



**TOWN OF WAYLAND**  
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**PLANNING DEPARTMENT**

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**DRAFT MEETING MINUTES**

**August 5, 2014**

The Wayland Planning Board met on **Tuesday August 5, 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 – Continuation of Public Hearing Request for Revision to Planning Board Decision 02-2013**

Application is requesting a revision and amendment of the Planning board site plan approval 150 Main street case No. 02-2013 under the Zoning Bylaws, Article 6. The applicant is specifically requesting that Condition 30 be removed from Site plan Approval N0. 02-2013. the public is invited to attend and offer comments regarding this application.

**8:25 Informal discussion on design and site plan phase II of Wayland Town Center 400 Boston Post Road Building 2B and Building 6**

**9:00 Long Range Planning and meeting notice with Zoning Board of Appeals on August 26<sup>th</sup>, 2014 at 8:30 P.M. Correspondence, New Applications schedule hearing for Covered Bridge Off Site Affordable Housing, Approve Minutes 07/08/2014**

**9:30 Adjourn**

Attendance:

Ms. Colleen Sheehan, Chair

Mr. Andrew Reck, Vice Chair - Absent

Mr. Kent Greenawalt, Member

Mr. Kevin Murphy, Clerk

Mr. Ira Montague, Member

Mr. Dan Hill, Associate Member - Absent

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

**7:30PM Open and Public Comment:**

C. Sheehan opened the meeting and reviewed the agenda.

**Public Comment:**

Paul Bernotas, Center Street, inquired why the Board allows developers to ignore bylaw.

Mr. Bernotas was informed that the Board does not intentionally allow developers to ignore the bylaw but that from time to time and when it is in the best interest of a proposal and/or the Town, certain waivers can be granted.

**7:40 PM 150 Main Street:**

A letter sent to the Board from Mr. Ken Issacson was added to the file.

C. Sheehan read a disclosure of appearance of conflict notice referencing work she did some years ago for a company that provides services to CVS. Ms. Sheehan has no financial interest in the outcome of this project and provided a letter from the former employer attesting to her statement.

S. Sarkisian then informed the Board and the public that he had attended the Land Court status conference in Boston along with K. Murphy, M. Lanza and several neighbors. No decisions were made at the meeting and it was continued until September 30, 2014.

M. Lanza reported that during the meeting, the Judge had asked if the Town had an interest in the property (case is technically between 150 Main Street and the Martino family). Lanza responded that the Town's interest was related to zoning, not ownership.

Lanza also reported that there was some discussion regarding the scope of the petition. The current petition is merely a request to combine two parcels. A broader petition could include determining the status of the way.

**Public Comments:**

Ms. Gail Shapiro, [address], Stated that the minutes for June 18, 2013 didn't include a reference to a discussion of condition 30. However, she reviewed the tape of the meeting and noted that Mr. Montague asked specific questions regarding the condition which were then addressed by the Town Planner. In her opinion, removing condition 30 makes the decision illegal.

Mr. Jeff Horan, Center Street, asked if Town Counsel had reviewed the plan.

Michelle Curren [chk spelling and address], Informed the Board that she couldn't understand why the Board would remove the condition without a Land Court decision.

Molly Upton, Bayfield Road, stated that she doesn't think the condition should be removed.

**Board Comments:**

K. Greenawalt: Asked Lanza if the Planning Board has the authority to to remove the condition #30 and Lanza responded that the Board could remove it.

K. Murphy asked Lanza to remind the Board why the condition is in the decision and Lanza noted that Hammond way was, in his opinion, a private way open to the public. As such, set-backs apply to the way and the submitted plan would have to be amended. If the way was a private way not open to the public, then set-backs do not apply and the submitted plan was acceptable. The applicant had proposed removing the way altogether by merging adjoining parcels. The condition was then created to require that this step be completed before the decision would become effective.

Mr. Lanza then noted that last fall the owners of 150 Main Street took the necessary steps to make the Hammond way closed to the public. Once this was done, there was, in Lanza's opinion, no need for setbacks or a decision from the Land Court.

Mr. Lanza also noted that the Land Court has not been asked to opine if the way is open to the public or not open to the public.

M. Melnacove [spelling and address] noted that she had heard a different version of what happened at the Land Court and asked if anyone could speak to that.

Mr. [Name] Davidson, attorney representing the Martino's, noted that the Judge had also stated that the Martino's have a right to cross the property based on their easement. In his [Davidson's] opinion, this meant that they have a right to the whole of the way.

Mr. Charles Le Ray, attorney representing 150 Main Street, acknowledged the Martino's right to pass and re-pass. He stated there are no plans to change this.

