

TOWN OF WEST NEWBURY PLANNING BOARD

Tuesday, July 7, 2020 at 7:00 p.m.

*by Remote Participation*

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 July 7, 2020 electronically via the Go to Meeting platform. Board Members Ann Bardeen, Richard Bridges, Ray Cook, Tim Cronin, Brian Murphey, Associate Member Wendy Reed, Town Planner Leah Zambenardi and Recording Secretary Kathryn C. Carr participated electronically.

Also participating electronically: Jill Bacheller - 10 Archelaus Place, Daniel Follansbee - 15 Sweet Meadow Road, Phil Yetman – Williams & Sparages, and Michael Crowe- 66 Lockwood Lane, Boxford.

**Call to Order:** Chair Cook called the meeting to order at 7:01 PM.

Roll call was taken. All Board members were in attendance.

Cook read Gov. Baker's Addendum to Meeting Notice regarding Remote Participation

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the West Newbury Planning Board will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at [www.wnewbury.org](http://www.wnewbury.org). For this meeting, members of the public who wish to view and/or listen to the meeting may do so by logging in to the website or by calling the telephone number provided.

Zambenardi provided an update on the agenda. The developer of a parcel located off Archelaus Place and Poor House Lane had requested an informal meeting with the Planning Board regarding a proposed development. The meeting had been placed on the July 7, 2020 Planning Board agenda. However, prior to the meeting, the developer rescinded the request for an informal meeting. Zambenardi noted the substance of the item would not be discussed.

**1. Discussion of Applications to be Submitted Pursuant to Scenic Roads Bylaw (Chapter XXXII of West Newbury Town Bylaws)**

The Board received applications for a driveway cut to an existing property at 414 Middle Street, affecting an existing rock wall, and the removal of a shade tree at 72 Ash Street. The requests are covered under Chapter 32 of Town Bylaws as part of its Scenic Roads Bylaw. Town Counsel McCarron noted that if a rock wall is in the right of way or demarcates the right of way, Planning Board review is required, as does cutting a shade tree. A public hearing will be held in two weeks. The application had been forwarded to Planning by the DPW director who is also the Tree Warden. He had visited the site and noted trees leaning toward the power lines. The Town Planner, Tree Warden and Building Dept. will work together to standardize this procedure and agree on criteria.

There were two curb cuts discussed. One had come before Board previously and been approved. The tree had been removed; the owners were unaware that they had to go before the Board. The Board discussion continued. All Board members will view the Ash Street site. Existing bylaws provide limited guidance, but allow for adoption of further standards.

**Documents reviewed:**

414 Middle Street ARN, Book 466, Plan 61, July 19, 2018

414 Middle Street, Driveway Drawing, June 28, 2020  
414 Middle Street, Driveway Drawing, July 6, 2020.  
West Newbury Assessors Map R27, lot 25B  
West Newbury Tree Warden Report 414 Middle Street, May 19, 2020  
72 Ash Street- Scenic Road Application, Williams and Sparages, July 6, 2020

*Photo of 414 Middle Street taken by Chair Cook.*

**Revisit discussion from April 7, 2020 Planning Board Meeting regarding House Bill 4598**

**(Massachusetts 191st Legislature 2019- 2020)**, “An Act to address challenges faced by municipalities and state authorities resulting from COVID-19”, Section 14, as may be amended, re: extension of required time periods for conducting public meetings and hearings, issuing permits, lapse of approvals, constructive approvals, rescheduling meetings by Chair, etc. in Light of Recent Requests and Submissions including:

- a. Request by Canter Brook Capital LLC c/o John Sarkis to Schedule Informal Meeting on July 21, 2020  
Regarding Development of 33± acre parcel Located off Archelaus Place and Poor House Lane  
(Tax Parcel – Map 140, Parcels 30F and 30); and
- b. Submission of Deer Run Place Definitive Subdivision Plan (519 Main Street & O Stewart Street), Deer Run Land Development, LLC c/o Williams & Sparages LLC, Received June 30, 2020.

Under the State of Emergency Declaration, time periods resume 45 days after the State of Emergency ends. Applications may be made and Boards and Commissions can determine if they can move forward. With no end of pandemic in sight, Zambenardi asked which submissions the Board would consider moving forward with at this time.

Board members discussed the limitations to public involvement in the Planning review process using online technology. Bardeen and Reed noted that while all documents could be made available on the website, full size plans can be difficult to read, burdening the public and limiting its participation.

The Board took the two matters out of order.

