

Town of Westwood Planning Board
Meeting Minutes
Location: 50 Carby Street
December 16, 2008
7:00 PM

Board Members Present: Chairman Robert Malster, Steve Olanoff, Bruce Montgomery, Henry Gale and Robert Moore.

Staff Members Present: Nora Loughnane, Town Planner; John Bertorelli, Town Engineer, Glenn Garber, Westwood Station Planning Manager; Erika Alders, Esq.; Ropes & Gray.

Chairman Malster opened the meeting at approximately 7:05 p.m.

Potential Zoning Amendments for Inclusion in 2009 Town Meeting Warrant

Ms. Loughnane provided the Board with an update on potential zoning amendments for inclusion in the 2009 Town Meeting warrant. The Town Planner provided the following update.

Use Chart:

Non-exempt Agricultural Use (Section 4.1.5.1)

State law exempts agricultural uses on lots of 5 acres more. Agricultural uses are currently permitted in all Westwood zoning districts, regardless of lot size. The Planning Board is considering proposing the prohibition of agricultural uses on lots of less than 5 acres, or require ZBA permitting of such uses.

Ms. Loughnane stated that she had reviewed prior year Zoning Bylaws and found that the current definition and use provisions for "non-exempt agricultural use" was enacted as part of the Zoning Bylaw recodification accepted by Town Meeting on May 5, 2003. Prior to that time, and at least as far back as May 2, 1994, the Zoning Bylaw did not contain a definition for non-exempt agricultural uses.

Ms. Loughnane told the board that Health Director Linda Shea had researched existing agricultural uses. She said that the Board of Health issued 8 animal permits for 2009. Three of those were for 5-acre plus properties – 215 High Street, 401 Sandy Valley Road, and 155 Grove Street. Those properties would not be affected by any change in the use chart. Each of the remaining 5 properties contained less than 5 acres. Of those, three are located in Single Residence C districts and two are located in Single Residence E districts. These 5 properties would have pre-existing non-conforming uses if the proposed change went into effect.

Wind Turbines

The Building Inspector has received inquiries from property owners wishing to install wind turbines. Current height restrictions prohibit wind turbines in most residential districts. The Planning Board is considering adding "Wind Turbines" to the use chart as a permitted or prohibited use in the various zones, or as a use requiring a permit from the ZBA.

Ms. Loughnane stated that she and Ms. Barba were looking for examples of zoning bylaw sections relating to single unit wind turbines. She noted that they had found a model bylaw for the regulation of large scale wind farms, but had not yet found one for single unit turbines. Ms. Loughnane told the board that she had also come across a court case involving a wind turbine on a residential lot in Dover. She said that she

had placed a call to the Dover Planning Office to see if they had made any headway in this area, but had not yet heard back.

Definitions:

Agricultural Use, Exempt

The Planning Board received a request from Mary Ann Grew Soltys, of 461 Sandy Valley Road, to define "Agriculture". Section 2.12 contains the following definition for "Agricultural Use, Non-exempt":

Agricultural Use, Non-exempt Agricultural use of property not exempted by M.G.L. Chapter 40A. Section 3.

The Planning Board is considering adding a definition for "Agricultural Use, Exempt" as set forth below:

Agricultural Use, Exempt Agricultural use of property exempted by M.G.L. Chapter 40A. Section 3.

Fast Food Establishment

The EDAB formed a committee last summer to recommend a new definition for "Fast Food Establishment". No recommendation has been received to date. The Planning Board is considering proposing a new definition for "Fast Food Establishment".

Ms. Loughnane told the board that she had discussed this issue with Chris McKeown, and that Chris was expecting the EADB to receive a recommendation from the committee which was formed to study potential definitions for "fast food establishment" at its meeting this evening. Ms. Loughnane said that this committee was expected to recommend that no change be made to the current definition. Mr. Olanoff asked if the committee might have any material to pass along to the Planning Office for further study. Ms. Loughnane said that she was told they did not, but that she could begin researching potential definitions if the board wished her to do so. Mr. Olanoff stated that he would like to receive sample definitions for the board's review.

Lot Width

Section 2.81 contains the following definition for "Lot Width":

Lot Width The minimum distance between the side lines at all points between the front lot line and the nearest point of a building or structure.

Section 2.111 contains the following definition for "Structure":

Structure An assembly of materials forming a construction for occupancy or use including among others, buildings, stadiums, gospel and circus tents, reviewing stands, platforms, staging, observation towers, communication towers, flag poles, water tanks, trestles, piers, wharfs, open sheds, coal bins, shelters, fences and display signs, tanks in excess of 500 gallons used for the storage of any fluid other than water and swimming pools. A freestanding fence or wall six (6) feet or less in height, or a fence attached to a wall (other than a retaining wall as defined in the Massachusetts Building Code as amended from time to time) with a combined height of six (6) feet or less,

measured from the lowest point of grade adjacent to the fence or wall attached to the fence, will not be considered a structure.

