



**Town of West Newbury  
Planning Board  
Tuesday, July 20, 2021  
381 Main Street, Town Office Building  
[www.wnewbury.org](http://www.wnewbury.org)**

**Minutes of Meeting**

**Open Session:** 7:00 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 15, 2020 Order imposing strict limitations 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 into the website or by calling the telephone number listed below:*

**GoToMeeting**

Phone: (646) 558-8656

Access Code: 859 5841 0189

Passcode: 792024

Or from computer, tablet, or smartphone: Join at:

<https://us06web.zoom.us/j/85958410189?pwd=SFhOa2xEa0R2Wkl0a01yeVJzL0VKQT09>

*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 Tim Cronin called the meeting to order at 7:00 p.m. In addition to the Chair, Members in attendance were Ann Bardeen, Brian Murphey, Jake Cormier, Ray Cook, and Town Planner Leah Zambarnardi. Also, Wayne Amaral, Deb Hamilton, Nancy Keller, Melissa Robbins, Chip Hall,

**PUBLIC HEARING: Called to Order at 7:15 p.m. by Chairperson Tim Cronin.**

**Seconded by Ray Cook.**

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

**Public Hearing: Application per the Scenic Roads Bylaw, Ch. XXXII of Town of West Newbury Bylaws for the removal of a 25-foot portion of stone wall at 194 Crane Neck Street (Tax Map: R-4, Lot 12). Owner: Daniel & Patricia Grabowski/Applicant: Mark Grabowski.**

Public Meeting Notice was read by Zambarnardi.

Mark Grabowski addressed the Board and stated that he recently received approval of the ANR Plan of Land with the planning board to create a separate lot (R4-12-1) in zoning district: Residence A. He stated that he is now applying for removal of 25-feet of stone wall in order to provide a driveway entrance. The rocks removed from the wall will be re-incorporated back into the existing structure. As part of this effort, no trees on public property will need to be removed. The driveway will be of a similar size and structure to that of the abutting properties. Cronin asked if there were any comments from members of the public. There being none he closed the public hearing.

*Documents reviewed: Letter of request, marked up ANR Plan, aerial photographs.*

**Motion made by Cronin to approve the Application in the Scenic Road Bylaw for the removal of 25-feet of stone wall, as submitted the Grabowski's in their application.**

**Seconded by Cook.**

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

**PUBLIC HEARING: Called to Order at 7:45 p.m. by Chairperson Tim Cronin.**

**Public Hearing with Tree Warden: Application per the Scenic Roads Bylaw, Ch. XXXII of Town of West Newbury Bylaws for the removal of trees on River Road (Tax Map: R-24, Lot 5). Owner/Applicant: Essex County Greenbelt Association.**

Public Meeting Notice was read by Zambarnardi.

Dave Rimmer, Director of Stewardship at Greenbelt gave an overview of Greenbelt's request regarding this property, explaining the benefits of the project, such as hiking trails, as well as perhaps developing a paddle launch at some point, and developing public access at the site.

He had meetings and a site walk with the Conservation Commission and he presented plans for the parking area and wetland crossings for the trail system and that everything is more or less a go with them and that the hearing should be closed at the next meeting in early August. He further explained what's needed to do to create the pull-off parking area, including taking down a small number of trees from the Town right-of-way for River Road.

Rimmer explained that he has worked with an arborist at Cape Ann Tree, and a letter was issued stating that there are 12 trees ranging from dead to healthy but leaning towards the road or the parking area which will have to be removed. Questions regarding the removal of trees were asked by the Board with Rimmer explaining the need for their removal. Amaral stated that 12 trees were listed, he inspected all of them, he disagrees with some of the comments made, and that he could declare 10 of the 12 trees as high hazard trees. He stated that two trees are relatively healthy but they are surrounded by the other trees.

Questions were asked by the Board regarding whether this was the best place to locate the parking lot with Rimmer referring to a drawing showing the area. Cook showed a map regarding wetlands areas agreeing that the parking proposed will work well. Rimmer explained that he has spoken to the abutters, received their feedback, and scaled back the project in response to their comments.

