

## CITY OF WALTHAM

### BOARD OF SURVEY AND PLANNING

The following are minutes of the 7:00 p.m., May 5, 2010 Board of Survey and Planning meeting held in the Public Meeting Room of the Arthur Clark Government Center located at 119 School Street, Waltham, MA. In attendance were Chairman Creonte and members Barrett, Callahan, DeVito, Duffy, Moroney and Tarallo.

The Chairman appointed Janice Deveney as Acting Clerk for the meeting.

The Acting Clerk read the first item on the agenda which was for a Special Permit- More Than One Principal Building on a Lot at 306 Lexington Street, Waltham, MA. The Board must act on this petition by June 15, 2010.

Attorney Philip B. McCourt of 15 Church Street, Waltham, MA came forward to address the Board on this petition. He reviewed the original plan that was for the approval of the use of two existing driveway opening for one property with two houses. From the previous meeting it was discussed that the Board had concerns with the traffic at that busy intersection. There was a site visit scheduled and suggestions from a Board member that it would be a better design to close both existing driveways and have one driveway with a signal device similar to the one at the Church at the corner of Lexington Street and Totten Pond Road. They have submitted this revised plan but are requesting an approval from the Traffic Commission on May 13, 2010.

There were discussions on the revisions of the driveway location.

Mr. Moroney commented that in order to enhance the safety of the intersection he wants some sort of signal device in the pavement, just like the one at the intersection of Lexington Street and Totten Pond Road or he would not consider approving the plan.

All the Board members all commented that they ask the petitioner to have a traffic report submitted prior to this meeting and that was not done. The members made it clear that a report must be submitted prior to their next meeting.

Mr. Devito commented that this intersection has the highest traffic incidents in the City. There were 15 accidents last year and a total of 70 emergency response calls to this intersection and he has safety concerns with the petition.

Ms. Callahan said she had too many concerns with safety at this intersection and is making a motion to deny the petition for More Than One Principal Building on a Lot.

Ms. Tarallo seconded this motion.

The Chairman called for a roll call on the motion.

**ROLL CALL:**

<b>Justin Barrett</b>	<b>NO</b>
<b>Kathleen A. Callahan</b>	<b>YES</b>
<b>Mila R. Tarallo</b>	<b>YES</b>
<b>S. Anthony DeVito</b>	<b>NO</b>
<b>Brian Moroney</b>	<b>NO</b>

The vote being two in favor and three in opposition of the denial the motion did not carry.

He asked if there was another motion.

Mr. Barrett made a motion to continue the petition at 306 Lexington Street at the Board's next meeting of June 2, 2010 with the provisions that a full traffic report be submitted prior to the meeting and a full report from the petitioner after their appearance before the Traffic Commission.

Mr. Moroney seconded the motion.

The Chairman called for a roll call.

**ROLL CALL:**

<b>Justin Barrett</b>	<b>YES</b>
<b>Kathleen A. Callahan</b>	<b>NO</b>
<b>Mila R. Tarallo</b>	<b>NO</b>
<b>S. Anthony DeVito</b>	<b>YES</b>
<b>Brian Moroney</b>	<b>YES</b>
<b>William M. Creonte, Jr.</b>	<b>YES</b>

**The vote being four in favor and two opposed the petition was continued to the meeting of June 2, 2010 with the provisions stated in the motion.**

The Acting Clerk read the next item on the agenda which was for a Definitive Subdivision at 110 Bear Hill Road. The Board must act on this petition by July 13, 2010.

The Chairman asked if there was a meeting scheduled in June.

Ms. Deveney replied, "Yes, June 2<sup>nd</sup>."

Attorney Philip B. McCourt came forward and introduced Attorney Robert Schlein, Mr. Paul Brickman, Jim Major, the Engineer in charge and his Associate Bob Clark of Allen Major Associates, Attorney Robert Schlein, Legal Council for Hilltop 110 Bear Hill, LLC had submitted to the Board on April 28<sup>th</sup>, a response to the Legal Opinion that Michele Learned had submitted.

His response was reviewed.

He then mentioned that it was their understanding that there was a lot of confusion and questions with the City as to what work was going on at the site for the construction of the driveway involving cutting of trees. He wanted to clarify that the work being done had nothing to do with the subdivision that is currently before the Board.

The petitioner went to the Building Department in November of 2008 seeking a permit allowing Mr. Brickman to relocate the tower.

