

**Westwood Planning Board Minutes**  
**Monday January 3, 2022**  
**7:00 pm**  
**Via Zoom Remote Participation**  
**Westwood, MA 02090**

Pursuant to Chapter 20 of the Acts of 2021, On June 16, 2021, Governor Baker signed into law An Act Extending Certain COVID-19 Measures Adopted during the State of Emergency. This Act includes an extension, until April 1, 2022, of the remote meeting provisions of his March 12, 2020, Executive Order. The January 3, 2022 Planning Board meeting was conducted via remote participation by the Board.

**Call to Order:**

The meeting was called to order by Chairman 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 available here: [https://www.youtube.com/watch?v=cg801wdS\\_ds](https://www.youtube.com/watch?v=cg801wdS_ds). Chair Pfaff explained the meeting procedures, and how the Planning Board meeting and public participation 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, and Thomas P. McCusker. Record of the vote: Atkins – aye, McCusker – aye, Rollings – aye, Pfaff – aye, and Wynne – aye. 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.

**Zoning Amendment Public Work Session.** The Board will review and discuss zoning amendment warrant articles for consideration at the Annual Town Meeting scheduled for May 2, 2022. The discussion will focus on, but is not limited to, the following zoning amendment topics.

Ms. McCabe explained the Planning Board was meeting tonight to review zoning articles and discussed the timeline for the Town Meeting and public hearing process. She explained the Board should review articles and direction to staff prior to the legal ad public hearing notice going to the newspaper in a couple days. On December 15, 2021 the State released the guidelines and will accept public comments until the end of March and will finalize the guidelines for MBTA Communities on May 2 relative to the new Housing Choice M.G.L. Section 40A amendments. She summarized the major points of the new state law and the state's guidance which clarified that reasonable size is explained to be 50 contiguous acres, or two overlay districts consisting of 25 acres for each overlay district. This size is much larger than we initially suspected and larger than what the Planning Board has recommended in your initial proposal. Ms. McCabe recommends that we review and suggest sending comments to the state with a focus on the size requirement and contiguous acreage, and/or the Planning Board could expand the size of your proposed overlay district.

**Staff Comments:**

- 50 acres seems excessive for the size of Westwood.
- Ms. McCabe proposes the Board go forward with a zoning proposal now that may be smaller than these initial guidelines but the Board can bring forward zoning changes to expand in the future after the guidelines are officially finalized later this year.
- If not in compliance, the Town cannot access any grants. Have we ever tapped any of those funds? *Ms. McCabe: Yes, Mass Works.*

**Ms. McCabe listed the placeholders:**

- MBTA Communities Requirement for a multi-family residential district within ½ mile of a train/bus station.
- Smart Growth overlay district 40R
- Solar Arrays
- Obed Baker House-Rezoning and adjacent commercial plaza
- Change zoning on Providence Highway-Shell Service Station Industrial Office to Highway Business
- Housekeeping-to correct any errors and non-substantive changes to correct numbering and formatting.
- New request to Add 7th article relative to permitting process to make alterations to Non-Conforming Properties by allowing a special permit option in addition to the variance.

Amendments to Section 4.5.3.3 relative to alterations to non-conforming lots that require special permits and variances. Mr. Ahearn elaborated further explaining that we need to change this in response to recent case law. Manage through the Building Commissioner's office and the ZBA. The proposed new language lets the Building Commissioner review the permit when it comes in and if he determines it to be a change that is fairly minor and does not substantially alter the neighborhood, then it can be reviewed by the ZBA as a special permit. If not minor, and could result in a change

with impact on the neighborhood, it would be reviewed as a variance request with the ZBA. Mr. Ahearn worked on this proposal with the Building Commissioner Mr. Doyle.

**Board Comments:**

What we did in 2017 was too harsh on the homeowners?

