



City of Westfield

PLANNING BOARD
Philip McEwan
Peter Fiordalice, Vice Chair
William Carellas
Cheryl Crowe
Robert Goyette
Jane Magarian
Carl Vincent
Raymond St. Hilaire, Associate

July 19, 2016

Chairman McEwan called the regular meeting of the Westfield Planning Board to order at 7:00 pm in the City Council Chambers, 59 Court Street, Westfield, MA.

PB MEMBERS PRESENT
 MEMBERS ABSENT

STAFF

Philip McEwan, Chair
 Peter Fiordalice, Vice Chair
 William Carellas (at 7:07)
 Robert Goyette
 Jane Magarian
 Carl Vincent
 Raymond St. Hilaire (Associate)
 Cheryl Crowe

Jay Vinskey, Principal Planner
 Christine Fedora, Secretary

A. **PUBLIC PARTICIPATION**

Chairman McEwan asked if there was anyone in the room who would like to address the Board during the public participation portion of the meeting regarding items not currently before the Board?

There being no one heard the Board proceeded to their next item on the agenda.

B. **REVIEW AND APPROVAL OF PREVIOUS MINUTES**

Vincent MOTIONED, seconded by Fiordalice to approve the minutes as amended. AIF.

C. **Review of "Approval Not Required" Plans**

Chair McEwan turned the Chair to Vice Chair Fiordalice to conduct ANR's.

Roosevelt Avenue & Massey Street~Benjamin Hallmark

Magarian MOTIONED, seconded by Crowe to approve the plan as submitted. The Board voted unanimously to approve the ANR.

Lockhouse Road

Magarian MOTIONED, seconded by Crowe to approve the plan as submitted. The Board voted unanimously to approve the ANR. All in Favor.

D. Posted Public Hearings (*and possible deliberation & decision*)

- Continuation – Special Permit/Site Plan – Motor vehicle service – 402-410 Southampton Road

Chairman McEwan informed the Board he has a request from Attorney Moir asking for an extension to August 16. Fiordalice MOTIONED, seconded by Magarian to approve the extension to August 16, 2016. All in favor.

Chairman McEwan asked for a motion to allow the Chair to alter the agenda noting that member Carellas was on his way and he was needed for the next item agenda. Fiordalice MOTIONED to allow the Chair to alter the agenda

- Zoning amendment

Chairman McEwan read the notice into the record for a zone change. Read notice into the record.

CITY OF WESTFIELD
NOTICE OF PUBLIC HEARINGS

Notice is hereby given that Public Hearings will be held at 7:00 P.M. in City Council Chambers, Municipal Building, 59 Court Street, Westfield, MA on

July 19, 2016, by the Planning Board & on
August 18, 2016, by the City Council

to consider a petition of the Board of Appeals to amend the zoning ordinance relative to administrative and minor clarifications and revisions. The full text of the petition is available for public inspection during regular business hours at the City Clerk's Office and Planning Dept., 59 Court St., Westfield, MA and at: www.cityofwestfield.org/applications

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Newspaper
Publish: July 5, 2016
July 12, 2016

City Clerk
Post by: July 5, 2016

Member Carellas entered.

Vinsky addressed the room regarding the proposed changes to the zoning ordinance. The proposed zoning amendments started with the budget review process it was discovered that the Zoning Ordinance states the Zoning Board of Appeals should be serving without compensation. The Zoning Board of Appeals does a lot of the same things the Planning Board does, he felt they deserve to be treated like any other Board.

Vinsky also mentioned the Zoning Board of Appeals felt this would be an opportunity to correct some administrative, contradictory and confusing matters in the ordinance. He had come up with a few other zoning ordinance amendments including some discussed with the Planning Board,

which he thought might be beneficial to consider during the process, noting none of the changes he was suggested should be controversial.

