

WEST NEWBURY PLANNING BOARD  
MINUTES OF MEETING  
August 2, 2016

Pursuant to a meeting notice posted by the Town Clerk and delivered to all Board members, a meeting of the West Newbury Planning Board was held on August 2, 2016 in the 2<sup>nd</sup> Floor Hearing Room at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Richard Bridges, Raymond Cook, Brian Murphey and John Todd Sarkis were present. Planning Administrator Leah Zambenardi and Associate Member Dennis Lucey were also present.

The meeting was called to order at 7:00 PM.

Bridges recessed the regular meeting and called the scheduled public hearing to order.

**Continued Public Hearing – Special Permit for an Open Space Preservation Development – Drakes Landing - 365 Main Street & 34 Meetinghouse Hill Road - William A. Daley and Joseph B., Jr. & Beverly A. Murphey (Owners) - Cottage Advisors (Applicant)**

Lucey recused himself from the meeting.

Attorney Mark Johnson referred to a letter he submitted to the Board regarding the Inclusionary Housing Application. He stated it has been difficult to find a qualified buyer for the remaining 2 affordable units at Follinsbee Lane (another Cottage Advisors project in Town). He stated there is a discussion that should take place regarding changing the Bylaw to include options other than providing actual units. He stated that the segment of the population the Town is looking to attract is not eligible to buy the units. He stated they have too much money and noted the issue lies in the Town's being included in the Lawrence statistical area, not the Boston one. He stated it would be beneficial to change the income requirements and how a buyer might be qualified. He stated there are ways to do this by meeting the needs of segment populations such as Veterans and municipal employees. Board members acknowledged the issues and stated they have been discussing shortcomings with the Inclusionary Housing Bylaw as it is written. The concurred that much discussion and possibly hiring a consultant is in order to change the Bylaw, rather than doing it off the cuff for a specific project.

Deni Hamel then addressed the Yield Plan. He stated that Yield Plan #2 seemed to be preferred over the first Yield Plan. He addressed the comments made by Meridian at the last meeting.

Charlie Wear from Meridian Engineering stated that a waiver from the road length is discretionary on the Board's part. He stated that there is a "catch 22" wherein the regulations refer to "deemed buildable" which is the test the Board has to use to make this decision. He stated that either scenario is generally compliant with the rules. He stated that the Conservation Commission and where they land on this is still an unknown. He described the process by which the Conservation Commission reviews a Limited Project such as this (avoidance, minimization & alternatives). He stated that the Planning Board might grant a waiver for the dead end road with access off Main Street, but the Conservation Commission might end up saying it is more feasible to enter from Meetinghouse Hill Road because there is less wetland disturbance. He referred to the project going through from Main Street to Meetinghouse Hill Road, which would have 2 wetland crossings. He stated that in that case, having one crossing

West Newbury Planning Board, Minutes, August 2, 2016. Approved October 4, 2016.

would probably get approved but either option would require a waiver.

Cook stated that the goal is to get cars to a main arterial as efficiently as possible. Wear stated it depends on whose goal it is. He stated the Conservation Commission's goal is to have the least amount of impact on the wetlands. He noted the goals sometimes conflict.

Murphey stated that Meetinghouse Hill Road is a terrible option. He stated the site distances are a problem as well as traffic management.

Wear stated that most Towns don't have "deemed buildable" language. He stated that the Yield Plan is an exercise of meeting the geometric requirements of zoning in most cases. Wear stated that cluster developments work best in 1 to 2 acre zoned areas. He stated that 2 acre zoning is ideal for cluster developments.

Murphey stated that he does not see that there is enough benefit provided with the open space in the OSPD layout. He asked why the Board shouldn't adhere to the 800-foot requirement. Hamel stated that in that case, they would go with the option of putting in a through-street. Murphey and Sarkis stated they would not approve a through street here.

Cook stated there needs to be a balance. Bardeen stated that she is not trying to oppose any development on the site, but noted that the land itself speaks to why the property has never been developed.

Murphey commented that what has been designed is not what he considers to be open space.

Sarkis referred to the Bylaw and stated that the development hits some of the criteria, but falls way short on others. He felt the plan fell short in that the OSPD does not minimize the total amount of disturbance on the site. He stated that the OSPD plan disturbs almost everything. He stated that the utilities and infrastructure could be laid out in a more economical way. He stated that the cluster and the Yield Plan have essentially the same road. Cook noted that the OSPD layout is just about as sprawling as the Yield Plan. Murphey stated this needs to be addressed more seriously. Murphey stated he would push them back and start with an 800-foot road and then haggle over adding road from that.