Mr. Ahearn responded that former case law used to be consistent with Westwood's 2017 zoning changes that required a variance when alterations to a non-conforming property were proposed that created new non-conformities or exacerbating the existing non-conformity. In 2017, in an effort to slow down mansionization and to make it harder for applicants to create new non-conformities. However, there has been more recent case law that limits jurisdiction to focus on only if the changes are more detrimental to the neighborhood. Homeowners can make some changes with a special permit but not detrimental to the neighborhood.

Board members were in agreement with the Amendment.

*Action Taken:*

Upon a motion made by Mr. Atkins and seconded by Ms. Wynne, the Planning Board voted 5-0 in favor via roll call vote to forward this amendment to the Select Board for consideration on the warrant. Record of the vote: Atkins – aye, McCusker – aye, Rollings – aye, Pfaff – aye, and Wynne – aye.

394 & 396 Providence Highway – Re-zone parcel and portion of former right-of-way from Industrial Office (IO) and non-designated portion of road layout to Highway Business (HB). Ms. McCabe gave a summary explaining the owner wants to redevelop the existing shell service station and retail convenience store. The use is currently nonconforming in the IO zone and owner would like Board to support a zoning change to change the zoning to HB where the uses is allowed, and to expand the zoning to 396 Providence Highway, which currently has no zoning because it used to be part of the state's right of way but is now owned by Colbea. The owner wants to redevelop the property for a new service station and retail service store.

**Board Comments:**

- What is zoned behind it? *McCabe: Industrial Office.*
- For clarity, it just allows the use, they still need to come forward with an application. *Ms. McCabe: Yes, EIDR and a special permit, there would be a public process when an application is proposed.*

Amend Official Zoning Map to add FMUOD-7 at 909 High Street for the adaptive reuse of the Obed Baker House, and a portion over the adjacent land Assessor's Map 20, Lot 072, and the Westwood Plaza at 911-929 High Street.

Ms. McCabe gave a brief summary of the amendment. The Select Board will meet next week to review the RFP. The RFP was for the adaptive re-use of the historic Obed Baker House and the town's land next store was included. The proposal would involve a small mixed use project for some residential and commercial users, which would require re-zoning to LBA and the FMUOD 7 High Street zoning district. The adjacent property owner has expressed interest in extending the FMUOD7 zone over their property which is currently LBA where the Westwood Plaza uses are. No project is proposed but owner would like another option for future redevelopment opportunities.

**Board Comments:**

- The Plaza. Have they indicated that they have a project in mind? Or just want the option? *Ms. Loughnane: Spoke to MacKenzie Sr. and Jr, interested in mixed use development, and interested in Obed Baker, but wanted to demolish the property. Potential redevelopment to mixed use.*
- That parcel gets zoned to FMUOD, does it change the parking? *Ms. Loughnane: No, but to request a special permit it leaves it open ended for the Planning Board.*
- On Obed Baker-909 parcel, put before the Select Board. *Ms. Loughnane: 909 and to the right of it. Town owned lot and RFP 6 times...Most recent proposal from Todd Sullivan develop renovating and reusing the Obed Baker house with housing and commercial space.*
- Creating an FMUOD, for the future allowance of the owner to redevelop using mixed use.

*Action Taken:*

Upon a motion made by Mr. McCusker and seconded by Mr. Atkins, the Planning Board voted 5-0 in favor via roll call vote to move this article forward for consideration on the warrant. Record of the vote: Atkins – aye, McCusker – aye, Rollings – aye, Pfaff – aye, and Wynne – aye.

Solar Arrays – Zoning changes related to solar arrays on structures, on the ground, on accessory structures, and the permitting process.

Ms. McCabe summarized the article and the draft updated by staff since the December meeting which revises ground mounted solar to be straight to a building permit and no longer with the ZBA or Planning Board. The Board asked to remove the draft language for “small scale solar”, wanted an Administrative EIDR by the Town Planner for ground mounted that may require screening or landscaping, and the Board discussed having large scale solar commonly referred to as solar farms go to the Planning Board for an EIDR public hearing. The Board’s EIDR would still be by-right but would allow a public hearing and abutter notification process. Staff will revise draft for next week’s meeting.

