

**Town of Westwood
Planning Board
Meeting Minutes
Carby Street Building
February 21, 2006
7:30 PM**

Board Members Present: Steven H. Olanoff, Robert E. Moore, Jr., Robert C. Malster, George A. Nedder

Board Members Absent: Henry W. Gale

Staff Members Present: Diane Beecham, Town Planner; John Bertorelli, Town Engineer

The meeting was convened at 7:40 pm.

Special Permit Public Hearing: Shared Driveway for Two Lots at 215 High Street

Applicant: Joseph Flanagan

Address: 215 High Street

Project: Shared driveway for two lots at 215 High Street

In Attendance: Joseph Flanagan, Sr.; Joseph Flanagan, Jr.

On a motion by Rob Malster and seconded by George Nedder, the four members of the Planning Board in attendance voted unanimously to immediately continue this public hearing without taking any additional testimony to April 11, 2006 at 9:00 pm.

Continuation of Public Hearing: Application for a Shared Driveway Special Permit at 480 Summer Street

Applicant: Michael & Yvette Mouhanna c/o Fourzol, LLC

Address: 480 Summer Street

Project: Shared Driveway to service a total of three lots

On a motion by Rob Malster and seconded by George Nedder, the four members of the Planning Board in attendance voted unanimously to immediately continue this public hearing without taking any additional testimony to March 7, 2006 at 7:30 pm.

Discussion of Potential Sponsorship of Warrant Articles with Board of Selectmen

Presenter: Nancy Hyde and Mike Jaillet

Project: Potential zoning amendments to Mixed Use Overlay District on University Avenue for Westwood Station project

In Attendance: Steve Rafsky, Economic Development Advisory Board; Dan Bailey, Esq., Special Counsel for the Board of Selectmen; Nancy Hyde, Board of Selectmen, Mike Jaillet, Executive Secretary

Nancy Hyde stated that she had been meeting with the Cabot, Cabot & Forbes, the developers of the proposed Westwood Station project and that a continuing issue has been the process for initiating zoning articles. She stated that the general message to the developer has been that there will be no surprises and subsequently the Town found out late last week that the developer had expanded the list of articles that they want to go forward with at the Spring Town Meeting. They then met again with the developer and had to list revised to include what they considered to be the essential items. Ms. Hyde stated that there would have to be a special town meeting in the fall.

Mr. Moore stated that the Planning Board was left with the feeling that the communication and the process regarding this zoning amendment process was not working. He stated that there was concern expressed that the Planning Board had to work through the articles and process to sort out the zoning and could not provide dual sponsorship of the articles with the Selectmen at this time.

Mr. Rafsky stated that he had been adamant that they did not want to do a lot of zoning amendments for the annual town meeting and initially thought that all the zoning would go through the special town meeting. After meeting with the developers, it was decided to go forward with the housekeeping articles and only those other zoning changes that must be in place before the developer made an application.

[The Board reviewed the proposed zoning amendment articles proposed by the Selectmen with respect to the Westwood Station/MUOD overlay district.]

[The first discussion centered around the several articles that in effect allow the so-called White parcel at the corner of Whitewood Road and University Avenue to be used for commercial purposes but not change the underlying Single Residence C zoning. The developer and neighborhood entered into an agreement to allow a portion of the parcel to be developed into a small office building. In order to accomplish that, a series of articles were put forward to allow for the office development but not change the underlying zoning.]

Mr. Malster stated that it would be more clear and concise to split the White parcel and rezone the section that was to be used for the office building and just rezone that portion to industrial. He stated that he did not want to needlessly clutter the zoning bylaw, especially since a lot of effort was made to clarify the bylaw during the recodification process a couple of years ago.

Mr. Bailey stated that he agreed that the process was cumbersome and that the only way for him to answer was to say that it was driven by the neighbors' desires.

Mr. Jaillet stated that the underlying issue was that the neighbors did not want it to be rezoned industrial. What would happen if the MUOD project did not go forward? Anyone could then come forward and build an office building.

Mr. Moore stated that the point was that it was brought forward amounts to bad zoning.

Mr. Olanoff stated that the neighborhood agreement overly restricts the Planning Board in its review of the White parcel. The agreement details where the parking lot will be located, the size of the buffer, etc. Mr. Rafsky responded that the Planning Board is not a party to this agreement and therefore is not subject to its provisions. Mr. Bailey stated that Mr. Olanoff had an appropriate issue.

