

Prior to the start of public meetings, Zambenardi was asked to provide an update regarding the affordable housing consultant. She stated that the Select Board approved regulations pursuant to the inclusionary housing bylaw that allows the Town Manager to utilize some of the housing contribution funds that have been collected to help maintain and administer the affordable units that we have, and the plan was to hire a consultant to assist in the day-to-day tasks. The Town Manager issued a request for qualifications, notifying more than three firms, two of which responded, with April 12th as the deadline for responses, and should have a consultant hired and ready to go soon.

Regarding correspondence, Zambenardi stated the Board received a number of public hearing notices from Haverhill, Newbury, and Amesbury. It also received a letter from Merrimack Valley Planning Commission (MVPC) regarding the District Local Technical Assistance Program (DLTA), which are funds that the state and MVPC provide to work with towns, which states that the DLTA funds are going to be categorized into two categories, planning ahead for housing and growth, and community compact best practice areas. Murphey stated they haven't had categories before that he knows of but will inquire.

Zambenardi also stated Patricia Reeser of 84 Crane Neck Street, sent an e-mail asking that it be forwarded to the Planning Board, notifying the Board that on April 28th, four West Newbury groups, Open Space Committee, West Newbury Garden Club, Gulf of Maine Institute, and West Newbury Wild and Native are having a virtual meeting hosted by Greenbelt on its website, aimed at drawing the importance of planting native plants, providing habitat for pollinators, eradicating invasive plants from yards and conservation lands, and Reeser feels the Planning Board is in the position of being able to specify native species for planting for new subdivisions and can help preserve West Newbury's ecological profile even as more residential development occurs.

Cook stated he received a note from the Select Board that the electric vehicle charging stations are up and running in town with a preliminary cost to the user of 35 cents per kilowatt hour.

Zambenardi stated the Board received an inquiry from Ocean Meadow regarding private trash pickup and whether they could get public trash pickup. Zambenardi is looking into this. Further discussion ensued on this topic.

Motion made by Cook to open the public hearing as follows:

7:15 p.m. -- Continued Public Hearing and Possible Discussion/Decision: Site Plan Review Application – 363 Main Street, Soldiers & Sailors Memorial Building, Assessors Map R10, Lot 34 - Owner/Applicant: Town of West Newbury, 381 Main St., West Newbury, MA – Site improvements associated with renovation of historic building including paving, landscaping, screening, walkway installation & lighting.

Seconded by Cronin.

Roll call vote was taken, and the motion passed 5-0.

Participants in the public hearing included Denis Hamel of CM2 Cammett, Lynn Spencer and Doug Manley of Spencer, Sullivan & Vogt, Wayne Amaral, DPW Director, and Select Board Member Richard Parker.

West Newbury Planning Board Minutes, April 6, 2021. Approved July 20, 2021.

Hamel gave an update regarding landscaping and lighting ideas and resubmitted plans after speaking with abutters. Shared the site plan dated 3/24 and explained that the basic site plan is the same (walkways, parking area). Changes were made to update where the condensers would be located for the heating and air conditioning units with a 4' high cedar fence going around it, away from the building enough to allow for the drip edge of the water to come off and not interfere with the condensers, as well as potential snow slide to come off of the roof in wintertime, which won't land or pile up on the condensers.

Another addition to the plan is the bluestone front walkway, where he added a curve to give it some flair and area for someone to stand. In the upper left-hand corner of the building, closest to Main Street, there is an underground electric line proposed for future electric coming into the building. Currently, there's an overhead line, but he hopes to make an underground connection to make the building much more attractive for that. The tight tank and the rest of the walkway is the same. Also added a bike rack between the walk and the building but it might end up being near the rear landing. Stated that there is no gas line or propane tanks shown as were shown in the previous plans. Decided to go all electric so condensers are going to do all of the heating and cooling for the building.

