

**MINUTES OF WESTBOROUGH PLANNING BOARD**  
**September 06, 2016**

Regular meeting of the Westborough Planning Board held in the Forbes Municipal Building, 2<sup>nd</sup> Floor, Room 23 at 45 West Main Street. Members Bush, Silverberg, Spencer and Paris were present. Member Charlie Diamond was absent.

Meeting date: September 20, 2016

The Minutes of August 16, 2016 were reviewed and endorsed.

**At 7:00 p.m.** the Board met with Mr. Shawn Nuckolls from Toll Brothers to consider the Westboro Village Pedestrian Connection Easement and discuss the installation of speed bumps on the neighborhood roads.

**Pedestrian Connection and Easement Document:**

Mr. Shawn Nuckolls stated that the easement is part of the Amendment to Westboro Village Special Permit 05-1 regarding Lot 5B and Building 48 (for the commercial building) which required we record a declaration of easements between Westboro Village and the Village Commons.

Chairman Brian Bush said the Planning Board has reviewed the easement document and Mr. Carl Balduf, Town Engineer has also reviewed it and is fine with the easement as written.

The Town Planner explained that the easement as written requires the owners of Building 48 to complete construction of the pedestrian walkway within the easement no later than the completion of the construction of Building 48. It is written that both parties can work on the others land and hold each party harmless. We will provide a copy of the Planning Board minutes to this easement to prove we approved the attached to the easement.

Mr. Carl Balduf said that the document works and does what was intended.

**Member Mark Silverberg motioned to approve the Westboro Village Pedestrian Connection and Easement at Building 48 as presented and dated August 01, 2016. The motion was seconded by Member Bill Spencer and unanimously voted.**

**Installation of Speed Humps:**

Mr. Shawn Nuckolls said the speed humps are a request from the Home Owners Association and the residents of Westborough Village who have found that speeding within the community has become a big concern. He is here on behalf of the Home Owners Association and wants to install two speed bumps on Townsend Boulevard. Mr. Nuckolls said he will use Mass Highway details for speed bumps.

The Town Planner said since the roadway is private and will remain private maintenance of the speed humps as well as snow removal will remain the responsibility of the Homeowners Association.

Member Tim Paris ask if the speed hump will be adjacent to the cross walk. As you approach this from Gleason Street, it would seem a better solution to use it after the cross walks.

Mr. Shawn Nuckolls said this would be significantly more work tearing out the handicap ramps. The speed humps will be marked and tapers back. The idea is to get people to slow down before the cross walk.

The Town Planner asked would you want the cross walk to go on top of the speed hump.

Member Tim Paris replied that it would require reconstructing the ramps and affect the drainage in that area. No, this is not a good idea. He is sure what they are proposing will accomplish what is needed.

Chairman Brian Bush asked is there any reason for these particular locations?

Mr. Shawn Nuckolls responded that this is where the Home Owners Association wanted them placed. The speed humps are 12 feet in width. We worked with them on this.

Member Mark Silverberg said if that is where they want the speed humps, he does not have a problem with this. If the traffic is speeding north, place the humps on the other side of the cross walk. They are 12 feet wide and this should slow the cars down. He does not have an objection to the location.

Member Bill Spencer asked what is on the signage.

Mr. Shawn Nuckolls said the signage is installed. The speed hump will have some striping. There is no proposal to change the existing signs.

Mr. Carl Balduf, Town Engineer said he does not have a problem with the signs for the crosswalks. That project has its finished pavement. If you start to play around with that, you are undoing what is already finished.