Mr. Bailey stated that the cleanest is to rezone the White parcel as industrial and deal with all of the issues of this development by private agreement.

[It was decided to try to get the parties together to discuss the possibility of rezoning the portion of the White parcel from residential to industrial that will be developed as an office building].

Article 24: To see if the Town will vote to amend the Westwood Zoning Map as follows, or take any other action in relation thereto: add the property shown on the attached map entitled "Zoning Map Changes, May 1, 2006" to MUOD 2.

This article rezones a slight portion of MUOD 1 to MUOD 2 to essentially "square off" MUOD 2 in order to all the residential to be moved farther from the railroad tracks. The increase is a couple of acres.

Article 25.2.A: Insert the following as a new Section 9.6.5.7: "Business or Professional Services Establishment, Bank and Financial Institution"

This article is related to White parcel. It adds business/professional services establishments as an allowed use in MUOD.

Article 25.1.B: Change the numbering of prior Section 9.6.5.7 to Section 9.6.5.8 and modifying it to read as follows: "Uses accessory to the uses cited above and to the uses permitted in the underlying zoning district."

There is an inconsistency in the current language. There should be an "or" in the current language. [The Board determined that the language is still confusing and will need additional work.]

Article 25.2: Amend Section 9.6.7.7 to (A) add the following at the end of the first sentence: ", except on the portions of said lot abutting those areas of residentially zoned land on which a buffer area equal to or greater than fifty (50) feet wide is required by recorded restrictive covenant or on which Business or Professional Services Establishments are permitted"; and (B) insert the words "50-foot" after the word "Said" in the second sentence.

This is an article relating to the White parcel that will undergo additional review with respect to having the underlying zoning changed with the intent that this article may not be needed.

Article 25.3: Amend Section 9.6.7 to add the following Sections 9.6.7.8: "The provisions of Sections 4.3.4, 6.1, 6.2, 6.3, 6.4, 6.6 and 7.1 applicable to nonresidential land or land in a Nonresidential District shall apply to all land within the MUOD except to land that is residentially zoned and is subject to a recorded restrictive covenant that limits its use to residential use and uses accessory thereto.

This is an article relating to the White parcel that will undergo additional review with respect to having the underlying zoning changed with the intent that this article may not be needed.

Article 26.1: Amend Section 9.6.5 by deleting the phrase "Except as otherwise provided herein and" at the beginning of the first sentence of Section 9.6.5 and inserting the following after the words "applicable to the underlying district": "unless otherwise provided herein".

The word "and" is the problem in the current language because it makes it inconsistent. The intent of this change is to make clear that the MUOD provisions override the underlying zoning provisions. [The Board feels that this language needs to be more defined.]

Article 26.2: Amend Section 9.6.6.2 by adding the word "restoration" after the word "alteration".

[The Board has some concerns about this and wants it to be deferred.]

Article 26.3: Amend Section 9.6.7 to add at the end of the first sentence of Section 9.6.7: "and other sections of this Bylaw."

[The Board has some concerns about this and wants it to be deferred.]

Article 26.4: Amend Section 9.6.7.3 to insert the words "lot area" after the words "lot frontage."

This was an oversight from the original MUOD zoning amendments from the previous Town Meeting.

Article 27: To see if the Town will vote to amend Section 9.6.7 of the Westwood Zoning Bylaw by adding the following Section 9.6.7.9 or taking any other action in relation thereto: "In an Area Master Plan Special Permit, the Planning Board may vary the requirements of Section 6.1.23 to allow access or egress points to a parking area to be closer than on hundred fifty (150) feet to the centerline of an intersecting street and more than two (2) access and two (2) egress points to any one parking area."

This article gives the Planning Board the flexibility of varying section 6.1.23 which deals with driveway locations and minimum distances for ingress/egress points. [The Board felt that this language could be simplified.]

Article 28.1: To see if the Town will vote to amend Section 9.6.7 the Westwood Zoning Bylaw to add Section 9.6.7.9 as provided below, or take any other action in relation thereto:

“For purposes of the Water Resources Protection Overlay District (WRPOD) provisions contained in Section 9.3 of the By-Law, within areas subject to both the WRPOD and the MUOD the following shall apply:

For purposes of Section 9.3.4, the reference to uses for any purpose by special permit in the underlying district shall also refer to uses for any purpose by special permit in the MUOD.”

