



**TOWN OF WEST NEWBURY
OFFICE OF THE PLANNING BOARD
381 MAIN STREET
WEST NEWBURY MA 01985
978-363-1100 X125 Fax: 978-363-1119**

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2015 AUG 20 PM 1:21

**CERTIFICATE OF VOTE
APPROVAL OF SPECIAL PERMIT APPLICATIONS FOR
THREE REDUCED FRONTAGE LOTS and
TWO COMMON DRIVEWAYS WITH EACH SERVING TWO LOTS
720 MAIN STREET
WILLIAM AND MARY ANN DALEY
(Assessor's Map R-25, Lot 1)**

August 18, 2015

At a meeting of the West Newbury Planning Board (hereinafter the "Board") held on August 18, 2015, Board members voted to approve with Conditions the Applications filed for Special Permits for three Reduced Frontage Lots (Zoning Bylaw Section 6.A.1) and two Common Driveways with each serving two lots (Zoning Bylaw Section 7.D.) (hereinafter the "Applications") for 720 Main Street.

The application was received by the West Newbury Planning Board on March 26, 2015 and included Special Permit requests for three Reduced Frontage Lots and one Common Driveway to serve two lots. On May 26, 2015 the Planning Board received a request to modify the Applications to include a Special Permit request for one additional Common Driveway to serve two lots.

At the conclusion of the public hearing on August 18, 2015, Planning Board Members voted 5-0 (Bardeen, Bridges, Cook, Murphey and Sarkis in favor) (no one in opposition) to approve the Applications with conditions. The approval incorporates by reference all the plans and drawings noted below as submitted by William and Mary Ann Daley, (hereinafter the "Applicant/Owner") and to the Applicants' and Owners' heirs, successors and assigns as their interest may appear, subject to the Conditions of this Decision to be met. The Board responded to plans and Applications, which are incorporated by reference into this Decision. The submittal is further described as follows:

APPLICATIONS FILED:

- Application for three Reduced Frontage Lots (Lots 1A, 1B and 1C), Section 6.A.1. of the Zoning Bylaw, Received March 26, 2015.
- Application for a Common Driveway to serve two lots (Lots 1 and 1C), Section 7.D of the Zoning Bylaw, Received March 26, 2015.

- Request for Modification of Application for one additional Common Driveway to serve two lots (Lots 1A and 1B), received May 26, 2015.

OWNERS/APPLICANTS:

William and Mary Ann Daley, 125 Garden Street, West Newbury, MA 01985.

REFERENCES:

“Plan of Land Located in West Newbury, Massachusetts #720 Main Street West Newbury, MA Lots 1, 1A, 1B, 1C and Parcel A”; 3 sheets, dated 3/24/15, revised 4/29/15, 5/12/15, 5/21/15, 7/13/15 & 8/10/15; scale: 1”=40’, drawn by Engineering Land Services, LLC, P.O. Box 41, West Newbury, MA 01985.

Request for Waivers contained in a letter dated July 6, 2015 to the West Newbury Planning Board from William and Mary Ann Daley with the exception that a waiver from showing the drainage scheme on the plans is no longer needed.

FILING and PUBLIC HEARING INFORMATION:

The Applications were filed with the Planning Board as noted above on March 26, 2015 and May 26, 2015, were published in the Daily News of Newburyport on April 17, 2015, April 24, 2015, June 2, 2015 and June 9, 2015, were mailed to abutters and abutting communities on April 17, 2015 and May 27, 2015.

Copies of the Application package were distributed to the Board of Health, Building Inspector, Conservation Commission, Department of Public Works, Fire, Police, and Water Departments in compliance with Section II.2.a. of the Planning Board Rules and Regulations Governing Special Permits. Comments were received from Michael Gootee of the Water Department in emails dated May 5, 2015 and May 27, 2015.

The Public Hearing was opened on May 5, 2015 and was continued to May 19, 2015, June 2, 2015 (no discussion), June 16, 2015 (no discussion), July 7, 2015, July 21, 2015, August 4, 2015 (no discussion) and August 18, 2015. The Public Hearing was closed on August 18, 2015.

PLANNING BOARD MEMBER ATTENDANCE AND CERTIFICATION PURSUANT TO M.G.L. CHAPTER 39, §23D (AKA Mullen Rule).

