

**Westwood Planning Board  
Meeting Minutes  
November 22, 2011  
7:30 PM  
Champagne Meeting Room**

Board members present: Ch. S. Rafsky, S. Olanoff, J. Wiggin, and C. Chafetz. B. Montgomery was absent.

Staff present: N. Loughnane, Town Planner and J. Barba, Planning & Land Use Specialist, recorded the minutes.

Ch. Rafsky called the meeting to order at approximately 7:32 p.m.

**Joint Public Hearing with Tree Warden regarding Removal of Trees from Scenic Road – Sandy Valley Road**

Ch. Rafsky read the legal notice of public hearing and opened the hearing at approximately 7:33 p.m. He greeted DPW Director Vicki Quiram and Highway Superintendent Todd Korchin.

Mr. Korchin stated that during the Sandy Valley Road drainage improvement this summer, two stems were cut off an elm tree in the approximate location of house #461. He explained that DPW staff members were not aware that the plant material that was removed fell within the definition of a tree under the Planning Board's Rules and Regulations for Scenic Roads. Mary Anne Soltys, the resident at 461 Sandy Valley Road disagreed with that determination and requested that the Planning Board hold a Scenic Road hearing to determine whether the Town violated the Scenic Road Act.

Mr. Korchin explained that the DPW consulted with the Town's certified arborist George Markarian to make a determination about the plant material. The stems removed were identified as adventitious sprouts that developed off of the root system of the elm and that elms are known for producing these sprouts and they are commonly removed. Mr. Korchin said the sprouts were cleanly cut, 2 to 4" above the soil line and the combined caliper of the sprouts was approximately 7-9" in diameter. According to the arborist's report, the removal of the sprouts poses no threat to elms. Mr. Korchin showed the Board photographs of Sandy Valley Road, before the drainage project construction and after the construction.

The Board reviewed the photos. Ch. Rafsky asked DPW director Ms. Quiram to comment on this matter.

Ms. Quiram said the DPW would be willing to mitigate the branch cutting by planting two new trees, if this is the desire of the Planning Board.

Ch. Rafsky opened the hearing to public comments.

T. Soltys, 461 Sandy Valley Road – commented that he is confused about the public notice. He said his letter of complaint was about the dissatisfaction with the paving job on Sandy Valley Road and asked if the paving work would be discussed this evening.

Ch. Rafsky said the Planning Board is only discussing matters related to the Scenic Road hearing. He said the Board of Selectmen, as the street commissioners, handle matters related to resurfacing and paving of the streets in town.

Ms. Loughnane confirmed Ch. Rafsky's comments and further clarified that road resurfacing and drainage construction projects do not require a scenic road approval by the Planning Board.

T. Soltys, 461 Sandy Valley Road – commented at length about his dissatisfaction with the paving project and that he believed the DEP Stormwater Regulations were violated.

Ch. Rafsky reiterated to Mr. Soltys that the Planning Board does not have jurisdiction over the matter that he would like to discuss. He suggested that Mr. Soltys discuss his concerns with the

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town administrator or the Board of Selectmen.

Town Administrator Mr. Jaillet was present at the hearing and commented that the Board of Selectmen authorized the DPW to work on this roadway. In addition, he said the Conservation Commission determined that there were no violations of the DEP's stormwater management regulations.

M. Soltys – 461 Sandy Valley Road – commented that sprouts produce a tree and the cutting was done with a saw. She said she believes the sprouts were trees. She also stated that she is not satisfied with the oversized stormwater management ditch.

T. Soltys – 461 Sandy Valley Road - said Mr. Previtera did not review the roadway work.

Ch. Rafsky asked Planning Board members to determine if corrective action should be taken regarding the sprout removal.

Mr. Olanoff asked Ms. Quiram to clarify a statement in the arborist's report which said that the caliper size of the sprouts was 7-9".

Ms. Quiram said the 7-9" caliper size referred to the combined caliper of the two sprouts together.

Mr. Olanoff mentioned that the regulation says: *"trees" shall include a tree whose trunk has a diameter of four inches or more.*

Ms. Quiram said she is training her staff about the regulations regarding the caliper of trees with regard to the board's regulations. She asked what the differences are between scenic road and public shade tree regulations with regard to caliper.

Ms. Loughnane explained the differences between the public shade tree regulations and the scenic road regulations with regard to tree caliper.

Mr. Wiggin commented that he thinks a sprout coming out of a tree will eventually become a tree but said he is not sure he is qualified to make that determination. Although he said he would consider this a tree if it was over the 4" caliper diameter. He said what is more important, is what the board is going to do to remedy this.

Ms. Chafetz said if there has been a fresh cut, it could be measured and a determination of caliper size could be made. She asked Ms. Quiram what kind of remediation can be undertaken now.

