

**WEYMOUTH PLANNING BOARD**  
**McCulloch Building, Mary McElroy Meeting Room**  
**182 Green Street, Weymouth, MA 02191**

**February 7, 2017**

**MINUTES**

**PRESENT:** Sandra Williams, Chairman  
B.D. Nayak  
George Berg  
Paul Rotondo

**NOT PRESENT:** Dave Chandler

**ALSO PRESENT:** Eric Schneider, Principal Planner  
Joe Callanan, Town Solicitor

Chairman Williams called the meeting to order at 7:00PM.

**MINUTES**

Mr. Berg made a MOTION to APPROVE the October 18, 2016 regular session minutes with the following corrections/additions: first paragraph, change to read "subdivision to create three new buildable lots". Page 2, change spelling of name to "Coite". Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE the November 1, 2016 regular session minutes. Mr. Nayak SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE the November 15, 2016 regular session minutes. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE the December 13, 2016 regular session minutes. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

**CONTINUED PUBLIC HEARING on 958 COMMERCIAL STREET, WEYMOUTH, MA,**

Under Section 4.9 of the Rules and Regulations of Planning Board, a continued (continued from January 17, 2017) Public Hearing, will be held for the consideration of a resubmittal of the Definitive Subdivision application of John Dedy for property located at **958 Commercial Street, Weymouth, MA**, also shown on the Weymouth Town Atlas Sheet 18, Block 189, Lots 8 and 17, for a proposed subdivision shown on a plan entitled: Definitive Subdivision of Crowley Estates on Spencer Court @ Cicchese Circle, Weymouth, MA" prepared by J2M Consulting Associates, LLC, and stamped by PE Jeffrey R. Romani on December 12, 2016. The subdivision application proposed to create 3 new buildable lots for the construction of single-family homes in the R-1 district, and construct a ~300 ft long road with utilities, fire hydrant and turnaround at the end.

Mr. Nayak made a MOTION to REOPEN the PUBLIC HEARING. Mr. Berg SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Schneider stated just to recap, Planning Board's action to reconsider or a new plan, staff is still of the opinion that a reconsideration of the previous plan is appropriate. There have been some changes to the previous plan that was denied; those changes were based on necessity to correct deficiencies marked by the Planning Board. Section 4.9 does apply.

There were questions regarding confusion in the legal notifications. The subdivision was advertised as a 3-lot subdivision which is in reference to the 3 new lots that are to be built. The confusion could be because of the existing home that is there which then makes it a 4 lot. The key is not relevant because the intent was not to deceive the public.

The reference to 120.60 is not applicable in the R-1 district only in I-1 districts only.

There is missing detail regarding Plan detail, the Applicant will have to comment on this before Land Court where all deficiencies will be filled in.

Mr. Berg asked is it conceivable that after Planning Board this will go to Land Court and then this application could come back to Planning Board. Mr. Schneider stated if more than a minor modification yes.

Mr. Berg there are no traverse closes this could result in a modification. Mr. Schneider stated he has seen it done both ways. Attorney Callanan stated he too has seen it done both ways. Mr. Schneider stated he feels that the depth of review that the Engineering Department gave this application they too feel this application will go to Land Court.

Mr. Nayak asked about the Engineering comment deficiencies. Mr. Schneider stated most of the comments were related to the "plan's" deficiencies. The applicant would have to go to Land Court and address their comments and then if need be come back to Planning Board.

Mr. Nayak expressed he would still like to see sprinkler systems installed into the three new homes as a condition.

Mr. Deady asked to stay focused on the two conditions – the island and the radius; angle points and 5.2.4 reverse curves. Mr. Deady feels it meets the rules of subdivision. He put on land swapped island at the request of the DPW. He feels he has done his part. Planning Department has granted waivers in the past and he feels his request should also be granted. It's not fair to grant waivers for some applicants and not others.

Mr. Berg asked Mr. Deady to reference the section point. Mr. Deady stated section 4.2.6

Chairman Williams asked all members of the public to remain civil, we are all adults.

## **PUBLIC COMMENTS**

**Wayne Matthews**  
**952 Commercial Street**

Mr. Matthews asked for clarification on what Planning Board is voting on this evening. Attorney Callanan stated comments from the January meeting still need to be addressed and concerns raised by

Engineering Department will go to needs addition detail. Applicant has answered Engineering Departments comments.

