

CITY OF WESTFIELD, MA
PLANNING BOARD MINUTES

July 16, 2013

Vice Chair Onyski called the regular meeting of the Westfield Planning Board to order at 7:00pm in the Middle School South Auditorium, 30 West Silver Street, Westfield, MA.

PB MEMBERS PRESENT
 MEMBERS ABSENT

STAFF

Philip McEwan, Chair
 William Onyski
 Peter Fiordalice
 Jane Magarian
 Ramon Rivera
 Matthew VanHeynigen
 Raymond St. Hilaire (Associate)
 Cheryl Crowe (Associate)

Jay Vinskey, Principal Planner
 Paula D. Geddis, Planning Clerk

1. PUBLIC PARTICIPATION

Vice Chairman Onyski 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, Onyski proceeded to the next item on the agenda.

2. APPROVAL OF MINUTES FOR THE 06-18-2013 PLANNING BOARD MEETING.

Rivera motioned to approve the June 18, 2013 minutes and was seconded by VanHeynigen. AIF.

3. ANR's - Vice Chairman Onyski conducted the evening's ANR's.

- ❖ 66 Michael Drive - Longley
After review, Rivera motioned to accept the ANR plan as presented and VanHeynigen seconded. AIF.
 - ❖ 25 Ridgecrest Circle - Hurley
After review, Rivera motioned to accept the ANR plan as presented and was seconded by VanHeynigen. AIF.
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4. PUBLIC HEARINGS

- Notice is hereby given that public hearings will be conducted in the South Middle School Auditorium, 30 West Silver Street, Westfield, MA at 7:00 PM on the following petition, which are available for public inspection during regular business hours at the City Clerk's Office and Planning Department, 94 North Elm Street, and also at www.cityofwestfield.org.

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June 6, 2013 by City Council; June 18, 2013 by Planning Board: To consider amending the zoning map at Map 19R Parcel 42 (397 Little River Rd), currently zoned Residence A and Rural Residential, to be all Commercial A.

City Councilor Richard Onofrey of 27 Blueberry Ridge presented on behalf of the owner who could not attend the meeting. Onofrey indicated that the owners want to change the current split zoning on the lot from Rural Residential (rear) and Residence A (front) to all Commercial A zone. Onofrey claimed that there is a store on the property that has been there for a very long time and their concern is that the current zoning only allows them restricted use in the front portion of their store and not in the back where they would like to add on for storage and refrigeration purposes.

Onyski asked if the store/building itself was currently split between the zones? Councilor Onofrey stated that when he had looked at the GIS map it appeared as if the store itself was split between the two zones. The owners wish to have it changed to Commercial A for the entire lot since they would like to expand the building for refrigeration purposes. Onyski explained that looking at the zoning map, the store itself is not split between zones.

Rivera questioned how the change in zoning would affect their building size requirement. Vinskey replied that currently the lot is considered to be non-conforming and they would not be able to expand by more than 10% of its current buildings size and if it is beyond 10%, they would have to go before the Zoning Board of Appeals for a finding.

Onyski stated that in the Zoning Ordinance, a building should not exceed 750 sq. ft. in a Commercial A zone. Currently the building is 1,770 sq ft.

Vigorous discussion pursued as it was shown on the map that the building itself was not in a split zone and that the split appears to be towards the rear of the parcel/lot. Onofrey claimed that the owners were interested in a zone change even prior to realizing it was split zoning. The store is non-conforming in either the Residence A and would be as well in the Commercial A zone, due to its size.

Onyski asked if there were any further questions from the Board?

Vice Chair Onyski asked if there was anyone from the public who had a question or fact? There being no one heard, the Vice Chair asked if there was anyone from the public who would like to speak in favor of the petitioner? There being no one heard, Onyski asked if there was anyone present who would like to speak against the petitioner? There being no one heard, Onyski asked if there were any additional questions from the Board?

Rivera motioned to close the hearing and was seconded by VanHeynigen. AIF.

Rivera motioned to recommend a positive recommendation. No one seconded. Magarian asked for more information on what exactly was proposed. Onyski confirmed that no additional

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information could be heard once the hearing was closed. Vinskey stated that the Planning Board is only to provide a recommendation to City Council.