He noted that the way is about 40' wide at the street and considerably narrower at the Martino property.

The proposed plan does have some parking and landscaping that encroaches the area noted as the way, however, it does not impede the passage of vehicles. The MA State Supreme court has ruled (as recently as this past January) that items can impact the way but they cannot block it. You must provide enough clearance for beneficiaries to pass through. Since the way is being used on the plan as a two-way driving lane, clearly there is enough room for vehicles to pass.

Mr. Le Ray also confirmed that the Land Court is not deciding if setbacks apply or if the way is open to the public. The only issue is if what is referred to as Hammond Way is a 'way' or an easement.

The Board then took a straw poll to see where members currently stood regarding the request to remove condition #30. K. Murphy noted that he would support removing the condition with a replacement condition that should the Land Court determine that set-back requirements apply to buildings along the way then the applicant would have to conform (even if this required dismantling buildings). K. Greenawalt indicated that he was in general agreement with this approach. S. Sheehan felt similarly but wanted to explore the condition more fully and I. Montague indicated his preference was to wait for the Land Court decision.

Lanza responded by noting that a condition could be crafted to contemplate the possibility of the way becoming open to the public again. He noted however, that the act of inviting the public to use the way to gain access to the CVS building could make the way 'open to the public'. Indeed, simply opening for business could render the plan in violation of the setback requirements.

The Board noted that this last point (likely conversion of the way back to a private way open to the public) had not been made clear previously and would likely impact any decision.

Steven Page, King Street, asked if the plan would have to be changed if the Land Court asked that parking be moved.

Mr. Le Ray noted that the court is not considering parking at this time but if they did require a change in parking then the applicant would have to comply.

Mr. Gil Wolin, Plain Street, asked why the Board wouldn't just wait for the Land Court decision.

Mr. Le Ray noted that the pertinent issue is the applicability of set-backs and this had been ruled on by the Town's counsel. The Land Court has not been asked to address this and thus the decision is not likely to have an impact on the setbacks. Finally, the time involved in waiting for the Land Court to make its decision is lengthy and waiting is expensive for the developer.

Ms. Gretchen Dressens, Main Street, noted that Land Court delays are not the problem of the neighbors and that the Board should wait for a decision before proceeding.

K. Greenawalt then asked Lanza to advise the Board on possible next steps.

Lanza stated that the Board could:

1. Ask for an extension from the Applicant (a decision on the application is due imminently).
2. Approve the request, with or without a replacement condition or
3. Deny the application.

Mr. Le Ray stated that the applicant would like to grant an extension until 9/23/2014.

Motion: Accept request for extension and continue hearing to 9/23/2014 at 7:35pm in the Town Building.

Move: I. Montague

Second: K. Greenawalt

Vote: 4-0

**9:45 Informal discussion on design and site plan phase II of Wayland Town Center 400 Boston Post Road Building 2B and Building 6**

This item was not discussed as the applicant was not prepared to present.

**9:45 Long Range Planning and meeting notice with Zoning Board of Appeals on August 26<sup>th</sup>, 2014 at 8:30 P.M. Correspondence, New Applications schedule hearing for Covered Bridge Off Site Affordable Housing, Approve Minutes 07/08/2014**

Motion: Approve minutes, as amended, for 7/8/2014

Move: K. Murphy

Second: I. Montague

Vote: 3-0 (K. Greenawalt was not at the 7/8 meeting and abstained)

C. Sheehan then gave the Board an update on discussions with the FinCom regarding long range planning. She noted that there is preference to create a subcommittee, in conjunction with other Boards, to evaluate current status and future needs for the Town's facilities. This is the likely next step.

S. Sarkisian noted that the Planning Board meeting on 8/26 would include a joint meeting with the ZBL to discuss a wish list for changes to the ZBL. The Board will also be considering a request from the developer of the Covered Bridge development to provide affordable units offsite.

S. Sarkisian also informed the Board that several lots were released in the Nolan Farm Subdivision (#5, 6, 7, 8 & 9). These should have been released long ago (houses have been sold) but had been overlooked. The Michael Rd. developer was also expected to ask for lots to be released to allow units to be built and sold. The developer has provided the required bonds, paid for development of a trail and given the Town a check to cover the estimated costs to improve Glenn Road. S. Sarkisian noted that the Town had finished repairing Glen Road and the developer had agreed that the funds would be made available to the Town for general purposes. Lot #5 would be held back until the subdivision is complete.

**10:05 Adjourn**

Move: I. Montague

Second: K. Murphy

Vote: 4-0

Respectfully submitted,

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Kevin Murphy, Clerk

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Date