



**TOWN OF WESTPORT**  
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**PLANNING BOARD**

**PLANNING BOARD MEETING MINUTES**

**March 6, 2018**

Chairman James T. Whitin called the meeting to order at 6:02 pm with Vice-Chair David Cole, Members Marc De Rego and Robert Daylor and Town Planner James Hartnett. Member Andrew Sousa was absent.

**Approval Not Required (ANR) Continued from February 20, 2018. Pavilion Realty Trust (18-005A) Request by applicant for endorsement of a 2-lot plan of land located at 21 Cook Lane Assessors' Map 87 Lot 39M.**

The purpose of this plan is to create Lot 2 from Assessor Map 87 Lot 39M with frontage on Cook Lane.

	Frontage	Area	Uplands
Lot 1	189.71 ft.	227,909 s.f.	> 30,000 s.f.
Lot 2	150 ft.	196,301 s.f	> 30,000 s.f.

At the meeting of February 20, 2018, the applicant was asked to return with easements of record.

Attorney Brian Corey was present and explained the easements of records dating back to 1829 then owned by Thomas and Jonathan Records. It was evident in 1968 in the deeds of Patricia Cummings that there was an easement. The applicant's line of title comes from the Grace Cook line being transferred through the Lawrence's and seen as an easement to pass and repass along a cart path formerly known as Records Way. Attorney Corey further described the easement and the position of Records Way. Sean Leach from SITEC was also present to indicate that the 1972 Approval Not Required (ANR) plan approval by the Planning Board recognized Cooks Lane as an ancient way. Leach provided a copy of the recorded Road Agreement recorded in Bristol County Registry of Deeds Book 2778, Page 299; he noted page 301 for the description of who can use the way. Corey added that the road has not been barred in the past thus preventing the passing and repassing for future use.

Whitin asked Hartnett for his opinion. He noted the way must meet three standards in order for lots shown on a plan to be entitled to ANR endorsement.

- a. The lots shown on such plan must front on one of the three types of ways specified in Chapter 41, Section 81L, MGL. The lots front on a way shown on a plan approved and endorsed in accordance with the subdivision control law. (Plan dated December 1972, endorsed by the Planning Board on January 17, 1973 and recorded in Book 89-104.
- b. The lots shown on plan must meet the minimum frontage requirements as specified in Chapter 41, Section 81L. The lots shown on the proposed plan meet this requirement Lot 1 has 189.71' of frontage and Lot 2 has 150' of frontage.
- c. Planning Board must determine that vital access to the lots exists.
  - 1) Adequacy of the way. According to the ANR Handbook, the courts found that to be entitled to the ANR endorsement, the way must be built, or other assurance exists that the way will

be constructed in accordance with Town standards. It is clear that Cook Lane is not built to Town standards:

First 725'+/- is paved between two stone walls with a travelled width of 12'-14'

Next 200'+/- is a gravel way and it is located outside the layout lines of the approved way.

Last 600'+/- is a gravel way 10'-12' wide.

A minimum of 200' of the approved way is not accessible and not built, the remainder of the way is not built in accordance with Town Standards

- 2) Adequacy of access from the way to the buildable portion of the lot. It appears that both lots meet this requirement.

Hartnett stated that he did not feel the applicant is entitled to an ANR endorsement as of right unless in the opinion of the Board access is suitable for the proposed use, then the Board can endorse the plan. The Planning Board will be required to make that decision.

Leach and Corey stated that the applicant does not intend to enlarge the road so as to keep the rural look of the lane.

Whitin asked for comments from the Board. DeRego stated that he visited the way and found it passable but also noted that it is confusing after the paved area and that could be an issue for safety vehicles. Daylor noted that there are established rights to use the way, which he had questioned, however he noted it is a long driveway. Whitin stated that at this time there are only three houses on Cook Lane and one being built in addition to this ANR lot and so he questioned if the way will be adequate for five lots. He also noted that the Cummings house and the subject house are not used very much at this time. He expressed concern over there not being a homeowner road agreement.

