Call to Order:
The meeting was called to order by Chairman Chris Pfaff at approximately 7:06 p.m. The Chairman announced that Westwood Media Center is recording this meeting and asked if anyone else wished to record the meeting and no one responded.

Present:
Planning Board members present: Christopher A. Pfaff, Steven H. Olanoff, Trevor W. Laubenstein, David J. Atkins and Michael McCusker. Staff members present: Town Planner Abigail McCabe, Nora Loughnane, Director of Community & Economic Development and Plan ning & Land Use Specialist Janice Barba.

94 Oak Street - Earth Material Movement (EMM) Special Permit Public Hearing
Ms. McCabe informed the Board that the Applicant is proposing to construct a concrete wall that will change the elevation to over five feet from the existing grade on the north side of the house at 94 Oak Street and this grade change is a trigger for this EMM special permit.

Presentation
Engineer Dan Merrikin of Merrikin Engineering, LLP was present on behalf of Applicant Derrick Fitzgerald of Fitzgerald Restoration Services, Inc. Mr. Merrikin presented a revised plan that more clearly showed information relative to the proposed retaining wall construction for 94 Oak Street. The plan depicted the proposed bituminous driveway, landscaped arborvitae buffer, proposed retaining wall and proposed landscaping along the bottom of the wall. Mr. Merrikin also submitted a letter from abutter Pete Shamon at 88 Oak Street that essentially stated that he was working with Derrick Fitzgerald on a landscape buffer of the retaining wall. Mr. Merrikin added that the Conservation Commission has already reviewed and issued an Order of Conditions for this project.

Board Questions/Comments
- Board members encouraged Mr. Fitzgerald to maintain communication with his neighbors during the construction progress and this proposed work.
- A Board member asked Ms. McCabe to review the standard conditions under which this Special Permit would be granted. Ms. McCabe summarized the eleven standard conditions as outlined in her memo dated 1/17/17. She also noted that this application is scheduled for the ZBA’s meeting tomorrow for relief for the combined height of the wall and fence and any further modifications will need to return to the Conservation Commission for a modification.

Public Comments
The Chairman asked for public comment to which there was none.

Action Taken
Upon a motion by Mr. Laubenstein and seconded by Mr. Olanoff, the Board voted unanimously in favor to grant the Earth Material Movement Special Permit at 94 Oak Street, for the purpose of constructing a concrete wall as part of the planned construction of a new single-family residence with the eleven conditions discussed during the hearing.

Upon a motion by Mr. McCusker and seconded by Mr. Laubenstein, the Board voted unanimously in favor to close this hearing.
565 Gay Street – Gay Street Estates Definitive, Two-lot Subdivision & Earth Material Movement Special Permit Public Hearing

Presentation

John Glossa of Glossa Engineering and Attorney Edward J. Richardson were present on behalf of property owners Thomas and Susan Geraghty.

Mr. Glossa gave a brief summary of the project:

- Two single family lots with 257 ft. of frontage on Gay Street; currently one unoccupied house and two barns on the subject property, approximately 6.1 acres, served by private sewage, potable water from DWWD.
- The existing house is unoccupied and the property contains some out-buildings;
- Lot width will be at least 175’; setback of 40’, 20’ from side lot lines and 30’ from rear lot lines, the new road will be more like a driveway and is proposed to be paved at 12 ft. wide;
- The existing buildings are proposed to be razed; new private road lay out and connection to municipal water main; sewage disposal will be by individual on-site septic systems.
- Overall traffic from the site will not increase substantially. Sight distance was measured at 400’ looking in a westerly direction.
- Waiver from the stormwater requirements and drainage report requested by Applicant.

