

**Westwood Planning Board
Meeting Minutes
November 10, 2009
7:30 PM**

Board Members Present: Ch. S. Olanoff, R. Malster, B. Montgomery and S. Rafsky. J. Wiggin was absent.

Staff Present: N. Loughnane, Town Planner; J. Bertorelli, Town Engineer; and G. Garber, Community Development Advisor. Minutes were recorded by J.Barba, Land Use Assistant.

In order to avoid any appearance of a conflict of interest, Mr. Rafsky recused himself, at the advice of town counsel, from both wireless communication facility special permit application hearings, as he is an abutter to the abutter of 690 Canton Street. Mr. Rafsky stepped out of the room prior to the start of the first hearing and returned after the conclusion of voting on the second hearing at approximately 9:10 PM.

Public Hearing to Consider Application for Amendment of Wireless Communication Facility Special Permit for Clear Wireless LLC – 213 Fox Hill Street

Ch. Olanoff called the meeting to order at approximately 7:35 PM and opened the hearing by reading the legal notice.

Jennifer E. Lewis, Esq. of Prince, Lobel, Glovsky & Tye LLP was present at the hearing on behalf of Clear Wireless LLC. Ms. Lewis stated that the applicant is seeking to modify the existing wireless communications facility on the Dedham-Westwood Water District water tank by installing three (3) backhaul dish antennas and associated cabling. She explained that two proposed antennas will be located at the 80' centerline, directly beneath existing panel antennas. Ms. Lewis stated that one proposed antenna will be located at the 90" centerline, directly above existing panel antennas. She said that the proposed modification will not alter existing equipment, nor will it increase the existing ground space or footprint.

Mr. Malster asked Ms. Lewis if these antennas comply with industry regulations regarding cumulative health issues, etc. Ms. Lewis replied that the modification will have no significant detrimental effect on the nearby properties and comply with all FCC regulations. Ms. Lewis noted that the application contained a letter from Ajay Sawant, Radio Frequency Engineer, stating that the proposed equipment complies with all radio frequency emissions regulations set forth with the FAA, FCC and the Massachusetts Department of Public Health Standards, regulations, statues, and other requirements. Mr. Malster added that the town's health director provided a memo stating she had no health or environmental concerns associated with the project plans.

Board members discussed the advantages of the modification, including the points that no new wiring will be required, no additional maintenance will required other than ordinary upkeep and maintenance, and the footprint of the equipment cabinet will remain the same.

Ch. Olanoff opened the hearing to the public for questions and comments.

Ms. Caperton of 214 Fox Hill Street had a number of concerns regarding the recent installation of a new telephone pole with several wires running up the hill to the water tanks. Ms. Caperton also told the board that several trees have been removed, reducing screening of the water tanks and antennas. Mr. Malster noted that, over the course of the past year and a half, the Planning Board had approved installations of new equipment and upgrading of existing equipment at this site by four separate carriers. He noted that the additional wires may be related to one of those prior approvals. Ms. Lewis confirmed that no new overhead wires had been installed in preparation for this Clear Wireless facility.

Ms. Berry Goodfellow of 199 Fox Hill Street expressed concern about the health affects associated

with these wires and antennas and the lack of information available. Mr. Malster suggested that she contact the Massachusetts Department of Public Health. In response to this, Ms. Lewis suggested that her client could provide an independent radio frequency measurement report showing that the radio frequency emissions at this site are not measurably increased by the new antennas.

Mr. Dahl of 211 Fox Hill Street asked about a condition of a previous special permit that required a truck turnaround for maintenance vehicles to avoid encroachment on adjacent properties. Mr. Malster suggested that residents speak with the Board of Selectmen and the DWWD Commissioners to express their concerns and complaints, so as to be sure the property owner, DWWD, is aware of them.

Mr. Caperton of 214 Fox Hill Street expressed concern about a clogged culvert in the area causing ongoing flooding. Mr. Bertorelli said that he would inspect the site to check on these concerns.

Upon a motion by Mr. Montgomery and seconded by Mr. Malster, the board voted unanimously, in favor, to close the public hearing.

Board members reviewed the language of the draft decision prepared by Ms. Loughnane and discussed the draft conditions. Mr. Malster suggested that an additional condition be added prohibiting the installation of any new overhead wiring without further approval by the Planning Board. He added that, when the special permit comes up for renewal, the board could consider requiring that all wires be placed underground. Board members also agreed that a condition should be added requiring the applicant to submit the results of an independent radio frequency test showing that the radio frequency emissions at this site are not measurably increased by the new antennas.

