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Town of West Newbury
Planning Board
Tuesday, May 4, 2021
381 Main Street, Town Office Building
www.wnewbury.org

Minutes of Meeting

Open Session: 7:01 p.m. by remote participation (see below)

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 23, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the West Newbury Board of Selectmen 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. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner:

GoToMeeting

Phone: (646) 558-8656

Access Code: 917 1906 1926

Passcode: 905840

Or from computer, tablet, or smartphone:

Join at: <https://zoom.us/j/91719061926?pwd=UGJ6R25yNDBPVFBURWRUcWRCTDlzd09>

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.

Chairperson Ray Cook called the meeting to order at 7:00 p.m. by reading Governor Baker's Addendum to meeting, as noted above. Members in attendance were Ann Bardeen, Raymond Cook, Tim Cronin, Brian Murphey, Jake Cormier, and Town Planner Leah Zambarnardi, all participating via Zoom Conference.

1. ANR Plan for 14 Kimball Road (Endorsed on 10/6/20) – Graf Realty Trust - Request for Certification Pursuant to M.G.L. Ch. 41, Section 81X that the plan has not been modified, amended or rescinded, nor the plan changed to allow for recording at the Registry of Deeds

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Cook explained that this was previously endorsed by the Planning Board over six months ago and now that the applicants are looking to file it at the Registry. They can't because it's been over six months, so now the Planning Board has to certify that it's not been modified, amended or rescinded.

Greg Hochmuth from Williams & Sparages stated that he wanted to disclose that one of the grading easements shown on the plan had changed slightly at the request of the Board of Health. He said they did a separate exhibit plan for this grading easement. He explained that it doesn't have anything to do with the lotting or the lots complying with zoning. Cook asked about the original purpose of the plan. Hochmuth explained that the change was a parcel transfer between Lot 2 and Lot 3.

Bardeen stated that there would have been no requirement in an ANR plan to show grading easements anyway for purposes of the Planning Board approval, so she's not really sure that's of the essence. Zambarnardi confirmed that it's not one of the criteria that the Board uses to approve or disapprove an ANR, though the regulations do ask that easements be shown on the plan, though they're referring to existing easements.

Cook stated that he feels that the Board is being asked to approve a plan that has been changed, even though the change doesn't impact the Board's decision at all. Zambarnardi stated that the plan itself hasn't been changed. Cook inquired as to whether this is the plan that will be filed, and Hochmuth confirmed that it is. Cook stated he's okay with that. Murphey stated that the lot lines are all the same and feels that would be fine.

Motion:

Cook made a motion to certify that the ANR Plan has not been modified, amended or rescinded, nor the plan changed such that it allows for recording at the Registry of Deeds under M.G.L. Chapter 41, Section 81X. Seconded by Cronin.

Roll call vote was taken, and the motion passed 5-0.

Cronin questioned the process to ensure everything gets signed and recorded. Zambarnardi stated that the previously signed mylar would be dropped off with the Planning Board, so the Board can make its 81X certification upon it.

Documents reviewed: ANR Plan for 14 Kimball Road (Endorsed on 10/6/20)

2. Work Planning and Prioritization for the Planning Board and Town Planner

Cook shared a document on Zoom that was provided by Zambarnardi, a list of High Priority and Other Projects. Cook stated that he read the document before the meeting and feels that it's good as is, but that on Other Projects, feels that the Accessory Units Bylaw should be moved to the top of the list under Other Projects, not put into High Priority, but at the top of the list.

Cook also inquired about the Recording Secretary position. Zambarnardi stated that she has an application that the Town Manager Angus Jennings passed on to her. Zambarnardi stated that the applicant applied some time ago, so she has to make sure that this person is still interested. Zambarnardi stated that Jennings also provided her with information regarding the Select

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Board's minutes taker and that she would like to hire her to help with the Planning Board's backlog of minutes. Members of the Board concurred that this is a good solution.

Regarding the High Priority and Other Projects list, Murphey stated that he would like to go through the High Priority list briefly in order to get a quick update of where Zambenardi sees things at this time.