The tower is not located in a good position for future development of this the property. Mr. Brickman needed to get permission from the company that actually leased the land for the tower, and then adjust the road and build a foundation for the tower. They went to the Building Department seeking a site preparation permit to do the work and were told at that time they didn't need one, but it was strongly suggested by Mr. Gaudet and others in the Building Department that because they were going to be working on the hill changing the driveway that they would have to go to the Engineering Department to discuss runoff and drainage, and that they would also need to discuss with then former Traffic Engineer Frank Ching, the use of the driveway and any work having to do with the site preparation.

Then they submitted plans to the City Engineer, Joan Lastovica, requesting that the plans be reviewed in relation to the prep work. Wade Putnam reviewed the plans and responded with a "to do list" stating that the petitioner must meet with the Cambridge Water Board, with Mass highway and meet with Frank Ching. All of these meetings have taken place. Further, they spoke to Mr. John Tashjian, CPW Director, about a curb cut permit so they could firm up the existing driveway. Prior to 1952, before 128 was constructed, this was extension of Bear Hill Road. Originally, the Bear Hill Road ran off Main Street to the top of the hill. Mr. Tashjian informed them that the curb cut exceeded 25 feet in width requiring them to petition the Board of Survey and Planning which they did on September 9, 2009 and received the Board's approval.

1. The existing curb cut currently and will continue to allow adequate access to the site.
2. The existing curb cut is compatible with the traffic safety on Bear Hill Road
3. Approved adequate access to the site provided through this existing curb cut will continue to provide a benefit to the area.

This is the site work currently being done which has started the confusion with the different city departments.

The Chairman then commented that the approval will allow adequate access to the site through the existing curb cut.

Mr. McCourt replied, "Correct" and in accordance with Frank Ching's letters dated August 28, 2009 and May 4, 2009.

The approved access work was discussed and clarified.

It was agreed that the Board approved the special permit curb cut with the knowledge of the site work to access the roadway. As stated previously, the Building Department told them they didn't need a permit to do the prep work.

Now, the Building Department is insisting that they do need a site preparation permit.

Mr. McCourt wanted it on record that they are not building a subdivision; they are just adjusting the roadway.

The timeline of all approvals were discussed further.

They currently have a street opening permit and a trench opening permit that were issued by the CPW Department to do the curb cut work that was approved by the Board, they also have a blasting permit that was issued by the Fire Department, but have not starting any blasting yet, which in order to obtain a blasting permit there had to be a pre-blasting survey which was conducted in November, 2009. Certified notices were sent out to all abutters, they have obtained a NPDES Permit issued by the Federal Government because they will be doing comprehensive tree work. They also submitted to the EPA a storm water protection plan and have obtained all necessary state and federal approvals.

He wants all confusion on the work currently being done clarified.

After further discussions Mr. McCourt asked if Mr. Clark, from Allen and Major could address the Subdivision plan that is before the Board for approval.

The Chairman said that he would like to open the meeting to the Board first and see if they have any comments.

Mr. Barrett said that according to the report dated December 4, 2009, the storm water management had been submitted to the EPA, as well as Mass Highway and the Cambridge Water Board, H he asked if they have been filed with the City Engineer.

Mr. McCourt replied, "Yes."

Mr. Barrett asked if they had all of those approvals.

Mr. McCourt said that they were happy with the layout of the site.

Mr. Barrett asked if that was pre-deforestation, pre cutting down all the trees.

Mr. McCourt replied, "The trees were not gone at submittal, but the plans showed them gone."

Mr. Moroney apologized for his confusion but asked what exactly is the petitioner trying to accomplish. He asked if the discussions so far are the result of the Ralph Gaudet memo.

Mr. McCourt replied, "I don't have the Ralph Gaudet Memo."

Mr. McCourt explained that the approvals the Chairman just reviewed are for the previously approved plan of a Special Permit Curb Cuts. They were just explaining the work that was being done was for that approval and not the subdivision before the Board that evening.

The Chairman then reviewed all the approvals granted to date, the ANR Plan, Special Permit Curb Cut and the Preliminary plan, and that the petitioner was here now with the Definitive Subdivision.

Mr. McCourt commented that the subdivision will be discussed now and the previous discussions were just points of information.

Mr. Barrett asked to review the memo to Ralph Gaudet from Steve Casazza dated April 23, 2010 regarding drainage, and pointed out that the abbreviated drainage report was not stamped by a registered professional engineer. He asked if these comments were being addressed.

Mr. McCourt commented that what is happening now is that Mr. Gaudet is now saying he needs to issue a site preparation permit, not the subdivision. They submitted the necessary materials to Mr. Casazza. He reviewed them and made those comments to Mr. Gaudet. They have since turned in what was required and now are waiting for Mr. Casazza to respond, but again that has nothing to do with the subdivision. These items are being addressed and they will make sure the Board has an update.

