



TOWN OF WESTPORT
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PLANNING BOARD

PLANNING BOARD MEETING MINUTES

January 10, 2017

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

Vote to adopt Remote Participation (BOS approved Remote Access Participation on 12-12-16). Raus motioned to adopt Remote Access Participation, pursuant to 920 CMR 29.00, specifically 29.10 for the Westport Planning Board. Sousa seconded the motion and the vote was unanimous with all in favor.

Public Hearing

Westport Power Associates (14-002-SPA-S – Minor Site Plan Modification) Request by Applicant pursuant to Westport Zoning By-Law Article 15 for a Minor Site Plan Modification to an approved 2 Megawatt solar energy system and request by applicant under Article 21, Special Permit for Common Driveway for a minor modification to the approved site plan to relocate site access to avoid significant wetland crossing utilizing a common driveway with the abutter at 822 American Legion Highway.

Steve Gioiosa of SITEC Inc. presented the Minor Modification to an approved site plan. The proposed minor modification changes the access to the site through a common driveway and will be a benefit to the environment.

Gioiosa stated that the prior approved site plan showed the access crossing an area of wetlands from Rt. 177. The applicant obtained an Order of Conditions from the Conservation Commission allowing access through the wetlands on the southeast side along Rt. 177 to the planned panels on the northwest side of the parcel. It was not the preferred access due to the amount of wetland alteration, natural habitat area and a potential vernal pool, but at the time the applicant was not able to arrange for a point of access though an alternate location. The access was approved for approximately 600 feet of driveway into the site.

Westport Power Associates has contracted with Clean Energy Collective (CEC) who will be developing the project. They were able to have discussions with the property owner at the corner of Routs 177 and 88 who has a commercial operation and driveway on Rt. 177. They reached an agreement to use the existing curb cut and commercial driveway to provide access to the site thus eliminating any wetland alterations. They have an approval from ConCom for the project as proposed. They will be extending the existing driveway in a straight line to the solar project by approximately 200 feet of paved surface that will transition into a graveled surface after the property boundary line. These changes provide low impact to the site and will have zero wetland alterations.

The approved storage building on the solar site plan was eliminated and the equipment pad compressed thereby reducing the impervious areas. CEC has determined that the storage building was an unnecessary element and they do not need to store materials on site. CEC would bring maintenance equipment to the site as needed. Additionally, they are contracting with an outside firm

to maintain the grass and plowing on site obviating the need for storing equipment on site. This makes for a cleaner project, with less impact from an impervious surface standpoint.

Gioiosa stated the modification being requested relates to the entry way of the project. The size and scope of the solar panels have not changed. The equipment pad area on the Rt. 88 side was eliminated and the other compressed. The applicants have entered into an agreement with the abutters, the Giumetti's, who operate the maintenance company WS Sheppard on the abutting parcel. Clean Energy will contract with WS Sheppard for maintenance and plowing of the site and entrance.

Gioiosa stated that one of the other elements concerns the small stormwater detention basin on the west of the proposed common driveway. He said a prior 2014 Tibbetts report commented on the close proximity of the entrance drive being too close to the small storm water detention basin. Gioiosa stated that WS Sheppard agreed to allow the relocation and cleaning of the detention basin allowing overland flow. The driveway will remain as is. Gioiosa stated they set it up so the overland flow can continue, making it a less deep and broader in scope so more of the surface runoff can be caught with the over flow directed onto the solar site and then to the wetlands.

Gioiosa said the environmental impact has been reduced considerably.

Whitin asked if there were any waivers being requested. Gioiosa stated that waivers being requested are to the existing driveway grade and separation to an adjacent existing driveway 48 feet away. He stated there isn't a better way to relocate the driveway without altering the wetlands. The waiver being requested is to allow the grading on the existing driveway and to remain as is at the current location. He noted they have looked at the driveway grade and its use over the years. It is in good condition and for the last ten years there have been no issues with public safety. Once the construction activity is complete, there will be no change in operation of driveway except for one additional truck a week. There is another existing driveway 48 feet away. Mr. Gioiosa stated that there would be little notice of any new activity to the solar site.