Regarding the Stormwater Bylaw, Zambenardi stated that the Town engaged MVPC's Environmental Program Manager, Jennifer Hughes to assist. She stated that the Stormwater Working Group met with her last week and reviewed a draft. Hughes submitted a revised draft at the end of last week. Zambenardi explained that the idea is to meet one more time to finalize the draft from the Working Group's perspective, then Jennings and Hughes will put together a memo explaining the general tenets and asking for review and comment, and this memo will be essentially distributing the draft to the Board of Selectmen, the Planning Board, the Conservation Commission, and the Board of Health for comment. Zambenardi stated that the Stormwater Working Group has not made a recommendation on who the Stormwater Authority should be. The Working Group is sharing the draft with entities that could potentially be designated as the Stormwater Authority so these entities can review the bylaw, weigh in, and see if it's within their capacity and knowledge base to take it on. Zambenardi stated that the DPW, Planning Board, Conservation Commission, or Board of Health are being considered. She also stated that when she put the first draft together, she saw that the model bylaw suggested the Conservation Commission be considered but the Planning Board, Conservation Commission, or Board of Health could very well do it. Cook questioned whether the DPW, not being a Board, could take this on. Zambenardi stated that some towns have the DPW or Town Manager's office do it. Bardeen stated that it seems like stormwater could be generated that wouldn't be from any one project or location and that the DPW should be considered, especially if the water is running down the street. Cook stated that he sees arguments for all.

Regarding housing, Zambenardi stated that she and Jennings interviewed the two applicants who applied to be the Town's Housing Consultant. She described the responsibilities of the selected consultant including: reviewing the Regulatory Agreements and Deed Riders, cataloging the units and the requirements into a database to allow for annual monitoring with DHCD, responding to complaints and violations, and handle resales.

Cook stated that his only concern is over the regulations previously established are a stopgap measure to pay someone to do the work until such time that a Trust or Committee is set up. Zambenardi stated that she double-checked the RFQ that was issued and saw that the scope included advising the Town on establishing an Affordable Housing Trust. She stated that during the interviews both applicants indicated they were knowledgeable on the topic.

Regarding Sullivan's Court, Zambenardi provided an update of the pending items. Regarding completion of the planting plan, she stated that the Planning Board looked at it last summer or fall and the Board at that time wanted it to be completed per that plan, and that long-term, the HOA would be maintaining it.

Zambenardi further stated that regarding the trail easement, the Conservation Commission made recommendations for a few more changes somewhere between November and January and sent it to Tom Neve, who responded that he would get back to the Commission after vacation, but as of last week he had not yet responded. The Conservation Agent, Bert Comins indicated he was going to check with Neve., Zambenardi stated that Neve still has to provide as-built and street West Newbury Planning Board Draft Minutes, May 4, 2021. Approved September 7, 2021.

acceptance plans for review by Meridian and then go through the street acceptance process for Town Meeting.

Zambernardi also stated that \$10,000 of the surety bond is earmarked for the design and construction of Trail A. She believes that as of now, the plan is for Neve to pay the contractor directly. The Board will release the surety bond when the project is complete.

Cook commented that the only thing that he feels is time sensitive is the street acceptance portion and commented that it's too late now for Spring Town Meeting. Murphey inquired as to whether Zambernardi has reached out to him, and if not, feels that a formal notice should be sent. Cook stated that by doing that, we've got a record. Murphey also stated that he's somewhat concerned about the leverage they have to make him respond, which Zambernardi stated is \$19,000, which includes the \$10,000. Zambernardi stated that she'll call him and go over these items and then send him a follow-up letter. Murphey stated that this should be discussed at every meeting because Neve has a history of not following through in a timely fashion.

Cronin inquired regarding the parking spaces, if that's part of the Town acceptance. Cook stated that it may be raised at the meeting. Zambernardi stated that she needs to look at that. Cook added that's a potential bullet item to be added to the list. Murphey stated that he went down a few weeks ago and parked on the shoulder, but it was rather unclear where one was supposed to park. Cook stated that the area is so overgrown that you can't tell where the spaces are.

Cook stated that Drake's Landing is beginning to finish up, which was corroborated by Zambernardi. Cook inquired as to whether the last few units have been sold. Zambernardi stated that they've been released, and the sales are pending, that they're happening very soon, that the Board still holds some of the bond for Phase 2 and will be asked to release it when the project is done. Cronin inquired if that's something that Meridian helps with and Zambernardi stated that Meridian will help in terms of reviewing the request to release the remainder of the bond, as well as reviewing the as-built plan. She stated that there won't be a street acceptance plan for this because it's a private road.

Cook stated that the Planning Board approved 519 Main Street, Deer Run, and asked when the construction would begin. Zambernardi stated that the decision was filed with the Town Clerk on April 29th, a day before the deadline, so now there's a 20-day appeal period, and once that's done, they will file the Certificate of Vote and other documents at the Registry of Deeds and will update the plans as required, and will provide Mylars for signature by the Planning Board.