Zambarnardi stated that there is a comment in the chat from Jean Lambert, stating that, "Also a certified vernal pool on the other leg. It's a lake right now and often!" Rimmer responded that he had not pursued the trail in that location, but is glad to know about this. Lambert stated that she walks the road every day where the parking lot will be, and that it is a lake at this point with all the rain recently, and she is glad that a culvert will be put in there otherwise all the cars would sink.

Lambert also stated that her one concern is that so many trees are going to be removed and she hoped the area won't look totally denuded and an abrupt change from what is there now. Amaral stated that from his inspection, there's a forest right behind it causing the crowding and leaning, so he doesn't think it will be noticed. Rimmer offered that it will look different without the trees, but in time, it will look natural since Greenbelt propagates natural vegetation and wants the properties to be maintained and safe but looking natural.

Deb Hamilton, 227 Middle Street, inquired as to whether this is the only parking area and if it serves the riverside of the project, as well. Rimmer replied that there isn't a plan for a paddle launch developed yet on the riverside, which will be a complicated permitting process. He stated that Greenbelt would seek everyone's input when they get to that point, which is probably phase two of the project that will be looked at within the next year or two. Further discussion ensued on this topic.

Lambert inquired about the project timeline. Rimmer stated he would like to start work within the next month and it could possibly be completed by the end of September or in October.

**Motion made by Cronin to approve the Application for a permit under the Scenic Roads Bylaw for the removal of trees on River Road, as described in the application submitted by Greenbelt.**

**Second by Cook.**

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

*Documents reviewed: Letter of request, marked up ANR Plan, aerial photographs.*

### **Meetings with Applicants for Associate Planning Board Member Position:**

Cronin introduced Nancy Keller, 20 River Road and asked about her familiarity with the functions of the Planning Board. Keller explained that she's retired now, but within her practice, she did a fair amount of land use, including representing contractors and residents in front of Planning Boards. Cormier described the role of an Associate Planning Board member.

Cook asked about her time on the Amesbury Zoning Board, to which she explained she was the Chair for 5-6 years, that she had also been on the West Newbury Zoning Board for 10 years, from 1997-2007. She stated that she wrote and posted legal notices for the Board. She stated she wanted to join the Board and give back to the community.

Cronin stated that he would definitely propose that Keller be recommended without hesitation by the Board as a nominee, which would then go before the Select Board.

He stated that she would be invited to meet with them as well. Keller inquired as to the appointment being for one year and how the process would work after that, to which Zambarnardi explained the process.

Cronin then introduced the second applicant, Deb Hamilton. Hamilton provided her background and qualifications, explained her real estate experience, and stated that she would look forward to serving as an Associate member of the Planning Board. She stated she is familiar with what the Board does and how they do it, and would look forward to weighing in.

After discussing, Board Members concurred that both candidate's applications should be sent to the Select Board as nominees for appointment.

*Documents reviewed: Application for Appointment from Deb Hamilton and Nany Keller.*

### **Request for Modification: Drakes Landing Open Space Preservation Development (Approved 2018), Daley Drive - Design variation in rear elevation for Unit Type "E" - Melissa Robbins on behalf of Cottage Advisors MA, LLC**

Melissa Robbins provided an overview of their request of a minor change that affects Unit Type "E" at the Drakes Landing development. She stated that the approved plans for Unit Type "E" had two small windows on the back of the garage and a faux roof. She stated that these windows were left off the final architectural plans that were approved by the buyers, so the windows and the faux roof were not installed on this one Type Unit "E." She stated that the intention of the windows during the hearing was to break up the garage wall architecturally.

She further explained that the request is to allow a modification to the approved plans to remove the window and the faux roof on Type Unit "E". She stated the plans affected would be E2 and E4.

