

Westwood Planning Board Minutes
Monday, March 1, 2021
7:00 pm
Via Zoom Remote Participation
Westwood, MA 02090

Pursuant to Governor Baker's March 12, 2020 Order suspending Certain Provisions of the Open Meeting Law MGL C. 30A, §18 and the Governor's March 23, 2020 Emergency Order imposing strict limitations on the number of people that may gather in one place, the March 1, 2021 Planning Board meeting was conducted via remote participation by the Board.

Call to Order:

The meeting was called to order by Chairman Atkins at approximately 7:01 pm. The remote meeting was video recorded by Westwood Media Center and was available on Comcast channel 12, Verizon channel 42 and on Westwood Media's YouTube channel <https://www.youtube.com/watch?v=5niV4Mh92Co>. Chair Atkins explained the meeting procedures, and how the Planning Board process works. Chair Atkins explained there would be a presentation of each article, opportunity for Board discussion, then an opportunity for public comments and questions after each article.

Present via Remote Participation:

Planning Board members present via roll call vote: David L. Atkins, Jr., Deborah J. Conant, Christopher A. Pfaff, Robert R. Gotti and Michael L. McCusker. Staff members present: Abigail McCabe, Town Planner, Nora Loughnane, Director of Community & Economic Development, Pat Ahearn, Town Counsel and Jessica Cole, who recorded the meeting minutes.

Chair Atkins asked staff what last week's discussion meant since tonight is the official public hearing. Ms. McCabe responded that last week was not the official opening of the public hearing due to a newspaper publishing error but the discussion of the articles at a public meeting was helpful to inform the Board to prepare for tonight's hearing.

Zoning Amendment - Public Hearing.

Article 1: Zoning Map Amendments Related to Town-owned Property on High Street in the vicinity of the Obed Baker House.

To see if the Town will vote to approve certain amendments to the Official Zoning Map in order to facilitate the redevelopment and reuse of the Obed Baker House, by rezoning the currently undeveloped parcel of land shown on Assessor's Parcel 21 as Lot 43 from Single Residence C (SRC) to Local Business A (LBA); and/or by rezoning the Obed Baker House property at 909 High Street shown on Assessor's Parcel 21 as Lot 42 from Local Business A (LBA) to Single Residence C (SRC); and/or to overlay these two parcels with the Flexible Multiple Use Overlay District 7 (FMUOD 7/High Street Business District); and/or to overlay these two parcels with the Upper Story Residential Development Overlay District (USROD); and to approve certain related amendments to the text of the FMUOD and/or USROD sections of the Westwood Zoning Bylaw; or take any other action in relation thereto.

Ms. Loughnane reported that staff recently met with Mr. Sullivan, who submitted the response to the RFP and he is not ready to move forward with a proposal yet as it is still in the preliminary design stages. She will request the Select Board withdrawn this article from the warrant when they meet next prior to the Finance & Warrant Commission first public hearing; it may come back at a future Town meeting but it is not ready for Spring 2021.

The Board took no action on this article.

Article 2: Zoning Amendment Relative to Temporary Structures and Uses.

To see if the Town will vote to approve certain amendments to the Zoning Bylaw affecting Section 4.1.7.4 within the Table of Principal Uses, in order to allow short-term temporary uses and structures upon issuance of an administrative approval by the Building; or take any other action in relation thereto.

Ms. McCabe explained that this article allows an administrative approval for uses temporary in nature. Proposals for less than 6 months' applicants can apply directly to the Building Commissioner for a building permit. Currently you have to go through a special permit process which can take up to 3 months from beginning to end. The proposal is to add a footnote to the table of uses for uses less than six months. As proposed, the Building Commissioner can grant up to one extension not to be more than a year-long total.

Board Comments:

A Board member noted that the Building Commissioner at an earlier meeting had mentioned requests such as sidewalk sales are the most common requests.

Chair Atkins opened the public hearing up to public comments, asking people to raise their Zoom hand or identify themselves in the chat. To speak you will be unmuted.

Public comments: There were none.

Action Taken:

Upon a motion made by Mr. Gotti and seconded by Mr. Pfaff, the Planning Board voted 5-0 in favor via roll call vote to recommend Article 2 Zoning Amendment Relative to Temporary Structures and Uses, for favorable action to the Finance & Warrant Commission.