Planning Board Members Ann Bardeen, Brian Murphey, and John Todd Sarkis were in attendance and voting at each meeting in which the public hearing was conducted. Associate Member B. Dennis Lucey was also in attendance during the public hearing.

Planning Board Members Raymond Cook and Richard Bridges were not in attendance at the July 7, 2015 meeting, but made Certifications pursuant to the Mullen Rule and were therefore eligible to vote.

DESCRIPTION OF PARCEL:

The parcel, located in the Residential C Zoning District, consists of 18.6 acres with 464.72 feet of frontage on Main Street.

ZONING REQUIREMENTS AND REDUCED FRONTAGE LOTS:

In the Residential C District, the minimum Frontage for a Reduced Frontage Lot is 100-feet; the minimum Lot Area for a Reduced Frontage Lot is 40,000 square feet; and the minimum Contiguous and Buildable Area (CBA) requirement is 30,000 square feet.

| LOT NUMBER | FRONTAGE IN FEET | AREA IN SQUARE FEET | AREA IN ACRES | CONTIGUOUS AND BUILDABLE AREA (CBA) IN SQUARE FEET |
|------------|------------------|---------------------|---------------|--|
| 1A | 101 | 105,371 | 2.41 | 105,371 |
| 1B | 101 | 100,502 | 2.3 | 100,502 |
| 1C | 101 | 213,335 | 4.89 | 213,335 |

For the Reduced Frontage Lots, the Planning Board has determined that Lots 1, 1A, 1B and 1C meet the requirements of Zoning Bylaw Sections 6.A.1., a through f.

ZONING REQUIREMENTS AND COMMON DRIVEWAYS:

See the approved Special Permit Plans referenced in this decision for the approved Common Driveway layouts. For the lots served by the Common Driveways, the Planning Board has determined that adequate frontage and access exist on Main Street for each lot, in compliance with Section 7.D.4. of the Zoning Bylaw.

WAIVERS GRANTED:

The Owner has requested and the Planning Board hereby approves waivers contained in a letter dated July 6, 2015 to the West Newbury Planning Board from William and Mary Ann Daley pursuant to Section II.5.4 of the Planning Board's Rules and Regulations Governing Special Permits (hereinafter "the Rules") as follows:

Waivers from Section II.5.1 and II.5.4 of the Rules:

J. Existing and proposed utilities – gas line, electric, telephone and cable

L. Floodplain elevation

M. Elevations and perspective drawings

N. Structural details and cross sections needed to explain the proposal

O. Proposed screening, surfacing, exterior storage, lighting, landscaping, including fences, walls, planting areas, and signs

FINDINGS FOR APPLICATIONS FOR REDUCED FRONTAGE LOTS AND COMMON DRIVEWAY SPECIAL PERMITS:

- A. Pursuant to Section 6.A.1.h. of the Zoning Bylaw (Reduced Frontage Lot Special Permit), the Planning Board found that the proposed reduced frontage lots will not interfere with the use and enjoyment of abutting lots and will not adversely affect the neighborhood as the lots are well above the required minimum lot area for the Residence-C Zoning District.
- B. Pursuant to Section 7.D. of the Zoning Bylaw (Common Driveways), the Planning Board found that the proposed common driveways provide a reasonable public benefit, which would not otherwise be obtained without use of common driveways including the reduction in the number of curb openings on Main Street, which would have been in close proximity to the entrance to the Page Elementary School.
- C. Pursuant to Section 8A.2.f. of the Zoning Bylaw, the Planning Board made the following findings:
 - 1. The specific site is an appropriate location for the use.
 - 2. The use developed will not adversely affect the neighborhood.
 - 3. There will not be an undue nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities have been provided to ensure the proper operation of the proposal.
 - 4. The proposed use is in harmony with the general purpose of the West Newbury Zoning Bylaw as amended.
 - 5. The requested use will not overload any public water, drainage, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting health, safety or the general welfare.

CONDITIONS OF APPROVAL:

A. Conditions of Approval, Reduced Frontage Lots, Section 6.A.1.

In compliance with Section 6.A.1.f. of the Zoning Bylaw, a restriction shall be placed on the deed for Lots 1A, 1B and 1C as follows: "The subject lot has been approved by a Reduced Frontage Special Permit, and it shall not be further subdivided, reduced in area, and/or changed in size or shape. This restriction shall remain in effect in perpetuity." This restriction is also shown on the approved Special Permit Plan.

of \$2,000. Any unused funds, with interest, shall be returned to the Applicants upon project completion.