**Member Mark Silverberg motioned to approve the installation of speed humps in Westborough Village as shown on the plans entitled “Layout and Materials Plan, Westboro Village, Westboro, MA” as submitted by Waterman Design Associates for Toll Brothers dated 02/09/07. The motion was seconded by Member Bill Spencer and unanimously voted.**

**At 7:20 p.m.** the Board prepared to continue the Special Permit Concept Plan public hearing on The Ridings II.

Mr. James Tetreault from Thomson & Liston asked the Planning Board for a continuance of the public hearing on The Ridings II to pursue items in the Town of Grafton in regard to cuts and fills. Mr. Tetreault said they were tasked by Grafton to reduce the number of cuts and fills required. We were able to eliminate all but a few and submitted their revised plans to the Grafton Planning Board on August 15<sup>th</sup>. They were told to eliminate all cuts and fills greater than 8 feet. We will have to now go back to the Grafton Planning Board. We are in the process of staying under their 6 foot cut and fill requirement. We will be before them again next week. It will eliminate a need to attach the road to Westborough. There will now be a thru road to Harvest Way. To allow us time to complete the drawings and go back to the Grafton Planning Board, we are asking for a continuance of our hearing with the Westboro PB to the next meeting. Mr. Tetreault said he thinks they will be ready by 9/20/16.

The Town Planner said because the hearing is beyond 90 days, we will clerk this continuance request with the Town Clerk. The applicant needs more time so the board is willing to grant this.

**Member Bill Spencer motioned to accept the request for a continuance of the public hearing for the Ridings II to the September 20, 2016 Planning Board meeting. The motion was seconded by Member Mark Silverberg and unanimously voted.**

Chairman Brian Bush said he will not be at the September 20, 2016 Planning Board meeting.

**At 7:30 p.m.** the Board prepared to continue the public hearing on the Definitive Subdivision located at 275 Turnpike Road. (See attached minutes).

### **Zoning Articles:**

The Town Planner stated that we have sent the Board of Selectmen two Articles; the Gateway 2 Extension along East Main Street and Rezoning of Spectrum property from Residential to Highway Business. When we receive the Board of Selectmen agenda for their September 13<sup>th</sup> meeting, it will be sent to the whole Planning Board. The Town Planner stated that he will be on vacation and not be able to attend this meeting. The Amendment to the Marijuana Bylaw public hearing is on September 20, 2016.

Member Mark Silverberg said he can't attend. He does not want people to think this amendment to the medical marijuana is a reaction to just one referendum. We need to get this point across to the Board of Selectmen that we are trying to clean up the zoning for things that were not covered before.

Chairman Brian Bush said he agrees. We are now lumping the recreational marijuana into the medical marijuana bylaw. The Town Manager did ask for some clarification which was provided.

The Town Planner said he also asked Police Chief, Al Gordon to come to speak at the Selectmen's meeting saying there is not enough money put aside to enforce this bylaw and for training. The Police will need training on how to deal with new regulations. We are only getting 2% sales tax that would be used to establish local law enforcement to help with training costs but the state of Colorado received 13%.

Member Mark Silverberg said by using zoning, we are bypassing the referendum issue and can regulate location of marijuana sales. They can put in as many as they want but it has to go into a specific zone.

Member Mark Silverberg mentioned that they had an Open Space Committee meeting and the Denny Street parcel came up (horse farm) for discussion. It is under agreement with intent to take this property out of Chapter 61. The Town has the option to make first offer for the purchase price. He recommends we not pursue this right. This is pretty wet property and not what we are looking for.

There being no further business to discuss, the meeting adjourned at 8:17 p.m.

Respectfully submitted,

Sandy Spinella  
Administrative Assistant

APPROVED:

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Brian Bush, Chairman of Board

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Mark Silverberg, Vice-Chairman of Board

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Charlie Diamond

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William Spencer

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Tim Paris

**Definitive Subdivision Hearing for  
Conventional Subdivision  
At  
275 Turnpike Road**

Pursuant to the Rules and Regulations Governing the Subdivision of Land, Section III D of the Town of Westborough and MGL, Chapter 41, Section 81-T, the Westborough Planning Board held a public hearing on August 16, 2016 and continuation on September 06, 2016 at 7:30 p.m. in Room 23, Forbes Municipal Building, Westborough, Massachusetts on the Definitive Plan for 275 Turnpike Road, a 2 lot conventional subdivision on 9.3 acres, located at the end of Indian Meadow Road, off of Turnpike Road as submitted by E.K. Parivar, LLC.