Article 3: Zoning Amendment Relative to Fire Arms/Explosives Sales and Services.

To see if the Town will vote to approve certain amendments to the Zoning Bylaw affecting Section 4.1.5.41 Fire Arms/Explosives Sales and Services within the Table of Principal Uses, in order to prohibit such sales within the Local Business A (LBA) and Local Business B (LBB) districts; or take any other action in relation thereto.

Ms. McCabe explained that this is an article resubmitted after being removed from the final warrant last year due to the reduced quorum requirements during the COVID-19 state of emergency. She explained Fire Arms & Explosives Sales is currently allowed in the LBA, LBB, I, and HB zoning districts. This article proposes prohibiting the fire arms and explosive sales uses in the Local Business A and Local Business B Districts, which are the business districts on High Street and Washington Street. This use will remain allowable by a special permit in the I (Industrial) and HB (Highway Business) zoning districts.

The Board noted the purpose of this article is to disallow this use in the village areas as they are more appropriate for the I and HB zones. The community desires active retail uses in the village centers that will generate more foot traffic.

Chair Atkins offered the opportunity for public comment by raising your zoom hand, pressing *9 if on the phone, or type into the Q&A. There were no public comments.

Action Taken:

Upon a motion made by Mr. Pfaff and seconded by Mr. Gotti, the Planning Board voted 5-0 in favor via roll call to recommend favorable action for Article 3: Zoning Amendment Relative to Fire Arms/Explosive Sales to the Finance & Warrant Commission.

Article 4: Zoning Amendments Related to Medical Uses.

To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw and Official Zoning Map related to various medical uses by amending Section 2.0 [Definitions] and Section 4.1.5 [Table of Principal Uses – Commercial Uses], and by adding a new Section 9.8 [Medical Facility Overlay District (MFOD)], or take any other action in relation thereto.

Ms. McCabe reported that she created a working group to serve as an advisory panel, which included 8 residents in town along with two Planning Board members, Mr. Pfaff and Mr. Gotti. Mr. Gotti went through a presentation to explain the thought process the advisory panel went through and detailed their ultimate proposal that was brought forward in January to the full Planning Board and further discussed at the Planning Board's last meeting. At last week's Planning Board meeting there was opposition from residents and representatives of Fox Hill Village. He worked with staff and are now proposing a revised article for the Board to consider tonight.

Revised the proposed Zoning Warrant – suggested to be in 3 parts.

Revised Article A: Cleans up definitions and puts Medical Centers/Clinics at University Station only.

Office of a Doctor or Dentist, will change to Office Healthcare Professional, and still allowed in the same zones by updating that term in the Table of Uses.

Revised Article B: Disallows hospitals in all zone in Town.

Add a definition for a Hospital, update the Table of Uses. Prohibited everywhere in town.

Revised Article C: Creates a new Substance Rehabilitation Facility Overlay District located at Southwest Park, subject to ZBA Special Permit Restrictions same as before but in new location. Most recent proposal was at new overlay at 100 Lowder Brook and 10 Longwood Drive.

This article includes adding a new definition for Substance Rehabilitation or Treatment Facility; revises the existing definitions for a Medical Center or Clinic, and revises the existing definition of Office of a Healthcare Professional to clarify how they are different than a Substance Rehabilitation Treatment Facility.

Mr. Gotti explained that the primary purpose is to regulate this Substance Treatment Facility use and only allow it at Southwest Park, a new Overlay District. It will outline in detail what it needs to consider and will require a Special Permit from the ZBA.

This use will be added to the Table of Uses as a special permit use only in this new overlay district.

Board Comments:

A board member asked when these changes were made since the last meeting on February 23? Mr. Gotti responded that he has been in conversations over the last week with staff and connected with other working group members.

A board member questioned if this article is within the scope of the original legal notice. Staff responded that the change is to the location of the proposed overlay district, the special permit criteria and new section 9.8 remains the same. Town Counsel Mr. Ahearn responded that this is the public hearing and the hearing is still open and the Board can continue to discuss and make changes to the article.

