



TOWN OF WESTPORT
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PLANNING BOARD

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PLANNING BOARD MEETING MINUTES

January 29, 2019

Chairman James T. Whitin called the meeting to order at 6:03 pm with members Vice Chair, Robert Daylor, David Cole and James Watterson, and Town Planner James Hartnett. Marc De Rego was absent.

Appointments

1. Administrative Items

- a. Zoning By-law Discussion - Height requirement for businesses – Jerry Coutinho, member of the Zoning Board of Appeals submitted a letter for the Board to review. The letter identified a number of sections in the Zoning By-Laws that reference height requirements. He believes that the height requirement of 2 ½ stories or 40' only refer to residential structures, businesses are not specified in the By-Laws. Whitin stated that different business areas should have different height requirements. Cole stated that this is a complicated process and it is not something that he is comfortable addressing on such short notice. Whitin agreed and suggested that this is something that can be looked at as part of the zoning review.
- b. Allen's Way – Street Name change request – No action taken.
- c. **Approval Not Required (ANR)** Bank of America, National Association (19-001A) - Request by applicant for endorsement of a 3-lot plan of land located at 610 State Road, Assessors Map 7, Lots 5 & 27.

Hartnett stated that the engineer for this Form A is located in New York and had previously requested that the Board consider the plan without him being present at the meeting. The plan shows three lots, two of the lots would be transferred to the abutters located to the north and west of the property and the remaining parcel containing 103,195 s.f. of land would remain with the existing bank. The remaining lot conforms to zoning, area and frontage. Whitin asked Hartnett to look into the labeling of Parcels vs Lots. Daylor noted that these plans should state that the parcels are non-buildable and will be transferred to abutting properties.

Daylor motioned to approve endorsement of the plan entitled Bank of America National Association, located at 610 State Road in Westport, dated December 18, 2018, because the plan complies with the provisions of MGL Ch. 41 Section 81P. Seconded by Watterson. The vote was unanimous 4-0.

Public Hearing

Whitski Way (18-005C-FF) (*Hearing continued from October 2, 2018 & November 27, 2018*)

Request by applicant to consider a definitive subdivision plan entitled "Definitive Subdivision Plan of Whitski Way" prepared for and owned by Peter B. Katzenbach Trustee for property located at 310 Cornell Road, Assessor's Map 85, Lot 12, proposing a 3-lot subdivision with 2 new buildable lots and

pursuant to Westport Zoning By-Laws Article 23 for a Flexible Frontage Special Permit requesting approval to reduce frontage requirements on a private way in exchange for a reduction in development density. Copies of the definitive plan and special permit application and plans are available for review at the Planning Board office in the Town Hall Annex.

Whitin read the notice into the record. Alan Heureux and Mark Boucher were present representing the applicant. Heureux stated that he responded to all of the comments from the consultant engineer, Byron Holmes and the planner. Three of the requested waivers have been eliminated, the lot lines have been revised at the turnaround as requested by the Board using Flexible Frontage. The plan shows the easement locations for all the utility lines servicing the three lots. Wendy Henderson performed a soil evaluation at the location of the detention pond near the entrance and the basin was sized accordingly to control the various storm events. The road has been raised in the area of the wetlands by 1' and moved closer to the wall. He met with representatives from the Fire Department and the Highway Department and both submitted letters supporting the design.

Whitin read the consultant review reports from S.W. Cole dated January 7, 2019 and January 29, 2019, into the record. Hartnett read his comments into the record and stated that the only outstanding issues would be that the swale should have a flared end and rip rap. Whitin asked about the maintenance of the swale and Heureux responded that there is very little maintenance required.

Watterson stated that as part of the Flexible Frontage, the lots would not be further subdivided but he still had concerns with the number of waivers being requested, and asked if the waivers outweigh the benefits of preventing further subdivisions. Heureux stated that he presented the plan and waivers to the Board as part of the Pre-application submittal. Daylor stated that the impetus for the subdivision is because the property owner was about to lose his right to access the property and is in favor of the revised plan.

Closing of Hearings

Watterson moved to close the public hearings for the Flexible Frontage Special Permit and the Definitive Plan of Land entitled "Definitive Subdivision Plan of Braybach Lane. Seconded by Daylor. The vote was unanimous 4-0.

Definitive Plan

Hartnett read the waivers and proposed conditions into the record for the proposed definitive subdivision.