Mr. Randy Waterman, Waterman Design Associates and Mr. Yogi Patel and Mr. Kaushal Vyas (owners) were present for discussion.

Chairman Brian Bush explained that since last meeting on August 16<sup>th</sup> a work session was held with Mr. Waterman, the proponents, the Town Planner, Town Engineer and two Board members.

Mr. Randy Waterman said that on August 15<sup>th</sup>, Carl Balduf gave letter to the Planning Board with his comments on the project. At the meeting last Thursday we went through the letter and discussed every comment. We submitted a letter dated September 06, 2016 back to the Planning Board that states we concur with all the items in the letter. The Applicant agrees to maintain all private utilities in road, easements, future route of water excluding the town's water main, and to keep the road private. The Town Engineer gave us a response to his letter tonight.

Mr. Carl Balduf, Town Engineer clarified that Mr. Waterman's letter indicates that the applicant will be responsible to maintain all private utilities in Indian Meadow Road excluding the town water main which is currently installed. The exclusion applies to the town raw water main. A private water line currently exists in Indian Meadow Road and will continue to be private and the responsibility of the applicant. Mr. Balduf said he added a new comment. The Bicycle Pedestrian Advisory Committee is trying to get a future bicycle/pedestrian trail along Indian Meadow Golf Course.

Mr. Waterman said he knows that this Committee would like to cross Route 9 at the signal at Indian Meadow Road. He has a note as to whether this will be part of the decision. The partners are fine with this.

Member Mark Silverberg said he is a firm supporter of the Bike/Pedestrian Trail. He would like to see this as a condition in writing. We had someone in the past that supported a bike trail and then when the time came to install the trail, they refused to grant the easement. If you are willing to work with us that is great because the bike/pedestrian trail is a great project.

**Audience:**

*A resident at 287 Turnpike Road* said this is the first she has heard regarding the bike path, will we be notified about where they are crossing someone's property.

Chairman Brian Bush responded that if they cross your property, they will have to notify you.

*Mr. Brian Smith, 117 Indian Meadow Drive* said we are questioning the rationale behind this hearing. The Applicant is currently not in compliance with the regulations. Why do they need waivers now?

Chairman Brian Bush said they have an existing non-conformance use. They tell us they are not going to do anything right now. If we grant this decision they will be given some rights they currently don't have. One is a cul-de-sac. They would have to come back to us for any changes to the property. They would need our approval. They are getting the ability to do something in the future and are adding value to their property. If in compliance with local zoning, it is easier to sell the property and get financing. They have the right to ask for this.

*Mr. Brian Smith* said he is curious if they do have near future plans to sell.

*Mr. Yogi Patel, owner* responded not right now. We have the golf course. Our intent is to keep things as is.

**Waivers:**

Chairman Brian Bush asked Mr. Randy Waterman to discuss his many waiver requests for the Definitive Phase.

The Town Planner said the Board has the right to either waive each request individually or all of them combined.

Mr. Carl Balduf, Town Engineer said he thinks Mr. Randy Waterman's letter straightens out what needs to be waived.

The Town Planner suggested when we have the draft decision the Town Engineer can first review the waivers before the Board votes on them.

Chairman Brian Bush reviewed the requested waivers under Section III.

Section III, Subsection d., Environmental Assessment;

*Mr. Waterman responded that there is already an existing road.*

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Section III, Subsection e., Drainage Calculations;  
*Mr. Waterman responded that they are improving existing drainage.*

Section III, Subsection f., Open Space Management Plan;  
*Mr. Waterman said there is already existing open space and they are not changing anything on property.*

Section III, Subsection g., Access thru another municipality;  
*Mr. Waterman said we do not need to cross a neighboring municipality but are just asking for the waiver.*

Section III, Subsection j., Re-submittal;  
*Mr. Waterman said during this public hearing process it does not apply.*

Section III, Subsection m., Road Centerline Staking;  
*Mr. Waterman responded that the road is already in.*

Section III, Subsection n., Soil Surveys;  
*Mr. Waterman responded that the road already in.*

Section III, Subsection 2.m., Roadway Plan & Profile;  
*The road is already in.*

