



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

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## **PLANNING BOARD**

### PLANNING BOARD MEETING

September 22, 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 Schmid, and Town Planner James Hartnett in attendance.

**Chair's Announcement** – Under MGL Chapter 30A, section 20(f) – The 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:*

*An audio recording of this meeting is posted on the town's website. ([www.westport-ma.gov](http://www.westport-ma.gov))*

### **1. Administrative Items**

**a. Approval Not Required (ANR) Coelho (20-020A)** Request by the applicant for endorsement of a Plan showing 4 lots, for land located at 60 American Legion Highway, Assessor's Map 21 Lots 2B, 2D. **Coelho (20-006SP)** – 60 American Legion Hwy – Endorse decision.

Hartnett commented the Flexible Frontage Special Permit was granted by the Board on September 8, 2020. The zoning permitted the reduced frontage and the proposed Form A plan allows them to show the lots on a recorded plan and recommends endorsement.

### **Motion**

Bullard moved to approve endorsement of the plan entitled "Approval Not Required Plan of Land in Westport, Massachusetts prepared for David Coelho" because the plan complies with the provisions of MGL Ch. 41 Section 81P. 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.

### **Motion**

Bullard moved to endorse the Special Permit for Flexible Frontage Decision because it complies with the Zoning By-Law Article 23. Daylor seconded. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

**b.** 999 Main Road, LLC (15-007SPA) – Closeout and release Consultant Review balance and interest. (\$455.00+ Interest)

Hartnett recommended the balance of \$455.00 plus interest be returned to the applicant because the site plan was approved in June 2020 and the review has been completed and invoices have been paid.

### **Motion**

Bullard moved to close out and release the balance and interest for 999 Main Road. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, and Whitin voted aye and the motion carried 4-1. Soares abstained.

**c. Old Pine Hill Road Solar (19-002S)** – Closeout and release Consultant Review balance and interest. (\$2,452.50 + Interest)

Hartnett recommended the balance of \$2452.50 plus interest be returned to the applicant because the review has been completed and invoices have been paid.

**Motion**

Bullard moved to close out and release the balance and interest for Old Pine Hill Road Solar. 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.

**d. Chapter 61A Release** – Selectboard is requesting comments on the Release of Land owned by John A. Santos, III, and Lyndelle M. Santos for land located on the west side of Main Road, Map 55 Lot 29 (**Lots 1, 5 & 6**).

Hartnett mentioned the applicant is looking to release three lots from 61A on Main Road which is part of the Santos Farm.

Whitin added he spoke with the Land Trust and they are unable to commit to purchasing any lots at the moment.

Bullard asked what the result would be if the Board remained silent on this matter. Whitin stated that the Selectboard will make the final determination.

Schmid asked if there was interest from other committees to purchase the Lots 5 & 6 for a parking area for the preserved area across the street.

Hartnett mentioned there are Purchase and Sales agreements for Lots 1, 5 & 6.

The Board took no action on the 61A lot releases.

**e. Lincoln Heights (19-003C)** Request change in the performance guarantee

Sean Leach of Sitec Engineering was present virtually on behalf of the applicant. Jody Holmes, the applicant, was present virtually.

Leach was seeking approval to reduce the surety from \$40,000 to \$20,000 and to release Lot 2.

Hartnett mentioned the applicant is looking to release only Lot 2 with a cash surety of \$20,000. He said Lots 1, 3, and 4 would remain under a restrictive covenant. Hartnett reviewed the report dated September 18, 2020, prepared by S.W. Cole.

Daylor asked if the road extends in front of Lot 2 that is being released. Hartnett confirmed yes.

**Motion**

Daylor moved to release Lot 2 from the Form F Covenant dated November 11, 2020, and recorded in Book 12690, Page 139, and to reduce the surety estimate from \$40,000 to \$20,000. 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.

**f. Non-medical Marijuana** – Review Existing regulations and discuss the process for potential changes to the zoning.

At the request of the Board, Hartnett gave a comparison presentation of the proposed regulations and the regulations that were approved in 2020. He mentioned there was a citizen's petition that was included on the Special Town Meeting warrant on October 3 to reverse the General By-Law that was approved on February 11, 2020. Hartnett added he spoke with Town Counsel regarding the conflicting regulations and mentioned that counsel opined that the Zoning By-Law would prevail, however, there is no case law so the direction is unclear.

Attorney Brian Corey was present virtually. Corey mentioned the Selectboard supported the articles on the warrant at their September 21, 2020 meeting.

Jay Caroselli was present virtually and commented the Selectboard was supporting the articles. Caroselli mentioned Town Counsel did note the conflicting By-Law regulations.

