

Town of Westwood Planning Board
Meeting Minutes
May 26, 2009
7:30 PM

Board Members Present: Ch. Robert Malster, Steve Olanoff, Bruce Montgomery, Steve Rafsky and Henry Gale.

Staff Members Present: Nora Loughnane, Town Planner; John Bertorelli, Town Engineer; and Thomas McCusker, Town Counsel. Minutes were recorded by Janice Barba, Land Use Assistant.

Continuation - 480 Summer Street: Consideration of Proposed ANR Plan & Request for Extension of Shared Driveway Special Permit

At the Board's last meeting on May 12th, Mr. Mouhanna of 480 Summer Street presented the board with an ANR plan for its consideration. At that time it was discovered that the existing special permit was due to expire on June 1, 2009, and that several conditions of the existing the special permit have remained unmet. Ch. Malster asked Mr. Mouhanna to attend the next meeting with his engineer to provide a status update on unmet conditions of the special permit.

Mr. Mouhanna and his engineer, John Bensley from Beals & Thomas, Inc., were present. Mr. Bensley updated the board on the ANR plan, and presented a sketch, showing reasonable access to the individual lots, and subsequently asked the planning board to reconsider it. He suggested that the planning board could add a condition to the ANR stating that a building permit cannot be granted until the driveway is constructed. In addition, he requested an extension of the special permit so that Mr. Mouhanna has enough time to construct the driveway. Mr. Bensley said Mr. Mouhanna intends to sell the lots, and use this financing to construct the driveway, install utilities, etc. A board member asked if the fire chief has approved the location of the fire hydrant and Mr. Bensley confirmed that the location has been approved. In addition, Mr. Bensley asked the board if it would consider a change in the special permit to increase the grade of the turnaround to 10% from the 8% previously conditioned in the planning board's Decision.

Board members discussed extending the special permit for one year with the condition that no building permits shall be issued for new construction on lots 6, 7 or 8, created by the endorsed ANR Plan until such time as the shared driveway is constructed.

Ch. Malster asked the town planner to clarify the procedure regarding an amendment to the special permit. Ms. Loughnane said if the change goes beyond a minor modification then a new public hearing is necessary. Board members discussed whether a change in grade was a minor modification. Mr. Bertorelli said this change would not be considered minor and he does not support an increase in the grade. Ch. Malster suggested that the applicant keep the request for a special permit extension separate from a request for a modification to the special permit, as this would necessitate filing a separate application and new public hearing process. Mr. Bensley agreed.

Upon a motion by Mr. Rafsky, and seconded by Mr. Gale, the Planning Board unanimously approved the request for extension of the special permit with the conditions set forth in the draft decision and with the condition that no new construction occur on lots 6, 7, & 8, prior to completion of the shared driveway. In addition, the board endorsed the ANR plans and concluded this portion of the meeting.

Public Hearing to Consider Application for Limited Environmental Impact and Design Review Approval of Exempt Use for the Construction and Establishment of an Equestrian Facility – 401 Sandy Valley Road

Ch. Malster re-opened the public hearing at approximately 8:05 PM. The town planner presented affidavits to Mr. Rafsky and Mr. Gale for their signatures. These affidavits verify that Mr. Rafsky and Mr. Gale examined all of the evidence received by the Planning Board at the previous public hearing

sessions from which they were absent, related to the Limited EIDR for 401 Sandy Valley Road, prior to their participation in a vote on this matter. These affidavits will be a part of the record of the hearing.

Appearing before the board were Michael Newman and Polly Kornblith, Applicants and property owners of 401 Sandy Valley Road, along with their attorney, Dan Hill. Mr. Hill presented 11"x17" plans showing an auto-turn analysis and a 10-page letter responding to the outstanding issues identified at the last meeting of the Planning Board.

