

Town of Westwood Planning Board  
Meeting Minutes  
Carby Street Building  
March 7, 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.

**Continuation of Public Hearing: Application for Shared Driveway Special Permit for Three Lots at 480 Summer Street**

**Applicant:** Mr. & Mrs. Mouhanna

**Address:** 480 Summer Street

**Project:** Project: Shared driveway for two lots at 480 Summer Street

On a motion made by Mr. Nedder and seconded by Mr. Malster, the four members of the Planning Board in attendance voted unanimously to immediately continue the public hearing without taking any additional testimony to April 11, 2006 at 7:30 pm.

**Withdrawal of Application: Application for Shared Driveway Special Permit for Two Lots at 306 East Street**

**Applicant:** Peter Heaney

**Address:** 215 High Street

**Project:** Shared driveway for two lots at 306 East Street

On a motion made by Mr. Nedder and seconded by Mr. Malster, the four members of the Planning Board in attendance voted unanimously to accept the Applicant's request to withdraw this application without prejudice and to refund the inspection fees.

**Continuation of Public Hearing: Amendment/Modification/Recission of Westview Estates Subdivision**

**Applicant:** Westwood Planning Board

**Project:** Review of thirteen unconstructed lots within the Westview Estates subdivision

Jack O'Toole asked what was the current status of the plan? Mr. Malster stated approved in 40 years. Issue of pulling the bond. Mr. Malster stated that he was not aware of a cease and desist on the property by Order of Conditions - separate issues and jurisdictions between the Planning Board and the Conservation

Commission. The applicant will ultimately have to meet the requirements and receive approvals from both boards prior to construction. Diane will check into this.

It was stated that the issue was that the applicant wanted to release the covenant and the town felt that the construction standards were insufficient and that was the reason for the hearing.

Mr. Malster will look into these issues - he was not aware of them until tonight.

On a motion by Mr. Olanoff and seconded by Mr. Moore, the hearing was continued to May 16, 2006 at 7:30 p.m.

### **Zoning Amendment Public Hearing**

**In Attendance: Peter Fenn, Esq., Fenn & Associates [for petition articles relating to Major Residential Development and Senior Residential Development]; Dan Bailey, Esq., Rackemann, Sawyer & Brewster [for MUOD articles filed by the Selectmen]; Ray, Jowdy, Esq., Jowdy & Church [for petition articles filed by Murphy & McManus relating to Allied Drive]**

Mr. Moore opened the hearing.

Mr. Moore indicated that based on the direction given by the Finance Commission at their public hearing, there is a need for additional dialogue with the Planning Board with respect to the so-called White parcel. Is there something that can be done without making the numerous changes to the bylaw to accomplish the commercial development on this parcel?

Mr. Bailey stated that it was great that the developer and the neighborhood have come to an agreement with respect to this parcel although the devil is in the details. The agreement stated that the underlying residential zoning will remain but there is the issue of cumbersome changes to the bylaw to accommodate this.

Jim Fox, 135 Whitewood Road, stated that the neighborhood can "live" with rezoning to Industrial the portion of the site that will be developed as an office building as long as the provisions of the agreement were recorded.

Mr. Moore stated that the Board did not want to change the protections offered in the agreement.

Mr. Nedder questioned what would happen if the Westwood Station project was rejected by the Board and a portion of the site is now zoned commercially?

Mr. Olanoff stated that if the restrictions were recorded on the property, then the restrictions run with the land and thus it does not matter who the developer is; the restrictions are still in place.

Mr. Bailey stated that as part of the agreement between the neighborhood and the developer, there will be a gift to the Town of a conservation restriction [in return for

the neighborhood's support of the rezoning]. There are various options to deal with timing of the gift at Town Meeting: the Selectmen could sign it as the first item on the Warrant and then have it immediately recorded; if there was a two night Town Meeting, then once it was signed it could be held in escrow; or have the Conservation Commission accept it because they are the only board that can accept a gift with town meeting approval.

Mr. Olanoff stated that the only issue is where to locate the commercial zoning line within the parcel which is based on the agreed location of the buffer between the office building and the additional residential lot.

Mr. Bailey stated that the entire parcel would go into the MUOD and there would be an ANR plan for the residential lot.

