

WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
August 15, 2017

Pursuant to a meeting notice posted by the Town Clerk that was delivered to all Board members, a meeting of the West Newbury Planning Board was held on August 15, 2017 in the 2nd floor Hearing Room at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Brian Murphey, John Sarkis, Raymond Cook, and Richard Bridges were in attendance. Town Planner Leah Zambarnardi was also in attendance.

The meeting was called to order at 7:00 PM

Discussion and Possible Decision related to Special Permit Application for a Common Driveway – 151 & 153 Middle Street – Haddock Realty Trust (Owner); Tom Cook, Jr. (Applicant)

Zambarnardi stated that the public hearing was closed on July 13, 2017, and that Meridian has signed off on the plans. Zambarnardi stated that Meridian gave an estimated cost of \$1,400 for inspections. Robert Blanchett, Civil Engineer for Cammett Engineering, stated that the applicant agreed with Meridian's comments.

Sarkis made a motion to approve the plan with the request for waivers contained in the letter dated June 20, 2017 from Robert B. Blanchette, Jr., P.E., Cammett Engineering to the West Newbury Planning Board, pursuant to section ii.5.4 of the Planning Board's rules and regulations governing special permits as follows:

- a. Section II.5.1.j - Proposed Utilities
A waiver was requested from the requirements of this section due to the unknown nature in which certain utilities (telephone, cable tv, and electricity) will be installed per the privately-owned utility provider's requirements (underground or aerial).
- b. Section II.5.1.m - Elevation and Perspective Drawings
A waiver was requested from the requirements of this section due to the small size and nature of this project (two single family houses).
- c. Section II.5.1.o – Screening Information
A waiver was requested from the requirements of this section due to the small size and nature of this project (two single family houses).

Sarkis made a motion to approve the following findings of fact pursuant to section 7.D "Common Driveways".

- a. The common driveway provides a reasonable public benefit, which would not otherwise be obtained without use of a common driveway. Said benefit includes the reduction in the number of curb openings onto Middle Street.
- b. Both lots have frontage on an acceptable way as defined in MGL C.40 §81-L, and each lot frontage provides the possibility of reasonable practical access from the proposed structure or use to the way without using a common driveway.
- c. The common driveway meets the dimensional and construction standards of the Town of West Newbury minor roadway standards as are outlined in the West Newbury Subdivision Regulations.

West Newbury Planning Board, Minutes, August 15, 2017. Approved November 6, 2017.

Sarkis made a motion to make the following finding of fact for a special permit pursuant to section 8A.2.f of the zoning bylaw:

- a. The specific site is an appropriate location for the use.
- b. The use developed will not adversely affect the neighborhood.
- c. 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.
- d. The proposed use is in harmony with the general purpose of the West Newbury Zoning Bylaw as amended.
- e. 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.

Sarkis made a motion to approve the request for a “special permit application for a common driveway serving two lots at 151 & 153 Middle St, shown on the plan set entitled: “Special Permit Common Driveway, 151 and 153 Middle Street, West Newbury, MA” drawn by Cammett Engineering, 297 Elm Street, Amesbury, MA, which includes 5 sheets. Subject to the following conditions of approval:

- a. No more than three residential lots shall ever be served by the common driveway.
- b. The length of the common driveway shall not be used to satisfy zoning frontage requirements.
- c. The easement or easement conditions obtained by the future owners of 151 Middle Street (Lot 4) over 153 Middle Street (Lot 5) is subject to the approval of the Planning Board.
- d. Prior to construction of the common driveway, covenant restrictions for the proper maintenance of the common driveways by all affected property owners are required. The Declaration of Easement and the Common Driveway Maintenance Covenant shall be recorded at the Registry of Deeds, Essex County South and referenced on the plan. Copies shall be provided to the Planning Board.
- e. The Town of West Newbury is not responsible for repair, maintenance, plowing or snow and ice control of the Common Driveway. This is the responsibility of the owners, and shall be noted in the Common Driveway Maintenance Covenant as in perpetuity.
- f. Future lot owners shall not petition the Board of Selectmen for repair, maintenance, plowing, or snow and ice control of the Common Driveway. This Condition shall be noted in the Common Driveway Maintenance Covenant as in perpetuity.
- g. The project shall be constructed in accordance with the above-referenced plans. 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.
- h. House numbers for each lot shall be posted at the intersection of the Common Driveway and the private driveway.
- i. Inspection Services: the Planning Board shall retain the services of an outside consultant, for construction inspection services at the Applicant’s expense. Said services shall guarantee compliance with this Certificate of Vote, the approved Special Permit and ANR plans and the applicable Zoning and Subdivision Bylaws. The Applicant shall establish an Escrow Account for said inspections, with an initial deposit of \$1,400. Any unused funds, with interest, shall be returned to the Applicants upon project completion.

