



TOWN OF WESTPORT
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PLANNING BOARD

PLANNING BOARD MEETING

August 11, 2020

Chairman Jim Whitin called the meeting to order at 6:01 p.m. with Vice-Chair Robert Daylor and members John Bullard, Manuel Soares, Mark L. Schmid, and Town Planner James Hartnett in attendance.

Call to order 6:00 p.m.

Chair's Announcement – Under MGL Chapter 30A, section 20(f) – Meeting is being recorded.

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:

A video recording of this meeting is posted on the town's website. (www.westport-ma.gov)

Call to order 6:00 p.m.

1. Administrative Items

- a. **Chapter 61A Release** – Selectboard is requesting comments on the Release of Land owned by the Mary F. Ferry for land located at 287-289 Gifford Road, Map 31 Lot 5A.
- b. **Chapter 61A Release** – Selectboard is requesting comments on the Release of Land owned by the Mary F. Ferry Trustee of 287 Gifford Road, Westport, MA located at 309 Gifford Road, Map 31 Lot 6.

Hartnett stated that these two lots abut each other and are in common ownership. Both lots are under agreement and the applicant would like them removed from Chapter 61A. Only the Northeast corner of lot 5A will be removed from 61A.

Schmid questioned the number of house lots that could be built on lots 5A & 6. Hartnett responded possibly 3-4 houses.

Bullard, Daylor, and Whitin had no objection to the release.

Motion

Daylor moved to recommend the release of lots 5A & 6 from Chapter 61A. Seconded by Schmid. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

- c. **Chapter 61A Release** – Selectboard is requesting comments on the Release of Land owned by the Meaders for land located at 570 River Road, Map 87 Lot 87.

Hartnett mentioned this lot was previously released by the Planning Board but it is currently under a different P & S agreement and the Selectboard asked the Board to act on it again.

Motion

Daylor moved to recommend the release of Map 87 Lot 87 from Chapter 61A. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

- d. **Private Acres (99-005C)** – Completion schedule.
- e. **Medeiros Farm (07-002C)** - Completion schedule.
- f. **Lot 37A Meadowbrook Farms** - Completion schedule.
- g. **Upland Trails (13-008C)** – Completion schedule.

Hartnett commented letters were sent to the developers to respond with a schedule for completion. He mentioned, the developer for Meadowbrook Farms requested a punch list from SW Cole and is working on finishing up the subdivisions. Medeiros Farm developer contacted Hartnett 8/1/20 with an update of a completion date, the developers from Upland Trails will also submit a schedule of completion. Hartnett suggested that the Surety may need to be revoked for Private Acres because he has not heard from the developer and the business has been dissolved according to Secretary of Massachusetts Corporation website.

Hartnett mentioned that no action is needed by the Board.

- h. **Old County Estates (14-006C)** Old County Estates – Surety reduction

Hartnett updated the Board on the subdivision, the as-built plans are being reviewed by S.W. Cole. Hartnett noted that the plans show parts of a wall within the layout. No action by the Board is needed until the plan is complete.

- i. **Jose Borges - Borges Drive (Costa Lane)** – Release of Covenant

A subdivision plan was approved by the Planning Board on April 22, 1997, a covenant was also filed with registry dated April 2, 1997. It appears that the subdivision was not completed within two years as stated in the covenant language and following an opinion from Town Counsel, the subdivision was automatically rescinded.

Hartnett gave a brief overview and mentioned the old subdivision was never rescinded because the subdivision was not completed within the 2 years. The Attorney doing the title would like the lots released from the old covenant.

Hartnett recommended releasing the lots from the old covenant.

Soares asked if Costa Lane was an accepted road. Hartnett responded it was not.

Motion

Daylor moved to release all lots from the Restrictive Covenant dated April 2, 1997, for the subdivision entitled “Definitive Subdivision Plan of Land prepared for Jose Borges.” Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

- j. **Approval Not Required (ANR) Jesse & Kelly Roderick. (20-014A)** Request by the applicant for endorsement of a plan showing 5 lots for land located at on Bergeron Lane and 61 American Legion Highway, Assessor’s Map 61 Lot 1.

Sean Leach of Sitec Engineering Inc. was present virtually representing the applicant. Attorney Richard Borges and Kelly Roderick were also present.

