

WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
October 3, 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 October 3, 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 Zambenardi was also in attendance. Associate Member Cindy Sauter was also in attendance.

Continued Public Hearing related to an Open Space Preservation Development at 365 Main Street and 34 Meetinghouse Hill Road (aka Drakes Landing) - William Daley (Owner); Cottage Advisors, LLC (Applicant) - Site Plan Review pursuant to Section 8.B. of the West Newbury Zoning Bylaw

In the previous meeting the Board discussed the living wall proposal for the entrance into the development. Melissa Robbins, Attorney with Deschenes and Farrell, stated that the Conservation Commission is drafting an Order of Conditions for the next meeting. Cammett Engineer, Bob Blanchett, presented more details of the living wall that was discussed in the previous meeting. Blanchett presented the living wall design results, and provided engineer specifications. The wall will have a gravel bed footing of 6" thick 3' wide for the whole length of the retaining wall. The wall is 5ft high at it's maximum, and then will taper down to ground level. The hydraulic relief will release into the bags. The backfill is filled with common fill. He stated that there is no concern for frost heaves. The manufacturer hires a third party to install the wall, and Blanchett provided the engineer specifications from Georgia Engineer Firm. Blanchett stated that he has provided the existing soils, and typical vehicle load to the manufacturer. The proposed plantings from the manufacturer is New England Wet Mix with a hydroseed application, along with shrubs and flowers. Blanchett stated that the proposed seed mix does not have to soaked, and it is preferred that it is moist.

The Board reviewed the guard rail specifications that Blanchett presented. Blanchett stated that the wood post will be installed into an auger and then into the geogrid of the wall. He stated that Gary Bill was in favor of the specifications.

Jack McNamara, 118 Maple St. is concerned that there won't be enough water to maintain the proposed plantings of the wall. He suggested a possible sprinkler system for the wall. Blanchett stated he had presented the specifications of the living wall to the Conservation Commission, and that they were not concerned. Cook stated that he does not believe this will be an issue.

Previously, Blanchett presented Exclusive Use Areas and the conservation restriction area. There will be granite post, and signage for the conservation restriction areas throughout the development. Robbins stated that it will be very clear to the homeowners as to where the property line ends and where the conservation restriction begins through multiple documents. The rear of property lines will be enforced through the condo association. She also stated that due to the proximity of the houses and the view from everyone's open space it would be easy to see if it was misused. It was discussed that the peanut loop is not in the open space.

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In the previous meeting the Board requested clarification for storm water management information for the parking lot behind the Carr Post. Blanchett presented a plan to clarify the storm water management. Gary Bill along with Blanchett discussed the flow. There will be a strip of pavement on the east side of the building that can be used for drop off uses, but will not be a legal parking spot. Bardeen stated her concern for the fill along the fieldstone of the building.

The Board considered rather than having an easement to the Town for the Carr Post parking that there could be a land transfer. Robbins stated that even with an easement, the Town would have full control of that land, and the underlying fee would remain in the condo association. Hall stated that if this happens then it would still comply with the open space. Robbins stated that if there is an easement or the parcel is owned by the Town, it will be voted at Town Meeting. Sarkis recommended that Hall and Robbins discuss this with the Selectmen. Hall stated that they will move forward and discuss this issue with the Selectmen, and if approved through the Town meeting would have to come back for a minor modification. The Board briefly discussed the curb cuts, and the Mass DOT requirement for closing one of them. Robbins stated that she feels it's best to proceed with an easement deed, as it really serves the same purpose as transferring the land to the Town. She also stated that there would have to be an easement for the storm water management if there was a land swap. Sarkis, Bridges, and Bardeen are in favor for the land transfer. Murphey and Cook stated that were in favor as the plan stands. Sarkis stated that in the future, parking shouldn't be part of open space regulations and Robbins replied that if it is public open space then parking needs to be available.

Zambernardi stated that the McCarthy's, 381 Main St. sent a letter on 10/2/17. Karen Scotti and William Scannell, 353 Main St. sent a letter on 9/28/17. Both letters stated their disapproval for the Carr Post parking. Cook stated that he sympathizes with the abutters, and that the parking lot was the decision of the Selectmen.