Chip Hall of Cottage Advisors further explained differences between Unit Type E2 and E4, which affects four buildings, and they would like to get approval in preparation for final signoff for the project. Questions and answers ensued on this topic. Planning Board members also commented that they were pleased to see this being brought before the Board without the Board having to come to them first.

Cook explained the process that the Board would use in deciding if this was a minor or major modification, with Cronin inquiring as to comments from the Board. Cook commented that he believed this was a minor modification since it's only a deletion of windows and affects the occupants but doesn't affect the complex as a whole in a major way, to which Cormier agreed.

**Cronin made a motion that the Board consider this change to be a minor modification to the approval previously granted for the Drakes Landing project.**

**Seconded by Cook.**

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

**Cronin made a motion to accept the minor modification to the approval for the Drakes Landing development.**

**Seconded by Cormier.**

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

*Documents Reviewed: Letter of Request and Plans.*

#### **Review of Draft Stormwater Bylaw:**

Cronin stated that a lot of good work has been done by Zambernardi and others in the Town regarding this topic. Discussion ensued as to what the next steps are in the process, with Zambernardi explaining that Amaral is leading the charge, involvement by the Town Manager, Conservation Commission Agent, Health Agent, the Building Inspector and herself. She explained that they have secured consultant services from Jennifer Hughes, an environmental planner with the Merrimack Valley Planning Commission.

Cronin inquired as to the most expeditious way to do this, with Murphey stating that the two larger items are noted in the Town Manager's memo, which are who is the controlling authority and whether the Bylaw should apply Town-wide or to just the MS4 designated area. Bardeen stated that the issue of who is going to handle this whole thing is the main feedback that they're looking for right away. Cronin stated that as far as the authority, he feels that this is the type of thing that the Conservation Commission routinely administers, with Murphey inquiring as to whether it should be the DPW instead. Discussion ensued on this topic with Board members offering their input as to how the process should work and who it should be handled by and how it should be accomplished. After inquiry by Murphey, Zambernardi stated that the Conservation Commission already has enforcement authority and expertise. She stated her concern that the Planning Board doesn't have the bandwidth to take this on. She stated that the Board would need a consultant working with it to perform peer reviews. Further discussion and comments ensued on this topic.

With regards to expenditures, Cook commented that this is a mandate and that resources need to be provided to support the function. He commented that it is not fair to push this on a group and not give them adequate support, to which Bardeen stated that should be part of the feedback. Murphey commented that the Conservation Commission is the right group to start with, and that they have the expertise. He stated that if there's a stormwater system not working properly, DPW will go in and remedy it. Cook provided further information that supports designating the Conservation Commission.

Zambernardi stated that the stormwater working group has had discussions acknowledging that the Town needs to be in compliance very soon and that the proposed Bylaw follows the model provided very closely. The group discussed whether adopting the Bylaw with only the MS4 would bring the town into compliance. The group

wasn't sure whether that's the right way to go or not, but that changes can be made later on to expand the geographic area, or to expand the applicability to include projects under an acre. She stated the group discussed the fact that both the Conservation Commission and the Planning Board already conduct similar permitting processes.

Cook commented that the stormwater management permit should clearly inform the person of what they are agreeing to do when they get that permit. Everyone agreed that the comment should be made, that once the authority is established, then that authority would be the driving force to nail down what they want in order to grant that permit, which should be based on precedent around the state.

With regards to the question of whether this would be Town-wide, Murphey stated that in the Town Manager's note he stated, "Urbanized West Newbury," which he didn't quite know what it means, to which Bardeen offered that it's in the part of town where constructed drainage structures exist. Further discussion ensued on this topic. Cook offered that he feels this should be Town-wide, that all this water is going someplace, and if it's going into the ground and recharging, which it will be depending on the season, that's an important water resource and constitutes a drinking water supply indirectly. He commented that this approach is much simpler, much less controversial, and much fairer if everybody in town has to play by the same rules. If there is a difference between an urbanized area and one that's not, you'll soon have arguments about how much of my acre of disturbance falls within that, etc.

