

**Town of Westwood Planning Board
Meeting Minutes
50 Carby Street
January 15, 2008
7:30 PM**

Board Members Present: Chairman Robert Malster, Robert Moore, Steve Olanoff, Bruce Montgomery and Henry Gale.

Staff Members Present: Diane Beecham, Town Planner; John Bertorelli, Town Engineer; and Thomas McCusker, Esq.; Town Counsel.

Chairman Malster opened the meeting at approximately 7:46 pm.

Public Hearing: Application for Definitive Subdivision Approval (Morgan Farm Estates)

Public Hearing: Application to Amend, Modify or Rescind Definitive Subdivision (Powissett Estates)

Applicant: Wall Street Development

Address: In the vicinity of Dover Road, Woodland Road, Little Boot Lane and Shoestring Lane Street

Project: 11-lot subdivision and modification of existing 8-lot subdivision

Chairman Malster read the legal notice and turned the meeting over to Town Counsel, Thomas McCusker. Attorney McCusker provided a memo, (a copy provided in the minutes), in which he explains to the Planning Board in its decision on Powissett Estates restricted the use of the Connection Right of Way to emergency vehicles, bicycles, pedestrian and one driveway. It also restricted the pavement of the Connection Right of Way to 12 feet. Further, Section 81-W provides that no modification shall affect lots which have been sold or mortgaged in good faith without the consent of the lot owners and mortgage holders. Thus if the modification affects such lots, the consent of the both the lot owner and the mortgagor is needed before the Planning Board can make any such modification. Attorney McCusker stated his position is that if the lot owners have acquired rights through covenants, easements or other tools of private land use control, the Planning Board is without jurisdiction to make an amendment that would infringe on those rights, absent the consent of the lot owners and their mortgagors. In conclusion, it is the opinion of Attorney McCusker that the changes sought by Wall Street affect the lots within the meaning of the statute and that Wall Street needs the consent of the lot owners and their mortgagors before the Planning Board has jurisdiction to entertain the 81-W application.

Board members discussed the easement and asked the applicant's attorney, Mr. Gallogy, if lot owner's signatures had been obtained. The response was that letters have been sent.

Mr. Gale asked Attorney McCusker about the Planning Board's decision regarding use of the easement. Attorney McCusker responded that the easement was modified by the Planning Board's decision and the language in the homeowners' deeds mirrors the Planning Board's decision and conditions.

A resident, Kelly Hiller of 10 Little Boot Lane was present at the meeting and asked where the land taking will be. Attorney Gallogy, stated there would not be any land taking and that the current 50' right of way would be utilized.

The Planning Board's consultant, Paul Brodmerkle of Site Design Professional, LLC provided a detailed document in which roadway design, roadway infrastructure, and stormwater management systems were analyzed for Morgan Farms Estates and Powissett Estates. Mr. Brodmerkle went through each of the 33 items identified in the memo with the Board. A copy of the memo is included in the minutes.

With respect to the Morgan Farm application, Mr. Brodmerkle's review indicated some very significant issues with the drainage which will take considerable effort to finally be corrected. The design issues of the subdivision are the same issues as in the previously decided consolidated Land Court cases that are currently under appeal.

The Planning Board suggested that the applicant's engineer and the Town's consultant discuss the findings in depth, examine drainage models and submit modifications to the Planning Board for further review. The applicant agreed. The Board asked about the proposed number of lots for the project as well. The applicant stated 7-8 lots are proposed. Diane Beecham, Town Planner, suggested that an additional traffic analysis be conducted, specifically focusing on cut-through traffic.

Upon a motion by Robert Moore and seconded by Henry Gale, the hearing was continued to February 26, 2008. The hearing closed at 9:15 PM.

Release of Lots From Covenant

Applicant: Charlie and Jane Howard

Address: 265 Dover Road

Project: Release of two of three lots

This two-lot subdivision is under a covenant to ensure that the infrastructure is built. One lot is vacant and the other lot includes their original house. A request for the release of Lot 1 of the Howard Estates subdivision was received by the Town Planner. The Engineering Department confirmed that the infrastructure to serve this lot is complete and that lot can be released. The other lot can not be released

until the turnaround is built and the applicant is aware that it will have to be built before this lot is built upon or sold.

A copy of the Release of Lots from Covenant is attached with these minutes.

The meeting was adjourned at 9:45 PM.

TOWN OF WESTWOOD
Commonwealth of Massachusetts



PLANNING BOARD

RELEASE OF LOTS FROM COVENANT

Westwood, MA January 15, 2008

The Planning Board of the Town of Westwood, Massachusetts hereby certifies that the construction of municipal services or utilities and other improvements required by the Rules and Regulations Governing the Subdivision of Land in Westwood, Massachusetts, or imposed as conditions of approval by the Westwood Planning Board of the definitive subdivision plan showing three (3) building lots entitled "Howard Estates Definitive Subdivision Plans Located in Westwood, Massachusetts", dated September 25, 2005 and revised through October 13, 2006, prepared by Consolidated Design Group, Inc., 21 Main Street, Hudson, MA 01749, recorded at the Norfolk County Registry of Deeds in Book 565, Pages 16-22 and further modified by a plan endorsed pursuant to M.G.L. Chapter 41 § 81P entitled "Plan of Land Dover Road in Westwood, MA", dated May 30, 2007, prepared by Consolidated Design Group, Inc., 21 Main Street, Hudson, MA 01749, recorded at the Norfolk County Registry of Deeds in Book 575, Pages 13 have been completed to the satisfaction of the Planning Board as to the following designated lots and said lots are hereby released from the Covenant dated October 16, 2006 and recorded at the Norfolk County Registry of Deeds in Book 24350, Page 48:

Lot 3 and Lot 5, only

Town of Westwood Acting By and Through its Planning Board

COMMONWEALTH OF MASSACHUSETTS

_____, 20____

Norfolk, ss.

Then personally appeared the above-named _____ , a member of the Westwood Planning Board, and acknowledged the foregoing instrument to be his/her free act and deed as such member and the free act and deed of the Westwood Planning Board, before me.

Notary Public

My commission expires:

The undersigned being a majority of the Planning Board of the Town of Westwood, Massachusetts, hereby release from the Covenant dated January 2, 2002 and recorded at the Norfolk County Registry of Deeds XXXX the following enumerated lots shown on a plan entitled "Modification of Definitive Subdivision Plan – Powissett Estates in Westwood, MA", dated July 11, 20002, prepared by Guerriere & Halnon, Inc., showing ten building lots, said land being located on Morgan Farm Road and Woodland Road, Westwood, Massachusetts, and said plan consisting of fourteen (14) pages:

Lots 1, 2, 3, 5A, 6, 7A, 8A, 9A, 10A, 12 inclusive

**MAJORITY OF THE PLANNING BOARD
OF THE TOWN OF WESTWOOD**

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.
20__

Then personally appeared before me the above-named

a member of the Planning Board of the Town of Westwood, and acknowledged the foregoing instrument to be his/her free act and deed as such member and the free act and deed of the Planning Board of the Town of Westwood.

Notary Public

My commission expires:

_____, 20__