

**WEST NEWBURY PLANNING BOARD**  
**MINUTES OF MEETING**  
March 21, 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 March 21, 2017 in the 2<sup>nd</sup> floor Planning Board Office at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Brian Murphey, Raymond Cook, and Richard Bridges were in attendance. Planning Administrator Leah Zambarnardi was also in attendance. Board Member John Sarkis and Associate Member Dennis Lucey were absent.

The meeting was called to order at 7:00 PM

**Subdivision Approval Not Required Plans (SANR's)**

*Gorman Homes, LLC (John Gorman) – Middle St (Assessors Map R22, Lot 20) & Archelaus Hill Road (Assessors Map R-15, Lot 74) – Reconfigure 2 existing lots into 4 lots.*

Bob Smith from Cammett Engineering, and John Gorman, applicant, shared their proposed plan with the Board. Cook shared the ANR process with the Board and the public attendees, and stated that the Board looks at the frontage and whether there is adequate access. Zambarnardi shared a narrow list of guidelines the Board should follow when reviewing an ANR request, and it went as follows:

*Does the frontage meet the dimensional requirements?*

Zambarnardi stated that it has 200ft of frontage for lots 3 & 4 on Middle St, as well for 1 & 2 on Archelaus Rd.

*Is the way that the proposed lots front adequate?*

Zambarnardi stated that both Archelaus Hill Road and Middle Street are adequate.

*Is there adequate access from the way to the buildable portion of the lot?*

The Board discussed this question in depth, and made multiple references to past court cases. The proposed plan showed slopes, and wetlands crossings at the Middle Street frontage that was concerning to the Board. Emily Verdetto from Cammette Engineering stated that the slopes range from moderate slopes to some slopes that are greater than 20%, none of which are along the frontage. Zambarnardi shared with the Board Section 6.A.9 from the Zoning Bylaw, the definition of frontage which reads in part, "...A valid Order of Conditions pursuant to MGL Ch. 131 from the Conservation Commission allowing the crossing of a wetland to access a lot is sufficient for the Board to make this finding". Verdetto shared that the Wetlands Protection Act allows for the filling of up to 5000 sq ft as a limited project. She also shared that there is an Order of Resource Delineation ("ORAD") issues on the property, and that Jay Smith, conservation agent, is aware of the land's topography.

The Board was also concerned with the 1977 existing covenant on the property. The language in the covenant indicates that it expires in the Fall of 2017. Gorman stated that the restrictive covenant is governed by Chapter 184 Section 27 of the Mass General Law, which states that no restricted covenant will be in place after thirty years unless a notice of restriction is recorded with the Registry of Deeds. Gorman stated that nothing has been recorded, and he has discussed the covenant with the title insurance company, who take no issue with it. Due to those facts Gorman stated that there is no longer a covenant.

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Bridges stated that while Gorman's statement could be true, the Board has no proof of that statement and feels that further research might need to be conducted.

Leisa Mingo, 288 Middle St, shared that she noticed that 2 of the lots on the property were under 2 acres. She thought that per the West Newbury Zoning Bylaw that lots had to be a minimum of 2 acres. The Board had clarified that the 2-acre minimum is for Zone A lots, and that the proposed plan is in a Zone B. Zone B has a minimum of 1 acre requirement.

Richard Baker, 288 Middle St. shared with the Board the topography of the slopes, and stated that the proposed lots are not accessible from Middle Street. Due to the topography and multiple switchbacks that would be required for the driveway, he feels that an ANR is not appropriate. He also believes that the Conservation Commission sent a letter to the Board stating not to access the lot from Middle St. Baker noted that that Gorman's deed is incorrect because it doesn't site the correct plan number for dividing his property. The plan should state 28, not plan 29. Baker respectfully requested Gorman make that correction.

