

**WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
March 5, 2019**

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 5, 2019 at 7:00 pm 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, Brian Murphey, and Associate Member Tim Cronin were in attendance. Town Planner Leah Zambenardi was also in attendance.

Bardeen called the meeting to order just after 7:00 PM.

General Business:

Updates

-Town Planner Job Description Review:

A subcommittee of Bardeen and Murphey reviewed the Town Planner job description. The following language was added: “supervising administrative personnel in performance of essential functions where applicable.” It will be submitted to the Personnel Committee before March 7 deadline.

Finance Committee Meeting of February 26

Bardeen, Murphey and Zambenardi reviewed Planning Board articles for Town Meeting before the Finance Committee. The Finance Committee voted 6-0 to accept the Bylaws as presented. The Planning Department Budget was presented; it included a request for additional hours of administrative help. The Finance Committee voted 4-2 to accept the Planning Board budget.

Minutes

A review of minutes was postponed.

Administrative Details

Bardeen reported that the Finance Committee suggested the Board review application fees. She noted that fees will not cover State mandated costs. She suggested the discussion be moved to the March 19th Planning Board Meeting agenda. In response to the Chair’s request, Bridges volunteered to examine fee schedules in similar towns and towns with larger staffs.

Items not anticipated by the Chair in the last 48 hours

The Energy Advisory Committee met with the Board of Selectmen on March 4. It seeks to apply for a grant to help the Town identify municipal vulnerabilities and responses. Volunteers will do this work. Zambenardi will forward information to the Board. No action by the Planning Board is needed at this time. Bardeen suggested further discussion at the March 19 Planning Board meeting.

Correspondence

John McGrath sent a written request to appear before the Board regarding a conservation restriction on 16 (now 22) Church Street property. Zambenardi reported she had written and spoken to McGrath about a modification to the Definitive Plan Approval on the property, and she suggested he confer with his attorney. Town Counsel has agreed with the approach. The Board will review previous communication

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and invite Mr. McGrath to attend the next meeting.

Large-Scale Ground-Mounted Solar Photovoltaic Overlay District Bylaw, Section 5.G. of Zoning Bylaw

At 7:15 PM, Bardeen called a recess of the regular meeting to resume later, and to open the scheduled Public Hearing. Bridges read the public notice.

Bardeen explained the order of topics to be discussed noting that comments would be taken from the Board and the public prior to a Board vote on the Articles for Town Meeting. Zambenardi explained the Town's current framework as an overlay district that can be placed over an existing zoning district by a Town Meeting vote. The proposed bylaw would create additional protections to minimize impacts of Large-Scale Ground Mounted Solar Photovoltaic Installations (LGSPI) on residential property and neighborhoods and the Town overall while continuing to encourage construction of such installations. Changes occur in eight sections of the bylaws:

1. Exemptions
2. Dimensional Requirements
3. Submission Requirements
4. Design Standards
5. Hiring Consultants
6. Abandonment
7. Decommissioning
8. Financial Surety

The Board had discussed amendments in the fall, but determined that additional review was required. If approved, LGSPI would become an allowed use in addition to those uses already allowed in underlying zoning district. The Planning Board would provide site plan review.

Exemptions

- 1) Solar panels on a residence generating power for personal use.
- 2) A business with a 2-acre solar array generating power for use on site.

Proposed Dimensional requirements

The current bylaw requires 50 ft. from installation to the boundary of the district or the boundary of the installation, and 40 ft. for permanent structure. The Board would like to make the parcel boundary the 50-ft. setback. A special permit for less than 150 ft. may be requested by the developer if they meet pre-determined criteria under section 5.G.6.

Surface Area: This new section in the bylaw includes definitions for panels, security fencing, drive, and supporting structures, and limits the surface area to 160,000 sq. ft. or roughly 1 MW (roughly 4 acres). A special permit would be needed for a larger project. Minimum size is defined as 40,000 sq. ft. The maximum height of permanent structures is reduced to 15 ft.

Proposed Submission Requirements

If the overlay district bylaw is approved at Town Meeting, site plan review remains in place. New requirements include: utility company notification, operational maintenance plan with storm water

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controls, general maintenance, and a landscaping plan identifying any changes to the landscape, accompanied by 6 visualizations, identifying all buildings and tree coverage that will remain.

