**Town of Weston**

**Development Review Board**

**Minutes of Meeting**

**December 7, 2022**

**DRB Present** Deborah Granquist (remote), Susan Morris (remote), Debra Lyneis (remote), Jeff Lennox, Annie Fujii, Laura Katz (remote, attended Little Pond hearing, recused for Clapp hearing)

**Note:** Two hearings were conducted at the meeting: The Little Pond Major Subdivision Hearing followed by the Clapp Minor Subdivision hearing at 6:30 (Agenda Item 3) at the Weston Town Office. The meeting was recorded.

**Public:** Will Goodwin, Zoning Administrator (ZA)

Jessica Rizio, Town Engineer (remote)

 **For Little Pond Hearing:**

James Murphy, Applicant, Little Pond Partners, LLC

Gary Rapanotti, Surveyor

William Dakin, Attorney

Peter Saulnier, Abutter (remote)

 **For Clapp Hearing:**

Andrew Clapp, Applicant

 Gary Rapanotti, Surveyor

 Doris Ingram, Abutter

 Elizabeth Swett, Abutter

 Dan Hanenberg, Abutter

 Laura Katz (remote)

 David Katz (remote)

Ms. Granquist, chair, called the meeting to order at 5:00 PM.

1. **Minutes.** Ms. Katz moved and Ms. Morris seconded the approval of the Minutes of 11/10/2022 which passed unanimously.
2. **Hearing. Little Pond Partners Subdivision.**
	1. At 5:02 PM Ms. Granquist reopened the preliminary plat hearing recessed on 11/9/2022. There were no disclosures of conflict of interest or *ex parte* communications. Ms. Granquist explained that only participants have a right to appeal a decision and she administered the oath of evidence. Ms. Granquist explained that following the last hearing, the DRB held a deliberative session and reached a decision on the Preliminary Plat application. Ms. Granquist noted that in order to keep this project moving the DRB will deliver the Preliminary Plat decision at this hearing. The decision will be noted in the minutes instead of the DRB rendering a separate written decision. Mr. Murphy expressed his agreement with this procedure.
	2. **DRB Decision. “**The DRB finds that the Little Pond Preliminary Plat application meets all the requirements of the Weston Subdivision Regulations except as noted and approves the Preliminary Plat subject to the following conditions:”

**Section 210** Information required on all plats

The Preliminary Plat meets or will meet the requirements of Section 210 except as noted in italics*.*

1. Subdivision name or title, address at which it is located, scale, north point, date and site location map are on the Preliminary Plat.
2. Names and addresses of subdivider and professional advisors are on the Preliminary Plat; professional seals will be included on the Final Plat.
3. Drawing sheet size is 24” x 36”
4. Scale is ­­­­­­1” = 200 feet
5. Subdivision boundaries, boundaries of contiguous properties and names of owners are on the Preliminary Plat
6. Existing land restrictions on the use of the land including easements, covenants and zoning boundaries are on the Preliminary Plat. *Any proposed new easements and/or covenants will be included on the* ***Final Plat****.*
7. Existing and proposed streets, marshes, water courses, wooded areas, and other significant physical features in and near the subdivision are on the Preliminary Plat. There are no structures or public facilities at the site.
8. Streets that are proposed, mapped, or built are on the Preliminary Plat. Utilities will be made available to the edge of each lot; estimated location of utilities is shown on the Preliminary Plat *but may be relocated by Green Mountain Power.*
9. General pattern of lots, including typical lot width and depth, street layout, open space, and existing systems of drainage within the subdivided area are on the Preliminary Plat. Total acreage of the subdivision and number of lots proposed are on the Preliminary Plat.
10. *Not applicable. No building types are shown*. Applicant intends to sell lots. Any buildings on the lots will be constructed by the ultimate owners of the lots.

**Section 240** Subdivision Preliminary Plat Procedure

The Preliminary Plat meets or will meet the requirements of Section 240 except as stated in italics.

