



# Town of Westminister

MASSACHUSETTS 01473  
FROM THE OFFICE OF THE  
**PLANNING BOARD**

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William C. Taylor, II - Chairman, Marie N. Auger - vice chair, M. Donald Barry Michael Fortin Jon Wyman

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## MINUTES OF REGULAR MEETING

Monday, May 14, 2012

Room 222, Town Hall

Attendees: Marie Auger, Don Barry, Bud Taylor, Mike Fortin, Stephen Wallace-Town Planner

Additional Attendees: Ms. Cindy Kennedy - Harrington Living Trust, Brian Szoc - Surveyor, Mr. William Goodwin, PMC, Ms. Heather Billings, Mr. Chuck Scott, Mr. Robert Hakala, Mr. Steven Powell, Mr. David Pogorelc, Mr. Richard Lehtola, Mr. Joseph Hollenbeck

7:00p.m. - *Minutes*

The Planning Board opened the meeting. Marie informed those present the meeting was being audio recorded and video recorded. There was a motion by Don to approve the April 23, 2012 meeting minutes. Seconded by Mike. Bud asked for an amendment to reflect his absence from the meeting. Voted AIF with amendment.

Don asked Marie to have new member Jon Wyman introduce himself and told the board he was a retired citizen here to help.

7:02p.m. *Reorganization of the Planning Board*

Mike asked to read a statement into the record:

"The Chair's comments to the public and press should encompass the majority vote of the PB when asked for comments or quotes. It must not be a platform for personal opinion or viewpoints on any subject matter. We all saw what recently happened at the town meeting when Mr. Bartkus did not bother to separate his personal opinions from those of the board he chairs, and I personally do not want to see that happen to our board. I would recommend that as a board we vote positions on major issues, use the majority vote as our official position, and allow those asking to know there is a minority or opposing opinion. Fairness to all. We all need to be able to agree to disagree and remain united in our public image of what the board represents. I believe that Marie has done a great job in that regard during her last year as chair and would expect the same integrity from any chair.

Any abuse of that integrity will be met with a motion for a "vote of no confidence" and reorganization of the board.

That said, I believe it important to allow those who want to excel, the opportunity to do so. I motion that the PB reorganize and nominate Bud Taylor, chair, and Marie Auger vice chair for the forthcoming year."

Seconded by Jon. Marie asked for any discussion. Don asked Marie if that was what she wanted. Marie told the board that she believes the BOS has the best system by rotating chairs and would hope that everyone has a turn as chair. In the past, chairs of the PB

served longer when no one individual wanted to come forward to be chair. The present PB style allows an informal discussion that she feels works pretty well and that the chair is really a formality for administrative purposes. Bud said he felt it important for Marie to serve as vice chair because of her long continuity of service and knowledge about the town and the board. He would limit his comments and pass the gavel to Marie when making personal comments. Don asked Bud if he could be held to his word. Bud stated absolutely. Don called for the vote. Voted AIF.

Stephen asked the Board to nominate appoint and vote the position of Regional Planning Commissioner. Don nominated Mike, Bud seconded. Mike said he would be happy to do it and asked if anyone else was interested. Hearing no interest the board voted AIF.

*7:10p.m. - ANR Review Town Farm Road - Joseph R. Hollenbeck*

Stephen asked Mr. Hollenbeck to show the board his plan. He wanted to sell his neighbor Mr. Larry Brandon a piece of his land. There was road frontage on town Farm Road and a triangular portion connected to it behind. No new lots would be created.

Mike noted the plan stated the parcel was noted as an outlot, not a separate building lot. Marie motioned to accept. Mike seconded. Vote AIF to sign the plan.

*7:15p.m. - ANR Review Davis Road - Clara M. Nadeau*

Don informed the board he has worked at the Nadeau property hauling earth material in and out. Mr. Gordon Martin described the plan dated April 12, 2012 showing two new lots and the existing house on a third separate lot. After brief discussion Marie moved to endorse. Seconded Don. Voted AIF.