Zambernardi further stated that along with the plans, they'll submit a covenant not to convey, which is an agreement document that guarantees they'll complete the roadway and infrastructure before they sell any of the units, which is not unusual. She stated that when he is ready to sell a unit, he'll request a release of the unit from the covenant not to convey and will typically post surety, which can be cash, a tri-party agreement, or an insurance bond.

With regards to the Floodplain Bylaw, Zambernardi stated that they are still planning on bringing this to Fall Town Meeting. She stated that the Board is having the Building Inspector attend the May 18th meeting to go over the redline document he prepared.

With regards to the MBTA Communities, Cook inquired as to whether the multi-family housing requirement discusses being within a certain distance of a train station. Zambernardi stated that is the case if you have a train station in your town, but if you don't, you're considered a
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community served by a local transit, so the Town will need to establish a district or an area on its own. She stated that DHCD will be publishing guidelines on this. Zambarnardi further stated the State will not require compliance until the guidelines are published. She stated that should the Town choose not to establish such a district, it will become ineligible for two grants. Cook further stated that when this goes before the Town, it could be very controversial.

Murphey added that the Town looked at designating a 40R District on the Mullen property on Church Street in 2008, 2009. He stated it is a parcel owned by the Town, the Town has a history of wanting to build housing on it, and that such a project could perhaps meet the Town's needs without being overly controversial. Murphey stated that the law requires a designated multi-family district and that doing multi-generational housing such as the one talked about 11 years ago could work.

With regards to the other projects, Cook asked the Planning Board to peruse the other items other than the Accessory Units Bylaw. Bardeen inquired as to the Refresher for Planning Board members. Zambarnardi stated that Murphey suggested that we look at the Archelaus Hill ANR that was appealed several years ago, the reasons for it, and review the Board's criteria for endorsing ANR plans.

The Board Members discussed their recollections of the project review.

Zambarnardi suggested this be placed as an agenda item for the June 1st meeting. All Board members agreed. Murphey stated that he sent the link to the case and inquired if Zambarnardi could forward it to others.

Cronin mentioned the presentation by the Tree Committee and wondered where we go from there as far as integrating them in the Board's process, so maybe that should be added. Cook recalled that the Board was going to set up its own guidelines for stone wall and shade trees. Bardeen stated there's also the fact that the Tree Committee wanted to be involved in projects where plantings were concerned, so maybe the Board should wait.

Cormier commented that he attended a workshop and learned that there's more involved in conservation than just wetland conservation, including keystone plants that are natives, and perhaps the Board or another entity could come up with a recommendation on using native plants. He noted that when developers are clear-cutting new lots, perhaps they would replant some portion with native plants. Cook stated that he doesn't know what the Town has in the way of guidance and/or authority to govern the use of herbicides on agricultural land.

Murphey stated he feels it's a Health Department issue. Bardeen added that the Board doesn't have a lot of leverage except under special permits to require much of anything in terms of planting, but maybe there's a way to begin to develop online information or things used in meetings to link to some of the other committees like the Tree Committee or the West Newbury Wild and Native, which is the offshoot group from the Garden Club which is trying to promote these things, and perhaps they would have some guidance that people could follow. Cook stated that even though the Board doesn't have authority to impose any mandatory restrictions or requirements, it can still suggest it at the meetings, and Bardeen suggested pointing them towards the resources. Zambarnardi stated that developers sometimes reach out to her in advance of moving forward with a project and suggested that she could refer them to such resources. Murphey suggested the Board might consider modifying its subdivision regulations to include suggestions regarding native plants and flora and fauna. Cormier stated that developers have to replicate wetlands, and perhaps a Bylaw could address natives and sensitivity to conservation.

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Cormier volunteered to look further into this. Zambarnardi stated perhaps such recommendations could be incorporated into the site plan regulations, which already includes performance standards, design criteria, etc., Bardeen suggested adding this to an agenda for an upcoming meeting to see if people are interested and would tune in and offer information. Murphey stated that input is helpful, but that other committees can't vote on projects. Further discussion ensued on this topic with Board members offering Cormier advice on where to look.

With regards to the High Priority and Other Projects List, Zambarnardi shared the list with Town Manager Jennings, asking for his suggestions. He mentioned the surface water protection bylaw, and that the City of Newburyport is very interested in helping to do that. Cook feels this should be put on the list but not under High Priority, and then maybe later in the summer, we invite the Newburyport consultant to come in and have a discussion about what they'd like West Newbury to do.

