



City of Westfield

PLANNING BOARD

William Carellas, Chair
Cheryl Crowe, Vice Chair
Robert Goyette
Jane Magarian
Philip McEwan
Raymond St. Hilaire
John Bowen
Bernard Puza, Associate
Richard Salois, Associate

April 16, 2019

Chairman Carellas 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

William Carellas, Chair
 Cheryl Crowe, Vice-Chair
 Robert Goyette
 Jane Magarian
 Philip McEwan
 Raymond St. Hilaire
 John Bowen
 Bernard Puza (Associate)
 Richard Salois (Associate)

Jay Vinskey, Principal Planner
 Christine Fedora, Secretary

A. PUBLIC PARTICIPATION (on any matter not the subject of a public hearing)

Chairman Carellas 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

Member Crowe MOTIONED, seconded by Member Puza to approve the minutes of March 19, 2019. All in favor.

C. Review of plans not requiring approval under Subdivision Control Law.

99 Turnpike Industrial Road - City of Westfield

Planner Vinskey explained the end of the road is being discontinued and the parcel is being adjusted. Member Magarian MOTIONED, seconded by Member Crowe to approve. All in Favor.

81 & 99 Springfield Road - City of Westfield

Planner Vinskey explained this is for right of way takings; the strip of land is being taken for widening and signal installation. There are 2 parcels shown, the frontage is being moved back to expand the roadway. Member Magarian MOTIONED, seconded by Member Bowen to approve 81 Springfield. All in Favor.

Planner Vinskey informed the Board these were submitted on one application with 2 separate plans, the previous motion was made for just one, the Board needs to make a new motion for 99 Springfield Road. Member Magarian MOTIONED, seconded by Member Bowen to approve 99 Springfield. All in Favor.

D. Posted Public hearings (and possible deliberation & decision)

- Continuation – Site Plan –Parcel 27R-14/at Crane Ave. – Seasonal farm labor camp

Planner Vinskey noted the updated building plans are on the shared drive. Chairman Carellas informed the applicant there are 2 members not present that attended the first public hearing. Normally 7 members, there are 6 here authorized to vote (Puza was not at first hearing and is not eligible); in order for this to pass a majority would be required so 4 out of the 6 members would need to be in favor. Chair Carellas asked the applicant what he would like to do. Mr. Hinckley decided to wait until the Board's next meeting of May 7.

Member Crowe MOTIONED, seconded by Chair Carellas to continue the May 7, 2019, meeting. All in Favor.

- Zoning Ordinance Amendment (petition of the City Council) – add regulations for short term residential rentals

City Councilor Mike Burns addressed the Board regarding adding regulations for short term residential rentals. He explained the history of this and why it's being brought forward.

- On 2-22-18 the Police Department received complaints from the residence on Overlook Drive regarding parties.
- On 2-27-18 letters were received from the Building Department stating there is no ordinance regarding "Air B&B"s so they could not be stopped.
- A meeting was held with Attorney Reed on March 18th, 2018, during the meeting a process regarding an ordinance to address Air B & B's was discussed.
- The ordinance was brought to ZPD, during that time period the state started working on their own regulations regarding this use, as a result the ZPD voted to keep it in committee.
- In December, the governor signed a bill for short term rentals, mostly for tax purposes. It is now in front of the Planning Board it has been looked at by a few subcommittees, other cities and towns ordinances have also been reviewed.

It was noted letters were received from a couple using Air B&B in Westfield; there currently are about 7 or 8 operating in Westfield.

Planner Vinskey summarized a few of the items in the ordinance. He noted this is a basic ordinance as there are not that many in Westfield. The regulations are being put in place for accountability – basically you can only rent out your actual home. Members also inquired about the occupancy tax and how this would relate to this ordinance? Planner Vinskey noted this ordinance is regarding zoning only the tax issue is addressed in a separate city process.

Discussion regarding the time rental. Planner Vinskey noted the 31 days came from the state, it can be changed but noted anything over the 31 days wouldn't be considered a short term rental. Councilor Burns noted a lot of work has gone into this, this is just a start, he felt something needs to get put on the books referencing the problems the residence at Overlook Drive

Planner Vinskey noted what you could do today is to buy a house, a house you don't live in and rent it out daily, weekly, monthly without any regulation because it's still a single family use, this ordinance would prohibit that because it's not your primary residence.

Member Magarian inquired as to what the difference would be in purchasing a 2 family and renting it out? The difference would be the term length of the rental. Short term would be governed.

Planner Vinskey further noted a zoning permit is required from the building department. That way there is a record database. It was also suggested they would have to come in on a yearly basis for renewal which would enable an opportunity for review.

