



**TOWN of WILMINGTON**  
**DEPARTMENT OF PLANNING & CONSERVATION**  
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TOWN OF WILMINGTON, MA

**Planning Board Minutes**  
**March 21, 2023**

The Planning Board met on Tuesday, March 21, 2023 at 7:00 p.m. in the Town Hall Auditorium, jointly with the Finance Committee to hear an Article on the Town Meeting Warrant for Annual Town Meeting, April 29, 2023. The following members were present: Terence Boland, Chairman; Randi Holland; Sean Hennigan, Angela Marcolina and Peter Moser. Valerie Gingrich, Director of Planning & Conservation, and Jayne Wierzbicki, Planner/Economic Development Coordinator were also present.

John Doherty, III, Finance Committee Chair, called the meeting to order and turned it over to Terence Boland to Chair the Planning Board public hearing on sale of Town-owned land.

T. Boland read the article in its entirety.

ARTICLE 42: To see if the Town will vote to authorize the transfer of the care, custody, management and control of a certain parcel of land owned by the Town of Wilmington hereafter described to the Selectmen of the Town of Wilmington, said land having been determined to be no longer needed for any municipal purpose, and for the express purpose of conveying the same, all in accordance with Massachusetts General Laws Chapter 30B; and further that the Selectmen be and hereby authorized to grant and convey such interest in the land as is owned by the Town of Wilmington and for the express purpose of constructing a municipal turnaround for Polk Street (formerly Cedar Street) upon such terms and conditions as shall be determined by the Selectmen in accordance with Chapter 3, Section 16 of the By-laws of the Inhabitants of the Town of Wilmington Revised. Said parcels and interest is described as a portion of Map 6, Parcels 33 and 34; more particularly described as lots 281, 282, 283, 2284 as shown on a plan of land entitled "Wilmington Gardens Addition" recorded with the Middlesex North Registry of Deeds Plan Book 26, Plan 36 and containing approximately 10,000 square feet of land for a sum no less than \$5,000; or take any other action related thereto.

**As Petitioned for by Mark Nelson and others**

M. Nelson, 12 Polk Street said the article as shown is only half of what is on the map, half of Parcel 33 & 34. He said this is an attempt to exhaust every possible remedy to satisfy the Planning Board's policy that a turnaround be provided before he can obtain a building permit for Polk Street. He said he invested 15 years and \$140,000.00 attempting to get a building permit to build a house for himself to retire in. M. Nelson said it's been over 9 lawsuits and if he spent over \$140,000.00 he's sure the Town spent over \$200,000.00. He said his request is simple. There are 4 lots, 25' wide by 100' that abuts his property part of Parcel 33 and Parcel 34. He said Polk Street is not a paper street. He said the Planning Board has a policy that if you have a paper street you need to file a 81G Application. He said he has a land court decision that was issued in 2000 after a 2-day trial of 1998 that private driveways are not subject to 81G. He said in 2012, ARTICLE 38 to get Polk Street added to the official map of the Town of Wilmington. He said the official map has not been updated since 1974. M. Nelson talked about the subdivision shown on a plan that goes back to 1909. He said in 1988 he signed a purchase and sale agreement to purchase the property. He said he developed the entire neighborhood. He showed plans and photos of his development. He said the property in question is on Polk Street. He said he

developed all of Walnut Street, Page Street, Poplar Street, Sharon Street and Polk Street. He said he's been developing real estate in the Town of Wilmington since 1984. M. Nelson said the petition is to buy 4 parcels to satisfy the Planning Board's policy that a cul-de-sac be developed. He said a cul-de-sac will not be built on 12 Polk Street through ledge and terrain. He said the Planning Board is looking to have him put a cul-de-sac on his property and give them an easement for emergency services. He said the Town wants an easement for plowing. He said he plowed the property for 35 years. He said they want an easement to sand and salt. M. Nelson said he has a private well, so he doesn't want it sanded or salted. He said he is trying to end 15 years of litigation and save the town money while being able to retire in a single family 2-bedroom home out in the middle of the woods.

T. Boland asked if there were any comments. Finance member, M. Gallezzo asked if the property has been deemed surplus. Town Manager, J. Hull said the Property Review Committee will meet tomorrow and he said he has not received any recommendation and there has been no action taken at this point. A new member of the Finance Committee asked why the Town would sell 10,000 square feet of land for \$5,000. J. Hull said in terms of surplus property, there is a process that the Town needs to go through. He said the first step is making a determination if the land is surplus to the Town's need. If a determination is made that that is the case, then a Request for Proposal is prepared and advertised so that anyone can respond. It would go to the highest qualified bidder. M. Nelson said the purpose of this article is to put a turnaround on it and for no other purpose. He said the language that should be put into any potential bid package is that the buyer has to build a turnaround or cul-de-sac on this property to satisfy the Planning Board. He said in 2009 when he developed 8 Sharon Street they went through REBA. He said part of the mediation was that the Town design the cul-de-sac for 8 Sharon Street as part of the settlement agreement to get the builders permit which took 20 years.

