

TOWN OF WESTFORD
DEVELOPMENTAL REVIEW BOARD MINUTES
Minutes for Monday April 12, 2021.
Approved on April 26, 2021

Board Members Present: David Baczewski, William Cleary (Vice-Chair), Matt Wamsganz (Chair), Dennis Angiono, Francois Ross, Andrew Collier, Jesse Labrecque

Board Members Absent: N/A

Also Present: Melissa Manka (Planning Coordinator), Callie Hamdy (Minute Clerk), Caroline Brown (Westford Historical Society), Tim Aiken, Chapin Kaynor, Sally Czapski, Jonathan Czapski, Colen Johnson,

The meeting began at 7:15 pm

DISCLOSURES

There were none.

AMENDMENTS TO THE AGENDA

There were no amendments offered.

SKETCH PLAN REVIEW & CONDITIONAL USE FOR 3 LOT SUBDIVISION w/WRO CROSSING -CZAPSKI

Approx. 49.4 acres located on Rogers Road in the Rural 10 & Water Resources overlay Zoning Districts. The applicant proposes to re-subdivide and reconfigure two lots into three single family dwellings with accessory dwelling building lots. The DRB had done a site visit.

In the Staff Report, a reoccurring point of discussion was the 254 section where it was suggested to reconfigure Lot 2 to avoid splintering resources. Bill asked Melissa if she feels that the building envelope should be closer to Rogers Road. Melissa explained the regulations talk about avoiding forest fragmentation and suggests grouping building lots together. It is a reoccurring theme to keep building envelopes close to existing development. Colen explained the intent is to put it where it is shown on the Sketch Plan. Matt felt the site where the lot was proposed was quite open so cutting would be minimal. It's a tough situation because when one buys land like this you are often not looking to be close to neighbor's building lots, you bought the rural property for a reason.

With the two driveway design alternatives for Lot 1, one did not impact the WRO while the other potential access downslope to the east wouldn't require much fill. The board needed to decide which driveway design to require or if there is a reasonable alternative and if it is minimal impact. Andrew asked what the disturbance difference between doing it outside the WRO and inside the WRO was. Colen Johnson explained that the main concern with Lot 1 is the emergency vehicle turnaround that would have to occur at the end of the Class IV section of road. The road gets steep in that area so if it were to stay outside of the WRO they'd need 70 feet at the start of the access which puts them way up the hill. For emergency vehicle backup that's going to require a lot of fill to make that turnaround adequate as well as hill cutting. If it is inside the WRO there would be much less fill and disturbance.

Regarding Lot 2, the existing cleared site would provide much less disturbance even if it would trigger some other state permits for wetland buffer impacts. Francois's feeling was that the sensible choice was to use the logging road as it required less cutting and for Lot 1 it seems like a no brainer to not come down the hill and use the option that would be inside the WRO. Dennis, Bill and Jesse were in agreement.

Andrew understood that it made sense, but what is the point of the regulations? If we start allowing some stuff it could open a floodgate. Colen explained that the tough part is the rule that requires a 100-yard buffer from the existing wetland. That often makes plenty of sense from a bird's eye view but doesn't take into account the slope of the area. It would be approximately five feet of elevation change so it is substantial. Andrew's concern is generalized, he's worried about setting a precedent. What is "reasonable"? It's one thing with a single development house, but an entirely different thing with multi home developments. Dennis saw it as the board is supposed to look at these individual applications as individuals and decide what's reasonable through that basis. Jesse asked if there were other alternatives such as deeding in the untouchable aspect of the back 30 acres as an exchange for using the road. Melissa explained it is the DRB's job to interpret the regulations literally. In some areas there's room for push and pull and in other areas the regulations are more black and white.

Matt thinks Lot 1 is a good example of what's worse, more impact or being in the WRO? The state has a 50-foot buffer and the town extends it to 100 feet which is a lot more. The WRO is a conditional use so we're allowed to decide what we think about it which is why he feels more leeway can be given. Matt asked Cole regarding the Lot 2 Access if they looking to run the driveway completely on the logging road rather than to the east. Colen explained they would keep it within the access road as much as possible and then diverge at the brook a little to the east at the crossing. This would reduce tree clearing as much as possible. In Matt's opinion he would rather stay out of the wetland and go into the buffer to do so. Bill asked Colen what it's like to go through a state wetland's permit. Colen explained they require a certain amount of mitigation if trees are cleared somewhere else on the property such as the planting wetland plants in another area.

Dave agrees with the rest of the DRB regarding to the alternatives, but other times when we've done conditional uses as a board it's been on an existing lot and not as a new lot. He thinks it's only the alternative because they are insisting on having a building lot there. He understands what they're looking to accomplish but they don't have a right to have that building lot. They need to have a condition that they're going to have the building lot where they want it and impact the WRO. Andrew felt similar, when they say their primary residence is going to be Lot 2 that's one thing, but when we talk about further development it seems like a slippery slope. This feels different than other conditional uses that have been done before. Colen explained the original two lot subdivision was permitted back in 1988 as two building lots, Lot 1 was permitted as a building lot in 1988 with wastewater through the town. Jesse asked if they could withdraw their proposal and go with two lots instead of three? Colen explained that's not the desire as there are three good building areas on the property and the one in question is the one that already existed.

