



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

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**PLANNING BOARD MEETING MINUTES**

**November 1, 2016**

Chairman James T. Whitin called the meeting to order 6:16 p.m. with Clerk Marc De Rego, Member David Cole, Member Andrew Sousa and Town Planner James Hartnett in attendance.

**PUBLIC HEARING**

**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 legal notice into the record at 6:30 P.M. Hartnett read the purpose in to the record as provided by statute, that the Planning Board's Rules & Regulations provide a "...provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for reducing danger to life and limb in the operation of motor vehicles; for ensuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provisions for water, sewerage, drainage, over-ground and underground utility services, fire police and other similar municipal requirements, and street lighting and other requirements where necessary in a subdivision...".

The Regulations have not been updated in a long time and the proposed changes include:

- Update filing requirements
- Revise drainage requirements to be consistent with Board of Health regulations.
- Define requirements for as-built plans and layout plans
- Revised standards for street design
  - Cul de sacs
  - Pavement width
  - Pavement thickness
- Remove subparagraph III-H (3). No streets will be submitted for acceptance until the subdivision has been completely developed and the Highway Surveyor certifies that said streets meet the current requirements of the Town.
- V-B (8). Street name signs, designed and installed in accordance with the Planning Board and Highway Department shall be provided.
- Add to Rural Residential Lane Cross Section. 1 ½" of crushed stone ¾" minus (The Board may consider alternative materials provided it minimizes dust and provides for a durable drivable surface.)

Hartnett explained in detail the aspects of the proposed changes. Engineers were notified and comments solicited. Whitin asked for comments from the Board members. Cole stated that he was thankful for all the work that went into these updates.

Sousa asked if these will go to Town meeting. Whitin explained that the Planning Board would vote to implement these. Discussion ensued over the relation between the cul-de-sac width and radius of center isles.

Whitin then asked for comments from the audience. Sean Leach asked to be able to view any comments received. It was explained that the draft available to the public on line shows the comments in red-line.

Hearing no further comments the Board continued the Public Hearing to December 6, 2016 at 7:00 p.m. in order to allow public comments to be submitted to the Planning Board.

**Pre-Application Consultation (16-002-PAC) Carvalho.** *(Continued from October 4, 2016)*

Request by applicant for a pre-ap consult for a preliminary submission for Flexible Frontage plan for Assessor's Map 46, Lot 4 located at 270 Horseneck Rd., Westport, MA. Additional request submitted.

Sean Leach of SITEC Inc. was present and submitted a letter requesting clarification on the process for creating an additional lot at the end of Blue Acres Way. He is proposing two variables – either a low-impact hammerhead secondary road (vs existing rural residential road) or a 70' cul-de-sac radius which would be higher impact (vs existing rural residential road).

Because of the additional lot being proposed, it would no longer be a rural residential lane. The subdivision was originally approved as a "Rural Residential Lane" subdivision with four lots and there is a restrictive covenant that limits the total number of lots to four at this time. The Board would have to release the covenant.

The applicant would also be requesting a Special Permit under the Flexible Frontage bylaw. The intent of this bylaw is not to create additional lots but to reduce the length of roadway and disturbance if there is a likely hood that additional lots would be created without the special permit.

Hartnett noted that the applicant would need to file an amendment to the subdivision plan if the Board believes that a flexible frontage permit applies to this parcel. If so, then at a minimum, the applicant would be required to submit:

1. Flexible Frontage Special Permit Application.
2. Modification to the previously approved subdivision.
  - Approve subdivision as a residential street subdivision
  - Either require that the road be brought up to residential street standards or the following waivers would be required.
    - Waive required paving.
    - Waive fire tank requirement.
    - Release restrictive covenant Form F-SR.
    - All property owners within the subdivision would have to be notified through the public hearing notification.

Cole motioned to approve the applicant to go forward and submit an application. De Rego seconded the motion with discussion from Sousa. Sousa opined he would like to see the roadway to remain safe and passable per Fire Department standards.

The vote was three in favor, with Sousa opposed.

