

**Town of Westwood Planning Board
Meeting Minutes
50 Carby Street
December 18, 2007
7:00 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; Peter Alpert, Esq.; Ropes & Gray & Thomas McCusker, Esq.; Town Counsel.

Chairman Malster opened the meeting at approximately 7:00 pm.

**Continuation of Public Hearing: Application for Definitive Subdivision Plan Approval
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: Area Master Plan – Redevelopment of 134 Acres of University Avenue

**[A verbatim transcript of this public hearing entitled Westwood Station Subdivision
Hearing, Tuesday, December 18, 2007, 7:11 p.m. at 50 Carby Street, Westwood,
Massachusetts 02090, Robert C. Malster, Chairman; Steven H. Olanoff, Vice Chairman;
Robert E. Moore, Jr., Secretary; Bruce H. Montgomery, Member; Diane Beecham, Town
Planner; John Bertorelli, Town Engineer, Pages 1-26, 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.]**

Informal Presentation: Request for Shared Driveway

Address: 235 Westfield Street

Presenter: Kristin Wilson, Beals and Thomas

Project: Shared driveway to serve three lots in Westwood and one lot in Dedham

In Attendance: Robert Buckley and Kristen Wilson, Beals & Thomas, Inc.

Robert Buckley and Kristen Wilson, Beals & Thomas, Inc. made presentations regarding a proposed shared driveway to serve three ANR lots in Westwood and one lot in Dedham on a 14.2 acre parcel at the end of Westfield Street. The land is zoned Single Residence District E. Currently, the property has one single family residence located on the Westwood-Dedham town line which is served by an existing paved driveway that the owner of the property, Mr. Paul Gay, would like to use as the shared driveway.

Ms. Wilson provided a map as an exhibit and an additional map from the Town's GIS system was provided by Ms. Beecham to show the context of the property. The map shows the proposed four lots and pictures of the driveway as it currently exists and its profile. It was explained that all but a small portion of Lot 4 is in Dedham and has no street frontage and that it would require a variance from the Dedham Board of Appeals as well as a frontage waiver from the Planning Board for the purposes of the Subdivision Control Law. Ms. Beecham spoke with the Dedham Building Inspector and he knows of one instance that a zero frontage variance was granted for a landlocked lot on Sandy Valley Road that was created as a result of Route 128. He indicated that shared driveways serving two lots are allowed as of right in Dedham and he opines that the current driveway will provide sufficient access to the Dedham lot as long as they provide an easement for a turnaround at the end of the driveway in Dedham.

Board members discussed whether or not the existing driveway could be widened without excessive disturbance. Turnouts and gravel shoulders were suggested in areas near the brook. Also

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7:00 PM**

mentioned was the possibility of lots 1 and 2 having separate Westfield Street driveways. Beals & Thomas responded that it was the intent to minimally impact the current aesthetics of the property, and they would like to avoid having to construct additional new driveways.

A board member asked Ms. Beecham if the fire chief had any objections to the width of the driveway with regard to adequate access for public safety vehicles. Ms. Beecham stated that Fire Chief Scoble strongly recommends that the current driveway be upgraded to a condition more consistent with the subdivision rules and regulations. At a minimum, the width of the roadway would have to be at least 18 feet wide.

Chairman Malster suggested that representatives from Beals & Thomas and the applicant schedule a meeting with the Westwood fire chief to discuss public safety matters; speak with a representative from the conservation commission and then follow-up with the Town Planner.

**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

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

In Attendance: Louis Petrozzi, President of Wall Street Development Corp.; Rich Gallogly, Esq., Rackemann, Sawyer & Brewster; Bill Sculley of MS Transportation Systems, Inc.; and Rob Choukas of GLM Engineering

Chairman Malster read the legal advertisement and opened the public hearing.