Lucy Chace from Cook Lane spoke on the road agreement. She asked about the same information being noted in the deeds. In looking at the deeds, she found that it was not mentioned especially in the Lawrence's deed and that the driveway – lane - way is referenced in several varied terms. She said that the confusion should give the Planning Board some more information to consider. She said that the lane looks good and she's just hearing about changes the lot owner is proposing to make. She was representing some of the neighbors and they are looking to the Planning Board to consider what is fair. Whitin stated that they can only look at frontage, area, and location on a way in existence. He also noted that if denied, they have the right to come back with a full subdivision which would require a larger road layout. Ms. Chase did not agree with that.

Whitin also noted that there has been paving without stormwater consideration. Corey stated that they have met with the neighborhood and the applicant has stated that there is no intention of changing the way and he requests the Board make a decision for the ANR plan before them.

Daylor motioned to approve endorsement of the plan entitled "Approval Not Required Plan of Land in Westport, MA" prepared for Maria Carvalho, dated January 29, 2018, because the plan complies with the provisions of MGL Ch 41 Section 81P. DeRego seconded the motion the vote was unanimous with all four in favor.

## **Public Hearing**

**Riverview Woods – Olivia Lane (18-001C/SP-LID) Request by applicant to consider a definitive subdivision plan entitled "Definitive Subdivision "Riverside Woods" in Westport, Massachusetts prepared for Long Built Homes, Inc.," and owned by James H. Tripp dated December 22, 2017, located between 163 & 185 Old Pine Hill Road, Assessor's Map 43, Lot 23, proposing a 4-lot**

**subdivision with 4 new buildable lots and Site Plan approval pursuant to Westport Zoning By-Laws Article 20 Low Impact Development.**

Daniel Gioiosa of SITEC Engineering was before the Board for the applicant. He described the mostly wooded lot is designed for a 4-lot subdivision. He stated that the water runoff has been designed to minimize impact to that property and to abutting properties. He stated percs have been done and each home will have roof drains. He submitted revisions to Tibbetts last week but has not received any comments back yet. Whitin asked if they were installing denitrification systems. Gioiosa stated there is nothing that would require installation of denitrification systems. Cole asked if there are any streams flowing nearby and discussion ensued over the advantage of denitrification systems protecting the ground water, streams and river.

Hartnett's comments had been for the original plan but the applicant has since addressed these:

1. The Road is super elevated directing water to the south, the plan does not clearly show how the road stormwater runoff will get into the drainage pond.
2. There should be a paved apron at the entrance to the subdivision.
3. The regulations call for a leveling area at the entrance to the subdivision of -1% for 25', this is not shown on the plan.
4. The plan shows a fiberglass fire tank, all the tanks that have been installed have been concrete, a concrete tank detail should be added, the fiberglass can remain as an option as well.
5. The plan shows the 4" pipe extending to the easterly end of the drainage pond but the filter area only extends a portion of the way.

Members reviewed Tibbetts Report dated February 15, 2018 and Department reviews.

Daylor asked about the grading over the road and if runoff is designed to pass over the road. Gioiosa stated that the ConCom has approved the wetland line and they have kept a 150 foot distance from wetland resources and therefore need no other approvals from ConCom.

Whitin asked if there would be any impacts from stormwater. Gioiosa stated this was designed for low impact and he stated that there is no runoff that will come from the design for this property.

Daylor asked to continue the hearing to the next meeting to be able to observe the next rain event in the next few days.

Whitin opened comment to members of the audience.

Mr. Medeiros of 163 Old Pine Hill Road was concerned for any runoff onto his property.

Mark Sousa of 185 Pine Hill Road - was concerned that the property drops substantially into wetlands in the back and his property is a lot drier. His concern is that water will drain into his property. Whitin asked where does the water go now. Sousa stated the back portion used to drain into a pond which was at one time a farm pond but there are no rivers or streams. He said that there has been all sorts of activity on this property including it being run as a business. He said there were boats, cars, campers and automotive work was being done. He suggested the property should be tested before it is developed and that the property was classified as farm land with all these activities. He is concerned as to what will happen to his property. He extended an invitation to the Board to come observe this property from his.

Whitin asked if there was any soil testing. Gioiosa stated that soil testing was conducted in the front and with no resulting issues. Sousa asked for paper copies and what was tested. Gioiosa stated that they did not do any chemical testing of the soils.