With regards to the landscaping plan, Hamel stated that most of the changes were made between the parking area and the abutter. Rhododendrons were transplanted due to the location of the tight tank, and will be placed along the side of the fence for screening. Also explained the layout of trees or bushes that were moved or added.

Spencer spoke regarding the concerns of the next-door abutters. Stated that she had a meeting with the abutters and Amaral regarding light spill from the cars coming into the parking area, lighting quality and controls of lighting, pole lighting for security and public access, but especially to talk about how vegetative screening might be an asset, so that's why we have taken a cue of trying to create more of a naturalistic look to the landscape using native white spruce and rhododendrons, making sure everything is properly irrigated, etc. Stated the plan reflects the Board's concern for the neighborhood and the screening effects as well as the direct conversation with the abutter.

Cook stated that with regards to the Zoning Bylaw regarding site plan review and guidelines, Section 8B of the West Newbury Zoning Bylaw, things to consider are traffic, parking, and public access, health, public service and utilities, land use planning, open space and environmental protection, and community character. Feels they have had good discussions on each one of these points. He opened the floor to other Planning Board members to see if there are any other issues or questions, they might have with respect to the site plan.

Murphey stated that the trees are a huge improvement, what he was hoping to see. Questioned regarding the lighting, such as what the color temperature is going to be, and what is normally recommended. Manley stated it's a 3,000 kelvin LED unit and that the light facing closest to the abutter would have a side-facing shield to shield the neighbor. Spencer stated there's also a foot candle plan that was submitted. Murphey inquired as to whether the lights are on a photocell or what it will be. Hamel stated it will be a motion detector with a time clock override for all three pole fixtures and the two building mounted fixtures at each of the doorways will be pendant lights used at both entrances. With regards to the fixtures, Spencer stated they were encouraged to look at fixtures that were in character with the building, and what was chosen for the front and rear are in that design aesthetic.

West Newbury Planning Board Minutes, April 6, 2021. Approved July 20, 2021.

Bardeen stated that she likes the landscape plan, and feels it's a great improvement. As far as the lighting, she is also happy with that. With regards to the front elevation, there's a flagpole at the top of the ridge that's going to be restored and she stated that there are two flagpoles and requested clarification. Spencer stated that the one at the ridge is the historic flagpole, so she feels it should be retained, but she wanted to keep the ground mounted flagpole on in order to have it as an option in case the local Veteran's Board feels strongly about having that flagpole and she wanted to respect the veterans and their opinion.

Reed inquired as to the outside water source for the plantings, didn't see it on the plan. Hamel stated it doesn't show on the submitted plans but on the building's plumbing plans, there's a hose bib on either side of the building. It was added that it is on the plan. Cronin inquired as to whether it's going to be an irrigation system. Spencer stated they are not thinking about in-ground irrigation, thinking about hose irrigation. Amaral stated that he doesn't feel the Water Department would support an underground irrigation system because of their water policy, so that's why they asked the consultant to add the water spigots in to be able to establish the plants and trees in the first couple years.

Cook opened up the meeting to members of the public for questions. Seeing no questions, Cook made a motion to close the public hearing.

Motion:

Cook made a motion to recess the public meeting as there is a scheduled public hearing for 519 Main Street at 8:00 p.m.

Seconded by Murphey.

Roll call vote was taken, and the motion passed 5-0

Motion:

Cook made a motion to open the scheduled public hearing for 519 Main Street at 8:00 p.m. and to postpone it to later in the evening, which will allow more time to conclude the site plan review discussion on 363 Main Street.

Seconded by Murphey.

Roll call vote was taken, and the motion passed 5-0

Continued hearing on 363 Main Street:

Planning Board discussion with regards to whether to approve the application subject to any conditions, modifications, and restrictions that the Planning Board may deem necessary to ensure the health, safety, and general welfare of the community. Murphey stated he doesn't know what the building is, and is not sure if that plays into it or should even be mentioned that this is an approval but don't know what it's for. Cook stated that it's being approved with the condition that the building be used well in the future. Bardeen stated the building envelope modifications are what are being approved or not and the use doesn't really matter.