Upon a motion by Mr. Montgomery and seconded by Mr. Malster, the board voted unanimously, in favor to grant the amendment to the special permit, with the conditions, and modifications discussed.

The public hearing ended at approximately 9:00 P.M.

Public Hearing to Consider Application of Clear Wireless LLC for Environmental Impact Design Review Approval of a Wireless Communication Facility – 690 Canton Street
Ch. Olanoff opened the hearing at approximately 9:01 P.M. by reading the legal notice.

Jennifer E. Lewis, Esq. of Prince, Lobel, Glovsky & Tye LLP was present at the hearing on behalf of Clear Wireless LLC. Ms. Lewis stated that the applicant is seeking to co-locate its facility on the existing building at the Westwood Business Centre. She explained that the project would include the installation of six backhaul dish antennas, two ballast mount frames and associated cabling on the roof. Ms. Lewis stated that one of the antennas will be located at the 53' centerline and the other two at the 50' centerline. She noted that the frames and dish antennas will be painted to match the existing structure.

Ch. Olanoff opened the hearing to the public for questions and comments. No questions were asked nor comments made.

Upon a motion by Mr. Montgomery and seconded by Mr. Malster, the board voted unanimously, in favor, to close the public hearing.

Board members reviewed the language of the Decision and the Conditions. Upon a motion by Mr. Montgomery, and seconded by Mr. Malster, the board voted unanimously, in favor to grant the amendment to the special permit, with the conditions and modifications discussed.

The public hearing ended at approximately 9:10 P.M.

Proposed ANR Plan for Mercedes-Benz Dealership – 425 Providence Highway and 100 Everett Street

Don Myers of Norwood Engineering, Inc. was present on behalf of the applicant, Mercedes Benz, and presented the board an ANR plan combining two lots, 425 Providence Highway and 100 Everett Street, into a single lot. A board member asked if the town of Norwood had any objections to the proposed ANR. Mr. Myers responded that it did not and that he was presenting a similar ANR plan to the town of Norwood.

Upon a motion by Mr. Montgomery and seconded by Mr. Malster, the board voted unanimously, to endorse the ANR.

Other:

Ms. Loughnane asked the board about its availability to attend a joint meeting with the newly appointed Government Study Task Force Committee. Peter Cahill, the chair of the Task Force contacted Ms. Loughnane to arrange a mutually convenient meeting. He is seeking input from the various town boards on possible charter amendments to improve areas of town government affecting those boards. After some discussion, the board decided that Ms. Loughnane should offer to attend the December 2nd meeting on behalf of the Planning Board and update the board following that meeting.

Approval of Minutes for Prior Meetings

Ms. Loughnane requested that the board review several sets of draft minutes and to email any edits and comments to her. These draft minutes were included in an email she sent earlier today.

Discussion with Lou Petrozzi

Mr. Rafsky informed the board that he had received a phone call from Lou Petrozzi regarding Mr. Petrozzi’s desire to meet with the Planning Board to discuss a proposal, in response to his failed attempts to receive an approval for the Morgan Farms subdivision. Mr. Rafsky consulted with Town Counsel Tom McCusker who advised that, due to pending litigation, no member of the Planning Board should engage in discussions with Mr. Petrozzi outside of a public meeting. Mr. Rafsky stated that he had not returned Mr. Petrozzi’s call. Board members stated that they were only interested in a substantive discussion. Mr. Rafsky asked Ms. Loughnane to contact Mr. Petrozzi and suggest that Mr. Petrozzi meet with the Land Use Committee prior to involving the Planning Board. The board concurred.

High Rock Village

Mr. Bertorelli reported that he is scheduled for a deposition with McGregor & McGregor, the attorney representing the neighbors in the litigation involving the appeal of the Planning Board’s decision for High Rock Village. He noted that Town counsel has stated that the town has an interest in maintaining the special permit granted for that property and will be defending the decision of the Planning Board.

