



**Town of West Newbury
Planning Board
Tuesday, August 17, 2021
381 Main Street, Town Office Building
www.wnewbury.org**

Minutes of Meeting

Open Session: 7:00 p.m. in-person and by remote participation (see below)

Addendum to Meeting Notice regarding Remote Participation

Pursuant to Chapter 20 Of the Acts of 202, which has extended permissions for boards and commissions to conduct remote meetings. The Planning Board conducted its meetings via remote participation to the greatest extent possible. The meeting agenda included instructions for the public about how to participate remotely. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that it has been unable to do so, despite best efforts, the Board 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 Tim Cronin called the meeting to order at 7:00 p.m. Members in attendance were Brian Murphey, Jake Cormier, Ray Cook, and Town Planner Leah Zambernardi, all participating via Zoom Conference.

1. Subdivision Approval Not Required Plan (ANR) - 51 & 53 Ash Street (Assessors Map R8, Parcels 9 & 21 - James and Brenda Bradley - Convey approximately 0.2 acres from 51 Ash Street to 53 Ash Street.

Greg Hochmuth of Williams & Sparages, representing James and Brenda Bradley for the ANR application and plan, stated that the Bradley's own both parcels, that this property has a farm stand and a barn on it, that they want to put in a swimming pool, but it was too close to the rear lot line, and even though it's a common lot line, it still has to meet the appropriate setback, so they're proposing a simple lot line change of a little less than 900 feet to be conveyed from one lot to the other. He further stated that they also went to the Conservation Commission not too long ago and received approval for the pool because a small portion is within their jurisdiction. They are here for the last step.

Cook inquired as to whether the lot line change would affect the farm road. Hochmuth stated that even though they call it a farm road, it's really a golf cart path, which is how the Bradley's get from their house over to behind the barn, but the actual farm road is the driveway that you can drive down if you're accessing the farm stand and that this is just a little cart path.

Motion made by Cook to endorse this plan as not requiring approval under the Subdivision Control Law. Seconded by Tim Cronin.

Roll call vote was taken, and the motion passed 4-0 (Bardeen not in attendance)

Documents Reviewed: Application and Plan

PUBLIC HEARING: Called to Order at 7:15 p.m. by Chairperson Tim Cronin.

Seconded by Brian Murphey.

Roll call vote was taken, and the motion passed 4-0. (Bardeen not in attendance)

Public Hearing: Proposed Amendment to West Newbury Zoning Bylaw Section 5.D. "Floodplain Overlay District"

Public Meeting Notice was read by Leah Zambarnardi.

By way of bringing everyone up to date, Zambarnardi stated that the Building Inspector, Sam Joslin, made the Board aware that the state is looking for cities and towns in Massachusetts to update their floodplain bylaws, that this is for cities and towns that opted into the National Floodplain Insurance Program, and in order to be part of that program which allows homeowners to get flood insurance, they had to adopt these bylaws.

Zambarnardi stated that the Planning Board met with Sam Joslin in April and went through the bylaw and all of its nuances, voted to submit it as an Article for Fall Town Meeting, and that was submitted on August 2nd. She provided the actual Article. She stated that there is some more detailed background provided in the Article. She explained the process for amending a zoning bylaw. She further stated that Articles are due September 1st, and after that, the Select Board will make the ultimate determination on whether or not to put this on the Fall Town Meeting Warrant.

Zambarnardi also stated that the National Floodplain Insurance Program has a number of different requirements, and the state administers a lot of those requirements. She stated that not all of the requirements are administered by the state, and it has asked that communities who are in the program to incorporate those additional federal requirements into their zoning bylaws, which is essentially what this Article is. She further stated that the floodplain maps are not changing, that this is applicable to the current maps which are from 2012. Murphey added that nothing is really changing on the floodplain maps, just the terminology is changing.

With regards to further steps that need to be taken by the Planning Board, Zambarnardi stated that the Planning Board's role is to make a report to Town Meeting, typically the report is whether or not to recommend acceptance or to recommend acceptance with changes.

Cronin asked if there were any members of the public who wished to speak on the matter. There were none.

Motion made by Cronin that the Planning Board support the acceptance of the zoning bylaw amendment for the Section 5.D. floodplain overlay district for acceptance at the Town Meeting to occur in the fall of 2021. Seconded by Murphey.