Daylor motioned to continue the hearing to the March 20, 2018 at 6:15 pm. DeRego seconded the motion and the vote was unanimous with all in favor.

**Public Hearing** *Continued from December 12, 2017 & January 25, 2018.*

**FRANCIS ESTATES (17-0016C-OSRD/IHSP) Request by applicant for approval, in accordance with Massachusetts General Laws, Chapter 41, Section 81T, Article 18 Open Space Residential Development (OSRD), of a definitive subdivision plan entitled “Open Space Residential Development Definitive Subdivision Plan for FRANCIS ESTATES Charlotte White Road and Main Road Assessor’s Map 68 Parcel 7, Westport Massachusetts” prepared for ELJ Inc. dated September 8, 2017, located between 50 and 58 Charlotte White Road. The applicant proposes to develop 16 single-family house lots. The Applicant has also requested a Special Permit under Article 13 Inclusionary Housing.**

Whitin read the hearing notice into the record.

Attorney Richard Burke was present with Mike Russel representing the applicant ELJ. He said since they were here at the last meeting they have made changes and there were a number of residents present. The original plan used a drainage easement on the original plan was placed on developed lots and they were asked to redesign the subdivision so that the drainage facilities are moved off the abutter’s lots and on the subject land. He is hopeful that they would let the board know what they feel about that. He asked the Board to consider that the OSRD be compared to only what a conventional subdivision would look like and with that said, the proposed plan for an OSRD is better than a conventional subdivision. He noted they have protected the value of the abutter properties, open space, the cemetery and have reserved three lots for Independent Housing. He asked the Board to follow the requirements of the by-law for Open Space Residential Development.

Mike Russel of Site Design Engineering stated that the attorney touched upon many of the important points of the plan submitted. He went on to describe how it differed from the original submission and how the plan fits into OSRD. The access roads were reduced to one and in length and placed on the western side of the access area. He noted that accessing this parcel from Charlotte White Road has the least amount of impact for the designed 16 lots. The drainage has been relocated to the parcel removing it from the drainage easement of the abutter’s lots fronting on Charlotte White Road. The drainage location appears to be better suited for the site and the lots have been redesigned. Whitin asked if any of the access to the lots were less than 50 feet wide. Russell affirmed they were not. Hartnett specified the 50 foot requirement for lot width. Russell stated they have not gone to final plans at this time pending review to make sure the drainage would work.

Daylor discussed the prior plan - which the Board would have had to find that the plan is build-able without any waivers, without any wetland crossings and with no stormwater management systems within easements on other lots or a complicated drainage system. He feels that they have identified the sensitive areas, then placed the homes followed by the street location. Then, it seems this plan leaps into the yield plan. The drainage calculations have not yet been submitted. He wants to consider what living would be like for these 16 homes. He feels that this is an improvement and there is still room for more.

Whitin asked for comments from the audience.

Attorney Nicholas Gomes for Ronald Oliveira was present. He said the movement of the drainage is now not encumbering to the abutters within the drainage easement and was generally complimentary to the revised schematic.

Kyle Huard of 20 Charlotte White Road was also complimentary of the redesign but stated the configuration of the homes and open space is not in the spirit of Westport. He purchased the corner lot and was assured there would never be a house next door and there is one planned on Main Road according to this plan. He stated that all these homes are for profit only and not for the benefit of living in Westport.

Attorney Ken Mello for the Mello's on Charlotte White Road asked the applicant's attorney if drainage calcs could be submitted 10 days prior to the next Planning Board meeting for his review. Whitin agreed to this request.

Members had no further comment but requested that a yield plan will be required to show a certain number of lots are build-able without any variances as per the OSRD By-law.

Attorney Burke asked the Board to be specific with what they are asking them to do. He said that a conventional plan may have that drainage easement back in the area of the properties they do not want. He said that Mr. Daylor may want to see an open space plan without this many home but then the conventional subdivision may have to be built. He noted that the financial liability of making drainage calculations without a design that is firm is not feasible. Russell asked to know what the Board would like. Whitin stated that they need to show a subdivision plan without variances for a conventional plan.

Daylor asked that they provide a yield plan that is compliant with the OSRD by-law.

