



**Town of West Newbury
Planning Board
Tuesday December 7th, 2021
381 Main Street, Town Office Building
www.wnewbury.org**

Minutes of Meeting

Open Session: 7:00 PM by remote participation (see below)

Addendum to Meeting Notice regarding Remote Participation:

Pursuant to Chapter 20 Of the Acts of 2021, “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 (“PB”) 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 7:02 PM. Members in attendance were Ann Bardeen, Ray Cook, Jake Cormier, Tim Cronin, & Brian Murphey. Associate Member Deb Hamilton and Town Planner Leah Zambenardi were also in attendance. All participated via Zoom Conference.

Cronin introduced Fred Chanania, 47 Coffin Street, Chairperson of the West Newbury Tree Committee. Chanania presented Tree Committee information and discussed modes of communication between the Planning Board and Tree Committee. Cronin mentioned keeping the communication process as is for now; agenda posted on Thursday, meeting on following Tuesday, etc. Chanania questioned Cronin if the Tree Committee can obtain a notice from the PB once an application has been filed and note of category the application falls under; i.e subdivision non-ANR, site plan review, scenic road, etc. Cook suggested a rotating assignment for the Tree Committee but stated that normally, the PB agendas should be reviewed regularly to determine if there is any relevant information pertaining to the Tree Committee. Zambenardi mentioned a process through regulations that requires prescribed departments and board of commission notice of applications. These normally include scenic roads, site plans, special permits, etc., and goes out within one week of receiving application. She stated it would be problematic if she were to make a judgment call on which applications are of interest for the Tree Committee. She suggested the Tree Committee members opt in to the Town’s news email subscription for the agendas. Cook suggested adding the Tree Committee to the list in the regulations but stated it would need to be changed through a public hearing. Chanania mentioned

putting in a budget request to make pamphlets regarding construction issues to be put in the building inspector's office.

Public Hearing: Scenic Roads Bylaw Permit - Gorman Homes, LLC - Lot A, 0 Middle Street (Assessors Map R22, Lot 2) - Removal and Resetting of 25-feet of Stone Wall for a Driveway Installation

The hearing was called to order at 7:27 p.m. by Chairperson Tim Cronin. Seconded by Cook. Roll call vote was taken, and the motion passed 5-0.

Zambernardi read the Scenic Roads Legal Ad. Brian Murrey from Millennium Engineering discussed work on Lot A for a single-family dwelling. As part of the scenic road requirements, owner Gorman Homes, LLC was required to look at trees in the right-of-way on Middle Street. It was determined that one 8" hickory tree be removed. 25 feet of stone wall was also identified to be removed. The removed stones would be incorporated into the saved portions of the wall. Murrey requested the PB approve the scenic road permit. Murrey mentioned the driveway crossed over wetlands and stated the owner received an Order of Conditions from Conservation Commission for the work. Cook questioned the plan, stated it did not show where the current stonewall was placed and where they planned to add the stones to be taken out for the driveway. Murrey stated the new wall would be in a wetlands area. Murrey stated there will be a pre-construction meeting with the Conservation Commission. The Board discussed placement of trees and stones on the plan. Cook noted that the tree to be removed was incorrectly drawn on the plan. Murphey stated the Board needs to be shown a new plan that incorporates the existing stone wall and the hickory in the correct position. Chanania suggested replanting with native trees or shrubs. Rich Baker, of 288 Middle Street, questioned if the public would be able to comment again once the new designed plans are available and Cronin confirmed. Cronin made a motion to continue the public hearing to December 21, 2022 at 7:20 p.m. Cook seconded the motion and it carried 5-0.

1. ANR Plan: Gorman Homes, LLC- 0 Middle Street (Assessors Map R22, Lot 2) – Divide Parcel into 2 Lots: Lot A (Building Lot) & Lot B (“Not a Buildable Lot”)

Murrey requested PB endorsement of the ANR plan which is 5.81 acres, (253,141 square-feet) with 392.06 feet of frontage. Cook outlined the separate lots. Murrey noted that Lot A is already approved for an Order of Conditions from the Conservation Commission. Baker requested that all records from previous case “West Newbury VS. Baker” be incorporated into the record. Baker stated that the land court ruling stated that access is not adequate. He stated the PB did not have authority to overturn a land court judgement. Cook stated we now have the Order of Conditions on hand. Baker stated the applicant did not obtain an Order of Conditions when told to do so in 2017. Bardeen stated the PB is able to approve an ANR when certain conditions regarding access have been met. At the time of the previous vote that was overturned, the PB did not have proof of the Order of Conditions in hand, therefore it did not comply with the Bylaw. Cook brought up the Zoning Bylaws for the Board to review and discuss. Murphey agreed with Baker regarding the court case ruling and suggested the PB seek a legal opinion. Murphey stated he did not want to vote to approve this and then incur more fees in another legal battle at the Town's expense against Baker. Cook agreed. Cook mentioned to Gorman that he should withdraw the ANR without prejudice and then resubmit which would restart the timeline. Cook stated the PB would look for legal advice so the PB can make a sound decision while addressing Baker's concerns. Zambernardi stated she would run it by K.P Law and the Town Manager. Gorman agreed and made the request.