VanHeynigen motioned to provide a *negative* recommendation to City Council and was seconded by Magarian. Roll Call: Fiordalice - Yes, Magarian - Yes, Rivera - No, VanHeynigen - Yes, St. Hilaire - Yes, Crowe -Yes, Onyski - Yes. 6-1 vote. Passed to provide a negative recommendation.

- The Westfield Planning Board will conduct a Public Hearing on July 16, 2013, at 7:00 P.M. at **South Middle School Auditorium, 30 West Silver Street**, Westfield, MA on an application by Adam Roberts for a Special Permit per Article V Section 5-10(D) of the Zoning Ordinance, for earth removal. The property is zoned Rural Residential known as Map 40R Parcel 15 and located at 167 Prospect St. Ext.

The application is available for public inspection during regular business hours at the Planning Department, 94 N. Elm St, and at www.cityofwestfield.org. Written comments will be accepted prior to the close of the hearing if you wish to be heard but are unable to attend.

Adam Roberts of 167 Prospect ST. Ext expounded on his request to remove 2,500 sq. yards of soil in the rear of his parcel so that he could install a pole barn in the future. He claimed the area that is being removed is a large bank of soil and the trees have already been cleared.

Onyski questioned how the petitioner arrived at the 2,500sq yards of soil calculation? Roberts indicated the contractor, J.L. Rainmakers, doing the work estimated it. VanHeynigen asked how large the approximant area would be? Roberts replied 50'x70' and the loam/soil would be pushed to the back and would slope to the front of the parcel. Total work to remove the earth would take about 3 to 5 days.

St. Hilaire asked the proximity to the parcel in the rear? Roberts replied roughly 20/30 ft from the property line and 15ft. from the neighbor (#175) to the side.

Onyski noted that he would have liked to have seen something more definitive such as a plan. Roberts explained how the earth is on a steep bank and the bank is just being pushed back by 50ft and that for now, he intends to just have a horse shoe driveway there. Vinskey confirmed that the zoning ordinance would fall under Article 5, Section 5-10D because it is not specifically for residential development and the ordinance does not require more detailed information but that the PB could request it if deemed needed. Roberts confirmed that all the neighbors are aware of his intentions and were okay with the petition.

Onyski asked if there were any further questions of the Board? There being no one heard, the Vice Chair asked if there was anyone present from the audience who would like to ask a question or fact? There being no one heard, the Vice Chair asked if there was anyone from the public who would like to speak in favor of the petition? There being no one heard, Onyski asked if there was anyone from the public who would like to speak in opposition of the

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applicant? There being no one heard, Onyski continued by requesting if there was a motion to close the public hearing.

VanHeyngen motioned to close the public hearing and was seconded by Rivera. AIF.

Onyski asked if the petitioner had any concerns with the findings or conditions? Roberts questioned the slope being 2 to 1 ratio and what exactly that was. Onyski replied for every 2ft back, it should only be 1ft. up and Vinskey included that was the maximum slope that can be stabilized without additional methods.

Onyski read the following draft findings and conditions.

FINDINGS

The Westfield Zoning Ordinance requires that all of the following Findings must be made relative to the approval of this Special Permit, and the Board found:

1. *The specific site is an appropriate location for such use and condition in that there is a natural bank of material that restricts the enjoyment and future development of the property.*
2. *The use as developed will not adversely affect the neighborhood, given the conditions imposed to minimize impacts and restore the landscape.*
3. *Adequate and appropriate facilities will be provided for the proper operation of material removal activities, as well as for the residential use during such operations.*
4. *The plan, as approved, conforms to all rules and regulations unless specifically waived.*

VanHeynigen motioned to approve the findings and Rivera seconded. AIF

CONDITIONS

In an effort to ensure and protect the health, safety, and well being of all abutters, area residents and the applicant, the approval of this Special Permit is issued pursuant to the application, supportive materials and testimony submitted by the Applicant to the Planning Board and is contingent upon the satisfactory compliance with and completion of the following the conditions:

1. *No removal of material from the site shall occur after November 1, 2013.*
2. *No work associated with this permit may occur earlier than 8:00am nor later than 5:00pm, nor on any Sunday or City-observed holiday.*
3. *No mechanical screening of material shall occur on site.*
4. *No portion of the finished grade shall be below the elevation of the existing yard.*
5. *No additional trees in excess of 6" DBH may be removed;*
6. *Resultant slopes shall be graded to not steeper than 2:1 (horizontal:vertical) and shall be stabilized with loam and vegetation.*
7. *The Applicant shall notify the Planning Board upon completion of the work and compliance with conditions, who shall then consider a determination as to the suitable restoration of the site.*

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Until such determination, the Board, or its representative, shall be afforded access to the property and no related building permits shall be issued.