Mr. Hill said the Applicants' engineer, Rob Truax of GLM Engineering Consultants, simulated the ability of both the Westwood Fire Department's largest truck and a thirty-foot long dumpster truck to maneuver the proposed parking area. The results indicate that the proposed parking area is sufficient for access and egress within the limits of the parking area for both vehicles. Ch. Malster asked if a fire truck would have practical access to the back corner of the property and if the gravel base would be stable enough to support the weight of the fire apparatus. Mr. Hill confirmed that there would be access from three sides of the building, with adequate access to stage a firefighter's ladder. He also confirmed that the engineer said the gravel base area was designed to the same standards of public roadways and will be maintained at 18' wide. Ch. Malster asked Mr. Bertorelli if he had comments. Mr. Bertorelli said that there is nothing surprising or unusual about this plan as presented.

In response to Chief Scoble's recommendation for the installation of a complete sprinkler system, Mr. Hill said his clients do not feel compelled to abide by the statute requiring a fire suppression system, as agricultural buildings are exempt from this statute. He stated that the Applicants also believe that this request is unreasonable and outside the scope of the Planning Board's review. Mr. Hill said that he and the Applicants will be meeting with Chief Scoble on June 1st to further discuss this requirement, and to discuss the recommended extension of the water main and addition of an on-site fire hydrant. There was a discussion about estimated fire flows and gallons per minute for the existing hydrant located on Sandy Valley Road. Mr. Hill showed the board a plan received from the Dedham Westwood Water District showing estimated flow rates and how these rates compared to the fire chief's information. Ch. Malster asked Mr. Hill about how the location was chosen for the new fire hydrant on the Applicants' property. Mr. Newman stated that the hydrant location was chosen based on the recommendation of Deputy Morrison. There was additional discussion about the distance of this hydrant from the barn and questions about why it wasn't located closer to the proposed structure.

At the last meeting, Mr. Bertorelli requested that the Applicants identify a comparable category in the ITE Trip Generation Manual to show similarities to the informal traffic survey previously submitted. Mr. Hill said he was unable to identify any comparable categories but maintains that there will be 9.6 trips per day and 3-4 vehicles parked at the barn at any given time. He stated that the Applicants would not be submitting a professional traffic study. Mr. Bertorelli agreed that a comparable category of the horse farm to the ITE did not exist. At the suggestion of Mr. Hill, he spoke to Brian Russell, the owner of Sage Farm, who echoed Mr. Hill comments concerning the number of horse owners on the property at one time, typical stay times and time needed for daily maintenance of horses. Mr. Bertorelli said that he does not believe that this operation, as outlined, will cause traffic problems.

Mr. Olanoff asked if the two farms provided as the models for traffic comparisons are the same farms that were used in the informal traffic survey previously provided. Mr. Hill maintained that he would not disclose the farms' identities, as requested by the farm owners. He said on-site traffic circulation will not impact Sandy Valley Road. Ch. Malster asked that the Applicants devise a schedule of deliveries that does not conflict with early morning and afternoon school bus/pedestrian traffic. Ms. Kornblith said they would try to abide by this. There was a suggestion that on-street parking could be prevented through the installation of "no parking" signs along Sandy Valley Road. Ch. Malster said that the Board of Selectmen, not the Planning Board, has jurisdiction over the streets in town and any such signs would be a matter for consideration by the Board of Selectmen.

Mr. Rafsky asked Mr. Hill if he thought that the Planning Board should not address public safety in its review of this project. Mr. Hill said that agricultural uses are exempt from Planning Board site plan review and, legally speaking, the Planning Board cannot have a say in any safety concerns related to those exempt uses. Mr. Olanoff asked Town Counsel for his opinion. Mr. McCusker stated he will not discuss this as it was fully addressed at the last meeting. Mr. Olanoff said he wants to know what kind of conditions the Planning Board will be able to set. Mr. Hill repeated his understanding of the statute restricting the Planning Board's authority. Mr. Montgomery asked if the Applicants have considered sprinkling the areas adjacent to the living quarters in the barn structure. Mr. Newman said this has not been decided and that would be addressed under the building code. Mr. Hill said the Applicant's code consultant has done preliminary analysis and has found that, with the construction of appropriate fire walls in the building separating the arena and the barn, the project will comply with the state building code.

Ch. Malster opened the hearing to accept comments from the public.

