

**Westwood Planning Board Minutes
Wednesday, March 17, 2020
7:00 pm
Champagne Meeting Room
Remote Participation was also Utilized
50 Carby Street, Westwood, MA 02090**

Call to Order:

The meeting was called to order by Chair Gorman at approximately 7:00 pm. Chair Gorman announced that the meeting was video recorded by Westwood Media Center and explained the meeting procedures.

Present:

Planning Board members present: Brian D. Gorman, David L. Atkins, Jr., Christopher A. Pfaff, Deborah J. Conant and William F. Delay. Staff members present: Abigail McCabe, Town Planner, Nora Loughnane, Director of Community & Economic Development. Brian Gorman recorded the meeting minutes.

Chair Brian Gorman called the meeting to Order and informed everyone that he and Board Members Bill Delay, Debbie Conant, and Dave Atkins were participating remotely pursuant to the Governor's March 12th Emergency Order to temporarily suspend certain aspects of the Open Meeting Law to allow remote participation during this state of emergency. The Chair stated that all votes that evening will be done by roll call vote and all individuals participating by phone – Board members, Applicants, Consultants for the Board, Staff, and Residents, were to identify themselves before speaking. He stated that all members of the public present and participating remotely will have the opportunity to speak. The Chair explained the meeting procedures.

Brigham and Women. Consistency Review for Phase II.

The applicant described the submission of four story and 50,000 square feet addition, and five level parking garage. This was for the second phase of a previously approved medical office building at 100 Brigham Way, as shown on the Master Development Plan approved May 6, 2013, revised, within the University Avenue Mixed Use District and 2017 Approved Project Development Review. A condition of the May 2017 Planning Board's Project Development Review approval required Applicant to return to Planning Board for final design details and consistency review for the They presented the Phase II addition and parking garage details.

Brian McKenna (K and M architects) presented the building of a structured parking garage adjacent and connected. The Phase II building and parking garage was presented. Including office space, clinics, connection to garage, and rooftop. Color and structural elements were similar to the Phase I structure. The landscape plan and pedestrian connections were presented.

Board & Staff Comments:

Merek Turner from Beta stated that there were no significant changes from the original application.

Mike Sinesi from DSK Architects presented the architectural review. Among other items, he addressed the light seepage from the garage. They checked to clarify on how landscape screening would be utilized on the garage. Made height of mechanical screen and relation to mechanical penthouse and the relationship from one to another.

Requested clarification on re-cast panels for garage.

Parking spaces were consistent with guidance. There is now a single entrance from the front. Size is consistent with town regulations. They asked for clarification for parking usage. Looking for fire department feedback. There are no changes to stormwater. Noted that the park access has been modified and do not see an issue with that and considered a small change. There were appropriate landscaping and screening. Encouraged as much landscape screening as possible especially for the garage. He stated that the spill prevention and response should be updated to address and changes from this plan including the addition of the generator. He noted that the signage includes documentation of intended location exterior but no information for directional signage. Overall, there was not a lot of changes from the 2017 application.

Board Comments & Discussion:

David Atkins requested that the cross walks be raised and match as pedestrians cross the road. He commented on the single entrance works.

Deborah Conant asked if the board will be provided with an updated spill prevention and response plan. Marek responded that it will be updated. She inquired about a traffic study and the response was that the original traffic study was considered in the original design. She also inquired about the water usage and Marek response was that the recharge was adequate. She inquired about the loading and unloading zone.

Chris asked about the hours and the applicant response stated that it closes at 9 pm for 7 days a week. He asked about the light pollution from the garage and the applicant responded that they are looking at screening material. He asked if ambulances will come to the facility and the applicant stated that there will be no overnight stays and mostly scheduled visits. Asked if lights in garage will be continuous and the applicant stated that it may use motion lighting at night. He asked if the garage will it be manned and the applicant stated that it will not and that they are considering a parking gate. He asked for the applicant to look into placed with low light that may be challenging for landscaping to thrive. The applicant responded to Chris that nothing is below grade.

Bill Delay asked if the garage will be fee based and the applicant said a decision had not been made yet. He asked if alternative energy solar panels will be added and the applicant said that it will not, and that it will be LEED silver designated.

Brian Gorman asked if staging will have an effect on parking during construction, and the applicant noted a temporary parking plan during construction.

Public Comments: Fran Fusco asked if Phase II will include chemicals not included in Phase I. The applicant stated that the O and M manual will be reviewed and updated.