8. Or require a bond?

Onyski asked if there were any concerns or questions with the conditions?

VanHeynigen questioned condition #5 and Vinskey answered that the trees had already been cleared.

Onyski asked if they want to require a bond? Vinskey indicated that they could withhold the building permits until the land is stabilized. Onyski confirmed to remove condition #8.

Rivera motioned to accept the 7 conditions and was seconded by VanHeynigen. AIF

VanHeynigen motioned to approve the special permit application with the findings and conditions and was seconded by Magarian. Roll Call: VanHeynigen - Yes, Fiordalice - Yes , Magarian - Yes, Onyski - Yes, Rivera - Yes, St. Hilaire - Yes, 7-0. Crowe- Yes. AIF.

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- Whip City Aviation, LLC requested a continuation to August 20, 2013 Planning Board meeting.

Rivera motioned to accept the continuance request from Whip City Aviation, LLC for the site plan & special permit to August 20, 2013 and was seconded by VanHeyngien . AIF.

5. Chapter 61A Release/Notice of intent to sell - Parcel 22R-4 - Northwest Road

Vinskey provided a memo explaining why the city would be interested in purchasing the parcel under Chapter 61 as it abuts adjacent open space, the city river, city well and wetland protection and the current purchase and sale agreement on the table is for \$130,000 in which the city under Chapter 61A has the opportunity to purchase the property and match the current offer. The Community Preservation Committee did vote to authorize the allotment of monies if no other city monies were used.

St.Hilaire questioned what the existing purchase offer would do with the lot and Vinskey replied that they would build a single family lot.

VanHeynigen motioned to make a favorable recommendation for the city to acquire Parcel 22R-4 on Northwest Road and Fiordalice seconded. By Roll call, all members present voted in favor of the motion.

Crowe questioned Vinskey what would happen if the City did purchase it and Vinskey indicated that if the city does purchase it and CPC monies are used, it has to remain as open space. If other monies are used, then they can potentially build something.

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6. Potential zoning amendment concerning the Municipal Parking Fund (*referred from City Council 7/8/13*)

Vinskey indicated that City Council is looking into the Off Street Parking Ordinance Review: Recommendation from the L&O Committee that the Zoning Ordinance section 3-100.5, 3 (c) listed as:

- c. *Fees paid to the City, in lieu of providing some or all of the required parking spaces shall be deposited into the municipal fund and shall be used solely for expenses related to adding parking spaces, improving the utilization of existing parking spaces or reducing parking demands, but not for maintenance costs. Any requests to appropriate funds from this account shall be filed with the City Council and shall then be referred to the Off Street Parking Commission, which shall have 45 days to forward their comments and recommendations to City Council before a vote of the appropriation may be taken. (12/6/2012)*

to be amended by adding the following after the last sentence: *Notwithstanding the previous paragraph, the City Council may elect by the establishment of a separate ordinance to designate any funds collected under this section to the Off-Street Parking Revolving Account, and may establish limits on individual expenditures and total fund balances allowed in the Off-Street Parking Revolving Account at any given time.*

Discussion continued and Carl Vincent of South Maple Street spoke on how he initiated the possibility of an ordinance amendment that would keep fees for a parking buyout with the Off Street Parking Commission. Vinskey concluded that for Zoning, it would take out the descriptive language and leave it to Council on how the monies are allocated and more to the benefit and relevant to the parking areas, but cautioned that there should be some connection to parking impact for which the money was paid.

VanHeynigen motioned to endorse the concept of revising the zoning ordinance pursuant to for the off street parking and was seconded by Magarian. AIF.

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7. **Other Business** - None
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8. **Executive Session** concerning Domina et al vs. City of Westfield. Onyski announced the open portion of the meeting was concluding and they would be going into executive session concerning this litigation. All members present consented to entering executive session. AIF

VanHeynigen motioned to adjourn the open meeting session and was seconded by Rivera at 8:07 pm AIF.

The Board and staff remained as members of the public exited the auditorium.