

TOWN OF WEYMOUTH

PLANNING BOARD

MINUTES

There was a Planning Board meeting held on September 22, 1997 at 7:00 P.M. at the Town Hall.

Members present: Paul F. Lynch, Sr., Chairman
Paul Hurley, Sr, Vice-Chairman
Susan Abbott, Clerk
Paul M. Dillon
Patrick Leary
Mary S. McElroy
Mary Sue Ryan

Staff present: James Clarke, Director of Planning & Community Development
Roderick M. Fuqua, Principal Planner

The meeting was called to order at 7:25 P.M. by Chairman Lynch.

1. CDBG Allocations

Mr. Fuqua stated that the Board received a memo from Amintha Cinotti regarding the reallocation of funds.

Upon motion made by Mr. Dillon and seconded by Mrs. Ryan, it was:

VOTED: (unanimous on all allocations except for Quincy Community Action Program where Mrs. McElroy abstained) to reallocate \$185,524 plus \$4,606 from Contingency as follows:

Weymouth Housing Authority	
Pope Towers Elevator	\$13,500
Weymouth Housing Authority	
ADA Survey - J. Crehen Housing	\$0.00
Union Towers I - Weatherization	\$0.00
Union Towers II	
ADA Compliance at Union Towers	\$5,000
SSARC - ADA Compliance	
Memorial School	\$10,000
Weymouth Park Department	
ADA Compliance Great Hill Park	\$31,130
QCAP - Energy/Water Conservation	\$25,000

Lakeview Manor Tenants Assoc.	
Playground	\$25,000
South Shore Day Care	
Rehab. Bathrooms	\$11,713
South Shore Day Care	
New Windows	\$6,277
Weymouth School Department	
ADA Compliance Johnson School	\$18,150
Weymouth School Department	
ADA Compliance WJHS	\$14,360
Eagles Bathrooms - ADA Compliance	\$30,000
TOTAL	\$190,130.00

2. Subdivisions - Heather Estates - vote to take bond

Mr. Bill Moore, President, Heather Estates Homeowners Association, passed out information to the Board outlining what they expected to be done. Mr. Moore thanked the Board for the opportunity to address the Board before the Board voted on the bond. He did come before the Board once before on March 10th with a list of items. Things seemed to have stalled somewhat in the progress of the development. The only thing since March 10th is that he has heard from Jim Clarke and Rod Fuqua that the bank has waived its \$5,000 bond and has walked away from the subdivision.

Mr. Moore stated that he met last Friday with Rod and Jim. Basically what was discussed was that there would be a \$5,000 bond and about \$2,000 worth of work that needed to be done on the roadways. Only about \$3,000 would be given to the Association for landscaping issues. He reviewed the landscaping items and cost estimates which the Association feels must be done. For thirty-six maple trees, 12' tall, 2" caliper, the cost would be \$125 each for a total of \$4,500 for the trees. If they have to replace the fifteen evergreens, the cost would be approximately \$100 each for a total of \$1,500. Mr. Moore stated that if the bond is taken, they feel that they should be entitled to the \$5,000, and the town can scrape together the money to fix the rest of the subdivision. This subdivision has been going on for 8 years. The original bond was \$50,000 and has dwindled down to \$5,000. They feel that someone was not paying close enough attention to what was going on. They have done everything they were supposed and they feel these things should be taken care of. They have a general meeting of the Association on Friday and people won't be happy.

Mr. Fuqua stated that we have a \$5,000 bond that Rockland Trust has defaulted on. They did meet with Rockland Trust to see if Rockland Trust would honor the warrantee on the trees. We just heard back that last week that there is no warrantee. The only thing Rockland Trust will follow through on is they will make sure the as built plan is submitted. They have gone out

and looked at the site. There are two areas where there is road work needed. The latest estimate from DPW is about \$1,000 to fix those two areas. They have talked to DPW in looking at what else could be done. DPW has agreed that they would dig the holes for the trees so that would cut down on some of the costs of the installation. Mr. Fuqua stated that he and Jim discussed with Mr. Moore that we would recommend that the paving work be done and whatever was remaining would be turned over to the Association and they could put in trees and plantings wherever they felt they should go. At this point \$5,000 is what we have. The Board has two choices. The Board could choose to litigate the \$5,000 with Rockland Trust or we can take the \$5,000 and do the best we can with it.