GLM Engineering gave a presentation showing the proposed definitive subdivision plans. Bill Sculley of MS Transportation Systems, Inc. provided a brief presentation on the potential traffic impacts and future access characteristics associated with the project. Mr. Scully stated traffic volumes remain low and that accident data did not indicate any major safety related issues in the vicinity of the project. He recommended a STOP sign on Morgan Farm Road at Dover Road.

Ms. Beecham clarified for the Board that two separate decisions need to be made by the Board: a decision on the 81W application to amend the previously approved Powissett Estates subdivision and the separate application for a new 11-lot subdivision (Morgan Farm Estates).

Attorney McCusker discussed that in his opinion, the 81W application does not include the minimal requirements for submission. Detailed plans for the proposed changes to the Powissett Estates subdivision are missing, as well as drainage calculations and traffic reports. Most importantly, the application form is incomplete because it is signed only by Wall Street; in his opinion the range of modifications to the Powissett estates subdivision will affect the marketability of the individual lots in this subdivision and thus will require the signatures of the lot owners. Attorney McCusker suggested that the Board can make its decision on the 81W plan based on jurisdictional issues.

Attorney Gallogly's main point is that consistent with the *Patelle* case, Powissett Estates can be modified without the lot owners' consent because the requested changes (i.e. change from a dead end street to a through street) does not have a direct effect on the marketability of title acquired by the lot purchasers, which is how the term "affect" is contemplated to mean in the statute. Examples of these direct impacts include changes in the lot configurations, easements imposed on the lots, etc. He further stated that the proposed changes in the Powissett Estates subdivision are the same as the ones proposed in the *Patelle* case, which the Appeals Court ruled that the lot signatories were

**Town of Westwood Planning Board
Meeting Minutes
50 Carby Street
December 18, 2007
7:00 PM**

not needed.

Attorney McCusker responded that in the *Patelle* case, the judge went further on to say that if lot owners want to protect themselves from changes such as a change from a cul-de-sac to a through street, then these additional restrictions need to be incorporated into the individual deeds. Attorney McCusker argued that this was what was actually done in the case of the Powissett Estates subdivision. The language in the Imposition of Covenants and Homeowners Association document imposes on each lot essentially the conditions of the subdivision decision dealing with the right of way between the two cul-de-sacs (i.e. the 12 foot pavement width, the use of it only as emergency access, etc.). In turn, this document and its conditions are recited in each and every deed for every lot in Powissett Estates. In other words, the required roadway configuration of the subdivision is imposed on every lot deed. Also, the language of the Court ruling and the language of the Easement itself says that Stivaletta (as the Grantor) "agrees to sign any application that may reasonably be required in order to facilitate Grantee's proposed subdivision...., including but not limited to an application for modification of any approval of the Definitive Subdivision Plan.." Stivaletta has not signed the application.

Attorney Gallogly indicated that he respectfully disagrees with Town Counsel's opinion.

Two residents attended the meeting. Ms. Hiller, 10 Little Boot Lane, stated she is concerned about the proposed widening of the roadway as it will change the character of the neighborhood and result in an increase in traffic and public safety problems. Mr. Gantert, 12 Little Boot Lane, has concerns about the public safety access road and inquired about the use of a gate by the Fire Department. The Board had some questions about the traffic study and its relation to the volume of through traffic and turns on Woodland Road and Dover Road. The applicant's traffic engineer responded that the increase in volume was minimal.

Ms. Beecham identified Paul Brodmerkle of Site Design Professionals, LLC as engineering consultant for the Town of Westwood. Mr. Brodmerkle is in the process of doing a technical review of the application in terms of its conformity to the subdivision rules and regulations. He was introduced at the meeting and will report on his review and provide a presentation at the Planning Board's meeting on January 15th. Chairman Malster suggested that Mr. Petrozzi and his consultants meet with Mr. Brodmerkle to discuss technical matters and missing information.

On a motion by Bob Moore and seconded by Henry Gale, the Board unanimously voted to continue the public hearing to January 15, 2008 at 7:30pm.

