



**Town of West Newbury
Planning Board
Tuesday, September 21, 2021
381 Main Street, Town Office Building
www.wnewbury.org**

Minutes of Meeting

Open Session: 7:05 p.m. in-person and by remote participation (see below)

Addendum to Meeting Notice Regarding Remote Participation

"Pursuant to Chapter 20 of the Acts of 2021, An Act Extending Certain COVID - 19 Measures Adopted During the State of Emergency, 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. 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.

Zoom Meeting Instructions:

Phone: 1+(646) 558-8656

Video Link: <https://us06web.zoom.us/j/82176129039?pwd=SHgwVEE4R0JtSW1wLzQ2NnJ4bElnZz09>

Meeting ID: 821 7612 9039

Passcode: 797992

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 7:05 p.m. Members in attendance were Ann Bardeen, Jake Cormier, Ray Cook, and Tim Cronin. Town Planner Leah Zambarnardi was also present. Member Brian Murphey was not in attendance. Members introduced themselves to the public.

1. Discussion on Work Planning and Prioritization:

Robin Stein from KP Law was introduced by Cronin. Stein provided an overview of her background with KP Law stating that her main focus is land use, planning, and zoning, representing Boards and assisting Boards with their work on defending those Boards in land use litigation or enforcement.

Cronin commented on members of the Planning Board, old and new, stating that West Newbury has the same issues and requirements as any other larger community around

who has to satisfy all of the new state initiatives. Cronin provided information on projects that the Planning Board has recently handled, including a large school project, recent subdivisions, scenic roads applications, chapter land applications where the Town has the right of first refusal, explaining that there's a lot of desire in West Newbury to try and maintain the rural character of the town while making it affordable for families, with the Town taking affordable housing seriously. Cook stated that he's glad to have Stein available to the Planning Board and the Town has needed somebody with her expertise and experience for some time and it's reassuring to know that she's there when the Planning Board needs assistance.

Zambernardi provided a list of topics for discussion at this meeting for possible assistance from KP Law. Regarding the procedure for requesting services from KP Law, Zambernardi stated that it was added to the list in case the Board wanted to talk about it. She also stated that there is already a system in place being used, that she communicates pretty regularly with Stein on ongoing projects. Regarding services provided, Zambernardi added that KP Law is well equipped to deal with municipal issues, such as the easement for Sullivan's Court that had to be reviewed, and it was reviewed by an attorney who reviews easements.

Regarding the easement at Sullivan's Court, Cronin inquired as to the status of the easement. Zambernardi stated that an attorney at KP Law reviewed it and sent comments. She is due to call the attorney to review them and once she understands the comments, she will bring them back to the Board. She also stated that the easement does need to go to the Select Board for signatures and Town Manager Jennings thought it was a good idea on behalf of the Select Board for KP Law to review it.

Regarding the Affordable Housing Trust, Cronin stated that a lot of steps have been taken in an effort to establish a trust, that a presentation was given at a recent meeting which explained what's involved and the benefits of an Affordable Housing Trust. Zambernardi stated that at this point, there is group right now, but that the Trust bylaw is going on the Town Meeting Warrant to adopt a bylaw, and Stein stated that KP Law is working on what should be on the Warrant. Zambernardi stated that the details of the Trust will be worked on once it's established, that it hasn't been funded yet, there's work to be had in terms of appointing a Trust Board and looking at the goals and how the Board is going to function.

Regarding Zoning Recodification, Zambernardi stated that this is a new initiative that the Building Inspector, Sam Joslin has brought up. She stated that right now the zoning model is not adequate with districts noted very broadly with allowed uses then narrows down to more specific districts. Joslin's plan is to make it more readable by reorganizing things and making sure that all the different sections are consistent, and including a table of uses, which is an important element of a Zoning Bylaw.

Regarding the MBTA Communities law that was passed to encourage more density and more affordable housing, Cronin reminded the Board that the state was going to issue more guidance which was expected around this time of year and Stein stated that everyone is still waiting for additional guidance and feels that the earliest she expects to see something would be around the time of the next annual Spring Town Meeting and then at that point in time, it will become more of a priority.