All the motions were seconded by Cook and they carried 5-0-0.

West Newbury Planning Board, Minutes, August 15, 2017. Approved November 6, 2017.

Zambernardi stated that she has drafted a certificate of vote, and will provide it for the Board to sign later this evening.

7:30 PM Continued Concurrent Public Hearings related to an Open Space Preservation Development at 365 Main St. and 34 Meetinghouse Hill Road (aka Drakes Landing) – William Daley (Owner); Cottage Advisors, LLC (Applicant) – On the following requests:

a. Request for Modification of Special Permit issued on January 31, 2017 related to the residential unit sizes;

b. Site Plan Review pursuant to Section 8.B of the West Newbury Zoning Bylaw

a. Request for Modification of Special Permit issued on January 31, 2017 related to the residential unit sizes;

Sarkis made a motion to close the public hearing on the request for modification of special permit issued on January 31, 2017 related to residential unit sizes. Seconded by Murphey and it carried 5-0-0.

Sarkis made a motion to the following finding of fact pursuant to section 8A.2.f of the Zoning Bylaw:

- a. The specific site is an appropriate location for the use.
- b. The use developed will not adversely affect the neighborhood.
- c. 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.
- d. The proposed use is in harmony with the general purpose of the West Newbury Zoning Bylaw as amended.
- e. 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.

Seconded by Cook, and it carried 5-0-0.

Sarkis made a motion to approve the request for a major modification of the special permit for an open space preservation development at Drakes Landing by:

1. Modifying Condition Number Four (4) of the Special Permit to allow for an “add on” option on the B style units of 440 square feet, in accordance with the plans submitted.
2. Modifying Condition Number Four (4) of the Special Permit to allow for an “add on” option on the D style units of 265 square feet, in accordance with the plans submitted.
3. Modifying Condition Number Four (4) of the Special Permit to allow that the base size of a small duplex (aka “Unit E”) have a maximum living space of 1200 square feet, in accordance with the plans submitted.
4. Modifying Condition Number Four (4) of the Special Permit to allow for an “add on” to the 2-bedroom small duplex (aka “Unit E”) of 184 square feet, in accordance with the plans submitted.
5. Modifying Condition Number Four (4) of the Special Permit to allow for a third bedroom add-on option within the small duplex style units (aka “Unit E”), which is allowed by review of the

West Newbury Planning Board, Minutes, August 15, 2017. Approved November 6, 2017.

Planning Board as a modification (see Condition Three (3) of the Special Permit). The requested maximum living space is 1520 square feet, in accordance with the plans submitted.

6. Modifying Condition Number Four (4) of the Special Permit to allow for an “add on” to the three-bedroom small duplex unit (aka “Unit E”) of 264 square feet, in accordance with the plans submitted.
7. Accepting the Architectural Elevation Plans and Building Footprint Plans prepared by Architect Scott M. Brown, 29 Water Street, Suite 209, Newburyport, containing 32 sheets and the Chart entitled “Drakes Landing Cottage Sizes”, received from Cottage Advisors, dated August 1, 2017 and incorporating them into the approved Special Permit Plans herein by reference.

All other stipulations of the Special Permit shall remain in full force and effect. This Major Modification to the Special Permit shall not be construed as being determinant of the placement of unit types within the site.