Currently, a property owner could circumvent the intent of the lot width requirement by installing a flagpole or similar structure in the front yard of an irregularly shaped lot. The Building Inspector recommends a new definition for Lot Width to specifically exclude non-principal structures. The Planning Board is considering proposing a new definition for "Lot Width" as set forth below:

Lot Width: The minimum distance between the side lines at all points between the front lot line and the nearest point of the principal building on said lot, or if no principal building exists, the mean minimum distance between the side lines at all points.

Mr. Olanoff said that he did not approve of the "mean minimum distance". He asked if Mr. Doyle had reviewed this language. Ms. Loughnane said that they had discussed the matter briefly and that she planned to discuss the matter with Mr. Doyle in greater detail. She noted that the outstanding issue seemed to be the establishment of lot width on irregularly-shaped vacant lots.

Wind Turbine

The zoning bylaw does not currently contain a definition for "Wind Turbine". The Planning Board is considering proposing a new definition for "Wind Turbine".

Ms. Loughnane stated that she and Ms. Barba are continuing research in this area.

General Sections:

Major Residential Development (MRD)

In a recent land court decision involving the Planning Board's denial of the proposed Morgan Farm Major Residential Development, Section 8.5 of the Zoning Bylaw was found to be in conflict with the Massachusetts Subdivision Control Law, M.G.L. Chapter 41, Sections 81K-81GG, and with the uniformity provisions of the Massachusetts Zoning Enabling Act, M.G.L. Chapter 40A, Section 4. The Planning Board is considering proposing amendments to Section 8.5 in an attempt to address these apparent conflicts.

Ms. Loughnane told the board that Glenn Garber had expressed interest in working on revisions to the major Residential Development section of the Zoning Bylaw. She said that she and Mr. Garber planned to over the next few weeks, as his schedule permits. Mr. Olanoff asked if Ms. Loughnane had received any comments from Phil Herr on this issue. Ms. Loughnane stated that she had not.

Mixed Use Overlay District (MUOD)

Section 9.6 governing the Mixed Use Overlay District has been utilized in the design and development of Westwood Station. Certain provisions of this section may have been found to be more cumbersome than originally anticipated. The Planning Board is considering proposing amendments to Section 9.6.

Ms. Loughnane stated that she would meet with John Bertorelli to discuss those portions of the MUOD section that could be improved. Ch. Malster stated that Peter Alpert and Erika Alders from Ropes and Grey may also have comments on the MUOD following their experience with the Westwood Station applications.

Other:

Review setback requirement within Local Business District A.

Review language relating to distribution of trees within parking lots.

Clarify the definition of street trees.

Review demolition delay bylaws.

Ms. Loughnane stated that each of these issues had been raised following the previous board meeting, but she had not yet begun to work on them. She said that she and Ms. Barba would look into these issues in the coming weeks.

Zoning Map:

The Planning Board does not wish to propose any amendments to the Zoning Map at this time.

Posting of Minutes on Town Website

Ms. Loughnane informed the Board that there was discussion at a recent department heads' meeting regarding an evaluation of the town's web pages. She said that all town boards and committees were asked to consider posting their meeting minutes (excluding not yet released executive sessions) on their web pages. Ms. Loughnane explained that an organization called "Common Cause" would be evaluating websites and suggested that our grade could improve if minutes were posted. The Board agreed to comply with this request. Mr. Moore added that he would like to see a disclaimer added to the web page to make it clear that the Planning Board's official minutes were those that are kept on file in Planning Office, and not the copies that are available on the website.

Scheduling of January and February Planning Board Meetings

The Planning Board discussed setting future meetings on Tuesday evenings at 7:30 p.m. The next meetings were scheduled for January 13th and January 27th.

Chairman Malster opened the Westwood Station portion of the meeting at approximately 7:40 p.m.

Continuation of Planning Board Public Hearing: EIDR for Phase 1B of the Westwood Station Area Master Plan

Continuation of Planning Board Public Hearing: Amendment #1 to the Definitive Subdivision for Westwood Station

[A verbatim transcript of these public hearings, Tuesday, December 16, 2008, 7:30 p.m. at 50 Carby Street, Champagne Meeting Room, Westwood, MA 02090, Robert C. Malster, Chairman; Steven H. Olanoff, Vice Chairman; Robert E. Moore, Jr., Secretary; Bruce H. Montgomery, Member; Henry W. Gale, Member; Nora Loughnane, Town Planner; John Bertorelli, Town Engineer, Glenn Garber, Westwood Station Planning Manager; Peter Alpert, Esq.; Ropes & Gray. Pages 1-97, transcribed by G&M Court Reporters, Ltd., 42 Chauncy Street, Suite 1A, Boston, MA 02111-2211 will serve as the official minutes. A copy of this transcript is in the Westwood Station file.]