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|   | **TOWN OF WESTPORT****856 Main Road****Westport, Massachusetts 02790**PLANNING BOARD |  **Tel. (508) 636-1037** **Fax (508) 636-1031** |

**PLANNING BOARD MEETING MINUTES February 6, 2018**

Chairman James T. Whitin called the meeting to order at 6:00 pm with members Marc De Rego and Robert Daylor and Town Planner James Hartnett. Vice-Chair David Cole was present through remote participation for one public hearing appointment. Member Andrew Sousa was absent.

**Approval Not Required (ANR) Acoaxet Chapel (18-004A) Request by applicant to transfer a parcel between existing lots Assessors’ Map 88, Lots 230, 231 & 232.**

Sean Leach from SITEC Inc. was present. The purpose of this plan is to create Parcel A from Assessor Map 88 Lot 232 and convey it to Assessor’s Map 88 Lots 230 & 231. Parcel A is not a buildable lot.

Daylor motioned to endorse the plan entitled “Approval Not Required Plan of Land in Westport, MA” prepared for Westport Free Chapel Assoc., dated January 10, 2018, 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 De Rego. The vote was unanimous with three in favor.

On behalf of the Acoaxet Chapel, Mr. Leach requested a reduction or waiver of the ANR filing fees.

De Rego motioned to reduce the fee from $400 to $200 to cover GIS expenses. Seconded by Daylor. The vote was unanimous with all in favor.

**Public Hearing** *Continued from November 14, & December 12, 2017*

**Clean Energy Collective (17-015SP-CD-S). Request by applicant to construct a 4-Megawatt solar energy system on 12 acres with a common driveway, total lot size 38.6 acres, for property owned by Paul L. and Viola P. Gay located between 442 and 486 Horseneck Road, Assessor’s Map 47, Lots 8 & 11 pursuant to Westport Zoning By-Laws Article 21 Common Driveway and Article 24 Large Scale Solar Energy System.**

The applicant requested to withdraw the application.

Having a quorum present, Whitin announced the remote participation by member David Cole, he cannot physically attend this meeting due to geographic distance but will participate by phone. Whitin opened the public meeting and a phone call was made to David Cole who could not be present. Whitin read the request to withdraw into the record from Clean Energy.

Attorney Kelly objected to a continuance at the last meeting because the abutters are concerned. He stated the Horseneck Road Coalition LLC, the group of neighbors, have requested the Board vote to approve the withdrawal with prejudice. He noted the applicant is still pursuing their appeal before DEP. If not withdrawn with prejudice, it would be an injustice and a black cloud over the neighbors’ environment. He has stated that the Clean Energy has requested a withdrawal without prejudice but public should be allowed to give input. He asked the Board to deny the request for withdrawal without prejudice and instead vote to withdraw with prejudice.

Attorney Philip Beauregard was present on behalf of Clean Energy Collective. He indicated that his client has not decided yet to drop the appeal with DEP. He defended the location but noted that they are looking to withdraw without prejudice as a fair action to the applicant. He noted that the applicant may have a different plan or configuration but it will not be the same as proposed. He stated that it would be uncalled for and not serve a useful purpose to deny a withdrawal with prejudice. Beauregard stated that even if there were a denial of the request, the applicant is not going to go through with this project, which he called a very respectable application but defeated by opposing abutters. Withdrawing with prejudice is appealable, as is a denial.

Daylor stated that the Planning Board has two options; permit the withdrawal with or without prejudice and what is before the Board is not the denial of the project on its merit. He does not think any further evidence without the applicant present should be allowed. Discussion ensued with abutters wanting to give more testimony but were respectfully asked to address the request to withdraw only and not the overall project.

Attorney Kelley stated that the Chair has the authority to allow a withdrawal with or without prejudice. Kelly said there is little fairness for neighbors who have spent time and money on this. Beauregard stated that the applicant has the right to come back.

Kelly stated that the neighbors are asking to not go through an identical project and to deny with prejudice so an identical application is not filed again. If it is voted without prejudice, the applicant can return with an identical application. He asked the Board to vote to allow withdrawal with prejudice so this project ends here tonight. Discussion ensued.

Daylor motioned to deny the request to withdraw without prejudice and to allow the withdrawal with prejudice. There was some more discussion after which, Daylor repeated the motion.

Daylor motioned to deny the request for withdrawal without prejudice and to allow the withdrawal with prejudice. DeRego seconded the motion. The Board voted 4 in favor, 1 absent (Sousa) to grant the withdrawal with prejudice. **Roll Call Vote:** Whitin-aye, Cole-aye, DeRego-aye and Daylor-aye.

