

Westwood Planning Board Minutes
Tuesday, June 8, 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 June 8, 2021 Planning Board meeting was conducted via remote participation by the Board.

Call to Order:

The meeting was called to order by Chair Pfaff at approximately 7:00 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=P-XqU30HQto>

Chair Pfaff explained the meeting procedures and how the Planning Board process works.

Present via Remote Participation:

Planning Board members present via Roll Call: Christopher A. Pfaff, David L. Atkins, Jr., Ellen Larkin Rollings & Kathleen Wynne. 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.

10 Longwood Drive. Fox Hill Village request to revise affordability proposal relative to the in perpetuity requirements of Section 8.4.3.6 of the Zoning Bylaw and Special Permit granted by the Zoning Board on November 20, 2019. Request for Planning Board, Housing Partnership, and Housing Authority recommendation to ZBA on an agreement to provide contribution to WAHA, Inc. and the five-unit group home at 230 High St.

Applicant, Ms. Schneider, attorney for Fox Hill Village, was present, and gave a brief summary of the project, and is looking for two temporary certificate of occupancy. Also present was Fox Hill Village Managing Director Tony Amico, and legal counsel Heather Swatzinsky. Special legal counsel Ms. Schneider discussed a monetary contribution of \$399,000 to the Westwood Affordable Associates Inc. which will be paid as the assisted living units are leased. All are memorialized in an affordable housing restriction in a municipal affordable housing contribution agreement to satisfy condition 3B of the ZBA special permit from 2019.

Board Comments:

- The agreement, one of the options if the deed for the land reverts to the Town is that the Town could sell the property, but proceeds would be required to use towards replacement affordable housing. Is that correct?
Mr. Ahearn, that is correct, but would probably not sell.
- What is the root cause of the delay? *Ms. Schneider & Mr. Amico, Construction takes a long time and Covid was not helpful. TILL (Toward Independent Learning & Living) has been working to construct the home. Exterior is completed, working on plumbing and electricity utilities. Hoping to happen in July. They have lined up 5 qualified residents and have hired a resident manager.*

Ms. Schneider is also looking for a Temporary Certificate of Occupancy from as initial discussed in February for the amenity space. She is also looking for a second request for a Temporary Certificate of Occupancy for the third floor for up to 12 assisted living residents starting August 1st.

Board & Staff Comments:

- Ms. McCabe, Zoning Board condition 3 had to do with the affordability requirement. Staff has reviewed the agreement and are in agreement however concerns with occupancy for the Assisted Living units remain because it is tied with the occupancy of the Group home, so she does not recommend residential occupancy at this time. The Town does support the request to occupy the amenity space excluding the living units.
- Ms. Loughnane, point of clarification: The procedure for a temporary certificate of occupancy is to go to the ZBA (scheduled for 6/16) will need to vote, then the decision needs to be recorded and there is a 20-day appeal period. At the conclusion of the appeal period, the Building Commissioner could then issue a Temporary Certificate of Occupancy. That would bring us to July with this time frame it may not need a Temporary Certificate of Occupancy.
- Clarify, the expectation is that the TILL construction will be completed in early July, have staff and residents have been chosen, how long will it take to occupy the home? *Mr. Amico was not sure as this is run by TILL but will look into it.*

- Ms. Loughnane explained once the group home units are finished, they don't automatically go onto the SHI, how long does the process take once they are accepted? *Ms. Loughnane, Residence completed, DDS (MA Department of Developmental Services) reviews the home upon issuance of a Certificate of Occupancy, do an inspection, and then start moving in, once moved in and there is a successful inspection, they send a letter to the Department of Housing and Community Development saying it is an eligible property for listing on the SHI (Subsidized Housing Inventory). Could happen within a month. With the pandemic, things are moving more slowly. DDS is behind schedule. SHI updates are done biannually.*
- If the ZBA amends the special permit and that process is completed, the first floor amenity space can open up soon with a temporary occupancy permit from the building department.
- Mr. Amico: No way to open up the first floor for at least 6 weeks? Want to get into the space as soon as possible, needs flexibility. *Ms. Loughnane, this should be directed to the Building Department to consider but it not usually done. The Planning Board can make a recommendation. The Building Department does not issue temporary certificates of occupancy for residential units because once a resident moves in we wouldn't have that on a temporary basis. Fox Hill Village is in violation of the Special Permit from 2019 because items required by condition 3 have not been completed and the Building department could not issue a temporary occupancy without completing the ZBA's conditions or amending the conditions. The question before the Planning Board: Do you find the proposed agreements that the Town is in agreement with equivalent to meeting the town's affordable housing needs if you find those two agreements satisfactory to make these affordable units equivalent to on-site perpetual affordable units.*
- The Planning Board can only recommend to ZBA. The requirement that the deed be filed. We cannot change that condition? *Ms. Loughnane, the Planning Board can change the condition, and can recommend to change the condition to the ZBA, if they vote to change the condition, we still need to write the amendment of the Special Permit and we still need to allow the 20-day appeal period. We cannot shorten the time frame; it will take until mid-July.*
- The 20-day limit is a function of the Special Permit, not a condition? *Ms. Loughnane: Yes.*
- Ms. Schneider, Does the Town have any practice for at risk building permits? *Ms. Loughnane is not aware of any. The decision still needs to be written, filed, recorded and the 20-day appeal period. Can we proceed at risk? Could a Temp Cert of Occupancy be issued at risk, and the risk is Fox Hill's. Ms. Loughnane, this is a question for the Building Commissioner.*
- Mr. Amico needs a date so he can give families the alert. *Ms. Loughnane, there is a mandatory appeal period for all special permits.*
- Mr. Ahearn stated that this discussion of occupancy is for the Building Commissioner.

