

WAREHAM PLANNING BOARD MINUTES

Monday, August 26, 2013

@ 6:00 p.m. for TDR Workshop ~ Regular meeting @ 7:00 P.M.

Memorial Town Hall ~ Lower Level Cafeteria

Wareham, Ma 02571

I. CALL MEETING TO ORDER

The meeting was called to order at 6:00 P.M.

Chairman Barrett opened the TDR (Transfer of Development Rights) Workshop and asked for an introduction of all in attendance, inclusive of the Planning Board Members.

II. ROLL CALL

Members Present: George Barrett, Chairman
Michael Baptiste, Vice Chairman
John Cronan
Charles Klueber

Member Absent: Michael Fitzgerald, Clerk

Also Present: Selectman Alan Slavin, BOS Liaison

Selectman Judy Whiteside, BOS
Jim Kane, AD Makepeace
Linda Burke, AD Makepeace
Tom Berkeley, AD Makepeace
_____, AD Makepeace
_____, Wareham Courier Representative

III. TDR WORKSHOP

Mr. Barrett asked if everyone had copies of the 2011 TDR. The answer was yes. Mr. Barrett stated one thing that was discussed was the area involved. He doesn't see anything for sending and receiving. _____ asked if Mr. Barrett was referring to the minimum size of the respective sending parcel and the receiving parcel. Mr. Barrett stated yes. _____ stated the minimum sending parcel would be defined by virtue of the underlying zoning. There would have to be enough acreage or at least 130,000 sf. so, by definition that would define the minimum sending. _____ thinks the Town would be more concerned by the minimum receiving. The receiving parcel was left open to the discretion of the Town to come up with the minimum receiving parcel. _____ stated that one of the comments that SRPEDD had was why is there differentiating land to receiving parcels because they are really treated the same. The draft that was worked on with former Town Planner, John Charbonneau was to identify the parcels and then come up with the latter date just to have minimum receiving parcels aside for each of those so now this would be the opportune time to think about that.

_____ stated the two different levels of receiving parcels, as defined earlier, were chosen as specific parcels, as a guideline for the Planning Board if they are picking up receiving parcels. It can identify whether it's sewer, utilities, environmental concern, housing concern, etc.; as we select to identify as we select receiving parcels.

_____ stated he recalls a conversation that it may be premature to do this. The Bylaw stopped that and there was a sit down at the table. This is nothing new. For years Tihonet Village has been recreated. The wastewater was discussed briefly from the Tihonet Village all the way down to the next line.

Mr. Barrett stated one of the earlier renditions not only created TDR, but Tihonet Village was created. _____ stated one of the driving forces behind the revised documents was could a series of design standards be created (there is a minimum non-residential lot area within the BDOD). This would include minimum lot area and architecture and all the things the Town would be concerned about. The original portion(s) was a TDR Bylaw and a Village Bylaw. The TDR Bylaw allowed them to be transferred. The Village Bylaw allowed one to do different types of housing in residential and commercial. All of that is contained within this document now. It was explained that in the receiving part when working with different parts of the Town, there are two different receiving parcels. It allows the Town to at least look at the potentially different design standards for each parcel because ultimately, the discretion is at the Planning Board level as the permit granting authority to review everything on a Special Permit basis. The ability is contained in this document without creating a separate Village Bylaw.

Selectman Slavin commented about bringing this forward to Town Meeting. The initial receiving part was Tihonet Village and that was it until the tail-end of some of the public hearings. He stated Attorney Witten had also suggested that the Town think about additional receiving parcels. One was over at Ocean Spray. The more it was talked about, the more broad it became.

Mr. Barrett stated one of the questions that came up earlier was density. He stated there was a lot of confusion then because there were eight between Wareham and Onset. He asked if there are any images. _____ stated they do have some images. _____ thinks it's important to know that not all density is created equal. There are some examples of five acres, twenty-acres, and bad examples of seventy-acre projects. That is why, at the time, the Planning Board and the Board of Selectmen wanted design standards and they felt it was critical to any density and metric to stress design standards. _____ stated the Bylaw would meet good architecture, green space, materials, good lighting, landscaping, all of that as a complete package. It's not just a black and white; it has to be shown.