Whitin noted the applicant cannot refile the same application.

Cole disconnected remotely and left the meeting at 6:40 p.m.

**Black Oak Circle (16-001C) Request by applicant for a reduction in surety.**

Greg Nicholas and Shayne Sousa were present. The surety being held is $25K and the applicant is requesting it be reduced. Tibbetts Engineering has recommended reducing it to $17K, but Mr. Nicholas requested in writing it be reduced further.

Whitin read the Tibbetts report dated January 22, 2018 into the record. After discussion, Nicholas asked to reduce the surety to $15k. Discussion ensued.

Daylor motioned to reduce the Performance Secured by Deposit of Money for Black Oak Circle

pursuant to the Form G Agreement dated February 21, 2017, from $25,000 plus interest to $17,000. Seconded by De Rego. The vote was unanimous with three in favor.

**Noquochoke Village (15-012 SPA-IHSP) – Update on drainage culverts/basins.**

Hartnett stated that the ConCom has issued an enforcement order. Hartnett noted the Tibbetts report dated 1/29/18 included over 40 pages of soil testing. Hartnett received an e-mail from John Fraser addressing the ConCom order in his e-mail. Fraser stated that one of the pipes has been flushed out and the second has not been cleaned out yet. The plan was to replace the culvert pipe in the spring when the apron is installed. Discussion ensued. Bob Alves was present and updated the Board with photos he took. Hartnett asked to wait for the developer’s responses.

**ADMINISTRATIVE ITEMS**

a. Helm Realty (17-014SPA). Endorse Decision. Daylor motioned to endorse. Seconded by De Rego. The vote was unanimous with all in favor.

b. Green Communities – recommend to BOS to take action. Motion by Daylor to send a memo to the Board of Selectmen supporting the Town’s application for this. Seconded by De Rego the vote was unanimous with three in favor.

c. DLTA- SPREDD District Local Technical Assistance. Members discussed. Hartnett will fine tune.

d. Culvert Grant. Whitin was not able to locate the document but will inquire with SRPEDD again.

e. Ch91 License issuance 41 David Road (21 day appeal period applies). Hartnett stated he spoke with Carlos Fragata at DEP regarding procedures on CH91 licensure. There is a new procedure that relates to public access and the state has assigned the Planning Board to collect any and all comments and respond to the DEP. The applicants still need to file with ConCom for an order of conditions. Fragata stated that the Planning Board is not required to comment. Comments from elsewhere would be funneled to the DEP through the Planning Board.

f. Ch91 Notification of application certification 690 River Road Underwood (comment period open). Hartnett will ask the engineer filing the application what is being request because it appears to be a new application but is not designated as such.

**TOWN PLANNER REPORT**

1. Phil Weinberg will be coming in on 2/20 to discuss SRF funding and stormwater regulations and coordinating review process; Denitrification Regulations – Regulations were discussed at the Water Resource Committee Meeting held on January 31, 2018; the committee did not come to a consensus and the regulations were put on hold.
2. A four-lot subdivision plan has been submitted for property on the west side of Old Pine Hill Road just north of Hix Bridge Road. A public hearing has been scheduled for March 6, 2018.
3. The contract for the Municipal Vulnerability Preparedness (MVP) has been signed with SRPEDD being the provider. The Town must develop a Core Team to work with the provider.
4. Governor’s office will be announcing the SRF grants next week.

**MATTERS NOT REASONABLY ANTICIPATED**

None.

**CORRESPONDENCE**

a. Tibbetts reports, various. Noted.

b. Gidley, Sarli & Marusak , LLP: letter stated they are being retained as attorneys for Costa, abutter to Noquochoke Village. Noted.

c. BOS – notification of Public Hearing for road acceptance of Wildberry Way on 3/5/18 at 6:05 p.m. Hartnett noted that there is discussion on discontinuance of a portion of Adamsville Road, but has not seen any paperwork yet.

**MINUTES**

January 25, 2018.

Daylor motioned to approve as written. Seconded by De Rego. The vote was unanimous with all three in favor.

**INVOICES**

Hartnett phone charge for Jan 2018 and mileage $113.38

WB Mason $15.48 for appointment calendars.

Members unanimously voted to approve the above listed invoices.

**ADJOURNMENT**

Members unanimously adjourned at 7:38 p.m.

Respectfully submitted,

Lucy Tabit, Assistant Planner