

**West Newbury Planning Board Meeting Minutes**  
**Tuesday, October 20, 2020 at 7:00 p.m.**  
***by Remote Participation (see below)***

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 Tuesday, October 20, 2020 electronically via Go to Meeting platform. Board Members Ann Bardeen, Ray Cook, Tim Cronin, Brian Murphey, Wendy Reed, Town Planner Leah Zambenardi, and Recording Secretary Kathryn C. Carr participated electronically.

Also participating electronically: Stacy Vuylsteke, 525 Main Street & 0R Main Street; Chris Sparages, Williams and Sparages, Middleton; Michael Crowe, Deer Run Land Development LLC, Kennebunkport, Maine; Kim Monahan, 46 Crane Neck Street; Donald Bourquard, 148 Crane Neck St.; Jesse & Jane Ciccone, 547 Main Street; Francis & Blair Hunt, 26 Stewart St.; Kathy Feehery, 540 Main Street; Jake Cormier, 111 Indian Hill St.; Jen Solis, 5 Brake Hill Terrace; Robert Foss, 22 Stewart Street; Kate Day, 503 Main Street; McKenzie Boekholder, 549 Main Street.

**Call to Order**

Cook called the meeting to order at 7:00 pm. All Board Members and the Associate Member were in attendance.

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

"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 listed below. GoToMeeting Instructions: Join the meeting from computer, tablet or smartphone using <https://global.gotomeeting.com/join/913035629> OR By calling: +1 (786) 535-3211 and entering Access Code: 913-035-629 No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting."

**Public Hearing: Definitive Subdivision Plan - 519 Main Street & 0 Stewart Street, Assessors' Map R14, Lots 36 & 54 - Owner/Applicant: Deer Run Land Development LLC, 6 Mechanic Street, Kennebunk Maine - Subdivide one existing building lot into four new building lots (8 total units), including a new roadway with associated utilities and improvements**

Cook called for a roll call vote to open the Public Hearing which passed 5-0.

Zambenardi read the Public Hearing Notice for the record: "Pursuant to M.G.L. Ch. 41, S. 81T, the West Newbury Planning Board will hold a public hearing on Tuesday, October 20, 2020 beginning at 7:00 PM to consider an application for approval of a Definitive Plan to subdivide one existing building lot into four new building lots (8 total units), including a new roadway with associated

utilities and improvements. The property is located at 519 Main Street & 0 Stewart Street, Assessors' Map R14, Lots 36 & 54, and is in the Residence B & C Zoning Districts. The Applicant/Owner is Deer Run Land Development LLC, 66 Lockwood Lane, Boxford MA. The application and plans can be viewed online: <https://www.wnewbury.org/planning-board/pages/519-main-street> or please contact the Planning Office at 978-363-1100 x125 or [izambernardi@wnewbury.org](mailto:izambernardi@wnewbury.org) to view the plans in person. Interested persons may participate in the meeting by joining from computer, tablet or smartphone using <https://global.gotomeeting.com/join/913035629> OR by calling: +1 (786) 535-3211 and entering Access Code: 913-035-629. Tim Cronin, Clerk."

Cook shared the existing condition plans on the screen. Chris Sparages, Williams and Sparages presented the project at 519 and 0 Stewart Street. Michael Crowe, Deer Run Land Development LLC also spoke. Sparages described the property and existing conditions, noting a power line easement, wetlands, intermittent streams, slight slope from Main St., open fields and an existing trail system. Crowe intends to grant a trail easement to ECTA. A topographical plan showed a proposed 765 ft. roadway leading to a landscaped circle, meeting Town regulations. Four lots include a duplex on lots 1 and 2, an existing single family with an apartment and shed on lot 3, and a third duplex on lot 4.

A storm water management and infiltration system to handle the run-off has been designed to meet Mass. Storm Water Regulations. An additional hydrant is not planned at this time. Each duplex will have its own septic system. The existing building's septic system will remain. Paul Sevigny, Board of Health, had performed several tests to determine suitability of soils for the septic systems. Crowe will work with the Tree Committee and DPW to locate 13 new street trees. Crowe requested a waiver of the minimum frontage requirement for the existing lot along Main Street.

Cook explained that Planning Board members would initially ask questions followed by questions from the public.

Cook explained that the Town hires an independent engineer to review plans. Due to the pandemic, that review is not yet available. Cook suggested that the Board may continue the Public Hearing until the engineering review is received.