Mr. Barrett stated this is enough information for this group, but he questioned if it would be enough for Town Meeting. Discussion ensued re: a project in Ashland w/ apartments that have parking underneath. _____ stated they are not proposing this type of project, but he wanted the Board to see. _____ argued that without design standards, there is no landscaping and a lot of things that lack. _____ stated it looks like homes in a grid, but they have created walkways, trees, etc. in California. An example was shown that

looked like architectural homes with landscaping. The density is there and it is what the Bylaw is attempting to do.

Ms. Whiteside stated part of the difference is one looks like they came out of a chinese fortune cookie and the other looks like a storage facility. She stated the St. Johnsbury, Vermont one looks like more to the character of the surrounding area, which could be historic, and they will not let someone come in and do something other than this.

Mr. Cronan asked if the seventeen were units or single families looking at it per acre, for landscaping, setbacks, etc. He expressed concern re: this becoming like a 40B where homes are jammed into a lot. He stated like Tihonet Village, you are not going to put townhouses out there so a number doesn't have to be put on it. He stated the original Bylaw that Attorney Witten was running with was left entirely with the Planning Board and there was a bit of disconnect. The number 20 was thrown out there and the BOS was not comfortable with it. The number came down to 12 after that. Discussion ensued.

Selectman Whiteside asked how many units are in each building and how many stories (just off the campus in Colorado). _____ explained they are single-family two and a half stories. The designers look for three to four floors; eight or so to a building. A handout of the deliniation was given to the Board and BOS members present. It was explained that 20 acres are being shown, not an acre. Discussion ensued re: the handout, amount of units shown, and trees.

Mr. Barrett suggested putting some of the design in the rules and regs. He stated Tom has not seen any correspondence from Attorney Witten.

_____ stated there is so much commercial space in Wareham. Residential over commercial in a receiving parcel was not mentioned, but it isn't mentioned how commercial is done. _____ questioned how commercial space is gained if the underlying space is residential. _____ questioned how is retail/commercial space built. It was explained that one receiving type A is to allow non-residential, giving commercial baseline. The idea is to provide/underline non-residential to allow mixed use as part of the Special Permit within the four areas. The underlying would be commercial, or perhaps add it with a conversion factor. In Carver, there is an allowed use.

Discussion ensued re: allowable zones, non-profit, environmental, etc.

_____ asked if there is a flow chart to show how this would work. It was stated the original Power Point should have that on it. It was stated it's probably helpful to have a client's plan showing wetlands and cranberry bogs which are not counted in the calculation.

Selectman Whiteside stated in order for the townspeople to buy into this, it has to be a nebulus non-named thing. It could be ignored, just go about business & do the Town's piece of land. Mr. Barrett stated when this was done several years ago, several parcels were picked outside to have some balance.

Ms. Whiteside stated it would not benefit the Town to not have something like this, but it's much more saleable if it's a "blah blah" plan as opposed to Makepeace working really hard with us.

_____ stated it shows a receiving as Part I and II, but it does not identify where they are. _____ stated this is germane. It was explained that in December, Tihonet Village was identified because that was the first prototype and they wanted to keep that. The other three receiving parcels were Tobey Road, all of Parker Mill, and around the YMCA, thus, there were three other areas just outside of Makepeace land identified. In receiving area II there were three zoning districts that were 'nt specific to any, including commercial, general commercial, all of general commercial, all of strip commercial and Wareham Village I, thus there were seven specific areas identified; three of which are actually zoning districts. Only one of the seven areas were really specific because the sending parcels, all the zoning, are 130,000 and all the zoning R-60. The zoning map was looked at and it was asked where is it the Town wants to protect its land. Selectman Whiteside feels this is the helpful tool.