A board member questioned input from last week's meeting when it was not the official public hearing. Town Counsel Mr. Ahearn and staff responded that the board can still consider comments to be reviewed during your public hearing which was opened this evening.

Can we split an article into 3 parts? Yes, the article can be split and changed during the public hearing process.

Chair Atkins opened the hearing up for public comments and explained people could raise their zoom hand, press *9 if on the phone, or type in the Q&A. Please wait to be unmuted and identify yourself before speaking.

Public Comments:

Howard Messing, owner of Meditech property at 100 Lowder Brook Road, was present and is a 30-year resident of the Town and his daughter just moved into Town, so he is vested in Westwood. Mr. Messing explained that he (Meditech) is not planning to sell, it is so difficult to build anything. His property was in the last version of the new overlay district but sounds like the overlay district is considered being relocated. He is supportive of this article as it brings more control. Can we control it more, the conditions? Ms. McCabe responded that essentially this article and the original one had a lot of specific findings and criteria that are required to grant a Special Permit, the new Zoning has specific uses. Ms. McCabe added that if there was no zoning, like today, the Building Commissioner would have to review the specifics of the use where it is proposed and make a determination based on the current bylaw. Whichever way he decides; the Applicant can appeal to the ZBA.

Mr. Pfaff asked staff about the differences between this level of scrutiny that the ZBA is required to execute of this Special Permit proposal vs. what they currently do for most general Special Permits? Ms. McCabe replied that for standard special permits there are only 6 very general criteria that the ZBA looks at. It is not nearly as detailed and specific as what is proposed here for this specific use. Ms. McCabe read the 6 criteria: Social or community needs; traffic flow and safety; adequacy of public utilities; neighborhood character; impacts on natural environment; potential financial impact.

Ms. Castaldini, 54 Birch Street, said that since last week's meeting there seemed that the subcommittee did a lot of work and came up with the location near Fox Hill, and now a week later has come up with a new location, which is still near a residential neighborhood and seems like a pivot.

Mr. Gotti responded that with the working group we did talk about all of the locations and we did get some opposition and with the board at recent meetings. Since last week's meeting he revisited the ideas suggested by the working group and Southwest Park was one of them before. Given the borders at Southwest Park, and there are ample protections in the proposed bylaw. The location next to the train tracks and off of route 1 there is less impact because of the island nature of the property, and we went back and took another look at other options that may be more favorable.

Mr. Atkins read a comment in the Q&A asking if we have any legal feedback is substance abuse a protected class.

Town Counsel Mr. Ahearn responded that we have a legal memo from interim special legal counsel that says people suffering from substance abuse are a protected class. Mr. Ahearn reviewed the memo and agrees.

In response to a question about what other towns are doing and not all towns have zoning for treatment facilities, Mr. Gotti, all towns have different zoning and Westwood has zoning that specifies certain medical uses and now feels it's important to be clear with all medical related uses such as treatment facilities and hospitals.

Someone asked if we been approached by any substance treatment facilities? Ms. Loughnane responded that no the Town has not been approached by anyone interested in a substance rehabilitation or treatment center.

Ms. Clark, Fox Hill Village resident, she chairs the Fox Hill Village Board and noted that on behalf of the 400 residents, thank you for making this change in location. This will probably be the last home for us. Thank you for doing the right thing for our Town.

Mr. Olanoff, 52 Glandore Road, asked if the Town has the authority to regulate staffing levels within a building? Mr. Ahearn, he has to look deeper into this. The Town has the right to make sure that they are operating safely.

Mr. Hayes, lived in Westwood for over 50 years and now at Fox Hill Village. Pleased by the effort and all the 400 owners it is a large investment for Fox Hill Village and they are opposed by the proposal to allow hospital or treatment facility use near them. There would be wide opposition and the value to these homes. It creates a positive set of conditions for control.

Mr. Cross, 135 Elm Street, noted that there are only 2 buildings at Lowder Brook and they have been vetted and had no intention to sell. Have you spoken to the owners at Southwest Park and considered traffic?

Ms. McCabe, said no we have not spoken to the owners of Southwest Park. Mr. Gotti responded that the train tracks create a better barrier and is more isolated from residential neighbors.