Additional concerns brought up by members: parking, limitation as to how many people could be in a house, building and other codes. No changes regarding these were agreed to. Recommendations the Board would like added? Renewable/yearly permit.

Dick Holton -Voiced concerns regarding the college and high school kids. The permit should have a 6 month time limit and the city should be collecting revenue on this. No back ground checks are being done on these people.

He also noted he purchased his home because of the neighborhood and that it's zoned Residence A, he felt safe when purchasing his home. He further suggested the Board should address this as if they are kids rather than adults renting these.

Frank Mills - 47 Overlook Drive - Moved in '62, he pays taxes in an Residence A zone and pays \$6100. The residence in question was rented to an 18 year old, the house was opened up to everyone and there was a big party. The party was quite alarming the police had to be called and he reiterated the fact the party was quite alarming. He felt this is not allowed as this is located in a RA which precludes commercial activity in a RA zone, noting an Air B&B is a rental which is a commercial enterprise, he felt this is not permitted he further inquired about insurance mandates.

Helen Fenton-64 Overlook Drive - also voiced her concerns regarding the house on Overlook Drive and noted she went away for the weekend and when she returned there was light pole down. She felt these homes that are being rented out are showing no respect for the residences that live there and pay their taxes; she also suggested people should be 21 years of age to be able to rent out property.

Richard Farrell - 41 Overlook Drive -Voiced concerns regarding the Air B & B and felt they shouldn't be allowed in Residence A.

Dan Allie - Asked clarification between a commercial and enterprise use. Vinskey stated that the overall Air B&B transaction is a commercial exchange, but that the use occurring on the property is a residential use.

Frank Mills Informed the Board there are declarations that were put on their deeds which stipulated certain things could not be done in this neighborhood, one of those being commercial uses are prohibited.

Member Crowe MOTIONED, seconded by Member Puza to close the hearing. All in favor.

The Board discussed following 2 recommendations: (1) The language in 4-32.3(5) be clarified that the zoning permit must be sought/renewed on a yearly basis. Vinskey stated that was the intent of the language. (2) Limitation on the number of days per calendar year that a short term rental may be made, presumable per dwelling unit. No number was suggested; the Board felt the Council should decide on the number of days for the limit.

Member Salois made a positive recommendation to Council, with the 2 recommendations; seconded. All in Favor.

E. Other business

- 27 Washington Street – review of layout changes to parking lot

Planner Vinskey noted that no plan was received as anticipated. No action taken.

- Review of standard decision/conditions; beset practices for ensuring permit compliance

Planner Vinskey informed the members a meeting was held with Bill Carellas, Law Department, Building Department and himself to review the Board's role in compliance. He further noted the building inspector wants to have stamped paper plans of any plans as approved; another change in the standard decision made was to explicitly state that the permits run normally with the land which is what they do anyway, unless the Board decides to limit it.

Carellas noted the Planning Board has more power than they previously thought. He added the Board can call someone back for repeated noncompliance, he stipulated it has to be clear in the documents as to why they are being called in and as to why they are in noncompliance it has to be well documented as to the noncompliance issues. He further noted the Board has the ability to call them in to answer questions if the Board feels they are in violation of in the permit. He stressed the importance of everything being well documented. The Board also has the power to revoke the special permit, if that is the case the following day the building inspector will be out there with a notice stating she is taking their Certificate of Occupancy, he stressed if someone is not going along with the special permit the Board has the authority to call them in.

Planner Vinskey briefly explained the process that would be followed: If the Board members had something they felt should be addressed they could mention it under the "Future Agenda" items, the item would then be placed on the Board's next agenda for discussion he suggested a motion might want to be added to have the applicant attend the meeting as well to address the Board regarding the Board's concerns. If there are still concerns the Board would take action by holding a special permit hearing. The applicant wouldn't be forced to need to be in attendance but noted it would be in their best interest.

Chair Carellas further noted the Legal Department has made it clear to make sure the permit holder understands the full ramification of this; they have to acknowledge the fact they may be ordered to cease and desist. He further noted this is something that has to be true and defensible

in court of law, but the Board does have the power. Vinskey noted the Board cannot fine an applicant, the Board can ask the Building Inspector to enforce the permit or take other action.

Member Magarian inquired if the Board should state they have the power to do this during the process? Planner Vinskey noted it's in the standard decision. Member Magarian felt it would be proactive in putting it out there she stressed she wants the applicants to know, mention at the hearing.

The Board agreed with changes to the standard decision.

Member Puza MOTIONED, seconded by Crowe to adjourn at 8:54. All in favor.

APPROVED