



# 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, October 22, 2012

Room 222, Town Hall

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

Additional Attendees: Ms. Cindy Kennedy, Mr. Brian Szoc, Szoc Surveyors, Mr. Alan Belanger, Mr. Glen and Mrs. Linda Hines, Mr. Tuomo Peltakangas, Mr. Ed and Mrs. Linda Simoncini, Mr. Brian Szoc, Szoc Surveyors

7:00p.m.

The Planning Board opened the meeting. Bud informed those present the meeting was being audio recorded.

7:00p.m. *Minutes*

Motion by Don to approve the October 09, 2012 meeting minutes. Seconded by Jon. Voted AIF to accept the minutes.

7:01p.m. *Approval Not Required Plan (ANR) for Edward Simoncini Jr., 3 Minott Road, to transfer a portion of land from the master lot to an abutting lot.*

Mr. Simoncini reviewed the plan with the PB. He stated that the purpose of the plan was to carve off a portion from his wife's lot #3 to be added to his lot #2 next to it. It was listed as an outlot #3A on the plan and would later be combined with lot #2. There were no questions by the PB. Motion by Don to endorse the plan. Seconded by Jon. Voted AIF to endorse the ANR plan.

7:07p.m. *Continued Public Hearing regarding Site Plan Approval for Alan Belanger (Dig & Pour LLC) to use the property at the end of Rowtier Drive for an industrial use: excavation/foundation business and wholesale business with outside storage, truck terminal and recycling facility in an Industrial-II zoning district.*

Bud reopened the continued public hearing. Stephen stated Mr. Belanger had submitted a letter outlining work to be completed and the cost to do it. He had sent it to Josh Hall but had not heard back. Mr. Belanger things were moving forward. He stated the SBA would require a 21E on the land. Mike asked if the price quote was for others to do the work or was for him to do the work. Mr. Belanger stated it stated others doing the work. Don asked Mr. Belanger if the Station numbers listed on the work list were for completion to the end of the cul-de-sac. He stated it was just beyond the cul-de-sac so future work would not disturb the pavement. Don asked Mr. Belanger if he intended to start work before winter. Mr. Belanger stated he would begin utility work if possible but paving would wait until spring. Mr. Belanger stated he thought the tri-party agreement might take 6 weeks to complete. He would submit it the board for review as soon as it was complete. Bud asked for a motion to continue the hearing to November 26th 2012. Moved Jon. Seconded Marie. Voted AIF.

7:18p.m. *Public Hearing regarding two lot subdivision for Harrington Living Trust at 230 Worcester Road.*

Stephen reviewed the prior history of the proponent previously asking for ANR endorsement in May. The proponent was back before the board with a preliminary plan for a two lot subdivision.

Mr. Brian Szoc stated that the proposed road would be a private road and then proceeded to describe the plan. Mr. Szoc stated the road would comply with the sample zoning book cul-de-sac at the end and maintained a 54 foot width in all but a 42.5 foot wide section where the lot narrowed down. There would be two lots created with sufficient frontage and areas. One of the lots contained land from an island. Mr. Charles Caron had delineated the 100 foot wetlands buffer shown on the preliminary plan. Responding to feedback from other town boards, Mr. Szoc stated that the Conservation Commission had stated that any alterations within the 100 foot buffer zone would require a definitive plan and a Notice of Intent(NOI). The Board of Health stated they do not allow any septic systems within 100 feet of any water course or wetlands. Mr. Szoc stated he was aware of that and it reminded him that the BOH stated they did not allow variances for new construction. Mr. Szoc stated he hoped that Mr. Chris Mossman would be engaged by the proponent to engineer the septic design and to work with Mr. Caron for anything required by the ConCom.

Stephen asked if they intended to do that during the preliminary design to which Mr. Szoc responded definitely during the definitive design phase.

Mr. Szoc stated the final septic design is usually done after the definitive plan has been approved and the lots have met all the requirements of the ConCom.

Stephen asked Mr. Szoc if he had any issues with the conditions the PB had asked for. No further subdivision of the two lots, and that the road would be owned and maintained by one owner.

Bud asked PB members for questions and comments:

Marie asked if the preliminary plan hearing would be continued to the definitive process which requires a public hearing. Marie asked if the hearing was officially advertised and if abutters had been notified to which Stephen answered yes to both. Marie stated that the present hearing was not actually required. Mr. Szoc stated he thought the purpose of the preliminary plan was to meet with the PB to discuss the project. If there were issues about the project, he felt that now was the time to discuss them to which Marie replied affirmatively. Stephen presented Ms. Kennedy with the Advertising bill for the newspaper notice. Bud stated that the PB would continue the hearing to act as the definitive hearing.

Marie told Mr. Szoc that the experience of the PB has been that most developers have not used the preliminary plan process as it was intended to preview projects, but as a tool to "freeze" zoning. State law states that the definitive plan does not have to match the preliminary plan and many developers submit dummy plans to as a tool to "freeze zoning". The PB decision for or against a preliminary plan really did not matter. Stephen stated the preliminary plan needed to be acted on within 45 days. Marie stated it really did not matter if the PB acted or not, because not acting on a preliminary plan did approve the plan. Mr. Szoc said it was not their intention to freeze zoning. Their intention was to know what the PB's thoughts and intentions were about their preliminary plan. Marie stated she was pleased that Mr. Szoc was using the process as it was intended, to preview the plan. She asked where on the lots the proponents intended to build. Mr. Szoc stated he was not sure yet where the homes and septic would be built.

