

**Town of Westwood Planning Board**  
**Meeting Minutes**  
**February 24, 2009**  
**7:30 PM**

**Board Members Present:** Chairman Robert Malster, Steve Olanoff, and Robert Moore.

**Absent:** Bruce Montgomery and Henry Gale.

**Staff Members Present:** Nora Loughnane, Town Planner. Minutes were recorded by Janice Barba, Land Use Assistant.

Ch. Malster opened the meeting at approximately 7:40 p.m.

Ch. Malster addressed the public, stating that the main business for tonight's meeting is to continue working on the draft language of the proposed zoning amendment warrant articles for the annual town meeting, as preparation for the Planning Board's public hearing on these articles, which is scheduled for March 10<sup>th</sup>. He asked the members of the audience if there was a particular article that was of primary interest.

A member of the audience (name inaudible) said that she was interested in the proposed amendment to the bylaws related to agricultural uses and asked the reason for the amendment. Ch. Malster said this article was developed in response to research prompted by a proposal for an agricultural project on Sandy Valley Road. He explained that the Sandy Valley Road proposal brought to light an inadvertent consequence of the 2002 recodification of the Zoning Bylaw, which allowed for agricultural uses in residential districts regardless of parcel size. Ch. Malster stated that the Planning Board had determined that a review of the current bylaw was needed. He said that the Planning Board felt that a clarification of exempt and non-exempt agricultural uses, based on definitions in state law, would be beneficial. Ch. Malster explained that, while state law prohibits towns from unduly regulating agricultural uses on lots of five acres or more, it does not prevent towns from restricting or prohibiting agricultural uses on smaller parcels. He noted that the current Zoning Bylaw could be interpreted to permit agricultural uses in all Westwood zoning districts, regardless of lot size or type of enterprise. He added that some uses are currently regulated through the Board of Health. Ch. Malster stated that the Planning Board would be considering an article to require Planning Board approval for agricultural uses on properties under five acres. He noted that the proposed changes would not affect any current or future proposal for agricultural uses on lots of five acres or more. Ch. Malster said that the proposed definitions would clarify what constitutes an exempt agricultural uses and an exempt farm stands, and that the proposed changes to the use chart, if approved, would provide appropriate procedures for the regulation of future agricultural uses on lots of less than five acres. He added that the proposed changes to the parking requirements would ensure adequate parking for future uses within these categories.

Michael Newman, 401 Sandy Valley Road, stated that the town is limited to imposing reasonable regulation on properties over five acres. Ch. Malster stated that current site plan review procedures impose reasonable regulation on agricultural uses on parcels of five acres or more. Ms. Loughnane said that according to Section 7.3.3. of the Westwood Zoning Bylaws, the Planning Board must make determinations of compliance with requirements governing bulk and height of structures, yard sizes, lot area, setbacks, open spaces and parking and building coverage. She noted that the Planning Board's review of proposals for exempt uses had also addressed such issues as ingress, egress, and traffic circulation throughout the site. Ch. Malster stated that the Zoning Bylaw was drafted in accordance with state law, Chapter 40A, Section 3. Mr. Moore said that the Planning Board does not currently have the same ability to regulate non-exempt agricultural uses on parcels of less than five acres. He further suggested that Ms. Loughnane obtain the opinion of town counsel on this question.

Another audience member (name inaudible) asked what is considered "reasonable regulation". Ch. Malster stated that this is a question for town counsel. The audience member asked why the exempt agricultural uses are not proposed for further regulation. Ch. Malster responded that

Massachusetts General Laws set the parameters for review of exempt uses, including agricultural uses on properties of five acres or more. He stated that the Planning Board is not looking to impose new regulations on the exempt agricultural uses, but rather to better control non-exempt agricultural uses on smaller parcels. The audience member suggested that more clarification be provided to residents on which uses constitute exempt agricultural uses and which are non-exempt agricultural uses. Mr. Moore stated that this current process is intended to provide this clarification. He noted that there are things that the town cannot do, because it must comply with state law. Ch. Malster noted that town counsel would be present at the March 10<sup>th</sup> public hearings to address such topics.