Mr. Dillon stated that he sat in on the meeting, and he feels we should litigate this matter.

Mrs. Ryan stated that there is a noticeable absence of trees. She feels that Rockland Trust should be held accountable. It's a matter of justice and she feels that the Board should pursue litigation.

Mrs. McElroy stated that morally litigation should be pursued, but it could be another ten years before anything is done. She feels that litigation would take too long a time.

Mr. Hurley stated he thinks that we owe something to these people in the subdivision and believes we should do whatever we can to make this right.

Mrs. McElroy suggested that the Board request that Rockland Trust attend the next meeting to discuss this matter.

Upon motion made by Mrs. McElroy and seconded by Mrs. Ryan, it was:

UNANIMOUSLY VOTED: to request that Rockland Trust attend the next meeting of the Board to discuss Heather Estates.

3. Petr: Andrew J. Dignan
Locus: Lucas Circle
Sheet 55, Block 612
Zoning: R-1 (Watershed Protection District)

Decision on five (5) lot single family subdivision

The Board reviewed the draft conditions prepared by the staff.

(Mr. Leary arrived at 7:55 P.M.)

Upon motion made by Mrs. McElroy and seconded by Mrs. Ryan, it was:

VOTED: 5-0-2 (Mr. Dillon and Mr. Leary abstained) to approve an amendment to the Lucas Circle definitive plan, originally approved on August 26, 1996. Amended plan is entitled: "DEFINITIVE PLAN OF LAND FOR LUCAS CIRCLE WEYMOUTH, MASSACHUSETTS" revised September 9, 1997, drawn by Atlantic Design Engineers, Inc. submitted by: Andrew J. Dignan, concerning property located southerly of the intersection of Groveland Avenue and Payne Avenue, also shown on the Weymouth Town Atlas Sheet 55, Block 612, Lot 48 with the following conditions (NOTE: the conditions are the same conditions attached to the original definitive plan.):

1. Requirements for "no net gain" for water and "I&I" for sewer are the responsibility of DPW through sewer and water connection policies.
 2. A sewer extension permit is required.
 3. A street light is required at the intersection of Lucas and Groveland.
 4. Location for all street trees shall be determined on site following clearing and grubbing of the right-of-way.
 5. A draft deed for retaining the roadways shall be submitted for review prior to endorsement by the Planning Board.
 6. All required alterations to the spillway within the Pine Grove development are to be completed at the Lucas Circle developer's expense and prior to any construction of the roadway and utility installation within Lucas Circle.
 7. A sewer easement for future extension to the southerly abutting property, Weymouth Town Atlas Sheet 59, Block 612, Lot 45 shall be provided as per DPW Sewer Division criteria.
 8. A waiver of Section 5.5.4 of the Rules and Regulations of the Planning Board of Weymouth, Massachusetts Governing the Subdivision of Land, adopted March 4, 1954, latest amendment May 10, 1991, revised June 13, 1994, to allow a cul-de-sac with a landscaped center island of thirty (30) feet in radius.
4. Public Hearing - 7:45 P.M.
Proposed rezoning on Broad Street

Upon motion made by Mr. Dillon and seconded by Mr. Leary, it was:

UNANIMOUSLY VOTED: to open the public hearing at 7:55 P.M.

The Clerk read the public hearing notice.

Mr. Fuqua stated that the article before the Board essentially takes a B-1 zoning districts that encompasses a residential area. The B-1 zone is a commercial zone. It is the same zone that you would find on your major highways such as Route 53 and 18. In this case, it is one of the last few stretches of B-1 that is in various neighborhoods. In this case it is extending out of Jackson Square coming up through Central Square. The proposal takes what is now the residential portions and rezones them from commercial to residential. There is some business property at the corner of Middle and Broad and between Middle Street and Center Street and those would remain as business zones. This proposal follows the standard as in the highway strips of going back 240'. In this particular case in some areas it backs up to Laurel Street and Linden Place. If these were to be developed, you are looking at taking what is now an area that is used for residential and opening it up plus the fact that you have access on some of the other side streets - King, Center, Laurel and Linden which means you could have commercial access in some very dense residential neighborhoods. The proposal is to take and match the zoning to the existing conditions.