Ms. Quiram said the DPW received a recommendation from the arborist for replanting. He recommended replanting species indigenous to the area and suggested three different locations and the suggested planting season. Ms. Quiram said she will ask Mrs. Soltys where she would like to have the replacement trees planted.

Ms. Chafetz suggested that the location should be determined by the residents, Ms. Loughnane and Ms. Quiram.

Mr. Olanoff suggested planting trees anywhere (along Sandy Valley Road) but to avoid the area where the new swale was installed due to the lack of room for the tree's root system.

Ch. Rafsky commented that he thinks the improvements made on Sandy Valley Road have been very positive and did not see any voids in vegetation due to the roadway work.

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M. Soltys – 461 Sandy Valley Road – commented that she does not want any new trees planted near her elm trees.

Mr. Wiggin asked Mrs. Soltys if she would like any additional trees to be planted on the street.

M. Soltys – 461 Sandy Valley Road – responded that she would like to see more trees planted on the street.

Ch. Rafsky said the board needs to determine if the Town made an unintentional mistake in removing the trees and whether it is in favor of replanting two trees.

Mr. Olanoff said the Town made a mistake and should replace the two trees with two new trees elsewhere on the street.

Ms. Chafetz said she supports planting two new trees and leave the decision on the location to the DPW, conservation department and the neighbors.

Mr. Wiggin agreed and said he supports replanting at least one tree.

Upon a motion by Ms. Chafetz and seconded by Mr. Wiggin, the board asked the DPW to work with the Conservation Commission and informally, with the neighbors to determine an appropriate location for the planting of two new trees, and acknowledged an unintentional violation of the scenic road regulations.

Mr. Korchin said as the acting tree warden he concurs with the determination of the Planning Board.

Upon a motion by Ms. Chafetz and seconded by Mr. Wiggin, the board voted unanimously in favor to close the hearing on this matter.

**Public Hearing for Limited Environmental Impact and Design Review of an Exempt Use for Proposed Lochland Hall Religious Facility – 282 Blue Hill Drive**

Ch. Rafsky read the legal notice of public hearing and opened the hearing at approximately 8:20 P.M. and welcomed Lawrence and Philip Markham of Lochland Hall.

Philip Markham, 118 Juniper Ridge Road gave a brief presentation. He said he was speaking on behalf of his father, Lawrence Markham, who is the property owner. He said in 2008 he received conservation approval to move into the next phase of his building plans. He said the building was designed with multiple functions in mind and said the plans for building a larger church up the road was delayed due to the recession. Mr. Markham said his father would like to make the property available to congregants of the church for worship because the closest affiliated congregation is ninety miles away. He said most of his fellow congregation members live in Westwood and this building would be used for Christian religious services. He said they are concerned about the need for increased parking capacity and that they wish to pave the gravel area on the site in order to create twenty five parking spaces.

Ch. Rafsky asked Ms. Loughnane to comment on the letter written by building commissioner Joe Doyle to the Planning Board about the deviations in interior construction and the proposed use of the building.

Ms. Loughnane said the building permit granted in October 2010 for construction at 282 Blue Hill Drive was for a single family home. Mr. Doyle informed her that the interior of the structure has not been constructed according to the proposed plans and therefore a certificate of occupancy has not

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been granted, as requested.

Ms. Loughnane said Mr. Markham is seeking to change the use of the existing building from a single family home to a religious facility and a limited site plan review by the Planning Board is required. She said according to Section 6.1.4.1 of the bylaw, one parking space for every four seats is required for structures for religious purposes. The plans submitted show twenty five parking spaces, which is adequate for the 78 seats shown in the assembly area of the building. Mr. Doyle has requested a design of the occupancy load from an architect for the building as he believes that the assembly area can accommodate significantly more chairs/people than depicted on the plans. He said the site plan review should include the anticipated need for expanded parking as it would for any other commercial use.

Ms. Loughnane said the planning board needs to determine if the number of parking spaces is adequate for the proposed use of the building.

Ch. Rafsky asked if this application is being filed under an exempt use.

Ms. Loughnane confirmed that it is.

Ch. Rafsky said he would like to review the list of waiver requests.

Ms. Loughnane said usually when the board reviews facilities that are determined as exempt uses under Section 7.3.3., the Planning Board's review is to determine compliance with requirements governing bulk and height of structures, yard sizes, lot area, setbacks, open space and parking and building coverage. In addition, the board shall waive the requirement of any submittals which are unnecessary for the Planning Board's regulatory determinations. Ms. Loughnane said she sat with Mr. Markham prior to the submittal of his application to determine the sections that were not necessary.

Ms. Loughnane read over the waivers requested:

*Section 7.3.6.1.1 – Existing and Proposed Plantings*

No changes are proposed to the existing plantings and no new plantings are proposed.