Proposed Design Standards

Design standards are outlined and required. Plans must reflect visual aesthetic, impact on cultural and residential areas. The Board proposed adding new design standards including:

Siting criteria "LGSPi shall be located with consideration for:

- i. Visual/aesthetic: LGSPi shall, where possible, be sited off ridgelines to locations where their visual impact is least detrimental to valuable historic and scenic and established residential areas;
- ii. General health, safety, and welfare of residents;
- iii. Natural habitats, forests and wetlands;
- iv. Lands with prime agricultural soils;
- v. Glare from the solar panels onto any abutting or nearby properties;
- vi. Potential vehicular traffic conflicts."

New wording regarding landscaping and screening was proposed, noting that "the species mix and depth of screening shall be determined by the Planning Board during Site Plan Review based on site specific conditions with existing natural vegetation being used to the greatest extent possible."

4. Hiring Consultants

This new section would allow the Planning Board to hire an expert at the developer's expense to conduct peer review, as allowed by State.

5. Abandonment & Decommissioning. Zambarnardi had reviewed several other towns' provisions for abandonment and decommissioning. Current provisions are included in the wireless permitting bylaw and list of 4 requirements. A bond is required at project outset to cover abandonment charges including site restoration. Should the owner abandon the site, the Town may remove the arrays. The posted bond provides financial surety.

Elisa Grammer of Coffin Street proposed the following clarification be added on page 2, just prior to section 5G4 in recognition of the fact that home systems sometimes sell excess power back to the grid. She suggested additional wording "that primarily intended to be utilized on site."

Rose Vetere of Coffin Street questioned if the minimum sq. footage needed to be specific sq. footage, suggesting that the minimum size under section 5.g.5. be removed and that under 5.5.g.5., and that the wording be changed to "the surface area shall occupy not more than 160,000 sq. ft."

Vetere suggested that the inclusion of both square footage of overlay zone and a capacity definition was confusing. She suggested adding that "250KW is approximately a 40,000 sq. ft. in current technology" to the definition. 160,000 sq. ft. is approx. 4 acres and approx. Cook noted that technological changes will make those specific correspondences obsolete, and that this be part of the article preamble, rather than the bylaw itself. Murphey concurred. The Board agreed on the final suggested wording for the preamble to the warrant article: "Current technology equates 250KW /40,000 sq.ft. = 1 acre and 1 MW given current technology."

Vetere voiced concern about special permitting process noting that the Planning Board may permit an

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installation surface area that is greater than 160,000 sq. ft., and closer to the property line than 150 ft. Bridges noted special permits are granted with a set of conditions, and are duly considered in a public forum with input from stake holders. There is an appeal process; should an abutter disagree, there is a further review process.

Zambernardi explained the public notice process. Abutters are not specifically notified. Abutter notifications are mailed for special permit and site plan approval requests.

The Board discussed abutter notification. Mrs. Jean Lambert made a suggestion and Bardeen noted that the special permit process allows flexibility and public input, and requires a supermajority vote of the Board.

Elisa Grammer, an energy lawyer, outlined what she believed were inconsistencies in parts of the bylaw. The discussion of special permits continued. Zambernardi suggested allowing wording to add a special permit provision for height.

Rick Parker of Crane Neck Street suggested removing the word convex from text regarding array shape and adding "or other shape." All board members concurred.

Bridges noted the height requirements: 20 ft. for arrays and 15 ft. for appurtenant structures. The Special Permit process could be used where either exceeds those limits.

Grammer referenced the importance of solar for community resilience noting a description of a microgrid under consideration whereby individual personal arrays would feed the microgrid. Both Cook and Bardeen did not feel these would require special permits beyond what the homeowner had originally obtained. She further questioned the 150 ft. setback as excessive, noting it would preclude large scale solar arrays. Parker volunteered to examine maps to determine the number of potential solar sites prior to Town Meeting.