Mr. Berg asked Mr. Matthews to stick to items that are new and not review items he has already gone over.

Mr. Matthews stated on January 17, 2017 he was here in front of Planning Board and provided lengthy testimony as to why this application should not move forward. Additionally Mr. Matthews has spoken with the applicant personally in hopes of a compromise and he still hopes to get there one day but as of now he will focus on the Planning Board. Land Court will reject this plan. Land Court requests two plots, Mr. Deady does not have two plots. This plan violates Section 5.6.3. Towns Engineering Department stated this plan violates 5.6.3 rule. Town Engineering Department told Mr. Matthews that the small strip of land abutting 968 Commercial Street should be considered a reserved strip because it prohibits access from 968 and that violates section 5.1.1. Mr. Matthews stated he cannot understand why the Towns Engineers' notes are being ignored. Also as previously mentioned the plan is missing labels, median arrows, and distances. The Engineering Department has never seen any new plan addressing these issues. Mr. Matthews asked how can the Towns Engineering Department address grading issues if they haven't seen a new plan since January 2017.

Mr. Schneider stated it is not unusual to get to this point and it doesn't mean any problems won't get addressed. These plans are not required to show home sites.

Mr. Schneider stated he and Mr. Matthews have had several discussions and emails about Section 5.6.3 and the town feels that this rule does not refer to new roads and driveways; the town feels this rule to be about creating new roads and new driveways. That is the Town's interpretation; Mr. Mathews is welcome to challenge the Town's interpretation.

Mr. Matthews was there a waiver granted recently on Front Street with rule 5.6.3. Mr. Schneider yes, it was asked for by the applicant.

Mr. Matthews asked will the new road be ADA compliant, town engineer stated the plans show it to be ADA compliant that is on paper but the steep grade will show that the retaining walls on extensive overhaul of the sidewalk system. Site lines off Unicorn are inadequate and there are obstructions. This new road is a safety issue. New roads should be spread out at least 300 feet apart. The non-tangent turning radii go against the turning standard. Mr. Matthews asked the Planning Board to go back and review both memos from Engineering Department; Mr. Matthews provided the Planning Board with copies of the memos.

Mr. Matthews stated the plan is incomplete.

The plan calls for this road to be accepted by the town, is this correct? Staff answered yes. In the Code of Ordinances, Section 8-404, Procedure for Street Acceptance, Subsection 8, line 2, "plan will show all physical characteristics of a the street presented for acceptance...the plan must include tangent lines at intersections". To be accepted by the Town Council the turning radii needs to be tangent. Thank you very much for your time, I would like the Planning Board to take very much into consideration my comments and Mr. Schneider please accept my apologies for conversation getting a little heated. Mr. Schneider also apologized.

Mr. Deady stated he is unaware if ADA compliance will not work at sidewalks. Mr. Schneider stated that is correct; Mr. Schneider and Mr. McGrath went out to the site and they went from thinking it cannot be done to now knowing it can be done. The sidewalk will be ADA compliant.

**Donald Rafferty**

**22 Sea Street**

Mr. Rafferty stated Section 5.2.4 says that the intersection of roadways, so the actual point where they intersect. Doesn't say it has to be a tangent radius it just says it has to be a radius. Mr. Rafferty spoke with the Town Engineer and he told Mr. Rafferty that Mr. Deady's sideways 40 foot curve meets the road is an angle not a radius.

**Dennis Coite**

**972 Commercial Street**

Mr. Coite asked why we are here; there is a lien on the property. Chairman Williams stated Mr. Deady did not know about the lien on the property until Mr. Coite told him about it at the meeting. Mr. Coite stated that regardless of whether it was negligent or intentional it is still a violation. Attorney Callanan stated that Mr. Deady put in writing that this was the first time he had heard of the lien.

Mr. Coite stated Massachusetts General Law, Part 1, Title 1, Chapter 12, Section 5B any person who enters into an agreement, contract or understanding with an official commonwealth or a political subdivision thereof knowing the information is false. Therefore the information is false. Attorney Callanan stated he didn't know the information he presented to Town of Weymouth was false.

Mr. Berg asked if Mr. Deady and disclosed that there was a lien on the property when he presented the project would Planning Board have had to reject the project then. Mr. Schneider stated that staff would have asked the Town Solicitor.

