, Article 23 granted on December\_\_\_\_\_, by the Westport Planning Board and Recorded in the Bristol County Southern District Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_."
  - b) Lots 1, as shown on this plan benefiting from reduced frontage under Zoning By-law, Article 23 shall not be further subdivided and no modification of the clearing restrictions and of the building locations shall occur without a corresponding modification of the Flexible Frontage Permit.
  - c) No lot clearing shall begin and no building permit shall be issued for lots shown on this plan benefiting from reduced frontage under Zoning By-law Article 23 until the Special Permit has been duly approved, executed and recorded and evidence of the recording has been filed with the Inspector of Buildings.
  - d) Clearing areas on lot 1 shall be limited to the access drive and the area identified as "Proposed Building Envelope", Maximum building footprints for lot 1 shall not exceed 5,000 s.f. Clearing area shall not include land within 100' of wetland resource areas.
  - e) All structures shall be located within the area identified as "Proposed Building Envelope".
  - f) Lot 1 shall provide a roof runoff infiltration system capable of handling a minimum of 1,500 c.f. of roof runoff. The infiltration system shall be installed prior to issuance of an occupancy permit. The applicants engineer shall design, inspect and certify that it was installed.
  - g) Any new construction on lot 1, shall comply with the Board of Health Stormwater Regulations.
  - h) The access drive clearing area shall be moved 10' south of the northerly property line and in this 10' strip shall remain vegetated.

DeRego motioned to accept the Findings as read. Seconded by Raus. The vote was unanimous with all in favor.

DeRego motioned to accept the sample conditions. Seconded by Raus. The vote was unanimous with all in favor.

Raus motioned to close the Special Permit hearing for the Flexible Frontage application for Harrison-Parsons (16-004SP-FF) on a request by Andrew Erickson for a Flexible Frontage Special Permit pursuant to Westport Zoning By-Law Article 23, for property on the westerly side of Pine Hill Road between 323 and 337 Pine Hill Road, Westport, MA 02790, Assessor's Map 37, Lot 9. Seconded by De Rego. Vote was 4-0 in favor

Raus motioned to approve the Flexible Frontage Special Permit application of Andrew Erickson of 2 Glen Road, Westport, MA 02790 for property on the westerly side of Pine Hill Road between 323 and 337 Pine Hill Road, Westport, MA 02790, Assessor's Map 37, Lot 9, pursuant to Westport Zoning By-Law Article 23 for a Flexible Frontage reduced density Special Permit, subject to the findings, and conditions as stated. Seconded by De Rego. Vote was 4-0 in favor.

Sousa opined that the impact of a roadway is greater than a driveway and the number of lots in the yield plan would be more of an impact.

**Pre-Application Consultation (16-003-PAC) Francis Estates. Request by applicant for a pre-ap consult for a preliminary submission for and OSRD plan for Assessor's Map 68, Lot 7 located at the SW corner of Main Road and Charlotte White Road., Westport, MA.**

Present before the Board was the applicant's attorney Mr. Murphy. The applicant has submitted a conceptual plan for an OSRD Development showing 16 proposed lots. The sizes of the lots are approximately 20,000 s.f. and most have 80' of frontage. The design calls for a community septic system. It is unclear at this point if the system would be a denitrification type system. This same plan was approved by the Planning Board as a preliminary subdivision on January 13, 2008.

The applicant is looking for general feedback from the Board on the OSRD concept as opposed to a traditional subdivision. The proposed development clusters the houses in a smaller area on the parcel but the overall road length is about the same. The community sewer system would have to be owned and operated by the property owners and not the Town.

There would be 2-lot inclusionary housing allotment.

Whitin asked how this project was conceptualized as an OSRD. The applicant's representative could not answer this as he was not part of the plan back in 2008. Whitin asked how it was delineated and how it was designed.

The 16 lot OSRD on 36.5 acres, and the applicant would be looking for a waiver of the 50 ft. buffer zone.

Wetlands were designated as was the cemetery features. There are no other features of the landscape. There are some stone walls throughout and a stone wall around both cemeteries - one being within the project and the other along Main Road within another lot. There will be an access road for the open space portion for town access to the cemetery as well. There is a question as to who will own and maintain it.

Whitin asked if each house will have a tank and pump. Attorney Murphy stated it will depend on the road and could be either tank and pump or gravity fed.

Whitin read into the record minutes of February 26, 2008 and August 28, 2008 which discussed the preliminary application filed with the same plan orientation.