Ms. Conant: I understand the delicate nature of this article. The property owners have not been notified?

Ms. McCabe no the commercial property owners have not been notified and it is not required.

Ms. Conant said a substance use facility in Canton proposed to go in, it was denied, and then Canton went through a process to update their zoning. What are the pros and cons of zoning? How can we make the residents feel more secure that this is the right decision?

Mr. Ahearn responded that this article proposes a very specific special permit is with clear requirements that must be met if an application were to be submitted.

A board member noted that at the last meeting, hotels being converted into treatment facilities were mentioned, is the Hotel on Route 1 part of the area? Can we add in a specific distance from schools/childcare?

Mr. Ahearn said no it is on the other side of the street. Ms. Loughnane said the board can add more criteria to the article. She explained that this proposed article is the first attempt at drafting criteria and conditions for the new zoning, the board can make changes and additions.

Ms. Fusco, 20 Pine Lane, Are the Southwest Park owners on this Zoom? I would like to hear their opinion just like Fox Hill Village was afforded the opportunity. Are you aware of the preschool at Southwest Park and the preschool across the street?

Ms. McCabe and Ms. Loughnane, the property owners were not notified but all Westwood residents are notified of all warrant articles and public hearing notice published in local newspaper. It is not common to notify property owners about rezoning. Most of the properties are in real estate trust. We can send a letter, if they are Westwood Residents they can vote. The two property owners for the first location are known entities that we work with and we were easily able to notify them, the new proposal for southwest park is over several properties owned by several entities.

Ms. Fusco in the Q&A: Has anyone looked at the proximity between Fox Hill Village and Meditech building, and the Southwest Park to residents? What is the physical distance?

Ms. Loughnane does not have that information. The distance can be calculated. Mr. Atkins will get that info for the next meeting.

Ms. Lewis-O'Connor, she was on the working group and lives at 42 Hawthorne Street, she does support this article and the change in location. She is concerned about the preschool at Southwest Park. We need to add this use in the zoning.

Ms. McLaughlin, 39 Hawthorne Street, concerned about the preschool at Southwest Park. She thinks that it is so important to speak to Southwest Park, we need assurances. We got them from Mr. Messing and Fox Hill Village.

Chair Atkins asked about the next steps for this article.

Mr. Ahearn said the Finance & Warrant Commission needs to make the recommendation for Town meeting. You have a meeting on March 8, 2021 and can make adjustments after that. Mr. Ahearn recommends the board make a recommendation to Fin Com tonight.

Additional Public Comments:

Mr. Wells, Salisbury Drive and moved to Fox Hill Village asked about the specifics of 9.8.8 the new zoning, is there more control including for the neighbors?

Ms. Loughnane explained that the new 9.8.8 give more definitive criteria for a zoning board to use if they are faced with considering a special permit. If we don't have this new overlay district, there are no specific criteria. This says, the Zoning Board shall not approve it unless it determines positively that each criterion have been met. It imposes a greater level of control. Yes, the control is to the ZBA, who would listen to the neighborhood and their objections and the negative influence on the neighborhood.

Mr. Cross asked the board to consider the zoning near a preschool.

Mr. Harriman, 40 Westdale Road. This is the first that he's hearing about this new zoning location. It seems to be rushed again by a self-imposed artificial deadline.

Chair Atkins read the comments in the Q&A submitted by Ms. N. Milosavljevic-Fabrizio, 32 Webster Street, let's be frank and call this public hearing what it is a lot of BS. It seems this Board has forgotten the outcry from police officers, doctors, nurses, all residents who attended these meetings after the AG's office rejected the medical use article. All of these residents tried to implore on this Board that substance abuse facilities don't belong anywhere near highway entrances and exits. It's both disturbing and disgusting that this board can be so easily influenced by whom you perceive as having more standing in this community than just a Joe Schmo resident. It's actually pathetic.

Jackie K. neighbors should be notified of the zoning.

Ms. Conant left the meeting.

Board and Staff Comments:

Seems like now would be the time to add the conditions, site specific/location specific conditions. Distance from a school.

Mr. Ahearn, it would be further limiting. There is some risk to adding a distance restriction.