There was previous concern about the view shed of the easement to the Buschur property. Blanchett presented the easement. Trees will be removed that are on the developer's property. The easement will be shown on the site plan review, but does not need to be conditioned by the Planning Board.

Lori Speilvogel, 26 Meetinghouse Rd. is having an equal land swap with the applicant. Hall explained how they are doing the land swap, and that Speilvogel's requests were granted. Within the letter she stated that she was concerned with the conservation buffer. Robbins stated that the plans will reflect the revised land swap, and that the approved site plan will show the correct layout.

Zambernardi will send the Board the draft of the conditions of approval that she and Robbins have drafted.

Sarkis made a motion to continue the public hearing till October 17, 2017 at 7:30. Murphey seconded the motion, and it carried 5-0-0.

Proposed Zoning Amendment - To Institute a Temporary Moratorium on Marijuana Establishments by Adding Section 4E "Temporary Moratorium" - Proposed by Board of Selectmen

The Selectman requested the Planning Board's approval for warrant Article 8 for the Town meeting. Article 8 states the following: *To see if the Town will amend the Zoning Bylaw, Section 4.E to add a temporary moratorium on the use of land or structures for the operation of any marijuana establishments, as defined in G.L. c. 94G Section 1. This moratorium shall be in effect through December 31, 2018. By request of the Board of Selectmen.*

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Bridges read the legal notice.

Selectmen Archibald stated that since the Town voted in favor of the referendum last year, the default would be to allow a marijuana facility unless the Town does something in the interim. Therefore, the moratorium gives time to the Town to decide on what to do. Mike McCarron, Town Counsel, stated that the state regulations are not known and will not be in effect until at least March 2018. Under the new law since the Town voted in favor for the regulation if there were prohibitions that the Town wished to adopt, they would have to get a referendum vote and then proceed with the regulations. By adopting the moratorium, it will give time to research the regulations and know what is in effect. The moratorium will be in effect to Dec 31, 2018, and that there could be no establishments in any case until July 1, 2018. He stated that the Attorney General will not specify the acceptable length of a temporary moratorium, though they have approved other municipalities through Dec 31, 2018. McCarron stated that if the Cannabis Control Commission doesn't follow through, next fall the Town can extend the moratorium.

McCarron read the following draft of the Marijuana Moratorium Proposed Zoning Amendment:

In order to allow sufficient time to engage in a planning process to address the effects of marijuana establishments both structures and uses on the Town, the Town hereby adopts a temporary moratorium on the use of land or structures for the operation of any marijuana establishment, as defined in G.L. c. 94G Sec. 1, including without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retail or any other type of licensed marijuana related business. Such marijuana establishments are prohibited in all zoning districts of the Town during this moratorium. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012. This moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of marijuana establishments in the Town, to consider the current legislative changes to G.L. c. 94G Sec. 1 et seq and to allow the Town time to consider a referendum on the allowance of marijuana establishments in the Town.

Jack McNamara, 118 Maple St. shared how he has seen open cannabis stores in Washington, and stated his concern as it's not visually appealing for this Town.

Cook made a motion to close the public hearing. Sarkis seconded the motion, and it carried 5-0-0.

Cook made a motion to recommend that the Town vote to approve the temporary moratorium. Seconded by Sarkis and it carried 5-0-0.

Proposed Zoning Amendment/Map Change - To Incorporate 31 Dole Place, Wellfield #1 Located at 999 Main Street, and the Surrounding Areas Identified as Zone I, Zone II and Zone III on Said Map - Proposed by Board of Selectmen

Bridges read the legal notice.

The Planning Board reviewed Article 7 – Groundwater Protection be added to the Town Meeting. Article 7 states the following: *To see if the Town will amend the Zoning Bylaw, Section 10 Groundwater Protection Overlay District by amending the Groundwater Protection Map to incorporate 31 Dole Place and Wellfield #1 located at 999 Main Street and to revise the title of the map to correspond to the Zoning Bylaw and to amend the date of the Map in Section 10.D. By request of the Board of Selectmen.*

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The Board reviewed and discussed the proposed Groundwater Overlay District maps. McCarron stated that the only change is to replace the existing groundwater protection map with a new map to cover two areas. He stated that the DEP requires this. One is the existing well field, and it's been approved by DEP for a new Bedrock Well that is in process of being constructed. They will be expanding protection in that well field. In the 1980's the Brothers gave the Town an exclusive easement for ground water use and drinking water for that area (Zone 1). In 2012 the Brother's expanded the easement, and that all the areas in Zone 1 are within that easement. Zone 2 permits all the residential uses but there is no change. He stated that by definition under the Ground Water Bylaw, Zone 3 doesn't have any impact at all.