Update on Zoning Amendments for Town Meeting

Consideration of Options for Open Space Residential Development (OSRD) – Glenn Garber

Mr. Garber gave a presentation to the board, posing a number of questions designed to narrow the field of options for the development of a new OSRD section of the Zoning Bylaw. Mr. Garber’s presentation is summarized in the following document:

CHOICES FOR OPEN SPACE RESIDENTIAL DEVELOPMENT IN REPLACING MAJOR RESIDENTIAL DEVELOPMENT THRESHOLD IN WESTWOOD BYLAW

CHOICES	DESCRIPTION	ANALYSIS
◆ Land Use Status ◆		

1) Should OSRD projects be permitted as-of-right?	Alternative is to keep them as special permit use. Most applicants would prefer as-of-right status, giving cluster development* at least equal legal weight as a conventional subdivision.	As-of-right status conforms to emerging new state model. <i>Recommend strong consideration by Planning Board.</i>
◆ As-of-Right Regulatory Options ◆		
2) Should OSRD projects be regulated via subdivision control process alone?	In this model, the regulation of the proposed development, the plan review process, occurs within the subdivision control authority of the Planning Board (PB), while the related zoning standards—use, dimensional requirements and density—remain properly in zoning (ZBL). The theory is that in a cluster, the subdivision plan is nearly identical to the site plan.	The as-of-right w/subdivision control approach. conforms to the emerging new state model It requires amending subdivision regulations of Planning Board (PB) in addition to establishing new quantitative standards within zoning bylaw (ZBL). The state sees this method as the strongest regulatory incentive for a developer to use OSRD design. <i>Recommend strong consideration by Planning Board.</i>
2A) Should OSRD projects be regulated with the EIDR site plan review process?	The theory is that retaining the EIDR process is an extra layer of plan review protection for the community. Applicant must still obtain subdivision approval, although the two hearings can be held concurrently to somewhat streamline the process.	This approach does not conform to the emerging new state model. Can be seen as a regulatory disincentive to employ the OSRD design, although the advantage to a site plan review is that it can seldom be employed to turn down a project in the way that a special permit can. <i>Recommend consideration by Planning Board.</i>
2B) What about as-of-right OSRD projects with density bonus incentives?	In either of the two preceding regulatory options, some kind of density bonus mechanism can also be built in, as a further incentive to developers to use OSRD design.	See discussion on density bonuses further on in this table. <i>Recommend consideration by Planning Board.</i>
◆ Special Permit Regulatory Options ◆		
3) Should OSRD projects be regulated by special permit?	Special permit zoning authority represents the highest and most discretionary degree of control. The site plan review (EIDR in Westwood) typically would be rolled directly into the special permit review and hearing process. Applicant must still obtain subdivision approval, although the two hearings can be held concurrently	This approach does not conform to the emerging new state model. Special permits are sometimes seen by developers as an impediment to reasonable and predictable permitting, and thus a possible disincentive to use OSRD design. A conventional subdivision is subject only to subdivision control in Westwood, due to invalidating of major residential development threshold. <i>There is a trend away from special permit-only regulation of OSRD.</i>
3A) Should OSRD projects regulated by special permit always offer a density bonus?	The idea in these instances is to employ a density bonus incentive to overcome the developer's reluctance to use OSRD design because it bears the added regulatory burden of a special permit.	Also see discussion on density bonuses further on in this table. <i>Recommend consideration by Planning Board.</i>

CHOICES	DESCRIPTION	ANALYSIS
◆ Density Bonus Options ◆		
4) Should	Many planners feel that a density bonus	Is clear in its intent and application. If existing

