

Town of Westwood Planning Board
Meeting Minutes
Location: 50 Carby Street
July 15, 2008
7:00 PM

Board Members Present: Chairman Robert Malster, Robert Moore, Steve Olanoff, Bruce Montgomery and Henry Gale.

Staff Members Present: Nora Loughnane, Town Planner; John Bertorelli, Town Engineer; and Thomas McCusker, Esq., Town Counsel.

Chairman Malster opened the meeting at approximately 7:05 p.m.

Continuation of Public Hearing: Second Modification of Phillips Estates Definitive Subdivision Plan

Ch. Malster welcomed Richard Merrikin of Merrikin Engineering, LLP and Ms. Margery J.E. Young to the continuation of the public hearing.

The meeting began with Ch. Malster asking Mr. Thomas McCusker, Town Counsel, for his opinion on a question that arose at the last Planning Board meeting, regarding the applicability of M.G.L. Chapter 41, 81W to this subdivision. Ch. Malster explained that an abutter had asked whether the owner of one of the lots affected by the original subdivision should be required to sign the application for proposed modification of that subdivision. Mr. McCusker replied that the question of whether or not consent of lot owners was needed was addressed in a court case known as "Patel". He explained that the court had determined in the Patel case that the consent of the lot owners was required for a modification to a subdivision if that modification would affect the utility or marketability of the lots. Mr. McCusker said that consent would not be necessary in for the proposed modification of Philips Estates, because the proposed modification would not affect the utility or marketability of the lots. Mr. Moore asked for guidance as to what types of modification would affect marketability of lots. Mr. McCusker responded that in Patel, the modification was to change a dead-end street into a through street. Mr. Moore stated that it sounded like the question had nothing to do with affects on the valuation of a property, but only on the marketability of a property. Mr. McCusker concurred.

Mr. Merrikin told the Board that he had addressed all of the comments received from Mr. Bertorelli, Town engineer. He asked if the board had any other areas of concern. Ch. Malster asked why the new proposed location for the detention basin was preferable to the earlier approved site. Mr. Merrikin stated that the new location allows for easier maintenance and the functionality of the design is better. Mr. Merrikin said he also wanted to share information with the pertaining to the adjacent lot 17 -- the Fernandez lot. He said that due to an error in the original layout, lot 17 was found to be 3 sq. ft. short of the minimum required 40,000 sq. ft. lot size. Mr. Merrikin stated that the applicant had set aside 200 sq. ft. to be conveyed to Mr. Fernandez to correct this problem, but that Mr. Fernandez did not appear ready to accept this conveyance. He noted that a reference to this land exchange was included in the notes on the plan set. Mr. Merrikin stated that he would now like to remove this reference and leave this as a private matter that may or may not be addressed separate from the proposed modification. Mr. Bertorelli stated that this explanation is straight forward and doesn't affect marketability or valuation.

The Board had no further questions. Mrs. Eramo Young asked about the status of inspection fees paid two years ago. She asked if the Board had decided whether or not to waive the fees for this modification. Mr. Bertorelli stated that the review fees were paid to Brodmerkle for his review, but recommended that some of the fees to the Planning Board could be waived. Ch. Malster stated the Planning Board fees would be waived but not inspection fees.

Mr. Fernandez of Margery Lane, asked how he would go about adding the additional 200 square feet to his lot. Mrs. Loughnane stated that he and the owner of the abutting land could file an ANR plan. She noted that the reference on the plan should say that the 200 square foot section was "not a buildable lot" and in that a future ANR was required. Mr. Fernandez asked if the town would be responsible for the maintenance of the detention basin. Mr. Bertorelli stated that until the road is accepted as a town way, the road and the drainage structures must be maintained privately. Mr. Fernandez asked about installation of sidewalks. Ch. Malster stated that the Planning Board would not require sidewalks on this limited street extension where no sidewalk was required in the original subdivision. He said that Mr. Fernandez and other neighbors who were interested in having sidewalks added should speak to the Board of Selectmen.

Upon a motion by Mr. Montgomery and seconded by Mr. Gale, the board voted unanimously to close the public hearing. The public hearing ended at 7:30 p.m.

The board reviewed the draft decision prepared by Mrs. Loughnane. Mr. Bertorelli stated that the items covered in proposed conditions #8, #9 and #10 had been addressed. Ch. Malster asked that these conditions be removed. Mr. Olanoff requested a clarification of proposed conditions #5 and #6 regarding granite curbing. Mr. Bertorelli confirmed that a Cape Cod berm would be installed instead of granite curbing on the westerly side of the road. A motion was made by Mr. Moore, and seconded by Mr. Gale to grant approval of the proposed Second Modification of Phillips Estates Definitive Subdivision Plan with the conditions set forth in the amended draft decision. All five Planning Board members voted in the affirmative and the Second Modification of Phillips Estates Definitive Subdivision Plan was approved. (A copy of the Decision is included with the hard copy of these minutes.)

Public Hearing: EIDR and Special Permit Application for Mercedes Benz – 425 Providence Highway and 100 Everett Street

Ch. Malster opened the hearing by reading the legal notice. Matt McGovern, co-owner of Mercedes Benz, Paul Ayoub, Attorney for the applicant, and consultants Doug Adams and Rich Prescott were present at the hearing.

