

WEST NEWBURY PLANNING BOARD

MINUTES

October 1, 2019 7:00 p.m.

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 October 1, 2019 at 7:00pm in the 2nd Floor Hearing Room at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Richard Bridges, Raymond Cook, Tim Cronin, Brian Murphey, and Wendy Reed were present. Town Planner Leah Zambernardi was also in attendance.

Call to Order

Chair Murphey called the meeting to order at 7:03 PM.

Murphey reported on the Board of Selectmen's September 30, 2019 meeting. The Selectmen did not support the Planning Board's position that the Public Safety Building sign was non-compliant with existing Town by-laws, and that a variance should have been obtained. Cook noted that the Planning Board sought to engage legal counsel, but was denied by the Board of Selectmen. He cited the autonomy of elected boards to engage legal counsel. The Board discussed contacting the Mass. Attorney General's office. Cronin will follow up.

7:15 p.m. Public Hearing - Amendments to the Zoning Bylaw sponsored by Planning Board:

Chair Murphey opened the public meeting at 7:18 PM. Bardeen read the notice of the Public Hearing at 7:19 PM.

The West Newbury Planning Board will hold a public hearing on Tuesday, October 1, 2019, beginning at 7:15 p.m. in the 2nd Floor Hearing Room, Town Office Building, 381 Main Street, West Newbury MA, in accordance with M.G.L. Ch. 40A, S. 5 to consider amendments to the Zoning Bylaw as follows: 1) Update Definitions S.2. with revised and new definitions; 2) Add "Section 40" to the term, "Massachusetts General Laws Chapter 131" each time it occurs to clarify reference to the state Wetlands Protection Act; 3) Update S.4.B.1.b. relating to exempt uses (agriculture, horticulture, floriculture and viticulture) by replacing it with updated language aligning with M.G.L. Ch.40A, S.3; 4) Amend S. 5.A.4. Uses Permitted in the Residence B and C Districts on a Special Permit Granted by the Planning Board to clarify that such uses are subject to S.8.B. Site Plan Review; and to correct a scrivener's error regarding the number of units allowed by Special Permit. The proposals may be viewed at the Town Clerk or Planning Board Offices, Town Office Building during regular business hours. Any person interested or wishing to be heard on the proposal should appear at the time and place designated above. Ann E. Bardeen, Clerk

Murphey summarized the proposal as follows:

- 1) Update Definitions S.2. with revised and new definitions;
- 2) Add "Section 40" to the term, "Massachusetts General Laws Chapter 131" each time it occurs to clarify reference to the state Wetlands Protection Act;
- 3) Update S.4.B.1.b. relating to exempt uses (agriculture, horticulture, floriculture and viticulture) by replacing it with updated language aligning with M.G.L. Ch.40A, S.3; 4) Amend S. 5.A.4. Uses Permitted

in the Residence B and C Districts on a Special Permit Granted by the Planning Board to clarify that such uses are subject to S.8.B. Site Plan Review; and to correct a scrivener's error regarding the number of units allowed by Special Permit.

Murphey noted that there were no Members of the public wishing to speak on the matter. He then asked the Board for comment. Hearing none, Murphy moved to close the Public Hearing at 7:20 PM. Bardeen seconded and the motion carried 5-0.

Murphey moved to recommend to Town Meeting that is approve Articles 1, 2, 3, and 4. Bridges seconded and the motion carried 5-0.

Sullivan's Court Extension Definitive Plan and Special Permit (Approved 2015)

Review of Grade Changes to 9 Sullivan's Court – Requested by Scott Brown, Architect for John and Joann McGrath, Owners

Architect Scott Brown, addressed the Board regarding lot #3. He noted changes from the approved plan including the house's smaller than originally proposed footprint, and suggested topographical changes to manage water.

The Board discussed its concerns about drainage, noting that the topographical plan (10/19/19) indicated a swale vs. the site plan's proposed drain. David Kelley from Meridian addressed the swale, agreeing with Cook that there is room for the swale.

Zambernardi noted the change would be a field change. Brown will modify the drawing. He will ask his clients to deal with the builder, Thomas Neve, regarding installation of a planned Beehive drain. Neve is bonded. Zambernardi provided Brown with the bonding information.

Documents Reviewed:

Sullivan Ct LotNo3 Minor Modification Letter, dated September 30, 2019 from Scott M. Brown to WNPB

Review of Request for Assignment of Permits for 9 Sullivan's Court from Project Developer Thomas Neve to John and Joann McGrath, Owners – Requested by Thomas Neve, Walker Development

Zambernardi reported that Mr. Neve had requested the Board assign permits to the McGraths now that they have purchased the property. She asked the Board to send a letter to Neve noting his responsibility for project completion. Cronin suggested the letter include reference to the required trails. There is a bond to secure project completion. The bond does not limit Neve's liability, allowing the Town recourse should he not meet the permit requirements.

Murphey asked Zambernardi to invite Town Counsel McCarron to Executive Session at the Board's next meeting.

Documents Reviewed:

Sullivans Court Lot 3 Minor modification Letter, dated Sept. 30, 2019 Scott Brown

McGrath TopographyAsBuilt5-10-19.pdf, dated 5/9/19

McGrathResidence ProposedSitePlan.pdf dated 6/7/19

McGrathResidence SitePlanComparison.pdf dated 9/25/19

Neve email Request re: 9 Sullivans Court 9-26.pdf, dated 9/26/19

Discussion of Work Planning/Prioritization

Zambernardi asked the Board for additional time to review and prioritize the 2011-2012 Planning recommendations, and to research accessory dwellings. She noted that public feedback would be beneficial. She further noted the Department of Energy Resources will release its Large Scale Solar guidelines at the end of the year.

Reed noted the Town does not have a clean fill bylaw. She noted that the Conservation Commission regulates this through issuance of Orders of Conditions at this point in time. She will look for examples of other Clean Fill Bylaws.

General Business

Updates – 519 Main St. - Zambernardi had met with the new property owner who had purchased without contingencies. They discussed OSPD bylaw. The owner was not aware of certain limits.

Vouchers

The Board signed a voucher for payment to the Recording Secretary. The Chair signed payroll.

Minutes

No minutes were reviewed.

Correspondence

Public hearing notices from Newbury, Newburyport, and Haverhill were noted.

Administrative Details

Zambernardi had reviewed Pentucket school-related issues. The Pentucket Building Committee has requested time on the Board's November 6 agenda for a pre-app conference. Zambernardi suggested that the proponents discuss why project inspections by the Board's Consultant Engineer is not needed. Murphey noted that while such inspections are usually performed by Meridian, a process is in place due to this being an MSBA project that has an OPM overseeing the project and because it is a controlled construction project. Zambernardi stated that Site Plan Review is a by-right form of review. The Dover amendment concerning educational uses is relevant. The project architects will come before the Board in a pre-application setting to get feedback.

Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting

There were no items.

Adjournment

Murphey moved to adjourn at 9:00 p.m. Bridges seconded. The motion carried 5-0.

Respectfully submitted,

Kathryn C. Carr
Recording Secretary