



**TOWN OF WESTPORT PLANNING BOARD  
MEETING MINUTES  
December 13, 2022**

APPROVED

**PLANNING BOARD MEETING**

Chairman Jim Whitin called the meeting to order at 6:02 p.m. with Vice-Chair Robert Daylor and members John Bullard, Manuel Soares, Town Planner, Michael Burris, and Assistant Town Planner Amy Messier in attendance. Mark L. Schmid was absent.

**Chair's Announcement** – Under MGL Chapter 30A, section 20(f) – The meeting was recorded.

**Call to order 6:00 p.m.**

**1. Administrative Items**

**Highridge Road (22-007PAC)** Requested by Eric Raposo to discuss a Flexible Frontage plan consisting of three lots, Map 42, Lots 1T, 7 & 8.

Sean Leach of Northeast Engineers and Consultants was present along with the applicant, Eric Raposo. Leach appeared before the Board to review the proposed plan for comments and/or suggestions. He commented that the two lots would each be approximately 6 acres and would provide frontage on the cul-de-sac. Whitin inquired as to whether two lots sharing a driveway would need a Homeowner's Association (HOA). Leach confirmed that an HOA would be needed per the bylaws and the shared driveway. No further comments were made by the Board or the audience.

**a. Coastal Healing (20-007SP-RM)** Review of the number of appointments/hours for non-medical retail sales, *Partial release of Surety*.

David Bullis was present on behalf of Coastal Healing. Bullis provided an update on the number of recreational sale appointments the Board asked for on November 15, 2022. Bullis stated that over the four weeks, they only had 33 appointments total, which equates to three customers every hour.

Ms. Messier, Assistant Town Planner, and Michael Burris, Town Planner, both recommended that Condition #16 of the Special Permit - Non-Medical Marijuana Decision (20-007SP-RM), which required scheduled appointments, be eliminated because parking and traffic were not an issue.

**Motion**

At the recommendations of the Assistant Town Planner and Planner, Bullard moved to lift Condition #16 of the Special Permit – Non-Medical Marijuana Decision for Coastal Healing, LLC based on the recommendation of the planners for Coastal Healing. Seconded by Daylor with all four members in agreement.

Ms. Messier recommended returning \$25,000 of surety and retaining \$25,000 for the remaining work that needs to be completed.

**Motion**

Bullard moved to release \$25,000 of the surety and retain \$25,000 to provide for the remaining resurfacing requirements of Route 6. Seconded by Daylor with all four in agreement.

**b. Brookwood Drive Solar (19-005SP)** – Surety deposit of \$150,000.

Michael Giaimo was present representing Borrego. He stated he was before the Board to request a reduction in the amount of surety based on S.W. Cole's progress report dated November 14, 2022, that the project is substantially complete and constructed per the approved plans.

Ms. Messier mentioned that she was present when S.W. Cole visited the site to inspect it on November 7, 2022. Ms. Messier recommended a replacement surety check for \$50,000 and return the undeposited \$150,000 check. Mr. Whitin inquired if Mr. Giaimo's client would agree to the Assistant Planner's recommendation. Mr. Giaimo confirmed Borrego would comply with the request.

### **Motion**

Bullard moved to return the undeposited surety check for \$150,000 in exchange for a replacement check for \$50,000 for the remaining punch list item of hydro-seeding. Seconded by Daylor with all four members in favor.

### **c. 2023 Zoning By-Law amendments**

Gerry Coutinho from the Zoning Board of Appeals was present. Town Council was asked by the Zoning Board to suggest a definition of who is considered the owner of a detached apartment. Bullard suggested the owner should focus on who lives and for how long the people reside there. Whitin suggested that it be forwarded to the Board of Selectmen so that they can return it to the Board for a public hearing.

The Town Planners and Board members discussed updating the language to the solar section to also include agrivoltaic.

Whitin recommended adding a definition for Residential Development Density to the definition section of the Zoning By-laws.

### **Motion**

Daylor moved to forward the updated Zoning Articles to the Select Board for inclusion in the 2023 Town Meeting warrant. Seconded by Bullard with all four members in favor.

### **d. Westport Stone & Sand Solar, LLC (18-009SP) –Performance Bond Draft**

Anthony Panebianco was present on behalf of the applicant. He appeared before the Board on November 15, 2022, to request a six-month extension; the extension was granted based on a condition a performance bond for landscaping would be provided. A draft Performance Bond was submitted to Ms. Messier and the Board for review.

Whitin questioned the need for an extension. Panebianco commented it was due to Covid related supply chain issues and solar industry delays. He commented they are only asking for a 6-month extension and are ready to start the project. Ms. Messier commented that the applicant has agreed to both the contingencies of supplying the topographic survey pre- and post-solar installation for erosion control. Ms. Messier recommended both the Special Permit and the Site Plan Approval be approved because the applicant has met both conditions.

### **MOTION**

Bullard made a motion based on November 15, 2022, meeting decision to approve the six-month extension and the applicant's agreement to submit the topographic survey and an as built-in exchange for a \$150,000 surety bond. Seconded by Daylor with all four members in favor.

**f. 202 Pine Hill Road Solar (19-012SP-SPA-LID) – One-year extension request**

A.J. Snell was present on behalf of Greenbacker Renewable Energy Company seeking an extension of the Special Permit and Low Impact Development permits due to issues and delays in equipment. They would like to begin construction in February 2023.

Whitin mentioned the as-built topographical pre- and post-panel installation that would include the access driveway and stormwater systems. Whitin added a \$100,000 surety deposit would be required.

**MOTION**

Bullard moved to grant a 1-year extension for the Special Permit Solar and Site Plan Approval to Greenbacker to December 14, 2023, to include a surety of \$100,000 for the as-built plan before the installation of solar panels. Seconded by Daylor with all four members in favor.