Mr. Lynch asked for questions from the Board.

Mr. Dillon stated that he wanted to hear from the abutters.

Mrs. Abbott stated that she would be interested to hear what the public has to say.

Mr. Lynch opened the floor for comments/questions from the public.

Ms. Elizabeth Bugbee, 630 Broad Street, stated that she is in favor of the change to maintain the neighborhood as residential.

Mr. Paul Rubin, 172 Middle Street, stated that he is opposed to the change. When he bought the property, it was for an investment. This change would lower the tax base.

Mr. James Dunn, 19 Center Street, stated that he has lived there for twenty-one years. This is the second time he has come before the Board where the town wanted to change the zoning. First it was the bus barn and now it is his property. The property is in a B-1 zone and he wants to keep it that way. He feels that if it is changed to a residential zone, his property will go down at least \$10,000. His wife presently uses the property as a medical advisory service.

Mr. Mark Abatuno, 582 Broad Street, stated that he also opposes the change in zoning. He bought the property as commercial property and he would like to keep it that way.

Mr. Harold Howes, 49 Lorraine Street, stated that he owns property at 168 Middle Street. He also opposes the change. He bought the property 40 years ago and feels this zoning change would devalue his property.

Ms. Olive Atherton, 576 Broad Street, stated that she also feels the zoning should stay as is. If the zoning is changed their property value will go down.

Mr. Noel Atherton, 576 Broad Street, stated that he can't come up with any logical reason why the zoning should be changed.

Ms. Kathy Cullen, 574 Broad Street, stated that she has owned the property for over forty years. She has a license for a home based business and she feels this change would devalue her property.

Counsel for Mr. Dunn stated that he is here to determine some questions that might be raised by some of the abutters that the Board might consider. This town may have to compensate abutters for devaluing of property by virtue of changing of the zoning. That could lead to some very serious litigation.

Ms. Kathy Rae, 582 Broad Street, stated that she is a business owner, She is not running a business out of her home at this time. If the Board changes the zoning that option will be lost for her.

Ms. Paula Cushner, 626 Broad Street, stated that she has lived there for twelve years and she is in favor of changing the zoning to residential. She likes the quality of the neighborhood as it is. Central Square is on the National Registry of Historic Places. She knows that within the residential area there are some home businesses and that could continue.

Ms. Ann Marie Grant, 161 Middle Street, stated that on the map, the zoning line goes down the middle of her property. She stated that her concern is for her children. They live in the middle of Central Square. There is traffic in her driveway, and parking in her driveway. If the change in zoning would take that away, she would be all for it.

Mr. Dillon asked Mr. Fuqua if there was anyone interested in this particular area now where it is commercially zoned. Is anyone looking to purchase property and go in there with a business. Mr. Fuqua replied that nothing has been put forth and been submitted. There are always inquiries on various parcels throughout town. As it's zoned commercial, any one of these properties that are residential could get converted as of right to a commercial use.

Mrs. Ryan asked if it was correct that any business presently there would be grandfathered. Mr. Fuqua replied in the affirmative. Anyone who is running a business out of their home would be grandfathered if the zoning changes.

Mrs. Ryan stated that property values should be looked at both pro and con. A large scale business could have an affect on the neighborhood.

Mr. James Dunn stated that thirteen years ago the old bus barn was two zones. It was part B1 and part R1. This proposal is not changing the bus barn lot. He asked why the bus barn was not included in this proposal. Thirteen years ago they wanted to put in thirteen townhouses.

Mr. Fuqua stated that the bus barn property is in two zones. It is zoned R-1 in the rear and B-1 in the front. The B-1 zone extends 240' back from Broad Street. It is grandfathered in terms of zoning. Any change there would be dealt with as a nonconforming use and would go back to the ZBA.

Mrs. McElroy asked if the properties included in the proposed rezoning are being taxed as commercial or residential. Mr. Fuqua replied that he does not know.