Attorney Callanan stated he would be very worried if the town denied someone application after they gave oral and written notice that they did not know about this lien.

Mr. Coite this lien was sent to the applicant via certified mail from the IRS. The plan was never formally submitted with the Town.

Mr. Coite stated in the court case of Gifford vs Nantucket, that Mr. Matthews spoke of earlier, the court concluded the plan which technically complied with the subdivision control law was an obvious attempt to circumvent the purpose and an attempt to rule accordingly. Even though the plan shows a 40 foot turn radius the entrance is not close to tangent which defeats the purpose of the radius and defeats the purpose of subdivision control law.

**Donald Rafferty**

**22 Sea Street**

If the Planning Board makes a precedent that a turning radius doesn't have to be tangent; we will never have another safe tangent turning radius throughout the town again. Because no one is ever going to have to make another one where a car, or a fire truck or a garbage truck will have to turn again. They will all say well you allowed this non tangent turning radius on Cicchese Circle.

**Wayne Matthews**  
**952 Commercial Street**

If there is a lien on the property at the moment how is Mr. Deady able to go forward with the project and construction on this property, if the IRS comes in and seizes the property. What protections are there for the neighbors so that a giant mud pit isn't left there for the neighbors to look at for months while the IRS seizes Mr. Deady's property?

Attorney Callanan in his experience the IRS rarely seize property, 90% of the taxes are paid off in the sale of the first property and the construction would proceed as the taxes are paid. However if you are concerned about the less than 10% that the federal government will come in and seize the property, Mr. Deady can say he can give them their money or the federal government can come in and take over the construction themselves which is a highly unlikely scenario. Mr. Deady will have to take out a performance bond. This way if Mr. Deady doesn't finish the work the Town of Weymouth can call in the bond and take the property.

Mr. Luongo stated if Mr. Deady can't get a bond then he can't get a loan. This whole project will not get to this point in the subdivision.

Mr. Berg made a MOTION to CLOSE THE PUBLIC HEARING. Mr. Nayak SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE the DEFINITIVE SUBDIVISION application of John Deady for property located at **958 Commercial Street, Weymouth, MA**, also shown on the Weymouth Town Atlas Sheet 18, Block 189, Lots 8 and 17, for a proposed subdivision shown on a plan entitled: "Definitive Subdivision of Crowley Estates on Spencer Court @ Cicchese Circle, Weymouth, MA". Mr. Nayak SECONDED the MOTION. Discussion.

Mr. Nayak stated is very concerned with the radius and the people's concerns with the radius.

Mr. Berg stated he has reviewed plans extensively, not dealing with a tangent radius which concerns him extensively and further he is concerned with Fire Department's comments that "it would require almost the entire width of the proposed road (Cicchese Circle) to get a vehicle of that size to get around that corner."

VOTE: 2-1 and 1 abstain. Motion does not pass.

Mr. Nayak yes, Ms. Williams yes. Mr. Berg no. Mr. Rotondo abstains.

Motion does not pass; needed a 3 member vote to pass.

#### **PUBLIC HEARING – WHITE STREET, WEYMOUTH, MA Definitive Subdivision Application**

Public Hearing on the Definitive Subdivision application of LStar Southfield LLC, for property located at White Street, Weymouth, MA, also shown on the Weymouth Town Atlas Sheet 54 Block 597, Lot 12, and a portion of Lot 11 for a proposed subdivision shown on a plan entitled: "White Street Extension Weymouth, MA." Prepared by VHB, dated December 12, 2016, revised December 21, 2016, Sheet 1,

Sheets C-1.0 – C-10.0. The subdivision application proposed to extend White Street by approximately 330 feet with a turn-around and create 6 buildable lots for the construction of single-family homes in the R-1 district.

Mr. Berg made a MOTION to OPEN the PUBLIC HEARING on WHITE STREET Definitive Subdivision Application. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

**Keith Fernandes, VHB**  
**Tom Murray, LStar**

Mr. Fernandez proposed definitive subdivision with 6 new buildable lots and one unbuildable lot; including the removal of the old naval base and the old naval base entrance. The Conservation Commission meeting regarding this application is on February 8, 2017.