Cook motioned to allow Gorman to withdraw ANR without prejudice. Seconded by Deb Hamilton. Roll call vote was taken, and the motion passed 5-0.

2. Discussion of Draft Stormwater Management Regulations & Appendices – Final edits to Regulations and Application Form, Discuss Model Conditions

Zambernardi discussed edits to the Stormwater Management Regulations & Appendices. The Board agreed on the edits. Cook motioned to accept the edits as amended. Seconded by Cronin. Roll call was taken, and the motion passed 5-0.

Cronin suggested that section 5 of Appendix B Standard Conditions should be changed to 2 business days' notice instead of a 48-hour notice to account for weekends and holidays, etc. The Board voted to accept that change. Board reviewed more of the standard conditions.

3. General Business:

- **Updates: 87 Main Street, 519 Main Street, Drakes Landing, Sullivans Court Extension**
 - David Kelley from Meridian
 - **87 Main Street:** stone trench has been placed on left side looking in from street. The stone spillway would ensure the side of the hill does not become eroded. Kelley checked the stormwater dams, and saw no evidence of silt or debris on Route 113. Kelley noted the driveway to the middle building has not been completed and would unlikely be paved this year. He observed no haybales at the bottom of the driveway of the middle unit. Kelley stated he can generate a report for the Board for them to reference. Zambernardi stated that the Conservation Commission was going to issue the contractor an Enforcement Order for the violations.
 - **519 Main Street:** Kelley spoke to developer Michael Crowe who stated he was halting construction for the winter, and awaiting his curb cut permit from the State to run the waterline. He also noted the following: perimeter erosion control is in good standing, a low spot was created in the driveway to ensure nothing flows out into the street. Kelley stated he would like an as-built from the developer. Kelley was unsure of how the area was compacted or backfilled, and he requested site photos from developer. Murphey suggested Zambernardi or Kelley follow up on getting the photos. Kelley stated that Crowe has only brought the road up to grade and dug out the basins.
 - **Drakes Landing:** Kelley mentioned he spoke to the developer Chip Hall regarding an issue at the cul-de-sac. Overall, the development looked great. Zambernardi stated she received several emails from residents regarding the number of signs installed, the height of the Daley Drive road sign and they questioned why there is not a speed limit sign. Kelley indicated the signs have been installed per the plan. Zambernardi mentioned the HOA management company had sent Chip Hall a list of concerns and questions, and Hall has not responded as of yet.
 - **Sullivans Court Extension:** Kelley could not get to Sullivans Court Extension due to roadway paving.
- **Minutes – June 1, 2021, June 15, 2021, Other if any**
 - Members reviewed the draft and suggested edits. Cronin made a motion to approve the minutes as edited. Bardeen seconded the motion and it carried.
- **Correspondence**

- Zambernardi stated most correspondence received were abutter notices from other towns. The Board also received a copy of a letter from Dore & Whittier regarding the use of native plantings within the new High School/Middle School site.
- **Administrative Details: FY23 Budget, MBTA Communities, Request from Chris Wile to address Board regarding Comprehensive Plan**
 - FY23 Budget may need to include an article for comprehensive review of rules and regulations/ zoning bylaw to ensure they are consistent with the Stormwater Bylaw. Zambernardi is unsure of who would perform the work but it will need to be done.
 - Zambernardi recalled at last MVPC meeting, which she learned a number of communities received grant funding for Master Plans and other planning work. There is a community planning grant program which provides up to \$75,000 for planning efforts. Zambernardi spoke to the Town Manager regarding this matter. Cronin contemplated whether an article could be brought to Spring Town Meeting to allow the Town to apply for the grant and possibly match funds, as needed.
 - Suggested hiring a consultant for the development of the Comprehensive Plan. Zambernardi stated it may take a few years to complete since the last one was done in 1999.
 - Update from the State: MBTA Communities was part of legislation passed in 2020, and included a provision requiring that communities have a zoning district where multi-families allowed by right. Multi-family and density are defined as 15 units per acre. If communities do not comply, they are ineligible for MassWorks grants and others. Zambernardi planned to attend the upcoming informational sessions.
- **Placement of Items for Future Planning Board Agendas:**
 - There were no items
- **Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting**
 - There were no items

Adjournment:

Cronin moved to adjourn the meeting at 9:27 P.M. Seconded by Murphey. Roll call vote was taken, and the motion passed 5-0.

Respectfully submitted,

Katelyn Bradstreet, *Administrative Assistant to the Planning Board*