Mr. McCourt stated that they will be obtaining the site permit from Mr. Gaudet, and all those items are being addressed.

The Chairman wants it to go on record that the Board didn't give permission to build the road, but only to gain access to move the tower with the existing driveway and not to wipe out the hill of trees. He then suggested the Board should plan a site visit to help eliminate the confusion.

Mr. Bob Clark of Allen and Majors came forward to address the Board on the Subdivision plan.

Ms. Callahan asked when the subdivision plan was submitted to the Engineering Department.

Mr. Clark responded, "April 14, 2010."

He reviewed the previous approvals for the Special Permit, the ANR Plan and the Preliminary Plan.

Then he reviewed the subdivision. It is a four (4) lot subdivision, all four lots have the required frontage on the proposed driveway, and all lots meet zoning with no variances and will be connected to city utilities. They will be submitting a traffic report. The detention areas were reviewed and a drainage report was submitted with the submittal package. He reviewed the details of the meetings with the Cambridge Water Board, DEP and Mass. Highway.

Then he reviewed the Decision from the preliminary plan that was approved and the nine (9) conditions that were to be executed into the Subdivision. They have met all the conditions.

1. The definitive plan will be required to meet all the requirements of the Land Rules and Regulations of the Board of Survey and Planning.
2. Storm water management shall have been approved by the Waltham Engineering Department, Mass Highway Department and the Cambridge Water Department. All stormwater to meet required engineering standards, and the petitioner shall submit a drainage report to the Board.
3. Sight lines on the Bear Hill Road frontage shall meet the standards of the Waltham engineering department.
4. Petitioner shall provide evidence satisfactory to the Board that the location and design of the subdivision road as shown on the definitive plan are adequate and do not pose a danger to users of the road or Bear Hill Road.
5. Petitioner shall provide evidence satisfactory to the Board that proposed slopes are in conformity with good engineering practices.
6. Internal driveways shall be graded and sloped to grades consistent with good engineering practice. Sidewalks shall be provided as required on permanent driveways. (not required on driveways used during construction.)
7. The Petitioner shall consider the engineering feasibility of a secondary access point on the Main Street frontage, and will show the same if feasible on the proposed definitive plan.
8. The location and design of the subdivision road shall be adequate and shall not pose a danger to users of the road or Bear Hill Road.
9. The petitioner shall provide a traffic analysis with times and dates and will be provided with the definitive subdivision.

These items were discussed.

The Chairman then opened the hearing to the Board.

Ms. Callahan asked about sidewalks.

Mr. Clark said that there would be sidewalk all around and that those will be designed at a later date. They are just locking in the zoning at this time.

Ms. Tarallo asked if the current road is for emergency reasons.

Mr. Clark said that the current road is for access to get to the site where the tower is.

Ms. Tarallo asked what type of vehicles can use the road.

Mr. Clark commented that any vehicle could travel on the road, and that he had driven on it earlier that day. It is a gravel road.

Ms. Tarallo asked the status of the Main Street curb cut that was before the Consolidated Public Works Department.

Attorney Robert Schlein for Hilltop Bear Hill LLC came forward and reviewed his responses to the Waltham Law Departments opinion. He is currently working with the Law Department and obtaining the required documents and will provide those to the City.

Mr. DeVito asked if they had a response from the Cambridge Water Board.

Mr. Clark said that they had met with the Board and are waiting on a written response and hopes to have that by the next Board meeting.

Mr. Moroney asked for a review of road.

Mr. McCourt commented that the roadway on the definitive plan needs to be shown on the plan, but it will not be built. The definitive plan would give them an extended period of time to plan and design what the petitioner would want to build.

Mr. Schlein commented that it was just to illustrate a roadway and if the Board would like they could delete the cul-de-sac roadway from the plan as it holds no legal significance.

Mr. Moroney added that he would like to see the gravel access road currently being used shown on the definitive subdivision plan.

Mr. Barrett suggested that the Board schedule a site view.

The Chairman commented that he does not understand why it was necessary to remove so many trees if the access driveway road is only 25-feet wide.

Mr. McCourt said that the roadway was too steep and they needed to level the site sufficiently to move the tower.

There being no further comments from the Board the Chairman closed that part of the meeting.

He then opened the meeting to the public and asked if there was anyone that would like to come forward in favor of this petition.

There being none he closed that part of the meeting and opened it to anyone in opposition to the petition.