Attorney Murphy noted that the second dead end road was longer than 1200 feet and wanted to flush this out now

Discussion ensued over what the Board would like to see. It was noted that if the buffer were to be increased along the roadway, this would mean the loss of one of the 2 lots along the entrance road.

Sousa asked what the impact would be of leaching fields in close proximity to existing wells leaching into this area. Whitin asked what septic design they would be using.

Whitin noted the Noquochoke Village development that is using an innovative septic system with less than ten ppm. Raus suggested a public water supply. Attorney Murphy stated a public well would have a radius that would extend into the wetlands and there would be a 100-200 foot radius with nothing in it. He noted that with the shared septic, it allows for individual wells.

Sousa noted the town does not own a vac-truck. He asked for a plan for adequate maintenance. Attorney Murphy said he would provide one.

Whitin noted that a Home Owner's association is required and must be funded.

Seeing that this a pre-ap consult, no action is required at this time.

Hartnett noted that a yield plan is required so as to see how many lots would be able to fit in a conventional subdivision.

Attorney Murphy said that an OSRD would be preferred over a conventional subdivision. Sousa asked if it were possible to have a conventional subdivision and a combined septic system. This would help to protect the wetlands. Whitin stated it would be reasonable to expect a combined denitrification system in an OSRD.

**Noquochoke Village (15-012 SPA-IHSP) Request by applicant for a minor modification to an approved site plan by changing the entrance to MassDOT standard 24-ft wide road with 30-ft radii.**

John Fraser from TCB and Phil Cordeiro from Allen & Major were present.

The proposed entrance shown on the approved drawings was not approved by Mass DOT. Mass DOT is requiring a standard 24-ft wide road with 30-ft radii at the entrance as illustrated on the modified sheet C-2 Layout and Materials Plan revision 6 dated 10-21-16. No other changes are proposed.

Cordeiro explained that the state did not want to have any idle vehicles and not allow any vehicles to use the old version to turn around.

Discussion ensued over safety for school buses stopping for the estimated 34+/- children that are expected to live there.

Hartnett stated that he reviewed the plan and noted that this is a minor modification and does not impact the Special Permit overlay district and suggested sample findings. The purpose of the overall plan did not change. Cordeiro stated they tried to discuss a compromise with the state but to no avail.

Hartnett read the Finding into the record:

The Board found that the Noquochoke Overlay District special permit was granted for the use of the property and the proposed minor site design changes to the entrance do not impact the use, open space or dimensional requirement of the Noquochoke Overlay District and do not impact the previously approved Special Permit Decisions.

Planning Board members felt that the location of the gate would be detrimental for any vehicle that mistakenly turned into the entrance and could not turn around. They felt that since the gate would not be in just yet, this could work, but would present a problem later on. They suggested a type of a hammerhead for a 3-point maneuver.

Robert Alves of 1185 American Legion Highway. He stated that if the gate goes in and there is no one there 24/7, it is a busy area and sees this as an issue with future accidents. Whitin stated that is the same reason he is pushing to have a turnaround at the gate.

The Board determined that the design was sufficient if a gate was not going to be installed but if a gate is required in the future the entrance may need to be redesigned and approved by the Planning Board.

The Board found that the Noquochoke Overlay District special permit was granted for the use of the property and the proposed minor site design changes to the entrance do not impact the use, open space or dimensional requirements of the Noquochoke Overlay District and do not impact the previously approved Special Permit Decisions.

Raus moved to approve a minor modification to the site plan for Community Builders, Inc, for property located at 1163-1175 American Legion Westport, MA 02790, Assessor's Map 33, Lots 17, 45, 47, 47A & 47E pursuant to Article 15, Site Plan Approval to modify the entrance to the development in accordance with MassDOT permit requirements, subject to findings, waivers and conditions as listed in the Site Plan Decision dated July 12, 2016. As a condition of this approval, if the gate is required as provided for in the Special Permit and Site Plan decisions from July 12, 2016, the applicant shall provide a revised site plan and design to be approved by the Planning Board. Seconded by Sousa. The vote was 4-0 in favor.

#### **Public Hearing (Continued from November 1, 2016)**

**Revisions to The Town of Westport Planning Board Rules and Regulations Governing the Subdivision of Land in accordance with the provisions of Chapter 41, s81K to 81GG of the Massachusetts Subdivision Control Law and M.G.L. Chapter 40A. Revisions include but are not limited to filing and application requirements, increase in pavement depth, stormwater design, street and cul-de-sac design, and utility installation.**

Whitin read the public hearing announcement for this continuation.

