



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

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## **PLANNING BOARD**

### **PLANNING BOARD MEETING**

July 13, 2021

Chairman Jim Whitin called the meeting to order at 6:00 p.m. with Vice-Chair Robert Daylor and members John Bullard, Manuel Soares, Mark L. Schmid, and Town Planner James Hartnett were in attendance.

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

#### **1. Administrative Items**

- a. **431 Fisher Road LLC (20-002C)** Accept Covenant and Home Owners Association and Endorse Plan.

Hartnett mentioned the subdivision was approved by the Board previously and that no appeal was filed.

Whitin expressed concern about the homeowners being protected 15-20 years in the future. Hartnett said that once the Planning Board releases the surety, the Planning Board is done. He highlighted a clause that indicates the municipality has the authority to charge them for services rendered by the town.

Attorney Nicholas Gomes of The Law Office of Nicholas A. Gomes was present representing the applicant, Ronald Oliveira. Attorney Gomes stated that the Homeowners Association is not intended to include the municipality in the maintenance of the roadway, and it is Mr. Oliveira's obligation to guarantee that the procedures of the contract are followed along with the other members of the association once the lots are sold.

Schmid asked if Town Counsel reviewed this Covenant. Hartnett responded this is a standard covenant for all subdivisions that Town Counsel has approved. Attorney Gomes commented that his office will issue a packet to the new homeowners outlining what is required within that association.

#### **Motion**

Bullard moved to accept the covenant and homeowners association for 431 Fisher Road LLC and endorse the plans. Seconded by Daylor with all five members in favor.

- b. **Approval Not Required (ANR) 227 and 235 Beeden Road (21-014A)** Request by the applicant for endorsement of a Plan of Land showing 2 Lots for land located at 227 and 235 Beeden Road, Map 34 Lots 43D and 43E.

Matthew Pike from Southcoast Engineering was present on behalf of Paul Eastwood and Ryan Nickelson. The applicants are looking to swap equal parcels of land for 227 and 235 Beeden Road to build a garage that wouldn't meet the setback requirements on the southern line.

Hartnett will follow up with the Board of Health on the setback requirements for the well distance from the property boundary.

### **Motion**

Bullard moved to approve the endorsement of the plan entitled “Plan of Land Assessor's Plat 34 Lots 43D and 43E, 227 and 235 Beeden Road Westport, MA” because the plan complies with the provisions of MGL Ch. 41 Section 81P. Seconded by Daylor with all five members in favor.

- c. Pre-Application Consultation (21-002PAC)** Request by the applicant to discuss the development of land at the south end of Highridge Road Assessor Lots (Map 42 Lots 1T, 7 & 8).

Sean Leach of Northeast Engineers Consultants was present representing the applicant.

Leach commented he is looking for some initial feedback from the Board on the proposed design.

Whitin suggested going with two Flexible Frontage lots without extended the road with larger lots and minimize the construction costs.

Schmid opposed the addition of a gravel path and proposed that the pavement be extended to the new dwellings.

Daylor proposed changing the island and widening the road to provide access to the opposite side of the road.

Eric Raposo of 82 Highridge Road was present and mentioned it was an opportunity to develop some future lots for his children or to build a new home for his family.

Bullard suggested possibly connecting either to White Oak Run or Pine Hill Road bringing the street into compliance.

Nan Laird 787 Pine Hill road was present and discussed the disadvantages of living on a dead end road.

- d. Jo-Ann’s Way (14-006C)** Endorse Road Acceptance.

Hartnett mentioned Jo-Ann's Way was approved at Town Meeting on June 5, 2021, and the plan is before the board to endorse the street acceptance.

### **Motion**

Bullard moved to endorse the street acceptance plan for Jo-Ann’s Way. Seconded by Daylor with all five members in favor.

- e. Walter’s Way (99-005C)** Review drainage.