The motion was seconded by Murphey, and the motion passed 5-0-0.

b. Site Plan Review pursuant to Section 8.B of the West Newbury Zoning Bylaw

Melissa Robbins stated that the Fire Chief approved the proposed turning radius, and shared the email with the Board. Robert Blanchett stated that he had met with the water department and that they had made all their requested changes to the plans. Robbins stated that the next step is to enter a contract and file for a water service application.

Robbins stated that Conservation Commission requested that there be a retaining wall in place in lieu of the grading. The Conservation Commission had previously agreed that there would not be a retaining wall but they have since changed their mind. Hall stated that the height would be 5ft. He explained that he can plant some wetland plantings along the wall. The Board stated their concern that that they are not in favor of the retaining wall and feel the view shed will not be appealing if one is put in place. Hall stated when driving by the entrance you will only see the guard rail not the retaining wall. Bridges and Cook don't feel that the retaining wall is appropriate within an OSPD plan.

The Board requested that Zambarnardi invite the Conservation Commission to a joint public meeting on September 5, 2017 to discuss the retaining wall.

Robbins stated that they will have a final letter from Meridian on September 5, 2017. Zambarnardi stated she will work with Robbins on having an outline with suggested conditions on each topic that will guide the Board for review and discussion.

The Board had previously requested that the Selectmen attend the meeting to discuss the Carr Post. Joe Anderson, Selectmen, apologized for stepping over bounds of the Planning Board by signing a contract with the developer without first speaking with the Board. He further stated that they (Selectmen) wanted to relocate the parking from the front to the rear. He stated that the Selectmen feel if there are fewer parking spaces then people will be parking on 113. He also stated that if forced to use the front of the building then the requested curb cut will not be granted given the fact that all the space would be needed. David Archibald, Chair of the Selectmen, stated that parking in the front poses a safety concern since there are no site lines, and that there is not a safe exit from the front of the building. Archibald stated that the building is public and that there would be no use for the building with limited parking, and that more West Newbury Planning Board, Minutes, August 15, 2017. Approved November 6, 2017.

parking is better for a public building. Murphey stated there is no use yet for the building, and the town may or may not sell it. He stated his concern for designing a parking lot for an unknown use. Murphey recommended that an agreement be made with the developer that funds be set aside to be used later once a use is determined, and at that time a parking lot can be properly designed. He stated that the Board's Engineer could come up with a cost to create the parking lot, and that those funds could be set aside within the agreement.

Cook recommend reserving that space and that area, and figure out the final design at a town meeting. He stated that if the parking lot is created now it won't be used, and in the future it can be designed as needed. He also concurred with Murphey on having an agreement with the developer regarding setting aside funds for the property. Cook proposed where an appropriate location would be to have a few spaces off the new curb cut so that people can enter the building. Archibald is concerned that if they wait to design the parking lot, then the opportunities for use would be diminished. Cook also stated that the pavement would have to be maintained even though the parking lot would serve no use for the building.

Bardeen stated the building is on a very small lot, it doesn't have room for parking or septic, and she doesn't foresee sufficient parking for any use other than a single-family residence. She recommended to have handicap spaces at the building, and have concessions where there could be parking elsewhere. Bardeen also agrees with having an easement for future parking.

Sarkis stated that the value of the curb cut is to have space to create up to 12 parking spaces, and that terms of the easement would be in the town's best interest. Robbins stated that it would be easy to setup an easement area for parking.

Sarkis stated that the plan shows 4 spaces (#'s 5-10) created on land owned by two parties. Robbins stated that is an easy adjustment, and that presented plan is a conceptual plan.

Hall proposed another concept, that wouldn't involve a parking lot and Blanchett showed that to the Board and public attendees.