Bardeen moved that the Planning Board report a recommendation to Town Meeting that it approve the Article. Murphey seconded the motion. Discussion on the motion: Cook made a motion to amend the motion to include changes discussed: removal of the word convex, height change to 20 ft. for the array, 15 ft. for appurtenant structures, or greater by special permit; and to include changes to 5.G.3 mentioned earlier to add wording re: consumptive power used primarily onsite. Further, the 5.g.6 reference will be changed to 5.G.7. The motion passed unanimously (5 to 0).

Performance Standards for Erosion Control, Section 7.A.11. of Zoning Bylaw in compliance with the Nonpoint Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) Phase II Permit for Massachusetts

The Chair moved this item forward in the agenda. Ellie Baker (Horsely Whitten Group) is working with the Merrimack Valley Planning Commission to renew a NPDES (National Pollutant Discharge Elimination System (NPDES)) Permit. It allows the discharge of storm water into receiving water bodies. It was last issued in 2003 covering West Newbury. Horsely Whitten's goal is to reconcile West Newbury special permit and site plan review language and performance standards with each other and with the NPDES language.

The Board of Selectmen will bring this to Town Meeting, but the Planning Board is the responsible entity for holding the public hearing.

Bardeen moved that Planning Board vote to recommend to Town Meeting that it approve the amendment as written. Seconded by Cook. The motion passed 6-0.

Documents Reviewed: Memorandum from Horsely Whitten Group to Town Manager including proposed revised code.

Open Space Preservation Development Bylaw, Section 6.B of Zoning Bylaw

Zambernardi stated that the Board had identified some deficiencies and ambiguities in the bylaws. The proposed amendments to the bylaw will clarify them. The Board proposed the following and discussed the following provision with members of the public, including Elisa Grammer of Coffin Street:

1. Basic maximum number (S.6.B.8.ii): Remove the phrase “as specified here in.” from the yield plan. It is redundant.
2. Modification of Dimensional Requirements (S.6.B.9): Eliminate the term “reduction of.” It is redundant. The phrasing appears to encourage applicants to modify certain dimensional requirements; Zambernardi suggested more neutral language indicating that the “dimensional requirements may be modified.”
3. Contiguity of Open Space (S.6.B.a.ii): remove minimum requirement of 5,000 sq. t. see ii. In the proposed language “open space shall be contiguous.” No statement about the size and square footage will be included.
4. Buffer areas (S.6.B.11.b.iii) Perimeter buffers vary by residence and zoning areas. Board proposes that perimeter buffers be amended from 20-foot and instead vary by residential zoning area to better fit the character of each district; increase the minimum buffer area around resource areas such as rock outcrops and wetlands from 20-feet to 25-feet to align with 25-foot no disturb zone required under the Wetlands Protection Act.
5. The Board proposed the distance between residential buildings shall be no less than 20 feet. Much discussion and public input had taken place regarding this change.
6. Density bonuses (S.6.B.13.d) would allow developers to request 3 additional market rate units for every one unit of affordable housing provided and the Board provided clarifying language in relation to the requirements under the Inclusionary Housing Bylaw. The Board reviewed a table Cook developed. It will accompany the appropriate warrant article. A calculation error will be corrected in the table prior to Town Meeting.

Grammer noted the importance of educating the town about need for affordable housing and asked the board to articulate its plans, how they would be accomplished, and to then include this in the bylaw for use by future boards.

Grammer asked about the language regarding the Yield Plan. Bardeen stated that the number is determined from the yield plan. Cook noted the recent changes to the OSPD and that the prior yield plan was based on a duplex on every site, reducing the number by half. Revised language was discussed. The Board made further revisions to buffer area language to note that driveways cannot be counted as open space.

Bardeen moved that Planning Board recommend to Town Meeting that it approve the articles as amended. Murphey seconded and the motion carried unanimously.

Documents Reviewed: Summary of Proposed Zoning Bylaw Amendment, Section 6.B Open Space
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Development, dated Feb 13 2019, Housing Density Bonus Table prepared by Cook

Bardeen moved to close Public Hearing and resume regular meeting.

Zambernardi requested vacation time. The Board will meet on May 7th without her, and will move the May 21 meeting to May 22.

Vouchers

Vouchers were signed by the Chair and Members of the Board.

Adjournment

The meeting adjourned at 10:08 p.m.

Respectfully submitted,
Kathryn C. Carr, Recording Secretary