

**WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING**

December 4, 2018

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 December 4, 2018 at 7:00pm in the 2nd Floor Hearing Room at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Richard Bridges, Raymond Cook, Kim Monahan and Brian Murphey were present. Town Planner Leah Zambarnardi was also in attendance.

The meeting was originally scheduled to occur in the Planning Office. The meeting was moved to the 2nd floor hearing room due to the number of people expected to attend. A sign was placed on the Planning Office door to this effect earlier in the day.

Bardeen called the regular meeting of the Planning Board to order.

Continued Public Hearing – 87 Main Street – Concord River Properties (Michael Longo) – Special Permit for a Common Driveway to Serve 3 Lots

Bardeen stated that Fire Chief Mike Dwyer sent an email with comments on the project dated 12/2/18 to Leah Zambarnardi. Bardeen read the email for the record.

Zambarnardi stated she received comments from Town Counsel Michael McCarron on the Homeowners Association document in an email to her dated 12/4/18. Zambarnardi read the email for the record. Zambarnardi stated that McCarron suggested language be added to the prohibitions and requirements section of the document such as the following: "If in the opinion of the Planning Board, the construction or maintenance of the common drive or the stormwater management system causes a hazardous condition impacting the public way, then the Planning Board may order the Trust to abate the hazardous condition. In the event that the Town obtains a judicial decision enforcing such order, then the Town shall be entitled to costs and attorney's fees." Attorney Lisa Mead responded that the Special Permit would be a more appropriate place for such language. She stated that the Town has that authority notwithstanding any permits, as private property owners are not permitted to dispose onto or cause hazardous conditions on a public way. Cook noted that such language has not been incorporated in a Special Permit for a Common Driveway issued by this Board in the past. Board Members concurred that protections are already in place and did not add the language to either document.

Bardeen stated that Zambarnardi provided a draft Certificate of Vote to the Board. She stated that the Applicant had an opportunity to comment on the document. She stated that Steve Sawyer of Christiansen & Sergi provided a letter dated 12/3/18 to Zambarnardi listing the waivers requested and the reasoning behind each. Bardeen suggested that the Board review and vote on the waivers requested before it votes on the Special Permit.

Bardeen read through the waivers. Cook made a motion to approve the waivers as requested. Murphey seconded the motion and it carried 5-0.

Bardeen asked the members of the public if there were any questions or comments. There were none.

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Bardeen made a motion to close the public hearing. Cook seconded the motion and it carried 5-0.

Bardeen then made a motion to approve the request for a Special Permit for a Common Driveway Serving Three Lots at 87 Main Street, subject to the conditions contained in the draft Certificate of Vote dated 12/4/18, and including language of the draft document entitled "87 Main Street Homeowners Association Declaration of Trust", received 11/15/18. Murphey seconded the motion and it carried 5-0.

Materials reviewed: Fire Chief email dated 12/2/18; Town Counsel email dated 12/4/18; Draft 87 Main Street Homeowners Association Declaration of Trust, received 11/15/18; Draft Certificate of Vote dated 12/4/18; Christiansen & Sergi letter to Zambenardi regarding waivers dated 12/3/18;

Bardeen called the regular meeting of the Board to order. She noted that the next public hearing does not begin until 7:15 p.m. and took the agenda out of order to consider Item #2 on the agenda.

Request for Minor Modification to Drakes Landing Open Space Preservation Development, 365 Main Street (Approved January 2018) – Cottage Advisors - Request to install roof over rear deck of unit(s).

Melissa Robbins, Attorney from Deschenes & Farrell stated that her client is requesting a minor modification to allow the installation of roofs over the rear decks of some of the units at Drakes Landing. She provided before and after architectural elevations of the D-Unit. She stated that Meridian Engineering had questioned whether the stormwater design would be impacted due to such a change. Meridian questioned whether the stormwater design included the rear decks of the units as building space. Robbins stated that Cammett Engineering provided a letter dated 11/28/18 stated they had completed an additional stormwater analysis and found that the runoff rate post-developed did not exceed pre-developed run-off rates. Chip Hall of Cottage Advisors stated that the calculation was done under the assumption that every unit would have a roof over the deck.