Chair Pfaff noted that members of the Westwood Affordable Housing Authority and the Housing Partnership are present tonight and were brought into the Zoom. Chair Pfaff asked if members had any comments on the Applicant's request for amendment recommendation.

Housing Authority and Partnership Comments:

- Mr. Rizoli, Chair of Westwood Housing Authority & President of WAHA. Fox Hill total \$399,000; this is something that worked well with the Green Company. It is quite a job to get approval to get them placed on the SHI.
- Ms. Sawitsky, noted that she hopes that we can work reasonably even if the SHI listing is delayed. Working off the 2020 census. Want to open up the Assisted Care units ASAP.
- Mr. Alden, Housing Authority, 5 affordable units count to SHI, It's 5 units currently, could we lose 4 units on the SHI if it is converted to a single home? *Ms. Loughnane, 2 agreements, 1 relates to TIL and if they don't get eligibility, can use or sell, the proceeds would go towards WAHA will be used to create up to 5 units. The hope is TIL will receive its eligibility and run a group home for the indefinite future. If it fails to happen the Town would have the option to keep or sell it.*
- Ms. Previtara, a member of WAHA, seems like the \$399,000 is different from the Green Company agreement. We can use that money to buy affordable homes. But for this project it appears the use of the funds are delayed or only if needed. *Ms. Loughnane, responded that this is not the case. The intention is for the funding to be used to offset a future need for replacing affordable housing units and the funds will be provided as units are sold. Mr. Ahearn agreed.*

Ms. Loughnane, asked if the Board finds the current proposal from Fox Hill Village with the two agreements, the Affordable Housing Restriction Agreement and the Municipal Affordable Housing Contribution Agreement, does the Board find them to create a project which produces affordable units that are at least equivalent to on-site perpetual units? If you do, then recommend to the ZBA.

Action Taken:

Upon a motion made by Ms. Wynne and seconded by Mr. Atkins, the Planning Board voted 4-0 in favor via roll call vote to recommend to the ZBA that the Planning Board determines the proposal for the affordable housing restriction and the municipal affordable housing contribution to WAHA meets the Town's affordable housing needs.

Further Discussion:

Ms. Loughnane discussed the second matter further, explaining that it is a recommendation to the ZBA to amend the current decision. The current decision has several sub-conditions as part of condition 3. Condition 3b as it exists was read by Ms. Schneider relative to an affordable housing deed restriction; Condition 3c requires that the affordable housing restriction be reported forthwith; reporting that these 2 conditions are problematic for the Building Commissioner's issuance of a temporary certificate of occupancy because they have not been completed to date so a temporary occupancy cannot be granted until these are completed or the special permit amended. If the special permit is amended by the ZBA and the special permit amendment process is completed, the Building Commissioner can consider the issuance of a certificate of occupancy for at least the first floor for the non-living amenity space. Condition 3f was read by Ms. Schneider relative to the affordable group home units being listed on the Town's SHI. Ms. Loughnane stated that this condition prevents the occupancy of the 24 units until the TIL property is determined eligible for listing on the SHI.