*Submission of Deer Run Place Definitive Subdivision Plan (519 Main Street & O Stewart Street), Deer Run Land Development, LLC c/o Williams & Sparages LLC, Received June 30, 2020.*

Michael Crow, 66 Lockwood Lane, Boxford, MA had submitted a Preliminary Plan to the Planning Board for review, had made requested changes, and filed this Definitive Plan. He hoped the project could proceed given the nature of the subdivision - small in relation to the property, and that no one spoke against the project during the Board’s review of the Preliminary Plan. He explained his plan for public notification of abutters, providing documents, meeting with abutters, and providing feedback to the Board.

Zambenardi had no doubt that the review could occur by Town Staff, and Boards and Commissions. The logistics and time limits were discussed. Technological capacity was noted as a potential issue. Zambenardi will confirm with Town Counsel the question, “If the Board begins the hearing process, would the 90-day time-frame from date of application to Board decision be extended past the that statutory limit?”

Reed noted that the Conservation Commission was postponing decisions that required extensive site work. For the project in question, a site walk would be needed.

The discussion continued. Crow stated that the Town and developer may agree to extend the statutory deadlines and he would be willing to do so. He asked if the Board had considered having a physical meeting with social distancing. Cook suggested revisiting the topic at the July 21, 2020 meeting.

*Request by Canter Brook Capital LLC c/o John Sarkis to Schedule Informal Meeting on July 21, 2020 Regarding Development of 33± acre parcel Located off Archelaus Place and Poor House Lane (Tax Parcel – Map 140, Parcels 30F and 30)*

Zambernardi had informed the Board that the developer had requested an informal meeting before the Planning Board regarding this development. The request has been placed on the July 7, 2020 Planning Board Agenda to determine whether or not to schedule an informal meeting. The substance of the project would not be discussed.

The project is on hold. Cook noted the Poor House Lane abandonment issue; frontage, and public ways needed resolution.

Murphey suggested the Board wait for Town Counsel's position prior to launching an informal discussion. Zambernardi noted the Building Inspector has issued two positions on the matter and the developer's attorney has responded. Zambernardi would make the letters available to those interested.

*Relevant Documents:*

*Town of West Newbury Certificate of Granting of Variance or Special Permit to Ellsworth and Marjorie Scribner, Nov. 18, 1980*

*Town of West Newbury Board of Appeals Letter, Sept. 23, 1980*

*Town of West Newbury Board of Appeals Decision, 10/28/1980*

*Deed Record, Essex County, Dec. 11, 1981*

*Agreement between John J. Austin and Town of West Newbury, July 15, 1985*

*List of Plans, Cammett & Kutensky, Jan 17, 1983*

*May and June Letters from Sam Joslin, West Newbury Building Commissioner*

*Letter from Jill Elmstrom Mann, P.C., Mann & Mann, 6/24/20*

## **General Business**

*Updates:* Sullivans Court - Cook stated that the Board was waiting on advice from Town Counsel on the matter. Cook had asked Town Counsel about the bond held on Sullivans Court and whether \$10,000 could be earmarked for construction of the trail from River Meadow to Sullivans Court. Trail easements must be turned over to the Town. The Board would like to know if the approvals would need to be modified to allow for accepting the money rather than building the trail. Zambernardi had looked to see if there are requirements for tree planting along the common driveway. The definitive plan references specific plantings for the island only. Cronin suggested that the island be checked for compliance with this requirement.

*Correspondence* - Receipt of Revised Plan and Letter dated June 30, 2020 to MassHousing, Submitted by Cottage Advisors, LLC for Cottages at Rolling Hills off Coffin Street - MassHousing had asked for Town Comments on the revised plans by July 22. The Town Manager had requested additional time to respond. The new deadline is Friday, August 7th. The Selectmen have asked that comments be submitted prior to that date. Planning Board comments should be reviewed at the July 21<sup>st</sup> meeting and then submitted to the Selectmen. Cook, Cronin and Zambernardi will prepare a draft for Planning Board review.

*Minutes* - The Board reviewed May 19, 2020 and June 2, 2020 draft minutes and made edits.

Motion:

Cook moved to accept the May 19, 2020 minutes as amended.

A Roll Call Vote was taken and the motion passed 5-0.

Motion:

Cook moved to accept the June 2, 2020 minutes as amended.

A Roll Call Vote was taken and the motion passed 5-0.

*Administrative Details* - Bardeen noted that some by-laws slated for the 2020 Spring Town Meeting were postponed until fall, and asked if new hearings would be required. Cook noted that Town Meeting would occur after the 6-month time restriction per MGL Ch 40A, S. 5. Bardeen asked if the recent House Bill applied to this time restriction. Zambarnardi will ask Town Counsel.

*Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting*

There were none.

### **Adjournment**

Motion:

Cook moved to adjourn at 8:58.

Cronin seconded.

A Roll Call vote was taken.

Bardeen-aye, Bridges-aye, Cook-aye, Cronin-aye, Murphey-aye

Respectfully submitted,

Kathryn C. Carr

Recording Secretary