Presently the WRPOD does not contemplate only the underlying district and not an overlay district.

Article 28.2: “Petroleum products in vehicles within parking structures within the MUOD shall not be considered storage of liquid petroleum products.”

Mr. Olanoff stated that this should be changed in the WRPOD section, not just MUOD section.

Article 28.3: “Within the MUOD, minimum lot area shall be consistent with Section 9.6.7.3.”

The minimum lot area will be controlled by the MUOD, not the underlying district.

Article 28.4: “For purposes of calculating the minimum amount of vegetation area and the amount of impervious materials coverage in Section 9.3.7.3, the references to “lot” shall be deemed to be to the area subject to an Area Master Plan Special Permit or application therefor. If an Area Master Plan includes areas within both the MUOD and WRPOD, and if impervious materials cover more than 15% of the portion of such area within the WRPOD, then all storm drainage other than roadway runoff shall be re-charged within the area subject to the Area Master Plan and roadway runoff shall be subject to the stormwater management guidelines issued by the Massachusetts Department of Environmental Protection (DEP).”

[The Board believes that there needs to be additional review of the language dealing with storm drainage.]

Article 29: To see if the Town will vote to amend the Westwood Zoning Bylaw by inserting the following at the end of the last sentence of Section 9.6.10.5, or taking any other action in relation thereto: “; provided that such two (2)-year period shall not include such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17.”

Article 30: To see if the Town will vote to amend Section 9.6.5 of the Westwood

Zoning Bylaw as follows, or take any other action in relation thereto:

- A. Insert the following as a new Section 9.6.5.8: "Restaurant with entertainment."
- B. Insert the following as a new Section 9.6.5.9: "Bar within a restaurant (with or without entertainment)."
- C. Change the numbering of Section 9.6.5.8 as provided in Article [25] to Section 9.6.5.10.

[The Board believes that this language also needs additional review.]

Article 31: To see if the Town will vote to amend Section 9.6.5 of the Westwood Zoning Bylaw as follows, or take any other action in relation thereto:

- A. Insert the following as a new Section 9.6.5.10: "Bar within a hotel."
- B. Change the numbering of Section 9.6.5.10 as provided in Article [30] to Section 9.6.5.11.

[The Board believes that this language is not needed; if the alcohol regulations allow for bars within hotels, then that is sufficient.]

Dan Bailey stated that they are still working on the issue of the Adult Uses District and at this point do not have an answer to where it should be relocated to.

[The consensus of the Board is that if the changes that were discussed tonight are incorporated into the revised amendments, they are in agreement to co-sponsor the articles.]

Deliberations and Vote: Revisions to MRD, Shared Driveway and General Special Permit Rules and Regulations; new SRD Rules and Regulations

On a motion by Rob Malster and seconded by Bob Moore, the four members of the Planning Board in attendance unanimously voted to approve the revisions to the Major Residential Development Special Permit Rules and Regulations, dated February 21, 2006; Shared Driveway Special Permit Rules and Regulations, dated February 21, 2006; and General Special Permit Rules and Regulations, dated February 21, 2006 and the adoption of new Senior Residential Development Rules and Regulations, dated February 21, 2006.

Review and Finalize Written Decision: 1541-1561 High Street Senior Residential Development
Applicant: Edward Musto
Address: 1541-1561 High Street
Project: 19-unit Senior Residential Development proposal for 5.04 acres pursuant to the SRD and Environmental Impact and Design Review sections of the Zoning Bylaw

Three members of the Planning Board in attendance finalized and approved the final decision for the Reynold's Farm/Musto Senior Residential Development special permit application as follows. George Nedder stated for the record that he has not reviewed the decision as he did not participate in the public hearing process for this application:

PROJECT SUMMARY

Edward Musto proposes to develop a 19-unit Senior Residential Development on four contiguous parcels totaling approximately five acres located at 1531, 1537, 1545 and 1561 High Street. The project is being proposed pursuant to the Senior Residential Development provision of the Westwood Zoning Bylaw which restricts unit occupancy to persons fifty-five (55) years and older, their spouses and physically or mentally handicapped close relatives.