Motion:

Cook made a motion to approve the site plan as presented and as submitted.

Seconded by Murphey.

Discussion on the Motion: Reed inquired as to whether there are any uses of the building that would change the appropriateness of the plan as presented. Cook stated that because the building has a tight tank and because of its limited size, he can't think of any use of the building that would be in violation of everything presented, and in the end, it's up to the Select Board to
West Newbury Planning Board Minutes, April 6, 2021. Approved July 20, 2021.

approve specific uses as they come up in the future. Off-street parking should be adequate, and in the event of the need for more parking, the 1910 Building complex isn't that far away. Murphey inquired as to whether at some point the building might be sub-leased for something, and Amaral stated that he was told it couldn't be sub-leased, it has to be used for public use due to the CPC grant. Stated it's also a limited size with limited capacity, 850 square feet on the first floor, so this limits what it can be used for. Further discussion ensued on this topic.

Cook withdrew his initial motion.

Motion:

Cook made a motion to approve the site plan with two conditions, first, that if there are any physical changes warranted due to a change of use, that the modification should be filed or the Planning Board needs to be notified, and second, that the use of the building is consistent with the site plan, as presented to the Board at this time.

Seconded by Murphey.

Roll call vote was taken, and the motion passed 5-0.

Documents Reviewed: Revised Plans; Lighting Details

Reed inquired of Cook regarding her vacating the role as the Conservation Commission liaison on the Planning Board, which provides some continuity between the two Boards as they receive applications that both Boards weigh in on. So, wanted to raise the possibility if there was someone on the Planning Board that would be interested in serving on the Conservation Commission, attending meetings, rotating situation, etc. Cook thinks the concept is great and would be useful but they will have to look into it to see if it would be allowed, even if the Planning Board member wasn't a voting member of the Commission. Bardeen suggested going to the Select Board to see if the makeup of the Commission can be amended to include an ex-officio non-voting member from the Planning Board to act as a liaison, and also, both Boards have professional staff, so maybe there is a way to arrange sharing the information at the staff level rather than attendance at meetings. Further discussion ensued on this topic.

Motion made by Cook to reopen the public hearing for 519 Main Street as follows:

8:00 p.m. -- Continued Public Hearing and Possible Discussion/Decision: Definitive Subdivision Plan - 519 Main Street & 0 Stewart Street, Assessors' Map R14, Lots 36 & 54 - Owner/Applicant: Deer Run Land Development LLC, 6 Mechanic Street, Kennebunk Maine - Subdivide one existing building lot into four new building lots (8 total units), including a new roadway with associated utilities and improvements.

Seconded by Cronin.

Roll call vote was taken, and the motion passed 5-0.

Participants in the public hearing include Chris Sparages of Williams & Sparages, Michael Crowe of Deer Run Land Development, Patricia Reeser of 84 Crane Neck Street, Attorney Michael Migliori.

Sparages went through the letter provided by him to the Planning Board. Item #1 regarding preparing the easement document for the access easement to the neighbor off of the new road, which was prepared by Migliori, was explained. Item #2 regarding minor comments on Meridian's comment letter dated 3/15, needed to fix note numbering, which was done, as well as West Newbury Planning Board Minutes, April 6, 2021. Approved July 20, 2021.

adjusting the invert of an 8" pipe to match a construction detail which was off by a few inches, and was fixed.

Item #3, regarding continuing work to finalize the trail easement and homeowner's association documents, which Migliori and Town Counsel Michael McCarron have been working with Zambenardi. Final drafts were sent to Zambenardi and McCarron on 3/31. Also, they received a letter from the West Newbury Open Space Committee recently with various suggestions regarding the trail easement document, but he believes the attorneys have done a fine job covering all bases on the easement document in its current form and he asked that the Planning Board move forward with the easement document in its current form.