### **Update on Proposed Zoning Warrant Articles**

Ch. Malster asked Ms. Loughnane to update the Board with a summary of the proposed zoning articles. Ms. Loughnane presented proposed Article 1 as follows:

**Article 1:** To see if the Town will vote to approve certain amendments related to agricultural uses and farm stands, including the following, or take any other action in relation thereto:

- 1) Amend Section 2.0 [Definitions] by inserting a new Section 2.12 to read as follows, and renumber sections as appropriate:

Agricultural Use, Exempt Agricultural use of property exempted by M.G.L. Chapter 40A, Section 3, and further defined by M.G.L. Chapter 128, Section 1A.

- 2) Amend Section 2.0 [Definitions] by inserting a new Section 2.48 to read as follows, and renumber sections as appropriate:

Farm Stand, Exempt Facility for the sale of produce, wine, dairy, nursery, greenhouse, garden or other agricultural products on property exempted by M.G.L. Chapter 40A, Section 3, including the sale of articles of home manufacture from such products, but only where the majority of such products, based on either gross sales dollars or volume, is raised on the premises or made from products so raised.

- 3) Amend Section 2.48 [Farm Stand, Non-Exempt] by inserting ", including the sale of articles of home manufacture from such products, but only where the majority of such products, based on either gross sales dollars or volume, is raised on the premises or made from products so raised" so that the amended section reads as follows:

Farm Stand, Non-Exempt Facility for the sale of produce, wine, dairy, nursery, greenhouse, garden or other agricultural products on property not exempted by M.G.L. Chapter 40A, section 3, including the sale of articles of home manufacture from such products, but only where the majority of such products, based on either gross sales dollars or volume, is raised on the premises or made from products so raised.

- 4) Amend Section 4.1.4.5 [Use of land for the primary purpose of agriculture, horticulture or floriculture on a parcel of more than five (5) acres in area] to delete the words "Use of land for the primary purpose of agriculture, horticulture or floriculture on a parcel of more than five (5) acres in area" and replace with the words "Agricultural Use, Exempt";
- 5) Amend Section 4.1.4.6 [Facility for the sale of produce, and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of land containing more than five (5) acres in area on which the facility is located] to delete the words "Facility for the sale of produce, and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for

sale, based on either gross sales dollars or volume, have been produced by the owner of land containing more than five (5) acres in area on which the facility is located” and replace with the words “Farm Stand, Exempt”;

- 6) Amend Section 4.1.5.1 [Non-Exempt Agricultural Use] to delete the words “Non-Exempt Agricultural Use” and replace with the words “Agricultural Use, Non-Exempt”, and to prohibit “Agricultural Use, Non-exempt” in non-residential zones while allowing said use by Planning Board special permit in residential zones;
- 7) Amend Section 4.1.5.2 [Non-Exempt Farm Stand for wholesale or retail sale of products”] to delete the words “Non-Exempt Farm Stand for wholesale or retail sale of products” and replace with the words “Farm Stand, Non-Exempt” and to prohibit “Farm Stand, Non-Exempt” in non-residential zones while allowing said use by Planning Board special permit in residential zones;
- 8) Insert a new Section 4.2.1 [Agricultural Use, Non-Exempt and Farm Stand, Non-Exempt] that sets forth conditions for consideration by the Planning Board in its review of applications for special permits for Agricultural Use, Non-Exempt, and for Farm Stand, Non- Exempt, to read as follows:

**4.2.1 Agricultural Use, Non-Exempt and Farm Stand, Non-Exempt.** Special permits may be issued by the Planning Board as provided herein to allow certain non-exempt agricultural uses and non-exempt farm stands on parcels of less than five (5) acres in area in accordance with the minimum criteria set forth below.

**4.2.1.1 Criteria for Agricultural Use, Non-Exempt.** Agricultural Uses, Non-Exempt are subject to the following conditions:

- 4.2.1.1.1 Not more than two (2) persons other than the residents of the premises shall be regularly employed thereon in connection with such use;
- 4.2.1.1.2 Such use shall not produce noise, dust, odor or other effects observable at the lot lines in amounts exceeding those normal to residential property;
- 4.2.1.1.3 Minimum lot size for any agricultural use involving the keeping or breeding of animals shall be one (1) acre;
- 4.2.1.1.4 Adequate provision shall be made for the disposal of sewage, waste and drainage to be generated in connection with such use, in accordance with the requirements of the Board of Health and the requirements of the Conservation Commission, where applicable;
- 4.2.1.1.5 A special permit issued pursuant to this Section shall automatically become null and void upon the expiration of one year if a substantial use thereof has not sooner commenced, except for good cause, and upon the expiration of ninety (90) days following the abandonment or discontinuation of such use;

**4.2.1.2 Criteria for Farm Stand, Non-Exempt.** Farm Stands, Non-Exempt are subject to the following conditions:

- 4.2.1.2.1 Not more than two (2) persons other than the residents of the premises shall be regularly employed thereon in connection with such use;

An audience member asked to compare this to an employee of a restaurant or store and said it was an undue restriction. Ms. Loughnane stated this did not apply to that use, but as a secondary use in a residential zone.