PSC, Inc. - Peer Review Consultant Comments

Tom Houston provided a comprehensive review of the Definitive Subdivision. The following is a list of items for Board consideration:

- Updated wetland delineation is required to confirm the upland area for lot 1 and lot 2
- A 12’ wide paved driveway with waiver of strict compliance of subdivision street construction standards is requested although the proposed cul-de-sac subdivision street has a 50’ right of way and 100’ diameter cul-de-sac.
- Verify the lot shape factor for lot 2 and the uplands zoning requirement which should be confirmed with the Conservation Commission.
- Location of the proposed road is within the required 40 ft. from an outside property line but this location allows more distance from Gay Farm Road.
- EMM SP will be required as well as a Land Disturbance Permit from the Conservation Commission; A Stormwater Pollution Prevention Plan (SWPPP) and Notice of Intent will be required.
- Boundary lines and names of abutters across the street should be provided on plans
- Curve data should include tangent and central angle and datum should be specified on plans
- Underground utilities should be shown on plans
- A proposed building envelope for each buildable lot and line showing limit of disturbance is required on plans.
- Traffic Study is too limited and should provide sight distance study including stopping sight distance
- Earthwork calculations and Erosion Control BMP’s should be provided on plans
- “Driveway” style road requires granting of 29 waivers of strict compliance with the Subdivision Rules & Regulations.
- Provide Design Standards for the “Proof Plan”
- Proposed Stormwater Management System does not account for an intense rainfall event and infiltration details
- Stormwater Management Standards cannot be evaluated as stormwater calculations were not submitted (need calculations, soil tests, emergency overflow).
- Board should consider “Policy for a Lane Subdivision” in order to preserve the natural features and processes for the parcel to the extent feasible.

(PSC, Inc.´s full report is available with these minutes.)

Acting Town Engineer Comments

Phil Paradis of BETA Group, Inc. provided a comprehensive review of the Definitive Subdivision. Mr. Paradis reviewed
the list of 29 waivers with recommendations for Board consideration. The following recommendations were highlighted:

- Alternatives for access to lots should be considered by the Town, Applicant and abutters
- Sight visibility from Gay Farm Way onto Gay is very dangerous and recommends better access to houses
- The project should be designed in accordance with the Planning Board’s Lane Policy for small subdivisions such as this and meet Town standards
- The Town is looking into sidewalks on Gay Street between Buckboard and Deerfield Ave.
- Access to new lots should be restricted to new road
- Show Curb cuts and driveway aprons for vehicular access to new lots within the right of way
- Show water service; private utilities
- Provide stormwater management designs

Ms. McCabe informed the Board that the property is subject to the Historic Structure Demolition Bylaw, the Fire Department would like to review the applicant’s proposal further and would like to see the fire hydrant locations comply with location requirements, this project will also need Conservation Commission review for stormwater and work with in a wetland or stream buffer zone, the Board of Health approve this application with a condition that the septic plans be Title 5 compliance and submitted, and a letter of opposition as submitted on behalf of Duncan McFarland today and is in the Board’s electronic packet.

(BETA Group, Inc.’s full report is available with these minutes.)

Board Discussion & Comments

- There was a discussion between Board members and the applicant’s attorney Ned Richardson about the status of Gay Farm Way and whether it is a street, a right-of-way, or an easement. Board members suggested that the Gay Farm Way property owners may want to consider discussing a plan for using Gay Farm Way as an access road for this subdivision to help improve the sight visibility when existing onto Gay Street but property owners would need to agree.
- Board members were not ready to vote on requested waivers but they seemed to be in agreement with the comments made by PSC and BETA Group for plan changes and designs revised to be more consistent with the Board’s Lane Policy.
- The Applicant was instructed to work to confirm the wetland lines to verify the upland requirement, prepare the drainage and stormwater report, make the plan changes recommended in the engineering reviews.
- Board members seemed supportive of constructing the proposed subdivision road in accordance with Town standards but consistent with the Lane Policy Subdivision.

Staff Comments

Ms. McCabe requested that the Applicant submit revised plans and suggested continuing the hearing until February 28 to allow time for Applicant to file with Conservation and confirm wetland boundaries.

Public Comments

G. Lewis, resident of 1 Gay Farm Way – commented about the lack of sight distance pulling out of Gay Farm Way onto Gay Street; asked about the distance from proposed lot #2 to Gay Farm Way; asked about other lot development options.

