

Town of Westwood Planning Board
Meeting Minutes
June 23, 2009
7:30 PM

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

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

Ch. Olanoff called the meeting to order at 7:37 PM.

Continuation of Public Hearing to Consider 81W Modification of Definitive Subdivision Approval for Presidential Estates – High Street

Ch. Olanoff said no testimony would be taken tonight on this matter and requested a motion to continue the public hearing to July 14th at 7:30 PM, in the Champagne Meeting Room. Mr. Malster moved that the hearing be continued as stated, and the motion was seconded by Mr. Gale. The vote was unanimous, in favor.

MBTA Billboard Update

Mr. Garber gave the board a copy of a letter sent by the Board of Selectmen, to Mass Highway, Outdoor Advertising Division, expressing Westwood's opposition to a proposed billboard on Route 128/195, at the northeast corner of the MBTA garage/rail structure along the Dedham-Westwood line. The letter identified a number of concerns pertaining to state laws, regulations and public policy agreements. Mr. Garber said the sign location is fraught with legal and permitting problems and presents serious negative impacts. He stated that he believes it should not be permitted by the Outdoor Advertising Division. Board members had questions about the height of the billboard. Mr. Garber said the billboard is proposed to be 85' tall, above the height of the MBTA garage which is 45' tall. He noted that members of the Whitewood Neighborhood Association have said that this billboard would be visible from their homes.

Mr. Garber told the Planning Board that this letter was copied to Sen. Marian Walsh, Rep. Paul McMurry, Town of Dedham, Town of Canton, Whitewood Neighborhood Association and CC&F. Mr. Garber suggested that the Planning Board submit a similar letter of opposition. Upon a request by Ch. Olanoff, Mr. Rafsky moved that the Planning Board draft a letter to the Outdoor Advertising Division. The motion was seconded by Mr. Gale and the vote was unanimous, in favor. Ch. Olanoff stated that he would work with Mr. Garber to develop such a letter.

Federal Stimulus Funds for Westwood Station

Mr. Garber told the board about the recent news that the 95/93 interchange, overpass and ramps south of Westwood Station are eligible to receive Federal Stimulus Funds. He noted that the exact dollar amount of possible funding is uncertain at this time. Mr. Garber said approval of federal Stimulus Funds would have a very positive impact for the future of Westwood Station.

Continuation of Public Hearing to Consider Application for Limited EIDR Approval of Exempt Use for the Construction and Establishment of an Equestrian Facility – 401 Sandy Valley Road

Ch. Malster opened the continuation of this public hearing at approximately 8:05 PM. He stated that, at the last public hearing on May 26th, the outstanding matters for the Planning Board's consideration included a request for additional information on fire safety concerns, particularly regarding access to and around the site, hydrants and their locations, and the consideration of a

sprinkler system. Ch. Malster noted that subsequent to the May 26th hearing session, he and Ms. Loughnane met with Fire Chief Scoble to discuss these outstanding matters. Ch. Malster told the Planning Board that Chief Scoble reiterated his concerns that assurances be provided by the Applicants that the driveway can withstand the weight of fire safety apparatus during all seasons of the year, that all access ways should be a minimum of 18 feet wide, that plans be amended to show access around the buildings, and that provisions be made to turn around fire apparatus that may access the rear of the structure. Ch. Malster said that the Fire Chief also requested information on hydrant location, friction loss due to length of the supply line, and water demand formulas indicating fire suppression issues. He noted that Chief Scoble clearly expressed the opinion that a properly installed sprinkler system would greatly reduce the required fire flow, as such would either extinguish a fire in its incipient stage or hold it in check until the arrival of the fire department.

Ch. Malster said that requiring a sprinkler installation is not clearly within the jurisdiction of the Planning Board. Town Counsel concurred. There was a lengthy discussion regarding the Planning Board's obligation to ensure that public safety is of foremost importance under its site plan review, and regarding possible limitations relating to the agricultural exemption of this use. Ms. Loughnane said that Chief Scoble recommended that the Planning Board condition any approval such that the width of the driveway be increased to 18' of paved or compacted gravel, suitable to withstand the weight of fire safety vehicles, beginning at 50' from the front lot line and continuing the full length of the driveway to the gravel parking area adjacent to the stable/indoor riding arena. She said that Chief Scoble also recommended that an 8" diameter fire service line be installed, with a new hydrant placed just outside the northwest corner of the paddock immediately to the east of the entrance to the gravel parking area adjacent to the stable/indoor riding arena, or in such an alternate location as approved by the fire chief.