The second map is 31 Dole Place, as it is a potential well source for the Town. Currently there is not a well, and therefore there is no Zone 1. The only affected area is Zone 2, in which there are no residential impacts. McCarron stated in the future if the well is in place, then Zone 1 will be defined. Archibald stated according to the DEP that the Zone 2 is a successful area for the well field. If there is a well land within a 400 sq ft would be affected. Zone 2 is currently being served by Town water. The depth of the well is unknown, but Archibald stated it is relatively shallow. Sarkis and Cook are concerned that depending on depth of the well Haverhill's surface water could have impact on that well under the river. Zambbernardi read a letter from Tata and Howard, which clarified how the radius around the well is determined. McCarron stated that there is a provision in the existing overlay district that if a resident feels that that shouldn't be part of that district than there is a process that they can follow.

Mark Dickenson, 30 Rivercrest Drive, spoke as a resident, and they are located outside of Zone 3. Cook stated that there is no influence on Zone 3. Dickenson stated that that he has been researching this issue for 3 years, and with no communication from the Town, why subject the property to additional restrictions before it is purchased. He stated that it's possible the property can be removed from the overlay district, but it could cost the homeowner thousands of dollars. Archibald stated that there is a proposal, but they have not heard from the owner.

Christine Dickenson, 30 Rivercrest Drive, questioned what will happen if this doesn't pass at Town Meeting. Archibald stated that the DEP requires this and it would have to come in front of the Town again. She also questioned why this process can't happen after the property is purchased, or while it's under contract. Archibald stated that if a purchase is made, approving this article will speed up the process.

Sarkis makes a motion to close the public hearing. Cook seconded the motion, and it carried 5-0-0.

The Board reviewed that list that is prohibited in Zone 1 and Zone 2. They also discussed the potential lots and how they could be affected.

Cook made a recommendation that the article be handled by making 2 motions... Bardeen seconded the motion, and it carried 5-0-0.

Cook made a motion that the existing well field be approved. Bridges seconded the motion, and it carried 5-0-0.

Cook made a motion that Dole Place is approved. Bardeen seconded the motion, and carried 5-1-0 with Bridges opposing.

Proposed Amendments to Planning Board's Regulations Governing The Conduct of Planning Board Functions, Meetings, and Hearings, Special Permits, Site Plan Review Scenic Road Application

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Guidelines – To Amend to Sections I.1 “General Administration” and I.2. “Organization” - Proposed by the Planning Board

Bridges read the legal notice.

Zambernardi described the proposed changes to the Regulations for Planning Board Functions, Meetings, and Hearings.

No members of the public had comments or questions.

Cook made a motion to adopt the changes to the Planning Board rules and regulations. Sarkis seconded the motion, and it carried 5-0-0.

General Business -

Update on Town Center Infrastructure Planning Project

Zambernardi will send an update to the Board.

Update on Merrimack Valley Planning Commission Housing Plan

Zambernardi will send an update to the Board.

Vouchers –

Zambernardi had vouchers and payroll.

Correspondence – EOE Technical Assistance Improve Land Use Practices Grant Opportunity

The Board did not discuss this correspondence.

Administrative Details – Planning Board Objectives, Annual Report, Sign Certificate of Performance for 29 Moody Lane

- *Planning Board Objectives*

The Board reviewed and discussed revisions for the goals for the Planning Board Objectives.

Cook made a motion to accept the mission statement programmatic goals for the next fiscal year as written. Bridges seconded it, and carried 5-0-0.

- *29 Moody Lane*

The Board Signed the certificate for 29 Moody Lane as it was voted on in the past.

Sarkis made a motion to adjourn at 10:20pm. Seconded by Bridges, and it carried 5-0-0. The meeting was adjourned at 10:20pm

Submitted by,

Lori Dawidowicz
Recording Secretary

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