(5c) The DRB will state the amount of improvement or the amount of all bonds it will require.  *This will be a* ***CONDITION*** *to Final Plat approval since the DRB is waiting for Town Engineer information.*

**Section 241 preliminary plat data**

The Preliminary Plat meets or will meet the requirements of Section 241 except as stated in italics.

1. Information required by Section 210 is updated and accurate.
2. Contours are 2 feet and 10 feet, depending on location.
3. Survey of the tract boundary lines and deed description giving bearings and distances provided by a land surveyor are on the Preliminary Plat*; final certification of boundaries will be included on the* ***Final Plat****.*
4. Location, width and approximate grade of proposed streets are on the Preliminary Plat (20’ wide).
5. *Not applicable*. Location, dimensions, area, and number of lots and blocks are on the Preliminary Plat.
6. Location and dimensions of property to be dedicated for public use. ***Waiver request - see Sections 340/341***
7. Boundaries of proposed easements over private property are shown on the Preliminary Plat.
8. No existing sewers, water mains, culverts or engineered storm drainage are shown on the Preliminary Plat.
9. There are no existing utilities shown on the Preliminary Plat.
10. Proposed provision of water supply, fire protection, disposal of sanitary wastes, storm water drainage and sidewalks.
	1. Water supply. Each lot will be responsible for designing, permitting, and installing their respective water supply – presumably a drilled well for each lot. ***CONDITION OF APPROVAL:*** *Language in the deeds will include information on water supply and wastewater permits.*
	2. Fire protection. . Applicant has proposed an 8,000-gallon pond, which is the State minimum, and has been endorsed by the Weston Fire Department. The proposed location of the fire pond is on the Preliminary Plat (see Fire Pond plan and details prepared by Reeves Consulting). The Fire Department would also like the project to have *a fire hydrant – type, location, and fittings to be shown on* ***Final Plat****.* The hydrant can be dry or wet depending on the elevation of the hydrant relative to the top of the fire pond to be determined by the State Fire Marshall. The Fire department has two other requirements: *each house will be required to be connected to a 24-hour monitored fire alarm service and each house will be required to have a “Knox box” as a* ***CONDITION OF APPROVAL.***
	3. Disposal of Sanitary wastes. Each lot except lot #11 has an approved sanitary wastewater system. *The deed for Lot #11 will contain appropriate deferral language.*
	4. Storm water drainage. The applicant is applying for a stormwater permit and a wetlands permit. *Obtaining both permits is a* ***CONDITION TO FINAL PLAT APPROVAL****.*
	5. Sidewalks. Applicant requested a waiver for not installing sidewalks for reasons set forth in a letter of September 29, 2022 and testimony at the hearings. ***WAIVER GRANTED***

**Section 250: Subdivision Final Plat approval procedure*:*** Although this section covers Final Plat procedure, the Applicant has requested WAIVERS AS FOLLOWS. Section 250(5) requires:

1. EITHER: construction of improvements prior to FP approval or performance bond. The Applicant suggested that this section applies to phasing of a subdivision project which the Applicant is not proposing. But see also Section 261, which sets forth the requirements for a performance bond and section 310, which specifically requires that an applicant either install required improvements to the satisfaction of the Town Engineer prior to Final Plat approval, or alternatively post a performance bond.
	1. *WAIVER REQUESTED FROM BOTH PRIOR CONSTRUCTION OF IMPROVEMENTS AND PERFORMANCE BOND REQUIREMENTS.* ***WAIVER DENIED.***

 *Section 250(7) requires:*

1. Certified check for 1% of estimated cost of improvements.
	1. *WAIVER REQUESTED to assess only improvements in Weston (not those in Andover).* ***WAIVER GRANTED.*** *ESTIMATED COST OF IMPROVEMENTS ARE SUBJECT TO TOWN ENGINEER REVIEW and a condition to Final Plat approval.*

**Section 257: Information Required on Construction detail drawings*:*** *Review and approval of construction detail drawings by Town Engineer is a CONDITION to Final Plat approval.*

**Section 260: Legal Data:** *Review and approval of legal data by Town Attorney is a CONDITION to Final Plat approval.*

**Section 261: Performance Bond:** (*See discussion above under Section 250.)*

**Section 262: Offers of Cession and Release**: This subdivision involves no offers of cession or releases to the public.