Whitin asked if the electrical connection to the grid is being relocated. Gioiosa stated they will connect through the Giumetti property via underground to the interconnection point and then to typical interconnection riser poles to the grid.

Whitin read the Tibbetts report dated December 23, 2016 into the record. Whitin noted the security gate mentioned in the report. CEC will provide a Knox box on the gate.

Hartnett noted that the solar project site plan was approved and the approval is still in place. The applicants are seeking a minor modification to the site plan to use a common driveway and have also applied for a Special Permit for a Common Driveway.

Hartnett asked that the basin being moved be included in phase I of the work which is the initial set up of the detention ponds before construction. He also noted that at the bottom of the driveway slope there is a small dip before entering into Rt. 177, but not the 50 feet required. He stated that environmentally, overall it is an improvement and the curb cut already exist.

Comments were reviewed from other departments with approvals from Assessors', Board of Health, Building Department, Conservation Commission and the Fire Department.

Sousa asked about the storm water impact to the additional paved length of the shared driveway and if there would be more stormwater flow towards Rt. 177. Gioiosa explained that they will be cutting the grade so that the natural flow will be in the direction of the wetlands. He noted that they eliminated the original 600 feet of paved driveway, but have not reduced the stormwater designs. There will be better drainage control as there is less impervious surface.

Raus asked where the transformers were being moved to. Gioiosa stated that the pad was close to the storage building which was removed and that has been moved to the other side of the drive way. He noted that there would not be any noise.

DeRego asked about the sign being inside and asked for clarification. Gioiosa stated that they would be obliged to place a sign with the address by the road and another mounted at the gate with emergency contact information. DeRego was concerned that emergency vehicles would be able to get onto the property. Gioiosa stated they would be able to access the property.

Whitin asked if the panels would be configured similar to the Cuffe Slocum site on Old County Road. Gioiosa stated CEC will be using the same type panels and configuration.

Whitin asked if they would plant pollinator friendly groundcover under the panels. Gioiosa stated that will be as was previously approved by the Board.

Hartnett read the Sample Waivers and Findings into the record.

Whitin added that if there is a second gate. A Knox box would be required on the existing gate and on the site gate as well. Hartnett added this to the conditions.

No further comment was given.

Raus motioned to close the public hearing for the Common Driveway Special Permit Application for Westport Power Associates. De Rego seconded the motion and the vote was unanimous with all in favor.

Raus motioned to approve the minor modification to an approved site plan pursuant to Westport Zoning By-Law Article 15 to change the location and design of the access drive servicing the Large Scale 2-Megawatt Solar Energy System subject to waivers, findings and conditions as listed in the Decision dated December 2, 2014. The scope and nature of the original approval has not been expanded. De Rego seconded the motion and the vote was unanimous with all in favor.

Raus motioned to approve the Special Permit for Westport Power Associates, for property owned by Giumetti Family Holdings, LLC and Azar Realty Trust, Adele Azar Realty Trust located at 822 American Legion Highway, Assessor's Map 31, Lots 17 & 17P, pursuant to Westport Zoning By-Laws Article 21 Common Driveway, subject to waivers, findings and conditions as stated. De Rego seconded the motion and the vote was unanimous with all in favor.

Approval Not Required (ANR) Azar (16-017A) Request by applicant for endorsement of a 2-lot plan of land located on American Legion Highway, Assessors' Map 31, Lot 17.

Steve Gioiosa from SITEC Engineering was present. Gioiosa noted that this ANR is associated with the solar project for the Westport Power Associates. Gioiosa stated that the applicant requested to divide the land into Lot 1 and Parcel A, and the applicant will convey Parcel A to the abutter. Gioiosa noted that Parcel A will be marked "Not Buildable", and Lot 1 will still meet all the requirements for frontage, uplands and area. Hartnett recommended endorsement of the plan.

Sousa motioned to endorse the plan entitled "Approval Not Required Plan of Land in Westport, Massachusetts prepared for AZAR REALTY TRUST" dated December 21, 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. De Rego seconded the motion and the vote was unanimous with all in favor.