Bardeen inquired as to what the group recommended, with Zambarnardi stating that meeting the requirement is where they landed, and that is for it to be limited to the MS4 area, which is defined as an urbanized area, based on certain census data. She stated that there is a map layer in GIS showing the MS4 area. She stated that the law requires that the urbanized area needs to be subject to the requirements.

Cormier stated that the purpose and objectives section of the draft clearly talks about protecting lakes, ponds, streams, rivers, and municipal, which is pretty clear that comprises the whole Town. Cronin inquired to the extent of the urbanized area, and Cook displayed the map showing the MS4 areas in Massachusetts based on the 2010 census. Zambarnardi also provided a map of the areas along the Merrimack River, adding that the applicability is to projects or disturbance of one acre or more.

Bardeen offered that 519 Main Street would be one area subject to the bylaw. Zambarnardi stated that the project has undergone a thorough stormwater management evaluation, and that this would still be the case with the larger projects. Cook offered another map from the state with regards to West Newbury individually, which showed that the regulated population is 1,820 out of the Town population of 4,235, but this is based on the 2010 census.

Cook stated that while philosophically he feels it should be the whole town, after this discussion he doesn't feel it would fly at a public meeting, with Bardeen offering that it would be tough where it could be graphically demonstrated to be an overreach on some level, even if it is morally the right thing to do. Cronin added that he feels that the whole purpose is the protection of the water supplies and wells. Bardeen added that this is stormwater management and that any project that comes before them has an element of stormwater management to it no matter where it was in town, and that this is what the Board already does. Murphey added he would go with the limited area, and that it can be changed in the future if need be.

Further discussion ensued regarding the one-acre regulation, with Board members offering their opinions, and concluding that one-acre of disturbance is appropriate at this point in time. Cronin and Zambarnardi would write a comment letter reflecting the Board's discussion this evening.

*Documents Reviewed: Draft Stormwater Bylaw*

#### **Sullivan's Court Extension - Thomas Neve, Walker Development (Approved 2015)**

##### **Update on Completion Items**

Zambarnardi provided an update. Cook stated that he feels the plantings looks fine and that the feedback from DPW regarding the parking area is great. Zambarnardi also stated that she and Cronin have sent an email to the

West Newbury Planning Board Draft Minutes, July 20, 2021. Approved February 1, 2022.

Conservation Commission asking that they move forward with acceptance of the trail easement. Further questions and answers ensued on this topic.

#### **G.L. Ch 41, S. 81U - Bond Expenditure for Trail Work**

As to the topic of the \$10,000 for trail design and construction, Zambarnardi stated that a motion has been drafted based upon Town Counsel McCarron's opinion, which would allow the Board to release money from the cash bond, and for the Select Board to accept funds for the design and construction of the trail. She stated that Neve and the Finance Department need to review this.

Zambarnardi also stated that Neve has engaged a surveyor to complete as-built and street acceptance plans, which will be then forwarded to Meridian for review to make sure what's on the ground complies with the approved plans. She stated that the street acceptance plan and the deed to the street will go to Town Meeting.

#### **General Business:**

**Minutes, April 6, 2021:** These minutes were discussed with Planning Board members providing comments as to suggested changes, with Bardeen suggesting that documents that are referred to for a specific topic, especially if the minutes are going to be used as living documents, would be helpful for future use.

#### **Administrative Details: Meridian Engineering Peer Review; Discussion of Office Workload/Workflow, Laptop Update**

Now that Zambarnardi has resumed in-person work, she is looking at how to increase efficiencies in the office in terms of workload and workflow, and to see what administrative work can be delegated to free her up for other projects. Zambarnardi stated that she still has concerns regarding bandwidth and the amount of work coming in. She is working with the Town Manager on this and will communicate back to the Board. Discussion ensued on this topic with Planning Board members offering insight on how things might be improved.

David Kelly of Meridian Engineering offered information regarding a proposal made in April for continued support services particular to the 519 Main Street project, regarding questions by the Board as to rates and hours quoted, etc. Cronin offered that additional information was submitted to the Board by e-mails.