### **PUBLIC HEARING**

**Westport Power Associates (14-002-SPA-S – Minor Site Plan Modification)** Request by Applicant for a Minor Modification to the Access Driveway Grading Plan.

Steve Gioiosa of SITEC Inc. was present to discuss the modification of the plan previously approved by the Planning Board. The applicants have filed with the Conservation Commission as of last year to make modifications to the access way into the parcel because of the wetlands crossing. The Conservation Agent had recommended they explore alternative areas to get around the ponding area and other points of access which they explored. At this time, they were not able to make any arrangements with abutters and returned to the Conservation Commission showing that they were able to reduce the total disturbance area to 5,000 s.f. With access from Rt. 177, the Conservation Commission has approved the modification through a second Order of Conditions.

Gioiosa stated that the Planning Board had required a final seed mix for the various project areas and they have incorporated the recommendations of the Board based on Clean Energy's array that was approved. Gioiosa stated that:

- They have made the minor adjustment of the road to comply with the ConCom Order of Conditions.
- They have moved the transformer from the central portion to an area in the SW corner of the parcel because of electrical engineering needs.
- The access way was then extended to that point for long term maintenance.
- The interconnection point is above ground with the remainder being underground.
- The area has been expanded where the panels are located.

The first phase would be the stormwater basin installation. They intend to move the project aggressively forward so as to take part in the solar deadlines that are coming up. Clean Energy Collective will be moving forward with the completion of this project.

Gioiosa stated they filed the wetland plan for alteration through Natural Heritage who then responded positively. He discussed the culverts that would provide wildlife transit.

Hartnett summarized improvements as submitted and provided the following from initial review on 10/7/16 of revised plans submitted. The applicant:

1. will use the same seed mix that was used for Old County Road (under panels).
2. Added culvert detail to plan.
3. Provided detail showing the cross section in "Section A-A" but detail for the wall construction not provided.
4. The storm water low point has been relocated north of the box culverts.

From subsequent review on 10/24/16 of revised plans filed, Hartnett provided his comments::

1. in order to better track the changes the revised plans should be presented in the same order as the original submission. Change the Title and sheets 3-6 to correspond to the original filing.

Title Have Been Revised	Original	Revised
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Cover Sheet		
Site Layout and Landscape	1 of 9	1 of 9
Site Grading	2 of 9	2 of 9
Access Roadway Grading Plan	3 of 9	6 of 9
Phasing Plan	4 of 9	3 of 9
Existing Conditions	5 of 9	4 of 9
Erosion/Sedimentation Control Plan	6 of 9	5 of 9
Detail Plan	7 of 9	7 of 9
Existing Drainage Areas	8 of 9	8 of 9
Proposed Drainage Areas	9 of 9	9 of 9

2. Sheet 1 of 9 has been modified to show the new location of the proposed drive, other modifications include:

- Wetlands line modification, removed flags 32-34.
- Added new gravel drive from equipment shed westerly.
- Added new equipment pad near westerly end of gravel drive.
- Removed equipment pad from center of solar field.
- Removed wildlife seed mix around solar panels and seed mix table.
- Address sign at Route 177 is shown on revised plan
- New wetland flags MHW 1-9 shown on revised set

3. Sheet 2 of 9

- Wetland flags MHW 1-9 shown as underground on revised plan
- Plan calls for new overhead wires along new section of gravel road and are shown as underground on revised plan.
- Replication area should be shown on revised plan.

4. Sheet 6 of 9

- The entrance for the gravel road and paved apron should show some spot elevations.

Based on the summary by Gioiosa, the revisions are clearly annotated on the final revised plans. Hearing no further comment, Whitin asked the members to provide a motion.

Cole motioned to approve the minor modification to the Westport Power Associates Site Plan. Seconded by Sousa. The vote was 4 in favor.

**Ferreira (16-005-SPA-m) Minor Site Plan Application.** Request by Applicant for a approval of a Minor Site Plan on 15 High Street (rear of 878 State Road) Assessor's Map 13, Lot 73 for use of an existing 3,500 s.f. building as a commercial building.

This building was issued a building permit as an accessory use to the two family dwelling. The owner would now like to rent out a portion of the building and the Building Inspector has determined that a site plan is required.