Proposed Zoning Amendments

Diane Beecham went over the proposed zoning amendments that are being requested by the Building Inspector:

1. Establish a special permit to allow for a boundary fence (or a fence in combination with a wall) to exceed six feet in height.

The definition of "structure" specifies that a fence over six feet in height is to be considered a structure and thus must conform to all dimensional requirements. Therefore, no boundary fence can exceed six feet unless a zoning variance is granted. In the recent past, three of these types of variances have been granted and the expectation is that requests for this relief will continue. The alternative is to allow for a specified increase in the height by special permit. There has been some discussion that the maximum height be increased to eight feet and that if the fence is to be installed on top of a wall, then the height of the wall be included as part of the height measurement. The decision criteria for this special permit should be specified and may include the property's proximity

**Town of Westwood Planning Board
Meeting Minutes
50 Carby Street
December 18, 2007
7:00 PM**

to heavily traveled roadways; proximity to adjoining residences; degree to which existing landscaping and vegetation is disturbed; degree to which safety considerations such as sight lines are retained.

Board members discussed and some comments were that fences higher than six feet are not visually attractive and serve to "wall off" properties from adjoining roadways and neighboring properties. Other comments stated that these higher fences do provide some benefit to a community or neighborhood if blocking something unsightly, such as a heavily traveled roadway.

Regulate the Storage of Commercial Vehicles.

The Building Commissioner has indicated that although this issue has not been a problem to date, he would like the Board to take a look at the issue of regulating commercial vehicles. Currently, our bylaw, which does not have a definition for commercial vehicle, allows one by right in residential districts and more than one requires a special permit. In addition, any commercial vehicle in excess of 8500 lbs and 20 feet in length that is parked overnight in a residential district has to be screened so that it can not be seen at normal eye level from any abutting lot in a residential district. The zoning issue is that there is no limit to the size of a truck that can be parked in a residential district by right as long as it meets this required high standard of screening. Board members commented about the size of vehicles and their impact on traffic site lines and the importance of public safety.

Refine definition of "fast order food" to either specifically include or exclude coffee shops and/or ice cream parlors [or create separate definition for these uses]

The issue is that coffee shops and ice cream parlors meet the definition of "fast order food establishment" with the exception that what is being purchased to be consumed off-premises does not constitute a "meal", which is what is referred to in the current definition. As you may know, the Board of Appeals overturned the Building Inspector's decisions that Starbucks and Cold Stone Creamery are fast food establishments. Based on the BOA's decisions, these types of uses are allowed as of right in commercial districts although they have comparable parking/traffic patterns as fast order food establishments which are regulated by special permit and only allowed in the HB district. Board members agreed that this definition will be a complex one and will require careful consideration and further discussion.

Some additional zoning amendments that the Planning Board may want to consider:

Change the SPGA for the Earth Material Movement special permit for projects subject to site plan review from the Board of Appeals to the Planning Board.

Presently, the PB is the SPGA for Earth Material Movement special permit for SRD and MRD projects; it makes intuitive sense that the PB also be the SPGA for commercial projects that require this special permit as well as site plan review so that the hearings can be held simultaneously and the site development/site disturbance issues be dealt with by one board. A recent example of this is the project at 100 High Street—they came before the PB for site plan review and then had to go before the Board of Appeals for this special permit. It is contemplated that the Board of Appeals will remain the SPGA for this special permit for individual residential lots. Board members will contemplate this change.

Include a minimum lot size for Senior Residential Developments.

The provision in the state statute that required age-restricted housing to be on a parcel(s) totaling a minimum of 5 acres has been deleted. The SRD bylaw has essentially been governed by this provision and so now that it has been eliminated, the base density of the underlying single-residence

**Town of Westwood Planning Board
Meeting Minutes
50 Carby Street
December 18, 2007
7:00 PM**

district will govern (i.e. 12,000 to 80,000 square feet). Board members discussed this inclusion and suggested researching neighboring communities' minimums and provide this information for assist in further determination.

The meeting adjourned at approximately 9:50 PM.