L. Legere, Attorney from McGregor and Legere, representing abutter D. McFarland – gave a brief summary of reasons why the Planning Board should deny the proposed subdivision. Reasoning for opposition includes the application was not ready to be filed and is not complete, no drainage or stormwater report submitted, and wetland boundaries should be confirmed to verify the upland requirements.
D. Feeney, Engineering from Beals & Thomas, representing abutter D. McFarland – gave a brief summary of ten comments on the proposed subdivision as outlined in the letter submitted to the Board which emphasizes that all major site features such as landscaping and drainage should be provided.

N. Donohue, resident of Gay Street and member of the Historical Commission – informed the Board that this property is subject to the Demolition Delay and a judgement is forthcoming following a review of architecture and historical significance of the existing house at 565 Gay Street.

L. Provo, resident and member of the Historical Commission and President of the Historical Society – commented that many residents find the possible demolition of the house at 565 Gay Street to be distressing.

**Action Taken**

Upon a motion by Mr. Laubenstein and seconded by Mr. McCusker, the Board voted unanimously in favor to continue this hearing until Tuesday, February 28th at 7:00 p.m. in the Champagne Meeting Room, 50 Carby Street.

**18 Appleseed Ln. - ANR (Approval Not Required) Plan**

*Presentation*

Ms. McCabe reported that the purpose of this plan is to create a ~5,015 SF, non-buildable lot acquired from Hale Reservation and combine it with the 18 Appleseed Ln., owned by Graham and Nina Seed, to create a combined lot area of 64,978 SF. The plan meets frontage and is not creating any new buildable lots.

**Action Taken**

Planning Board members, Christopher A. Pfaff, Steven H. Olanoff, Trevor W. Laubenstein, David J. Atkins and Michael McCusker endorsed the ANR Plan for 18 Appleseed Ln., as presented.

**Proposed Zoning Amendments for Annual Town Meeting**

Ms. McCabe reported to the Board that the Public Hearing for all the Zoning Amendment’s will be scheduled for February 28th and will remain open throughout the Finance Commission Public Hearings and close it just prior to Town Meeting. A list of eleven possible zoning articles was provided to the Board (included with these minutes) and Board members were asked to review and send comments or edits to staff. (The two citizen petitions related to the FMUOD amendments are still under review and final language has not yet been presented to the Selectmen’s Office. These petitions will be provided to the Board when finalized.)

**Discussion – Proposal for Warrant Article submitted by Jerry Wolfe**

Mr. Wolfe, a resident of 39 Hoover Ave. submitted a proposal “To see if the Town will impose a moratorium against demolishing dwellings for a period of one year. This regulation will curtail the building of a new, larger structure and priced so as to put out of reach for entry level buyers.” (The full document is available with these minutes.)

Ms. Loughnane offered comments on the proposed moratorium saying that she was unsure that it would pass muster with the Attorney General’s Office (AGO). Furthermore, she did not see a clear nexus between the stated purpose of the article and the effects of the proposed moratorium, nor see any suggestion as to how the problem would be addressed during the term of the moratorium. Ms. Loughnane added that both of these factors have been prerequisites to AGO approval of moratoriums in other communities. Ms. Loughnane said that staff is working with Mr. Wolfe to draft a revised article that might better accomplish his intended goal of preserving Westwood’s stock of starter homes with less risk of invalidation by the AGO. She asked the Planning Board to comment on the possibility of sponsoring an article aimed at a potential means of addressing these same concerns.

**Board Discussion**

- A board member expressed concerns about infringing on the rights of individual property owners.
• A board member asked if the lots that are non-conforming in town could be rezoned to prevent from further special permits being granted to alter non-conforming uses. (Ms. Loughnane said that this would be a substantial change to the Town’s zoning as a vast majority of the Town’s lots are non-conforming.)

• A suggestion was made to cap the number of demolitions by voting districts.

• Board members generally agreed that there is a public need for “starter homes”

• A Board member suggested imposing an affordability restriction be placed on a home with a possible tax benefit.

