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WEST NEWBURY, MA

2021 SEP 23 AM 8:00

Town of West Newbury Planning Board  
Tuesday, May 18, 2021  
381 Main Street, Town Office Building  
[www.wnewbury.org](http://www.wnewbury.org)

### Minutes of Meeting

**Open Session:** 7:00 p.m. by remote participation (see below)

#### **Addendum to Meeting Notice regarding Remote Participation**

*Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 23, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the West Newbury Board of Selectmen will be conducted via remote participation to the greatest extent possible.*

*Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at [www.wnewbury.org](http://www.wnewbury.org). For this meeting, members of the public who wish to listen to the meeting may do so in the following manner:*

#### GoToMeeting

Phone: (646) 558-8656

Access Code: 953 9154 6362

Passcode: 141845

Or from computer, tablet, or smartphone:

Join at: <https://zoom.us/j/95391546362?pwd=ZkFvRWRSZXJXNlplMUNxTWlwNDlQU09>

*No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.*

Chairperson Raymond Cook called the meeting to order at 7:00 p.m. by reading Governor Baker's Addendum to meeting, as noted above. Members in attendance were Ann Bardeen, Raymond Cook, Tim Cronin, Brian Murphey, Jake Cormier, and Town Planner Leah Zambernardi, all participating via Zoom Conference.

1. Special Permit for a Common Driveway Serving Two Lots – 151 & 153 Middle Street, Haddock Realty Trust – (Set to Expire August 29, 2021) - Request for Extension of Special Permit

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Zambernardi stated that all documents regarding this are on the website. Cook shared his screen and discussion ensued regarding this permit. Zambernardi stated that the parties are asking for an extension of the approval through to August 29, 2023.

Bardeen stated that Zambernardi had provided the Planning Board with information regarding the fact that the statute now allows for a 3-year extension and wondered if the applicant knew that when his request was made. Zambernardi commented that he probably didn't since this was a recent amendment and she didn't relate that to him. She also stated he extended his apologies that he could not attend tonight's meeting.

**Motion: Cook made a motion to extend the special permit for three years for the common driveway serving two lots, 151 and 153 Middle Street. Seconded by Bardeen.**

Discussion on the Motion: Cook stated there is no reason not to give him three years instead of two, and wondered if just granting 2 years would expose the Town in any way. Cormier inquired as to whether any rules had changed and would apply to this project, such as the Scenic Roads Bylaw. Cook stated the only thing that has changed is the Board's understanding of the bylaw and how it will act going forward.

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

Tom Cook joined late in the meeting regarding this topic and stated they are not moving forward with construction at this time. They would like to keep the lots undeveloped. If the property is sold in the future, they hope the new owners will keep the property intact.

*Documents Reviewed: 4/28/21 Request for Extension of Special Permit; Certificate of Vote dated 8/29/17; Approved Special Permit Plan revised through 7/28/17.*

2. Discussion of Amendments to Section 5.D. of the Zoning Bylaw – Floodplain Overlay District

Murphey commented that it would be helpful to see the floodplain map visible. Cook shared the map and described the floodplain areas. Cook also stated that he read through the proposed bylaw changes and observed that many of the changes were to definitions to match more current engineering technology.

Building Inspector Sam Joslin stated that there are a lot of definition changes to bring local bylaws in line with 780 CMR, the State Building Code and 310 CMR, the Wetlands Protection Act, as well as mirroring the NFIP definition so everyone is speaking the same language. Joslin stated that FEMA said they want all municipalities to adopt these definitions and sections so that everyone is doing the same thing. He stated that they do have local options to be stricter, but you cannot be any less strict unless you want to get booted out of the NFIP program, meaning that our residents would not be eligible for insurance if they were in the flood zone and we did not adopt the mandatory changes.

Murphey inquired as to whether it should be stricter in any regard. Joslin stated that they do a good job, and if we had critical infrastructure such as hospitals, police stations, and other things along those lines that would be impacted, then he would recommend being stricter. However, with single family residences, any new ones would have to be built to the current standards. He observed that there is not a whole lot of opportunity out there to put

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something in a flood zone. He stated that there will be few, if any, more new homes in it. He stated that we may see additions to existing homes, but that it would probably be built at a higher elevation than the existing home to meet the new elevation requirements.

Joslin stated that the changes are fairly unimpactful to the Town, as much of it is clarification, making language consistent, and removing outdated language such as 100-year or 500-year flood zones.

He stated that under the original language certain uses in the flood zone were allowed as of right. A subsequent section took the right away required they all be through special permit granted by the Planning Board. He removed the "as of right" language since they're few and far between, if any, and he felt that anything that is added to the flood zone should be looked at more carefully just to make sure we're not doing anything that would impact wetland resources and areas where we have compensatory storage.

Cook stated that it is important to have common language with the State when speaking about flood plains. Cook thanked Joslin for his work on this. Murphey stated that it would be useful for Joslin to attend Town Meeting to bring expertise and be able to answer questions that residents will most probably have, to which Joslin agreed he would be happy to do so.

Cronin inquired as to whether there are new maps for West Newbury. Joslin stated that the last maps were 2012. He stated that there shouldn't be new maps any time soon.