De Rego motioned the Planning Board to sign the decisions of the minor site plan prior to the next meeting. Raus seconded the motion and the vote was unanimous with all in favor.

Public Hearing

Pursuant to the provisions of MGL ch. 40A § 5 and Article 2.1 of the Westport Zoning Bylaws, the Westport Planning Board will hold a public hearing on Tuesday, January 10, 2017, at 7:00 p.m. at the Town Hall Annex, 856 Main Road Westport. The purpose of the hearing is to accept public comments on the following proposed amendments to the Town of Westport Zoning By-laws:

Whitin read the Public Hearing Notice into the record.

Item 1. To amend Article 2, Section 2.5.9 for the purpose of increasing the time to act on a special permit from nine (9) months to three (3) years.

Whitin read the amendment into the record. Hartnett reviewed the minor change for the Board and recommended approval of the amendment.

Item 2. To amend Article 2, Section 2.6 for the purpose of adding the Planning Board as the Special Permit Granting Authority for the Flexible Frontage for Reduced Density (Article 23), for the Solar Energy Systems (Article 24) and for the Medical Marijuana Treatment Centers (Article 25).

Whitin read the minor changes into the record. Hartnett reviewed the reasons for the amendments, noting that the amendments do not change anything that is already permitted; the amendment just clarifies what was previously approved at the Town Meeting. No comments were given from the audience.

De Rego motioned to close the Public Hearing for the proposed zoning changes: Item 1 and Item 2. Sousa seconded the motion and the vote was unanimous with all in favor.

Raus motioned to recommend the enactment of the proposed Zoning articles; Item 1 as amended, and Item 2, and to forward the final language to the Board of Selectmen for inclusion on the 2017 Annual Town Meeting Warrant. De Rego seconded the motion and the vote was unanimous with all in favor.

Item 3. To amend Article 1, Section 1.1 Definitions for the purpose of deleting the definition of Agriculture and adding the definitions for “Agriculture and Agricultural”, “Agri-entertainment”, “Agri-tourism”, “Agri-commercial” and “Farm Enterprise”.

Whitin read the amended definitions into the record. Hartnett reviewed each of the modified definitions and recommended approval.

Item 4. To amend Article 4, by deleting Section 4.0.1 B, paragraph 6, for the purpose of redefining and permitting Agri-entertainment, Agri-commercial and Agri-toursim as accessory uses consistent with M.G.L Chapter 40A, Section 3.

Whitin read the amendment into the record. Hartnett reviewed the amendment and recommended approval. Hartnett reviewed a modification suggested by Kopelman & Paige and recommended using that modification.

The Agricultural Committee sent the Planning Board a letter of support dated November 18, 2016, and also recommended the approval of the amendments to Item 3 and Item 4.

Sousa motioned to close the Public Hearing for the proposed zoning changes: Item 3 and Item 4. De Rego seconded the motion and the vote was unanimous with all in favor.

Raus motioned to recommend the enactment of the proposed Zoning articles; Item 3 as amended, and Item 4 as amended, and to forward the final language to the Board of Selectmen for inclusion on the 2017 Annual Town Meeting Warrant. Sousa seconded the motion and the vote was unanimous with all in favor.

Items 5a & 5b. To amend Article 3, Section 3.1, for the purpose of rezoning from Business District to Residence/Agriculture District, that area on the east and west sides of Main Road from Cornell Road northerly approximately 4,700’.

Whitin stated that notices were sent out to all of the abutters that would be affected by the change, if the change was approved by the Board. Hartnett read a letter submitted by Albert Lees, dated January 10, 2017, into the record. In the letter, Lees suggested that the change should not be made, stating that a blanket change such as this one would have “unintended consequences” that would hurt individual residents and hurt the character of the Town as well. Whitin stated that he appreciated the letter submitted by Lees.

Wayne Sunderland, 1371 Drift Road was present and stated that in his opinion; there would be no reason of significance to make any change to the Zoning in the area. He stated that the property owners own that land and some have recently bought that land with the knowledge that it is zoned commercial, and changing the zoning could hurt the property value.