Vinskey mentioned the sections the zoning amendments would pertain to:

- A. Section 1-30 (Board of Appeals)
- B. Section 1-40 (Zone Change)
- C. Section 1-50 (Special Permits)
- D. Section 2-20 (Definitions)
- E. through I. Sections 3-40.-50.-60.-70.-110
- J. Section 4-30 (Accessory Buildings & Uses)
- K. Section 4-40 (Conversion of Dwelling)
- L. Section 4-110 (new Stormwater Management)
- M. Section 6-10 (Site Plan Approval)
- N. Section 7-10 (Parking)

A brief discussion ensued regarding some of the changes being proposed, after discussion the Board felt it would be beneficial for them to review the changes as being presented prior to voting on the proposed amendments and any additional changes as long as they weren't substantially different than what is being proposed. No one from the public commented.

Fiordalice MOTIONED, seconded by Vincent to continue to mull over the changes noting he was in general agreement with the changes, adding he felt the compensation to the Zoning Board was fair adding anything to clarify and make the zoning ordinance easier to understand is good. He would like more time to review. All in favor to continue to August 16.

- Continuation - Special Permit - Open Space Community (1 flag lot), reduced side yard - 658 & 0 Montgomery Road

Rob Levesque of R. Levesque Associates addressed the Board. This is a Special Permit application that was continued from the Board's last meeting for an open space subdivision the proposed lot is coming from a parent parcel.

Magarian said she understood the intent is to maintain the integrity of the area noting she felt it was a good project. McEwan felt the applicants are nice people and have good intentions but didn't see where it is allowed in the zoning ordinance, he said he could not come away with the conclusion this is allowed. Magarian asked what aspect of the law says that? McEwan felt that 4 or 5 pages pertain to open space communities, not flag lots and that is what is being done here. Levesque addressed the Board stating he looked at the ordinance, he also noted he discussed with the planner and Levesque felt this could be used as a tool that allows protection for open space and rural character he felt it would be a mistake to throw the regulation out, it's an opportunity to create open space without having to put a road in, in a "Open Space Community" you have to have a road, he again reiterated this is a creative approach being taken, reduced lot sizes, an alternative method for ANR. He noted they prefer not to do subdivision in all cases, its cost prohibitive, nice option for people to develop and for the city as well. He noted he respects the Chair's opinion but he feels this meets the standards.

McEwan felt if flag lots are allowed on Montgomery Road it's possible that a second tier of flag lots will be created. He felt if it were done as a conventional subdivision the open space would be in the back.

Vinskey informed the Board he did not see where it's prohibited in the ordinance adding it's up to the Board to see how to interpret and handle this. Crowe said she was not opposed, and she understands what the Chair is saying, this seems more of an open space, something a little bit different.

Levesque noted there is no minimum for a number of lots in the regulations, it's the "Community" aspect of it, and there is no provision for a number of lots. The threshold is being met. He reiterated he didn't think this is a negative thing, it's an opportunity to get land protected. Opportunity to be selective, neighbors feels this is suitable for the neighborhood. Crowe said she would like to have land, not sitting comfortably with the verbiage, she suggested possibly an open space community ordinance and open space.

Further discussion regarding Open Space Community is it the title of the section? Or does it mean community as a whole area? Or was it an alternate standard for subdivisions? When it's read it does mention ANR in the text of the ordinance. Should the Board look at the value of open space on a project by project basis?

Fiordalice also mentioned this land abuts land that is already under conservation it might be another factor to consider in this project, case by case basis. McEwan reiterated that this is a nice project but is it allowed or not allowed. Should the ordinance be read and see one section of the ordinance and disregard other sections?

Other factors considered were to knock down the current buildings and front and put a road in there and more than one house could be built.

Vincent inquired if the city owns the abutting open space? Vinskey informed him the Council has approved the funding. Vincent added with open space it's his feeling that it's there for people to use it. Levesque felt most likely it will be used by people in the area.

Carellas said he was comfortable with the project, but uncomfortable with the way it's being presented. He understands the purpose of open space communities, comfortable with project, think unique project but felt it needs to be looked at long and hard, as come up with limit on how to build these can't be approved all of the time. In this case there were circumstances it didn't perk, conservation areas, don't think falls under open space community if read the ordinance it references sidewalks, pedestrian, bike paths this plan doesn't satisfy any of those requirements. McEwan reiterated flag lots do not exist currently, if that's something the Board wants to work on that's something that could be done in the future.