Leach addressed the Board and commented the ancient way was used for cottages on the pond. He commented the 5 lots meet the uplands and frontage requirements.

Amandio Araujo was present virtually. Araujo voiced his concern regarding the condition of the dirt road with the additional traffic of new houses accessing the road.

Attorney John Williams of 651 Orchard Street in New Bedford, MA was present representing Mr. Araujo. Attorney Williams commented there will be 19 houses and this would overburden the ancient way and it should be filed as a subdivision. Attorney Williams added there was no maintenance agreement.

Hartnett stated in his opinion this plan is not entitled to Form A endorsement, the travelled way servicing the lots was not in existence prior to the subdivision control law, there is no guarantee that the proposed lots will have rights to use the way and conditions cannot be applied on a Form A plan. While he believes they are not entitled to a Form A endorsement, he is not aware of anything that would prohibit a Form A endorsement by the Planning Board.

Hartnett read the October 21, 2003 Minutes for Bergeron Lane into the record. Hartnett mentioned the way was moved after 2005 as a Condition of Approval.

Ms. Roderick stated emergency personnel were notified and it was agreed it should be straightened out for the betterment for emergency vehicles. The location of the road was moved after 2005.

Daylor was in favor of the ANR for the division of the lots 5, 6, and 7. Soares agreed with Daylor.

Whitin asked if the owners of the cottages have the right to pass and repass. Leach mentioned the deed references the ancient way.

Whitin asked if the road was adequate for traffic. Hartnett visited the site and commented that the gravel way is 18'-20' wide, level and in good condition, the road appears to meet the access standards.

Daylor commented a road can be relocated as long as it benefits others for egress.

Daylor asked Leach if the 40' way will be on record for future homeowners.

The applicant submitted a letter from Attorney Richard C. Borges dated August 6, 2020 and a letter from AJ Potter dated August 10, 2020.

Motion

Daylor moved to approve endorsement of the plan entitled "Approval Not Required Plan of Land in Westport, MA prepared for Jesse & Kelly Roderick" dated August 4, 2020, because the plan complies with the provisions of MGL Ch. 41 Section 81P. Seconded by Soares. Upon a roll call vote being taken, members Bullard, Daylor, Soares, and Schmid voted aye. Whitin opposed. The motion carried 4-1.

Motion

Daylor moved the road was found adequate for the additional three lots. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Soares voted aye. Schmid and Whitin opposed. The motion carried 3-2.

- k. **Approval Not Required (ANR) Borrego Solar Systems Inc. (20-015A)** Request by the applicant for endorsement of a plan showing 4 lots, for land located at 573 Main Road, Assessor's Map 70 Lots 16 & 15C, and Map 69 Lot 5.

Attorney Daniel Perry, Borrego Counsel, and Josh Farkes from Borrego Solar Systems, Inc. were present virtually.

Hartnett mentioned the applicant is requesting Form A endorsement for a 4 lot division of property. Lot 1 will be the area previously approved for Borrego Solar development.

Whitin asked which lot is to be developed for the solar array. Hartnett confirmed Lot 1, with access through lots 2 and 3. Lot 3 will remain in Chapter 61A with an access easement to Main Road over map 70 lot 16B, C, & D; Lot 4 may have a restriction or sold to the Buzzards Bay Coalition.

Hartnett commented the plan meets the requirements and recommends endorsement.

The Chairman asked if there were any public comments. There were none.

Motion

Daylor moved to approve endorsement of the plan entitled "Plan of Land in Westport, MA South Bristol Registry prepared for Borrego Solar Systems, Inc." dated February 28, 2020, because the plan complies with the provisions of MGL Ch. 41 Section 81P. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

6:15 p.m. Public Hearing

2. Borrego – 0 Division Road (20-004SP-LID-S)(continued from July 14, 2020)

Request by the applicant to consider the Special Permit and Site Plan Approval Low Impact Development applications for **Borrego Solar Systems, Inc.** for property owned by **John Ciccotelli and Marie T. Ciccotelli**, and located on the west side of **Division Road between 355 and 403 Division Road**, Assessor's **Map 46, Lot 8, 9C**. Pursuant to Westport Zoning By-Laws Article 20 Low Impact Development and Article 24 Large Scale Solar Energy System, the applicant requests permission to construct a solar energy system, approximately 2.1 Megawatts.