Item #4, regarding following up with Fire Chief Michael Dwyer about providing a swept path analysis using a software program which allows them to take large vehicles like busses and fire engines of various sizes and drive them through streets, roads, etc. Did that analysis and sent it to Dwyer to show that a fire truck could traverse the cul-de-sac, etc. and he further summarized all information presented to Dwyer.

Item #5, regarding clarifying snow storage areas, which was a comment made during the hearing. Addressed this, added a note to sheet 10 of 15 that reads, "Snow storage areas shall include the vegetated roadway shoulders between the edge of the pavement and the right-of-way lines and the landscape island in the cul-de-sac." Statement allows them to store plenty of snow in the shoulders without impacting the stormwater management areas at all. Since the right-of-way is 50 feet wide and the paved width is only 20 feet wide, strip of land left and right and island give plenty of space to store snow. Item #6, regarding short retaining wall to minimize proposed wetland filling near the entrance of the project, a question was raised about whether they need a fence or a guardrail along the wall. Crowe consulted with the Building Inspector, who informed him that the building code does not require a fence in a case like this because there's no pedestrian walkway along the wall.

Item #7, regarding request to change the trail note language on the definitive plan to include an additional sentence at the end of the statement on each of the plan sheets, added another sentence, "See easement document recorded herewith." Item #8, regarding modifying plans to reflect the increase in the wetland replication area, has done that, and the Conservation Commission at its last public hearing on 3/15, asked if they could increase the size of the wetland replication area. On this particular project they have the ability to do that without much trouble because there are no trees, it's an open meadow, so increasing the wetland replication area is not heavy lifting and they won't lose any trees by doing so, so they increased it times two, and that change is reflected on sheet 10 of 15.

Item #9, regarding reaching out to the Historical Commission, Select Board and E911 officials regarding a street name. Since the last gathering, the Historical Commission has issued a recommendation for the street name via e-mail to Zambenardi dated 3/26. Item #10, regarding Zambenardi drafting a Certificate of Vote and responded they would be looking forward to doing so.

Discussion by Planning Board members:

With regards to street name, which was Major Boyd Drive and the background of the person. Cook gave an explanation of the qualifications and the fact that his name is mentioned in relation to the Soldiers & Sailors Memorial Building and to remember him, in particular. Zambenardi West Newbury Planning Board Minutes, April 6, 2021. Approved July 20, 2021.

also explained she had spoken with E911 regarding the street name for emergency purposes and learned everything is done by GPS coordinates as opposed to by street address.

With regard to snow and the swept path analysis, Sparages stated he hasn't heard back from Dwyer yet, and still has to follow-up. Also stated that the fire station is only 3,000 feet from the project. Stated they used their software to drive around all cul-de-sacs and made some minor changes in order to make sure that large vehicles can easily traverse the area. Reed inquired with regards to school busses, and Sparages stated that a large ladder truck is a larger vehicle, so the school bus would be fine, even though the pickup for the school bus would most probably be at the end of the street. Ann Bardeen inquired regarding "No Parking" signs along the roadway, but would rather not have them, and if people come and use the trail, would probably park along that roadway.

With regard to the Open Space Committee's letter, Cook feels that there are valid concerns, but points out that this is a definitive subdivision review, not a special permit, so the Planning Board's control over some details should be limited since there is a distinction between the two. Thinks that if Crowe is offering the trail easement and the easement is written in a way that ECTA can work with the easement, he would be okay with it since it's a benefit to the Town. Murphey and Cronin were in agreement. Cook inquired if portions could be voted upon and others not. He explained the process and stated it could probably be done.