Bridges recommended an idea to keep the westerly curb cut, remove the other and then brainstorm more parking ideas. He suggested coming to an agreement while still maintaining rights to the land for parking, keeping one access point off Main Street. Bridges also stated that other towns use other developed existing parking lots, and doesn't feel that the public is being burdened with walking to the building if parking would be designated to another area. Bridges stated that \$90k of CPC money has been spent to limit the degradation of the building, and that more would be spent to rehab the building. He stated that there is a possibility the town will not vote to use more CPC money for the building. He recommended that if there is an easement agreement that the terms state that the residents have a say in its use. He also suggested that the Selectmen look again at the proposed parking spaces.

Sarkis stated that if the parking lot is not built now, that due to wetlands and the buffer zone, the Town might not be able to build it in the future. He stated that the best thing to do is agree to a number of spaces and build the lot now. Sarkis stated that for retail space there can be 4-6 spaces for every 1000 ft.

Maura McCarthy, 357 Main St, had previously sent a letter stating her concern for the parking lot. She stated that while they love the building, that parking lot would ruin their property, and the potential is devastating. She is concerned with the property value, and the safety of her property. She stated that the parking lot is not necessary if the usage of the building is not defined.

West Newbury Planning Board, Minutes, August 15, 2017. Approved November 6, 2017.

Brad Buschur, 347 Main St., questioned whether the developer would be responsible to design the storm water treatment facilities now to accommodate the parking lot, if its construction were put on hold. Sarkis stated that drainage facilities are already created for the parking lot, and that the Board would want it to be sized for a future parking lot. He also questioned if there would be an escalator clause to ensure that the cost is similar to what it would cost for the future. He also questioned if brought to market, would it be more beneficial to the tax payers to have the infrastructure in place ahead of time. Cook stated that unfortunately they can't predict the future, and in some circumstances, while money has been invested into assets, they have been taken down.

The Board and the Selectmen agreed to have a public on-site visit at the Carr Post on Thursday August 17, 2017 at 12:00pm. Sarkis made a motion to continue the public hearing to September 5, 2017 at 7:30pm. Zambenardi requested a written ascent from the applicant to continue the public hearing.

Request for Project Closeout and Release from Tri-Partite Agreement – Cottages at River Hill – Follinsbee Lane – Cottages Advisors, LLC

Melissa Robbins stated that they had made the request for the final bond release due to the final letter from Meridian closing out the engineering issues, as well as receiving the Certificate of Compliance from the Conservation Commission. Zambenardi stated that she received a letter from Marlene Switzer, a resident of the development, stating that 35 ft of the curb is yet to be constructed on the right side of the entrance to the development. Zambenardi read a letter from Charlie Weir regarding the matter. He stated that he has not been to the development to make an opinion on this matter, but advised Hall to present it to the Board. The letter stated that if necessary he will make a site visit. Hall presented a picture of the curb to the Planning Board, which shows the curb being elevated a couple of inches off the road, and then it flattens out. Hall stated that the primary purpose is to keep the water in the road to be able to get to the catch basin. He stated that there is no erosion on the site itself, and it's functioning as it should. It also provides a better area around the mail stop.

Murphey and Bridges stated that the curb as it is doesn't appear that it will hold a lot of water. Hall stated that the curbing has been there for over a year, with plenty of rain events and that there hasn't been an issue. Bridges advised that they refer this to the Meridian. Cook and Sarkis concurred that this will not likely cause an issue, but that it should have been done right in the first place.

Marlene Switzer, 13 Follinsbee Ln, stated that she took pictures from a different view which portrays where water funnels and that it slopes into the wetlands and the parking area. She requested an opinion from the engineer before the Board decides, because ultimately the residents will have to pay for any damage that is done.

Zambenardi stated she looked at the site, and that pervious pavers were being installed at three of the homes. She stated the Board had denied a minor modification request for pervious pavers in October 2015. At that time, the Board had discussed that once Hall is no longer part of the project, the Board is out of the picture and it will be the decision of the homeowner's association. Zambenardi stated that Hall still has an obligation through the performance bond. She also stated that she has received multiple calls stating that people met with the Conservation Commission, and took their permission as the "go ahead" to install the pavers. The Board agreed that it's the decision of the home owner's association.

West Newbury Planning Board, Minutes, August 15, 2017. Approved November 6, 2017.