*7:22p.m. ANR Worcester Road - Harrington Living Trust*

Stephen asked Mr. Brian Szoc to explain the plan dated April 16, 2012. Mr. Szoc stated the plan was similar to a previous plan sent to the planning office but the new plan had been updated to show the 100 foot radius and lot area calculations. Marie asked if there were two lots being created. Mr. Szoc confirmed two lots 101 and 102. Mr. Szoc stated he had spoken with Stephen and Mike Gallant and discussed the rights of ways and he had written up descriptions of it. Mike (Gallant) was happy with it, Steve was happy with it. Marie asked if there was 54 feet of width all the way to the rear of the land and stated it was spelled out that 54 feet was required. Stephen stated it was Mike Gallant's position there were access easements. Ms. Kennedy stated there were easements all the way through. Mike asked if there were any easements on either the Godfrey or Leblanc abutting properties. Mr. Szoc stated no other property, just Harrington Trust Property. Stephen stated that he, Mike Gallant, Ms. Kennedy and Mr. Szoc had met a number of times to come up with a plan that would meet zoning muster. Mike asked if it was 54 feet at the most constricted area. Marie asked if it was 54 feet. Mr. Szoc stated it was not 54'. It was maybe 50 feet and asked for a scale. Ms. Kennedy stated they had followed what Mike Gallant had said was needed. Mr. Szoc stated Mike Gallant had stated he was happy with it. Ms. Kennedy stated that because of meetings with town officials, they had bought the front lot to combine with the back lot and a lot of money had been spent.

Bud asked for a motion so the board could discuss the plan. Mike moved a motion to pass for discussion purposes only. Seconded Jon. After much discussion about 205-13B requirements, it was determined that the 54 feet was not maintained all the way to 100 foot radius. Marie reiterated easements were not for zoning purposes, they were only to allow others to pass over the property. Bud stated the board could act, or wait until the next meeting to act. The applicant had spent money and the board did not want act with prejudice if all the facts were not available. Mike motioned to withdraw his previous motion and table the vote. Seconded by Jon. The board asked Stephen to write a letter to

Mike Gallant asking for an explanation on how he was interpreting section 205-13. Bud added an agenda item to move further discussion on the ANR to the next meeting.

*7:39p.m. Westminster Business Park Phase II Lot I-4A release request discussion*

Bud stated there had been a town department 60% design review meeting of MBTA plans earlier in the day. Bud stated after discussion with the Town Administrator who talked to the Town Planner, it was the intention of the PB to have Westminster Business Park owners present their information so the PB could then request the needed resources to get an accurate bond estimate for the request.

Mr. Chuck Scott of CFS Engineering introduced himself, Mr. Steven Powell, Mr. David Pogorelc, and Mr. Richard Lehtola. Mr. Scott stated a few weeks earlier they had issued a request to the board to release lot I-4A. The lot had improved frontage of 260 linear feet on the cul de sac and more than the required lot area which exceeded the minimum frontage and land area of almost 19 acres. Bud asked PB members for their questions.

Don stated his personal opinion was the PB could not release the lot because utilities and paving had not been completed along the frontage of the lot. Jon and Marie agreed with Don. Mike stated that it was important to recognize when the PB releases a lot that in the order of conditions, because the owners had not posted a bond, we require all the utilities to be installed and the road paved to the entire frontage of the lot. Mike read from Chapter 231 of the subdivision regulations:

[§ 231-44. Lot release; building permits.](#)

The roadway area within the frontage of a lot shall have all utilities, including fire protection, and the bituminous concrete base installed and approved by the appropriate agency before said lot can be released or built upon.

Mike stated it was one of the conditions that were signed as part of the covenant.

Mike read from the covenant:

1. **The undersigned will not sell or build on any of Lots I-4A, I-4B, I-4C, I-6, I-7, I-8, I-9, R-4, R-5 in the subdivision<sup>1</sup> until the work on the ground necessary to serve adequately such lot has been completed in the manner specified in the aforesaid application, and in accordance with the covenants, conditions, agreements, terms and provisions contained in the following:**
  - a. **Application for approval of Definitive Plan (Form B) signed by the Principal and dated 9 January 2007.**
  - b. **The applicable Rules and Regulations Governing the Subdivision of Land in Westminster adopted by the Planning Board.**
  - c. **The Definitive Plan as defined by the above Rules and Regulations and as qualified by the Certificate of Approval issued by the Planning Board on 9**

Mike read from the conditions for Phase II:

7. No building shall occur on a lot, until such lot is released from the Covenant, and the road servicing such lot is constructed to binder course and all utilities are installed.
8. The proposed road shall be constructed within two years from the date of the plan endorsements unless the applicant obtains a written extension from the Planning Board.
9. Prior to commencement of the roadway construction, the applicant shall, in written form, provide notice and proof of an executed agreement between the applicant and a "Subdivision Road Inspection Engineer" who will submit regular reports to the Westminster Planning Board for the duration of the project.