Reeser stated that there are drafting issues that are just details, some are more important than others. One clearly is the status of the road as an adopted road or not and this should determine where the trail head starts, and if that's not known at the time that the easement is recorded, then the trail head should start on Main Street just to protect against the eventuality that the road ends up remaining private, in which case there would be no way to reach the trail head. But with regard to the developer's plans for either reserving to themselves the easement location when he conveys the four lots, the future negotiations which are contemplated in this easement between the grantor and the grantee, whether it's ECTA or ECTA and the Town, could end up being negotiations between four different landowners and ECTA and the Town. Further questions and answers ensued on this topic.

With regards to addressing the easement issues, Sparages stated that a sketch plan could easily be attached to the easement document with regards to the beginning and ending points of the trail heads. Sparages read a portion Migliori's e-mail of 3/31, which he submitted final drafts of the access easement, trail easement, and the homeowner's association document, and in the trail easement, the first paragraph states, "more particularly as set forth, the easement area shown as 25-foot-wide trail easement with an actual trail path of not more than 10 feet in width within the easement area, 'the trail.'" Further questions and answers ensued on this topic.

With regards to the trail head beginning at Main Street due to the private property aspects, Crowe added that he has built a lot of houses in many towns, and many are not public roads. When he starts construction, that the nature of the terminology, private way, is if it's a condo project it's quite different than a road that has multiple houses that anybody can drive in and out of. He has yet to see one of these where the Town still did not plow the road even though it was not town accepted.

Crowe stated that this subdivision has been created through the Planning Board as a definitive subdivision with the understanding and right and expectation that will be building it to the established standards and that the Town will accept the road and recommendation will be made West Newbury Planning Board Minutes, April 6, 2021. Approved July 20, 2021.

as to whether the DPW Director would like to plow the road or not. McCarron stated that the easement is held by Essex County Trail Association as the grantee, and the easement is laid out in what would be the common area of the condos, that area is owned by the condo association. Further discussion ensued on this topic.

Bardeen stated that she is coming down on the side of Crowe's position on this since she has land that has a trail easement on it, and the way these things work, you own the land in fee and it's subject to an easement that has been granted and you have willingly agreed to the granting of that easement, whether you did it because you bought a lot that already had it or because you imposed it later. Further discussion ensued on the condo ownership and the common area ownership.

Cronin inquired as to the street and access off of Main Street relating to whether or not there is a trail in the street as long as it remains private. He stated in Sullivan's Court, there was a street easement that included a trail easement and doesn't see that model being followed here with an easement for a trail until it is accepted by the Town. Cook stated that with Sullivan's Court Extension, there was a trail easement along the driveway for Lot 6. Cronin stated there's one also called a grant of street easement for the street itself and there's a trail right within the street easement. Cook wasn't sure that's necessary and is inclined to agree with Crowe, if the lane is built to Town standards, new residents of West Newbury will be paying taxes and deserve to have the Town plow the road, etc. Further discussion ensued on this topic.

Cook suggested closing public hearing and further discussing the easement. Ann Bardeen questioned whether they should have the final version of the easement document with final review from Town Counsel before closing the hearing. Wendy Reed stated she doesn't think Town Counsel reviewed the easement with the comments in mind, just looking at legality and maybe not considering the trail implications, so she would like Town Counsel to review the letter from the Open Space Committee and incorporate anything he deems appropriate into the document before it's voted on. Further discussion ensued on this topic and regarding the easement's final form.

Murphey stated that Attorney McCarron is well versed in real estate law and has weighed in on every project in the past and if he had a concern, he would have raised it, so he's ready to proceed. Zambarnardi stated she has e-mails from Town Counsel McCarron dated 3/25 stating doesn't have an issue with any of the easements, he made a couple of tweaks which were addressed, and final documents have been submitted on 3/31, so the review has been conducted and completed. Further discussion ensued as to what the Board members would like to see before final approval is voted upon. Decision was made to wait until the next meeting for everyone to read the draft Certificate of Vote and hear comments from McCarron on Reeser's letter before the final vote is taken. Crowe stated that the Certificate should say six new units, not seven.