Hall stated this request came about due to an inquiry from the purchaser of Unit #2, which would be a D-Unit. Bardeen asked for clarification on whether the request was for this particular D-Unit or if it is for all of the units. Robbins stated that they would like approval for roofs over the decks on all of the units, at the discretion of the Board. Cook asked for clarification on treatment of the at-grade patios versus the decks. Robbins stated their request is for roofs over the decks only. Bardeen stated that approval of a roof over the deck of a D-Unit on Unit #2 is plausible because the Board has seen architectural details showing its appearance. She appreciated the stormwater information though she still does not think an approval for all of the units is a good idea. Bridges concurred.

Cook made a motion to find that the request for a roof over the rear deck of a D-Unit on Unit 2 is a minor modification. Murphey seconded the motion and it carried 4-1-0 (Murphey, Monahan, Cook, and Bardeen in favor, Bridges in opposition).

Cook then made a motion to approve the substance of the request. Murphey seconded the motion and it carried 4-1-0 (Murphey, Monahan, Cook, and Bardeen in favor, Bridges in opposition).

Materials reviewed: Letter dated 11/18/18 from Cammett Engineering to Chip Hall; Architectural Elevation Drawings for the D-Unit; Project Site Plan;

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Bardeen recessed the regular meeting for a scheduled public hearing.

Public Hearing – Request for Modification to Drakes Landing Open Space Preservation Development, 365 Main Street (Approved January 2018) – Cottage Advisors - Request to allow for the conversion from Natural Gas to Propane

Bridges read the legal notice for the record. Melissa Robbins, Attorney for Deschene & Farrell reminded the Board that they requested a minor modification on October 2, 2018 to convert the project from natural gas heating to propane heating. The Board found that the change would be a material change to the plan and found that the request is a major modification. Robbins stated the request before the Board is for a major modification to allow the conversion from natural gas to propane. Chip Hall of Cottage Advisors stated that the utility company has locked out union members due to unsuccessful contact negotiations therefore he is not able to get approval from the utility company to lay pipes in his project and connect to the natural gas line in Main Street. Robbins showed the locations of the tanks on the plan and stated that they would be underground. Bridges asked for the location of the natural gas line and Hall stated it would have been on the right side, directly under the road. Cook stated they would have to dig up the road in the future to install gas lines if they had to install natural gas. Hall stated they already put in a stub for a natural gas connection due to the paving of Main Street the year prior and the succeeding moratorium on digging up the road for utilities, though he can't connect to it due to the lockout. Hall stated that the project could therefore be hooked up to natural gas in the future without disturbing Main Street. Hall stated that the use of propane as a heat source will eliminate the site work associated with the natural gas lines.

Murphey stated that this request is the result of the timing of construction as it relates to the lockout. He is concerned over the adverse impact on future residents because of the higher cost. Hall discussed the contract with the propane company that could be re-negotiated in the future with the homeowner's association. Bridges asked about the adequacy of the propane for use on the septic system. Hall stated the Town Health Agent took no issue.

Bardeen asked for questions and comments from members of the public.

Joan Flink of 368 Main Street stated that the road had been paved since she received the legal notice for this public hearing. She stated that she was woken up several mornings by the paving company outside of allowed construction hours and described the difficulty she had getting someone to enforce that rule. She stated her concern over the impact propane and neglect of tanks has on the environment. Hall stated that the tanks would be owned and maintained by the propane company during the duration of the contract.

Bardeen made a motion to close the public hearing. Cook seconded the motion and it carried unanimously.

Bardeen made a motion to approve the request for a major modification to the project to allow for the conversion of natural gas to propane as a heating source. Murphey seconded the motion and it carried 5-0.

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After the vote, Board Members and Hall discussed what had occurred with the paving company and how to improve communication and enforcement related to restrictions on construction hours

Materials reviewed: Application Form and Plan showing the location of the propane tanks

Public Hearing – Request for Special Permit for 2 reduced frontage lots –Dole Place (Assessors Map R-1, Lot 58) – Holly N. Privatera & Andrew G. Nichols (Owner) & C.W. Collins Corp. (Applicant)

Bridges read the public hearing notice for the record.

Tim Collins of Collins Development Corporation and his attorney Gregg Haladyna of 56 Central Square, Chelmsford present the project. Collins referred to the pre-application conference on November 6, 2018 with the Board. He stated that he has since tweaked the plan based on feedback he received from the Board and assistance from his engineer and Zambenardi. He noted that an 8-home subdivision was approved for this land in the past, though he believes a development with 3-homes would be less impactful and would fit better into the neighborhood. He stated that the homes are sited predominantly based on the locations of the good perc tests. He noted that the homes could be moved a bit to accommodate concerns recently expressed by neighbors.