Judy Steinkrauss, 1219 Main Road was present and stated that she likes having the business free zone to keep big business out of that section of Westport but approves of the small locally owned business in the area.

Debby King, 1164 Main road was present and stated that she also favors keeping big business out of Westport, but also recognizes the local business history of the area.

Karl Santos, 1325 Main Road was present and stated that his family owns The Santos Farm, a very large plot of land in the affected area, off of which, he runs two separate operations (one dairy and one cheese operation). Santos opposed the change, stating that the change would affect the value of his property and could affect one or both of his operations in the future.

Matt Haines, 1403 Main Road was present and stated that he is the new owner of the property that used to be Ellie's Restaurant. He purchased the property knowing that he had commercial zoning on the property. Haines opposed the change and questioned if the change would affect the Public Water Supply on his new property. Whitin noted that the water supply belongs to the property, regardless of the zoning on the property. Hartnett explained how the line was drawn to determine where the Zoning change would be made.

Shawn Pariseau, 1492 Main Road was present and stated that he agrees with the letter submitted by Lees, and also agreed with the other residents that spoke in opposition of the change. He stated that the property values would decrease if the Zoning was changed.

Raus spoke briefly on the history of the zoning in Westport and welcomed any public input at future meetings in regards to zoning changes. Raus stated that the proposed zoning should be tabled to a later date or withdrawn completely.

Julie Haines, 1403 Main Road was present and stated that she also does not want big business in the area, but was opposed to changing the zoning in the area.

Raus motioned to close the Public Hearing for the proposed zoning changes: Items 5a & 5b. De Rego seconded the motion and the vote was unanimous with all in favor.

Raus motioned to withdraw the proposed zoning changes: Items 5a & 5b from the 2017 Annual Town Meeting Warrant. De Rego seconded the motion and the vote was unanimous with all in favor.

Item 6. To amend the By-Laws by adding a new ARTICLE 26, Temporary Moratorium of Recreational Marijuana Facilities and Related Uses, and further to amend the Table of Contents to add Article 26, "Temporary Moratorium of Recreational Marijuana Facilities and Related Uses."

Whitin read the proposed article into the record including the purpose of the article, the definition of "Recreational Marijuana Establishment", and a review of the proposed Temporary Moratorium. Hartnett stated that the moratorium would allow time for the town to review the regulations and identify the areas in the town where recreational marijuana use could be permitted.

Wayne Sunderland was present and agreed with the temporary moratorium.

De Rego stated that the one year moratorium was too long of a time frame. Discussion ensued. Raus stated that if something were put in place before the end of the moratorium on June 30, 2018, the Board could lift the temporary moratorium.

Raus motioned to close the Public Hearing for the proposed zoning changes: Item 6. Sousa seconded the motion and the vote was unanimous with all in favor.

Raus motioned to recommend the enactment of the proposed Zoning articles; Item 6 as amended, and to forward the final language to the Board of Selectmen for inclusion on the 2017 Annual Town Meeting Warrant. Sousa seconded the motion and the vote was unanimous with all in favor.

Approval Not Required (ANR) Roy (17-001A) Request by applicant for endorsement of a 3-lot plan of land located at 35 Cahoon's Lane, Assessors' Map 2, Lot 42-43.

Applicant Eugene Roy was present and requested that his land be divided into three buildable lots, so he can keep one lot, and give one lot to each of his two daughters. All three lots will have the required uplands, area and frontage, with the lots having the frontage from Cahoon's Lane. There are no wetlands on the property.

Hartnett described the condition of Cahoon's Lane. Roy noted that Cahoon's Lane is partially asphalt, partially gravel, and is 20' wide throughout. Discussion ensued. The Board discussed how many more house lots could Cahoon's Lane service without being improved.

De Rego motioned to endorse the Approval Not Required Plan entitled "Plan of Land in Westport Massachusetts (Bristol County) prepared for Eugene & Angela Roy 35 Cahoon's Lane Westport, Massachusetts" dated December 29, 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. Sousa seconded the motion and the vote was unanimous with all in favor.