Definitive Plan Sample Waivers

1. Waiver to allow a centerline radii of 60 feet for three curves in the road (Sec.IV.A.1.gG)
2. Waiver to allow no radius in the street line of the proposed road at the intersection with Cornell Road (Sec IV.A.1.i.)
3. Waiver to allow the proposed road to be located along the perimeter boundary of the subdivision to provide safe access and to follow an existing, variable width strip of land (Sec. IV.A.1.j.)
4. Waiver to allow a Bituminous Concrete Roadway apron as designed at the proposed street intersection with Cornell Road instead of a minus 1% leveling area.
5. Waiver to allow a dead-end street with a length of 1,350+/- feet measured along the centerline from the layout line of Cornell Road to the most distant centerline station point. (Sec

6. Waiver to allow a cross slope without a crown for the proposed street. (Sec V. B. Streets and Roadways.
7. Waiver to the street shoulder slope to allow a 3:1 slope to existing ground or an earthen swale alongside the road. (see construction plan; Sec V.B. Street and Roadways)
8. Waiver to allow the centerline for the proposed street to not coincide with the centerline of the road for, Sta. 0+25 to 9+10 in order to allow room for drainage swales and minimize impacts to wetland. (Sec. V.B.2)
9. Waiver to allow overhead electric, telephone & CATV and not require that these utilities be placed underground in this subdivision (Sec. V.E.1) Should be V.G.1

Definitive Plan Sample Conditions

1. Homeowners Association: As a condition of approval of this subdivision, prior to endorsement of the definitive plan the Applicant shall create and properly fund a Homeowners Association. All purchasers of land within the subdivision shall be required to belong to the Homeowners Association.
 - a. The Homeowners Association shall be responsible for the maintenance, repairs and plowing of the subdivision roadways.
 - b. The Homeowners Association shall maintain permanent ownership of any drainage basins or ponds in the subdivision, including all pipes and other appurtenant devices, and shall have the permanent responsibility of maintaining, repairing and replacing said drainage systems, as necessary.
 - c. The Homeowners Association documents shall be reviewed and approved by the Planning Board, in consultation with Town Counsel (at the expense of the applicant), and the Homeowners Association shall have an initial fund that is deemed satisfactory to the Planning Board, in consultation with the Planning Board's technical consultant.
2. Road Maintenance and Snow Removal: Applicant shall be responsible for periodic maintenance and snow removal until such time a properly funded Homeowners Association is created and is properly functioning.
3. Roof run-off recharge systems are required for each new dwelling.
4. Construction work on the subdivision road and utilities shall only be done between the hours of 7:00 a.m. and 6:00 p.m., Monday - Saturday.
5. The plan shall include a note on the recordable plan stating "No dwelling shall be built on any lot without first securing from the Board of Health a permit for an approved Title-V compliant Soil Absorption Septic Disposal System."
6. The plan shall include a note on the recordable plan stating that "This is a private street and will remain private the street will not be accepted by the Town as a public way."

Daylor moved to approve the Definitive Plan entitled "Definitive Subdivision Plan of Braybach Lane", in Westport, Massachusetts: dated May 16, 2018 and revised through January 28, 2019,

subject to waivers and conditions as stated. Seconded by Cole. The vote was 3-0 with Daylor, Whitin and Cole voting in favor and Watterson abstained.

Flexible Frontage

Hartnett read the sample findings and conditions into the record.

Sample Flexible Frontage Findings of Fact

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 storm water runoff. The applicant submitted a yield plan showing that a minimum of two additional buildable lots could be developed under a traditional subdivision. The Board found that the Flexible Frontage design standards were utilized to the maximum extent feasible as defined in section 23.3 of the Zoning By-law.

Sample Flexible Frontage Conditions

1. A plan suitable for recording (The Subdivision 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, Article 23 granted on_____, by the Westport Planning Board and Recorded in the Bristol County Southern District Registry of Deeds in Book _____, Page _____.”
 - b) Lots 1, 2 & 3, as shown on this plan benefiting from reduced frontage under Zoning By-law, Article 23 shall not be further subdivided and no modification of the clearing restrictions and of the building locations shall occur without a corresponding modification of the Flexible Frontage Permit.
 - c) 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, Article 23 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.
 - d) Clearing area on lot 2, shall be limited to the area identified as “Proposed Clearing Limits”. Maximum building footprints for lot 2 shall not exceed 5,000 s.f.
 - e) Lots 1 & 2 shall provide a roof runoff infiltration system capable of handling a minimum of 1,500 c.f. of roof runoff. The infiltration system shall be installed prior to issuance of an occupancy permit. The applicants engineer shall design, inspect and certify that it was installed.
 - f) The septic system for Lot 2 shall be a denitrifying system designed to reduce the nitrogen level to 19 ppm or below.