An audience member asked who is responsible for monitoring this. Ms. Loughnane said the building inspector is responsible for zoning enforcement officer. An audience member asked if 100 employees were working here, would this be allowed. An audience member asked if the same parking regulations apply to daycares, churches and schools. Ms. Loughnane responded yes.

4.2.1.2.2 Such use shall not produce noise, dust, odor or other effects observable at the lot lines in amounts exceeding those normal to residential property;

4.2.1.2.3 Adequate provision shall be made for the disposal of sewage, waste and drainage to be generated in connection with such use, in accordance with the requirements of the Board of Health and the requirements of the Conservation Commission, where applicable;

4.2.1.2.4 All structures, however temporary, shall be constructed in accordance with the dimensional requirements applicable to the districts within which the premises are located;

4.2.1.2.5 No farm stand shall be permitted on any property ("lot" was suggested, instead of "property") which has less than the minimum required street frontage on an accepted public street;

4.2.1.2.6 A special permit issued pursuant to this Section shall automatically become null and void upon the expiration of one year if a substantial use thereof has not sooner commenced, except for good cause, and upon the expiration of ninety (90) days following the abandonment or discontinuation of such use;

4.2.1.3 **Findings.** No special permit for Agricultural Use, Non-Exempt nor for Farm Stand. Non-Exempt, shall be granted unless the Planning Board finds that operations conducted under such special permit, subject to the conditions imposed thereby, will not be contrary to the best interest of the Town. For this purpose, an operation shall be considered contrary to the best interests of the Town which:

4.2.1.3.1 will be injurious or dangerous to the public health or safety;

4.2.1.3.2 will produce noise, dust, odor or other effects observable at the lot lines in amounts exceeding those normal to residential property;

4.2.1.3.3 will result in traffic on ways giving access to the subject land which will cause excessive ("traffic" was suggested, instead of "excessive") congestion, undue injury to roadway surfaces or other hazards; (A suggestion was made to remove "undue injury...etc.")

An audience member asked why other town's bylaws and ordinances are compared to Westwood's. Ch. Malster stated that generally surrounding towns are looked at for assistance with this process.

4.2.1.3.4 will have a material adverse effect on the health or safety or persons living in the neighborhood or making use of adjacent land;

4.2.1.4 **Conditions.** In granting a special permit hereunder, the Planning Board shall impose reasonable conditions specifically designed to safeguard the neighborhood and the Town, which shall ("may" was suggested, instead of "shall") include conditions as to:

- 4.2.1.4.1 proximity to street and lot lines;
- 4.2.1.4.2 type and location of structures;
- 4.2.1.4.3 drainage and erosion control;
- 4.2.1.4.4 provision of utilities;
- 4.2.1.4.5 parking and circulation;
- 4.2.1.4.6 landscaping and screening of property;
- 4.2.1.4.7 lighting; and
- 4.2.1.4.8 hours of operation;