Tom Soltys, 461 Sandy Valley Road, stated that he believes the information provided by the Applicants is anecdotal and not backed up by engineering evidence. He added that he believes that the Planning Board and Board of Health should require the Applicants to provide professional engineering reports on the public health and safety information.

Mr. Gale responded that the Planning Board has received professional information from the Fire Chief, the town's expert on fire systems. Ch. Malster concurred with Mr. Gale and said the Planning Board has done its due diligence regarding the project. Mr. Bertorelli commented that the DWWD is required to conduct flow checks and system monitoring and the information they provide is factual. In addition, Mr. Bertorelli said Linda Shea undertook an extensive investigation regarding drinking water supplies in zone 1 and zone 2. He noted that the proposed horse farm does not lie in either zone, nor in Norwood's watershed zone. Furthermore, Mr. Bertorelli stated that no tributary to the Neponset River exists here. Mr. Olanoff said the Planning Board is aware of the water protection zones, based on consultation with professional engineers from the water district.

Mary Ann Soltys, 461 Sandy Valley Road, said that she does not believe the 9.6 car trips is an accurate figure and thinks more information is needed.

Mr. Luke Legere, an attorney representing several Sandy Valley Road residents and abutters, gave a lengthy presentation. He said his clients believe that the Planning Board has the authority and jurisdiction to review and reasonably regulate anything that affects the public health and safety, even site plan review of an agricultural use. He submitted a letter to the Planning Board from a registered fire protection engineer stating that Sandy Valley Road itself does not have adequate fire and emergency access. Mr. Legere also suggested that a hydraulic analysis is necessary to determine whether the water supply is sufficient to suppress a fire at the project. Mr. Legere recommended that the Planning Board reject this application.

Maria DeBenedictis, 500 Sandy Valley Road, commented about the manure co-op and asked where on the site will composting be done. Ms. Kornblith said these questions were addressed by the Board of Health. Mr. Hill said the composting is in the manure dumpster. Ms. Kornblith said they will not continue the manure co-op after the barn is built.

Craig Foscaldo, 439 Sandy Valley Road, asked if a manure co-op is an allowed use in a residential neighborhood. Ch. Malster said the building inspector makes this determination. Mr. Foscaldo asked if a permit has been issued for this use. Ch. Malster said he did not know.

Ken Foscaldo, 35 Norfolk Avenue, said that the Board of Health did not discuss the manure co-op. He said that the Planning Board should require that the Applicants get a permit from the Building Inspector for the manure co-op. Mr. Hill said that no building permit is necessary for a manure co-op. Ch. Malster said the co-op has no bearing on the site plan review.

Mr. Olanoff asked how many trips should be added if a manure co-op is included in the proposal. Mr. Newman responded that there would not be a substantive difference in traffic. He estimated less than one trip a day could be related to the manure co-op.

Michael DeCenzo, 493 Sandy Valley Road, stated that he is concerned about fire safety in the neighborhood.

Mary Ann Soltys, 461 Sandy Valley Road, said 25 horses are permitted for this property. She spoke extensively about manure and the quantity produced by 25 horses. She said that she wants to see the number of horses reduced.

Michael DeCenzo, 493 Sandy Valley Road, made some additional comments about fire safety.

Yvonne Renwick, 464 Sandy Valley Road, stated that she is concerned that the Applicants haven't given any definitive statements. She asked what the hours of operation will be. She said that she is concerned about trailers coming into the property late at night. She added that she wants a flow test for the hydrants.

Tom Soltys, 461 Sandy Valley Road, noted that horses don't cooperate during a fire.

Mr. Hill told the Planning Board that he and the Applicants will continue to work with the Fire Chief and with the abutters and will be good neighbors. He asked that the Planning Board close the hearing.

Michael DeCenzo, 493 Sandy Valley Road, said that he would like the Applicants to be good neighbors. He said that he had asked to attend the site visit and the meeting with the Fire Chief but was denied by the Applicants.