*Section 7.3.6.1.2 – Natural features to be removed – Not applicable*

*Section 7.3.6.1.4 – Existing Topography and grade changes – no new construction, not applicable.*

*Section 7.3.6.1.6 – Storm Drains* – Ms. Loughnane said the board should determine whether this section can be waived.

*Section 7.3.6.1.7 – Sanitary sewerage and water supply* – Building is connected to sewer and public water, per the Board of Health. Mr. Wiggin asked if there are different requirements for a residence than for a place of assembly. He suggested that this information should be required.

*Section 7.3.6.1.8 – Location of signage, outdoor disposal area*- no signage requested and trash disposal will be negligible; likely no more than residential collection. Board members commented that they would like to look further into this waiver request.

*Section 7.3.6.2 – Exterior Lighting Plan* –no proposed exterior lighting is proposed. Ms. Loughnane said the board should make a determination whether exterior lighting is needed. Mr. Markham said he does not think lighting is necessary.

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*Section 7.3.6.3 – Traffic Study* – Ms. Loughnane said under the exempt use, this section cannot be mandated. Ch. Rafsky again commented that the board needs certification that this application qualifies as an exempt use application.

*Section 7.3.6.7 – Model* – not necessary.

*Section 7.3.7.1 – Preservation of landscape* – Ms. Loughnane said there is no new landscaping plan; it already exists.

*Section 7.3.7.2 – Relation of buildings to environment*

*Section 7.3.7.3 – Open Space*

*Section 7.3.7.5 – Stormwater drainage and erosion control-* Mr. Olanoff said a waiver on the storm drainage plans should not be allowed. He said the parking lot is just outside an aquifer.

*Section 7.3.7.6 – Advertising Features* – no sign is proposed, except for the street address.

*Section 7.3.7.7 – Special Features* - Not applicable

*Section 7.3.7.14 – Specific Standards for High and Washington Street* - Not applicable

*Section 7.3.7.17 – Vibration* - Not applicable

*Section 7.3.7.18 – Electrical Disturbances* – Not applicable

*Section 7.3.7.19 – Historical and archaeological sites* – Not applicable

*Section 7.3.12 – Fees* – Ms. Loughnane said the fees were already paid for this application and if the board decided to waive the fees then that money would have to be refunded to the applicant.

Ch. Rafsky opened the hearing to public comment:

Mr. Baldwin, 24 Whitewood Road – commented that he doesn't know where this project is going and thinks this project has caused a significant environmental impact. He said he is concerned about parking and traffic. He stated he will be concerned if lights are installed in the parking lot.

Mr. Montalto, 5 Whitewood Road – he commented that the owner should not have circumvented the permitting process. He said he is concerned about the traffic impacts. He said the highway noise has increased since the trees were removed from the back of the lot to accommodate the parking lot. He said wildlife has been impacted as well as the vegetative wetlands and stream on the property. He said is concerned about the storm drainage.

Mrs. Baldwin, 24 Whitewood Road – expressed concern about the increased highway noise.

Mr. Wiggin said that determining the required number of parking spaces needed will be a dilemma as there is an expectation that the congregation may grow.

Mr. Olanoff commented that he is concerned about the negative health effects associated with vehicle exhaust emissions on people. He said there have been multiple studies about prolonged exposure to diesel emissions and the effects on one's life expectancy. He said he is concerned about children who will be using this site for schooling etc.

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Mr. Lawrence Markham asked Ch. Rafsky for permission to address the board.

Mr. Markham said he wants to maintain good relationships with the neighbors. He said town counsel has already requested the bylaws of the church and he said it can be proved that the church is a longstanding tax exempt use. He said the building will be dedicated to religious use. He said he would like to give careful consideration to what the neighbors have commented on tonight. He said he was unaware of their concerns.

Ms. Zoppo, 537 Everett Street, expressed her concern about whether the building permit is legal and what the ramifications of what has been done here.

Ch. Rafsky and board members agreed that this hearing should be continued to address waiver requests and other items; to obtain a determination from town counsel regarding whether this application qualifies for exempt use status and the limited EIDR process.

Mr. Olanoff said a site visit should be scheduled. He also said more information should be requested of the applicant about number of congregants, sewer, and water and fire components.

Mr. Markham told the board that all the staff has been very helpful and very thorough. He said no corners were cut on this project. He said there were no secrets with the plans and the building was built for multiple purposes. He said the congregation may grow and a larger facility may be necessary. He said safety is of utmost concern. He said he is looking for a remedy for his congregation.

Ms. Chafetz asked when the trees were removed from the property.

Mr. Markham said the trees were removed over the past year and Todd Korchin was aware of this.

Ms. Chafetz asked when town counsel reviewed the church's bylaws.

Mr. Markham said the bylaws were reviewed last year.

Ms. Chafetz commented about the tree removal and the negative impacts that may have been caused to the wildlife on the site.

