

Town of Westwood Planning Board
Meeting Minutes
Location: 50 Carby Street, Champagne Meeting Room
May 7, 2008
7:00 PM

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

Staff Members Present: Nora Loughnane, Town Planner; John Bertorelli, Town Engineer; Peter Alpert, Esq., Ropes & Gray and Thomas McCusker, Town Counsel.

Chairman Malster opened the meeting at approximately 7:00 p.m.

Continuation of Public Hearing on Definitive Subdivision Plan Application for a Modification of Powissett Estates Subdivision and Proposed 11-lot Morgan Farm Estates Subdivision

Attorney Richard Gallogly, representing Wall Street Development Corp. was present at the hearing. Chairman Malster asked Mr. Gallogly if he was able to comply with the Planning Board's requirement that each lot owner and each mortgagee assent to the proposed application to modify Powissett Estates Subdivision. Mr. Gallogly stated that Wall Street Development disagrees with Town Counsel's opinion that such assent is necessary. He said that his client would like the Planning Board to seek a second legal opinion on this matter, and added that Wall Street Development would pay any costs incurred by the Planning Board to obtain that second opinion. Ch. Malster replied that the board was confident in its reliance on the opinion of Town Council.

Mr. Gallogly told the board that Wall Street Development had asked each of the lot owners in Powissett Estates to sign the application for the proposed Second Modification of Powissett Estates. He noted that Wall Street Development had subsequently filed a complaint in Land Court against each lot owner seeking a declaration of the court ordering those lot owners to sign the application. Attorney Gallogly expressed confidence that the Land Court will rule in Wall Street Development's favor. He also expressed his opinion that the Planning Board should exercise its power to resolve this matter by granting the requested waivers and permitting the alternative Morgan Farm Plan.

Mr. Gale stated that he would not vote for the Planning Board to approve a modification of the Powissett Estates subdivision without the assent of the lot owners, unless ordered by the Land Court to do so. He said that the limited emergency use of the right-of-way between Little Boot Land and Shoe String Lane had been fully discussed and approved in 2001, and added that he did not see sufficient cause to change the configuration or expand the use of the emergency right-of-way. Mr. Moore stated that he wished to incorporate by reference the full record of the public hearing that resulted in the May 7, 2001 approval of the Powissett Estates Definitive Subdivision which created the emergency right-of-way.

Chairman Malster asked Town Counsel to describe the possible scenarios for the board's action. Mr. McCusker explained that if the applicant did not obtain the lot owner's signatures on the application, and the Planning Board did not entertain the 81W application because it was considered to be incomplete without the signatures of the lot owners, the applicant could appeal the Planning Board's decision and try to convince the Land Court and Superior Court that Town Counsel's opinion was wrong. Mr. McCusker explained that if the Land Court and Superior Court agreed with the applicant, then the matter would be remanded back to the Planning Board and the 81W application would have to be reviewed at that time. Mr. McCusker stated that the Planning Board could then deny the 81W application if the applicant remained unable to convince the board that there would be sufficient cause to alter the configuration and use of the emergency right-of-way. Mr. McCusker noted that the Planning Board could streamline this procedure by both determining the application to be incomplete without the required signatures, and determining that

even if the application contained such signatures, the board would act to deny the application.

Ch. Malster stated that, without sufficient cause to modify the Powissett Estates subdivision and permit the use of the emergency right-of-way for access and egress, the proposed Morgan Farm subdivision would not meet the 500-foot limitation on dead-end streets. He asked the board for a motion to disapprove the proposed Modification of the Definitive Subdivision of Powissett Estates, both for incompleteness and for cause, and to disapprove the proposed Morgan Farm Estates Definitive Subdivision for cause. Mr. Moore moved to close the hearing. Mr. Gale seconded the motion and the board voted unanimously to close the hearing.

A motion was made by Mr. Moore and seconded by Mr. Montgomery to disapprove the proposed Modification of the Definitive Subdivision of Powissett Estates due to the application being incomplete without the signatures of all owners of lots within the Powissett Estates Subdivision and of all holders of mortgages on such lots; notwithstanding that disapproval for incompleteness, to disapprove the proposed Second Modification of Definitive Subdivision of Powissett Estates on the grounds that the board found no cause to deviate from the result that is embodied in its decision of final approval of the Powissett Estate Subdivision; and to disapprove the proposed Morgan Farm Definitive Subdivision for failure to comply with the subdivision regulations.