Board Comments:

- The Green Company project, that the group home is not yet certified, how was it not a condition? *Ms. Loughnane: The language was slightly different, the Green Company had some on site affordable units for 2 of the required units and then off-site in the group home. The on-site affordable units which are eligible upon issuance of a building permit application as opposed to upon occupancy, and are a phased development, not opening all at once.*
- Ms. McCabe added that the Life Works group home was also occupied months before the first occupancy at the Green Company homes, and got the initial DDS authorization letter allowing occupancy.
- The Planning Board members want assurances that the affordable units will be listed and that the Town's SHI numbers reflect approvals.
- The Board does not want to stand in the way of a Westwood business and member expressed support for occupancy for the first floor amenity space, but wants the 5 TILL units occupied before the new residences at Fox Hill.
- Ms. Swatzinsky requested condition in 3d relative to eligibility for SHI listing of the group home prior to occupancy for Fox Hill be modified. Ms. Loughnane replied, there is willingness to allow occupancy of the assisted living units after the TILL property is occupied by eligible residents. However, the DDS to put people in the TILL home is what will make it eligible for listing.
- Ms. Swatzinsky, TILL does not want to bring on all residents at one time, there is a staggered move in process. Assisted living would take the same approach. Asking for a temporary certificate of occupancy only for one floor which is 12 units. Please consider flexibility. *Ms. Loughnane reiterated that the Planning Board is giving a recommendation to the Zoning Board of Appeals (ZBA) and after that process the Building Commissioner considers occupancy based on the board's decision. The final decision would rest with the ZBA, as long as the units in Fox Hill Village are offset prior to occupancy by units that are occupied in the group home, then it may be acceptable. The Planning Board should decide what is acceptable and recommend it to the ZBA, and the ZBA will write their conditions accordingly.*
- The board members were open to allowing occupancy on a proportional basis consistent with assisted living and group home units.

Action Taken:

Upon a motion made by Ms. Wynne and seconded by Mr. Atkins, the Planning Board voted 4-0 in favor via roll call vote to recommend to the ZBA flexibility to allow the building commissioner to consider temporary occupancy for the non-residential portions of Fox Hill Village subject to the two agreements - the Municipal Contribution Agreement and the Affordable Housing Restriction being fully executed and both recorded at the Registry of Deeds and to allow the Building Commissioner to grant occupancy to Fox Hill Village on a proportional basis consistent with occupancy of the group home units.

Mr. Ahern: Point of order. Is this motion a recommendation to the ZBA? Yes, it is.

Ms. Wynne amended her motion to make it a recommendation to the ZBA.

Discussion:

The term occupancy, is it temporary? *Ms. Loughnane A Temporary Occupancy would apply to the non-residential units.*

Amend the Tripartite Agreement for Homes at 45, Abbey Road. The Green Company requests an amendment to the existing tripartite agreement to include the two new age-restricted units and updated cost estimate for remaining

work for the Open Space Residential Development (OSRD) Special Permit issued on April 23, 2019, and amended on March 16, 2021.

Ms. McCabe gave a brief summary explaining that the existing project has a tripartite agreement in place and this is being amended to include the two additional units recently added to the development and the total amount has increased to account for all phases of the development. The Board is being asked to amend and accept this updated Tripartite Agreement for the Homes at 45 OSRD (Open Space Residential Development).

Applicant, Mr. Dan Green, added that Ms. McCabe suggested the agreement to hold funds for all phases of the development is a better approach. It makes it simpler and the cost estimate for the remaining work for phase one is being expanded from 77,000 to 326,000 because this accounts for all remaining phases of the project. Will probably come back in a year to requested a reduction as more work is completed. Agree with all of the numbers and the bank is on board \$326,000.

Mr. Green had one further request asking about the concrete wheel stops, huge problem for plowing, and wants to test 6 months-1 year and ask if the Board will consider removing the requirement for wheel stops.

Staff Comments:

Ms. McCabe: the 14 wheel stops; Mr. Green is looking for would you be willing to entertain a modification in the future to remove the requirement for the wheel stops.

Mr. Ahearn noted that this is not on the agenda, so it is not proper to take it up right now.

Ms. McCabe, recommended a written request as a modification at a future meeting.

Board Comments: There were no further comments.

Action Taken:

Upon a motion made by Mr. Atkins and seconded by Ms. Larkin Rollings, the Planning Board voted 4-0 in favor via roll call vote to accept the amended Tripartite agreement from Westwood Green LLC for the OSRD Special Permit for the Homes at 45 in the amount of \$326,000.

Ms. McCabe requested that Planning Board members please come in to sign the Tripartite Agreement after which will be recorded at the Registry of Deeds.

Performance Guarantee for Recess Way Open Space Residential Development (OSRD) Definitive Subdivision off Far Reach Road. Old Grove Partners requests lot releases from the covenant and acceptance of a bond.

Ms. McCabe gave a brief summary on the project that a subdivision covenant is currently in place to secure the work and prior to any lots being sold the lots need to be released. The applicant is looking for a release from the subdivision covenant and acceptance of a bond to insure the remaining work. The amount of the bond is \$465,937, based on an estimate from BETA provided in your packet to cover the remaining municipal services and utility work.