Hartnett said that Alex Gorodetsky was the original engineer for the Walter's Way development in 2002 and that he has created a preliminary design for the Board's evaluation and suggestions.

- f. Chapter 61A (21-004CH61A)** Selectboard is requesting comments on the Release of Land owned by John A. Santos III & Lyndelle M. Santos located at 0 Main Road, Map 55 Lot 29. Lot 2
- g. Chapter 61A Release (21-005CH61A)** - Selectboard is requesting comments on the Release of Land owned by John A. Santos III & Lyndelle M. Santos located at 0 Main Road, Map 55, Lot 29. Lot 3.

Hartnett commented the Board of Selectmen has released lots 1, 5 & 6 from Chapter 61A, and the property owner would like lots 2 & 3 released.

### **Motion**

Bullard moved to recommend the release of lots 2 & 3 from Chapter 61A. Seconded by Daylor with all five members in favor.

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

2. **Ironwood Renewables, LLC (21-001SP)** (*Continued from May 11, 2021*) Request by the applicant to consider the Special Permit and Site Plan Approval Low Impact Development applications for **Ironwood Renewables, LLC.** for property owned by **Randy S. & Patricia A. Mayall, Trustees of the Mayall Family Trust,** and located on the west side of **Horseneck Road between 1227-A and 1143 Horseneck Road,** Assessor's **Map 76, Lot 69S.** Pursuant to Westport Zoning By-Laws Section 8.2 Low Impact Development and Section 9.6 Large Scale Solar Energy System, the applicant requests permission to construct a solar energy system of approximately 5.26 Megawatts DC, lot size 45 acres. (*Request has been made to continue this hearing until August 10, 2021*).

Hartnett stated that Hamilton Carrier from Ironwood Renewables requested a continuation to allow time for a site walk with the Conservation Agent, Christopher Capone, to discuss the natural resources on the area of disturbance and to have a delineation of the resource zones.

Bullard stated that he will be unable to attend that meeting.

### **Motion**

Bullard moved to continue the Public Hearing for Ironwood Renewables to August 10, 2021, at 6:45 p.m. Seconded by Daylor with all five members in favor.

### **6:20 p.m. Public Hearing**

3. **795 Pine Hill Road (21-003SP)** Request by the applicant to consider the Special Permit application of **David and Paula Emilita** for property located at **795 Pine Hill Road,** Assessor's **Map 38 Lots 13 & 13A,** pursuant to Westport Zoning By-Laws section 8.5 for a Common Driveway Special Permit and Section 8.6 for a Flexible Frontage Special permit requesting approval to reduce frontage requirements on a public way in exchange for a corresponding reduction in development density and a common driveway servicing two (2) lots.

Matthew Pike with Southcoast Engineering was present representing David and Paula Emilita.

Hartnett commented the frontage meets the town's requirements. He noted the building envelop appears to be relatively small around the proposed buildings and suggested increasing the building envelope size and a homeowners association will be required.

Hartnett read S.W. Cole's report dated July 7, 2021. Hartnett will add the Fire Department's request to include a sign with both street addresses to the Conditions. The Department reviews were also read into the record.

Daylor stated that once you get the driveway outside the common driveway there is no reason why the clearing area has to be 20'. The laneway is only 12' wide servicing the one house.

Nan Laird, 787 Pine Hill Road, was present and mentioned she was pleased with keeping the vegetation but was concerned about the additional water draining onto her property because of the ravine between the two properties.

Hartnett read the Sample Special Permit Common Driveway & Flexible Frontage Findings of Facts and Conditions into the record.

### **Common Driveway**

1. Plan should show a paved apron at the intersection of Pine Hill Road. Common Driveway profile should be shown.
2. Common Driveway shall meet the secondary Road Standards (Section 8.5.2.I), Planning Board may grant a waiver to these standards (Section 8.6.3)
3. Requires a Home Owners Association.