Motion made by Cook to continue this public hearing to the next Planning Board meeting on April 20, 2021 at 7:15 p.m.

Seconded by Cronin.

Roll call vote was taken, and the motion passed 5-0.

Documents Reviewed: Revised Plans, dated 3/24/21; Meridian Comment Letter dated 3/15/21; Chris Sparages Comment Letter dated 4/5/21; Draft Trail Easement and HOA Documents; Open Space Committee Comment Letter dated 3/23/21; Swept Path Analysis by Williams & Sparages
West Newbury Planning Board Minutes, April 6, 2021. Approved July 20, 2021.

Discussion re: Request for Modification to Pentucket School Building Project Site Plan Approval, 22 Main Street - Pentucket Regional School District - New Maintenance Building.

Attorney Mitchell Kroner stated this is a request under modifications under the Zoning Bylaw where the Board has sole discretion to determine if it's a minor change or a major modification, and he and Bob Danforth, Pentucket Facilities Director, were looking to convince the Board to take the path of least resistance and state that it's a minor modification.

Cook showed drawings of the proposed changes. Kroner explained what is being proposed and provided a history of what's happened in this case. Also explained how things are now and how things would be changed and that a full site plan approval for the building is not required. Showed the Memorandum of Understanding with the neighbor and explained what's contained in that. Danforth further explained the final plan for a new maintenance building where the bleachers used to be, where five people would work, three being part-time, and also used for storage and equipment.

Cook stated in order to call this a minor modification, have to have been aware that there was going to be a building coming in and that it would be this particular building. Further discussion and questions ensued regarding this topic. Cook inquired is this a brand-new building appearing out of nowhere or were they advised months ago that there would be a maintenance building of some dimension in this general area.

Zambernardi stated that her recollection was that during the site plan review process, the abutter, Barbara Berkenbush of 22 Farm Lane was in negotiations with the district about this parcel and the purpose of doing a land swap would be for a maintenance building on that parcel. Murphey stated that his recollection was that in the site plan for the high school, there was no mention of the maintenance building on either area, and in his view, it would not be a minor modification to the high school plan since it impacts other direct neighbors and they should have an opportunity to weigh in on this to be sure that the lighting on the building is appropriate for the space, among other things.

Zambernardi stated by way of getting more background, she spoke with McCarron to get his opinion on the Dover Amendment and the exemption of educational use properties where the Town can apply reasonable regulations regarding height, etc. Zoning bylaw sets the process for modifications but there is some leeway, but McCarron stated that the Planning Board could review this as a minor modification but to make a point to notify the neighbors so that they could attend the next meeting to make comments. Further discussion ensued on this topic and what would be needed for the site plan review fees, etc. Planning Board members all concurred that they would like to have much more information before making any decisions.

Motion made by Cook that he views the proposed building and associated plans as a major modification.

Seconded by Murphey.

Roll call vote was taken, and the motion passed 5-0.

Further discussion ensued as to what the ramifications of this Planning Board's vote will mean and what things they would expect to know before any further vote is taken regarding this building, regarding things such as stormwater runoff, wetlands, lighting, noise, building height and mass, traffic, vegetative screening, and that it's better to address all of these issues before a West Newbury Planning Board Minutes, April 6, 2021. Approved July 20, 2021.

decision is made. Discussion regarding when the public meeting could be set up, perhaps May 18th.

Documents Reviewed: Conceptual Site Plan and Elevation Plan Submitted by Bob Danforth.

General Business:

- Updates: Affordable Housing Consultant (Discussed above before public hearings)
- Correspondence (Discussed above before public hearings)
- Minutes: March 2, 2021, March 16, 2021 (Not discussed)
- Administrative Details (Not discussed)
- Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting

Adjournment:

Cook moved to adjourn the meeting at 10:05 p.m.

Seconded by Cronin.

Roll call vote was taken, and the motion passed 5-0.

Respectfully submitted,

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