Daylor motioned to continue the hearing to March 20, 2018 at 6:45pm. Seconded by DeRego. The vote was unanimous with all four in favor.

At the request of the applicant, Cole motioned to grant the extension of time and continue the Form-C, OSRD and Inclusionary Housing hearings until April 17, 2018. DeRego seconded the motion and the vote was unanimous with all four in favor.

**Pre-Application Consultation - Katzenbach (18-002PAC) Request by applicant to discuss a plan for 310 Cornell Road, Assessor's Map 85, Lot 12 owned by Peter B. Katzenbach Trustee proposing 3 lots on 10.7+/- acres of residential land containing one existing house and proposing two new lots.**

Alan Heureux and Mark Boucher of Boucher & Associates were present. The proposal is for a 20 foot wide graveled road up to a 16 foot width at crossing of 250 feet of wetlands within 15 acres of land. The roadway would allow the creation of 2 additional lots for a total of 3. He read the waivers to the Board. The plan was submitted to ConCom for a notice of intent. The main issue is that there is no other access to the land and the easement that has been used up to now, from the westerly property, has ceased and was extinguished due to the death of the owner. Heureux described the low impact of this design and detailed the drainage. The frontage is a minimum of 50 feet for all three lots and the area exceeds the minimum required. Hartnett stated that a portion of the gravel road is pitched 7 percent and graveled ways do not do well especially with heavy flow. Heureux explained the grading

and pitching of the road to a grassed swale. Whitin noted that there will be a need for a homeowner's agreement for the road. He recommended it be designed with the least maintenance involved possible. Hartnett also suggested looking at the grade as it approaches the property line. Members were generally in agreement with the proposal. The applicant would next need to formally submit an application to go before the Board.

**Pre-Application Consultation – Twin Pine Realty (18-003PAC) Request by applicant to discuss a plan for Assessor's Map 42, Lot 1 owned by Paul T. Carrigg Trustee proposing 10 lots on 46 acres of existing vacant residential land by extending Rita Lane to the parcel.**

Alan Heureux and Mark Boucher of Boucher & Associates were present to review a 1,016 foot long road extension to Rita Lane with 10 new lots. There are two 11-foot wide travelled lanes with Cape Cod berms in place now. The wetlands have been delineated. Percolation tests were performed on all 10 lots. The terminus is designed as a 140 foot diameter cul-de-sac right of way and 120-foot paved way within. The fire cistern will be located on lot 20 serving the entire community. The existing Rita Lane is 20 feet wide and 920 feet long. With the addition they are proposing a total of 1,936 for which they would be asking a waiver for. Whitin asked what were the sizes of the lots. Heureux stated the lots all exceed 60,000 sq.ft. and the westerly lots which contain wetlands are even larger. Hartnett stated the Board would have to decide upon the length of the road and the size of the cul-de-sac. Discussion ensued over the size and shape of the cul-de-sac. Members did not see this proposal as a problem at this time. The applicant would next need to formally submit an application to go before the Board.

**Lawton Trust/Hickory Lane. Request by Attorney Corey to discuss improper and unpermitted construction of permanent structures within the layout of Hickory Lane.**

Attorney Brian Corey and Robert Carrigg were present. Carrigg, the developer of Forest Park in which is found Hickory Lane was requested by letter two weeks ago to provide an as-built survey of the area to see if the original swale was altered and document if any structures were in the roadway turnaround. He stated the survey was done today and the plans would be ready for the Board next meeting. Whitin asked his opinion on if the drainage was altered. Carrigg stated that it was only a grass swale and did not know if it was altered. Whitin also asked about the stone walls within the road turnaround layout. Carrigg said that he did not have a problem with it and it would be a call that the Board would have to make. Attorney Brian Corey representing the abutter who is aggrieved by the stone walls in the turnaround, stated that the road turnaround has been altered and that vehicles have been stuck because there is nowhere now to turn around. He also stated that there is construction equipment in the swale. Emergency vehicles may not be able to get in and properly turn around because of the stone walls that are built on either side of the hammerhead turnaround. Although the landscaping looks attractive, there is ponding at the edge of the abutter's lot and at the edge of the road. Hartnett stated that once the as-built plans are submitted they can be compared to what was planned and then reschedule a review for March 20, 2018, if plans are submitted next week.