There was some discussion on the proposed expansion of the driveway width and possible encroachment on the 35' resource protection area. Ch. Malster asked Ms. Loughnane how this proposed widening might impact the Conservation Commission's approval. Ms. Loughnane said that any change would require the Applicant to return to the Conservation Commission with an amended Notice of Intent. She noted that the Order of Conditions anticipated a subsequent request for widening of the driveway at the entrance to the site, and specified that the Applicants would have to provide the Commission with a more compelling case of the necessity of such work. Ms. Loughnane noted that the portions of the driveway proposed for widening to 18' appeared to be outside of the 35' resource protection area.

Mr. Montgomery asked about the proposed firewall locations and the proximity to combustible materials. Mr. Newman responded by showing proposed locations for the firewalls on the plans. Mr. Rafsky asked a question about the Building Code and the required 60' setback. Ch. Malster stated that the Building Inspector would be responsible for ensuring compliance with the building code, not the Planning Board. He noted that the Building Department has not yet received a complete permit application from the Applicants, and therefore, has not been able to determine compliance with applicable building codes. Mr. Rafsky stated he wants the record to reflect that any change in plans to eliminate firewalls or otherwise change the facility, which may adversely impact fire safety concerns, needs to be approved by the Planning Board. Ms. Loughnane directed Mr. Rafsky to look at condition number 10 in the draft decision, which covers this point.

Mr. Rafsky commented that traffic has not been given the highest consideration and that public safety has not been dealt with by the Applicants, nor by senior public officials. He said that he does not agree with the Applicants' claim that the Planning Board has no legal right to consider this application and set conditions of approval. Mr. Rafsky stated that he believes the greatest concern for fire safety is for the safety of the surrounding neighborhood and Lowell Woods, and not just for the safety of the barn. He said he is struggling with this decision, as he doesn't feel public safety has been adequately addressed.

Ch. Malster asked other members if they wanted to comment on the application. There were no additional comments. Ch. Malster opened the meeting to the public for comment, stressing that the

focus of the discussion be kept on topic of the public safety.

Daniel Hill, attorney for the Applicants, stated that the Applicants are at an impasse with the chief regarding the need for sprinklers. He said they respectfully disagree with the Fire Chief, and feel that sprinklers are not beneficial and will not save the horses. He said that they will employ an onsite barn manager to monitor the facility and this will be their best fire preventative measure. Mr. Hill said he believes that the Zoning Bylaw cannot be applied to this project. He said he would like to avoid litigation and offered to work with the Planning Board on the development of acceptable conditions. In response, Mr. Olanoff said there needs to be a method for a town to regulate development. Mr. Rafsky said his real concern is the abutting neighborhood and that the sprinklers make sense to save the neighborhood, not the barn. Mr. Newman stated that he thinks the planning Board is being unfair.

Luke Legere, attorney for several neighborhood residents and abutters, said he disagrees with the Applicants. He stated that the Planning Board can and should require the installation of sprinklers as a condition of the decision. He said the opinion of a professional fire prevention engineer is the only opinion that should be considered and that if the Planning Board does not agree, he thinks the board should deny this application.

Craig Foscaldo, 439 Sandy Valley Road, thanked the Planning Board for its work on this project. He stated that he, Town Administrator Mike Jaillet, and members of the neighborhood, had attempted to reach a compromise with the Applicants regarding public safety matters, but were not successful. Mr. Hill responded that it is the Applicants' wish to go through the permitting process first and attempt compromises following that process. Michael Newman, Applicant, responded that he never heard from Mr. Foscaldo.

An audience member (name inaudible) commented that a night watchman and firewalls are sufficient for the project.

Ken Foscaldo, 35 Norfolk Avenue, stated that he doesn't understand the agricultural exemptions, particularly with regard to public safety.

Mary Ann Soltys, 461 Sandy Valley Road, stated that she researched the term "night watchman" and believes that this type of service typically applies to sites and buildings that are vacant and awaiting demolition. Ms. Soltys also commented on fire walls, smoke detectors, alarm systems, lightning systems, fire drills, injuries and the use of current technology for fire prevention.

Tom Soltys, 461 Sandy Valley Road, repeated similar comments of other residents about the belief that there is a need for a sprinkler system in this project.

An audience member (name inaudible) asked if the neighborhood has ever asked the town to widen the road. Yvonne Renwick, 464 Sandy Valley Road, stated that there is no room to expand Sandy Valley Road. She said that this is property is the wrong place for this project. She said she is concerned that common sense has not been applied in this project.

Mr. Legere stated that he never received a phone call from Mr. Hill regarding attempts to compromise between neighbors and the Applicants on the project.