Attorney Ayoub submitted a letter to the Planning Board as a supplement to the Application. He also submitted a landscaping plan and a lighting plan for 100 Everett Street. Mr. Ayoub stated that the lighting plan complies with the requirements of the zoning bylaw. There was discussion about whether or not a special permit would be required to allow for a reduction in the extent of screening required under the zoning bylaw. Mr. Ayoub stated that the property does not abut a residential district and therefore should not be subject to provisions of Section 6.3.5 and 6.3.6. of the bylaw related to screening. He told the board that he had confirmed this information with the Town of Norwood's engineering department. Mr. Ayoub explained that the closest residentially zoned property is 37.8' away from the property line of the 100 Everett Street lot, and the nearest actual residential use is at least 60' away. Mr. Olanoff stated that the intent of the screening provisions is to protect the view from residential property, regardless of whether that property is separated by a road or a jurisdictional boundary. Mr. Ayoub stated that the applicant is willing to provide screening that enhances the appearance of the area and effectively screens the property from the view of the residential units on the other side of the street.

Mr. Adams explained the lighting plan in detail. He said that the plans submitted to the Board fully comply with the zoning regulations. Mr. Olanoff had several questions about the lighting levels which were addressed by the applicant's consultant. Mrs. Loughnane showed the Board the original lighting plan for the Clair site for comparison purposes.

Mr. Gale had questions about the species of trees to be planted along Everett Street. The

applicant's consultant stated that the proposed species was actually a shrub, not a tree. It was explained that these shrubs would be very effective in screening the cars, due to their density and height.

Ch. Malster asked Town Counsel Tom McCusker for an opinion on the sufficiency of the application. Mr. McCusker stated that he had discussed the application with the applicant's attorney, Mr. Ayoub, and Mr. Ayoub understands that any approval granted by the Planning Board would be contingent upon the applicant acquiring the Everett Street lot and obtaining the approval of an ANR plan to combine the Everett Street lot with the lot containing the existing Mercedes dealership. Mr. McCusker confirmed that a special permit is not required in this case. Mr. Moore commented that when the Mercedes property was developed by Clair, a special permit was required. Mrs. Loughnane asked for a written request from the applicant to withdraw the request for a special permit. Ch. Malster stated that the Board could waive the lighting level requirements under the site plan review.

Mrs. Loughnane asked for clarification of the plan markings showing "ss parking" and "ms parking" areas. Mr. Ayoub stated that these markings refer to the sizes of cars to be placed in the parking spaces. He said that the areas marked "ss parking" are for small cars and the areas marked "ms parking" are for standard sized cars. Mrs. Loughnane stated that the Zoning Board administrator, Louise Rossi, had requested that the Planning Board impose a condition on which spaces could be used for the parking of inventory. She noted that the Applicant had testified at the Zoning Board of Appeals hearing that only new cars would be parked in the front spaces. Mrs. Loughnane asked that the spaces to be used for parking new and used inventory, as well as customer and employee parking spaces, be clearly noted on the plan for the Building Inspector's use for enforcement purposes.

John Bertorelli, Town Engineer reviewed the application and site plan. He said that details still need to be provided for the drainage manholes, water quality structures and catch basins. He noted that no rim, invert or slope is given for catch basins outside of the paved area. Mr. Bertorelli asked if the outflow outlets of the recharge unit would be 4" or 6". He said that there are six pipes shown exiting the Recharge unit toward Everett Street, and asked what these pipes are for. Mr. Bertorelli also asked where will the proposed hay bales be placed during construction, and which catch basins will have hay bale check dams during construction. Ch. Malster asked that a revised plan be submitted addressing these areas to Mr. Bertorelli's satisfaction.

The board reviewed the draft decision prepared by Mrs. Loughnane. Mr. Olanoff asked that a condition be added to require a revised lighting plan showing that the level of lighting in that portion of the Mullin Lot closest to Everett Street shall be generally consistent with the level of lighting along the Everett Street and Glacier Drive edges of the Mercedes Lot, and shall have an average foot-candle value at grade not to exceed 20.00 foot-candles. He asked that another condition be added that the plans be revised as necessary to eliminate inconsistencies between sheets A-1, C-0, C-1, C-2, L-1 and P-1 with respect to landscaping and lighting features.

Ch. Malster requested a motion to close the hearing. Mr. Moore moved that the hearing be closed. Mr. Gale seconded the motion, and the board voted unanimously to close the hearing. A motion was made by Mr. Montgomery and seconded by Mr. Gale to approve the application with the conditions set forth in the draft decision, as amended. All five Planning Board members voted in the affirmative and the EIDR approval was granted.

Consideration of Modification of Covenant for Howard Estates – Dover Road

Mrs. Loughnane presented the modification of Covenant for Howard Estates. She explained

that Mr. and Mrs. Howard had requested the modification to permit the transfer of a lot prior to the completion of the roadway. She noted that the form of the modification had been approved by Town Counsel. Upon a motion by Mr. Moore and seconded by Mr. Gale, all members of the Board voted in favor and the Modification of the Covenant for Howard Estates was approved. Attached to these minutes is a copy of Modification of the Covenant.

The meeting was adjourned at approximately 8:40 P.M.