Hartnett mentioned the response letter from Borrego was filed on August 6, 2020; time did not allow the revision to be reviewed by the staff or the Board's consultant prior to this meeting.

Hartnett suggested the Public Hearing be opened.

Matt Swansburg from Borrego Solar Systems, Inc. was present virtually to represent the applicant. Swansburg mentioned they will be filing using the new solar By-Laws but are asking for one waiver being they are within 100' of wetlands and gave a general overview of the project.

Hartnett read the Field Engineering review letter dated June 24, 2020, into the record and the department reviews. Hartnett brought attention to the comment from the Conservation Commission.

Bullard acknowledged the applicant would be permitted under the new By-Law regulations, however, questioned why they didn't aim for 100% compliance. Swansburg responded, Borrego filed previously under the old By-Laws to freeze the zoning but usable acreage is smaller than anticipated so without use of the wetland buffer, the project would not be financially feasible.

Hartnett commented Field Engineering submitted a review dated 6/24/2020 and comments have been addressed by the applicant. A resubmittal from the applicant has been forward to Field for a second review.

Hartnett read the Department Reviews into the record.

Daylor suggested the applicant and consultant review the LID requirements closer.

The Chairman asked if there were any public comments. There were none.

Motion

Daylor moved to continue the hearing to September 22, 2020, at 6:15 p.m. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

6:45 p.m. Public Hearing

3. 5-Star Collision (19-016SPA) (Continued from January 28, 2020, March 24, 2020, May 19, 2020, July 14, 2020)

Request by the applicant to consider the Site Plan Application of **Commercial Project – Expansion Plan 5-Star Collision Center** for property located at **683A and 683B American Legion Highway (Route 177)**, Assessor's Map 35, Lot 3A, pursuant to Westport Zoning By-Law Article 15 for Site Plan approval, to construct an additional 8,000 sq. ft. building for a state-of-the-art auto body repair facility replacing the existing building. A total of 50 parking spaces are planned.

Hartnett informed the Board Attorney Brian Corey requested a continuance for this project. Attorney Corey would like to schedule a visit with the Town Planner and any available board members for feedback.

The Chairman asked if there were any public comments. There were none.

Motion

Daylor moved to continue the hearing to September 22, 2020, at 7:00 p.m. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

4. Planners Report.

1. Tree Beard Inc – Old Soul Gardens. Hartnett added he attended virtually the outreach public hearing presented by Tree Beard Inc./Old Soul Gardens on August 3, 2020, for approximately 1 hour. Hartnett mentioned there was an increase in phone calls and emails to the Planning Department after that meeting from concerned residents in opposition.

2. Route 6 - Hartnett updated the Board on the Rt. 6 Kleinfelder study that has been completed. A work session was recommended for discussions on moving forward.

Whitin suggested meeting with the Selectboard possibly in person, but still socially distance, to discuss the project updates. Daylor shared the Chairman's view and is not in favor of presenting to the Selectboard via google meets.

3. Sidewalks - Hartnett mentioned a member of the Disabilities Commission questioned the sidewalk regulations in a 20+ lot subdivision. Whitin mentioned a review of the sidewalk regulations could be discussed at a future work session.

5. Matters Reasonably Anticipated.

Daylor asked when the revised Zoning recodification would be available to the public. Hartnett responded, the paperwork has been filed with the Town Clerk and believes the Attorney General's office has 90 days to review.

Bullard mentioned that Michael Sullivan would like to meet with the Board members to discuss the results of the East Beach Committee survey results. Hartnett to confirm a meeting date with Joe Famely from Wood's Hole.

Motion

Daylor moved to endorse the plans approved at town meeting for street acceptances at Briggs Landing. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

6. Correspondence.

- a. Lincoln Heights (19-003C-MOD). Noted
- b. Tree Beard Inc., d/b/a Old Soul Gardens. Noted
- c. CVE Solar (18-003SP). Noted.
- d. Carvalho Lane (12-004C) Noted.

7. Minutes

July 14, 2020

Motion

Daylor moved to approve the July 14, 2020 minutes as written. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

8. Invoices

- a. Quill - \$91.45

Motion

Bullard moved to approve the Quill invoice. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

Adjournment

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

Respectfully submitted,

James Hartnett, Town Planner

Nadine Castro, Assistant Town Planner II