Applicant, Mr. Joyce was present, but was agreeable with Ms. McCabe's summary.

Board Comments: there were no further comments.

Action Taken:

Upon a motion made by Mr. Atkins and seconded by Ms. Wynne, The Planning Board voted in favor (5-0) via roll call vote to release the lots: three buildable lots and one open space lot from the covenant and hereby accepts the insurance performance bond from Main Street American Insurance in the amount of \$465,937 to insure the work for the Recess Way OSRD Definitive Subdivision off of Far Reach Road.

Other Business:

Planning Board Opening – Announcement that the Board is seeking a fifth member. Applications accepted until Monday, June 14. We have received 2 applications so far. June 21st is a joint meeting with the Select Board and Planning Board to interview and select a member. The meeting location is to be determined.

Review of Meeting Minutes:

Upon a motion made by Mr. Atkins and seconded by Ms. Wynne, the Planning Board voted 4-0 in favor via roll call vote to accept the minutes from May 18, 2021 as amended.

Discussion:

Rollings: WEAC (Westwood Environmental Action Council) was listed twice.

Reminder for member signatures for Registry & Land Court.

Adjournment:

Upon a motion made by Mr. Atkins and seconded by Ms. Wynne, the Planning Board voted 4--0 in favor via roll call vote to adjourn at 8:38 pm.

List of Documents:

https://westwoodtownma.igm2.com/Citizens/detail_meeting.aspx?ID=1632

Link to the Planning Board web page

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

<p>10 Longwood Drive-Fox Hill Village Fox Hill Village-Request for Recommendation, From: Hemenway & Barnes, To: Westwood Planning Board, 5/6/2021, 3 pages. Planning Board EIDR Decision Approval 2019, Westwood Planning Board, 9/3/2019, 7 pages. Planning Board Memo to ZBA 11-06-2019, Westwood Planning Board, 11/6/2019, 3 pages. ZBA Special Permit 2019, 10/16/2019, 6 pages. Group Home 230 High Planning Board Approval 2020, Westwood Planning Board, 4/7/2020, 5 pages. Minor Modification Approval-Longwood Dr 10-2021-02-23, Westwood Planning Board, 2/23/2021, 2 pages. ZBA Fox Hill Request for Amendment SP, From: Hemenway & Barnes, To: Zoning Board of Appeals, 5/18/2021, 3 pages. Draft Municipal Affordable Housing Contribution Agreement Draft Affordable Housing Restriction Planning memo for Fox Hill Modification from Abby McCabe to Planning Board Members, Housing Authority Members, Housing Partnership Members, dated June 4 and revised June 8</p>	<p>PDF</p>
<p>Homes at 45 Abbey Road Recorded Tripartite Agreement dated October 27, 2021, recorded book 38656 page 147 recorded on November 25, 2020 OSRD Special Permit Decision granted by the Planning Board April 23, 2019 OSRD Special Permit Amendment Decision granted by the Planning Board March 16 2021 Draft Homes at 45 Amendment to Tripartite Agreement dated June 3, 2021 Order of Magnitude Construction Cost Estimate from BETA Group dated June 8, 2021 Construction phasing plan for Homes at 45 Green Company Approved OSRD Special Permit site plan set from April 2019 Draft OSRD Amendment to Tripartite Agreement, June 2021</p>	<p>PDF</p>
<p>OSRD Recess Way Subdivision Decision-OSRD-Def-Subdivision-Off-Far-Reach-Rd-2015-11-17-RECORDED, Westwood Planning Board, 12/7/2015, 9 pages. FINAL-APPROVED-ENDORSED-PLANS-Far-Reach-Rd-OSRD-Sub-EIDR, Old Grove Partners, 11/20/2015, 7 pages. Subdivision Covenant Far Reach Road OSRD, 7/12/2016, 6 pages. Bond estimate from BETA Group entitled Order of Magnitude Construction Cost for Far Reach Rd, dated May 17, 2021. Draft Covenant Release for Recess Way/Off Far Reach Road Subdivision for Old Grove Partners and Far Reach LLC Far Reach Road/Recess Way copy of insurance bond from The Main Street America Group</p>	<p>PDF</p>
<p>Memorandum from Abby McCabe, Town Planner to Planning Board members, Re: Meeting Summary for June 8th Meeting, dated June 4, revised through June 8, 2021 Draft meeting minutes from May 18, 2021 Planning Board Opening for fifth member posting May 2021</p>	<p>PDF</p>