[Mr. Moore indicated that the Board will now review the individual zoning petitions and will start with the three petitions articles dealing with the Major Residential Development/Senior Residential Development issues:

1. Amend Section 8.6 [Senior Residential Development] by adding a new section 8.6.9 to require an application for a Senior Residential Development to also be subject to the provisions of the Major Residential Development bylaw if the proposed SRD development has four (4) or more residential units. (Petition)
2. Amend Section 8.5.2 [Definition of a Major Residential Development] by inserting the words "development or construction of four (4) or more dwelling units on, or" after the word "mean" and by inserting a comma after the words "purposes of". (Petition)
3. Amend Section 8.6.4.1 [Senior Residential Development] to require that the allowable density of a Senior Residential Development shall not exceed 1.5 times the density permitted by conventional development at the site unless the Planning Board makes specific findings that a higher density will not have any deleterious impacts. (Petition)

[GET TRANSCRIPT FROM FENN]

4. Amend the Zoning Map to rezone three parcels of land located at 40 Allied Drive (Map 17-172), 100 Allied Drive (Map 17-173) and 122 Allied Drive (Map 17-174) from Highway Business to Industrial. (Petition)
5. Amend Section 4.1.1 [Principal Uses] of the Zoning Bylaw to allow lots located partially in Westwood and partially in another town to use the portion of the lot in the other town to satisfy the requirements of the Westwood Zoning Bylaw. (Petition).

Ray Jowdy, Esq. stated that he is representing Murphy & McManus who are purchasing the property at 40 Allied Drive and have offered the above two petition

articles. They have been before the Finance Commission and will offer some additional changes to the language as a result of that hearing.

The first article will change the zoning of these three lots that are split between Dedham and Westwood from Highway Business zoning to Industrial zoning. This will allow for the proposed project to take advantage of the increased height and density allowed in the Industrial zoning district.

Murphy & McManus want to develop a 70,000 square foot office building or 5 story hotel on the property. They consider these to be the best uses for the property and the hotel is not an allowed use under the current HB zoning. The property is actually very low; it is 20 feet below Route 128 and the additional height allowed under the Industrail zoning would greatly enhance the lot. They want to site entirely within Westwood and locate the parking would be in the adjoining town.

Mr. Jowdy stated that the second proposed petition zoning amendment will permit the developer to utilize the land in the adjoining town to meet the requirements of the Westwood zoning.

Mr. Moore asked about the status of the two other property owners? Mr. Jowdy stated that both properties have given their verbal approval of the zoning petition and they will follow up in writing.

Mr. Malster asked if you could have surface parking as a principal use in Dedham? The response was yes [it does require a special permit]. What about parking as a principal use in Westwood? It was stated that it also requires a special permit in Westwood to have surface parking as a principal use. The only way to get around the special permit requirements in the two towns is to have the building straddle the town line.

Mr. Malster asked what was driving the access issue? It was stated that the Bylaw required that there be effective access to the Town. This lot only has effective access through Dedham.

Diane Beecham asked if the petitioners had looked at the access issue in terms of it being a legal non-conforming issue? Specifically, if the access through Dedham was there prior to the adoption of Section 4.1 [which requires that there be effective access to Westwood] , could the change of the driveway access be considered at change in its non-conformity status that could be done though the special permit process rather than an amendment? Mr. Jowdy responded that the issue is the economic development of the site and the resulting tax revenues. In addition, this access issue will only affect the Industrial district.

Mr. Bailey stated that the Economic Development Advisory Board and the Selectmen were in support of this because it also affected a portion of the GM parcel which will impact the University Avenue Westwood Station project.

Mr. Olanoff asked if it would impact other properties such as 400 Blue Hill Drive to allow land in another town to meet Westwood's zoning requirements? Mr. Bailey stated that it may affect the ability to develop the site by being able to use the adjoining land to meet Westwood's zoning requirements.

Ann Wood, 190 Arcadia Road, asked what they used to calculate the projected revenues to the Town? The response was a 4-story office building.

Bob Moore stated that the following three articles are related to the White parcel and will heard at the next public hearing on March 15<sup>th</sup> to give time to see if they can be reformulated that will take into account the feedback from the Planning Board and Finance Commission.

6. Amend the Zoning Map to include the parcel of land located at 213 Whitewood Road (Assessor's Map 33, Lot 20) in the Mixed Use Overlay District 1 (MUOD 1) and Mixed Use Overlay District 2 (MUOD 2). (Board of Selectmen)
7. Amend Section 9.6.5 [Mixed Use Overlay District Permitted Uses] to add Business or Professional Services Establishments, Bank and Financial Institution as a permitted use. (Board of Selectmen)
8. Amend Section 9.6.7 [Mixed Use Overlay District Alternative Regulations] to add the following Section 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. (Board of Selectmen)

The following article is a housekeeping article to ensure that the date of the Zoning map as shown in the Zoning Bylaw is consistent with the date of the actual Zoning Map.