Action Taken:

Upon a motion made by Deb Conant and seconded by Bill Delay, the Planning Board voted by roll call 5-0 to continue the hearing to April 7.

230 High Street – Limited EIDR and EMM Public Hearing from Toward Independent Living and Learning (TILL)

Daphne Kraut Gordon from Toward Independent Living and Learning that is a non-profit human service agency located in Dedham, MA with a purpose of developing community based programs for individuals with intellectual disabilities. The organization runs 57 group residential settings in Massachusetts.

The proposal was for a 5 person single family residence for 5 individuals with an acquired brain injury. This residence will create a family living situation. Staff will be on-site. The design was created to fit aesthetically to the neighborhood. The current barn structure will remain to be maintained. The 2 current houses will be taken down. A small barn currently on site may be demolished.

David Johnson representing the applicant presented the design. The current driveway will be utilized to access High Street. An earth material movement was submitted. The plan will accommodate for the stormwater runoff, subservice infiltration, allow for the sewer to be discharged into the municipal sewer through gravity, and prepare access driveway slope requirements for pedestrian access. The plan provides 6 parking spaces approximately 50 feet back from High Street. They have met with the Conservation Commission. Residential post lighting will be used. The fire department reviewed the plan. Landscaping was added to the plan for buffering.

Brian Donahue from Donahue Architects discussed the architectural elements. The structure is less 3000 sq/ft in gross area, 5 bedroom, 2.5 bathroom residence, on one level for accessibility. He described the living spaces. An office will also exist for staff. It will be a Colonial design.

Staff Comments:

Beta reviewed the plan.

Board Comments:

Dave Atkins asked about the fuel source. The Applicant stated that it will probably be oil, and still not decided. Dave asked about adding Southern exposure solar panels and heat pump to not rely on oil and propane. The Applicant stated they will look into those ideas, and that none of the decision have been made at that point. Dave asked if it would be 5 or 10 units, and the applicant responded that it will be 5 bedrooms.

Deb Conant asked about historical preservation. The Applicant responded the only structure decided to remain at that point was the large barn. Deb asked about education being brought in with regards to the parking, and they said that it will not be an educational site. Deb asked about fencing to shield from High Street and the Applicant said they are looking into it. Deb was in favor of sprinklers.

Chris Pfaff asked about the Carol Ave site and the Applicant said that it was no longer supported. He asked about stay duration and the Applicant said only about 5 percent at any given time are looking to move. He asked how vacancies are addressed and the Applicant stated that it is a closed referral program. Chris inquired if the 2 houses were considered 2 units for the housing stock, and no answer was provided. He asked if dormers are to a vaulted ceiling or to attic and the Applicant stated that they would like it to be vaulted.

Bill Delay was interested in alternative energy usage. Bill asked if external stone wall were being removed and the Applicant responded that the stone walls will be maintained to the extent possible.

Brian Gorman was interested in renewable energy being added to the structure.

The conditions

Public Comments:

There were technical issues with the live stream to receive comments.

Action Taken:

Upon a Motion made by Deb Conant and seconded Bill Delay, the Planning Board voted by roll call vote 5-0 to continue the public hearing to April 7, 2020 at 50 Carby Street for public comment.

72 Reservoir Road – Earth Material Movement Public Hearing

John Walsh on behalf of Walsh Brothers building company presented the plan. This house was recently constructed and is almost near completion when it was discovered that fill was brought in during the construction period and the slope of the property was increased to trigger this review. They believe that the project does not negatively effect neighbors. The installed a recharge system, a swale and a bioretention basin. He stated that the home is surrounded by woods and far from abutters.

Staff Comments:

Abby noted that Beta reviewed the plan and did not have outstanding conditions. Suggested to have site kept clean during construction. The house is already constructed and found later that earth material was brought in that triggered the review. She noted that the project is working under conditions from the Conservation Commission.

Board Comments:

Dave Atkins asked if the EMM was a mistake or oversight. John stated that they were not aware that the slope change would impact the EMM.

Deb Conant asked where the fill came from and the Applicant said that all the fill came from one of their job sites in Holliston, MA.

Chris Pfaff asked if that meets the requirement of acceptable fill and Abby noted that it is up to the Board. He asked about the manhole in the front yard, and the applicant noted that it leads to a sewer line.

Bill Delay had no questions.

Chair Gorman had no questions.