Section III, Subsection 2.n., Utility Plan and Profile;  
*The road is already in with utilities.*

Section III, Subsection 2.o., Percolation Tests if No Sewer;  
*Not applicable.*

Section III, Subsection 2.p., Storm Drainage Plan;  
*Drainage is already in.*

Section III, Subsection 2.q., Soil Erosion & Sediment Control Plan;  
*The road is already in.*

Section III, Subsection 2.r., Cross sections;  
*Road is already in.*

Section III, Subsection 7. Performance Guarantee;

Member Mark Silverberg said a performance guarantee was suggested in the work session and we also discussed a covenant to be executed with the Planning Board so if the property is sold it would be a trigger for a bond guarantee. He suggests it be posted by the applicant.

Mr. Randy Waterman said he replied to that in the letter he gave today. The applicant plans to have the work done in the next 30 days. We don't have a price on the work yet. We should be ready to go in the next 2 weeks. It is the applicant's preference to complete all required road improvements simultaneous with the town's proposed water line construction, using the same contractor as the town. But if this can't be accomplished, then the applicant will complete a covenant with the town under item 7a – Performance Guarantee.

Chairman Brian Bush said typically you have a covenant and as you complete the work, we release the funds. If you went to get a building permit and the work wasn't done, you could bond it over. The burden should go with the land.

Section III, Subsection 8. Form of Performance Guarantee;

*Mr. Randy Waterman said they may have the work done in a few weeks. If they don't, then we will go through the covenant process.*

Section III, Subsection 9. Subdivision Security Schedule;

*Mr. Randy Waterman said they may have the work done in a few weeks. If they don't, then we will go through the security schedule process.*

Section IV, Design Standards – per paragraph A. General, Public Streets vs. Private Ways

Waive all requirements for this section as it is an existing private street.

Section V, Required Improvements & Construction Procedures for an Approved Subdivision:

Waive all requirements for this section as it is an existing private street.

Section VI, Administration

*Waive all requirements for this section as it is an existing private street.*

Chairman Brian Bush said a couple of other things from the work session held last week.

1. **Performance guarantee:** it was decided the applicant would provide a covenant to assure completion of the work prior to any removal or improvements to the existing buildings on the subdivision lots. So if the applicant sells either or both lots the new owner shall place a bond equal to the value of the work to be completed. The covenant will be released when the work is reviewed and deemed complete.

2. **Location of Town water line and location of the easement:** There are many utilities in that area and some of the existing lines need to be located in the field. The easement for the town's purpose can be defined in the future and the area might need to be enlarged.

Mr. Carl Balduf, Town Engineer said the original easement has an unusual configuration that goes through the parking lot to the well. We would like to modify this after we go down there to determine where the water line easement will go. It will be worded in the easement. We can get water department to remark the easement. It is a complicated property. We won't go out of bounds with the easement. We will find the water lines.

Mr. Randy Waterman said they agree to do this.

3. **Future construction and/or improvements would trigger review back to the Planning Board:** The Planning Board will require any future construction on the two lots be reviewed and approved by the Planning Board as a condition of this subdivision approval. Any improvements would trigger review.

Mr. Randy Waterman said the applicant is concerned about spending money with Town Counsel review. Can they get their escrow returned to pay for this expense? Changing the town's water easement will cost them money to move the town's easement. They could use their escrow to defray the cost.

Chairman Brian Bush said we should draft the decision but keep the hearing open for now so more information can be come in. We will continue to the first meeting in October.

Mr. Randy Waterman said if we could move along quicker it would be good.

Chairman Brian Bush said he appreciates their cooperation with the town. The Town Planner is on vacation and will draft the decision when he returns for the October 4<sup>th</sup> meeting.

**Member Mark Silverberg motioned to continue the Definitive Phase public hearing on 275 Turnpike Road (Indian Meadow Golf Course) to October 4<sup>th</sup> at 7:00 p.m. The motion was seconded by Member Bill Spencer and unanimously voted.**

Respectfully submitted,

Sandy Spinella  
Administrative Assistant

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Tim Paris