ADMINISTRATION:

Following the expiration of the applicable appeal periods, the Applicant shall record this endorsed Certificate of Vote, the approved Special Permit Plan and the Declaration at the Registry of Deeds. The Applicant shall also secure a statement for recording from the West Newbury Town Clerk, indicating that the applicable appeal periods have lapsed and that there have been no appeals or that if any appeal has been filed that it has been dismissed or denied. A copy of the recorded documents shall be returned to the Planning Board.

Following recording of this Certificate of Vote, the approved Special Permit Plan and the Declaration and prior to application for Building Permits, the Applicant shall submit an Approval Not Required Plan (ANR Plan) to the Planning Board for endorsement, in compliance with the requirements of MGL Chapter 41, Section 81 and the Town of West Newbury Rules and Regulations Governing the Subdivision of Land. The ANR Plan shall include the following notations:

- “Lots 1A, 1B and 1C have been approved by a Reduced Frontage Special Permit, and in accordance with Section 6.A.1.f. of the Zoning Bylaw, and it shall not be further subdivided, reduced in area, and/or changed in size or shape.”
- “The Planning Board Certificate of Vote for the Common Driveways and Reduced Frontage Special Permits is recorded at the Southern Essex Registry of Deeds in Book ____, Page ____, and the Plan is recorded in Book ____, Plan ____.”
- “See Declaration of Easement and Common Driveway Maintenance Covenant Recorded Herewith”

Lots 1, 1A, 1B and 1C shall not be sold or transferred until all the documents listed above have been recorded at the Registry of Deeds.

All applicable laws, bylaws, rules, regulations, and codes of state law, federal law, and the Town of West Newbury shall be complied with, and the Owner shall obtain all necessary permits, licenses, and variances, as applicable.

The action of the Planning Board does not waive or alter any other permit or approval requirements, including, but not limited to, those of the Board of Health, the Inspection Department, and the Conservation Commission.

No further amendment, alteration, waiver or other change in the Special Permit shall occur other than compliance with the procedures for Modifications in Section 8.A.2.g.4 of the Zoning Bylaw.

In accordance with Section 8.A.2.h. of the Town of West Newbury Zoning Bylaw, this approval shall lapse within two years from the date of the Planning Board's filing of this Certificate of Vote with the Town Clerk (August 20, 2017), if a substantial use thereof has not sooner

commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

For the Reduced Frontage Lots, filing and recording of the ANR Plan under M.G.L. Chapter 41 Section 81, and Planning Board Subdivision Regulations, and all required documents, shall fulfill this obligation. For the Common Driveways, construction of the proposed Common Driveways must be substantially commenced by the specified date of August 20, 2017.

The Conditions of this Special Permit shall run with the land and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The owners and purchasers of all lots shall be forever bound by all applicable conditions and restrictions contained in this Certificate of Vote.

APPEALS: Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the filing of this Notice of Certificate of Vote in the Office of the Town Clerk of the Town of West Newbury.

CERTIFICATE OF VOTE
720 MAIN STREET
WILLIAM AND MARY ANN DALEY

At a meeting of the West Newbury Planning Board held on August 18, 2015, Board Members voted to approve the Applications for Special Permits for three Reduced Frontage Lots and two Common Driveways subject to the following:

- Final Certificate of Vote and Conditions, as approved by the Board,
- Final Plans, as approved by the Board,
- Other documents, as referenced in the Certificate of Vote.

The Vote was as follows:

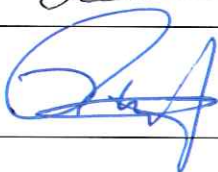
Ann E. Bardeen

In favor



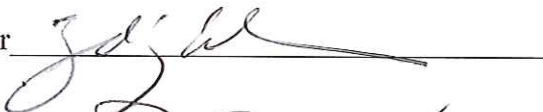
Richard W. Bridges

In favor



Raymond A. Cook

In favor



Brian R. Murphey

In favor



John Todd Sarkis

In favor