Request for Waivers  
White Street

1. **5.5.1 Dead End Streets shall not be longer Than 800 Feet;** to permit White Street to be extended approximately 330+/- in addition to the existing total distance of 900' +/- when measured from the intersection of Durant Street. The proposed extension will improve the dead-end street by providing turn-around movements for residents, delivery and emergency vehicles.
2. **5.5.4 Dead End Streets shall have a landscaped island with a minimum 30 foot radius;** to allow a minimum radius of less than 30' for the interior landscape island. The proposed White Street cul-de-sac is designed to have a 25' radius for the interior landscape island due to the 20' width of the paved roadway. This width allows access for resident, delivery and emergency vehicles.
3. **5.7.4 Utility Easement for Future Utility Looping;** to allow for the utility easement required for the future utility looping, to be located as shown on the provided Site Plans (between Lots 4 & 5) and not at the end lot. The proposed utility easements between Lot 4 & 5 will provide a location for any required future looping of utilities.
4. **5.9 Protection of Natural Features;** to allow for the clearing of existing vegetation, within 10' of the proposed/existing right of way, for access on to each proposed lot and the installation of utilities. Care will be taken to preserve as many trees as possible within the limit of work.
5. **5.13.2 Street Trees planted on each street side;** to allow for the proposed roadway to match the existing layout of curb, landscape strip then sidewalk, trees cannot be planted in the room allowed between the sidewalk and curb. Landscaping is proposed within the open space lot to account for not tree planning along the street edge.
6. **6.3.1 Roadway width;** to allow for the road pavement width (gutter line to gutter line) to be 20' in total length for the proposed extension. The proposed roadway, as shown on the site plans will be one way and will provide safe vehicular access to these proposed homes while also providing adequate emergency vehicle access.

7. **6.11.4 Pole Lantern Installation on Individual Lots;** to allow for the installation of a pole light on individual lots to be the choice of the homeowner and not a requirement as part of the Definitive Subdivision approval. This site feature is absent on most homes along the developed portions of White Street. Light is provided on an existing utility pole, located between Lots 4 & 5 and the proposed utility pole will be equipped with an overhead light to illuminate the right-of-way.

Chairman Williams asked why Planning Board is reviewing this application before it goes before Conservation Commission. Mr. Schneider stated the applicant is presenting to both committees at the same time.

Mr. Luongo stated if Planning Board approves this application for subdivision tonight it would be based upon Conservation Commission also approving. If Conservation Commission decides to require applicant do additional work to a lot then applicant would have to come back before Planning Board. If Conservation Commission changes what the subdivision is and what they are presenting to Planning Board tonight they would have to come back and if Conservation Commission changes the plan substantially the applicant will come back to Planning Board with a new plan.

Chairman Williams asked who maintains the easement. Mr. Fernandes stated the homeowners association. Easement is a public passage.

Homes 3 and 6 need sewer ejectors; homeowners association will maintain the ejectors.

Mr. Rotondo asked is it necessary that the powerlines be overhead. Just because it was this way in the past, do we have to continue it this way, can't we improve going forward? Mr. Luongo stated these homes will be well over \$650K. Applicant stated they will change and put the utilities underground.

Mr. Nayak requested applicant change the design at sidewalks from 2ft, 4ft, 2ft. Discussion. Mr. Rotondo asked if applicant could give it more curb appeal. Plant trees at back edge of lot.

Mr. Luongo suggested a landscape easement with trees on it. So don't lose lot sizes. Homeowners association could maintain the trees/plantings. Mr. Schneider suggested have the one or two trees to be planted in the front yard of the homes then the homeowner can care for it as the homeowner deems fit. Discussion.

Sidewalk will stay consistent with sidewalks as are present today.

Mr. Berg asked about the removal and demolition of the chain-link fence and are there any comments from the Fire Department.

Mr. Schneider stated the water main is to be looped. He did a walk yesterday with DPW and the majority of comments have been addressed.

Chairman Williams asked is any back up accommodation for the ejector.

Mr. Luongo suggested street light; he will work with staff to suggest something in good taste to go with the development. Mr. Berg suggested bring buffer planting all the way to Lots 4 & 5.

Mr. Berg made a MOTION to CLOSE the public hearing on White Street, Weymouth, MA. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Luongo suggested if Planning Board wants to act on this plan that it vote on each waiver separately.