**Section 265: Inspection of Required Improvements:** This section requires inspection by the Town Engineer of all required improvements prior to acceptance to ascertain whether the improvements have been completed satisfactorily*.* ***CONDITION*** *–required improvements are subject to Town Engineer inspection and approval prior to* ***Final Plat****. No building permits will be issued until satisfactory review has been conducted.*

**Section 270 – Final Plat decision.** Not applicable for Preliminary Plat approval.

**Section 271 – Filing Final Plat.** Not Applicable for Preliminary Plat approval.

**Article III. Design and Development Standards and Required Improvements for Subdivision of Land.**

**Section 305 Planning and Design Standards**

The Applicant testified that the proposed subdivision meets all of the requirements of this Section and believes the minimum standards in the Subdivision Regulations have been met and are sufficient to protect and provide for the public health, safety, or welfare and that higher standards should not be required.

**Section 310. Required Improvements**

This Section requires that “required improvements shall be installed to the satisfaction of the Town Engineer prior to Final Plat approval, or alternatively, the subdivider shall post a performance bond.” Required improvements are: monuments, streets, sidewalks, street signs, street lights, curbs, gutters, water mains, sanitary sewers, storm drains, fire hydrants and trees. *See discussion above under Sections 250 and 265.*

**From Section 320. Streets, Design Standards.**

The Applicant testified that the proposed subdivision meets all of the requirements of this Section, except the minimum width of the traveled surface of the road. Mr. Murphy has requested a waiver from these standards. Specifically, he requests a **WAIVER** for a road width of 20’ with no shoulders for the reasons set forth in a letter of September 29, 2022 and testimony at the hearings. **WAIVER GRANTED** based on the testimony at the hearings and submissions plus (1) the road starts in Andover and the Andover Planning Commission approved the subdivision without any specifications for road width. The DRB believes that if the proposed road in Andover is going to be 20’ wide, it makes sense for the road in Weston to be 20’ wide. (2) The Weston Fire Chief by letter approved a 20’ wide road for the subdivision, and (3) report of the Weston Town engineer. *The waiver approval is subject to the following* ***CONDITIONS*** *based on the report of the Town Engineer:*

1. *The development road as proposed is approved in writing by emergency services.  (Applicant has a letter from the Fire Chief.)*
2. *The development road as proposed is used to access only 5 lots as shown on plans.  No additional lots or subdivision of lots should be allowed to access this development road without further review of road width waiver.*
3. *There are no future changes to the development road which would potentially allow it to be used as a “through road”.*
4. *Guardrails should be installed per VTRANS A-76 Standard.  Proposed guardrail locations should be noted on plans and should be reviewed by Town Engineer prior to Final Plat approval.*

**From Section 321. Streets, Planning Standards.**

The Applicant testified that the proposed subdivision meets all of the requirements of this Section, except that the Applicant is proposing a hammerhead turnaround instead of a cul de sac (section 10).

(10) - The Applicant requested a waiver for the hammerhead turn instead of *cul de sac*. By email dated 12/1/22 the Weston Fire Chief approved the hammerhead design as per the new recommendations from the State of Vermont. ***WAIVER GRANTED.***

*(7)* ***CONDITION:*** *A deed restriction will be included in each deed for the Weston lots requiring that the minimum setback for each lot is 100’.*

**From Section 325. Required Street Construction Standards**.

The Applicant testified that the proposed subdivision meets all of the requirements of this Section except road width and shoulders. *See discussion above Section 320.*