Roll call was taken, and the motion was passed 4-0 (Bardeen not in attendance)

**Motion made by Cronin to close the public hearing. Seconded by Cook.
Roll call was taken, and the motion was passed 4-0 (Bardeen not in attendance)**

2. General Business:

- Updates: Drake's Landing, 519 Main Street, Sullivans Court Extension, Pentucket School Building Project Maintenance Building

With regards to Drake's Landing, Zambarnardi stated that shortly after the recent fire, the Homeowner's Association spoke with her regarding concerns about the developer completing the project. She reviewed their concerns and responded to as many as she could, and most of her responses were that they're required to complete these items before a final sign-off on the project and that there is a process in place to do that through the as-built plans. She further stated that the Conservation Commission also has a process, by issuing a Certificate of Compliance. She also asked that Chip Hall respond to their items and that he sent her an e-mail indicating that they're a little way out and these things will be done before the project was done. She stated that she also provided the Planning Board with her response to the Homeowner's Association and discussion ensued regarding this project, with Cronin inquiring as to when the developer would be seeking to close the project out. Zambarnardi stated that she has received conflicting information on that from the peer reviewer, David Kelly from Meridian, who said that Jay White Construction, the site supervisor, said they'd be done very soon, but Chip Hall had related to her that they're a few months out. Cormier stated that he feels that the Board should within its scope and draw the line on what's in our purview. Cronin inquired as to what remains to be completed, with Zambarnardi providing a list of things that still need to be completed. Cronin also inquired as to the remainder of the bond, with Zambarnardi stating that there is a little over \$14,000.

With regards to 519 Main Street, Zambarnardi stated that she doesn't have anything new to report. She did want to mention that she was looking at the Town's situation in terms of affordable housing and trying to figure out how much we're taking in for inclusionary housing payments. She stated that she ran calculations for this project, and based on a really conservative market rate price for the duplex units, she estimated they might collect somewhere in the realm of \$132,000 or more. She further stated that she recently did a search on Redfin to see the past sales for the past two years and ended up using \$550,000 as the conservative price. Cronin inquired if Meridian is all set, and Zambarnardi stated that they're set up to do their inspections, and they have done one already when a neighbor expressed some concerns. She stated that the developer has submitted payment for the escrow account that will fund Meridian's services. She stated that there was an issue when the developer had to do some repairs to a water line between his property and one of the abutters, and that he completed the work but didn't stabilize with vegetation right away, which was difficult for the neighbor.

With regards to Sullivans Court Extension, Zambarnardi stated that the Conservation Commission looked at the revisions to the trail. She incorporated all of the revisions, they looked at them again and they're fine with it. There is one "and/or" word that needs to be fixed, but that's it. She stated that this also has to go before the Select Board for approval. Zambarnardi provided information as to things that still need to be completed by Neve and a timeline for which these things will be completed, and the procedures for street acceptance at Town Meeting.

With regards to the Pentucket School Building Project Maintenance Building, Zambarnardi stated that the District had intended to submit a site plan review application in time for the September 7th

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meeting. She had related that she would need the application today, though hadn't received it yet. Murphey stated that he'd prefer not to have it in late September since he's not available and would request that would get postponed to the first meeting in October if that's what happens.

With regards to remote meetings, Zambenardi stated that the Planning Board had discussed having them until the end of the summer, so she wanted to discuss with the Planning Board what should be done at the September 7th meeting and moving forward. Cronin stated that he finds the remote process to be very workable and they have received good input from the public on this. He stated that it's convenient to participate remotely and that he feels they should continue with remote meetings. All other Board members stated that they also prefer remote meetings due to the health concerns with Murphey stating that he has no desire to change to in-person meetings. Cronin inquired as to whether the Planning Board is the only Board still meeting remotely, with Select Board Member Reed stating that this month, the Open Space Committee is meeting remotely, but all other Boards have been meeting in person through the summer. Cronin stated that he agrees that the Board should continue with remote meetings and perhaps within a month's time the Board should revisit this topic to see where we're at and what the health concerns are at that point.

Zambenardi stated that today, the office received a Notice of Intent under Chapter 61 to sell 34 Ash Street, which is owned by Patricia Kelly. She stated this triggers the right of first refusal process for the Town, so it will be placed on the next available meeting date, which is September 7th.

Zambenardi stated that she will upload the materials to the webpage as soon as possible.

Zambenardi also stated that there's a Purchase & Sale Agreement for the lot that's the subject of this notice.

- **Correspondence:**

Zambenardi stated that there has been no correspondence since the last meeting.

- **Minutes**

Zambenardi stated that she checked with the minutes taker and that she plans to get the May 4th minutes to the Board this week.

- **Administrative Details: Legal Counsel (Robin Stein, KP Law) to attend September 7th Planning Board Meeting**

Zambenardi stated that they all set for September 7th. She stated that she and the Town Manager are meeting with Robin Stein, the designated land use counsel, on August 23rd to go over things in preparation for this meeting.

Cronin stated that the Select Board has a policy that requires the approval of legal fees for any engagement as far as their financial responsibilities within the Town.

Zambenardi stated that when projects are submitted such as a site plan review, special permit, or definitive plan applications, we're aware of the documents that need to be submitted and reviewed, so at the time of application is when she will reach out through the Town Manager to Robin to let her know what we anticipate will be needed and work in a few hours for unanticipated things, then get approval in the beginning for a maximum number of hours.

Cronin inquired as to what the timeframe for the estimate would be, perhaps the remainder of the fiscal year, with Zambernardi stating that she's talking about when a project is submitted, with Cook adding that it would be an estimate for the entire project. Cronin further stated that aside from projects, the Board has ongoing matters that require legal input.