Public Comments:

There were technical issues with the live stream

Action Taken:

Upon a Motion made by Dave Atkins and seconded Chris Pfaff, the Planning Board voted by roll call vote 5-0 to continue the public hearing to April 7, 2020 at 50 Carby Street.

35 Winter Street – Earth Material Movement Public Hearing

David Santos from Prime Engineering presented the for the applicant described a proposed single unit dwelling requiring 500 to 600 cubic yards of fill. Erosion control will be utilized and included 2 six foot diameter by 6 foot depth catch infiltration basins to mitigate runoff.

Staff Comments:

Beta provided comments for plan updates. The applicant was asked if they were proposing a sewer connection and the applicant confirmed as well as gas and water. The applicant noted that a crash end for the guard rail was added. Abby noted to the applicant that the application requires land disturbance permits, and this was acknowledged by the applicant.

Board Comments:

Dave Atkins asked where most of the fill will go and the applicant noted that the entire frontage will be elevated and inline with the road and lawn elevations with the exception of grading for runoff.

Deb Conant asked Abby if a stormwater management plan application will be provide to the Conservation Commission, and Abby replied that a Land Disturbance Permit must be filed, and the applicant mentioned that this was filed.

Chris Pfaff asked if a retaining wall was needed with the abutter, and the applicant noted that the slope will be 3:1 with no retaining wall needed. He asked about the staging of the grading and guard rail removal, and the applicant stated that the grade would be modified and then removal of the guard rail.

Bill Delay had no questions.

Chair Gorman asked what the grade change would mean for future sidewalks. The applicant noted that there is a sidewalk on the other side.

Public Comments:

Margery Eramo asked the route of the fill trucks, and the number of truck loads. They estimate 20 truck loads. Margerie asked if the trucks will come by Clapboardtree and Pond Street, and the applicant responded that trucks will not come by any portion of Clapboardtree Street east of Winter Street nor on any portion of Pond Street northeast of Clapboardtree Street. Further details of deliver route and times from the conditions were read by Nora Loughnane.

Action Taken:

Abby McCabe, Town Planner read the list of conditions.

Dave Atkins made a motion to approve the earth material movement application for 35 Winter Street with the conditions of approval discuss. This was seconded by Bill Delay. The Planning Board voted by roll call vote 5-0.

Chris Pfaff made a motion to close the hearing. This was seconded by Dave Atkins. The Planning Board voted by roll call vote 5-0.

Zoning Amendments Continued Public Hearing

Continued Public Hearing from February 25th and from March 2. Board member Chris Pfaff was not able to vote because he missed the two previous hearings.

Abby recommended that the Board discuss each article, take any final public comment and vote to close the public hearing.

Article – Select Board Zoning Amendment Relative to Medical Uses

Board Comments:

Chair Gorman asked by roll call if any Board if they had any questions or comments.

Dave Atkins stated that he supported with no additional comments

Deb Conant was not a proponent for mixing the FMOUD and UAMUD with the underlying districts in the use chart

Chris Pfaff was in favor of this article

Bill Delay was not in favor and that it needs to be further discussed

Chair Gorman was concerned with the wording of the definitions

Public Comment

There were no public comments.

Action Taken:

Deb Conant made a motion that we not recommend this article to Town Meeting as written. This was seconded by Bill Delay.

The roll call vote passed 3-1 as follows: Dave Atkins (no), Deb Conant (yes), Bill Delay (yes) and Chair Gorman (yes).

Article – Residential Accessory Uses for Renting of Rooms

Chair Gorman stated that FinCom was concerned with the prohibition of up to 5 nights. The Chair asked if the short term definition could be modified at this time to restrict a single night stay.

Board Comments:

Dave Atkins was not in favor of the article

Deb Conant stated that it is a good starting point

Bill Delay stated that the article is a starting point and not tough enough to put a business in a residential neighborhood.

Chair Gorman is in favor of this article

Public Comments:

There were no public comments

Actions Taken:

Chair Gorman made a motion to amend the definition of short term rental in the warrant article to state “at least 2 up to 29 days”. This was seconded by Deb Conant. The roll call vote passed 3-1 as follows: Dave Atkins (no), Deb Conant (yes), Bill Delay (yes) and Chair Gorman (yes).

Chair Gorman moved to recommend favorable action and approval of this article from the Finance and Warrant Commission. This was seconded by Bill Delay. The roll call vote passed 3-1 as follows: Dave Atkins (no), Deb Conant (yes), Bill Delay (yes) and Chair Gorman (yes).