Murphey stated that a site visit is in order and Collins agreed to stake out the lot lines and home locations. Murphey asked about the distance of the proposed dwelling on Lot B to the Kelleher's property to the right. Cook stated that according to the plans it would be approximately 180-feet.

Cook asked whether the proposal complied with the dimensional requirements in the Zoning Bylaw and Zambenardi affirmed. He also asked about the architectural design, which is not set in stone.

Bardeen asked if the Town Boards/Commissions or Department Heads had any comments.

Zambenardi stated that Building Inspector Glenn Clohery called her earlier that day and related verbally that he is, "in favor of the project and that wo reduced frontage lots on an ANR plan make more sense than a full-fledged subdivision". Zambenardi stated that Police Chief Art Reed related to her in a note that he is "good with the change so long as there is no sight distance issues", which Zambenardi stated is related to the siting of the driveway entrances and visibility of approaching cars on the road.

Bardeen asked Zambenardi to read written comments that had been received for the record. Zambenardi reads the following emails received:

- 12/3/18 Email from Town Manager to Leah Zambenardi relating comments made by Mike Trotta of 40 Pleasant Street
- 12/4/18 Email from Mike Trotta
- 12/4/18 Email from Brian Dodge of 4 Gunners Hill Road
- 12/4/18 Email from Brendan & Sherri Kelleher of 2 Gunners Hill Road

Bardeen asked for comments from Members of the public.

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Sherri Kelleher of 2 Gunners Hill Road stated she was more in favor of the first plan discussed during the pre-application discussion because the proposed homes were not sited close to her property. She stated the current plan shows the proposed house on Lot B closer to her property line. Murphey stated that there was a big problem with the first plan due to the siting of the Lot C home directly behind another house, which is poor land planning.

Cook noted that there are wetlands between the proposed Lot B home and the Kelleher's property for a distance of about 60-feet that would not be disturbed. Cook asked Kelleher to elaborate on her concerns noted in her 12/4/18 email. Kelleher described her son's medical condition and how she believed construction and tree clearing would impact him. She stated that her house would be going up for sale in the summer/fall and that the construction will impact the value/price of her home.

Pam Dodge, 4 Gunner's Hill Road stated that she knew there could be 2 homes built on that land when she purchased. She stated that noncomplying lots would be created which sets a precedent for other lots in Town. She stated her concern over the amount of tree clearing and the impact on her experience driving in to Gunners Hill Road. She stated her property values would be negatively impacted.

Brian Dodge, 4 Gunners Hill Road stated that their privacy would be impacted and they would get only about 80% of the appraised value of their home because of this.

Sherri Kelleher, 2 Gunners Hill Road stated that 4 lots have been put in since she moved in and they all conform to the zoning requirements. She is concerned about losing trees and impacts related with clearing that amount of space. She stated that there's an expectation of built in privacy when someone buys 3 or more acres.

Murphey suggested moving the homes closer to Dole Place.

Cook addressed some of the concerns brought up. He stated that the concern over setting a precedent is not quite warranted as there have been some reduced frontage lots approved in the past. Reduced frontage is considered case by case at the discretion of the Board based on set criteria, which he points to in the Zoning Bylaw. Cook also stated that property owners have the right to cut trees down and that could be the case even if the property wasn't split into 3 lots. He stated that the Board has more control over that aspect because a Special Permit is being requested.

Tom Endyke, 1 Waterside Lane stated his concerns over lost privacy and access to and from his property during construction.

David McGuigan, 38 Pleasant Street stated that the neighborhood is already over-built and the developer is looking for the maximum profit. He stated that this developer clear cuts properties and is shoehorning in more homes. He stated that traffic gets worse every year.

Cook stated that he sees how it could be interpreted that homes are being shoehorned. He stated that the proposed lots each have 2 to 3 acres. He sees that homes are being shoehorned because reduced frontage is being requested. He stated that he sees the developer's point of view because there is much land for 3 homes to be built upon. He stated that the Board will try to strike a balance between interests.