Cook stated that he is still uncomfortable with the setup and understands the need for it, but questions whether or not the Select Board has the legal right to control the Planning Board's access to counsel, and whether or not the Planning Board could go directly to counsel and ask if Select Board has the legal right to limit direct access to counsel. Further discussion ensued on this topic.

Select Board Member Reed stated that she has asked for KP Law to provide an opinion on Town Counsel McCarron's opinion, don't have it yet, but hopefully in the next couple of weeks, we'll get something.

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

(No discussion on this topic)

PUBLIC HEARING: Called to Order at 8:30 p.m. by Chairperson Tim Cronin.

Public Hearing: Affordable Housing Trusts: Representative from Massachusetts Housing Partnership (MHP) to come and speak with the Planning Board and interested residents regarding how Housing Trusts can work and what steps would be recommended to go forward with this initiative.

Shelly Goehring from Mass Housing Partnership stated that they are a quasi-state agency in Massachusetts focused on affordable housing and she presented a slide show regarding affordable housing trusts. She stated that MHP is focused on increasing the supply of affordable housing across the state and works with each community with information to provide more affordable rental housing in communities.

Goehring stated that her agency works with and advises communities with regards to affordable housing trusts, providing a background which including explaining Chapter 4, Section 55c, as well as providing an overview of the process to establish a housing trust and what a housing trust can do. She also explained that the Trust would require a minimum of five trustees, stating that most Trusts have around seven members, including a member of the Select Board, appointed by the Select Board for a two-year term, and are listed as public agents. She further provided information on powers of the trust, and also provided information on how other municipalities have set up and run their trusts.

Goehring also went on to explain that Massachusetts currently has 120 affordable housing trusts in Massachusetts and explained what funds can be used, including CPA, inclusionary zoning, cell phone tower lease payments, free cash, special bylaw ordinance payments, tax title sales, municipal bonds, developer negotiated fees, etc. She went on to explain creating a mission statement, plans to facilitate action, including guidelines or goals and strategic plans, staffing that is necessary, clarifying roles between different boards, ensuring transparency, determining an operating approach, creating a culture of support, and eligible activities for trusts.

Cook questioned how the trust could work with regards to affordable housing units already in West Newbury with Goehring answering questions and further discussion ensuing on this topic. Murphey inquired as to the typical timeframe to get a bylaw in place with Goehring explaining how this works in different communities. Murphey also inquired as to whether projects always require affordable subsidized housing inventory, with Goehring adding that low and moderate income is not established in the municipal affordable housing trust statute, so does suggest that communities define that for themselves and that they look at existing definitions of low and moderate income and define this for their community.

Ann O'Sullivan asked a question regarding addressing the difference between the affordable housing trust and a community land trust, with Goehring stating that a community land trust generally owns the land, and with a trust, they wouldn't own the land and manage it in a way that a community land trust does. The affordable housing trust is a fund that is used to support affordable housing but not generally to hold the land. O'Sullivan also inquired as to an Affordable Housing Partnership, how this works, with Goehring explaining how it's done in different communities.

Another community member offered that the town already owns land that has been identified as for municipal use that they feel is appropriate for development of affordable housing, and how would that play in as to how we might like something to look like or what the prices could be, how that would be of benefit to the town that we already own property and that it could be provided at a discounted price. Goehring stated that they have helped many municipalities with the disposition of municipal land for affordable housing and many of those sites, if the development is to be affordable, then the site is oftentimes donated or it's very low cost to help make it more financially feasible, which would be part of the local contribution to the development to which the developer can take that to the state to get additional resources.

Zambernardi asked a question regarding process for making public land available for affordable housing. Goehring stated that it doesn't have to happen before an affordable housing trust is established, and the trust could be engaged in that process.

Cook inquired as to whether Goehring is familiar with any public/private partnerships to create multi-unit rental entity where if there's any profit from that, some of the rent could then feed back into the trust. Goehring stated that the challenge is that when talking about affordable housing, that there isn't profit from that because the rents are suppressed, and explained that there is a trust on the Cape that decided years ago to buy houses to then rent as affordable housing, and what they found was that there's never enough for capital costs and for longer term costs with the homes because the rents hardly cover just the basics and ended up looking for a nonprofit to take on all of them because a nonprofit has experience in affordable housing and can better pull together scattered site developments and then refinance them together, and through refinancing, take out cash against them so that they have the costs for capital improvements, but it's not realistic on a small scale for a volunteer board to do that. Cook inquired as to if an affordable housing development is never profitable, how can a developer be enticed to create it. Goehring stated that part of the financing they're allowed since they have to make a profit is financed through all of the financing sources in the subsidy.

Zambernardi stated that she will work out with the Town Manager how this presentation will be posted on the Town website but will be posted for all to access.

Discussion ensued amongst Board members of keeping this on the agenda and working to get an affordable housing trust up and running.

Adjournment:

Cook moved to adjourn the meeting. Seconded by Cronin.

Roll call vote was taken, and the motion passed 4-0 (Bardeen not in attendance)

Respectfully submitted,

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