



TOWN OF WAYLAND
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PLANNING DEPARTMENT

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DRAFT MEETING MINUTES

June 3, 2014

The Wayland Planning Board met on **Tuesday June 3, 2014 at 7:30PM** in the Wayland Town Building, 41 Cochituate Road, Wayland, MA relative to the following agenda items:

- 7:30 Review Agenda / Public Comment**
- 7:35 150 Main Street – Request for Revision to Planning Board Decision**
- 8:05 Appointment to River’s Edge Project**
- 8:15 Appointment to the Wayland Municipal Housing Trust**
- 8:25 ANR Plan for 151 Plain Road and 4 Fields Lane**
- 8:30 Goals for the Planning Board and Town Planner for 2014**
 - **Zoning Articles Timeline**
 - **Phase II zoning priorities/ZBA meeting**
 - **Policies regarding minutes, communications, submissions, etc.**
- 9:15 Correspondence, Approve Minutes for 5/6/2014/Meeting Schedule**
- 9:30 Adjourn**

Attendance:

Ms. Colleen Sheehan, Chair
Mr. Andrew Reck, Vice Chair
Mr. Kent Greenawalt, Member

Mr. Kevin Murphy, Clerk
Mr. Ira Montague, Member
Mr. Dan Hill, Associate Member

Also present was Mr. Sarkis Sarkisian, Town Planner. Minutes taken by K. Murphy

7:30PM Open and Public Comment:

C. Sheehan opened the meeting, announced that it was being televised & recorded and reviewed the agenda.

Public Comment: C. Sheehan invited Public Comment on items NOT on the agenda. Despite this, one resident requested to speak during Public Comment regarding an agenda item so as to be heard ‘before the lawyers present’ and Ms. Sheehan consented.

Nancy Liefer, East Plain Street. Ms. Liefer read a statement to the Board describing a court ruling which granted the owners of Lot 4 (Martino) rights of passage between the Lot and West Plain Street. She emphasized that this ruling is still in effect.

7:35 PM 150 Main Street – Request for Revision to Planning Board Decision:

S. Sarkisian introduced the topic by informing the Board that 150 Main Street LLC (Applicant) is planning to request that a condition of the approved site plan approval (Decision 02-2013) be removed. The condition (#30) required that the Applicant provide evidence to the Board that the way (known as Hammond Road) has been eliminated by merging the fee in the way into the lot or lots adjoining said way, subject to an access easement for Lot 4 on said plan. The Applicant has not yet provided a formal application and no vote will be taken on this agenda item until a Public Hearing is held. In Staff's opinion, a Public Hearing is required because the requested modification should be deemed major as set forth in 198-608 of the ZBL.

Charles LeRay, Dain, Torpy, Le Ray, Wiest & Garner, Attorney for the Applicant, presented the Applicant's position by first noting that the Applicant is not asking the town to either (i) ignore the pending Land Court decision or (ii) affect the rights of the Martinos' in any way.

Mr. LeRay stated that the condition (#30) was included based on uncertainty regarding the state of what is referred to as Hammond Road. If it is a street or way open to public use then setbacks apply and the site plan will need to be modified. If it is not a street or a public way then setbacks do not apply and the site plan is only subject to street setbacks at the Main and West Plain streets.

Mr. LeRay further stated that since the land is registered, it is protected from adverse possession and prescriptive rights (the creation of an easement based on continued use without permission).

A question regarding plowing allowed the Applicant and the Town to determine the state of Hammond Way definitively based on actions taken by the Applicant and a letter prepared by attorney Mark Lanza (Town Counsel). In that letter (dated January 23, 2014), Mr. Lanza stated that:

“The Way is not a Town way or a private way open to public use.”

Based on this determination, setbacks are not required and the condition (#30) should be removed.

Mr. LeRay further stated that the Applicant feels the change is a 'minor' change since nothing on the site plan changes with the removal of the condition.

D. Hill questioned why the Applicant is claiming that all relevant issues have been resolved yet Applicant also noted that the Land Court decision has not been rendered. Applicant responded by noting that a 2011 Land Court decision (referenced earlier by Ms. Liefer) ruled that 150 Main Street, LLC owns all of the land subject to the site plan. The request to eliminate the way and consolidate the parcels is still open but Lanza's determination makes the outcome of this moot.

Mr. Mark Lanza, Town Counsel. Mr. Lanza agreed with the Town Planner regarding the determination of Minor vs Major. He noted that if setbacks do apply, buildings will have to move and thus this is a major element of the decision.

Mr. Lanza also provided the Board with the reasoning behind his decision to treat the way as a 'private way, not open to the public'. He noted that previously, the way was open to all and not controlled in any way. Sometime after the Site Plan decision, the road was clearly marked as private with access only granted to residents and guests of Lot 4. This change effectively clarified that the way is private and not open to the public.