Mr. Arthur Rossi who owns 1345 Main Street came forward. He commented that he was very concerned with water run-off from the steep hill and asked how adequate is the drainage designed.

The Chairman said that they haven't addressed this in detail as this plan is just freezing the zoning at this time, but when the petitioner returns in the future with a site plan of what they propose to build that drainage would be discussed and that the Board and the City will not allow any run-off leaving that property.

Mr. Rossi then said that he did not receive notification regarding the blasting that is to be done and asked what the abutters notification distance is.

Mr. McCourt stated it is 250 feet.

Mr. Brickman came forward and said he would look into that matter and will make sure his property is surveyed for blasting.

The Chairman asked Mr. McCourt to submit the blasting notification abutters list to the Board.

There being no further discussion the Chairman asked if there was a motion.

On the motion of Mr. Barrett, seconded by Ms. Callahan, the Board

**VOTED: to continue the petitioner for a Definitive Subdivision at 110 Bear Hill Road, Waltham, Ma submitted by 110 Bear Hill Road LLC at their next meeting of June 2, 2010 and a site visit to be scheduled for May 10, 2010 at 6:00 p.m.**



There being no further items on the agenda for the public meeting the Chairman closed that part of the hearing and opened the regular meeting.

The Acting Clerk read the first item on the agenda which was for an update on the retaining wall at 775 Trapelo Road, known as Wellington Crossing

An email from Mark Mastrioani of Pulte Homes was read. The HOA, Pulte Homes and two structural engineers met onsite earlier that day and would be ready to submit a full report to the Board at their next meeting in June.

The Chairman asked if there was a motion.

On the motion of Ms. Callahan, seconded by Mr. Barrett, the Board

**VOTED: to continue to hold Bond # 6323820 of \$500,000.00 for Wellington Crossing at 775 Trapelo Road and to continue this request at the next meeting of June 2, 2010.**

The acting clerk read the next item on the agenda which was for a request for a modification to the existing covenant for the LeBlanc Lane Subdivision at 470 Forests Street.

Attorney Philip B. McCourt and Robert LeBlanc came forward to address the Board on this request. The request would allow the petitioner to move the existing house on the property to Lot #1 as noted on the approved plan. It was explained that this request would be subject to the existing covenant and no sale would be allowed until the road is complete or bonded. The site Contractor's job would be expedited by moving the house during road construction.

There were brief discussions on this modification.

Ms. Callahan commended Mr. LeBlanc for protecting the existing house. The Chairman asked if there was a motion.

On the motion of Ms. Callahan, seconded by Mr. Barrett, the Board

**VOTED: to approve the request of the modification to the covenant for LeBlanc Lane Subdivision as submitted.**

The Acting Clerk read the next item on the agenda which was for an ANR Plan at 945 Moody Street submitted by S.S.G. Development, LLC.

Attorney Michael R. Connors of 6 Lexington Street came forward to address the Board. He reviewed the plan and also reviewed the City of Newton's approval on the subdivision of land.

Ms. Callahan asked what will be going on the site.

Mr. Connors explained that a self storage facility will be going on the Waltham portion of the site.

The Chairman asked if there was a motion.

On the motion of Mr. Barrett, seconded by Mr. DeVito, the Board

**VOTED: to allow the Clerk of the Board to endorse the Approval Not Required plan at 945 Moody Street, Waltham, MA dated April 13, 2010 as submitted.**

The Acting Clerk read the next item on the agenda which was for deliberations and a recommendation to the City Council of an Ordinance Amending Chapter 21 of the General Ordinances of the City of Waltham Entitled Zoning, Article III entitled "Establishments of Districts", Section 3.1 entitled "Classification of Districts".

There were brief discussions.

The Chairman asked if there was a motion.

On the motion of Ms. Callahan, seconded by Mr. Moroney, the Board

**VOTED: unanimously to forward a favorable recommendation to the City Council on the proposed amendment as submitted.**

The Acting Clerk read the next item on the agenda which was for the approval of the minutes to the meeting of April 7, 2010.

On the motion of Mr. DeVito, seconded by Mr. Barrett, the Board

**VOTED: to accept the minutes to the meeting of  
April 7, 2010 as submitted.**

The Chairman asked if there was a motion to adjourn.

On the motion of Mr. Barrett, seconded by Ms. Tarallo, the Board

**VOTED: to adjourn the meeting at 9:45 p.m.**

Respectfully submitted,

A handwritten signature in cursive script that reads "Janice Deveney".

Janice Deveney, Acting Clerk  
Board of Survey and Planning

JPT/jed