Mr. Barrett stated the Board has notes from Sandy Conaty of SRPEDD stating the Planning Board meetings are identified as receiving areas. These notes should be checked.

It was stated that one question that has come up time and time again is does the applicant have to have ownership. _____ stated that initially the version that Attorney Witten has is yes, but, even the Town, including the Board of Selectmen and the Planning Board, thought it made sense that some sort of agreement was needed re: having ownership if it was some sort of purchase and sale or letter of intent that shows that there was a blatant intention to. _____ thinks that the December 2011 version had that & that is where it was left off.

Selectman Slavin stated he thinks Ms. Conaty has the 2005, 2007, and 2001. When it is looked at, it has the breakout and Ms. Conaty is looking at them and has been working on it.

Mr. Cronan referenced a couple of the comments made. He stated if the Town could get those included in there, it would be good. Selectman Slavin stated that the timeline is close.

Mr. Barrett thanked everyone for attending the workshop.

NOTE: The Board briefly discussed the Sign By-Law, inclusive of edits, suggestions of changes to be made, and the pertinent sections were explained by Selectman Slavin re: the proposed Bylaw update(s) and changes.

Mr. Baptiste questioned if the Board needed to set a public hearing date.

NOTE: The Regular Board meeting commenced at 7:04 P.M.

IV. PRELIMINARY BUSINESS

A. Approval of Minutes – August 12, 2013 (Regular Meeting) & August 19, 2013 (TDR Workshop)

No minutes were approved.

B. Invoices to be endorsed by the Board:

- | | |
|--------------------------------------|----------|
| 1. Wareham Week/Wareham Village Soup | \$78.00 |
| 2. Ricoh USA, Inc. | \$117.50 |

The invoices were approved by the Board.

C. Form A – 81 Charlotte Furnace Road – Canning Realty, LLC

D. Chapter 91 Waterways License Application – Zecco Marine LLC

The Board reviewed the application. The Board members acknowledged that it was received by the Planning Board and Mr. Barrett endorsed the necessary paperwork.

E. Informal discussion – “Woods at Great Neck” subdivision – Road

Present before the Board: A gentleman

The gentleman stated he met with the former Town Planner and was advised to come before the Planning Board.

Mr. Rowley introduced Mr. Charles Rowley, Consulting Engineer to set up a date & time to meet the gentleman & inspect the road.

V. PUBLIC HEARINGS

A. Site Plan Review – Proposed Site Plan – Canning Realty, LLC – 81 Charlotte Furnance Road.

The public hearing notice was read into the record.

Present before the Board: Attorney Lawrence Winoker

The Board received the application for the Form A plan & the site plan.

Attorney Winoker requested a continuance to 9/9/13 due to a lack of information to present.

Mr. Barrett asked if the applicant would like to share any testimony. Attorney Winoker asked for a moment to speak with the applicant. Attorney Winoker asked that the Board continue the hearing to September 9, 2013.

Mr. Barrett informed Attorney Winokur that there may be an issue with the ANR (Form A plan) time wise. Attorney Winokur stated the applicant will waive the timeline. Discussion ensued.

Mr. Baptiste stated that he had an issue with the 17 Form A lots on Charlotte Furnace Road. Attorney Winokur stated this issue can be addressed on September 9, 2013.

MOTION: Mr. Baptiste moved to continue the public hearing for Canning Realty, LLC – 81 Charlotte Furnace Road to September 9, 2013. Mr. Cronan seconded.

VOTE: Unanimous (4-0-0)

Mr. Barrett advised the audience that this hearing will not be re-advertised in the newspaper (for a continuance), therefore, the Board has voted to continue the hearing to September 9, 2013 and this will be the only notification.

B. Site Plan Review – “Agawam Mill Pond Boat Launch” for property located at 2844 Cranberry Highway. (*rescheduled to 9/9/13)

Mr. Barrett announced that this public hearing has been rescheduled to September 9, 2013.