Mike asked Stephen if the PB had received any reports. Stephen stated he was not in receipt of any reports. Bud stated that the BOS received reports from Rizzo and they go to the Town Administrator and Building Inspector. Mike asked if those reports were part of PB conditions or part of an earth removal permit. Stephen stated the reports were going to the BOS on behalf of the two earth removal permits. Tetra Tech Rizzo was not under contract with the PB. Stephen stated if the WBP owners could document the infrastructure was in place the PB could issue a certificate of performance and a lot release. Because there were questions about what was or was not in place Stephen suggested the PB have a consulting engineer go out and prepare a report.

Stephen stated that a specific Bond was in place for lot I-4A with the BOS for approximately \$137,000 as part of an earth removal permit.

Mr. Scott stated that the bond was for lot I-4 earth removal. Mr. Scott stated there was an additional 530 linear feet from the end of the cul de sac.

Bud explained that WBP's success was the Town's success as part of the Town's economic engine. The PB did not want to excessively burden the owners but recently two failed subdivisions had come before the board with insufficient funds to cover the work that had been bonded. It was critical for the PB to work to protect the town's interest in the project by making sure whatever bond that would be put in place would cover the work. The PB would use available 53G money to work with a consultant to review the work constructed and not constructed and come up with a bond estimate. The PB would want to work with Town Council for their input. Mr. Hakala stated they had materials on site but were waiting for an interceptor permit before proceeding. Mr.

Pogorelc asked what the time frame was for the WBP contractors to finish their work.

Mr. Powell stated the end of June.

Don asked when the utilities and road be complete to the end of the road in front of lot I-4A. Mr. Scott stated they had earth removal permits for the roadway beyond lot I-4A between lots I-7 and I-8 but not the lots themselves. Jon asked how far they would be by the end of June. Mr. Scott stated that

Bud asked for a copy of the plan Mr. Scott was referring to. Mr. Scott stated he had plans for Stephen. Don asked what they thought the cost would be to complete the road to the end of lot I-4A. Mr. Pogorelc stated somewhere between \$150,000 and \$200,000. Don stated if they wanted to fast track it they should post a bond. Mr. Pogorelc stated they might be done by the time the consulting was done. Stephen suggested the PB use money from the 21k in the 53G account and get the engineer out there before our next meeting. Stephen stated he needed the PB to vote to spend the consultant money. Mike stated it was important to recognize that there were two separate instruments. Conditions with the PB and bonding, and earth removal permit and it's separate bonding. The board

discussed using TetraTech Rizzo since they had been the past PB consultant and present BOS consultant and were intimate with what was going on at the site. Marie stated you had to have an earth removal permit as part of the subdivision. Mike stated the PB had nothing in writing addressed to the PB that stated WBP had begun the project. Mike stated if the Town Administrator had reports that were not addressed to the PB, the PB had nothing to state WBP had met the order of conditions.

Mr. Scott stated the only thing they had not done was issue reports. He felt they were in compliance with the conditions because they had not done anything road work related yet.

Bud stated the board had dealt with two insufficient bonds in the last two years.

Mr. Scott stated there was a bond for \$340,000 for earthwork associated with road construction associated with Phase II earthwork with the project, \$50,000 outstanding for the roadway in Phase I, and \$137,000 for the Earth removal permit of lot I-4.

Bud asked what the WBP owners needed from the PB. Mr. Scott stated ideally he would like the PB to release the lot with a caveat that they could not record it until they posted a bond. Stephen stated he felt comfortable that he would have the consultant report and it could be vetted by town council before the next meeting. Marie asked if there was something the PB would be holding up if it waited until the next meeting.