There were no further questions or concerns from the Finance Committee, Planning Board or audience.

### **The Planning Board reconvened in Room 9 to discuss and vote – Proposed Warrant Articles for 2023 Annual Town Meeting.**

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**As Petitioned for by Mark Nelson and others**

R. Holland said she has no objection if the Town deems it surplus. V. Gingrich told the Board they are making the recommendation that if the property is deemed surplus, should the Town sell it or keep it. T. Boland said if the lots no longer town-owned, can more houses be built in that area than there are now. R. Holland pointed out the lots together are only 10,000 sf. T. Boland asked if they are 50 x 200 so it's 100 x 200 and V. Gingrich said the Article is for just a portion of the entire lot. T. Boland said it couldn't be built on and combining it to one of the adjacent properties would not make it buildable. R. Holland commented that the maps don't show what lots have houses but V. Gingrich said a lot with T is Town-owned land. R. Holland said if it is deemed surplus she has no objection for the Town selling it. T. Boland said taking into account what the purpose is intended to be, it won't do what it is intended for. He said putting a turnaround there doesn't give the Town access to 12 Polk Street. There was a discussion on whether there is proper frontage and V. Gingrich said R20 would require 120' unless there was an extra 5,000 sf. then you could go down to 100' as a frontage exception lot. S. Hennigan asked if the street would need improvements and V. Gingrich said any roadway improvement would come in front of the Planning Board for review. S. Hennigan said the Board needs to just look at what is being presented. He said that Mr. Nelson said anyone buying the land needs to build a turnaround and feels that is not appropriate because anyone who buys land can do what they see fit. R. Holland said if they buy something that is 5,000 sf, they can't put a house on it. P. Moser said splitting two lots seems odd. V. Gingrich explained in the original parcel there were 8 small lots. R. Holland said they were 4x8x100. S. Hennigan asked if the Town owns the 4 lots, can the Town do anything with them? T. Boland asked what the method is to divide the parcel to deem them surplus. V. Gingrich said because there were 8 original lots you can split those lots up. V. Gingrich said to build a municipal turnaround, the Town would get an easement. She said since the Town already owns it, putting in a turnaround could happen today without selling the property. She said per the Subdivision Regulations, the typical cul-de-sac diameter can be 100'. T. Boland said his position is no because it can be done anyway. T. Boland said there are a few other steps to get there. S. Hennigan asked if there are any public safety issues with a turnaround in the middle of a neighborhood. R. Holland pointed out the distance Polk and Sharon Streets have pavement. She talked about a cul-de-sac that was built on 8 Sharon Street. T. Boland said he would not recommend selling this parcel if deemed surplus because a cul-de-sac could be built today, and he does not believe it does what the Article is intended to do. R. Holland asked if Polk Street is a paper street and T. Boland said yes. S. Hennigan said the petitioner said it is not a paper street. V. Gingrich said the right-of-way goes from Walnut to the Town open space. She said a portion of that is paved and was approved through a subdivision plan and the rest is a paper street. A. Marcolina said if the Board votes that if it is deemed surplus, and it can be sold and he can't do what he's looking to do, why would it matter. She said the Town is not going to do the work. S. Hennigan said the Article says municipal turnaround to be built but if he buys it, it becomes a private area and nobody else can use it. V. Gingrich named Commonwealth and Pomfret which have easements for Town vehicles to plow or drive. P. Moser asked if the Town could get into legal trouble if it specifies the purpose of the purchase is for a cul-de-sac. S. Hennigan said the Town can't put specific terms because if someone buys land, they don't want to be told what to do with it. R. Holland said the Town has sold land at a discount for someone to build a house on with a clause that says if you subdivide the property, you must pay the Town full market value. R. Holland said the Attorney General's office has to sign off if it's deemed surplus and a vote to sell passes at the Town Meeting. R. Holland made the motion if it is deemed surplus that it be sold and A. Marcolina seconded.

Upon motion duly made and seconded, with two in favor (R. Holland and A. Marcolina) and three opposed (T. Boland, S. Hennigan and P. Moser) it was

VOTED: To recommend the Town sell the property if deemed surplus.

T. Boland asked for a motion if the land is deemed surplus that the Town retains the property and S. Hennigan motioned and P. Moser seconded.

Upon motion duly made and seconded, with three in favor (T. Boland, S. Hennigan and P. Moser) and two opposed (R. Holland and A. Marcolina) it was

VOTED: To recommend the Town retain the property if deemed surplus.

There being no more business to come before the Board, it was unanimously

VOTED: To adjourn the meeting at 7:48 p.m.

NEXT PLANNING BOARD MEETING: April 4, 2023

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cheryl Lucciardi". The signature is fluid and cursive, with the first name "Cheryl" written in a larger, more prominent script than the last name "Lucciardi".

Cheryl Lucciardi  
Recording Clerk