- 9) Amend Section 4.3.3.4 [Raising or keeping of animals, livestock or poultry as pets or for use by the resident of the premises] by deleting ", livestock or poultry" and "or for use";
- 10) Delete Section 4.3.3.10 [Salesroom or stand for the sale of nursery, greenhouse, garden or other agricultural produce] in its entirety; (THESE WILL ALL FALL UNDER AGRICULTURAL USE)
- 11) Amend Section 6.1.4.5 [Use of land for the primary purpose of agriculture, horticulture or floriculture on a parcel of more than five (5) acres in area] to delete the words "Use of land for the primary purpose of agriculture, horticulture or floriculture on a parcel of more than five (5) acres in area" and replace with the words "Agricultural Use, Exempt", and to delete the words "Not applicable" and replace with the words "Sufficient parking spaces to accommodate under all normal conditions the cars of occupants, employees, members, customers, clients or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such cars in access drives or on streets near the (sp. "premises") remises in question";
- 12) Amend Section 6.1.4.6 [Facility for the sale of produce, and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of land containing more than five (5) acres in area on which the facility is located] to delete the words "Facility for the sale of produce, and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of land containing more than five (5) acres in area on which the facility is located" and replace with the words "Farm Stand, Exempt";
- 13) Amend Section 6.1.5.1 [Non-Exempt Agricultural Use] to delete the words "Non-Exempt Agricultural Use" and replace with the words "Agricultural Use, Non-Exempt", and to delete the words "Not applicable" and replace with the words "Sufficient parking spaces to accommodate under all normal conditions the cars of occupants, employees, members, customers, clients or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such cars in access drives or on streets near the (sp. "premises") remises in question"; and
- 14) Amend Section 6.1.5.2 [Non-Exempt Farm Stand for wholesale or retail sale of products] to delete the words "Non-Exempt Farm Stand for wholesale or retail sale of products" and replace with the words "Farm Stand, Non-Exempt";

There was some discussion on proposed part 9 of Article 1, regarding the keeping of animals. Ms. Loughnane clarified that the proposed amendment pertains to an accessory use in a residential area. She noted that, if the proposed article was approved, the keeping of livestock or poultry would fall under the category of an agricultural use, and would thus be regulated as an exempt or non-exempt use, depending on parcel size, while the keeping of animals as pets by the resident of the premises would remain a permitted accessory use.

Mr. Newman asked a question pertaining to part 11 of Article 1, regarding parking requirements for exempt agricultural uses. Ms. Loughnane stated that the category for "Agricultural Use, Exempt" was very broad, such that one specific agricultural use could have very different parking standards from another specific agricultural use. She noted that the language for the proposed article would leave an appropriate level of discretion to the Planning Board for a reasonable determination of appropriate parking requirements for a specific agricultural use. She noted that this same language was currently employed for other categories where a set number of required parking spaces would best be determined based on the particular characteristics of an individual use. Mr. Newman expressed the opinion that such a calculation of required parking spaces would require a subjective determination by the Planning Board. He stated that he thought such a decision should be made by the town engineer rather than the Planning Board. Mr. Moore stated that the Planning Board imposes reasonable standards in its consideration of all applications. He noted that any individual who feels aggrieved by any action of the Planning Board is free to follow the prescribed appeal process. Mr. Moore further noted that it is the Planning Board's job to reach a reasonable decision, including findings and conditions based on appropriate industry standards.

Ch. Malster asked Ms. Loughnane to present a summary of the remaining articles. Ms. Loughnane presented proposed Articles 2 through 4 as follows:

**Article 2:** To see if the Town will vote to amend Section 2.0 [Definitions] related to lot width and front setback line as follows, or take any other action in relation thereto:

- 1) Amend Section 2.81 [Lot Width] by deleting the words "building or structure" and inserting the words "principal building, or, if no principal building exists, the minimum distance between the side lot lines at all points between the front lot line and the front setback line", so that the amended section reads as follows:

Lot Width The minimum distance between the side lines at all points between the front lot line and the nearest point of a principal building, or, if no principal building exists, the minimum distance between the side lot lines at all points between the front lot line and the front setback line.

- 2) Insert a new Section 2.55 to read as follows, and renumber sections as appropriate:

Front Setback Line A line drawn from one side lot line to the other side lot line, parallel to the front lot line, such that all points along the front setback line correspond to the distance from the front lot line to a point equal to the applicable front yard setback requirement.

**Article 3:** To see if the Town will vote to amend Section 6.1 [Off-Street Parking Requirements] by deleting sections 6.1.16 and 6.1.17 in their entirety, and inserting a new Section 6.1.16 related to landscape requirements for parking areas with fewer than ten parking spaces, and a new Section 6.1.17 related to landscape requirements for parking areas with ten or more parking spaces, to read as follows, or take any other action in relation thereto:

- 6.1.16 **Parking Areas with Fewer Than Ten Parking Spaces.** Parking lots designed for fewer than ten (10) parking spaces shall provide such landscaping as may be required under Section 6.3 of this Bylaw pertaining to enclosure, screening and buffering

requirements. In addition, existing parking areas designed for fewer than ten (10) parking spaces which are being subjected to Section 7.3 of this Bylaw pertaining to Environmental Impact and Design Review shall also conform to Section 6.1.17 below.