Ms. Loughnane clarified that the Fire Chief is fully aware of the proposed location of the second fire hydrant. She said that Chief Scoble has reviewed the plans and is concerned about the accuracy of the testing of the fire flow of both hydrants. Regarding the manure co-op, Ms. Loughnane said that she had spoken with the Building Inspector, who confirmed that a manure co-op would be permitted as part of the agricultural use. Mr. Olanoff asked Ms. Loughnane if she had asked Chief Scoble whether he thought the proposed fire hydrant was close enough to the building. Ms. Loughnane said she asked Chief Scoble if the two hydrants, as shown on submitted plans, would provide suitable fire fighting capacity, and he responded that they would not.

Ch. Malster summarized that the Planning Board needs to process the information presented tonight and make a decision about the next steps in the hearing process. Mr. Rafsky said not enough information on the public safety issues was presented to close the hearing tonight. He said that he is bothered by the tone of the neighborhood discourse. Mr. Rafsky also noted that a legal question needs to be resolved and said that he wants to study the three different legal opinions. Ch. Malster said it is very important that the planning Board clearly delineate what other information is needed from the Applicants.

Mr. Rafsky said that he is hoping that the information that is presented to the Fire Chief on June 1st will allow the Fire Chief to make a final recommendation to assist the Planning Board in its decision. Ch. Malster asked the members of the Planning Board if they are looking for a memo from Chief Scoble that says the project is safe. Mr. Gale responded he is looking for this. Mr. Rafsky said the hearing should remain open so that the information that is acquired on June 1st can be made a part of the hearing and utilized by the Planning Board in making a decision. Mr. Gale stated he would like to see a memo from the Fire Chief after this meeting with the applicants. Mr. Olanoff stated that he is frustrated that information is missing from the Fire Chief and that some of the information requested by the Fire Chief is out of the Planning Board's jurisdiction. Mr. Rafsky said he would like to know, short of sprinkler installation, what would be required to reach an adequate level of safety

for the neighborhood. He said the Planning Board's concern should be more about the property and neighborhood. He also asked if special equipment is needed to handle a public safety issue at an equestrian facility.

Mr. Rafsky stated that he is torn between what is and what is not within the Planning Board's jurisdiction. Mr. Montgomery said that he is unclear about what kind of conditions would be applied to a decision on this application. Ch. Malster said Town Counsel advises the board to deliberate and make conditions and then he will review it. Mr. Montgomery asked the Applicants if they have been able to secure insurance for the barn. Mr. Newman said that they have secured insurance and that rates are not affected by the addition of a sprinkler system. Mr. Olanoff asked about the value of moving the fire hydrant within 500' of the barn. Mr. Newman said the hydrant is within 1,000 feet and the location of the hydrant was chosen based on this.

There was discussion about some of the conditions the board may wish to add to the decision, including conditions relating to hours of operation, restricted hours for deliveries, the addition of no parking signs, etc. Ch. Malster suggested that the Applicants and neighbors resolve any items prior to the next meeting. Mr. Hill asked for clarification of what the Applicants need to give the board at the next meeting. Ch. Malster stated that the board would like turning radii checked and additional information on the fire safety of the neighborhood. He said he will be arranging a meeting with the Fire Chief next week. Mr. Rafsky asked that Mr. Malster ask the Fire Chief if any special equipment would be needed for an equestrian facility regarding public safety, and what affect winter conditions will have on public safety. Ms. Loughnane said Chief Scoble has requested fire flow analysis of both hydrants and is expecting this data be submitted by the Applicants. She noted that, without such date, he may be unable to provide further information to the Planning Board. Mr. Hill said that he would address this request at the meeting with the Fire Chief on June 1st.

Mr. Legere informed the board that his clients have submitted an offer to the Applicants but have not yet received a formal response.

Upon a motion by Mr. Olanoff and seconded by Mr. Montgomery, with five members voting in favor, the public hearing was continued to June 23rd at 7:30 PM.

Approval of Minutes for Prior Meetings

Upon a motion by Mr. Olanoff and seconded by Mr. Gale, with five members voting in favor, the minutes of May 12, 2009 were approved.

The meeting adjourned at 10:45 PM.

The next scheduled meeting of the Planning Board is Tuesday, June 9, 2009 at 7:30 P.M.