Sparages explained the ownership types of each building. Cook asked about a Homeowners Association. Zambenardi suggested that the DPW comment on whether the Town or the homeowner would be responsible for storm water management. Sparages noted easements will be in place granting the Town access to the stormwater management system. Cook noted that input from other town departments will be received.

Cronin asked about sidewalks. There are none planned. Sparages noted the small number of lots and the desire to limit impervious surfaces. Cronin asked for clarification on the development's exit and the driveways for the farm.

Cook shared a map of existing trails and Mill Pond recreation area. Reed asked Sparages about the features behind the power lines, referencing Sheet 14 showing proposed watersheds. Sparages said the septic system past the power lines would serve lot 1. Sparages stated that while the power company owns the easement for the power lines, the developer would be allowed to put a line for a septic system through it.

Sparages had studied watershed movement to calculate how fast water moved throughout the property.

Cronin asked about protected open space areas outside of the development area. Sparages said that it is Mr. Crowe's intent to protect the open areas.

Zambernardi had sent a memo to Town department heads explaining the project, and requesting their input.

Cook read responses from Town departments.

Sam Joslin, Building Commissioner, October 5, 2020: "No issues. Developed trails should be constructed in accordance with ADA standards. If where the grade is steep it is determined a retaining wall would be needed vs. proposed grading, a permit is required for all retaining walls retaining 4' or more of unbalanced fill."

Cook asked if there is intent to build trails. Sparages said it is. The intent is to create an easement for the trails.

Department of Public Works - Wayne Amaral, Superintendent response: Public Safety Memorandum 10/20/20: "Public Safety. The Cul-De-Sac design at the end of the roadway may be too narrow for emergency vehicle access especially to Lot #2, which will require these vehicles to enter the driveway to respond to any emergencies. This landscape area (rotary) is also a challenge for snow clearing. During heavy snow events, snow storage may narrow the roadway width, which will affect emergency vehicle access. I am concerned that LOT #2 has limited access for emergency response. With very little to no roadway frontage, all heavy equipment will be required to enter the site on a narrow driveway. Driveway Approval: The driveway access is on Route #113, which is a state owned and operated under the jurisdiction of MassDOT and the applicant will need MassDOT approval for a curb cut onto the state roadway."

Fire Chief Michael Dwyer, 10/19/20 email: "I support a min. 20' driveway width. I would recommend conducting a swept-path analysis for emergency vehicle access to and from the proposed site. Any proposed hydrants will need to be approved by the WN Water Department and WNFD. Would the developer be interested in providing some type of traffic warning signage/or equipment on Main Street?" Zambernardi stated that Chief Dwyer responded with an email, subsequently clarifying his support for a minimum 20-foot pavement width for the new roadway, rather than "minimum 20-foot driveway width."

Police Chief Jeffrey Durand, email dated Oct 19, 2020: "The line of site entering and leaving Main Street onto the property looks OK to me. I don't think there will be a big increase in vehicles coming and going."

Water Dept., Michael E. Gootee, Water Manger/Superintendent had sent a memo dated Feb 26, 2020 with the following points:

- "The proper Mass DOT permits will be needed for the construction work in the road of Route 113 (Main Street). Most likely Mass DOT will require flowable fill for the installation.
- Is this subdivision a private development or is it going to be maintained by the town? If it is going to stay as a private development the proper language would need to be added to the Planning Board documents as we have done with other subdivisions for the maintenance of the water system. The water department will only be responsible for flushing the fire hydrant(s) twice a year or as needed.
- The fire department may ask for more than one hydrant to be installed. There is an existing hydrant across the street but an additional hydrant installed at the entrance of the subdivision

would benefit the neighbors on that side of the road. The town or water department may want to look into paying for that hydrant installation if the fire department feels that the development only needs the one hydrant at the end of the development. That's what we did for the Drakes Landing subdivision. The water department paid for that hydrant and installation.

- The contractors engineer needs to tell us what the anticipated fire flows are needed for the condominiums and the highest elevation of the development.
- Once we have that we send that documentation to our engineering firm and they will run our Hydraulic Model to see if the fire flows can be obtained and what size water main will need to be installed. That service will run between \$1,500-\$2,000. Water services to the dwellings that are 150-feet or less are to be 1-inch K-Copper. On the plan it only shows one water service going into the existing house. Once that house is converted into a condominium it will need an additional water service added.
- The System Development Fee is \$3,000/service. That would be seven (7) services (\$21,000). Since the existing house has an existing water service, we will not charge an additional connection fee when it is reconfigured. Meter pits will be required for the two condominiums at the end of the development since they are more than 150-feet from the water main. 1-inch polyethylene can be installed after the meter pits to save on cost.
- An additional gate valve will need to be installed at the entrance on the development and a 1-inch blow-off will need to be installed at the hydrant."