Board Comments:

- Setbacks? *Ms. McCabe: It still needs to comply with height no more than 20 feet. 25 feet from the front lot line. We will follow the zoning the same as an accessory building.*
- Any zones that allow the house to be closer than 25 feet? Worried about placing it in the front yard. *Ms. McCabe: 25 feet.*
- Definition of small ground mounted solar. What does it add? Isn’t it by-right? Can we not make the distinction?
- Do we talk about screening in the amendment? *McCabe: It would be an administrative EIDR. No, do you want to add it?*
- Does the Board want to discuss screening? *Mr. Atkins: Makes sense to include it.*

Public Comments:

Ms. Galkowski typed in Q&A and was read by Chair Pfaff: At the last hearing, ground mounts would go to Admin EIDR to discuss screening. Mr. Pfaff Is that accurate?

Ms. McCabe will revise the draft and add in a screening requirement. Ground mounted solar triggers an administrative review with a landscape requirement for screening. Mr. Pfaff responded that he felt the screening requirement should be under the discretion of the Town Planner to be reviewed with each application.

Board Comments:

- Principal Use proposed for solar would be a full EIDR with the Planning Board and a public hearing. What constitutes a large scale? We need a definition. *McCabe: Section 7.72 Large scale will go to the Planning Board for an EIDR public review. We can add a definition of Large Scale and the public hearing process. She will update for next meeting.*
- What about for municipal land? *Ms. McCabe: EIDR process triggers an EIDR review regardless of size, however administrative for minor changes.*
- Solar as a principal use should go to the full Planning Board for an EIDR hearing.
- Can we give the Administrative reviewer the option if there is a concern? Mr. Ahearn: there are different situations, who would you give that authority to? Can only block if detrimental to the health, safety and welfare.
- We want to be able to make comments, not to say no. Mr. Ahearn: You need to articulate a standard that needs to be forcible and clearly understood.
- Something should trigger an EIDR and allow the Planning Board to make a decision.
- Remove large scale and small, or define.
- This Select Board is not looking to pursue solar at Shuttleworth property.
- What about a commercial scenario? *Ms. McCabe: will reword for the next meeting.*
- Will add this topic to the next meeting.

Smart Growth 40R District for 22 Everett Street Assessor’s Map 22, Lots 226 & 227.

Ms. McCabe summarized this amendment. She has drafted a new Smart Growth Overlay District which is very similar to the Mixed-Use & Multi-Family zoning overlay but changes areas that are required by the state to meet the state’s requirements for 40R. Smart Growth District (M.G.L. Chapter 40R) encourages multi-family and mixed use by providing financial incentives to municipalities. They provide an overall funding if a Smart Growth District is adopted, funds when building permits are issued for each unit, and reimburses communities for school impacts for new students from the development of any projects developed under a Smart Growth zone. The Smart Growth requires 20 units per acre and 20% affordability requirement. She suggests this zoning be considered now because of the advantage to this article is the financial payment reimbursement for school costs from the state and it could also count towards meeting the MBTA requirements.

Board Comments:

- Is this required to be overlay? *McCabe will have to double check but most commonly is.*
- Is there a size requirement? *No Strict land requirement but the state has to approve the location. Mr. Ahern: It is a cumbersome project and he has serious concerns if this will be done for the Spring Town meeting. Majority or 2/3? Ms. McCabe thinks it is the simple majority.*
- How do they determine the reimbursement for school children? *Ms. McCabe read it directly from the State's paperwork. We would need to submit paperwork to the state.*
- We only get that benefit from the first move in. Is that accurate? *Ms. McCabe: We think we get the money only once.*
- Concerns with the level of density. Evaluate to see if it can support water and wastewater.
- Can we overlay with the other district? *Ms. McCabe: Thought you could do both with the MBTA.*
- If we don't adopt it won't be forced upon us. It will add confusion.
- Exercise caution

**Action Taken:**

Upon a motion made by Ms. Wynne and seconded by Mr. McCusker, the Planning Board voted 5-0 in favor via roll call vote to remove the article and resume discussion in May. Record of the vote: Atkins – aye, McCusker – aye, Rollings – aye, Pfaff – aye, and Wynne – aye).