### **Flexible Frontage**

#### **Findings of Fact**

The Board found that the reduction in frontage meets the purpose and intent of the Flexible Frontage By-Law by allowing for a better design by providing restrictions on further lot division, limiting areas to be cleared, and reducing the number of house lots, thereby reducing disturbed areas and stormwater runoff. The Planning Board previously approved a subdivision plan showing that five lots, by granting this special permit the applicant would be limited to two lots with designated protected open space. This would prohibit further subdivisions, limit the land clearing and thereby reduce stormwater runoff. The Board found that the Flexible Frontage design standards were utilized to the maximum extent feasible as defined in section 8.6.3 of the Zoning By-law.

#### **Conditions:**

1. A plan suitable for recording (The Form A Plan may be used to meet this Condition) shall be submitted with the following statements and conditions:
  - a) “Subject to a Special Permit pursuant to the Town’s Flexible Frontage By-Law, Section 8.6 granted on\_\_\_\_\_, by the Westport Planning Board and Recorded in the Bristol County Southern District Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_.”
  - b) “Subject to a Special Permit pursuant to the Town’s Common Driveway By-Law, Section 8.5, granted on\_\_\_\_\_, by the Westport Planning Board and Recorded in the Bristol County Southern District Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_.”
  - c) Lot 2 as shown on this plan benefiting from reduced frontage under Zoning By-law, Section 8.6 shall not be further subdivided and no modification of the clearing restrictions and the building locations shall occur without a corresponding modification of the Flexible Frontage Permit.
  - d) No lot clearing shall begin and no building permits shall be issued for lot 2 as shown on this plan benefiting from reduced frontage under Zoning By-law, Section 8.6 until the Special Permit has been duly approved, executed, and recorded and evidence of the recording of the restrictions has been filed with the Inspector of Buildings.
  - e) Clearing areas on lot 2 shall be limited to the common driveway and the areas identified as “Maximum Clearing Limits” for lot 2.

- f) Occupancy permits shall not be issued for lot 2 until the common driveway has been constructed. The applicant's engineer shall certify to the Planning Board that the common driveway was built in substantial conformity with the approved design plans and a Form R, Inspection Certificate shall be submitted and signed by a Registered Professional Engineer.
  - g) Lot 2 shall only be accessed from the Common Driveway.
  - h) Lot 2 shall provide roof runoff infiltration systems capable of handling a minimum of 600 c.f. of roof runoff. The infiltration system shall be installed prior to the issuance of an occupancy permit. The applicant's engineer shall design, inspect and certify that it was installed.
2. Submittal and recording of a Homeowners Association meeting the conditions of Section 8.5 of the Town's Zoning By-laws.
3. A sign shall be placed at the beginning of the common driveway listing the addresses of the houses using the driveway for access.

### **Common Driveway**

#### **Findings of Fact:**

The Board found that the project as presented enhances public safety by reducing the number and frequency of points at which vehicles may enter upon the ways used by the public. Lots 1 & 2 will use the common driveway as one access point onto Pine Hill Road. The project as presented will preserve, protect and enhance environmentally sensitive land, such as wetlands, by reducing the area of land that is cleared excavated, filled, and/or covered with impervious material. Lot 2 will have restrictions limiting the clearing areas and maximum building envelope. The project as presented encourages the protection and preservation of significant features including the large wetland area along the easterly and northerly boundaries of the property.

#### **Conditions**

Same as Flexible Frontage Special Permit

#### **Motion Flexible Frontage**

Bullard moved to approve the Special Permit application for David and Paula Emilita for property located at 795 Pine Hill Road, Assessor's Map 38 Lots 13 & 13A, pursuant to Westport Zoning By-Laws Section 8.6 for a Flexible Frontage Special permit requesting approval to reduce frontage requirements on a public way in exchange for a corresponding reduction in development density and a common driveway servicing two (2) lots, subject to findings and conditions as read. Seconded by Daylor with all five members in favor.