Cronin asked whether all changes to Section 5.D.7, Development & Subdivision Proposals are based on the model that the state produced. Joslin affirmed and stated that they are looking to regulate larger developments. He stated that there is potential to change the floodplain when you start filling in or regrading large areas. Further discussion ensued on this topic and potential changes to be made to that section as well as Section 5.D.8 and 5.D.18.

With regards to 5.D.21, Bardeen stated that the Planning Board has special permit granting authority for this, and that the findings are specific with high stakes. She hoped that the Board will have the same ability as they have now, which is to ask the applicant to pay for a technical review so that the Planning Board can make these findings with confidence. Zambarnardi stated that the Board would still have that ability.

Joslin stated that it's not going to be a huge burden because when you look at 5.D.21(c) and 5.D.21(d), for the most part, most of the flooding is along the Merrimack. When you start looking at volumetric loss of flood storage, you would have to show that your impacts were such that it would raise the body of water that was the compensatory storage, which is the Merrimack and the Atlantic, and that would never raise the Atlantic.

Bardeen asked about putting a link on the website to access the map, and Joslin stated that it is on the FEMA website, and he also has hard copies at his office. Discussion and questions regarding 5.D.10 also ensued as to how to see individual panels by going to the FEMA website. Bardeen also inquired as to 5.D.19 and what variances mean in that section, which was explained by Joslin.

**Motion: Cook made a motion to accept the draft with the changes agreed upon this evening as the Board's proposed Zoning Bylaw amendment. Seconded by Murphey.**

Discussion on the motion: Cook inquired as to what the next steps would be. Zambenardi stated she would create an article request for the Fall Town Meeting. She stated that the Select Board would receive it and refer it back to the Planning Board, who would then schedule a public hearing.

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

*Documents Reviewed: Draft Redline of Proposed Floodplain Bylaw; Current Floodplain Maps*

3. Board Reorganization

Cook stated that Cronin would now be in line to be the next the Planning Board Chair, Cormier would be Vice Chair, and Cook would become Clerk.

**Motion: Cook made a motion that Cronin would be the new Planning Board Chair for the next year, Cormier would be the Vice Chair, and Cook would be the Clerk, to take effect at the next regular meeting. Seconded by Bardeen.**

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

Discussion ensued regarding committee appointments. Zambenardi stated that the Community Preservation Committee (CPC) has a new coordinator who informed her that the Planning Board term on the CPC is three years with the current appointment expiring in 2021. She asked if the next appointment should be for three years. Murphey stated that 3 years is too much of a commitment and Cook assumed the Board would have the ability to override that.

Bardeen offered to be the CPC representative and Murphey stated he'd like to remain the Town's representative on the Merrimack Valley Planning Commission (MVPC).

**Motion: Cook made a motion to appoint Bardeen to be the Planning Board representative to the CPC and that Murphey would continue as the representative to MVPC. Seconded by Cronin.**

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

4. General Business:

- Updates:

Sullivan's Court Extension Zambenardi stated that she spoke with Mr. Tom Neve and they're going to have a Zoom call on Thursday to talk through completion of the project. His response included some questions, so she will speak with him about it and if he's not wanting to do certain things or to do them differently, he'll have to come back to the Planning Board, but she is hopeful that he won't have to do that.

Cronin stated he reviewed the trail easement for Sullivans Court Extension and made some suggestions.

Zambernardi advised that the appeal period for 519 Main Street/Deer Run Subdivision is over tomorrow and there has been no appeal to her knowledge, so she sent Mr. Crowe, the applicant, a small checklist of items that need to be signed by the Board and recorded.

Bardeen asked if there has been correspondence back and forth about the trail and easement, and whether we're going to continue to work on that beyond the completion of the project. Zambernardi stated that she looked at the decision and that it needs to be recorded before the project is closed out.

Zambernardi also stated that Town Counsel McCarron weighed in on the Open Space Committee's letter pertaining to the trail easement, so perhaps it could be scheduled as an agenda item on June 1<sup>st</sup>, to which Cook agreed.

Zambernardi also advised that Town Manager Jennings has hired LDS Consulting Group as the Town's affordable housing consultant and that relevant files were sent for their review. They will then set up a schedule for annual reporting, and be available to address any issues that arise.

Zambernardi also advised that the Board received notice that Mr. Graf had filed a notice of intent to sell under Chapter 61 for 14 Kimball Road. Further discussion ensued regarding Chapter 61 with Cook explaining the Town's guidelines. Cronin asked that the matter be placed on the June 1<sup>st</sup> agenda.

- Correspondence:

Zambernardi stated that the Board received public hearing notices for projects in Groveland, Haverhill, and Newbury, and a Notice of Decision for a permit issued in Haverhill.

- Administrative Details:

- Planning Board Website

Zambernardi stated that she had a chance to create a "Current Documents" link on the Board's website and uploaded current applications and plans, and ongoing projects.

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

(Nothing discussed on this topic)

**Adjournment:**

**Cook moved to adjourn the meeting at 8:10 p.m.**

**Seconded by Bardeen.**

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

Respectfully submitted,

Susan M. Lobie, Certified Electronic Transcriptionist

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