Bridges read Section 6.A.9 of the West Newbury Zoning Bylaw to the Board and public attendees. Bridges suggested to Gorman and Smith that they seek direction from the Conservation Commission. The Board briefly reviewed a topography map that Cook brought up on his computer, but still requested that Gorman and Smith provide a topography map of the lot. In the meantime, the Board can research the restrictive covenant. Bridges feels that answers to this request will help the Board determine their vote on endorsing the ANR. Zambenardi also suggested Gorman and Smith provide a conceptual driveway layout, indicating that providing topography only would not prove there is adequate access. Gorman was not in favor for going to the Conservation Committee due to time, and felt it was unnecessary. Gorman stated that his plan meets the ANR requirements.

Gorman asked that if the Board denies the ANR would the project would go under a subdivision. Zambenardi stated that if denied, Gorman would have to file for definitive plan to undertake this project. He stated that pre-application meetings with the Board are available to discuss the plans before filing. Zambenardi stated that some of the voting options would be to Endorse, Deny, hold a special meeting before the 21 day timeframe to make a decision (April 3) to enable the Applicant to provide more information, or the applicant can withdraw and come back later. She also stated that if the applicant chooses to withdraw then the application fee can be waived at the Board's discretion.

Smith stated that he is withdrawing the proposed plan without prejudice and would come back at a later date.

Bridges made a motion to allow the applicant to withdraw without prejudice his application before the Planning Board. Bardeen seconded the motion and it carried 4-0. Bridges stated that the application fee would be waived if the applicant returns. Cook second the motion.

#### **Planning Board Goals and Priorities FY17 & FY18**

The Board discussed the long term and short term goals that they can work on for the rest of the 2017 and 2018 Fiscal year. Zambenardi stated that she will continue to research the inclusionary housing 40B exemption. Some of the items to tackle included refining the OSPD Bylaw along and better definitions for

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duplexes and accessory apartments. Zambenardi stated that there is currently no Planning Board Bylaw. Typically this Bylaw would include the number and composition of members and their terms. The Board agreed to look in to creating a Planning Board Bylaw to be submitted for the Fall Town Meeting. The Board also discussed that for FY18 they would research the downtown planning process, and how enhancements could be made. Zambenardi stated she will continue to keep an eye out for grants. The Board discussed having a public forum, possibly a survey, in which the public can share their desires for the town center.

#### **General Business -**

##### *Sullivans Court Extension –*

Zambenardi had no updates.

##### *Drakes Landing –*

Zambenardi stated that she is expecting Chip Hall and Nick Cracknel to attend the April 4, 2017 meeting. The Board discussed a meeting Bridges had attended with the applicant and the Conservation Commission. He stated the Conservation Commission discussed the option of building a retaining wall to minimize wetland impacts rather than replicating the wetland elsewhere. Bridges stated that the applicant maybe willing to expand on the replicated wetlands if needed to avoid having to build the retaining wall. The applicant also stated that if a retaining wall was demanded, it would be roughly 5ft high in some areas.

Some of the Planning Board Members decided that they will attend the next Conservation Commission meeting to further discuss their position on the retaining wall versus slope issue.

##### *Minutes -*

Bridges made a motion to approve the 3/7/2017 meeting minutes with minor corrections. Bardeen second it and it carried 4-0.

##### *Vouchers -*

Zambenardi had one voucher to pay for Office Supplies for W.B. Mason, and one to reimburse Zambenardi for her certification membership for APA from March 2017 to March 2018.

##### *Correspondence –*

Zambenardi stated she had no correspondence.

##### *Administrative Details –*

Zambenardi shared that she is asking the Selectmen to sign a memorandum of agreement with MVPC for the Regional Housing Production Plan, and that she will act as a liaison between the town and MVPC if the Selectmen so desire. She stated that if approved, this will be the town's housing production plan for the next 5yrs. She stated that she would assist with planning meetings. Board Members then discussed the provision in Chapter 40B which exempts communities from the law if 1.5% of the developed land is already available for affordable housing. Zambenardi stated that according to DHCD land is owned by the Town or State, and land zoned for conservation or open space can be excluded from the amount of developed land. She stated that she got feedback from DHCD that CRs and APRs are not considered. Cook suggested to create a conservation overlay district on protected lands to address this issue.

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The meeting was adjourned at 9:30pm

Submitted by,

Lori Dawidowicz  
Recording Secretary