• Ms. Loughnane said that she would continue her research to seek out a few measures that might have some limited effectiveness in Westwood if Town Meeting is willing to adopt them.

**Discussion - Article 7 - Amendment to Section 4.5 NONCONFORMING USES AND STRUCTURES**

Ms. Loughnane distributed this draft of suggested amendments and asked Planning Board members to review and provide feedback for further discussion.

### 4.5 NONCONFORMING USES AND STRUCTURES

**4.5.1 Applicability.** This Section shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. Chapter 40A, Section 5 at which this Bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification or alteration of the use or structure is accomplished, unless authorized hereunder.

**4.5.2 Nonconforming Uses.**

**4.5.2.1 Permitted Alterations of Nonconforming Uses:** A structure that conforms dimensionally to current zoning regulations while its use no longer conforms can be altered without needing a special permit if the Building Commissioner determines that the proposed alteration is not a substantial extension of such nonconforming use.

**4.5.2.2 Special Permit Required for Alteration to Nonconforming Use.** The Board of Appeals may grant a special permit to modify, alter or extend a nonconforming use in accordance with this Section only if it determines that such modification, change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and the town. The Board must find that the proposed use reflects the nature and purpose of the prior use, there is no difference in the quality, character or decree of the proposed use, and the proposed use is not different in kind its effect on the neighborhood

**4.5.3 Nonconforming Structures.**

**4.5.3.1 Permitted Alterations of Nonconforming Single and Two-Family Residential Structures.** Nonconforming single and two-family residential structures may be reconstructed, extended, altered or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration or change does not increase the nonconforming nature of said structure. The following circumstances shall be deemed not to increase the nonconforming nature of said structure:

**4.5.3.1.1 Alteration to a structure which complies with all current setback, yard, building coverage and building height requirements but is located on a lot with insufficient lot area, where the alteration will also comply with all of said current requirements.**
4.5.3.1.2 Alteration to a structure which complies with all current setback, yard, building coverage and building height requirements but is located on a lot with insufficient lot frontage, where the alteration will also comply with all of said current requirements.

4.5.3.1.3 Alteration to a structure which encroaches upon one (1) or more required setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements regardless of whether the lot complies with current lot area and lot frontage requirements.

4.5.3.1.4 Alteration to the side or face of a structure which encroaches upon a required setback area, where the alteration will not increase or further encroach upon such area to a distance greater than the existing structure regardless of whether the lot complies with current lot area and lot frontage requirements.

4.5.3.1.5 Alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

4.5.3.2 Special Permit Alterations of Nonconforming Structures. In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure does not meet the requirements of Section 4.5.3.1, the Board of Appeals may grant a special permit to reconstruct, extend, alter or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration or change does not substantially increase the nonconforming nature of said structure and would not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered for a special permit by the Board of Appeals:

4.5.3.2.1 Horizontal extension of an exterior wall at or along the same nonconforming distance within a required setback as the existing wall, provided that existing height restrictions shall not be exceeded, regardless of whether the lot complies with current lot area and lot frontage requirements.

4.5.3.2.2 Vertical extension of an exterior wall at or along the same nonconforming distance within a required setback, provided that the structure has a building height of no more than twenty-five (25) feet, if constructed on a lot that does not comply with current lot area and/or lot frontage requirements, or a building height no greater than permitted by this Bylaw if constructed on a lot that complies with current lot area and/or lot frontage requirements.

4.5.3.3 Variance Required for New or Expansion of Nonconformity. In the event that the Building Commissioner determines that a proposed alteration to a nonconforming structure does not meet the requirements of Section 4.5.3.1 nor of Section 4.5.3.2, and that the nonconforming nature of a structure would be increased or result in a new nonconformity by the proposed reconstruction, extension, alteration or change, a variance from Board of Appeals shall be required to allow such reconstruction, extension, alteration or change. In addition, no nonconforming structure shall be altered to accommodate a substantially different use, or to
accompany the same use in a substantially different manner or to a substantially greater extent, unless a variance allowing said alteration is granted by the Board of Appeals.