The Planning Board, by a vote of five to zero, voted to *disapprove* the Second Modification of Definitive Subdivision of Powissett Estates and the Definitive Subdivision of Morgan Farm Estates.

Planning Board Public Hearing: EIDR for Needham Bank Drive-Through – 341 Washington Street

Ch. Malster read the legal notice for the public hearing. He stated that the applicant, Needham Bank, has requested site plan approval pursuant to Section 7.3 of the Zoning Bylaw for the construction of a drive-through teller station and new entrance canopy at Needham Bank, 314 Washington Street. Ray Jowdy, attorney for Needham Bank, was present for the hearing as were engineers, an architect, and several company representatives.

Mr. Jowdy explained that in March of this year the Zoning Board of Appeals granted Needham Bank a Special Permit and Variance from Section 5.2.9 of the Bylaw, to permit the installation of the drive-through teller station within the front setback area. Several photos were presented showing the Bank's south elevation, existing sign, hill behind building, drive-thru exit from north & south, the existing buildings across from the site, and views around the site. There was general discussion on the parking lot and driveway layout, lighting samples, a traffic impact study, drainage and catch basins.

Mrs. Loughnane stated that Building Inspector Joe Doyle recommended a "no left turn" sign at the exit of the proposed drive-through due to the high traffic volume and number of vehicles already entering Washington Street in this area. She added that Sgt. Paul Sicard, Safety Officer, concurred with this opinion. Town Engineer, John Bertorelli, commented on the roof drainage and noted that a stormceptor should be installed. Mr. Bertorelli recommended a traffic gap analysis to evaluate the need for a "no left turn" sign. Mr. Thomas McCusker of Brookfield Road requested that the Planning Board require a lighting plan and analysis. Mrs. Loughnane noted that Mr. Doyle had also expressed concern about the proposed clock. She said that the inclusion of the bank's name on the clock made it a second free-standing sign, and that only one free-standing sign was permitted. Ch. Malster told Mr. Jowdy to speak with Building Inspector Joe Doyle about further approval of the clock.

Chairman Malster asked Mr. Jowdy to gather the requested materials, including revised drainage

plans and a gap analysis, and return to the Planning Board next month. He asked the Board for a motion. Mr. Moore moved to continue the hearing to June 10, 2008 at 7:00 p.m. in the Champagne Meeting Room at 50 Carby Street Mr. Gale seconded the motion and the board voted unanimously to continue the hearing.

Ch. Malster opened the Westwood Station portion of the meeting at approximately 8:15 p.m.

Continuation of Planning Board Public Hearing: EIDR for Phase 1A of the Westwood Station Area Master Plan: Phase 1A of the Westwood Station Area Master Plan

Applicant: CFRI/Doherty with Cabot, Cabot & Forbes & Commonfund Realty in collaboration with New England Development.

Address: 22 Marymount Ave., 213 Rosemont Rd., 9 University Ave., 105 Rosemont Rd., 50 Rosemont Rd., 50 Rosemont Rd., 145 University Ave., 165 University Ave., 47 Harvard St., 201 University Ave., 245 University Ave., 35 Harvard St., 730 Canton St., 40-46 Harvard St., & 160 University Ave.

Project: Environmental Impact & Design Review for construction of Phase 1A of the Westwood Station Area Master Plan.

[A verbatim transcript of this public hearing entitled Westwood Station Subdivision Hearing, Wednesday, May 7, 2008, 8:40 p.m. at 50 Carby Street, Champagne Meeting Room, Westwood, Massachusetts 02090, Robert C. Malster, Chairman; Steven H. Olanoff, Vice Chairman; Robert E. Moore, Jr., Secretary; Bruce H. Montgomery, Member; Henry W. Gale, Member; Nora Loughnane, Town Planner; John Bertorelli, Town Engineer, Peter Alpert, Esq.; Ropes & Gray. Pages 1-92, transcribed by G&M Court Reporters, Ltd., 42 Chauncy Street, Suite 1A, Boston, MA 02111-2211 will serve as the official minutes. A copy of this transcript is in the Westwood Station file.]