Board of Health: Correspondence had not yet been received.

Reed asked about trail easements. Crowe stated that he will establish recreational easements. Crowe had been in contact with Essex County Trails Association, which expressed interested in a trail that gets closer to Mill Pond. He noted a connection to the Mill Pond area. The Essex County Trail Association will maintain the trails, not the Town. They will hold the easement. Reed asked about ADA compliance. Crowe did not believe it applies as the trail would not be on Town-owned property, further noting that due to its slope, ADA compliance would be very difficult.

Cook opened the Chat function for resident questions and comments.

Blair Hunt, 26 Stewart Street asked about future expansion: would additional units be built on this property?

Sparages noted the roadway limits the number of units. There is no room for another road. The rear of the lots will remain as is. Cook further noted that the planned units would take up all available frontage. Cook noted that Sparages mentioned the developer being open to dedicating open space on the lot.

Kathy Feehery, 540 Main Street asked about the Lot 1 septic system and if National Grid had been approached to obtain the required easement. Sparages stated that National Grid had been contacted for plans and easement documents. The latter were not very specific. Attorneys will be consulted about the septic easement.

Cook asks for communication from National Grid about access, and septic installation and maintenance.

Francis Hunt, 26 Stewart Street abutting lot 2, noted that between development and water shortages, the Town is buying more water from Newburyport. He asked what was being done to limit water usage.

Sparages said the Town's consultant will use existing hydro flow data to calculate usage and share with the Water Department's consultant. Cook said the impact on water usage and attendant costs

to the Town is something that needs to be addressed, but perhaps more broadly. The Water Department is looking at new sources and fees. He suggests residents address this at issue at Town Meeting.

Donald Bourquard, 148 Crane Neck St. Member of the Open Space Committee said the Committee had voted to support the extension of the proposed trail system.

Stacey Vuylsteke, 525 Main Street and 0R Main Street, an abutter of lot 1 formally opposed the entire development, and had concerns about easements and construction noise affecting her state-registered apiary. She asked that developers be cognizant of noise and spraying. She stated that in the past, the previous owner had allowed her to use a driveway to access the back lot. She was concerned that the access might no longer be available. Sparages hoped to arrange a visit with Mr. Crowe. Vuylsteke expressed appreciation and would be happy to meet with him.

Through the chat function, Blair Hunt, 26 Stewart Street, spoke against the development.

The Board had received an email from Kate Day, 503 Main Street. While present, she declined to speak. The email is a public document. Jen Solis requested a copy. Zambenardi would provide it to her.

Zambenardi stated that Meridian Engineering had submitted a proposal for a peer review of the project. Cook had accepted it and Mr. Crowe is prepared to make a deposit to be held in escrow by the Town, which would pay for the peer review

The Board discussed timing of the next Public Hearing. Murphey expressed concern about short turnaround time for Meridian, suggesting that 30 days would be more appropriate. Zambenardi will schedule the hearing for November 4<sup>th</sup>. Clarification of the scope, plan review, storm water calculations and proximity to the Presidential Election were noted as factors suggesting choosing a later. November 17 was suggested.

#### MOTION

Cook moved to continue the Public Hearing to November 4, 2020 at 7:15 PM.

Cronin seconded.

Discussion-Board members expressed concern that they and the public would not have sufficient time to review related documents prior to the Public Hearing.

A Roll Call vote was taken

Cook - Aye

Bardeen, Cronin, Murphey, Reed - Nay

The motion failed 1 to 4.

#### MOTION

Murphey moved to continue the public hearing to November 17, 2020 at 7:15 PM.

Cronin seconded the motion.

Discussion - Murphey requested that documents regarding the peer review be submitted to the Town Planner no later than November 10<sup>th</sup> or 11<sup>th</sup> to give the Board and the Applicant time to review.

#### VOTE

A Roll Call vote was taken and carried unanimously.

Cook thanked the builders and the public.