Chair Gorman moved to recommend favorable action and approval of this article to Town Meeting as revised. This was seconded by Bill Delay. The roll call vote passed 3-1 as follows: Dave Atkins (no), Deb Conant (yes), Bill Delay (yes) and Chair Gorman (yes).

Article – Prohibitive Uses

Board Comments:

Dave Atkins did not think that it was necessary

Deb Conant was in support of this article

Bill Delay was in support and that it is another layer

Chair Gorman was in support and stated that the new sentence is prohibitory

Public Comments:

There were no public comments

Action Taken:

Deb Conant made a motion to recommend favorable action and approval of this article to Town Meeting as written.

This was seconded by Bill Delay.

The roll call vote passed 3-1 as follows: Dave Atkins (no), Deb Conant (yes), Bill Delay (yes) and Chair Gorman (yes).

Article – Fire Arms Sales

Board Comments:

Dave Atkins had no comments

Deb Conant had no comments

Bill Delay had no comments

Chair Gorman had no comments

Public Comments:

There were no public comments

Actions Taken:

Dave Atkins made a motion to recommend favorable action and approval of this article to Town Meeting as written.

This was seconded by Deb Conant.

The roll call vote passed 4-0 as follows: Dave Atkins (yes), Deb Conant (yes), Bill Delay (yes) and Chair Gorman (yes).

Dave Atkins made a motion to close the public hearing. This was seconded by Bill Delay. The roll call vote passed 4-0 as follows: Dave Atkins (yes), Deb Conant (yes), Bill Delay (yes) and Chair Gorman (yes).

Open Space and Recreation Plan – Continued Public Hearing

Abby McCabe recommended to continue this hearing to Tuesday, May 12, 2020.

Actions taken:

Bill Delay made a motion to put the Open Space and Recreation Plan on May 12th. This was seconded by Chris Pfaff. The roll call vote passed 5-0 as follows: Dave Atkins (yes), Deb Conant (yes), Chris Pfaff (yes), Bill Delay (yes) and Chair Gorman (yes).

Approval Not Required Plan for 470, 480 and 490 East Street Lots

This is related to the Article 97 article for Town Meeting.

Staff Comments:

This is the plan that goes along with the Article 97 article. Abby described the lot locations. Nora described the ANR review and approval process.

Board Comments:

Dave Atkins asked how this satisfy the vital access requirement, and Abby responded that it is marked as not a buildable lot.

Deb Conant was concerned that if the ARNs are created and then the Article 97 was not passed at Town Meeting then the lots would remain as 3 lots. Deb questioned that this should continue to a future meeting.

Chris Pfaff had no additional comment.

Bill Delay had no comment.

Chair Gorman was inquiring that the ANR may be premature since the Article 97 article may not go to Town Meeting.

Action Taken:

Dave Atkins made a motion that we endorse the ANR plan. This was seconded by Chris Pfaff. The roll call vote passed 3-2 as follows: Dave Atkins (yes), Deb Conant (no), Chris Pfaff (yes), Bill Delay (no) and Chair Gorman (yes).

Other Business

Review of Meeting Minutes

The December 10, 2019 meeting minutes were discussed.

Action Taken:

Chair Gorman motioned to approve the December 10 meeting minutes. This was seconded by Deb Conant. The Planning Board voted in roll call 5-0 to accept the minutes.

Review of the Draft Letter for the Open Meeting Law complaints

Chair Gorman stated that the Board will review the draft letter from Special Town Counsel Lauren Goldberg, and finalize the draft letter and possibly approve the letter to send to the Attorney General.

Chair Gorman stated that consistent with his statement at the meeting on March 4, 2020, he recommended the deletion of the words "no further motions were made" from the second paragraph on page 2 of the draft letter. With a motion made by Chair Gorman and seconded by Deb Conant. During the discussion Dave Atkins asked what the purpose of that is, and Attorney Thomas J. O'Laughlin, representing the Chair, stated that there were no motions made on that point and that was raised at the meeting. There was further discussion regarding the sentence structure and sentence was discussed among language. Chair Gorman motioned to modify paragraph 2 on page to state "As reflected in the March 4, 2020 Planning Board video, following the discussion direction was given to Special Counsel to prepare a response." This was seconded by Deb Conant. The roll call vote result was 3-2 as follows: Dave Atkins (no), Deb Conant (yes), Chris Pfaff (no), Bill Delay (yes) and Chair Gorman (yes).