Hartnett noted that at the November 1, 2016, meeting of the Planning Board, the Board reviewed the proposed changes to the Rules and Regulations Governing the Subdivision of Land in Westport MA. At that meeting the proposed changes were noted and discussed and the Planning Board voted to continue the public hearing until December to allow for any additional comments or changes to be submitted. Hartnett noted that Sousa brought to his attention that any specs should be in line with MassDOT requirements. Discussion ensued over depth of crushed stone vs crushed shell with Len Potter sharing his experience.

Sousa motioned to approve the Revised Rules and Regulations Governing the Subdivision of Land in Westport MA with an effective date of January 1, 2017. Seconded by DeRego. The vote was 4-0 in favor.

**Approval Not Required (ANR) Kaplan (16-015A) Request by applicant for endorsement of a 2-lot plan of land located on Nathan Kaplan Way, Assessors' Map 63, Lot 20.**

The applicant requested endorsement of a plan dividing 1 lot into 2 for property located on Nathan Kaplan Lane and Armory Pettey Way.

Lot 1 will contain 202,631 +/- s.f. (4.7 acres) of land with 193,940 s.f of uplands and 175 feet of frontage, mostly on Armory Pettey Way, with the remainder on Nathan Kaplan Way.

The remaining lot will contain 26.4 acres and well over 150 feet of frontage.

Sean Leach from SITEC Inc., was present for the Devoll Pond Nominee Trust for an ANR plan creating one new lot. He demonstrated an aerial view from 1938 showing the laneway that extended from Armory Pettey Way.

Whitin asked how the Board would approve an ANR on two roadways with frontage being split between the two. Hartnett stated that originally it may have been all one name. There was a development to improve the road on one section leaving the remainder as private.

Hartnett noted this is not a standard Form A, in order to meet the standards for Approval Not Required Endorsement and advised the Board consider the following criteria. The lots shown on the plan must front on one of the three types of ways:

- a) A public way
- b) A way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law
- c) A way in existence when the subdivision control law became effective in the Town of Westport, having in the opinion of the Planning Board sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon and served thereby and for the installation of municipal services to serve such land and the buildings erected thereon.

The drive appears to meet the requirements of a way in existence when the subdivision control law became effective.

If the Board agrees that this first criterion has been met then it must determine the "adequacy of the way on which the proposed lots front, and the adequacy of the access from the way to the buildable portion of the lot.

Hartnett stated that the right of way scales to about 30' wide but the travelled way is only 11' – 18' wide. The travelled way is not sufficient in width for two cars to pass and does not meet the minimum 20' wide standard for the fire department. A gate has been installed at the southerly end of the private way that prevents public access.

Whitin stated that the plan could be endorsed but any further development of the larger parcel would require upgrading of the roadway and services. The way in front of the remaining land is adequate for one house lot

Raus motioned to endorse the plan entitled "Approval Not Required Plan of Land in Westport, MA prepared for Devoll Pond Nominee Trust" dated November 8, 2016, because the way is suitable to service the two lots as shown on the plan and any additional lots may require approval under subdivision control law. Seconded by De. Rego vote 4-0 in favor.

**Approval Not Required (ANR) Lakeview Park (16-016A) Request by applicant for endorsement of a 3-lot plan of land at W. Normandin Street and Rochelle Street, Assessors' Map 18A, Lots 55, 56.**

Wendy Henderson was present before the Board. The applicant requested the Board endorse a plan dividing 1 lot into 2 buildable lots and one non-buildable parcel for property located on West Normandin Street and Rochelle Street.

Lot 1 will contain 63,420 s.f. of land with all being uplands and 285.9 feet of frontage.

Lot 2 will contain 68,005 s.f. of land with 55,285 s.f. of uplands and 290 feet of frontage.

Parcel A is not a buildable parcel and contains the remaining 194,291 s.f. and is located primarily on Rochelle Street.

Lots 1 & 2 front on a public gravel way. The travelled way is in excess of 20' wide with a couple of pot holes but is in fair condition. The cul-de-sac appears to have had a binder coat at one point but is mostly over grown. These are two public Town roads and have been not used over the years.

Raus motioned to endorse the plan entitled "Approval Not Required Plan Lakeview Park Inc., West Normandin Street Rochelle Street AP 18A Lots 55. 57 Westport MA" dated November 3, 2016, because it complies with the provisions of MGL Ch 41 Section 81P and is not a subdivision as defined under the subdivision control law. Seconded by Sousa. The vote was 4-0 in favor.