Bardeen inquired how the Town of West Newbury would be impacted by the law. Zambernardi stated that West Newbury is included in the list of MBTA Communities because we're in proximity to a community that has public transit. She stated that this law requires that we have a district that allows multi-family housing of 15 units per acre by right, and in an MBTA Community you would most likely establish your district around where public transit is, but for West Newbury, that's not as clear where we would put the district, so we need the guidelines to know where to do that, but we are subject to the law. Stein stated that this is an example of a perfect item that

she expects to see on a future agenda for discussion once we have more guidance, they can offer about how this fits and where to go.

Regarding the large-scale ground mounted solar photovoltaic overlay district bylaw update, Cook stated that we tried to update this in the past but it didn't go well. Zambarnardi stated that the state has updated guidelines for development of these installations when there is vegetated land with forests, so those need to be looked at, but also there were a number of good changes in the one the Board brought forward to Town Meeting a few years ago, such as a provision on decommissioning.

Cook stated that if the state did come through with their updated guidance, then it makes sense to have a discussion on this topic, but he's not sure where it falls in the priority list or how pressing it is, but it is something that could be looked at. Zambarnardi stated that she has received a number of calls from developers and Town leadership. Stein suggested that it go on the list around the time of Spring Town Meeting, as well. Suggestions from the Board included preservation of trees, renewable energy and open space preservation bylaw could include incentives and including rooftop installations particularly on large municipal buildings, including site plan reviews of municipal buildings that have been overlooked.

Regarding personal wireless service facilities and review for compliance with FTC, Zambarnardi stated that this is to ensure that the Town is not in violation of federal laws. Stein stated that this is cell towers and things of that nature, and she does have to look into the bylaw and then will provide information to Zambarnardi.

Regarding zoning for marijuana, Zambarnardi stated that medical marijuana is allowed in the industrial district, but that development in the industrial district is not practical for any use due to the fact that the wetlands in the area make it prohibitive. She also stated that the Town voted in favor of making retail marijuana legal, but in practice, retail establishments would be allowed in the business district, and noted challenges such as insufficient septic systems and the geographic size of the area.

Zambarnardi stated that there is also the question of growing and manufacturing, whether it's agriculture or not, and stated that Town Counsel provided a recent case which might affect this topic. Cook stated that the Town has a couple of nurseries that are no longer in business, and somebody might look at that and think of it as an opportunity. Zambarnardi stated that it would be beneficial to conduct a review to see if the Town should be doing anything else in terms of regulation. Stein stated that this could be looked at.

Regarding accessory apartments, Cook feels that this is a way to deal more directly with a diversity of housing and opportunities for lower cost housing but in the order of things that are more pressing, this is an item that can go on the list for the future. Zambarnardi stated that this area of discussion ties in with affordable housing and we're going to have a Trust Board doing goal setting and visioning and if she is involved, they will have some planning advice. Cormier stated that short-term rentals might also fall into this area.

Regarding the surface water bylaw, Zambarnardi stated that this is being pressed by Newburyport because their water supply is in West Newbury. Cook inquired of Stein about this topic, and she stated that they also represent Newburyport, so this is one they'll have to keep an eye on. Cook inquired as to whether there is leverage here for a better agreement between Newburyport and West Newbury, with Stein stating that she doesn't know enough about this topic at this point and will have to follow-up and look at the issue, making sure that there are no conflicts with representing both towns.

Regarding the topic of grants, Zambarnardi added this to the list as a reminder that grants are out there and should be kept on the radar as we're discussing all of these different initiatives. Bardeen suggest that perhaps somebody in town could keep a list of different grants that could be obtained so that the town is thinking about grants overall

and people know where to go and get help with them. Zambarnardi stated that the problem at this time is that there is no one who can devote the time and considerable effort needed to apply for the grants.

Regarding the permitting guide for internal development review and abutter's guide, Cronin inquired as to whether these would be public facing guides that would be put on a website, with Zambarnardi stating that she has models and feels that this would be helpful to homeowners or developers that are hired that are scoping out work in Town. Suggestions were made by Board members as to how this could be accomplished with a minimal amount of work.

Regarding training refreshers for Planning Board members, Stein stated that her firm does training all the time and they would be happy to schedule one once a decision is made as to what the Planning Board is looking for. As an example, Stein stated that sometimes they're asked to do a comprehensive land use training or a public records training, and they can accommodate a community's needs. Cook stated that after working with the Planning Board for a while, Stein would have a better idea of what training would be helpful.

Regarding the Pipestave master plan and parking analysis, Zambarnardi stated that this has been on the Town Manager's work plan for a while and probably is not coming up soon, but because it's looking at planning for parking in the area, he believes there's a planning function in the works and just to keep informed on that when it does come up since it most likely will need site plan review.