Chair Gorman stated that the complainants, Christopher Pfaff and David Atkins, were asked if they had any evidence to support their allegations in their individual complaints and each indicated that with the exception of the information in the complaint form, they did not. The Chair noted that he would entertain a motion to include this information in the letter to the Attorney General by deleting the following portion of the second sentence of the first paragraph on page 2, which read as follows: "Review of that video will demonstrate the questions asked of the complainants by the chair, the response given by the complainants and" and replacing it with the following "Review of that video will clearly show that the Chair asked each of the complainants if they had any evidence to support the allegations in their individual complaints and each of the complainants indicated that, with the exception of the information in the complaint, they did not." And that the next sentence would start as follows: "Then discussion occurred". Deb Conant made a motion to make the changes as stated by Chair Gorman, this was seconded by Bill Delay. The roll call vote result was 3-2 as follows: Dave Atkins (no), Deb Conant (yes), Chris Pfaff (no), Bill Delay (yes) and Chair Gorman (yes).

Chair Gorman stated that the last matter that came to his attention after reviewing the draft letter was the fact that Attorney Thomas Ralph, representing Deb Conant, stated that in response to the Open Meeting Law complaint, he sent a written request to the Town of Westwood on February 11, 2020 requesting information in the towns possession, gained either directly or indirectly, including all material in the possession of any appointed or elected member of the town regarding this matter, and that he did not receive any information or a response from the town. Attorney Thomas Ralph pressed this same request during the meeting on March 4, 2020 when he once again requested any information in support of the allegations, and none was presented by the complainants or any town official on behalf of the town. The Chair noted that he would entertain a motion to include the following sentence at the end of the first paragraph on page 2 of the draft letter: "Attorney Thomas Ralph, representing board member Debora Conant, sent a written request to the Town of Westwood on February 11, 2020, requesting information in the Town 's possession, gained either directly or indirectly, including all material in the possession of any appointed or elected member of the Town regarding this matter and no information was presented in response by the Town. Attorney Thomas Ralph pressed the same request during the Planning Board meeting on March 4, 2020, and once again, no information was presented by the complainants or any Town official on behalf of the Town."

Deb Conant made a motion to add the additional language as stated by Brian Gorman related to the request by Attorney Thomas Ralph for additional information from the town related to the complaint. This was seconded by Bill Delay. The roll call vote result was 3-2 as follows: Dave Atkins (no), Deb Conant (yes), Chris Pfaff (no), Bill Delay (yes) and Chair Gorman (yes).

Chair Gorman asked if there were any other amendments that any other board members would like to make to the response letter. Deb Conant stated that her first name was written incorrectly missing an "h" and should be corrected to Deborah. Chair Gorman asked again if there were any other amendments that any board member would like to make. Chair Gorman stated that motions had been made, seconded, discussed, and passed to amend the letter to the Attorney General, and noted the time sensitive matter. The Chair noted that he would entertain a motion to authorize Attorney Lauren Goldberg to draft a final letter with the amendment approved by the board tonight and forward the final letter upon her signature to the Attorney General on behalf of the Planning Board.

Special Town Counsel Attorney Lauren Goldberg shared her opinion that there should be discussion about the allegation in addressing the complaint.

Thomas J. O'Laughlin, representing the Chair, stated that Special Town Counsel Attorney Lauren Goldberg stated that she was there to represent the board and that the board had made their decision. He stated that counsel is there to advise and that the board is there to make the decision. Special Town Counsel Attorney Lauren Goldberg then stated that as special counsel the job is to counsel.

Chair Gorman motioned to authorize Attorney Lauren Goldberg to draft a final letter with the amendments approved by the board tonight and forward the final letter upon her signature to the Attorney General on behalf of the Planning Board. The motion was seconded by Deb Conant. During discussion Dave Atkins and Chris Pfaff spoke in strong opposition and that they would not support the letter.

The roll call vote passed 3-2 as follows: Dave Atkins (no), Deb Conant (yes), Chris Pfaff (no), Bill Delay (yes) and Chair Gorman (yes).

Adjournment:

Debra Conant made a motion to adjourn. William Delay seconded the motion. The roll call vote passed 4-1 as follows: Dave Atkins (yes), Deb Conant (yes), Chris Pfaff (no), Bill Delay (yes) and Chair Gorman (yes).