The two-story townhouse units are proposed to be in a mixture of two and three unit buildings. A 26-foot wide access drive from High Street will split into two roadways (Road A and Road B) that are 21 feet wide, with a sidewalk on one side of each of the roadways. An unpaved pedestrian pathway will loop around the property and a paved pathway is also proposed along the northerly side of High Street, in front of the development. The Project Plans provide for 10-12 visitor parking spaces in addition to the two garage and driveway spaces provided for each unit.

There will be public sewer and water service to the Site and extensive off-site drainage improvements. Also, as part of project, the Applicant has proposed to deed two off-site housing units to the Westwood Housing Authority as part of their affordable rental housing inventory.

Section 8.6 of the Town of Westwood Zoning Bylaw provides for the issuance of a special permit for a Senior Residential Development upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

- Impact on the quantity and quality of available housing choices for residents fifty-five (55) years of age and older, with a range of income levels and physical abilities;
- Proximity of the proposed development to public transportation, open space, neighborhood shopping and service facilities;
- Impact on the natural environment;
- Impact on vehicular and pedestrian movement and safety;

- Compatibility of the proposed development with the surrounding neighborhood.

STATEMENT OF FINDINGS

I. PROCEDURAL REQUIREMENTS

On January 30, 2004, an application was filed by Edward J. Musto pursuant to Section 8.5 [Major Residential Development], Section 8.6 [Senior Residential Development] and Section 7.3 [Environmental Impact and Design review] of the Westwood Zoning Bylaw. The Planning Board is the Special Permit Granting Authority pursuant to Sections 8.5 and 8.6 and the Permit Granting Authority pursuant to Section 7.3.

The Planning Board of the Town of Westwood scheduled a public hearing in accordance with the General Laws of the Commonwealth of Massachusetts on Tuesday, February 3, 2004 to consider the aforementioned application of Edward J. Musto. At this meeting, the Planning Board voted unanimously to approve the Applicant's written request to withdraw this application without prejudice in order to revise the application to include an expanded project boundary. The Planning Board scheduled another public hearing for the revised application in accordance with the General Laws of the Commonwealth of Massachusetts on Monday, March 15, 2004; continued to May 4, 2004; continued to May 25, 2004 (immediately continued and no testimony taken); continued to June 8, 2004; continued to July 13, 2004; continued to September 14, 2004; continued to September 28, 2004; continued to November 30, 2004; continued to February 1, 2005; continued to March 15, 2005 (immediately continued and no testimony taken); continued to April 12, 2005 (immediately continued and no testimony taken); continued to May 17, 2005 (immediately continued and no testimony taken); continued to June 7, 2005; continued to July 5, 2005; continued to August 23, 2005; continued to October 25, 2005; and continued to December 13, 2005 at which time the Planning Board closed the public hearing at the end of this hearing. Westwood Planning Board members Henry W. Gale, Robert C. Malster, Robert E. Moore, Jr. and Steven H. Olanoff were present for all public hearings at which testimony was taken.

The Planning Board conducted its deliberations and final vote on this Application at its duly authorized meeting on January 24, 2006.

In its review of the legislative history and intent of the Senior Residential Development bylaw provision; correspondence from Town Counsel to the Planning Board; and a discussion with the Zoning Enforcement Officer, the Planning Board finds that the Project requires a special permit pursuant to Section 8.6 [Senior Residential Development] and a permit pursuant to Section 7.3 [Environmental Impact and Design Review]. The Planning Board is the Special Permit Granting Authority and Permit Granting Authority, respectively, pursuant to these Sections.

The Project Site is located in Residential Zoning District C. A Senior Residential Development (SRD) is allowed in this zoning district subject to the grant of a special permit.

II. FINDINGS

The Planning Board finds that there are substantive deficiencies in the final overall Project design that, in order to address, will require significant changes to the Project Plans. Although there have been extensive public hearings and at least nine revisions to the Project Plans, the Board finds that the Applicant has not produced a site plan that adequately relates the building and infrastructure layout and design to the specific characteristics of the Project Site. The grading of the site is inadequate, resulting in an excessive number of retaining walls and steep driveways with essentially no landing areas. Also, the layout of the dwelling units relative to the various retaining walls interspersed throughout the site has resulted in an awkward design in which some of the units will have stairs leading directly from the door to the retaining walls.