Mrs. Ferreira was before the Board to explain the large garage was to serve her husband's accessory use for the existing two-family. Now they would like to lease out a portion of it and install over 1,000 feet of exterior asphalt. The building inspector referred it to the Planning Board for site plan review. The applicant has filed for a minor site plan approval because they have been approached by an interested party to rent out half of the large garage as an internet based specialized auto sales storeroom.

Four to five parking spaces are planned for the front of the garage on the High Street side of the property. There is no landscaping provided in that area. North of the garage, four cars will be accommodated. Whitin asked if septic system was approved by the BOH that services both the home and garage. There is a one bedroom apartment on the 2<sup>nd</sup> floor of the dwelling and a 2 bedroom apartment on the 1<sup>st</sup> floor of the dwelling.

Applicant has asked for the following waivers:

**Waivers:**

1. Section 2.2.5.2 & .4 Waiver of procedural requirements to accept filing as a minor site plan review.
2. Section 20.3. Waiver of vehicular circulation requirements.
3. Section 20.6. To allow the landscaping and screening proposed in lieu of landscaping and buffer requirements of the by-law.

Hartnett read the following finding of facts into the record:

**Findings of Fact:**

1. The project as presented protects adjoining premises by reducing adverse effects on the natural environment and abutters. Landscaped buffers have been adequately addressed by maintaining existing landscaping where possible and providing new landscaping along the northerly property line and the north east corner.
2. The project as presented provides for convenient and safe vehicular and pedestrian movement and the location of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site. Provisions have been made to accommodate pedestrian and vehicular movements including proper access for emergency vehicles.
3. The project as presented provides an adequate arrangement of parking spaces in relation to the proposed use of the premises.
4. The project as presented provides adequate methods of disposal of refuse or other wastes resulting from the uses permitted on the site.
5. The project as presented complies with all applicable requirements of this By-Law, the Rules and Regulations of Site Plan Approval, and the Rules and Regulations Governing the Subdivision of Land (to the extent applicable), unless explicitly waived by the Planning Board.

**Conditions:**

1. Any material changes to the approved site plan shall require Planning Board approval.
2. An As-built Plan is to be submitted when the project is completed.

Sousa motioned to approve the Minor Site Plan under Zoning Bylaw, Article 15 for Joseph Ferreira, for property located at 878 State Road, Assessors Map 13, Lot 73 in Westport, MA for a determination relative to Minor Site Plan Approval (under Zoning By-law Article 15) to construct driveways and parking areas subject to waivers findings and conditions. Seconded by Cole. The vote was four in favor.

**Private Acres, Walter's Way (1999) Request by applicant to release the covenant and surety.**

Matt Antonio, applicant, was present to address the Board. The applicant requested that lots 2 & 4 be released from the covenant and for a reduction in surety. The Town is currently holding \$30k in a cash surety. Tibbetts report dated October 28, 2016 recommended retaining 18,000.00 of the original surety. Whitin read the Tibbett's report into the record. Antonio explained that much of the final work will wait for the spring as there is a buyer interested in beginning construction and bringing in heavy equipment that may damage the roadway. Whitin asked, despite these plans if the new buyer does not finish his construction, when will the roadway be finished. Antonio stated that according to the town agreement, he has until June of next year.

Discussion ensued over other contingencies that would warrant the town to hold enough to cover the completion of the road should there be further damage over the winter and during home construction. Discussion ensued over the incentive for the developer to finish the work now vs. spring in order to receive back the total surety but this would not address the eventual construction of homes on the lots and possible construction damage.

Cole motioned to release \$6,000 plus any accrued interest to the Applicant's designee Matthew B. Antonio from the cash surety as noted in the Form G dated October 6, 2016 and to retain \$24,000. Seconded by Sousa. The vote was four in favor.

Sousa motioned to fully release the covenant on remaining lots 2 & 4 from the covenant dated December 1, 2000 as recorded in the Bristol County S.D. Registry of Deeds Book 4889, Page 258 for "Definitive Subdivision Plan Private Acres", dated May 2, 1999 and revised through June 12, 2000. Seconded by DeRego. The vote was four in favor.