VI. CONTINUED PUBLIC HEARINGS

A. Site Plan Review – “Tihonet West Solar Energy Site” - Off Farm-to-Market Road

Present before the Board: Jim Kane, A.D. Makepeace
Attorney Winoker
John Benson, Beals & Thomas

Mr. Jim Kane apologized for the discrepancy in the plans and narrative of which resulted in the continuance until this evening. He explained that Attorney Serkey is away and Attorney Winoker will be presenting the Site Plan Review this evening. Mr. Barrett stated he believed the discrepancy was the actual finished height of the panels.

Mr. Benson stated there was a previous discussion and description shown on the plan which has been clarified now on the detailed plan before the Board. He stated the height of the solar panel is clearly shown. It is 115 inches and in terms of elevation, was shown to the Board on a plan at 71.6 feet. The top of this berm is 72 feet so it does provide that visual screening from the road that was asked for by the Board. He noted Captain Dykas of the Wareham Fire Dept. has asked that the access be 18 feet wide and it varies anywhere from 12-18 feet out there right now. Utility poles are clearly shown and a 200 foot visual buffer is being maintained.

Mr. Cronan asked if a new detail has been submitted on drawing C.4.2 that shows a 7.4. He asked if a new detail of the height has been shown or if they are giving the Board a written description. It was stated it is on the detailed plan and was shown to the Board by the engineer. The revised plan was submitted to the office. The members had the old plan. Relative to the written description, the discrepancy of why this hearing was continued was it was noticed that the plan did not match the written description. A question was asked if it matches now. A letter was provided to the Board with a revised plan.

Mr. Barrett asked if the height of the berm was increased by 3 feet. The answer was that it was. It was stated the elevation of the berm is elevation 72. The highest elevation is taken across the site where the solar panels are going to be. It is elevation 62 so, 115 inches are added & it comes to 71.6 which is .4 feet lower than the height of the berm. The revised plans submitted clearly show that grading in the elevations on top of the berm at 72.

Mr. Cronan added that the fence is being dropped a foot. This was stated to be correct. It was stated the solar array area will go from 6+ acres to 5 acres.

Attorney Winokur spoke re: the rescinding of the previous application. He explained it was a subdivision approved some years ago. The property was never transferred and never mortgaged so it was absolved. He stated they filed a petition & requested the rescission. He added the decision, when signed, will be on record at the Registry of Deeds and that will rescind the subdivision.

Mr. Cronan expressed concern re: the wording. He is unclear if this was recorded back in 2009 (a subdivision plan) & if there is a stamped plan somewhere. He stated this doesn't have to be canceled before an approval is obtained for a new one. Attorney Winokur stated this is correct. He stated moving forward to the decision, the decision will put the decision on first and then the rescission. He asked the Consulting Engineer, Charles Rowley to affirm.

_____ stated it seems to him that under section 81W (which the subdivision was approved under the subdivision regulations and 81W & was read by Mr. Rowley) the document is signed that says it was rescinded and a document that approves the Site Plan with a public notice and even with the neighbors across the street, (after two weeks notice). _____ expressed concern with a vote being taken without any mention of subdivision control law being done. He feels the Board needs to have a public hearing because the fact that a street has been laid out & it needs to go through that process to have it dissolved.

Mr. Barrett stated the Board previously did this for Charge Pond Road where there was a new subdivision placed over an old one and it was part of a public hearing. Discussion ensued re: the public hearing advertisement, vote of the Board, & statute and legal opinion by the applicant's attorney.

Mr. Rowley indicated he is still concerned because it is the street that was approved. He stated the street is still in existence and the only way to get rid of a street is to hold a public hearing the way that it was created. It may be that nothing affects the mortgage or anything because none of that was done and it makes the whole process very simple, but to not do it without a public notice that you are actually rescinding a subdivision is going one step too few to go through the process according to subdivision control. He stated it is not his intent to hold anything up. He is just trying to make sure the Planning Board is protected.

Mr. Barrett added that the only people that have rights to this roadway, access to this property, is the owner. He asked what the recourse is if anyone is harmed by this. Attorney Winokur stated he did not think anyone would be harmed.