Further discussion regarding the open space community ordinance in that it specifies requirements such as roadways, sidewalk and the fact those requirements are not being fulfilled here. Other items brought up in the discussion were the wording of the word house lots, lots being plural. Other areas reviewed page 5 where it discusses cluster of houses, this is not a cluster this is one house.

Goyette felt perhaps the open space definition needs to be changed and the rules instead of creating a flag lot, craft open space to better the needs so the Board would be comfortable in the future.

Crowe voiced her concerns that down the road this may cause a problem. She voiced concerns about other people coming in for the same type of development, the Board has nothing to stand on. Levesque added this is a Special Permit process because you approve one doesn't mean you have to approve them all.

Tim Crane
Judith and Ray Osbourne kids

Mr. Crane addressed the Board informing them of the possibility of him creating the 2 lots with the current frontage they have with the total of approximately 9 acres, in that case they would not be gaining any open space. He also noted if they were to do that they would be taking away from the aesthetics of the land because they would have to pass over the wetlands, go through the hay field as well as take down the barn, this would be a major intrusion on the area and it would be ugly. He felt the flag lot would be easier for everyone and it would help to keep the integrity of the Wyben community.

Questions applicant?

He also read a letter into the record from the Bednarz's.
McEwan the proposed flag lot ordinance is in committee and has been for 5 years, open space

Charlene Puza
Read letter into the record stated she was in favor of the proposal.

Bob Allen ~ 687 Montgomery Road
In favor of proposal, felt this would be good for the family as well as the Wyben Community.

Vinsky informed the Board he moved the draft flag lot ordinance into the member's computers for their review. Vinsky noted he is not a fan of flag lots; but noted getting open space for it might be trade off.

Carellas MOTIONED, seconded by Goyette to close the hearing.

Discussion closing? None.

A brief discussion regarding the draft flag lot ordinance, noting it doesn't seem to be going anywhere.

McEwan noted Bob Goyette is not eligible to vote.

DRAFT Findings

(1) the specific site is an appropriate location for an open space flag lot as it will create open space which directly abuts and will augment other (pending) significant open space, an objective of the Open Space and Recreation Plan (2) The use as developed will not adversely affect the neighborhood, which consists of similar residential uses, including an abutting flag lot; (3) Adequate and appropriate facilities will be provided for the proper operation of the residential use; (4) The plan, as approved, conforms to all other rules and regulations; (5) Neighboring areas have been previously developed by the construction of buildings with yards appearing generally smaller than is presently prescribed. Further, the project results in (6) the permanent preservation of open space, habitat and other natural resources including distant views of the open space from an existing City road and minimal impact to the rural character of the roadway corridor; (7) The property has sufficient frontage and area to otherwise allow for 2 frontage lots; this proposal allows for more flexible arrangement of the 2 lots.

DRAFT Conditions

1. This special permit shall require the recording of a lot plan at the Registry of Deeds, showing the extent of the "open space" clearly defined, in general compliance with the submitted preliminary "Conceptual Open Space Subdivision Plan" as prepared by R Levesque Associates, dated June 20, 2016. Said plan should also indicate the book and page where this Special Permit has been recorded.
2. The side yard setback for the existing barn (created at the flag lot frontage) shall be not less than 6 feet.
3. At least 5 permanent bounds shall be installed along the limits of the open space area, at turns and bends where it abuts the development limit line, and shown on the recorded plan.
4. Effective immediately, the applicant shall not alter, nor cause to be altered, the current state and natural condition of proposed open space areas.
5. The City of Westfield Conservation Commission, or its agent or assigns, shall be permitted access from Montgomery Road to the open space area, through the subject flag lot, for the purposes of monitoring and enforcing the restriction. (This decision shall not require any public access).
6. Before a building permit (for the dwelling) may be issued, the Conservation Restriction must be fully executed, duly signed and recorded at the Registry of Deeds; except that the Board may allow for the such building permit only if it finds bona-fide efforts to obtain state approval were proved to have been substantially initiated. No occupancy of the dwelling shall occur until the Conservation Restriction has been fully executed, duly signed and recorded at the Registry of Deeds.
7. The applicant shall bear all costs and responsibility for implementing the conservation restriction with the City of Westfield and the Massachusetts Secretary of Energy and Environmental Affairs, in conformance with his customary approval process (and per MGL c. 184 s. 31-33). This decision shall not obligate nor imply any consideration or payment by the City for acceptance of the restriction.