Hartnett asked when he planned to close on the 2 lots. Antonio said he expected to close at the end of the month.

Planning Board members will endorse these documents at the next work session.

**6. Town Planner report.**

- a. Seaport Advisory Council requested that the Town update its application to include wording for Coastal Infrastructure projects vs an Innovation project. This is for improvements at the Town Landing. It does not amend our request or change or what was originally asked for, it is just a request for additional information and we will submit that by next week.
- b. The Board had put off meeting with the Board of Health regarding the master plan and denitrification septic systems, the Board of Health meets on November 14 & 28<sup>th</sup> and on December 5 & 19<sup>th</sup>. Whitin would like to make a presentation on the masterplan and water and wastewater issues which are pertinent to their board and some of the Planning Boards'

thoughts on denitrification and waste water systems. He stated he would like to address the BOH as soon as possible. Cole noted he attended the BOH meeting last evening due to an application before the BOH for a septic repair that was located at the point and on the river. He stated he asked if they had considered denitrification. Cole also stated that he suggested that the BOH provide incentives for denitrification systems by lowering the interest rate from 5% to 4% for anyone taking a betterment loan out for the purpose of installing a denitrification system. Whitin felt that it would be better for the town to adopt a regulation that requires this.

- c. The Planning Board received 9 submittals for the Consultant Review of Subdivision Design RFP for Proposals from:

- Beta Engineering
- CDR McGuire
- Crossman Engineering
- Filed Engineering
- McMahon Transportation Engineers and Planners
- Professional Services Corporation
- Stantec
- Tibbetts Engineering
- VHB

Board will review these and open fee proposals on November 15, 2016 at the work session.

- d. Hartnett spoke with Tim King and Chris Gonsalves about the complete streets program. Gonsalves stated that he wanted to take another look at it and did not want to commit yet. Hartnett is in the process of setting up a presentation from VHB either in December or early January.
- e. At the last work session of the Planning Board the Board voted to move forward with some zoning changes. Amendments to the Special Permit Filings to be consistent with recent MGL changes. Rezoning the southerly end of Main Road north of Cornell from Business to Residential and amendments to the Argi-entertainment zoning regulations. Hartnett will work on getting them in their final form so that they can be submitted to the Board of Selectmen. Public hearings in December or early January will be planned for.
- f. The chairman had asked Hartnett to look into OSRD zoning and a request was submitted to the Mass Planners list serve. Attached are the responses received. A number of communities have not had much success but Dartmouth and Swansea have been satisfied with their zoning.

#### **Administrative Items:**

- a. Review Engineering Consultant proposal submittals (*deadline for submittals Oct 27, 2016*). Members will discuss this at the next work session.

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

#### **Correspondence.**

- a. BOS request to release from Ch 61A 122 Blossom Rd (30+/- acres) Map 1 Lot 10 Parcel A.

There is a P&S agreement on the 30 acres of land for \$400K. Whitin expressed his concern that this is an environmentally sensitive area and that the Town should consider buying it in conjunction with Fall River. This parcel is in the north watershed and it is critical reservoir for Fall River and partially for Westport and would not want to see development up against the reservoir. He suggested looking for sources of funds and seeking out contacts in Fall River to work with for this purpose. Cole suggested the Agricultural Open Space Trust Committee also look at this.

Sousa motioned to send a letter to the BOS strongly recommending against releasing this parcel for reasons stated. Seconded by Cole. The vote was unanimous with four in favor.

b. Ch 91 Notice of Lic. Application 1546 Drift Road – Estow. Whitin suggested the Board try to investigate further protection of the saltmarshes. Noted.

c. Ch 91 Notice of Lic Application 1090 Drift Road – Elite Development Noted.

**Minutes.**

Oct 25, 2016 WS. Sousa motioned to approve as submitted. Seconded by Cole. The vote was 4 in favor.

**Invoices.** None.

**ADJOURNMENT**

Members unanimously voted to adjourn at 8:20 p.m.

Respectfully submitted,

Lucy Tabit, Asst. Plnr