Ms. McCabe, other communities did add a distance from a school, there is a child care use in this district, 500 feet would make a significant portion of the area not eligible.

Mr. Atkins is concerned about making further changes now.

Mr. Pfaff responded that it is not unusual, we listened and pivoted as what the board should be doing during a public hearing.

Mr. Gotti asked the other Board Members:

Do you feel like we have exposure? Mr. Atkins and Mr. McCusker said yes.

Do you agree that we want to attain control? Mr. Atkins and Mr. McCusker said yes.

Do you want to keep it out of a residential zone? Mr. Atkins and Mr. McCusker said yes.

Mr. Gotti responded that to improve the zoning the question comes down to where and how best to regulate.

Ms. Loughnane, in response to the question asked earlier about the distance between properties. The closest home to Southwest Park is 145 feet. Fox Hill Village the distance between the 2 buildings and the property line is 68 feet.

Ms. Loughnane added that Childcare facilities are protected uses that are allowed anywhere in any zone.

Action Taken:

Mr. Atkins made a motion to withdraw the article and not send it to the Finance & Warrant Commission.

There was no second.

Action Taken

Upon a motion made by Mr. McCusker and seconded by Mr. Pfaff, the Planning Board voted in 3-1 (Mr. Atkins voted against) in favor via roll call vote to recommend favorable action on the revised Article 4: Zoning Amendments Related to Medical Uses, including Revised Article A, Revised Article B and Revised Article C for favorable action to the Finance & Warrant Commission.

Article 5: Housekeeping Article.

To see if the Town will vote to approve certain housekeeping amendments to various sections of the Westwood Zoning Bylaw and Official Zoning Map, as may be as necessary to correct any errors or inconsistencies and/or to clarify sections, including specific identified corrections and any others that may be discovered prior to the conclusion of the public hearing, or take any other action in relation thereto.

Ms. McCabe, to correct any minor typos or errors including section number in the Table of Uses and to replace Board of Selectmen to Select Board.

Board Comments: None

Public Comments: None

Action Taken:

Upon a motion made by Mr. Gotti and seconded by Mr. McCusker, the Planning Board voted in favor (4-0) via roll call vote to recommend Article 5: Housekeeping Article, for favorable action to the Finance & Warrant Commission for further discussion.

Action Taken:

Upon a motion made by Mr. McCusker and seconded by Mr. Pfaff, The Planning Board voted in favor (4-0) via roll call to continue the Zoning Public Hearing to Monday, March 8, at 7:00 pm via Zoom with the Finance & Warrant Commission.

Meeting Minutes:

Upon a motion made by Mr. Pfaff and seconded by Mr. McCusker, the Planning Board voted in favor (4-0) via roll call vote to accept the minutes from February 2, 2021 as submitted.

Other Business:

Mr. Atkins asked for a motion to make the Legal memo made publicly available that was discussed earlier.

Action Taken:

Upon a motion made by Mr. McCusker and seconded by Mr. Pfaff, The Planning Board voted in favor (4-0) via roll call vote to make the Legal memo document publicly available.

Adjournment:

Upon a motion made by Mr. McCusker and seconded by Mr. Pfaff, The Planning Board voted in favor (4-0) via roll call to adjourn at 9:03pm.

List of Documents:

Link to Documents:

http://westwoodtownma.ig2.com/Citizens/Detail_Meeting.aspx?ID=1606

Link to the Planning Board web page

<https://www.townhall.westwood.ma.us/departments/community-economic-development/planning-division>

Zoning Amendment Public Hearing Initial Warrant Article Request, Westwood Planning Board, 12/16/2020, 2 pages. Medical Use Presentation from January 26 Fin Com Meeting, 32 pages. Public Hearing Notice with Brief Article Summaries, Westwood Planning Board, 2/10/2021, 3 pages. Public Hearing Notice with full article language, Westwood Planning Board, 2/10/2021, 11 pages. Medical Zoning FAQs, 8 pages. Current Zoning Bylaw, May 6, 2019, 222 pages. Zoning Map, May 2018, 1 page. New Medical Zoning Proposal Articles 4A, 4B, 4C 2019 Special Counsel Legal Opinion Medical Uses Draft Minutes 2-2-2021	PDF
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