Mrs. Abbott stated that there is zoning that allows for home businesses. Mrs. Abbott asked the staff about home businesses in a R-1 zone. Mr. Fuqua replied that there is a provision in the R-1 district for home businesses. Any individual cases would be taken on a case by case basis. Existing cases would be grandfathered in.

A resident asked what happens when property is sold with regards to a use grandfathered in. Also if the residents have been paying commercial taxes, what is the town going to do.

The attorney for Mr. Dunn stated that the use of the term grandfathered does not give new life to anyone in the future. These people are going to suffer harm financially.

Mrs. McElroy stated that if the property has been zoned commercial, the town has lost a lot of money if the town has not collected taxes as commercial property.

Mrs. Abbott stated that we need more facts with regards to property taxes.

A resident stated that Osco did try to buy her property. People do not have to sell to a big company. Her concern is who wants to do this and why.

Mr. Lynch stated that the Board is trying to protect the neighborhood for the future.

A resident stated that across from his is a dentist office. He would like to have the option to sell his property to a doctor for offices. Mr. Fuqua stated that on the opposite of the street, the property is zoned R3.

Upon motion made by Mr. Hurley and seconded by Mrs. Ryan, it was:

UNANIMOUSLY VOTED: to close the public hearing at 8:20 P.M.

Upon motion made by Mr. Hurley and seconded by Mr. Dillon, it was:

UNANIMOUSLY VOTED: to take the matter under advisement.

Mr. Fuqua stated that this is an article on the November 17th Special Town Meeting. The Planning Board makes a recommendation to Town Meeting and it takes a 2/3 vote of Town Meeting for approval of the zoning change.

Mr. Dillon stated that this article will also go before the Appropriation Committee and they will make a recommendation to Town Meeting.

Mrs. Abbott asked Rod how the property is being taxed. She stated that the Board needs more information. Mr. Fuqua stated that zoning isn't done based on a dollar value. It's based on a determination of what the best land use is for the area.

Mrs. Abbott asked for information on grandfathering. Mr. Fuqua replied that it's on a case by case basis. If you want to change a nonconforming use, you have to go to the Board of Zoning Appeals.

5. Public Hearing - 8:30 P.M. (cont.)

Petr: Morton Donut, Inc.

Locus: 749-755 Main Street

Sheet 41, Block 488, Lots 12, 14

Zoning: B-1 (Watershed Protection District)

Request to amend special permit for moving approach to kiosk and adding parking and landscaping.

Upon motion made by Mr. Hurley and seconded by Mrs. McElroy, it was:

UNANIMOUSLY VOTED: to continue the public hearing at 8:30 P.M.

Mrs. Abbott read a letter from Greg Galvin, attorney for the petitioner,

requesting a continuation of the public hearing to November 3rd.

Mr. Dillon asked what the reason is for the continuation. Mr. Lynch stated that there is a problem between the petitioner and the owner.

Mr. Fuqua stated that last week Mr. Galvin called him. Dunkin Donut received a letter from the owner. There is an issue going on between the owner and Dunkin Donut. Since Mr. Galvin received this letter late last week, he was unclear how they would proceed. Mr. Fuqua stated that his recommendation is that the hearing be continued to 7:45 P.M. on November 3, 1997.

Mr. Galvin stated that if the two parties can't come to an agreement, the plan cannot go forward.

Upon motion made by Mrs. McElroy and seconded by Mr. Leary, it was:

UNANIMOUSLY VOTED: to continue the public hearing at 7:45 P.M. on November 3, 1997.

6. Subdivisions

a. Diana Drive - bond reduction

Mr. Fuqua reviewed the work remaining on Diana Drive and stated that he recommends reducing the bond to \$11,500.

Upon motion made by Mrs. McElroy and seconded by Mrs. Ryan, it was:

UNANIMOUSLY VOTED: to reduce the bond to \$11,500.

b. Chelsey Way and Ashley Circle - set bond

The work has not been completed and the bond was tabled.

7. Braintree Traffic

Planning Board response to traffic generated by The Lincoln housing development in Braintree

Upon motion made by Mrs. McElroy and seconded by Mr. Leary, it was:

UNANIMOUSLY VOTED: to send the letter to the Braintree Planning Board regarding traffic generated by the Lincoln housing development in Braintree.