Town Planner Report.

- a. **Gel's Way** – Hartnett stated that the property owners are in the process of hiring a new contractor to finish up the work. He noted that the first contractor did some lot clearing and began work on the common driveway. Tibbetts met with the new contractor and are waiting to see when the work will begin.
- b. **Private Acres** – Walter's Way has been before the Board a couple of times over the last few months and they just received a parcel release of their surety. When the plan was approved, the underground utilities were waived and the developer stated that this allowed him to use the existing utility poles. The existing poles are not located within the street right-of-way and would prohibit the proper siting of one of the structures; easements would also be required for the existing locations that cross over three or four lots. Hartnett noted that he explained to the developer that the underground utilities were waived but he is still required to install utility poles within the layout to service all the lots within the development. Recent as-build plans show that a portion of the drainage swale is located outside the easement lines and the developer would have to relocate the swale or increase the size of the easement. If the easement was to be changed he would need approval from the Planning Board.
- c. **Tibbetts Engineering** – George Mello submitted a copy of a draft inspection form to be handed out to the developers prior to construction. Hartnett stated that he would like more time to review it and make some changes.
- d. **St. Vincent Property** – The review committee for the St. Vincent property met with the Board of Selectmen on December 28th and noted some of the potential town uses for the

property. Open Space & Recreation was the preferred use but other uses discussed included cemetery and senior housing.

- e. **Budget FY2018** – Tim King had requested that the Planning Board reduce their expense account budget by \$1,300. Discussion ensued.
- f. **Podium** – Charlie Appleton completed work on the podium, the Town received a high quality piece of furniture for a minimal expense.
- g. **Prestige Automart** – Hartnett stated that he walked the site on Wednesday January , 2017, with Dan Aguiar from SITEC, and reported that the project is near completion but there is a punch list of items that need to be addressed including: pavement markings, signage, rip rap and lighting. He stated that, overall the project looks good and is a substantial improvement to what was previously located on the site.

Administrative Items:

None.

Any other business that may come before the Board.

None.

Correspondence.

- a. BOS- Summary of the Conflict of Interest Memo and forms. Reviewed and signed by members and the Recording Clerk.
- b. ZBA –Notice of Public Hearing on 1-11-17 for 929 Pine Hill Rd. Noted.
- c. DHCD – Subsidized Housing Inventory Biennial Update. Hartnett reviewed for the Board. Noted.
- d. DEP Written Determination for Ch91 application with conditions 46 Boathouse ROW. Hartnett noted that as an FYI: the Landing Commission is working with local engineers – as part of the fine, the applicants will be making betterments to other public waterway access points in Westport. One such is planned for the Adamsville Landing, through the Landing Commissioners.
- e. Ch91 License notifications:
 - 1). Murphy 173B Cadmans Neck Rd;
 - 2). Wohlauer 135-D Cadmans Neck Rd;
 - 3). Hale 0 River Rd M87 L51);
 - 4). Poulton 41 David Rd;
 - 5). Millikin 1541 Main Rd;
 - 6). Frampton 1806 Drift Rd.Hartnett briefly reviewed each of the Ch.91 License Notifications.
- f. TEC routine reports on Old County Road and Black Oak Circle. Noted.

Minutes.

December 13, 2016.

Raus motioned to approve the minutes as written. De Rego seconded the motion and the vote was unanimous with all in favor.

Invoices.

Phone monthly expense (Dec) Hartnett \$50.00.

South Coast Media Group- ZBL Public Hearing Notice \$345.00.

B&H Photo Video- Lectern Adapter for Camera \$31.35.
Registry of Deeds (Mileage) Lucy Tabit \$16.58.

Raus motioned to pay the invoices listed above. Cole seconded the motion and the vote was unanimous with all in favor.

ADJOURNMENT

Members unanimously voted to adjourn at 9:12 p.m.

Respectfully submitted,
Joan Steadman, Recording Clerk