**6.1.17 Parking Areas for Ten or More Parking Spaces.** The following requirements shall apply to all new parking areas containing ten (10) or more parking spaces, and to existing parking areas containing fewer than ten (10) parking spaces which are being subjected to Section 7.3 of this Bylaw pertaining to Environmental Impact and Design Review. Any additional requirements set forth in Section 6.3 of this Bylaw pertaining to enclosure, screening and buffering requirements shall also apply.

**6.1.17.1 Site Plan Requirements.** All parking areas applicable to this section shall be shown on a site plan which shall be prepared by a professional engineer or landscape architect and shall show the following:

6.1.17.1.1 Boundaries of the new or expanded parking area and all parking spaces, loading areas, access and egress areas;

6.1.17.1.2 Existing topography, including any proposed grading changes;

6.1.17.1.3 Proposed storm drainage system and calculations of storm drainage runoff to demonstrate compliance with the stormwater management standards as adopted and amended from time to time by the Massachusetts Department of Environmental Protection;

6.1.17.1.4 Utilities, signage, outdoor storage and trash disposal areas;

6.1.17.1.5 Existing and proposed planting, landscaping and screening; and

6.1.17.1.6 Exterior lighting.

**6.1.17.2 Landscaping Design Requirements.** All parking areas applicable to this Section shall conform to the following design requirements:

**6.1.17.2.1 Landscape Percentage.** Parking areas shall be landscaped and screened from all adjacent properties. Such landscaping shall comprise of a minimum of five percent (5%) of the total parking area. Deciduous trees shall be planted within said parking area in such a manner that, at maturity of said trees, at least fifteen percent (15%) of the paved surface area of the parking area will be shaded when the sun is directly overhead.

**6.1.17.2.2 Perimeter Planting Areas.** Parking lots shall be bordered on all sides, exclusive of driveways, with a minimum of a ten (10) foot wide planting area within which shall be located and maintained appropriate landscaping of suitable type, density and height to effectively screen the parking area from all adjacent properties and roadways. Where the minimum required front, side or rear setback is less than forty (40) feet, the landscaped buffer areas required in Section 6.3 and the areas required for perimeter landscaping may overlap. In all cases, plantings shall be located so as not to obstruct vehicle sight distances, entrances and exits.

**6.1.17.2.3 Interior Planting Areas.** A minimum of five percent (5%) of the interior area, exclusive of perimeter landscaping, of a parking lot containing more than twenty-five (25) parking spaces must be planted

as landscaped island areas. The landscaped islands shall be so located that some portion of every parking space is not more than forty-five (45) feet from either a landscaped island or the perimeter planting area. Planting areas shall be at least five (5) feet in length and width, shall contain a minimum of thirty (30) square feet of unpaved soil area, and shall be so located as to provide visual relief and wind interruption within the parking area and to assure safe patterns of internal circulation. Curbing, at least five (5) inches in height, shall surround each landscaped island as protection from vehicles. Interior plantings shall consist of a minimum of one (1) tree and four (4) shrubs for every one thousand five hundred (1,500) square feet of surface parking area.

6.1.17.2.4 **Landscape Materials.** All planted trees shall be of a species tolerant to the climatic conditions of Westwood and shall have a minimum caliper size of four (4) inches (measured four feet above grade level). Shrubs shall be a mix of deciduous and evergreen varieties, tolerant to the climatic conditions of Westwood, and be at least twenty-four (24) inches in height at time of planting. To the fullest practicable extent, existing trees and vegetation shall be preserved. Snow storage areas shall be planted with shrubs that are tolerant to weight and extended duration of snow cover. Planting shall be done in accordance with proper landscaping practices. Trees, shrubs, grass and ground cover which die or become diseased shall be replaced by the property owner within six (6) months of such death or disease.

6.1.17.2.5 **Waiver of Landscaping Requirements.** The Planning Board may waive or modify the requirements of Section 6.1.17 in a specific instance when in its judgment the strict application of such requirements would result in exceptional and undue hardship, or where for topographic or other reasons, these requirements could not reasonably be met.