**e. BSC Group – Revised scope of work**

The BSC Group's updated scope of work, which included a six-month project timetable, was presented to the Board by Burris. The Route 6 corridor, which runs from Fall River to Dartmouth, would be included in the rezoning, he noted. Burris noted there was an increase of \$20,000 for the visioning and drafting the zoning framework. Whitin indicated that the ARPA Feasible Committee will be meeting on December 14, 2022, and he would request an extra \$20,000 from the ARPA funds.

**f. *Approval Not Required (ANR) 121,127,133 Gifford Road - Cabral (22-005A)* Request by the applicant for endorsement of a Plan of Land showing 3 Lots for land located at 121, 127, & 133 Gifford Road, Map 29, Parcels 19, 19C, 19D.**

Terry McGovern of Zenith Consulting Engineers and Surveyors was present on behalf of the applicant. The applicant is seeking approval for two (2) conforming lots of 60,000 s.f. on the west side of Gifford Road and 150' of frontage. Lot 8 is not buildable due to not meeting frontage requirements.

Ms. Messier recommended endorsement because it meets the requirements.

**MOTION**

Bullard moved to approve the endorsement of the plan entitled "Approval Not Required Plan of Land, 121, 127, and 133 Gifford Road, Westport, Massachusetts" dated November 30, 2022, because the plan complies with the provision of MGL Ch. 41 Section 81P. Seconded by Daylor with all four members in favor.

## **2. 6:15 p.m. Public Hearing**

**a. Westport Horizons Development Corp. – Oakridge (06-001SPA-Major)** *(continued from February 22, 2022, April 19, 2022, June 28, 2022)*

Request by Applicant for approval of a Major Modification to Site Plan for Oakridge: A Private Community. Assessors Map 21 Lots 4 & 4A to eliminate the sidewalks from the development plan.

Attorney Mark L. Levin, of Levin and Levin at 138 Rock Street Fall River, was present representing Richard D. Leblanc, former principal officer of Westport Horizons Development Corp.

Attorney Levin stated that Westport Horizon was dissolved ten years ago after the former owner completed all necessary tasks and completed the project. In exchange for avoiding having sidewalks installed, Mr. LeBlanc would be ready to turn over the balance in the Consultant Review Fee account to the Westport Horizons trust.

Whitin indicated that unless the as built is submitted, the fees will not be released.

Burris recommended that instead of crushed shells as walking paths, a compromise would be to seek an estimate to pave the pathways instead of adding sidewalks, making the routes ADA-compliant and easier for residents to walk on.

Bill Smith of Civil Engineering Concepts was present. Smith stated that paving the existing pedestrian pathways would be expensive since the linear length would be greater than the approved linear length of the proposed sidewalks. He added it would also affect the impervious surface.

Soares suggested that if paving the pathways was not feasible, then possibly paving the more communal areas for the residents near the community center.

David Bourque of 7 Crestview Drive and President of Oakridge Board was present. Bourque stated that the shell pathway to the Community Center was recently paved for \$1800 to the association. He recalled the conversations he had with Mr. LeBlanc on the funds that were available in the Planning Department's Consultant Review account. Bourque referenced numbers 7 and 10 in the S.W. Cole report dated May 3, 2021.

Mark Allard of 12 Crestview Drive, also a Board member of Oakridge, was present. Allard read his letter into the record.

Whitin questioned the residents if they wanted the sidewalks installed or not. Allard mentioned they are looking for a proposal from the applicant.

Whitin advised the two parties to meet and discuss how to move forward. He emphasized that the Board can no longer be involved until the two parties have reached a resolution. The applicant agreed to reach an alternative solution for walkways in lieu of sidewalk installation. Mr. Allard also agreed to this approach.

Attorney Levin was advised by Whitin to have his client review the By-laws and the S.W. Cole report to take the required action to finish the project and obtain the as built.

Daylor questioned if the width of the pavement was 40'. Smith responded that it is not a typical 40' and is owned by the association.

Soares added that it would be in everyone's best interest to get some type of functional sidewalk.

Whitin commented that the Planning Board would be open to suggestions to change the type of sidewalk, but it still needs to get permission from the homeowners.

Gerry Coutinho of Pettey Lane was present. When the project was first proposed, Coutinho claimed that he attended multiple hearings and that at the time, he didn't believe it satisfied the by-law specifications for an Assisted/Independent living facility.

Whitin emphasized the significance of resolving the open issues mentioned in the S.W. Cole report.

### **MOTION**

Bullard moved to continue the public hearing Westport Horizons Development Corp. – Oakridge to April 18, 2023, at 6:15 p.m. Seconded by Daylor with all four members in favor.

### **3. Assistant Town Planners report**

Ms. Messier mentioned there would be a meeting on Friday with Wesson & Sampson to discuss the harbor groundwater supply and the next steps. Burris added \$30,000 in funding may be required to move forward.

#### **Town Planners report**

Burris provided a summary of his planner's report from December 13, 2022, for the Board's records.

### **4. Correspondence**

Zoning Board of Appeals Notices - Noted.

### **5. Minutes**

November 15, 2022

### **MOTION**

Bullard moved to approve November 15, 2022; minutes as written. Seconded by Daylor with all 4 members in favor.

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

None.

### **ADJOURNMENT**

The members unanimously adjourned at 9:06 p.m.

Respectfully submitted,



Nadine Castro, Assistant Town Planner II

**NOTE: Agenda is subject to change**

**NEXT MEETINGS:**

PLANNING BOARD:

December 13, 2021, @ 6:00 P.M.

WORK SESSION:

November 29, 2022, at 5:00 P.M.