*Related documents: Application Materials and plans; Email from the Town Planner to multiple department heads and their responses; Kate Day, 503 Main Street, email dated 10/18/20*

### **Meet with Applicants for Associate Planning Board Member Position**

Section 8.A.2. of the Zoning Bylaw states that the Planning Board shall provide the Board of Selectmen with a nomination list of no less than 2 names at least 30 days prior to an appointment.

Applicants were interviewed in the order their applications were received.

Jake Cormier, 111 Indian Hill Street, West Newbury

Cormier stated that he moved to West Newbury 5 years ago and provided information about his background. He has professional experience in construction and development. Board members asked questions. Reed stated that Cormier had appeared before the Conservation Commission, noting they had been impressed with his work and approach. Cook noted Cormier's interesting and useful background.

Kim Monahan, 46 Crane Neck Street, West Newbury

Monahan had previously been the Associate member of the Planning Board, stepping down for work-related travel. She discussed her background with the Board. Board members thanked her for her interest and time.

### **MOTION**

Cook moved to send a letter providing the two candidate names to the Board of Selectmen.

Murphey seconded.

There was no discussion.

A Roll call vote was taken and the motion carried 5-0.

Cook will attend the Board of Selectmen's meeting if requested to do so.

### **Review Certificate of Vote - Modification to the Approval of a Definitive Plan, Sullivan's Court Extension, Estate Homes at River's Edge Recorded at Southern Essex Registry of Deeds in Book 34171, Page 236 and Plan Book 448, Plan 67, Re: Inclusionary Housing Requirements, Trails and Trail Easements** <sup>[11]</sup><sub>SEP</sub>

Cook asked Board members to review the document for clarity and completeness. Several items to be addressed were identified. He suggested a revised draft be reviewed at the next meeting. The Board agreed.

Zambernardi asked if there will be a formal report by the Conservation Commission about the Lot 6 culvert. Reed will follow up with the Conservation Agent.

### **Receipt of Amended Notice of Intent to Sell and Proposed Use of Land for a Portion of 183 River Road Pursuant to M.G.L. Ch. 61, S.8 & M.G.L. Ch. 61A, S. 14 for Construction and Use of a Single-Family Dwelling & Accessory Structures - Joseph J. Grew c/o Miranda P. Gooding, Glovsky Counselors-At-Law**

Cook stated that the Board received a notice that Joseph J. Grew intends to sell the Property to

Albert Ting and Nancy Pau. Attorney Miranda Gooding's letter indicates that Mr. Ting and Ms. Pau intend to continue the use of the property for forestry and agricultural uses. Although they eventually plan to construct a new single-family residence on a portion of the Property for their personal family use, such use, if and when it occurs, would not be considered a "conversion" under Chapter 61, Section 8 and Chapter 61A, Section 14. Accordingly, the sale will not trigger the Town's first refusal option contained in said Chapter 61 and Chapter 61A.

Board members noted that their initial letter that was sent to the Selectmen did not require revision. Grew was present and stated that there will be a minor change to the lot lines to address a view easement. He stated that his attorney has advised that the Board of Selectmen's vote does not need to occur before the final product is presented.

## **General Business**

Updates: Drakes Landing - Cook had driven by the site during a rain event. Remediation issues seemed insufficient. It was noted that the developer will pave a portion of the road by end of October/early November. Board members expressed concern. This will be on the agenda for November 4. Cronin had reviewed the agreement regarding fund release; it was clear that final paving of the road must be done and all utilities working. Funds may be held back until the items are completed.

Minutes: Review of September 2, 2020 minutes was postponed by Board members.

Correspondence: Letter dated 10/5/20 from the Department of Housing and Community Development, received 10/19/20 regarding public hearings related to permits and approvals related to housing production.

Administrative Details: Board members discussed a date to review the Planning Office budget. Cook had written to the Town Manager about moving forward with affordable housing. Zambarnardi had spoken with Habitat for Humanity and some interested citizens. She spoke about the Town's movement toward affordable housing. Cook hopes to get a Housing Group and an Affordable Housing Trust formalized. Cronin asked about the Zoning articles that were approved at Town meeting. Zambarnardi stated that she fills out a form and submits it to the Town Clerk. The Town Clerk is responsible for certifying it and sending it to the Attorney General for approval.

Adjournment:

MOTION

Cook moved to adjourn the meeting at 9:35 PM.

Cronin seconded.

Roll call taken and the motion passed 5-0.

Respectfully submitted,  
Kathryn C. Carr  
Recording Secretary