**ADMINISTRATIVE ITEMS**

- a. Noquochoke Village (15-012 SPA-IHSP) Tibbetts reports and BOH correspondence. Noted.
- b. Culvert Grant. Hartnett stated that he has been working on this application and presented the draft to the Board. He noted that if granted there may not be enough funds to take this though construction, if awarded.

**TOWN PLANNER REPORT**

- a. At the request of Tim King, Hartnett attended the BOS meeting last night to request funding to update the Town's Zoning Bylaws. The BOS approved an increase to the Planning Board's budget of \$40,000 for FY19 for this purpose.
- b. Hartnett will be meeting with Tim King and Chris Capone Wednesday morning March 7, 2018 to discuss the street acceptance of Wildberry Lane and some of the drainage problems associated with the road which is mainly the stormwater runoff from the commercial site along Route 177 abutting the Wildberry Way. Hartnett contacted the developer of the commercial site to ask if he could address the drainage.
- c. Hartnett provided a draft application for the Culvert Replacement Municipal Assistance. At this point the Board needs to determine who will be submitting the Grant, who will be the contact, does it need to be approved by the BOS and the Water Resource Management Committee. He recommended inviting the Highway Department and asking them to be the lead. The grant administrator stressed that they are looking for the DPW to take the lead and be the main point of contact for this grant. The grant will only cover a small portion of the actual work to be done so other funding sources will be required. Whitin suggested a letter of support from Trouts unlimited.
- d. Hartnett met with representatives from INFINITI Energy Services this morning. They are planning to file a Large Scale Solar Energy project on land abutting the west side of Route 88 just north of Mouse Mill Road.
- e. April 1, 2018 is the deadline for the filing of the MS4 permit. Hartnett asked if the Board would like him to take the lead on this again. This permit would be filed under the requirements of the 2003 permit. The new MS4 permit has been challenged but it appears that it may become effective on July 1, 2018, which means that the Notice of Intent will be required by October 1, 2018.
- f. Town Landing – Representative Schmid of Westport was able to get a \$50,000 earmark for the head of Westport for site improvements to the Town Landing and infrastructure upgrades to Old County Road, to improve access, safety, landscaping and traffic flow. This grant was accepted by the Board of Selectmen at their meeting last night. Hartnett met with the Landing Commission on Monday to discuss the improvements at the Town Landing and they are moving forward with the design. This additional earmark will allow the Town to complete additional work at and around the landing. Tabit filed the most recent quarterly report with the state on the Seaport Grant.
- g. DLTA Grant – Hartnett received an email late this afternoon from Grant King at SRPEDD stating that Westport received a grant in the amount of \$15,000 to assist the Town with a Land use study of Route 6 and to explore the implication of proposed sewer service in the corridor from the Fall River line to Route 88. We should have the contract and draft scope by the end of the week.
- h. Hartnett spoke with Keith McDonald from Pare Engineering regarding the village project to see what would be involved in finishing the design. It was at or near 100% design and he was not sure if easements were taken or if appraisals were done. Ownership and changes in and abutting the layout would have to be added to the plans. They would also have to work with the regional planning agency and the Transportation Improvement Planning Committee to try and get the project back on the list (TIP). Estimated cost to complete design appraisals, easements \$25,000 to \$40,000.

## **MATTERS NOT REASONABLY ANTICIPATED**

None.

## **CORRESPONDENCE**

- Little Compton 2018 Comprehensive Plan Comments due April 4 2018. Link to plan: [http://www.planning.ri.gov/documents/comp/2018/lc\\_10yp\\_18\\_posted.pdf](http://www.planning.ri.gov/documents/comp/2018/lc_10yp_18_posted.pdf)  
Cole noted that a letter should be sent, if not mentioned in the plan, discussing the Adamsville area and if they would like to collaborate on various aspects regarding water effecting the Westport River.

## **MINUTES**

February 27, 2018

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

## **INVOICES**

Hartnett - mileage and monthly phone expenses for February \$165.27  
SITEC for work on the Seaport Grant \$1,412.50

## **ADJOURNMENT**

Members unanimously adjourned at 9:30 pm

Respectfully submitted,  
Lucy Tabit, Assistant Planner