Johnson stated that the Planning Administrator submitted a list of dead end streets in Town with their approximate lengths. He stated the waiver they are looking for is not unreasonable when compared to that list. He stated that we know we have to satisfy the Board on the Open Space layout. They are asking for a determination on the Basic Maximum Number.

Bridges stated the Board is asking them to reconsider the OSPD layout and to see that the open space speaks to the purposes of the Bylaw.

Cook stated that he would probably grant a waiver on the Yield Plan but that he will drive at that issue when looking at the OSPD proposal. Johnson agreed that the Yield Plan boils down to granting a waiver and that they need to address the quality of the open space issue.

Members discussed the length of the road at different points. Bardeen and Sarkis agreed the length of the proposed road far exceeds anything they would approve. Bardeen added that the fact that the Board may have granted waivers in the past is immaterial and not precedent setting. She stated that each case is looked at individually based on the merits of that particular project. She stated the Board does have the obligation to think of 800-feet as the starting maximum

West Newbury Planning Board, Minutes, August 2, 2016. Approved October 4, 2016.

length for every project. Sarkis stated there is also the density on the dead end road to consider. He stated the first length of this road doesn't have the possibility for any units, therefore he might consider lengthening it. Bardeen agreed. Murphey stated then he might consider going to a 1500' to 1600' long road. Cook noted that the distance of the road from the entrance to the first unit is approximately 800-feet. Murphey stated that the Yield Plan might be a 2000-foot long road with a turnaround and the two cul de sacs would be eliminated. Sarkis stated he could see a developer coming in with such a proposal and that being amendable to a Board. Murphey stated that seems to be what many of us envisioned for that parcel in terms of what the land can handle in a reasonable sense. He stated this could also be done under a straight conventional subdivision plan. Cook stated that strikes him as a waiver he would be inclined to vote for. Sarkis stated an applicant would then have an opportunity to propose some reduced frontage lots toward the end of the road where the space is greater. He stated the developer would still have decent density. Bardeen stated the density should equate to what one would get with a conventional subdivision. Cook asked if any waivers would be needed if they filed a conventional subdivision through to Meetinghouse Hill Road. Murphey and Bardeen noted they would have to deal with grading and site lines. Murphey commented that would be a big issue. Murphey asked what such a layout would yield if the road ended at the beginning of the 2 arms of road. Cook stated he came up with about 14 lots. Murphey questioned that number. Hamel stated they would lose about 5 lots, so there would be a loss of perhaps 10 to 12 units. Murphey stated they would also have to go into issues mentioned by Meridian such as ledge on lot 1. Cook stated Meridian noted that many of these decisions are at the Board's discretion. Bridges asked them to go back and consider the comments made.

Bridges asked the public for their questions and comments.

Jean Lambert, Co-Chair of the Open Space Committee stated that this parcel is a priority parcel for the open space committee, not a priority development parcel. She stated that much of the open space scheme is of dubious value and she urged the Board not to grant a waiver of 800-feet for both open space and safety related reasons. She stated that the proposed plan has a trail system but that it ignores existing connections to the Action Cove area.

Joan Flink of 368 Main Street stated that the wetlands replication impedes the Goves from putting in a septic system on their property. She submitted information on this for the record. Hamel stated they can reconfigure the replication area so this will not be an issue.

Wear then went through the responses to comments provided by Cammett with the Board. They discussed the testing done for Lot 1 and Lot 16.

Cook stated that the waiver is the issue. He reiterated his preference for the second Yield Plan. Murphey agreed the entrance from Main Street is more preferable. Bardeen stated that the applicant should start at what they can do with 800-feet, then add to it with discussion. Cook stated that the Board has granted waivers in the past when it has been to the Town's benefit. He stated that the Board is leaning toward 11 or 12 lots, which would yield 22 or 24 units. He contemplated that this would result in more reasonable open space in the end.

Bridges stated he agrees with Sarkis in that the OSPD layout has been presented as having open space but that there is no preservation of existing open space. Sarkis noted that the fields have been used before. He suggested that the wooded area be preserved. Cook stated that the northern part of the plan should be kept and that the open space should be in the back. He

West Newbury Planning Board, Minutes, August 2, 2016. Approved October 4, 2016.

stated this would lend to a neighborhood feel.

Steve Greason, 86 Coffin Street and an Open Space Committee member stated he is concerned about the septic, detention areas and the common green being considered part of the open space. He stated that is not open space. He stated the trails should connect to the Action Cove playground. He does not see the need for the boardwalk. He stated the trail out to Meetinghouse Hill Road would not work. He stated the terrain is steep and there would be a lure for pedestrian traffic to go to the pond, which is on private property. He stated that as a trail user he would not be comfortable using it. He stated that a trail through the Murphey property to Meetinghouse Hill Road might work better.