4.5.3.4 **Special Provisions for Reconstruction of Single and Two-Family Structures after Catastrophe.** Any single and two-family nonconforming structure may be reconstructed after a catastrophe in accordance with the following provisions:

4.5.3.4.1 Reconstruction of said premises shall commence within one (1) year after such voluntary demolition, or within two (2) years after such catastrophe, which time period may be extended by the Building Commissioner for good cause.

4.5.3.4.2 The building as reconstructed:

4.5.3.4.2.1 Shall be located on the same footprint as the original structure, and shall only be as great in volume or area as the original nonconforming structure; or

4.5.3.4.2.2 Shall comply with all current setback, yard and building coverage requirements, and shall have a building height of no more than twenty-five (25) feet if constructed on a lot that does not comply with current lot area and lot frontage requirements.

4.5.3.4.3 In the event that the proposed reconstruction does not meet the provisions of Section 4.5.4.2.2, a special permit pursuant to Section 4.5.3.2 or a variance pursuant Section 4.5.3.3, as applicable, shall be required from the Board of Appeals for such reconstruction.

4.5.4 **Abandonment or Non-use.** A nonconforming use or nonconforming structure which has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of this Bylaw.

4.5.5 **Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

Other Business:
- Committee Reports – The Regional Transportation Advisory Council met last week and presented on electric cars; Three Rivers Inter-local Council (TRIC) met today and presented new and proposed Economic Development grants and tools.
- Signing of Decisions from prior meetings or hearings closed on 1/17/17

Adjournment:
Upon a motion by Mr. Laubenstein, and seconded by Mr. McCusker, the Board voted unanimously in favor to adjourn the meeting at approximately 10:05 p.m.

List of Documents
- 18 Appleseed Ln. - ANR Plan and Application PDF
- 94 Oak Street Plans: Building Permit Plan of Land and Retaining Wall Design; enhanced site plan PDF
submitted at meeting; Copy of letter to Applicant from J. Doyle, Building Commissioner, dated 12-12-16 re: need for ZBA SP and EMM SP; Conservation Agent Comment Memo; email from Health Director; Letter from Pete Shamon at 88 Oak St., dated 1/17/17.

• 565 Gay Street – Gay Street Estates Definitive Subdivision: Application and Plans; Memo to Glossa Engineering from Gillon Associates dated 8/1/15 re: Stopping Sight Distance; List of Waivers; Engineer’s Report

• 565 Gay Street – Gay Street Estates Definitive Subdivision: Letter to Town Planner A. McCabe from P. Paradis, Beta Group dated 1/13/17 RE: Town Engineer Review of Gay Street Estates Definitive Subdivision Plan

• 565 Gay Street – Gay Street Estates Definitive Subdivision: Letter to Town Planner A. McCabe from T. Houston, Professional Services Corporation (PSC) dated 1/11/17 RE: Peer Review of Gay Street Estates Definitive Subdivision Plan

• 565 Gay Street - Letter to PB Chairman dated 1/17/17 from Luke Legere, re: 565 Gay Street

• 565 Gay Street - Letter to Town Planner dated 1/17/17 from Beals & Thomas re: Comment memo on Gay Street Estates Definitive Subdivision

• 565 Gay Street – Memo to Town Planner from Conservation Agent Comment Memo; email to Town Planner from Health Director

• Proposed Zoning Amendment Articles 1-13

• Section 4.5 NON CONFOMRING USES AND STRUCTURES

• Copy of Petition Article submitted by Jerry Wolfe

**Article 1: Zoning Amendments Related to Recreational Marijuana** – To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 2.0 [Definitions], Section 4.0 [Use Regulations], and Section 7.4 [Registered Marijuana Dispensaries]. The purpose of this amendment is to make any necessary zoning amendments to regulate and protect Westwood related to the sale of recreational marijuana in response to the recent passage of the initiative petition allowing the regulation and taxation of marijuana.