9. Amend Westwood Zoning Bylaw Section 3.3 [Location of Districts] to change the date of the Zoning Map from June 1, 2005 to June 1, 2006. (Planning Board)

Mr. Bailey stated that the following amendment was proposed because current zoning does not allow for more than two access/egress points within parking lots and also regulates their distance. This amendment would allow for a change within the MUOD at the Planning Board's discretion in order to allow for additional flexibility.

10. Amend Section 9.6.9.1 [Mixed Use Overlay District Parking Requirements] to allow the Planning Board to vary the requirements of Section 6.1.23 [relating to the location and number of parking area ingress/egress points] to parking areas within the Mixed Use Overlay District. (Board of Selectmen)

Mr. Bailey stated that the next amendment clarifies that in case of an appeal, the specified time period for the lapse of a special permit does not include the time required to pursue an appeal.

11. Amend Section 9.6.10.5 [Mixed Use Overlay District] to insert language to indicate that the specified time period for the lapse of a special permit does not include the time required to pursue an appeal under M.G.L. Chapter 40A § 17. (Board of Selectmen)

Mr. Bailey stated that the next amendment clarifies the language to make it clear that any accessory use allowed in the underlying district and accessory uses for the uses cited in this section are both allowed as of right in the MUOD.

Mr. Bailey stated that the following two articles will be discussed at the hearing on March 15<sup>th</sup>.

12. Amend the Zoning Map 1) to remove the following parcels from the Adult Uses Overlay District: Assessors' Map 38, Lots 3, 4, 5, 9 and 14; and 2) to include the following parcels within the Adult Uses Overlay District: Assessors Map 38, Lots 1 and 2 and Map 33, Lots 6, 7, 8, 9 and 10. (Board of Selectmen)
13. Amend Section 9.1.2 [Adult Uses Overlay District Location] to remove the following parcels from the Adult Uses Overlay District: Assessors' Map 38, Lots 3, 4, 5, 9 and 14; and 2) to include the following parcels within the Adult Uses Overlay District: Assessors Map 38, Lots 1 and 2 and Map 33, Lots 6, 7, 8, 9 and 10. (Board of Selectmen)

The following article has been withdrawn.

14. Amend Section 9.6.4 [Mixed Use Overlay District Special Permit Required] to state that a Residential Retirement Community (RRC) special permit pursuant to Section 8.7 is not required for development under a MUOD Area Master Plan. (Board of Selectmen)

Diane Beecham stated that the following article was in response to a comment brought up at Town Meeting last year when there was a comprehensive rewrite of this bylaw. That person indicated that is the Planning Board is the SPGA for earth material movement for subdivisions it should also be the SPGA for other large multi-lot or multi-unit developments, especially special residential developments.

15. Amend Section 7.1 [Earth Material Movement] and Section 4.2 [Notes for Table of Principal Uses] to designate the Planning Board as the special permit granting authority for earth material movement relating to applications for Senior Residential Developments and Major Residential Developments. (Planning Board)

On a motion by Mr. Nedder and seconded by Mr. Malster, the four members of the Planning Board in attendance voted unanimously to continue this public hearing to March 15, 2006 at 6:30 pm.

### **Other Business**

Mr. Malster stated that he had spoken with Mr. Gale who stated that he was interested in staying involved with the Board, but would not be able to attend meetings during the week [since he has relocated to Michigan for employment reasons but his family continues to live in Westwood]. If the Board needed his participation, then maybe he could be available on weekends. He also indicated a willingness to resign his seat if this was not suitable to the Board.

Mr. Nedder stated that if Henry can not make the meetings, then he should not be on the Board. Mr. Malster stated that he agreed that there needs to be a full five member Board that can participate fully, particularly given what is going to come before the Board in the next year. Mr. Olanoff stated that the Board can not operate without him in attendance but if necessary, the Board maybe could meet on weekends.

[The consensus of Board is that the current situation of not having Henry in attendance at the meeting will not work for the Board and have requested that the Town Planner discuss this situation with Mr. Gale.]

The meeting was adjourned at 10:30 pm.