Daylor moved to approve the **Special Permit** application for **Peter B. Katzenbach Trustee of the Living Trust Agreement of Peter B. Katzenbach** for property located at 310 Cornell Road, Assessor’s Map 85,

Lot 12, pursuant to Westport Zoning By-Laws Article 23 for a Flexible Frontage reduced density Special Permit, subject to findings and conditions as stated. Cole seconded the motion. The vote was unanimous 4-0.

Public Hearing

3. Winner Way (18-005C-FF) (*Hearing continued from November 27, 2018*)

Request by applicant to consider a Low Impact Development Site Plan and a definitive subdivision plan entitled **“Definitive Subdivision Plan, Plot 57, Lot 46”** Westport, MA prepared for Thomas Winner and located between 1540 and 1558 Drift Road proposing to divide the property into two (2) lots with frontage on Drift Road and a private gravel road. A copy of the plan is available for review at the Planning Board office in the Town Hall Annex.

Whitin read the public notice into the record.

Attorney Michael Kelly was present representing the applicant. Mr. Kelly stated that he has been discussing the project with the neighbors and would like to continue the hearing to see if he can address their concerns. Mr. Kelly agreed to a time extension for the Subdivision and the Low Impact Development Site Plan.

Daylor moved to approved the request for an extension and continue the hearing until February 20, 2019 at 6:15 p.m. Seconded by Cole. The vote was unanimous 4-0.

Public Hearing

4. Westport Stone and Sand (18-009SPA-LID) (*Hearing continued from January 15, 2019*)

Request by **Frank Epps, Westport Stone & Sand Solar, LLC, c/o Energy Development Partners** for property owned by **Stephen A. Cardi, Esquire of Steven A. Cardi (TR) Grandvel Nominee Trust**, located on 536 Old County Road, Assessor’s Map 34, Lots 7, 8 & 52. Pursuant to Westport Zoning By-Laws Article 20 Low Impact Development and Article 24 Large Scale Solar Energy System Special Permit, the applicant requests permission to construct a solar energy system, approximately 6.5 Megawatts.

Whitin read the public notice into the record.

Ben Aparo was present representing the applicant, he stated that he would like to request a continuance to address comments from the site visit and drainage questions from Mr. Daylor. Aparo stated that he received approval from the Board of Appeals last week and he asked if it would be possible for his engineers to meet with or call Daylor to address his concerns. Whitin stated that he has a couple of safety concerns with the project, the first being the large retaining wall located in the middle of the site and the second is the remains of the aging structure located at the west end of the property and suggested that both be removed. Aparo stated that he would take a look at these two items. Watterson reiterated that he had requested photos from the abutting properties and suggested that they be located on a plan so that the Board could see where they were taken from.

Beth Fitzsimmons, from 624 Old County Road was present and stated that she has had drainage problems since Jo-Ann’s Way was constructed and is concerned that the Solar project will add to her problems.

Brian Field from 614 Old County Road was present and stated that he was also concerned about the drainage from Jo-Ann's Way and the proposed solar project.

Daylor moved to continue the hearing to February 20, 2019, at 7:00 p.m. Seconded by Cole. The vote was unanimous 4-0.

5. Planners Report

a. There is a conference on Title V requirements, a copy of the agenda is included in the packet. The date is February 6, 2019 at the Holiday Inn in Taunton MA. Whitin and Hartnett stated that they may be interested in attending.

b. The Water Resource Management Study is back on track, included in your packet is the latest report from Kleinfelder. Cole requested that the report be forwarded to the Board.

c. There are a number of hearings scheduled for the month of February and March and a couple of hearings will have to be rescheduled to accommodate vacations.

d. The Cannabis Control Co-op Committee has been working on getting articles ready for Town Meeting. It is going to be very difficult to meet the Town Meeting schedule and still have a reasonable opportunity for the Planning Board to review and comment on zoning articles. Having a general bylaw approved at Town Meeting without Zoning By-Laws to regulate the use could be problematic for the Town.

6. Matters not reasonably anticipated. - None

7. Correspondence.

- a. Stephanie Griswold – 472 Old County Road, Drainage concerns - noted
- b. Zoning Board of Appeals Notices - Noted

8. Minutes.

January 22, 2019 – Cole noted that the acreage for the Allen property should be changed from 600 acres to 279 acres. Whitin stated that Marc De Rego should be added to the vote for the minutes. Daylor noted that the motion for the minutes should be changed to reflect that De Rego seconded the motion.

Cole motioned to approve the minutes as amended. Seconded by Daylor. The vote was unanimous 4-0.

9. Invoices – None

ADJOURNMENT

Cole motioned to adjourn at 8:08 p.m. Seconded by Daylor. The vote was unanimous 4-0.

Respectfully submitted,

James K. Hartnett, Town Planner