Matt was fine with Lot 1 and with Lot 2 as long as they stayed out of the wetland and instead impacted the buffer. For Lot 1 Matt, Bill, Dennis, Jesse, Francois were in agreement. Francois wanted Andrew to

explain his position further. Andrew explained that when we start allowing things like this for larger development the question is where is the line? How do we tell other potential applicants they can't build with a precedent like that? Melissa explained that everything isn't finalized at this stage and wouldn't be until the Final Review. Bill thinks it would be best give an applicants a feel if they have a chance of those things happening. Colen explained knowing a direction at this point would be best so that he doesn't waste the applicant's money, Jesse agreed.

Lot 2's driveway would move to the logging road and not impact the wetland, but impacting the buffer. Matt can't imagine the state would allow something to go forward when there is an alternative that would avoid the wetland.

Melissa explained one of the items the applicant and engineer wanted to discuss was the location of power by the road and since it's in the public right of way the utilities being essential services or private utilities will determine if this is under DRB jurisdiction. Colen explained the intent was to run underground power in the ROW. Melissa thought it was unclear if it was a SB matter or DRB matter. Bill explained that the previous Selectboard minutes where the discussion about the Czapski's Road Agreement took place, two board members had been very specific about nothing being underground in the area around the new culvert. Melissa's gut is that anything in the ROW would be a Selectboard matter.

Matt opened it up to public comment. Chapin Kaynor, an abutting landowner, was present. Chapin wanted the board to keep in mind when upgrading the road is it goes through two wetland areas at the top of each hill and the construction and utilities will go through that area having an impact there. In Chapin's opinion what happened in 1988 was under different regulations and shouldn't apply here. The new board should interpret the property under current regulations. Chapin thinks all the proposals are the least impact in terms of driveways. He does not understand the location of the building envelope for Lot 2. It's on the side of a steep hill and is very close to his property line. He is wondering why it wouldn't be straight ahead from the driveway area where it is less sloped. Colen explained that the intent was the have that building envelope drop off and then there is a flat area on the bottom which is the intent for the building envelope. If the building envelope was located different it would impact the Wetland Buffer. Chapin still does not think it feels like a good place to put a house when you have 50 acres. He wants to be clear that they should be able to do whatever they can within the regulations, but he's not sure of what regulations apply to that.

WAIVER PUBLIC HEARING (CONTINUED)- WESTFORD HISTORICAL SOCIETY

Westford Historical Society property (.25 acres) located on Common Road in the Common and Form Based Code Overly (T4) Zoning Districts. The applicant is requesting a front setback waiver (10ft required, 0ft requested) Due to small lot size and steep slopes.

Caroline Brown was present from the Westford Historical Society. Caroline explained about how small the building envelope is on this property due to the extreme and sudden drop off in the back. They are seeking a setback waiver so they can build on the lot. Melissa explained that waivers and variants are treated differently than say a subdivision application. Ultimately it comes down to the applicant making

an argument for the different waiver standards and they have to check off that they meet all requirements for the waiver or variance to be granted.

Caroline explained the building is 22'x32', 22' along the road in the same footprint as the original blacksmith shop. Melissa shared a picture of the original shop which is the historic structure that used to stand on the site. Historically on the site, the building was set back and built into the slope, but a lot of the current area has been filled in so the original foundation has been covered in with dirt. The modern recreation would be set forward a bit for structural integrity. If the 10-foot setback was followed it would be at the edge of the slope, any further back it would be in a flood plain so this is one of the only buildable areas on the parcel. In Bill's opinion clearly the slope behind them does limit them so he feels the request is reasonable and Francois thinks the slope is cost prohibitive to build on.

Dave understands and is a fan of what the Historical Society is trying to accomplish, but the building is longer going towards the steep slope. What if we turned the building to be long end along the road? Tim was under the impression that the peak of the building has to be facing the Common due to the Form Based Code in the area. Dave understands that, but it is a potential solution if things get tight. Melissa clarified the peak doesn't have to be facing Common Road but the front access/entry point does have to be. Changing the orientation of the building and then the entrance would change the look from the historical photo as well. Melissa explained that the Planning Commission is having a public hearing on rule changes and it would include an allowance for historic replicas that don't adhere to the form based code. That may be relevant in this situation, especially as in this case there is historical photos/documentation.

Bill wondered if by granting this waiver what happens if they do want to put a sidewalk down that side of Common Road? Melissa explained that's why the ROW is so wide. The sidewalk would still fit right in front of the building. Bill asked if there are any limitation to backfilling the slope that we know of? Tim responded that there were none that he knew of, it would have to be stabilized on top of being filled. It would take a lot to bring it out even as little as five feet as it is so steep and one might even have to get into a retaining wall which may not even be feasible. Matt observed that if there was a less extreme overlay as there are on most roads in town they'd only be asking for a variance of 1 foot. So the extreme right of way given to Common Road is what set this in motion. Matt feels they've done a good job and he's comfortable granting the waiver due to the large size of the ROW. Dennis was in agreement as was Bill, Francois, and Andrew.

Bill thinks based on everything the WHS has done he is excited to see it on the Common. Dennis thought everything looked very good. There was no public comment.

Andrew motioned to close the public hearing, Dennis 2nd. Motion passed 6-0.

CITIZENS TO BE HEARD, ANNOUNCEMENTS & OTHER BUSINESS

No citizens to be heard, announcements or other business.

MINUTES OF MARCH 8, 2021 & MARCH 22, 2021

Dennis motioned to approve the minutes of March 8, 2021 as amended, Francois 2nd. Motion passed 7-0.

Bill made a motion to approve the minutes of March 22, 2021 as amended, Dennis 2nd. Motion passed 7-0.

The meeting adjourned at 9:30 pm

Submitted by,
Melissa Manka, Planning Coordinator

Callie Hamdy, Minute Clerk