Throughout the public hearing process, the Planning Board underscored the need for ample setbacks from the adjoining properties. Although this was realized in earlier designs, the final plan's smaller setbacks were inadequate. In addition, the Planning Board has expressed concerns regarding the location of Roadway A relative to the property lines of the existing residences along High Street. Again, the final plan presented a significantly and inadequate setback as compared to some of the earlier designs. The Board also finds that the sidewalk along the northerly side of Roadway A is problematic because of the excessive number of driveway openings.

The Planning Board finds that there are technical deficiencies in the Project Plans that, in order to address, will require significant changes and additions to the Project Plans. The current plan to address the existing off-site drainage problems along High Street and Stanford Drive is incomplete; it will require a significant amount of additional engineering work to ensure that it will be an adequate mitigation measure that can be implemented. On a conceptual level, this current plan provides for the inadequate drainage inlet on High Street to be replaced with a new drop inlet in a better location, a new drain manhole to be added and the insufficient drain pipe under High Street, as well as several sections of the drainage pipe under Stanford Drive, to be replaced with significantly larger-sized pipe. Substandard pipes that drain the on-site wetlands will also be replaced. Presently, the Board can not make the determination of the adequacy of this plan until the detailed engineering work is completed.

The architectural plans either do not adequately reflect the buildings as shown on the Project Plans or are incomplete. The architectural plans include backyard decks which are not shown on the Project Plans. Also, the architectural plans do not reflect the fact that since the units are at significantly different grades, they have a various number of steps leading to the front doors. There are also no floor plans for the units designated as handicap accessible. Also, because of the various grades, the Board can not make a determination that in all cases, there will be a suitable means of access and egress to all units for handicapped persons as required by Section 8.6.2.5 of the Zoning Bylaw.

There are also other various components of the Project Plans that either are absent or lack sufficient detail. These includes, but are not limited, to the porous pavement parking areas, mail/bus shelter area and an engineered design of the paved pedestrian pathway along the northerly side of High Street, in front of the project.

Based on the above Findings, the Planning Board finds that the adverse impacts of the Project, in view of the particular characteristics of the site and of the Project in relation to that site, will outweigh its beneficial impacts to the Town or the neighborhood.

DECISION

The Planning Board has evaluated the application in relation to the above findings and as the Special Permit Granting Authority, the Board, by a vote of three in favor and one opposed, finds that the adverse impacts of the Project, in view of the particular characteristics of the site and of the Project in relation to that site, will outweigh its beneficial impacts to the Town or the neighborhood and hereby votes to **deny** said application dated January 30, 2004 and subsequent revisions, and the following related submissions (hereinafter referred to as the "Project Plans") filed with the Planning Board by or on behalf of Edward J. Musto:

1. Plan entitled "Reynold's Farm (previously 1545-1561 High Street) A Senior Residential Development Westwood, MA", dated November 15, 2003 and revised January 20, 2004; April 20, 2004; November 20, 2004; January 10, 2005; March 7, 2005; April 1, 2005; June 24, 2005; October 10, 2005; and November 1, 2005, 000, prepared by Fred L. Pfischner, Jr., PE, Pfischner Engineering Company, P.O. Box 453, Norfolk, MA 02056, consisting of seven (7) sheets;
2. Report entitled "Traffic Impact Assessment for Proposed Residential Units on High Street (Route 109) in Westwood, Massachusetts", revised through February 2005, prepared by Gillon Associates Co., 3 Old Farm Road, Norwood, MA 02062;
3. Technical Memorandum entitled "Response to Traffic Related Comments, 1545-1561 High Street 'Reynolds Farm'", prepared for Carl Balduf, P.E., P.L.S., Town Engineer, prepared by John T. Gillon, P.E., 3 Old Farm Road Norwood, MA 02062;
4. Report entitled "Stormwater Management Report for Reynold's Farm (Formerly 1545-1561 High Street) A Senior Residential Community in Westwood, MA", revised through January 10, 2005, prepared by Fred L. Pfischner, Jr., PE, Pfischner Engineering Company, P.O. Box 453, Norfolk, MA 02056.
5. All of the foregoing plans and reports are hereby incorporated by reference and made part of this Decision.

RECORD OF VOTE

The following members of the Planning Board voted to grant a special permit for this Application: Steven H. Olanoff.

The following members of the Planning Board voted in opposition to the grant of a special permit for this Application: Robert E. Moore, Jr., Robert C. Malster, Henry W. Gale.

The meeting was adjourned at 10:00 pm.