8. Form A Plan - Erville Lane - Sheet 19, Block 262, Lot 5

Upon motion made by Mrs. McElroy and seconded by Mrs. Abbott, it was:

UNANIMOUSLY VOTED: to endorse the Form A Plan for Erville Lane - Sheet 19, Block 262, Lot 5.

9. Other Business

a. Board of Zoning Appeals cases

286 Pine Street. The Board reviewed the case for 286 Pine Street which is to subdivide the property into two lots. This was a Form A Plan several years ago, but the property has been in the same ownership for more than five years. The size of the lots would be 17,460 square feet and 19,903 square feet.

Upon motion made by Mr. Dillon and seconded by Mrs. Ryan, it was:

UNANIMOUSLY VOTED: to send a letter in opposition to the plan for 286 Pine Street.

174 Central Street - Sheet 50, Block 565, Lot 13

The Board reviewed the case for 174 Central Street to subdivide one lot into two. The size of the lots would be 10,500 square feet and 10,595 square feet.

Upon motion made by Mr. Dillon and seconded by Mrs. Ryan, it was:

UNANIMOUSLY VOTED: to send a letter in opposition to the plan for 174 Central Street.

- b. Mr. Hurley raised a concern about the intersection of Hollis/Pond and Derby Streets with regards to the Old Colony rail line. He watched the gate come down in front of a car last week.

Mr. Hurley stated that his second issue concerns the convenience mart on Columbian Street. He believes there was supposed to be curbing on the radius. Also there is a canopy with a sign on it. Mr. Dillon stated that the canopy acts as a sign and they cannot put up another sign.

c. Viewpoint

Discussion ensued regarding the Viewpoint show when the Naval Air Station was discussed.

Mrs. Abbott suggested that Mrs. McElroy and Mrs. Ryan go on Viewpoint to discuss the Naval Air Station. There was a concern that misinformation was being given out.


Mrs. Ryan stated that she felt the NASPC should go on Viewpoint.

- d. Group Day Care Centers. Mrs. Ryan stated that we supported the bylaw change in May with regards to parking. The bylaw was accepted and voted overwhelmingly by Town Meeting. Mrs. Ryan stated that at one time it was discussed sending a letter to our representatives regarding group day care centers. As one individual she has been in touch with Senator Hedlund and Representative Mariano, and both feel that control over group day care centers should go back to the town for local control. The concern is to have protection against group day cares.

Upon motion made by Mr. Dillon and seconded by Mrs. McElroy, it was:

UNANIMOUSLY VOTED: to adjourn the meeting at 9:30 P.M.

This is to certify that the foregoing is a true and complete statement of all actions and votes taken at this meeting on September 22, 1997.



Paul F. Lynch, Sr., Chairman

RECEIVED
DEC 4 9 34 AM '97
OFFICE OF THE CLERK
WEYBOND, MASS.

WEYMOUTH PLANNING BOARD
PUBLIC MEETING - CITIZEN ATTENDANCE

DATE: Sept 22, 1997
LOCATION: _____

PLEASE PRINT LEGIBLY

NAME	ADDRESS	PHONE #
Sandra Rubin	172 Middle St.	843-2299
Paul Rubin	172 Middle St.	843-2299
James L. Dunn	19 Center St	337-1778
Michael R. Pizzani	21 Church St	340-9306
Mrs. Joseph Good	623 Broad St.	335-3685
Elizabeth Bugbee	630 Broad St	335-1977
Kathy Cullen	574 Broad St	337-0396
Harold Howes	49 Lorrain St	337-2558
ALAN COWING	161 MIDDLE ST	337-3287
Ann MARIE GRANT	161 MIDDLE ST	337-3287
PAULA CUSHNER	626 BROAD ST	337-8422
THOMAS Cullen	574 BROAD ST	337 0396
OLIVE Atherton	576 Broad St.	335-0855
Noel ATHERTON	576 BROAD ST.	335-0855
MARK ABATONO	582 BROAD ST.	331-6792
Katharine T. Rae	582 Broad St	331-6792