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Bardeen then made a motion to schedule a site visit for Saturday, December 15, 2018 at 9:00 a.m. and Collins would confirm whether the public is welcome to attend. Cook seconded the motion and it carried 5-0.

Bardeen made a motion to continue the public hearing to Tuesday, January 8, 2018 at 7:15 p.m. Bridges seconded the motion and it carried 5-0.

Materials reviewed: Project application and plans; comment emails from residents of Gunners Hill Road and Pleasant Street referenced above.

Bardeen reconvened the regular meeting

Informal Discussion – Tom Frangos – Potential Redevelopment of 866 Main Street (Brown Spring Farm)

Tom Frangos approached the Board with ideas about how to develop 866 Main Street using the Open Space Preservation Development Bylaw for age-restricted housing. He is looking at the development of a single building with 15, age restricted units, each having 1,000 square feet or less, powered with geothermal heat and having 1 elevator. He would build underground parking for 15 units and visitor parking would be behind the building. He would be looking to mimic the Victorian architectural style with a 2-story building having a gabled roof with dormers creating a 3rd story space. He would only want to build one building because it would require only 1 elevator. He believed he could maintain 80% of the parcel as conservation area. He stated that West Newbury and all Towns in the State have a housing shortage. He stated that West Newbury has a substantial number of large single family homes on large lots and there is a need for other types of housing, including age-restricted smaller units.

He discussed the Basic Maximum Number under the OSPD with the Board. He believed he could get 10 lots and he discussed the requirements for demonstrating this with the Board. Board Members concurred that a wetlands delineation was useful, but showing that each of the 10 lots perc is also important.

Members had general comments including the following:

- Brown Spring Farm is a focal point in the Town and creative building design and siting is critical to a successful project;
- They noted that establishing the Basic Maximum Number is critical to determining whether the project is feasible;
- The housing type should serve to address an unmet need in Town;
- They could not make more concrete statements about the project without first seeing a plan.

Materials Reviewed: Zoning Bylaw

Update/Discussion Re: Sullivan's Court Extension, Estate Homes at River Hill (Approved April 2015) - Walker Development and November 26/27 Storm Event

The Board engaged in a lengthy discussion over silty stormwater runoff from Neve's site on to the Horgan's property on River Meadow Place during the November 26/27 storm event and another one later that week. David Kelley of Meridian Engineering was present and discussed the erosion control work done by West Newbury Planning Board, Minutes, December 4, 2018. Approved February 19, 2019.

Neve's contractor at his and Conservation Commission Agent, Jay Smith's request after the November 26/27 storm, its effectiveness during the next storm, additional recommended erosion controls, and his thoughts on the causes of silty runoff occurring during the second storm. The Board Members and Tom Horgan and Robert Turenen of River Meadow Place participated in this discussion with Kelley. The discussion concluded with the understanding that Neve hired Environmental Engineer, Greg Hochmuth of Williams & Sparages to work on his behalf to remedy the situation. Kelley would meet with Hochmuth the next morning to assess the situation and discuss more erosion control work that might be needed. (Note: Further detail on the matter can be found in Meridian's Inspection Reports on file in the West Newbury Planning Office)

Materials Reviewed: Project Plans; Meridian Inspection Reports; photos and videos submitted by Tom Horgan of River Meadow Place

General Business:

- Updates – Zambarnardi stated that there is a possible violation of the affordable housing agreement at the Cottages at River Hill on Follinsbee Lane whereas the Town has received information from the homeowner's association that an owner of an affordable housing unit might be leasing the unit. She stated that the Selectmen are the monitoring agent and are looking in to this with the Town Manager and Town Counsel.
- Minutes – October 16, 2018, November 6, 2018, and November 20, 2018 – The minutes were tabled to a future meeting date.
- Vouchers – The Board signed vouchers for payment to Meridian Engineering & the Daily News and for trainings.
- Administrative Details – FY20 Budget: Zambarnardi will bring the FY19 Budget to the next meeting of the Board to begin the discussions. 2019 Meeting Calendar - Board Members discussed the draft meeting calendar. Request for Recommendation on Open Space Plan – Marlene Switzer of the Open Space Committee updated the Board on the status of the plan and would send Board Members an updated electronic version for their review and comment.

Adjournment:

The meeting was adjourned at 10:15 PM

Submitted by,

Leah Zambarnardi
Town Planner

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