Patrick O'Connor, 291 Farm Lane, commented that this project does not make sense without proper fire prevention measures.

Ch. Malster asked the Planning Board to consider its options whether to deny the application or approve it with conditions. Mr. Olanoff asked about closing the hearing first. Mr. Rafsky said the hearing should not be closed yet as more information may be forthcoming. Ch. Malster said the standard practice is that the hearing will be left open without taking further public testimony in order to be able to draft the best conditions for the project.

Mr. Rafsky commented that the agricultural exemption from sprinkler requirements is a problem for him. Ch. Malster asked Mr. McCusker if the Planning Board would be out of bounds adding a condition requiring the installation of sprinklers to the decision. Mr. McCusker replied that the board would not be out of bounds adding this condition but he can't say that this would withstand judicial scrutiny. Mr. Montgomery said he doesn't want to add a decision that will prompt litigation, and therefore would not agree with adding such a condition. Mr. Olanoff agreed with Mr. Montgomery that the Planning Board should come up with the best conditions possible. Mr. Montgomery and Mr. Olanoff said that the addition of hydrants in order to get water to the barn is imperative and reasonable as a condition. Mr. Gale agreed. Ch. Malster summarized that conditions should be drafted without the sprinklers as a factor. Board members discussed that the agricultural exemption appears to prevent the Fire Chief or the Planning Board from mandating the installation of sprinklers. Mr. Rafsky said that denying the application could do more harm to the neighborhood than approving it with reasonable conditions. Mr. McCusker said there is a potential downside to deny this application based on public safety matters.

Ch. Malster said he would like the board to discuss the draft conditions prepared by Ms. Loughnane. Mr. McCusker said he had reviewed the draft decision with conditions and stated it is thorough. He said the board should deliberate on the draft conditions this evening. Mr. McCusker said he would then work with Ms. Loughnane to refine the conditions, as necessary. Mr. Hill and Applicants asked for copies of the draft decision. Their request was denied by Ch. Malster.

The board read and reviewed the draft conditions, as follows:

#1: No changes suggested.

#2: Mr. Montgomery said he would like the driveway width increased to 18'. Mr. Olanoff agreed and said he would like the 35' resource protection area to be referenced here. Ms. Loughnane said any alteration in the plans, regarding work within the wetland buffer will require the Applicants to go back to the Conservation Commission for approval. The Board discussed the driveway widening and whether or not this is reasonable. Ch. Malster said it may be more reasonable to ask the Applicants to widen the driveway to 18' in all areas excepting those portions that fall within the 35' resource protection area.

#3: Board members requested that the diameter of the fire service line be increased from 6" to 8".

#4: No changes suggested.

#5: Board members discussed the number of vehicles allowed on the property. Ms. Loughnane explained that this figure was based on the Town Engineer's number of anticipated daily trips to the property and the actual parking spaces shown on the plans, and was not based on any parking space requirements in the Zoning Bylaw. Ms. Loughnane said that there are 19 spaces shown on the plans. She said any additional cars on the site would impact the circulation of public safety vehicles.

#6: Mr. Olanoff asked that a statement be added to this condition that says all autos should be parked in one of those 19 marked spaces.

#7: No changes suggested.

#8: Mr. Olanoff asked if a "No Parking" sign located at the beginning of the driveway would be helpful. Mr. Montgomery said a sign should be put in the barn, informing users of the parking restrictions. There was consensus among the Planning Board members that the owners should also be responsible for making those who visit the facility aware of the permitted delivery times.

#9: No changes suggested.

#10: No changes suggested.

#11: No changes suggested.

#12: No changes suggested.

Mr. Olanoff asked if the Planning Board can make recommendations in addition to imposing conditions. He suggested that the Planning Board might include a recommendation to install sprinklers and to ask the Board of Selectmen to improve Sandy Valley Road to promote greater safety for the neighborhood. Town Counsel suggested a letter to the Board of Selectmen and a letter to the Applicant would be preferable to adding such recommendation to the board's decision. Mr. Rafsky asked if a condition could be added to the decision referencing the Applicants' public safety plan. Town Counsel said he would consider this information and get back to the Planning Board with more information.

Ch. Malster asked Planning Board members to further review the conditions of the decision and forward any comments, changes or additional information to Ms. Loughnane.

Upon a motion made by Mr. Rafsky and seconded by Mr. Olanoff, all members voted unanimously in favor to continue the public hearing to Tuesday, July 14th at 7:30 PM.

The meeting adjourned at approximately 10:40 PM.