



Town of West Newbury Planning Board
Minutes of Meeting

Tuesday, May 3, 2022

Addendum to Meeting Notice regarding Remote Participation

Pursuant to Chapter 22 Of the Acts of 2022, “An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency”, Approved by the Governor, June 16, 2021, which extended permissions for boards and commissions to conduct remote meetings, the Planning Board conducted its meeting via remote participation. 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 7:05 p.m. by reading the Addendum to the Meeting Notice, as noted above. Members in attendance were Ann Bardeen, Raymond Cook, Brian Murphey, Deb Hamilton, and Chair Tim Cronin, all participating via Zoom Conference. Town Planner Leah Zambarnardi was also in attendance. Each member of the Board introduced themselves. Also present were Conservation Agent Michelle Green, Health Agent Paul Seigny, John Gorman of Gorman Homes, and Alex Weisheit of KP Law.

Chair Cronin welcomed newly elected member Deb Hamilton, who offered to write up minutes in the absence of a minute taker.

General Business:

1. Minutes from prior meetings were not available for review.
2. Administrative details. Cronin will present the proposed amendment to the Inclusionary Bylaw at the Town Meeting on May 14, to be held outside again this year.
3. The MBTA Communities Act Information Form has been submitted by the Town. The Town Manager will be the contact person for compliance. Cronin stated that the many comments submitted regarding the practical issues with compliance for rural communities, related to limited infrastructure to support high density development and the lack of local access to public transportation demonstrates that updates need to made to the draft Guidelines previously issued in draft form. Cronin stated that further MA DHCD action on the final Guidelines is expected this summer.
4. Updates:
 - Drakes Landing. The Planner sent Chip Hall a letter with residents’ concerns, and he hasn’t replied to date.
 - 519 Main Street. There was no report for this meeting
 - 87 Main Street. There have been no reports of recent runoff from rain, and the developer Robert Johnson met with the Conservation Commission on 4/3/22. Conservation Agent Michelle Green

discussed a proposed amendment to the Order of Conditions to improve the drainage structures. The drainage pipes to two detention basins were designed for 25 year storms. Two additional basins on Lot 2 were added, but the lot 2 condo owners never gave permission for them. The Town wants a commitment to perpetual maintenance. Work is ongoing, and an engineer is involved. The project received a “cease and desist” order in February, but they have conditional permission to do limited work with Commission approval once things dry out.

Public Hearing: Application for Reduced Frontage Lot Gorman Homes LLC (0 Middle Street)

The hearing was called to order at 7:19 p.m. by Cronin. Seconded by Bardeen. Roll call vote was taken, and the motion passed 5-0.

Cronin re-opened the public hearing for the purpose of consideration of the Applicant’s request to continue the hearing until June 7, 2022. Applicant John Gorman stated that updated plans are not available for Board review, and he needs clarity on the applicability of the Town’s Stormwater Management Bylaw. Murphey noted that the application has been pending for approximately three months and he requested that the public hearing occur at the next Board meeting on May 17th, with the public invited. After a discussion Mr. Gorman agreed to continue the public hearing to May 17th. Cronin made a motion to continue the public hearing to May 17, 2022 at 7:15 P.M. Bardeen seconded the motion and it carried 5-0.

Documents Reviewed: Letter of Request from John Gorman

Implementation of the Town Stormwater Management Bylaw.

Alex Weisheit from KP Law, Conservation Agent Michelle Green, and Health Agent Paul Seigny were present for the discussion. Cronin provided an overview as follows: The Planning Board is the designated Stormwater Authority (administrator) of the Bylaw. The Town has a dedicated team involved in the implementation of the Bylaw that includes the Planner, DPW Director, Health Agent, Conservation Agent, Town Manager, and Building Inspector. Generally, the Bylaw requires a permit and management plan for any disturbance of soil involving an acre or more. Additionally, the one-acre area calculation is aggregated to include lots under common ownership as of the effective date of the Bylaw. There are exemptions for some activity on agricultural land.

Cronin continued that under the regulations adopted earlier this year, the Planning Board can issue waivers, charge fees, hire outside consulting support, review plans, enforce performance standards, conduct inspections, and issue certificates of completion. There was a discussion of construction on lots already underway prior to April 1, 2022. First, as noted, the Bylaw does not apply where disturbance is less than an acre. Also, regardless of the area impacted, there are exemptions in Bylaw Section 6 for work or projects where all approved permits were issued before April 1, 2022.

Bardeen asked how to define a “project” where the work is ongoing, and the consensus of members was that all permits had to be received prior to April 1, 2022 for this exception to apply. There were also questions about multiple lots with common ownership, for instance, if one lot is under development at present with others to be developed in the future. The Members generally agreed that the Building Inspector should identify those lots in order to note the applicability of the Bylaw when permits are

sought for the additional lots. Green stated that timing and the extent of development is hard to predict in advance. Cook observed that the remaining buildable lots in Town now have more problems like higher water tables and steeper slopes, and wondered whether the Planning Board would need to retain technical experts. Murphey stated said there will be additional costs to the owners for outside consultant reviews, and inquired whether the review process would be expedited for these properties. Board members agreed on the need to engage a technical firm to perform peer review, and as authorized by the regulations the applicant would be responsible for that cost. Zambenardi asked the Board whether lots already approved but not yet built should receive expedited review, and also inquired if some of the lots were exempt or if the Bylaw was not applicable.

The Board then undertook a review of the lots identified to date where the Bylaw may apply:

- Cook lot on Middle St-bylaw would apply for lots served by the common driveway.
- Kelly lots on Ash-1 lot has foundation permit, other lots yet to come.
- Follansbee lots on Middle- 2 lots, no permits as yet for septic systems.
- Healy lot on Crane Neck-foundation permit has been signed.
- Graf/Johnson lots on Middle and Kimball. Lot 2 on Kimball has a well and foundation permit applied for.
- Norino lot. Exempt as over an acre was disturbed years ago, no construction as yet.
- 21 Montclair- Less than 100' to wetland, no plans submitted as yet, cutting trees on abutting property.
- River Road Ting and Pau - If disturbance is for the house, septic, and drive are over an acre, the bylaw applies
- Gorman-still owns 3 lots, will be jurisdictional
- Spalding lot at 87 Crane Neck- if disturbance for house, barn and drive exceed 1 acre, will be jurisdictional.

The Board suggested that the Town Planner work with the Building Inspector to inform the lot owners of the Bylaw requirements. If needed, applicants can apply for waivers or exemptions, and the consulting engineer could provide information regarding the extent of land disturbance to determine applicability.

Documents Reviewed: Excel Spreadsheet listing lots in the permitting stages and/or under construction that may be subject to the Stormwater Management Bylaw.

Construction on Steep slopes. Tabled to a future meeting.

Continued General Business:

1. Correspondence. Public Notices from Haverhill and Groveland were read into the record. A letter was received from DHCD regarding the subsidized housing inventory.
2. Administrative details. The Planning Board needs a new minute's taker, and an assistant. Zambenardi would talk to the Town Manager about posting the 6-hour per week position. The Board is also in need of a new Associate Planning Board Member for FY23.
3. Future topics- Members discussed placing the following topics on future agendas: accessory units, steep slopes.
4. Members discussed the need to find a storm water expert to put under contract to assist the Town.

5. Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting. There were none.

Adjournment: Cook moved to adjourn the meeting at 9:20 p.m. Seconded by Bardeen. Roll call vote was taken, and the motion passed 5-0.

Respectfully submitted,
Deb Hamilton