Christine Kiezulas, 1 Follinsbee Ln, stated that the pavers look nice and that they are different than the previous ones.

Zambernardi stated that Marlene Switzer expressed her concern for the walking trail particularly near the septic area, as well as the presence of the wood chips. Switzer presented the Board with a sample of the wood chips, as well as pictures of the slope next to the septic. Switzer stated that water is rushing off the mound and keeping anything from growing. Switzer stated that the septic vents are exposed which can easily get damaged. She explained that eventually the trail will connect to another trail in the Neve parcel which will be stone dust. She stated that the way the plan was written describes that wood chips would be placed, but it was never perceived that the wood chips would be the condition they are in. She stated that the homeowner's association includes stipulations about the mowing of the trails, and that trail is not able to be mowed. She proposed a new location for the trails, and that the pipes be not be part of the trail. Her proposal would move the trail over 10ft.

Zambernardi stated that while the plan indicates that decomposed bark mulch would be laid, wood chips were laid down. She stated that it was discussed and agreed that the wood chips would be overtaken by grass and weeds and that it would be mowed to be maintained. She stated that since that discussion, that is indeed what has occurred. Hall stated that throughout the plan it indicated bark mulch and wood chips in differing locations. When installed the engineering plans were reviewed rather than the landscaping plans which stated bark mulch. He also stated that the trail is in the easement as specified on the plans. Zambernardi confirmed that Meridian did sign off on the trail location shown on the plans.

Sarkis stated that the wood chips will most likely rot in two years or so, deteriorate, and weeds will come through. Bridges stated that the trail has a slope which makes it difficult to walk on as well as being narrow and feels that it doesn't seem to be a passable trail. Robbins stated that the Conservation Commission has walked the trails and signed off on them, and that they were recently on site for the certificate of compliance. Blanchett stated that he walked the trails with Jay Smith from the Conservation Commission.

Jane Martin, Follinsbee Ln, questioned if there is a town standard for the trails. Board Members replied that there is not a standard. She questioned what the association is responsible for regarding a neighbor's tree falling on the trail. Switzer stated that the documentation states that the association would be responsible for those matters.

Sarkis requested that Meridian review the site as well as the Board if necessary before the September 5, 2017 meeting. Cook made a request that Meridian review the curb at the entrance of the development. Melissa Robbins stated the trail relocation and maintenance is the decision of the Conservation Commission.

Sarkis made a motion to extend the tri-partite agreement, to September 6, 2017. Seconded by Bardeen, and it carried 5-0-0.

General Business -

289 Main St. (former Brunault Property) – Updates.

Zambernardi had previously forwarded an email to the Board from McCarron stating the facts pertaining to the applicant going to the ZBA rather the Planning Board. She stated that the hearing is scheduled for August 23, 2017 with the Zoning Board, and that three applications are required. The three applications

West Newbury Planning Board, Minutes, August 15, 2017. Approved November 6, 2017.

will be the following: a request for a conventional variance for the set-back on the building and the use of the gas service from the ZBA, and site plan approval from the Planning Board. Zambarnardi stated that the applicant is not requesting a canopy over the gasoline pumps.

720 Main St. – Updates

Zambarnardi stated that she will share Meridian's inspection reports with the Board.

Minutes – June 20, 2017, July 13, 2017

Sarkis made a motion to accept the June 20, 2017 Meeting Minutes with minor corrections. Seconded by Bardeen and it carried 5-0-0.

Sarkis made a motion to accept the July 13, 2017 Meeting Minutes as amended. Seconded by Bardeen and it carried 5-0-0.

Vouchers -

Zambarnardi had vouchers for Meridian and payroll.

Correspondence –

Zambarnardi stated that Mary Winglass sent an email out to the department heads and committee chairs with the selectmen goals, and requested FY18 objectives and reviews no later than September 29.

She also stated they received a letter from the Attorney General's office stating that the signs bylaw is approved.

The meeting was adjourned at 10pm.

Submitted by,

Lori Dawidowicz
Recording Secretary