Mr. Cronan asked the woman from SRPEDD and she said the Board should notify everyone that was notified the first time by way of a public hearing. She stated

she understands how the Board is interpreting this, however, she is on the fence. Mr. Barrett asked if anyone had anything to say in regard to this.

Discussion ensued re: the old subdivision. It was stated the petition document that Attorney Winokur submitted is probably sufficient to get a public notice in the newspaper. Mr. Rowley noted if you are the only abutter, you will be the only one to get notice.

Mr. Barrett asked for a motion. There was no motion made.

Mr. Barrett recommended a condition be added for Tihonet Technology Park dated 3-23-09 to be rescinded. Mr. Cronan stated there was a question that came up on dust control. He stated the Board discussed this and there was a note on the plan that said it would be maintained, watered, etc.

Mr. Barrett read the conditions relative to the signage, project location, safety signage, contact information, recommendations from the Fire Department, any plan revisions shall be submitted to and approved by the Planning Board, inclusive of minor modifications and the rescission of the previous plan filed at the Registry of Deeds.

MOTION: Mr. Klueber moved to close the public hearing for the Site Plan Review for the Tihonet West Solar Energy Site off Farm-To-Market Road. Mr. Cronan seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Cronan moved the Planning Board approve the site plan, including the revised plan, & the revised written statements & conditions & further, to set a public hearing for the rescission for September 23, 2013 re: the Tihonet West Solar Energy Site off Farm-To-Market Road. Mr. Klueber seconded.

VOTE: Unanimous (4-0-0)

VII. ANY OTHER BUSINESS/DISCUSSION

A. Zoning Bylaw "Use Table" – Set public hearing date.

The Board members expressed concern re: not having time to review. Mr. Rowley stated the former Town Planner had made corrections to the Bylaw. He stated he had gone through every article from Town Meeting(s) and made a summarized list of each one because the back of the Zoning Bylaw Handbook had a history of every zoning article that had ever been written, starting with 1951 and it stopped in the 1990's. He went back and pulled every one from the records that the Town Clerk had. He went through each one and gave the former Town Planner a summary. He went through the Use Tables because he found, based on that information, that there were some things in the Use Tables that were not up to what had been approved and there were some things that were in conflict. He stated he & the Town Planner never sat down and looked at the ultimate product that the Town Planner produced to see whether or not there was anything in there, but, he did quite a bit to clean it up based on a very quick conversation he had with him before he left. He is assuming this was done on his

computer, but, they were not changes that required Town Meeting action anymore if they were non-critical that way. Things just had to be added that were not and he believes it brings the Zoning Bylaw up-to-date. He added there were simple adjustments in the dates to the zoning map to bring that up to speed, but other than that, it was fine.

Mr. Cronan asked when the Warrant closes. Selectman Slavin stated it closes on October 13, 2013.

Discussion ensued re: setting a public hearing date for all proposed articles.

MOTION: Mr. Klueber moved to schedule Planning Board meetings for October 7, 2013 & October 21, 2013. Mr. Cronan seconded.

VOTE: Unanimous (4-0-0)

Selectman Slavin asked if the Board would like him to contact Town Counsel re: drafting a Solar Bylaw.

Discussion ensued re: October 14th being a holiday and need to change Planning Board meeting dates.

**B. "Sign By-Law" discussion & public input – Set public hearing date
C. Medical Marijuana Treatment Center Overlay discussion**

VIII. TOWN PLANNER'S REPORT

There was no Town Planners report.

IX. CORRESPONDENCE

X. ADJOURNMENT

MOTION: Mr. Cronan moved to adjourn the meeting at 8:35 P.M. Mr. Klueber seconded.

VOTE: Unanimous (4-0-0)

Date signed: 6/13/14

Attest: George Barrett

George Barrett, Chairman
WAREHAM PLANNING BOARD

3-0-1

Date copy sent to Town Clerk: 1/14/14 (b/s)