**From Section 330. Blocks – Planning and Design Standards**.

*Not Applicable. There are no blocks in the proposed subdivision.*

**From Section 331. Lots – Planning and Design Standards**.

The Applicant testified that the proposed subdivision meets or will meet all of the requirements of this Section. ***CONDITION:*** *deed restriction will be included in each deed for the Weston lots requiring that each driveway to the future houses on such lots will not exceed a grade of 10%. Subject to TOWN ENGINEER review.*

**From Section 335. Required Easements for Utilities, Drainage and Access.**

***CONDITION:*** *Part of legal data. Subject to TOWN ATTORNEY review.*

**From Section 336. Required Monuments.**

The Applicant asked for a **waiver**. ***WAIVER GRANTED*** *with specifications to be decided before* ***Final Plat.***

**From Section 337. Required Street Name Signs.**

Access road begins in Andover so they have control over the name. However, the Applicant may need approval from Weston Selectboard. ***CONDITION*** *to* ***Final Plat*** *approval.*

**From Sections 340 and 341. Required land for public parks and recreation purposes and Waiver.**

The Applicant requested a **waiver** from this requirement. ***WAIVER GRANTED*** *because there is already a lot of recreation land in Weston and there is not a Land Trust fund in Weston.*

**From Section 342. Required School sites.**

*Not applicable.* There are fewer than 100 homesites proposed in the subdivision.

**From Section 346. Preservation of Natural Features and Trees.**

The Applicant testified that the subdivision meets the requirements of Section 346(1) and submitted a plan regarding topsoil preservation. ***CONDITION*** *TO* ***Final Plat****.*

**From Section 350. Required Storm water drainage improvement.**

The Applicant testified that the subdivision meets the requirements of Section 350 and will apply for a State stormwater permit*.* ***CONDITION*** *to* ***Final Plat*** *approval. There was discussion about whether the storm water permit can be obtained before* ***Final Plat*** *approval. This subject will be discussed further in the* ***Final Plat*** *hearing.*

**From Section 351. Flood Land.**

*Not applicable.* This Section does not apply to the proposed subdivision.

**From Section 380. Required Public Utility Improvements**

1. Fire protection: hydrants. ***CONDITION*** *as specified by Weston Fire Department.*
2. Street Lights: ***WAIVER GRANTED***
3. Electricity: location subject to change*.* ***DEED CONDITION***.

This concluded the approval of the Preliminary Plat with conditions and waivers.

 **c. Discussion.** Mr. Murphy thanked the DRB for the approval. He raised questions about the required performance bond. Mr. Dakin presented his earlier proposal to waive the performance bond requirement on the condition that no lots could be sold until the road is complete. Mr. Murphy believes that this would protect buyers while also avoiding a large and unnecessarily burdensome expense on his part. Ms. Granquist cited Section 310 stating that either required improvements must be completed before Final Plat approval or the subdivider shall post a bond to protect the interests of the buyers and the town.

Mr. Murphy will be meeting with the Chaves construction company about beginning road construction in January hoping to complete it before posting a bond is necessary. He also expressed concern about the DRB requiring a condition that he get a stormwater permit before Final Plat approval because he does not think he can get the permits without DRB Final Plat approval first. He suggests that storm water permits be a condition of sale of the lots.

Town engineer Rizio asked what his concerns are stating that the storm water permit will depend on the road width which is now approved. Mr. Murphy expressed concern that the DRB may change its mind on Preliminary Plat approval, zoning regulations, or road width requirements which would require changes and make getting a stormwater permit difficult. Ms. Rizio said she thought that did not seem very likely. Mr. Lennox asked what is preventing the Applicant from applying “tomorrow” for the permit. Mr. Murphy finally responded that he thought they would be able to file the permit asap. Ms. Rizio said that they are not supposed to start constructing the road without the permit and for that matter they also need the wetlands permit before starting road construction. Mr. Murphy said he does not know if he agrees with that statement but if it is correct, he said it will be up to him to decide what to do and he realizes that if he goes ahead without permits, it would be at his risk. He also mentioned that they have a verbal ok on wetlands and a letter from the State, which he will give to the Zoning Administrator.