**Article 2: Zoning Amendment Related to Accessory Apartments** – To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 8.5 [Accessory Apartments] by considering amendments to the number of Special Permits. The purpose of this article is to consider increasing the maximum number of available Special Permits that can be issued by the Zoning Board of Appeals, which is presently limited to one percent (1%) of the current number of single-family and two-family dwelling units in Town.

**Article 3: Zoning Amendments Related to Storage Facilities** – To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to self-storage and mini-storage facilities. Amendments may include a new section for special permit criteria related to parking, siting, setbacks, and screening. The purpose of this article is to ensure that storage facilities are appropriately sited, neighborhoods and prime commercial real estate is protected and reserved for the highest and best use.

**Article 4: Zoning Amendments Related to Large Scale Solar for Residential Properties** – To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to the review process for residential properties proposing 15 kW + roof mounted solar arrays. The purpose of this article is to expedite the review process for homeowner’s looking to install solar panels on existing roofs without having to go through the Zoning Board of Appeals special permit process.

**Article 5: Zoning Amendment Related to Earth Material Movement Permit Process** – To see if the Town will vote to approve certain zoning amendments to Sections 4.1 [Use Regulations], 7.1 [Earth Material Movement] and Section 7.3 [Environmental Impact and Design Review (EIDR)] of the Zoning Bylaw to change the type of approval required from
the Planning Board from a Special Permit to an EIDR approval. The purpose of this article is to expedite the permit review process to allow Applicant’s to apply for a building permit shortly after Board approval.

**Article 6: Zoning Amendments Related to Exterior Lighting for Nonresidential** – To see if the Town will vote to approve certain zoning amendments to Section 6.4 [Exterior Lighting] of the Zoning Bylaw to restrict the height of wall mounted fixtures in nonresidential districts to 15 ft. and require non-security lighting to be turned off within an hour after the close of business. The purpose of this article is to protect properties against glare and light trespass.

**Article 7: Zoning Amendments Related to Nonconforming Uses and Structures** – To see if the Town will vote to approve certain zoning amendments to Section 2.0 [Definitions], Section 4.5 [Nonconforming Uses and Structures] and related sections of the Zoning Bylaw. The purpose of this article is to revisit the special permit criteria for alterations to existing nonconforming residential properties and the provisions for permitting reconstruction of single and two-families after voluntary demolition.

**Article 8: Zoning Amendment Related to Corner Clearance** – To see if the Town will vote to approve a zoning amendment to Section 5.5.5 [Corner Clearance] of the Zoning Bylaw to prevent fencing, landscaping and other obstructions from blocking the sight distances at corners. The purpose of this amendment is to protect visibility at corners.

**Article 9: Zoning Amendment Related to Penalty for Noncriminal Complaint** – To see if the Town will vote to approve a zoning amendment to Section 10.1.6 [Penalty for Noncriminal Complaint] of the Zoning Bylaw to increase the penalty for a violation from $100.00 to $300.00 for each offense. The purpose of this article is to give the Building Commissioner authority to impose a fine that motivates timely compliance.

**Article 10: Zoning Amendment Related to Sodium Chloride Use in UAMUD and WRPOD** – To see if the Town will vote to approve certain zoning amendments to permit the use of sodium chloride based deicers and snow removal products in the UAMUD (University Avenue Mixed Use Overlay District) and the WRPOD (Water Resources Protection Overlay District) by Special Permit. The purpose of this article is to permit products containing sodium chloride to remove snow or ice from roadways within the WRPOD and UAMUD.

**Article 11: Housekeeping Amendments to Zoning Bylaw and Official Zoning Map** – To see if the Town will vote to approve general housekeeping amendments to various sections of the Zoning Bylaw and Official Zoning Map as may be necessary to correct any errors or inconsistencies and to clarify sections, including but without limitation to the correction of a section reference to “Accessory Apartments” in the Table of Uses references the wrong section number, Note 3 in the Table of Principal Uses does not correspond to the details in the chart above, and the connection appears as a road between Dover Terrace and Birch Tree Drive.

**Article 12: Citizen Petition-FMUOD**

**Article 13: Citizen Petition-FMUOD**