OSRD projects all be entitled to a density bonus built into the density formula?	can be the foremost incentive to using OSRD design because it adds value to the land in a direct and demonstrable way. The widespread use of density bonuses in MA & their specific statutory authority make them a widely used tool.	underlying density = 1.0, then adding a factor of 1.25, for example, is a clear density metric. <i>Recommend consideration by Planning Board, in comparison to # 4A below.</i>
4A) Alternatively, should OSRD regulation employ a voluntary density bonus system with a public benefit?	Typically granted for provision of extra open space (beyond the minimum), affordable housing units at one or more income levels, or both. Could possibly involve provision of other public benefits as well.	An increasing number of communities use this tool. It can get complicated when the public benefit has gradations, such as an increasing density bonus entitlement the lower the income eligibility levels, or having a sliding scale of open space protection, depending on, say, value of land as habitat. <i>Recommend consideration by Planning Board, in comparison to # 4 above.</i>
◆ Density Entitlement Options ◆		
5) Should OSRD project density always be the same as the underlying zoning?	The cluster-type project may construct the same number of units for that district as allowed for a conventional subdivision. Westwood's various zoning districts range from 12,000 square foot minimum lot size, to 15,000, 20,000, 40,000 and 80,000 SF.	On relatively small tracts of land, let us say 1 to 10 acres, the yield in dwelling units is minimal and therefore clustering might make little sense; this is particularly so in the 40,000 square foot and 80,000 SF minimum lot size districts. However, a density bonus can offset some of this disadvantage. <i>Minimum base density is not much of a market incentive to use OSRD.</i>
5A) Should OSRD projects always be entitled to a built-in extra density entitlement?	See discussion in item #4 preceding.	
5B) What should the mix of housing be?	Present mix under Senior Residential housing might offer a starting point, with its broad mix of housing types allowed and townhouse-type densities.	<i>Something in the range of 8 to 16 units to the acre and a varying housing mix (combined with stringent open space requirements) could make OSRD choice attractive to developers.</i>
5C) Should wetlands be subtracted up front, as part of any density calculation?	The theory is that wetlands are protected and unbuildable anyway, so why should the applicant be entitled to count them toward the unit entitlement on the site? Various zoning laws subtract anywhere from 25% to 100%. Some laws do not subtract wetlands at all.	There is an argument to be made that this is a disincentive to use OSRD design because it removes some part of the tract from the density calculation, while in a conventional subdivision, typically, no wetlands are subtracted. <i>This issue can only be resolved via discussion among the PB.</i>
5D) Should wetlands	The argument can also be made here that wetlands are already protected and	There is a strong case to be made that wetlands subtracted for density calculations should still be

subtracted for density calculations still be counted toward required open space on site?	unbuildable, so they should not count—or at least not count 100%—toward required open space. On the other hand, they are valuable resource areas and are difficult to exclude from open space protection.	counted toward required open space on site.
◆ Applicability by District ◆		
6) In what residential zoning districts should OSRD be allowed?	Present Westwood flexible development allows only in SR C & E@40,000 SF and 80,000, SF minimum lot sizes. Applicability of OSRD to SR B @20,000 SF and even the SR A, SR D and GR@ 12,000 to 15,000 SF is under consideration in this discussion.	The issue with OSRD applicability in more districts than just SR C&E (40kSF and 80kSF) is that even in the smaller residential zones, there are many oversize lots and a few undeveloped parcels which could benefit from OSRD design. Do we want it to apply in all residential districts? Or add just SR B@20,000 SF to SR C&E? <i>This issue can only be resolved via discussion among the PB.</i>
◆ Minimum Tract or Parcel Size ◆		
7) Should there be a minimum tract (original parcel) size to be eligible for OSRD?	Present flexible development provision has a 10 acre minimum. This is judged to be a very large minimum parcel size is Westwood and a likely reason why the provision has never been used.	Many communities have no minimum parcel size for cluster-type development, and in others it ranges from 1 acre to 20 acres. The preliminary recommendation is that it should be on the small side, as buildable land dwindles. Effective OSRD can be designed on small sites, although the more land there is to work with, the more sweeping the open space opportunities. <i>Recommend a small parcel size, perhaps 40,000 SF minimum?</i>
◆ Minimum Required Open Space ◆		
8) What percentage of the site should be protected open space?	In various environments (urban to rural) and development scenarios, have seen % range from 10% to 90%, but most laws fall in the 30% to 60% range. Use of septic also affects the %, typically requiring more land for that purpose. In WW Flexible development, there are additional OS requirements applying separately in SR C&E, over and above what is required for OS by means of lot size reduction.	We could use different percentages for sewered (the great majority of Westwood has sanitary sewers) and septic-only areas, e.g. 40% OS for septic lots, 50% for sewered. The quality of the open space should also be emphasized, requiring as much massing and connectivity as possible to preserve habitat. More complex formulas are possible, such as the one in the WW Flexible Development provision. <i>The 40% to 50% range seems right as a target.</i>
9) Should existing Flexible Development be retained, eliminated or modified to divide authority between PB	The FD provision has never been used as far as we know. It is administered as a ZBZ special permit with density bonuses allowed for housing.	Rather than make extensive changes to the flawed FD, the cleanest action is simply to eliminate it in favor of OSRD, but technically this removes a ZBA power. <i>Recommend FD elimination, but PB should discuss.</i>

and ZBA?		
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* Cluster development as employed in the matrix for general discussion purposes is used interchangeably with OSRD development as a term.

Mr. Garber asked board members to review this information, give some thought to the questions posed, and contact him by email with comments, ideas and further questions.

The meeting adjourned at approximately 10:00 P.M.

The next meeting is scheduled for Tuesday, November 24th at 7:30 P.M., at 50 Carby Street.