Kelly explained that Meridian hired a new CEO in spring of 2020, brought on for his abilities to grow the company, expand, etc. He looked at the rate schedules and implemented increases comparable to other firms, and changed how billing was done. Kelley stated that this has allowed Meridian to hire additional engineers and surveyors, allowing the firm to grow. Kelly further explained that there was a massive loss of employees in the industry during COVID, and it was determined that salaries needed to increase in order to keep employees. He stated this is why the rates went up, and that the rates are comparable to industry standards.

Murphey stated they were led to believe that there was a flat rate. Kelley stated that they have more staff, and send out people whose time would be billed at a lesser rate who will still be able to handle aspects of the project. Further discussion and questions from Board members ensued.

Zambarnardi offered an analysis comparing Drakes Landing's billing to the recent peer review for 519 Main Street and explained various points that she found including not to exceed amounts and hourly billing. She stated that the total paid out for the Drakes Landing peer review is comparable to the "not to exceed amount" provided by Meridian for 519 Main street. She stated that if they're approaching a need to exceed that amount, Meridian would request an authorization for additional charges.

Kelly further explained that billing is being itemized with different rates for different people, to which Murphey stated that he's very uncomfortable with not seeing that itemization in the billing. Murphey further stated that he will be doing research to see if it's a new trend in the industry, but that he is surprised that they would be billing in lump sum form for these types of projects. Further discussion ensued on this topic. Kelly advised that he would provide invoices showing the information that the Board is requesting.

Cronin inquired as to the scope described in the May 17, 2021 proposal for 519 Main Street, asking if it is similar to the scope that was offered by his firm in prior developments such as Drakes Landing. Kelly stated that it was. Zambarnardi added projects follow the schedule prescribed in the subdivision rules and regulations, but if it's a special permit/site plan approval such as Drakes Landing, it will generally follow the definitive subdivision regulation schedule and any other conditions of approval. Further discussion ensued on suggestions and future things that might need to be done. Cronin was authorized to sign the proposal.

**Retaining outside counsel:**

Cronin stated that with the retirement of Town Counsel McCarron, KP Law has been hired to represent the Town. He stated that he had spoken with the Town Manager regarding the process of engaging the attorneys at KP Law, and that the Select Board would be the gatekeeper for the engagement by departments in the town.

Cronin stated that he had sent the Town Manager a note stating that the Planning Board, due to statutory requirements and timelines, might need assistance from counsel and might not be able to wait for long periods of time for the ability to speak to an attorney. He stated that the Town Manager suggested that the Planning Board contribute to a list that he is putting together of the different matters and types of engagements that would be foreseen for KP Law so they can keep that in mind as they're putting together the Engagement Agreement with them. Further discussion ensued on this topic and what a timeline might be for submitting this list to the Town Manager.

**Affordable Housing Consultant:**

Zambarnardi stated that the Town Manager and she have again met with Lynn Sweet of LDS Consulting, the affordable housing consultant, to speak with her about the local context in terms of affordable housing and affordable housing trusts and how the matter might best be communicated with to the residents to gather support and hear concerns. She stated that has contacts at Mass Housing Partnership with resources on this. She stated they envision the first step would be for a presentation before the Planning Board to speak about trusts in general, including what the membership might look like, mission and role of the Board, and the types of projects and initiatives it could fund.

Murphey inquired as to when a meeting would be, and Zambarnardi stated that a first meeting in September was discussed, with Murphey feeling that this should be done sooner than that and suggested an hour at the next meeting. Zambarnardi offered that the August 17<sup>th</sup> meeting would be the best meeting but that she would speak with Sweet to see if she is available for the next meeting.

**Adjournment:**

**Cronin moved to adjourn the meeting at 10:05 p.m.**

**Seconded by Cook.**

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

Respectfully submitted,

Susan M. Lobie, Certified Electronic Transcriptionist  
Office Solutions Plus  
15 Marion Road, Salem, MA 01970