Mr. Olanoff suggested that the applicant restore the trees to the left and rear of the lot so as to minimize the noise of the vehicles and exhaust emissions.

Mr. Olanoff asked for additional data on the number of people who will be utilizing the building.

Mr. Markham asked the same process with the planning board would be required if another home was purchased on the block.

Ch. Rafsky responded by stating that, in his opinion, the applicant did not follow the proper permitting process, the applicant has the responsibility to know what the laws and regulations require and the applicant should have followed proper procedure. He said this is an after-the-fact review which makes it more difficult to determine the process that the board should follow.

Board members agreed to visit the site, 282 Blue Hill Drive, on Monday, December 5<sup>th</sup> at 7:30 a.m.

The board asked Ms. Loughnane to work with the applicant on the waiver requests and obtaining the determination from town counsel on the exempt use status.

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Upon a motion by Mr. Wiggin and seconded by Ms. Chafetz, the board voted unanimously in favor to continue this hearing until Tuesday, January 3, 2012 at 8:00 p.m. in the Champagne Meeting Room.

**Letter from Zoning Board of Appeals Regarding Place-Based Media**

Ms. Loughnane explained that a letter was received from the Zoning Board of Appeals regarding an application under its consideration, involving Place-Based Media at the Mobile Gas Station on High Street. The ZBA asked the Planning Board to discuss Place-Based Media and report back to the ZBA with the results of that discussion.

Board members discussed the increased presence of this type of media in various locations. Mr. Olanoff said that this is a "talking sign".

Ms. Loughnane said the zoning board said that this is not considered a sign and wants the Planning Board to amend the Zoning Bylaw to specifically define and set requirements for this new form of media.

Ms. Chafetz said this type of media is not intended to be a sign. She said that this is not addressed in our bylaw.

Ms. Loughnane said the building commissioner did not believe that this was a sign. She suggested that the Planning Board needs to get back to the Zoning Board of Appeals to let them know if amendments to the sign bylaws will be addressed at the next town meeting.

Board members discussed the current sign bylaw definitions – flashing signs, illuminated signs, illumination and movement.

Mr. Olanoff said this type of media acts more as an advertisement than a sign. The changeable screens, messages and advertising violate the intent of the town's sign bylaw which prohibits advertising billboards. He said these screens were just very small billboards.

Other board members disagreed.

Ms. Loughnane mentioned the alternative sign requirements in the Flexible Mixed Overlay District.

Ch. Rafsky asked if the Planning Board has time to carefully consider any amendments to the sign bylaws. He said this new technology is not regulated by the sign bylaw.

Mr. Wiggin said he thinks this is a sign according to Section 6.2.2.23 - *Any temporary or permanent lettering, word, numeral, billboard, pictorial representation, display, emblem, trademark, device, banner, pennant, insignia or other figure of similar character, located outdoors or visible outdoors, attached to, painted on, or in any other manner represented on a building or other structure, and which is used to announce, direct, attract, advertise or promote.*

Ms. Loughnane said the ZBA wants to know if a special permit should be issued for this place based media. She asked if the board thinks this is a prohibited sign.

Mr. Olanoff said a special permit should only be granted in accordance with Section 6.2.17 and he said this media sign is not applicable to that section.

Ch. Rafsky asked board members if Mobil Gas should remove these signs.

Mr. Olanoff said this is a flashing sign as defined in the sign bylaw.

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Board members did come to a consensus that this is a sign. There was a minority opinion that believes this is a flashing sign.

Ms. Loughnane suggested that the board may want to advise the Zoning Board that it thinks that this placed based media is in fact a sign, in accordance with Section 6.2.2.23. Ms. Loughnane said it is clear that the bylaw did not have any intent to prohibit place based media.

In addition, she asked that board to decide whether it would like to consider amendments to the sign bylaw for May 2012 annual town meeting.

**Draft Decision for Reynold's Farm**

Ms. Loughnane distributed the draft decision for Reynold's Farm for the board's review prior to the next scheduled meeting.

Upon a motion by Ms. Chafetz and seconded by Mr. Wiggin, the board voted unanimously in favor to adjourn the meeting at approximately 10:15 p.m.

The next meeting of the Planning Board is Tuesday, December 13, 2011 at 7:30 P.M. in the Champagne Meeting Room.



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**List of Documents, Materials and Exhibits**

Letter dated 7/30/11 to V. Quiram, DPW Director from George Markarian regarding the evaluation of the plant material removed in the vicinity of 461 Sandy Valley Road

Memo dated 11/16/11 to Planning Board from J. Doyle, Building Commissioner re: Site Plan Review for 282 Blue Hill Drive

Memo dated 11/18/11 to N. Loughnane, Town Planner re: 710 High Street – Mobil Gas Station (placed based media)

DRAFT of Notice of Decision – Special Permits: SRD, EMM and EIDR for 1561 High Street/Reynold’s Farm