8. Where construction has not commenced upon the reliance of the approved plan, substantial use of this special permit may be considered to be the recording of the conservation restriction.
9. No additional building lots shall be created or subdivided from the parent parcel.

Discussion?

McEwan questioned whether this is taking precedence over zoning? Vinskey informed him that finding is for site plan approval.

Motion to accept?

Peter MOTIONED, seconded by Magarian to accept the draft findings and conditions. All in favor. Magarian MOTIONED, seconded by Fiordalice to approve the Special Permit with Findings and Conditions attached.

Roll Call:

St. Hilaire	-	yes
Vincent	-	no
Magarian	-	yes
Crowe	-	yes
Carellas	-	yes
Fiordalice	-	yes
McEwan	-	no

MOTION passes five (5) in favor, two (2) opposed.

- Airport noise

Vinskey - in airport's interest to not have incompatible land uses by noise, report in terms of land use discourage or prohibit residential development within Airport District, already a lot of housing in that area, there are a lot of recommendations but they are vague. He felt it would be a tough sell to say should be rezoned to council that it should all be Industrial or Business. Don't think some of the proposed zoning changes would fly. He felt possibly to increase the awareness of the noise by possibly having a noise overlay zone which would appear on the zoning map, but not have further regulation.

He also suggested putting a note on ANR plans and subdivisions lots that they are located in the noise district and that way it would satisfy the disclosure issue somewhat.

Vinskey asked if the Board wanted to do something?

McEwan agreed with Vinskey and felt new lots should have something on the deed. How about existing? Jay overlay district may come up during property transfer. Someone doing due diligence would know that, should understand zoning and restrictions. McEwan people buy a home and that's the last thing they think of. Jay subdivision note on plan.

Further discussion regarding a possible overlay district. Goyette noted the noise maps are changed every 2 years.

McEwan suggested that Vinskey work with the City Solicitor to work on the language. The Board agreed. Vinskey noted the overaly would be the first step then they could address with the subdivision.

- Fees

Vinskey reviewed the possible fee revisions to the Board members informing them he has done some research with neighboring cities and towns, Westfield is on the lower end of the fee schedule. This change would be a universal change which would include the Zoning Board, Planning Board and City Clerk's office.

He informed the Board these fees take into accounts the mailings, review time. Vinskey felt the fee should be reasonable and consistent with the review time. Jay a lot of examples seem to be reasonable, he noted the minor residential projects would have the lowest fee.

Vinskey noted the last time the fees were increased was 2003, it went to the Council as well. The Board also discussed a continuance fee as justified, but if the Board is requesting a continuance should there be a fee? No.

Carellas MOTIONED, seconded by Goyette to accept the increases. Vinskey informed the Board he would discuss with the ZBA and get it to the Council at the same time.

Next meeting August 16th and then September back to regular schedule.

- Other

Carellas inquired about a request to Withdraw or Withdraw without Prejudice? Can the Board tell them no? Vinskey informed him state law says may request a withdrawal without prejudice. Carellas inquired what would happen if the Board said no. Vinskey replied they probably would proceed to the hearing and then probably have a negative vote.

Carellas asked if the flag lot ordinance change and open space could be looked at? He felt it's a unique situation, he agrees that flag lots are not a great idea and it does not meet the open space community guidelines but he feels it's something that needs to be addressed. Vinskey felt the Board needs to decide what is applicable under the ordinance or add other provisions; he will put on September's agenda, as Carellas is away in August.

Crowe suggested possibly building off the flag ordinance that is already in committee? Vinskey added the Board could talk about it at a future meeting. Jay flag lots and open space piece, talk about in September if board wants to proceed.

Vinskey informed the Board the Conservation Commission is having a speaker at their August 9th meeting and invited the Board to attend.

Motion to adjourn at 8:50. AIF