Mike asked the WBP owners to get copies of any bonds in place and get them to Karen Murphy and ask her to forward copies to the PB so they could make a better informed decision. Stephen also stated there was a fee of \$75 for the lot release.

Bud asked for a motion to table the discussion until the 29th of May. So moved by Don. Seconded Mike. Voted AIF.

Stephen stated he would get Tetra Tech Rizzo out to the site. He would summarize the discussion for Town Council. And he would confirm if the two year road completion requirement was still in the bounds of the permit extension act. Jon asked if the board needed to vote to spend the 53G money. Don moved the Town Planner be authorized to spend up to \$2000 for the consulting work to ascertain the value of the infrastructure. Seconded Marie. Voted AIF.

*8:15p.m. - WBP Discussion of MassWorks Grant and possible amendment to subdivision*

Mr. Scott asked the board if they would support another MassWorks Grant application for the roadwork. Stephen stated the prior year grant was being decoupled into infrastructure for the WBP and a separate project of inline storage for the town. The BOS would ultimately make the decision. He suggested the board wait to vote on support for either of the projects until he had sat down with MassWorks to see which project made more sense.

Mr. Scott stated that it would lead into how the rest of the park would ultimately be serviced. He stated that by the end of the year what would ultimately make sense for the remaining parts of the project. If they were awarded the approximately \$1,000,000 grant it would take them to the end of lots I-9 and I-10. Mr. Scott suggested that it might make sense to reevaluate what would happen beyond the access to lots I-9 and I-10. Bud asked if there was a different bearing capacity for the road. Mr. Scott discussed the different width standards on the plan and questioned if 38 feet was needed beyond the end of access into lots I-9 and I-10. Bud stated they would need to amend the subdivision plan and have a public on the park.

Mike asked where lot I-10 was listed on his plan. There was discussion the lots had been renumbered. Bud asked Stephen to make a note to find out what had happened to lot 10 and the renumbering.

Don asked if there would be some kind of turn-around for trucks who had driven to the end of the industrial roadway. Mr. Scott stated there would be some kind of turn-around designed. Stephen told WBP owners he would facilitate a meeting with the Fire Department to get their input about what they would want to see happen.

*8:26p.m. - Wireless Communications Bylaw*

Stephen stated he had received notice that from Town Council that the present bylaw may have deficiencies due to new federal FCC regulations. The PB would need to hold a public hearing on any changes and he hoped to have work done for a fall town meeting presentation.

*8:30p.m. - Traffic Safety at Simplex Drive/Overlook Road*

Stephen stated he had been contacted by the Police department who had requested the PB write a letter to the owners of Simplex Park asking them to enforce conditions 9 and 10 on the original order of conditions. Don moved a motion to write a letter. Marie seconded. Mike asked a letter also similar to exhibit E be re-sent to Simplex Drive business owners employees. Mr. Goodwin stated there was no strong signage to prevent commercial traffic from exiting out to Overlook Road. Mike asked that as part of the letter the board suggest to park owners that signage be added to the road restricting right turning out of the driveways for commercial travel. Jon seconded the motion. Ms. Billings suggested additional traffic might be a result of Rt. 2 bridge construction at Rt. 140. Mr. Barry stated local traffic was allowed to pass. Marie said our condition only involved Simplex Drive traffic. The board voted AIF. Stephen agreed to draft a letter. Jon asked whether the town or state could put up an additional sign. Marie stated the PB could not tell the town or state to post signage.

*8:36p.m. Community Development Strategy review.*

Stephen asked for members to comment on the Westminster Community Development Strategy. It was up to the BOS to approve it but he wanted input from board members to review the strategy and submit comments for inclusion in preparation of the next meeting.

*8:39p.m.*

Don made a motion to adjourn. Seconded Mike. The PB voted AIF to adjourn.

Respectfully submitted,  
Michael Fortin

5 Attachments :

- 1 ANR Review Town Farm Road - Joseph R. Hollenbeck
  - 2 ANR Review Davis Road - Clara M. Nadeau - Plan Dated April 12, 2012
  - 3 ANR Worcester Road - Harrington Living Trust - Plan Dated April 16, 2012
  - 4 CFS Lot map of WBP build-out
  - 5 Simplex Drive Order of Conditions & Exhibits
  - 6 2010 Westminster Community Development Strategy
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