**Article 4:** To see if the Town will vote to approve housekeeping amendments to the following sections of the Zoning Bylaw, in order to correct or clarify such sections, or take any other action in relation thereto:

- 1) Amend Section 2.26 [Business or Professional Services Establishment] by deleting the word "Business" from the title and inserting the words "such as the professional office of a physician, lawyer, engineer, architect, accountant, real estate or insurance agent or broker, or similar activity, which may include clerical, accounting and administrative activities associated with said activity, but which shall be" after the words "part thereof", so that the amended section reads as follows:

Professional Services Establishment An establishment primarily engaged in the transaction of business or the provision of services within a building or part thereof, such as the professional office of a physician, lawyer, engineer, architect, accountant, real estate or insurance agent or broker, or similar activity, which may include clerical, accounting and administrative activities associated with said activity, but which shall be exclusive of the receipt, sale, storage or processing of merchandise.

- 2) Amend Section 2.27 [Business Services] by inserting the word "Establishment" after the word "Services" in the title;



- 3) Amend Section 2.120 [Yard, Front] by inserting the word "principal" immediately prior to the word "building";
- 4) Amend Section 2.121 [Yard, Rear] by deleting the word "main" and inserting the word "principal" immediately prior to the word "building";
- 5) Amend Section 4.1.5.16 [Business or Professional Services Establishment] by deleting the word "Business" from the title;
- 6) Amend Section 4.1.5.22 [Business Services] by inserting the word "Establishment" after the word "Services" in the title;
- 7) Amend Section 6.1.4.2 [Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation] to allow for varying off-street parking requirements based on type of educational facility, by adding ":" at the end of the title, and by deleting the words "One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, plus one (1) space per employee", and by adding the following subsections:

6.1.4.2.1 Preschool, kindergarten, elementary school, middle school or junior high school	One (1) space per employee It was suggested that this number be increased. Also that this isn't considered "housekeeping" and town counsel should be consulted.
6.1.4.2.2 Senior high school or vocational school	One (1) space per each six (6) students, plus one (1) space per employee
6.1.4.2.3 College, university or trade school	One (1) space per each four (4) students, plus one (1) space per employee
6.1.4.2.4 Public assembly area accessory to educational facility	Sufficient parking spaces to accommodate under all normal conditions the cars of occupants, employees, members, customers, clients or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such cars in access drives or on streets near the remises in question

- 8) Amend Section 6.1.5.16 [Business or Professional Services] by deleting the word "Business" from the title, and by deleting the words "selling, storage, service and all other";

- 9) Amend Section 6.1.5.22 [Business Services] by inserting the word "Establishment" after the word "Services" in the title; and
- 10) Amend the "Allowable Exterior Noise Level" table in Section 6.6.3 [Limitations] by replacing the words "7:00 AM – 9:00 PM" in the third column of the chart with the words "9:00 PM – 7:00 AM";
- 11) Amend Section 10.1.8 [Repetitive Appeal, Application or Petition] by inserting the words "and submitted for reconsideration within two (2) years after the date of unfavorable action" after the words "Board of Appeals" in the second sentence, so that the amended section reads as follows:

Section 10.1.8 **Repetitive Appeal, Application or Petition.** No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals or Planning Board shall be favorably and finally acted upon within two (2) years after the date of such unfavorable action unless the Board which acted upon the appeal, application or petition, by a unanimous vote if the Board of Appeals or all but one of the members if the Planning Board, finds specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in its records. All but one of the members of the Planning Board must also consent to a repetitive appeal, application or petition initially acted upon by the Board of Appeals and submitted for reconsideration within two (2) years after the date of unfavorable action after notice is given to parties in interest of the time and place of the proceedings to consider consent.

Ch. Malster asked if any members of the board had further questions on the proposed articles. No further questions were asked. Ch. Malster reminded all present that a public hearing on the proposed zoning amendment articles was scheduled for March 10, 2009.

#### **Approval of Minutes for Prior Meetings**

Upon a motion by Mr. Moore and seconded by Mr. Olanoff, the Board voted to approve Planning Board meeting minutes for March 12, 2008, March 19, 2008, March 25, 2008, April 8, 2008 and January 27, 2009. Board members also approved the annual town report for submission for the Annual Town Report for 2008.

*The next meeting of the Planning Board is March 10, 2009 at 7:30 PM.*

*The meeting adjourned at approximately 10:00 PM.*