**Old County Estates (14-006C) Request by Applicant for a surety estimate.**

The applicant, Gary Bouchard requested a release of all 9 lots in exchange for a cash surety.

Hartnett read Tibbetts' report into the record outlining the items that would be covered by a cash surety.

Tibbetts report dated November 28, 2016 lists unfinished requirements with a surety estimate in the amount of \$110,000. The developer contacted Tibbetts to review a few of the items: in particular the wetland replication area. The replication area shown on the plan is for the common driveway and not the subdivision and Hartnett believes it should not be included in the surety estimate. This would reduce the estimate to \$82,625, adding a 20% contingency would bring the total up to \$99,150. Hartnett suggested a surety of \$100K. Tibbetts agreed with the revised estimate in an e-mail dated December 5 \ , 2016.

DeRego motioned to release the covenant dated October 6, 2015 as recorded in the Bristol County S.D. Registry of Deeds Book 11563, Page 88 for "Definitive Subdivision Plan of Land Old County Estates", dated October 17, 2014, and revised through June 3, 2015 in exchange for a cash surety in the amount of \$100,000.00. Seconded by Raus. The vote was 4-0 in favor.

**Westport Lakes (01-006C). Request by Applicant for a approval a surety estimate.**

Len Potter, Shannon Khoury and Al Castro were before the Board.

Hartnett read the Tibbetts report dated November 28, 2016 into the record outlining the remaining work and its surety value. Discussion ensued over the correct plan. Members agreed to review the full series of plans indicating the correct configuration of lots at the next meeting on December 12.

**Town Planner report.**

- a. Hartnett attended the advanced class for the Complete Streets Program. This is something the Town should follow up on. There is up to \$400,000 available each year to municipalities. It can be used for projects that improve streets, walkways, cross walks and bicycle paths. The program is financed similar to Chapter90 funds.

- b. b. St. Vincent's Property – The working group will be meeting again tomorrow night to discuss options for the property. Hartnett is hoping the group can come to a consensus so that a recommendation can be forwarded to the Board of Selectmen. The Town did not receive the land grant in the amount of \$400,000 so the boundaries of the project have changed. They are now looking to preserve 59+/- acres under CPC funding and will be offering the remaining land to the Town for an additional \$350,000.
- c. c. Consultant Review Contract – Tibbetts has submitted a contract for the Town to review for consultant services. Hartnett would like to schedule a meeting with Tibbetts and maybe some of members of the Planning Board to discuss expectations and some of the details with Tibbetts prior to approving the contract.

### **Administrative Items.**

#### **ILLICIT DISCHARGE.**

Hartnett compared the federal by-law and Framingham's which had additional language. The intent is not only for town's storm water systems but also includes waterways and watercourses. Whitin would like to have this go through on the ATM. He also stated that there are more grant opportunities if this were in place. Five years ago, it was Town Counsel's suggestion to submit this By-law.

**Any other business that may come before the Board.** None.

### **Correspondence.**

a. ZBA – Two decisions. Noted.

1. Request for a variance to build a three-bedroom style house in a residential zone for commercial use as a professional office at 0 Main Rd. Assessor's Map 79, Lot 23 (across from Wilfred's). No hardship was shown, applicant withdrew application.

2. Request for a Special Permit to convert an existing accessory building into a one (1) bedroom detached accessory apartment under Bylaw Article 4, Section D-13 with residence on the property located at 607 Adamsville Road, Assessor's Map 79, Lot 23. Special Permit was granted with conditions.

b. AgCom letter of support for Zoning By-law amendments. Noted

c. Ch91 Notification of Application 1780 Drift Road- Hawes. There are no changes from the original submission in May 2016. The State is requesting they submit green postal cards at this time and are just informing the interested parties of this. Noted.

d. Field Engineering letter of thanks. Noted.

e. BOS/Zoning Article and Reports deadlines. Deadline for ATM articles - February 2 2017; Annual Reports due Friday January 27, 2017. Noted.

f. BOS – Memo to PB with vote to move forward with ZBL. On November 28 the BOS voted the zoning amendment to the PB for a public hearing. Noted.

g. WLCT – Rulon property on Blossom Road. The WLCT request the Town to assign them the Rights of First Refusal. Noted.

### **Minutes.**

Tabled to the work session.

### **Invoices.**

Mileage and Phone for Hartnett \$106.

Postage \$300.00

Members unanimously voted to approve invoices.

### **ADJOURNMENT**

Members unanimously voted to adjourn at 9:30 p.m.



Respectfully submitted,

Lucy Tabit, Asst. Plnr