Mr. Lanza also concurred with the applicant that, in light of this change, set-backs do not apply to the way. He recommended that the Board delete the condition with a proviso that if the way is later determined to be a Street then applicant must comply with setbacks.

Discussion

A. Reck inquired about the projected timing for a decision from the Land Court. Applicant answered that this is unknown and that an appeal may delay the final decision.

J. Maccini, West Plain Road. Stated that he owns the lot adjacent to 150 Main St. and that he feels that Hammond Way is a way. He also stated that he is opposed to the development. (Note: M. Lanza noted that the question of a way existing on the property is not the issue, only whether it is Public or Private).

Paul Bernotas, Center Street. Stated that the proposal is not as-of-right because the Applicant had been granted a waiver for parking. He also stated that in his opinion, the project is too big.

Gretchen Dressens, Main Street. Ms. Dressens noted that all discussions and review of facts should be repeated during the Public Hearing. The Town Planner agreed.

Arleen Martino, Hammond Way. Ms. Martino noted that her husband's car was nearly towed when it was, in fact, parked legally.

Jeff Horan, Center Street. Asked if there are other easements in town that are used to gain access to residences. The Town Planner replied that there are several.

Mr. Horan also asked what the address will be for the Martino's and the Town Planner responded that the Building Inspector would assign an address (if, for some reason, a new address is needed).

Paul Bernotas, Center Street. Stated that in his opinion, the change is a major change.

Ken Isaacson, Lakeshore Drive. Mr. Isaacson asked if the status of the way has changed in any way due to the fact that it had been considered open for public use for such a long time. Mr. LeRay responded by noting that this is what is referred to as adverse possession and that registered land is not subject to this risk.

S. Sarkisian concluded the discussion by advising the Applicant to submit a formal application requesting the change. Based on required notices for a Public Hearing, the first meeting date to hold the hearing is July 8, 2014.

8:20 PM Appointments to River's Edge and Municipal Housing Trust:

Before selecting a appointee, the Board was informed that it is likely that the appointee will have to recuse him or herself from voting on any Planning Board applications concerning River's Edge. For both this reason and his legal expertise, Dan Hill was identified as the best candidate for the committee.

Motion: Approve Dan Hill as Planning Board representative to the River's Edge Development Committee
[need actual name of committee]

Move: K. Greenawalt

Second: K. Murphy

Vote: 5-0

The Board agree to table the selection of a representative to the Municipal Housing Trust Committee [again, need actual committee name] until the June 17th meeting to allow staff to garner additional information regarding the likely time commitment and responsibilities of the position.

8:45 PM ANR 151 Plain Road / 4 Fields Lane:

S. Sarkisian presented the ANR. The Board had no objections but did request that the notations and identification on the plot plan be clarified.

Motion: Approve ANR with amended notation to show more clearly that Parcel ‘K’ is being added to Lot 5 (and removed from Lot 4) and that Parcel ‘L’ is being added to Lot 4 (and removed from Lot 5). This maintains naming consistency with the approved plans.

Move: K. Murphy

Second: K. Greenawalt

Vote: 5-0

9:00 PM Town Planner /Planning Board Goals:

C. Sheehan presented the listing of projects, potential zoning articles and goals for the Board and for the Town Planner. The Board discussed and amended several items. One change was to name the facilities review project the ‘Municipal Planning Review’. The next step is to obtain a list of desired zoning changes from the ZBA (to be discussed during a ZBA meeting on June 10th) and finalize the PB list.

9:25 PM Minutes for May 6th, 2014 and Correspondence:

Motion: Approve as amended

Move: K. Greenawalt

Second: K. Murphy

Vote: 5-0

Correspondence:

The Planner has received complaints regarding trucks idling behind the Stop and Shop building in Town Center. This is being addressed with the store manager.

The Planner has received a plan for replacing a number of trees that were mistakenly removed at the construction site for the new DPW facility. The planting will be done this fall at the contractor’s expense.

C. Sheehan and K. Murphy also discussed the open meeting complaint filed by a resident. The Board’s response to the complaint was filed on May 28, 2014 and it stated that any violation was unintentional. In reviewing approved and posted minutes, it was discovered that one set of minutes (December 3, 2013) had not been reviewed and finalized. This set of minutes is currently posted as ‘Draft’ and will be approved at the Board’s next meeting.

In addition, all minutes will now contain ‘Draft’ or ‘Approved’ in the header to indicate status, meeting agendas will explicitly state the meeting dates for which minutes are being reviewed and all Board members were encouraged to review the Open Meeting Law video.

9:45 PM ADJOURN

Motion: Adjourn.

Move: K. Greenawalt

Second: I. Montague

Vote: 5-0

Respectfully submitted,

Kevin Murphy, Clerk

Date