#### **Motion Common Driveway**

Bullard moved to approve the Special Permit application for David and Paula Emilita for property located at 795 Pine Hill Road, Assessor's Map 38 Lots 13 & 13A, pursuant to Westport Zoning By-Laws Section 8.5 for a Common Driveway Special permit subject to findings and conditions as read. Seconded by Daylor with all five members in favor.

#### **6:45 p.m. Public Meeting**

4. **Isidoro Court (21-002C)** (*continued from March 23, 2021, April 20, 2021*) Request by the applicant to consider a definitive subdivision plan entitled **“Definitive Subdivision Plan of Isidoro Court in Westport, Massachusetts”** prepared for **Anthony Medeiros** and located at 93 Fisher Road, Map 40 Lot 30D, proposing to divide the property into two (2) lots.

Steve Gioiosa of Sitec Civil & Environmental Consultants was present representing the applicant.

Gioiosa commented he went to the zoning enforcement officer and they are required to meet the 25' setback from the new street. He said there are four options; 1. Demolish the house and move and reconstruct the house, 2. Relocate the house in the southerly direction, 3. Demo a portion of the house and relocate that demolished portion of the house, or 4. Request a waiver on the Right of Way width to reduce it to a 25' with a 15' easement and eliminate the current driveway and have a single entrance onto Isidoro Court.

Daylor was not in favor of the Right of Way waiver and suggested the Flexible Frontage option for this project. Gioiosa mentioned the Flexible Frontage option would not work because there wouldn't be enough land to meet the requirements.

Hartnett asked if there was a possibility to acquire land from one of the neighbors to increase the total uplands. Gioiosa didn't believe it was an option, but he'd discuss it with his client.

Laurie Hammontree of 87 Fisher Road was present and voiced her concern about water draining onto her property.

#### **Motion**

Bullard moved to continue the Public Hearing of Isidoro Court to August 10, 2021, at 6:45 p.m. and grant an extension of time.

Hartnett updated the Board on the following items:

- MS4 filing of the IDDE plan
- The stormwater management plan was filed at the end of June. Hartnett will be working with Kleinfelder on the annual report that is due at the end of September.
- Mass Maritime interns and the Buzzards Bay National Estuaries Project worked on mapping at a reduced cost.
- Bike path and complete streets working with SRPEDD to apply for funding.
- Senator Rodrigues was able to secure the earmarked monies for the 177 Tickle Road roundabout for an additional year.
- The Assistant Planner position was advertised and posted on the municipal website.

#### **5. Correspondence**

- a. Dartmouth/Fall River/Westport Zoning Board of Appeals notices. *Noted*
- b. **Chapter 91 License (21-006CH91)** – 18 Glen Road – Ash Tree Heights Corporation. *Noted*

#### **6. Minutes**

- a. June 15, 2021

#### **Motion**

Bullard moved to approve the minutes of June 15, 2021, with the changes to the Town Meeting approved budget and the Rural Community Grant application amount. Seconded by Daylor with all five members in favor.

## **7. Invoices**

- a. Planner monthly phone expenses (May/June) \$100
- b. Planners Mileage (May/June) \$14.90
- c. Whitin - SRPEDD Mileage \$72.58

## **Motion**

Bullard moved to approve the invoices totaling \$187.48. Seconded by Daylor with all five members in favor.

## **8. Short/Long-term Planning Discussions**

Whitin suggested that any talks about modifications to the By-Laws, new zoning districts, or the necessity for a water district be submitted to the Selectboard by December in preparation for the Annual Town Meeting in May.

Bullard proposed holding a work session to examine changes to the solar By-Laws that would encourage solar development in commercial locations and what groups could assist with grants.

## **Adjournment**

The members unanimously adjourned at 8:33 p.m.

Respectfully submitted,

James Hartnett, Town Planner  
Nadine Castro, Assistant Town Planner II