Cook also inquired as to working with the Treasurer/Collector to resolve outstanding balances. Zambarnardi stated that she's already looked at it and sent the Treasurer her comments on accounts that could be closed, accounts that are not active, and accounts that are not the Planning Board's.

Cook also inquired about the marijuana policy mentioned by Jennings. Cook and other Board Members did not think it's a priority. Bardeen stated that her sense is that these are the kinds of things that are happening in other places, and that Jennings might be concerned about how the Town reacts to proposals. Zambarnardi also stated that she attended a luncheon put on by the MAPD, the Massachusetts Association of Planning Directors regarding marijuana, where we are in the state and where we are four years later after the vote to decriminalize it, and one thing they were talking about is that a lot of these places are now doing delivery services and if that's a concern in the community and if you want to regulate it. Further discussion ensued on this topic and responsibilities of the Planning Board.

Documents Reviewed: List of Planning Projects

3. General Business:

- Correspondence:

Zambarnardi stated the Board received a Notice of a Public Hearing in Haverhill, and May 3rd and an abutter's notice regarding a project in Newbury.

- Minutes: March 2, 2021, March 16, 2021

Regarding March 2nd minutes, Board members went through portions that need to be changed, and discussion ensued regarding suggested changes.

Motion: Cook made a motion to accept the March 2, 2021 minutes as amended. Seconded by Cronin.

Roll call vote was taken, and the motion passed 5-0.

Regarding the March 16, 2021 minutes, Board members went through portions that needed to be changed, and discussion ensued regarding suggested changes.

**Motion: Cook made a motion to accept the March 16, 2021 minutes as amended.
Seconded by Bardeen.**

Roll call vote was taken, and the motion passed 5-0.

- Administrative Details:

- Cook inquired as to the Board's thoughts regarding in-person meetings. Bardeen stated we can't control who walks through the door. Murphey stated he's fine meeting with Board members only, and if social distancing is still in place. Murphey feels that it's probably going to change within a month or so and the Board could possibly revisit it then.
- Zambarnardi added that effective on May 29th, subject to public health and vaccination data, gathering limits will increase to 200 people indoors, right now it's 100 people indoors. Cook suggested following the Select Board's lead on this.
Regarding file sharing options, Zambarnardi states that she's been unhappy with Dropbox. She stated that it is still an option where the Town would pay \$120/month which would provide 2 tera bytes to her, but that Board members would continue to have 2 gigabytes. She feels that e-mail is a good way to share minutes, agendas, etc., and we can also use the Town website since you can upload documents that are up to 100 megabytes. For comparison's sake, the plans for 519 Main Street 27.2 megabytes, which is a big document. If the Town's website is not available, Google Drive offers 15 gigabytes of free storage, which would involve her loading a document into Google Drive and then sharing the link with Board members. Cook added that whatever she thinks works better for her, he can adapt. Murphey inquired as to whether this involved pushback from the Town for using Dropbox. Zambarnardi stated that she's just frustrated with storage issues over the past couple of months.

Cook stated he feel that using the Town website is the way to go if it's kept nicely organized by street address, etc., because then it's there for future Planning Board members and future administrators. Further discussion and questions were asked and answered regarding this topic as to how using this option might work.

Renewal of Wolters Kluwer Subscription: Zambarnardi stated that this is the home of Bobrowski's land use legal text, which keeps us apprised of relevant case law and changes to aspects of zoning, , subdivision control and other land use tools. Cook inquired as to whether Zambarnardi uses this service and she affirmed.

Regarding cost, Zambarnardi stated that in the past, it's been the Building Inspector who has the account and pays for it, though this time around he didn't renew it. She spoke with him about splitting the \$382.22 cost of the subscription, with the Planning Board's portion being \$191 for the year. Board Members approved of this expense. to which all Board members agreed would not be a problem.

- Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting
Bardeen asked about future agenda items. Zambarnardi shared the following information:

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May 18, 2021:

- Tom Cook - Extension of Special Permit for the Common Driveway on Middle Street
- Review the Flood Plan Bylaw with the Building Inspector

June 1, 2021:

- ANR Refresher
- Officer Elections

June 15, 2021:

- Tentative: Greenbelt/Town - Permission Under the Scenic Roads Bylaw for the Removal of Trees and Stone Wall Removal, off Coffin Street property to Cortland Lane

Adjournment:

Cook moved to adjourn the meeting at 8:36 p.m.

Seconded by Cronin.

Roll call vote was taken, and the motion passed 5-0.

Respectfully submitted,
Susan M. Lobie, Certified Electronic Transcriptionist
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