#### WAIVERS

Mr. Berg made a MOTION to APPROVE Waiver #1: **5.5.1 Dead End Streets shall not be longer Than 800 Feet**; to permit White Street to be extended approximately 330+/- in addition to the existing total distance of 900' +/- when measured from the intersection of Durant Street. The proposed extension will improve the dead-end street by providing turn-around movements for residents, delivery and emergency vehicles. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE Waiver #2: **5.5.4 Dead End Streets shall have a landscaped island with a minimum 30 foot radius**; to allow a minimum radius of less than 30' for the interior landscape island. A landscaped plan will be submitted to Planning Department for approval to be approved by Planning Department; and by approval by Fire Department. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE Waiver #3: **5.7.4 Utility Easement for Future Utility Looping**; to allow for the utility easement required for the future utility looping, to be located as shown on the provided Site Plans (between Lots 4 & 5) and not at the end lot. The proposed utility easements between Lot 4 & 5 will provide a location for any required future looping of utilities. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE Waiver #4: **5.9 Protection of Natural Features**; to allow for the clearing of existing vegetation, within 10' of the proposed/existing right of way, for access on to each proposed lot and the installation of utilities. To include wording from Mr. Nayak, Statement of Finding, with guidance and consideration Planning Board is granting this waiver and care will be taken to preserve as many trees as possible within the limit of work. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Nayak made a MOTION to APPROVE Waiver #5: **5.13.2 Street Trees planted on each street side**; to allow for the proposed roadway to match the existing layout of curb, landscape strip then sidewalk, and more enhanced with trees and decorative light. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE Waiver #6: **6.3.1 Roadway width**; to allow for the road pavement width (gutter line to gutter line) to be 20' in total length for the proposed extension. The proposed roadway, as shown on the site plans will be one way and will provide safe vehicular access to these proposed homes while also providing adequate emergency vehicle access. In addition, Mr. Berg requests the Weymouth Fire Department respond in writing that they are ok with the narrow road, one way road, and that the road is not detrimental to the safety of its residents. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Berg made a MOTION to APPROVE Waiver #7: **6.11.4 NO Utility Poles; the decorative light will now be in the island**. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.



## CONDITIONS

1. Positive outcome of Conservation Commission meeting
2. Drainage Easement before 1 of 1 and 2
3. Conservation Commission has to grant a waiver to allow this to be piped; this may necessitate a reconfiguration of lots.
4. Landscaping
5. Berm Bullen 2 – 5
6. Natural Bullen between backyards and Shea Drive
7. Vegetated buffer that will suppress headlights into the backyard
8. All issues in engineers memo dated February 7 to be scrubbed
9. Engineer issues 18 and 19 still to be addressed
10. Is sidewalks ADA compliant?
11. Homeowners Agreement maintained:
  - Sewerage ejector
  - Island
  - Easement

Mr. Berg made a MOTION to APPROVE the Application for Definitive Subdivision at White Street, Weymouth, MA to extend White Street ~330 feet and add 6 buildable lots with the following Conditions:

- Conservation Commission approves application
- Conservation Commission grants a waiver to allow this to be piped; which may necessitate a reconfiguration of lots
- Addition of landscaping plans
- Vegetation Buffer
- Berm Bullen lot 2-5
- Address engineering issues
- Homeowners Agreement to add wording regarding easement
- Maintenance of island; island maintained until tow away
- In addition February 7 email

Mr. Rotondo SECONDED the MOTION. Discussion.

Mr. Luongo asked has the pedestrian passageway easement been granted yet.

The Association maintains ownership of the easement. The public has the right to pass over this; it's located on lot 5.

Mr. Berg asked to have the wording permanently changed to easement in perpetuity for public passage. Mr. Berg asked who is responsible for shoveling this walkway.

Mr. Luongo stated the general public will be allowed to pass through this area; staff can figure out the mechanism of how this works out at a later date; for example, the developer can grant permanent public access.

VOTE: Passed: it was UNANIMOUSLY VOTED.

**NEXT MEETING**

The next meetings of the Planning Board will be held on February 21, 2017, March 14, 2017 and April 18, 2017.

**ADJOURNMENT**

Mr. Berg made a MOTION to ADJOURN at 10:15PM. Mr. Rotondo SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Respectfully submitted,

Christine Malloy  
Recording Secretary

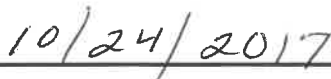
Approve



---

Sandra Williams, Chairman

Dated:



---