**Discussion:**

Take out of the discussion until May. The board thought this was too much at this time and that the community and voters may not have the bandwidth at this time given the other articles.

Zoning to comply with new state law Section 18 of Chapter 358 of the Acts of 2020 "An Act Enabling Partnerships for Growth" adding new Section 3A to the Zoning Act of M.G.L 40A, commonly referred to as Housing Choice.

**Staff & Board Comments:**

- Are we in compliance except for the size? *Ms. McCabe, maybe look at expanding on Washington Street. Focus on expanding the size. Everett St, Condos at Gables and Pulte. It is short, but the state is still taking formal comments. Currently at 13 acres.*
- What if we included all of University Station? *Mr. Ahern: The Foster property is underdeveloped, but can see others under this project. 1 50-acre standard is not realistic. Just get the 13 acres through town meeting. 50 acres is an ask, but what will the State settle for? The draft complies except the 50 contiguous acres.*
- Go forward with what we have.
- It is very aggressive. 50 acres is the minimum, units by right, it is very concerning. Doesn't believe the law will stand as written.
- Stick with what we have, it will start a public discussion.
- Move forward with what we have.
- Ms. McCabe recommends going forward with what you have.

**Action Taken:**

Upon a motion made by Ms. Wynne and seconded by Mr. McCusker, the Planning Board voted 5-0 in favor to move forward with this Article 1 as submitted and send it to the Select Board for warrant consideration. Record of the vote: Atkins – aye, McCusker – aye, Rollings – aye, Pfaff – aye, and Wynne – aye.

**Public Comments:**

Chair Pfaff asked if there were any public comments and informed audience members they could raise their zoom hand. There were none.

**Adjournment:**

Upon a motion made by Mr. McCusker and seconded by Ms. Wynne, the Planning Board voted 5-0 in favor via roll call vote to adjourn at 9:00 pm. Record of the vote: Atkins – aye, McCusker – aye, Rollings – aye, Pfaff – aye, and Wynne – aye).

**List of Documents:**

Link to Documents: [https://westwoodtownma.igm2.com/Citizens/Detail\\_Meeting.aspx?ID=1676](https://westwoodtownma.igm2.com/Citizens/Detail_Meeting.aspx?ID=1676)

Link to the Planning Board web page

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

<p><b>Zoning Amendments for Annual Town Meeting 2022</b></p> <p>PB Zoning Warrant Article Requests 12-15-2021, Westwood Planning Board, 12/15/2021, 2 pages.</p> <p>Draft Guidelines for MBTA Communities 12-15-2021, Dept. of Housing &amp; Community Development, 11 pages.</p> <p>2121 May Zoning Bylaw, Town of Westwood, 5/3/2021, 225 pages,</p> <p>Colbea Zoning Petition Request 394 &amp; 396 Providence Highway, Colbea Enterprises, 10 pages.</p> <p>Letter to MBTA Communities, Executive Office of Housing &amp; Economic Development, 12/15/2021, 3 pages.</p> <p>How to Comply in 2022 for MBTA Communities, Dept. of Housing &amp; Community Development, 1 page.</p> <p>Chapter 40R and 40S Explained, 2 pages.</p> <p>Memo to Planning Board Members from Town Counsel Patrick Ahearn, Subject: Amending Zoning Bylaw 4.5.3.3.</p> <p>Public Hearing Zoning Amendment Draft "Short" version for newspaper</p> <p>Public hearing Zoning Amendment Draft "Long" version with text detail</p> <p>Chapter 40R and 40S Explained</p> <p>Chair Opening Remarks</p> <p>Memorandum from Abigail McCabe to Planning Board Members, re: Meeting Summary for January 3, December 30, 2021</p>	PDF
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