Whitin would like to review the wording in the zoning articles that were proposed in 2018 to include craft cultivation along with specifying which zoning district would be appropriate to protect residents.

Daylor and Whitin to review the By-Laws. Hartnett will send a copy of the 2018 and current By-Laws to the consultant for review and recommendations.

Jake McGuigan thanked the Board for addressing the communities concerns.

Whitin invited Jake McGuigan and Jay Caroselli to participate in the process.

#### **g. CEC Solar (15-006SP) Review Seeding Plans**

Hartnett mentioned that members Soares, Schmid, and himself visited the site on Old County Road to review the growth of the vegetation. He added that sites 4 & 5 could be reseeded, 1 and 3 were acceptable.

Schmid added the seeding was sufficient with growth.

Soares agreed the erosion control is favorable and recommended the additional seeding.

#### **Motion**

Daylor moved to approve the reseeding plan for CEC Solar. 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.

#### **h. Town meeting warrant review**

Hartnett reviewed with the Board the warrant articles, the budget, and changes. Town meeting will consider increasing the Planning Boards' budget to include the assistant planner position and additional MS4 funding.

#### **6:15 p.m. Public Hearing**

##### **2. Borrego – 0 Division Road (20-004SP-LID-S)(Continued from July 14, 2020, August 11, 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.

Steve Gioiosa from Sitec Engineering was present virtually representing Borrego Solar. Gioiosa recapped the project and mentioned the total clearing area would be 11.50 acres total. He met with ConCom and they have hired an independent consultant to review the wetland impacts. Gioiosa mentioned Chris Capone, agent for the ConCom, voiced his concern regarding the soil conditions of the access drive and placement of culverts.

Whitin asked if there were any structures on the property. Gioiosa replied, there were no structures on the property.

Whitin asked what the meeting status is with ConCom. Gioiosa responded the hearing was continued to September 29, 2020, and doesn't anticipate being before them until October.

Hartnett would like clarification on if they will be filing under old regulations and what the setback for the wetlands are. Gioiosa responded the over clearing would be for shade control and would be within the buffer.

Hartnett mentioned the reviews and responses that were submitted.

- Field Engineering Review 1<sup>st</sup> June 24, 2020
- Borrego Response July 21, 2020
- Field Engineering Review 2<sup>nd</sup> August 19, 2020

Hartnett mentioned the buffer zone clearing is almost 4.85 acres around the wetlands.

Bullard asked if neighbors were present to voice their opinion. He added he was concerned about the waivers on the wetlands and was interested in hearing ConCom's comments.

Daylor asked what the plan is for the open space parcel. Gioiosa responded, 12 acres are being proposed to be deeded for conservation restriction for permanent open space preservation.

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

### **Motion**

Daylor moved to continue the hearing to November 4, 2020, at 7:00. 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.

### **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, August 11, 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 existing building. A total of 50 parking spaces are planned.

Hartnett informed the Board Attorney Corey requested a continuance for this project. He mentioned the project has been continued several times dating back to January 28, 2020.

Hartnett and Soares met with the engineer to discuss of their concerns.

### **Motion**

Daylor moved to continue the Public Hearing to November 17, 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.

## **4. Planners Report**

1. Hartnett mentioned Town Meeting was scheduled for October 3<sup>rd</sup> at 10:00 a.m., at the high school.
2. Hartnett mentioned he was working on the 2020 Annual Report for the MS4 permit with Kleinfelder. He watched a webinar from Environmental Partners on permitting compliance with the EPA. Hartnett will send a letter to the town administrator regarding funding for the MS4. He added, EPA is looking for a separate stormwater By-Law and Hartnett is discussing that with Kleinfelder.
3. Hartnett mentioned he will be out of the office Wednesday, Thursday, and Friday.

## **5. Matters**

Whiten will send a webinar link to the members from SRPEDD regarding solar development/siting with Zara Dowling from the Salem Conservation Commission.

Whitin commented Daylor will participate in a virtual meeting with the Board of Health to discuss new regulations for denitrifications for new construction.

## **6. Correspondence**

Hartnett mentioned the correspondence that was in their packets.

- a. Old County Estates (14-006C) S.W. Cole Report

Hartnett mentioned members Schmid, Soares and Hartnett did a site visit to Jo-ann's way to address punch list items in S.W. Cole's report dated 9/11/20.

- b. Lincoln Heights(19-003C-MOD) - Noted
- c. Zoning Board of Appeals – Westport/Fall River - Noted

## **7. Minutes**

September 8, 2020

### **Motion**

Bullard moved to accept the minutes as written. 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.

## **8. Invoices**

None

### **Adjournment**

The members unanimously adjourned at 7:52 p.m.

Respectfully submitted,

James Hartnett, Town Planner

Nadine Castro, Assistant Town Planner II