John McGrath, 244 main Street stated he is sympathetic due to the experience he has had as an abutter to the Cottages other project on River Hill, where both green and a structured brick surface as well as a manmade artificial detention pond are considered open space. He noted that the entire leach field is part of the open space.

Cook referred to the Bylaw and stated that open space can be paved and that wastewater and storm water management areas can be included in the open space. He stated it is at the discretion of the Board in the end.

Hamel asked if the lots they show would be deemed buildable.

Sarkis stated that he would like to see if homes with garages could technically be built. Bridges stated that the issue with Lot 16 has been put to bed. Hamel stated that the remaining issue is the waiver and the Board suggested cutting 5 or 6 lots from the proposal.

Bridges made a motion to continue the public hearing to September 6, 2016 at 7:00 p.m. in the 2<sup>nd</sup> floor hearing room. Cook seconded the motion and it carried unanimously.

Lucey returned to the meeting.

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

Zambernardi stated that no SANR's had been submitted.

### **Request for Minor Modification to Special Permit and Site Plan – Haverhill Bank, Robert Masys – 279 Main Street – Drainage System and Freestanding Sign**

Zambernardi noted that no one was present for the applicant. The Board tabled the matter to later in the evening.

### **Request for Release of Last 4 Units – Cottage Advisors – Cottages at River Hill – Follinsbee Lane**

Members considered the request but noted that the trails must be completed as well as the last affordable unit. They therefore were not inclined to sign the release and tabled the matter to the next meeting.

### **General Business**

Cottages at River Hill – John McGrath asked the Board about his issues regarding tree cutting and soil removal. Bridges stated they looked in to the soil removal issue and were told that a resident had independently hired a subcontractor of the development to deliver mulch and do

West Newbury Planning Board, Minutes, August 2, 2016. Approved October 4, 2016.

some landscaping. He stated that in the end, a homeowner can do landscaping on their property outside of the conditions placed on the subdivision.

Bridges stated that they sent McGrath's attorney's letter to Hall and to Meridian. He noted Meridian sent a response and the Board agreed with it. They asked Zambarnardi to send a letter to Hall requiring that he not perform any more work in that buffer area without first coming before the Board.

McGrath noted that there is some ambiguity in the Bylaw about what constitutes a buffer area and what activities can and cannot occur within it. He asked if the Board would consider addressing this ambiguity in the future.

McGrath also provided a general comment about OSPD developments and stated that a developer's and the Board's access to sophisticated engineering is key to making a project work.

### **Request for Minor Modification to Special Permit and Site Plan – Haverhill Bank, Robert Masys – 279 Main Street – Drainage System and Freestanding Sign**

Zambarnardi noted that no one was present for the applicant. She addressed the request about the freestanding sign. She stated Health Agent Paul Sevigny had suggested that the sono tubes for the sign be installed before the septic system was covered up. She stated the final approved plans show the sign in 2 locations. She polled the Board members and asked the former Planning Administrator for their recollections on what was approved. Recollections seemed to vary. She stated Mr. Masys has amended the sign to be on the corner of Maple and Main streets within the confines of the retaining wall. Board members saw no issue with this location and approved it.

Members reviewed the written request by Mr. Masys regarding an amendment to the drainage design. They saw Meridian had issued a comment letter and that Masys had responded to the comment letter this evening. They tabled the matter until Meridian has a chance to review the response. Members also had questions about the manhole cover at the corner.

### **Discussion of Zoning Bylaw Amendments**

Members agreed that they would not have any amendments to two-family structures and the like in time for town meeting. They decided to focus on signs and to push ahead and aim for submitting the Bylaw for Fall Town Meeting. Members canceled the August 16<sup>th</sup> meeting and rescheduled to August 23<sup>rd</sup>. They agreed to come prepared in order to try and finish the draft at this meeting.

### **Minutes**

Members reviewed the minutes of the May 24, 2016 and June 7, 2016 meetings.

Bridges made a motion to approve the May 24, 2016 minutes with corrections. Bardeen seconded the motion and it carried 5-0.

Bridges made a motion to approve the June 7, 2016 minutes. Bardeen seconded the motion and it carried 3-0-2 (Sarkis and Bridges in abstention).

West Newbury Planning Board, Minutes, August 2, 2016. Approved October 4, 2016.

The meeting was adjourned at 10:00 p.m.

Submitted by,

Leah J. Zambarnardi, AICP  
Planning Administrator