Ms. Kennedy stated after a conversation with the building inspector, she thought that a home could be built on the island with a tight tank. Marie stated tight tanks were not allowed under Title 5 for new construction. Ms. Kennedy stated that she was feeling "blown away" because she felt everything she had been told by the building inspector was wrong. Marie asked Mr. Szoc to show the PB where the 100 foot buffer was located. Marie asked about the out lots and stated the random out lot parcels needed to be deeded to someone. Mr. Szoc stated they would be.

Mike stated his personal opinion was that it would be an uphill battle to get a house, septic, and well on lot 101 and remain outside the 100 foot wetland buffer. When asked for questions, Jon concurred with Mike.

Bud stated he would like to review the requested waivers listed on the plan: After discussion, the PB voted to waive and not waive the noted items below.

Section 231-11 Preliminary Plan of the Subdivision Regulations:

- 1) Proposed storm drainage systems (Item B-7), **NOT WAIVED**
- 2) Trees on topographic plan (Item B-10) **WAIVED**
- 3) Centerline profile (Item B-11). **WAIVED**

Section 231-12 Definitive Plan:

- 4) Existing and proposed to only include locus at proposed road. (Item D-2.f). **NOT WAIVED**

Section 231-14 Width and Grade of Ways:

- 5) Right-of-way to have a width of 42.58 feet at a point and less than 54 feet for a length of 74.42 feet. (Item A, Table 1). **WAIVED**

Section 231-18 Utilities:

- 6) Stormwater management (Items D.1 through D.4). **NOT WAIVED**

Section 231-27 Construction of Ways:

- 7) Underground utilities and road surface to vary from details and specifications. (Items B & C), **NOT WAIVED**
- 8) Granite curbing (Item J). **WAIVED**

Section 231-28 Bituminous Pavement

- 9) Binder and top course to vary from Mass DPW 1967 Standard specifications. Roadway width to be 24 feet wide. (Items A & B) **WAIVED**

Section 231-29 Sidewalks.

- 10) Sidewalks. **WAIVED**

Section 231-32 Trees:

- 11) Planted trees. (Items A & B) **WAIVED**
- 12) Section 231-33 Fire Protection (To be negotiated with Fire Department) **NOT WAIVED**
- 13) Section 231 -38 Environmental and Community Impact **NOT WAIVED**

Bud asked to have the minutes reflect it is not the boards intention to require a complete stormwater management report but it is the boards intention to protect the towns interest in such until a definitive plan can show the final grades of the roadway.

Don made a motion to continue the hearing. Seconded Marie. Voted AIF to continue the hearing to January 14th 2012.

Marie made a motion to approve the preliminary plan with waivers. Seconded Don. Mike reminded the proponent that they are agreeable to two Conditions of Approval of a future definitive plan:

1. There will be no further subdivision of the newly created lot.
2. Snow removal and roadway maintenance responsibility will be assigned to a single landowner.

Voted AIF to approve the preliminary plan.

Bud asked the PB to establish a procedure for future preliminary plans regarding posting a public hearing and the 45 day action requirement by the board. Marie stated there was no need for two public hearings, the definitive plan was the only one that required a hearing to be noticed. Mike said he felt it was the intention of preliminary plans to bring all the parties, including abutters, to the table during preliminary plan review. That was the intention of the review and the hearing process, so that all could have a voice about the proposal. The PB had a total of 135 days to act on either option a proponent chose to follow: Preliminary plan within 45 days with a follow up definitive plan timeline of 90 days, or 135 days for a submission of just a definitive plan. It was to the boards advantage to hear abutter concerns early in the process if a proponent chose to submit a preliminary plan before the board got to a 90 day definitive plan deadline.

Stephen stated that State law was silent on the requirement to act within the 45 day timeline. Stephen explained that he had used the guidance of a spread sheet previously created by Alecia Altieri to make the decision to post the preliminary hearing and notify the abutters. He had forwarded the spread sheet to the board via email.

Don asked the board to come up with a standard operating procedure for future preliminary plans and stated he would like to have only one public hearing. Marie stated that only the definitive plan review required a hearing.

Bud stated the PB could notice and continue the preliminary hearing to meet the definitive hearing requirement, or the board could close the preliminary hearing and require the proponent to reopen a required definitive plan hearing.

Stephen asked the board about the fees associated with preliminary and definitive application fees. Is he taking both fees? Marie stated before there was a full time planner, the preliminary plan was an informal sitdown and chit chat with the PB. When developers started to use the preliminary plan as a method to just freeze zoning, Alecia Altieri had suggested to charge a fee to find out who was serious and to justify their intentions. She felt the fee should be retained and could be dealt with on a case by case basis. Mike asked how long the period between the preliminary and definitive plan is allowed. Marie and Bud both stated there was a cutoff time period but were not sure of the time period.

Don made a motion to have Stephen write up a policy memo on what the PB's future actions and have Town Council review it. Jon seconded. Voted AIF. Stephen stated he would draft a proposal for the PB review and email it to members for review.

*7:36p.m. Planners Report and Update*

Stephen showed the board the recent MRPC Walkability Report, invited members to a North County Land Trust dinner on October 25th, and he let the board know he had appeared on the "Your Voice" show with Mr. Joe Serio to promote the upcoming Economic Development Summit.

*8:38p.m.*

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

Four Pages of Minutes  
Respectfully submitted,  
Michael Fortin

3Attachments :

- 1 Approval Not Required (ANR) Plan Edward Simoncini Jr., 3 Minott Road, dated October 15, 2012.
  - 2 Letter from Dig and Pour LLC/Alan Belanger to DPW with work list for Rowtier Drive date October 19, 2012.
  - 3 Preliminary Subdivision Plan for St, Francis Estates, prepared by Szoc Surveyors, Gardner, MA, dated August 20, 2012.
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