Mr. Rapanotti stated that the Final Plat will be identical to the approved Preliminary Plat with only the label Final Plat up-dated.

 **d. Next Steps.** The Chair then made a suggestion about next steps. The DRB is anxious to keep this matter moving along and procedurally move to Final Plat approval. The DRB will not hold a deliberative session before the next hearing date. Therefore, Ms. Granquist made the following proposal, subject to concurrence of the DRB members and the Applicant.

*Suggestion:* Recess this hearing until January date, assuming that the Applicant will provide the DRB with all documents necessary for Final Plat approval prior to the date of the hearing. (The DRB also will need information from the Town Attorney and the Town Engineer.) The DRB would open the recessed hearing. If the application for Final plat is complete and all the conditions to Preliminary Plat have been met, the DRB could move into Final Plat deliberations – time permitting. There was no objection to this proposal.

Mr. Lennox moved and Ms. Lyneis seconded **a motion to recess the hearing** until January 11, 2023 at 5:00 PM. The motion passed unanimously. The hearing adjourned at 6:26 PM.

**3. Hearing: Clapp Minor Subdivision.**

1. Ms. Granquist called the hearing to order at 6:30 PM. There were no disclosures of conflict of interest or *ex parte* communications. DRB member Katz recused herself and attended the hearing as a member of the public instead. Ms. Granquist explained that only participants have a right to appeal and she administered the oath of evidence.
2. The following members of the public were in attendance:

Andrew Clapp, Applicant

 Gary Rapanotti, Surveyor

 Doris Ingram, Abutter

 Elizabeth Swett, Abutter

 Dan Hanenberg, Abutter

 Laura Katz (remote)

David Katz (remote)

1. **Minor subdivision.** The Zoning Administrator confirmed that the application was complete and all required notices and postings have been made, including notifying abutters and posting a H-permit notice on the property. Ms. Granquist asked Mr. Clapp to explain his proposed project.The applicant proposes to divide an 11-acre parcel at 49 Trout Club Road into two lots each for single family dwellings (2.1 acres and 9.18 acres, respectively). A house already exists on the larger lot and he proposes to build a house on the smaller lot.
	1. **Section 502.** The proposed new lot does not have adequate frontage on Trout Club Road, but a permanent easement is planned across part of the larger lot to accommodate a driveway and underground utilities. The original plat, prepared by Gary Rapanotti, listed a 50-foot easement. On request of the Katzes, that width will be changed to 35 feet, which Mr. Rapanotti confirmed would be sufficient since the easement serves only one house. *Up-dating the plat from a 50-foot easement to 35 foot is a* ***CONDITION*** *of approval.*  Almon Crandall, on behalf of the Town of Weston, has approved the driveway access location.
	2. **Section 590.** The Zoning Administrator affirmed that the parcel has been in existence for more than 10 years. The new smaller lot will have access by way of a deeded legal right of way from Trout Club Road over the larger lot. The new lots, at 9.18 and 2.1 acres conform to the minimum lot size requirements of R District. A wastewater permit has been obtained for the new lot for a “mound” system, which does not need a replacement system. The replacement system for the existing lot is partially on the new smaller lot and there will be an easement for that system. Mr. Rapanotti testified that there is room for a house on the smaller that will be able to meet all setback requirements of Section 215 of the Zoning Regulations (Rural Low Intensity district) taking into consideration that there will be a mound system on the property.
	3. The DRB agreed that they had sufficient information to close the hearing and that they would hold a deliberative session after the hearing to discuss the application. Abutter Ingram, having owned her house for over 40 years, expressed concerns about the proposal, but accepts the plan as proposed.
	4. **Next steps.** Ms. Fujii moved and Ms. Morris seconded **the motion to close the Clapp hearing** at 7:12 PM. Approved unanimously. The DRB will issue a written decision within 45 days.

Respectfully submitted,

Debra Lyneis

Development Review Board Secretary