Regarding review of existing bylaws, regulations, applications forms and templates, with Cronin inquiring as to whether this is done on a fairly regular basis. It was decided that this wasn't something that would hold high priority at this time.

There was a discussion regarding what are the highest priorities on this list. Cook feels that would be the stormwater bylaw and that the Affordable Housing Trust also has to be a high priority since there is momentum at this point in time, as well. Stein stated that there are definitely aspects of the zoning bylaw on the list that may need some attention which she can start looking at with an eye towards the future, as well. Zambarnardi feels that the next step would be to create a short list and speak with the Town Manager regarding what costs might be involved in using KP Law and then can hone it down more after that.

2. General Business

- Updates: Stormwater Bylaw

Work planning and prioritization, Cronin commented that the Town is involved in work on the stormwater bylaw and the topic of who would be the permit granting authority should be discussed. Zambarnardi stated that the Stormwater Working Group met last week and went over the draft rules and regulations with Jennifer Hughes, the consultant from MVPC. The members made several comments and there is a lot of detail that needs to be worked out in terms of how we're going to make this all work day-to-day in terms of permitting through the Planning Board office, enforcement through the Building Commissioner, Sam Joslin's office, and then reporting post construction to the DPW.

Zambarnardi will start putting together a scope for a consultant containing all the points of assistance that would be needed from everyone's perspective so that a consultant can be put in place to help through all of this. Hughes is incorporating the comments that were made at the last meeting and the plan is for Zambarnardi to receive the draft and forward it to Stein for comments. Zambarnardi will also look at it from a permitting perspective and make suggestions on different areas.

Zambernardi suggested that this topic could be put on the October 5th Planning Board agenda to look at and Hughes is available and it's in her scope of work to be able to attend such a Planning Board meeting.

- Correspondence

Zambernardi stated that the Board received a Notice of Joint Public Hearing, Planning Board and City Council Planning and Development Committee in Newburyport for proposed amendments and additions to the zoning ordinance and correspondence from the Groveland Zoning Board of Appeals regarding a public hearing appealing the decision of the Building Inspector.

- Minutes, May 18, 2021

Board members went through portions that needed to be changed and discussion ensued regarding suggested changes.

Motion: Cook made a motion to accept the May 18, 2021 minutes as amended. Seconded by Cronin.

Roll call was taken, and the motion passed 4-0 (Murphey not in attendance)

- Administrative Details

Zambernardi stated she has been talking with the Select Board, and the Town Manager regarding posting the administrative assistant position and it hasn't yet moved forward. At the request of members of the Board, Zambernardi provided an overview of what is currently listed as responsibilities of the applicant in the proposed application.

- Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting

State of the budget request, Zambernardi stated that there has been much debate and consideration about this, that the Select Board recognizes there needs to be changes to meet the demands that are coming to the Planning Board. Zambernardi stated that the Select Board supports the wage increase but hasn't decided on an amount but recognizes that additional professional responsibilities are coming to the Town Planner regarding stormwater and affordable housing. She also stated that they don't want to do the wage change through a budget amendment but would like to do it concurrent with an amended Town Planner job description and that this topic would not be discussed at the Town Meeting.

Drake's Landing update. Zambernardi stated that Chip Hall called her stating that he's nearing completion and his site contractor is looking for someone to do the stamped crosswalks and not finding anyone and inquired if something else could be done. She spoke to David Kelly and the DPW and they weren't surprised that no one is doing this. Their plan is to paint the crosswalks.

Motion: Cook made a motion that the elimination of the requirement for a stamped crosswalk can be considered a field change and doesn't require further review by the Planning Board. Seconded by Bardeen.

Roll call was taken, and the motion passed 4-0 (Murphey not in attendance)

Discussion ensued regarding the residents of Drakes Landing wanting to change traffic signs within the private development. Bardeen provided information on research that she had done in the area, suggesting that KP Law clarify what can be done regarding the limitations of a private road. Cook questioned if they can put up signs like

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that, can anybody drive on their roads without any explicit permission, and also to reinforce that those are public trails accessible to the public, which means that they're also open to people outside of Town, as well.

Zambernardi stated that she would like to make this into an enforcement issue so that Joslin could assist, and the first step is to ask Stein for assistance so that the Planning Board can understand the matter completely. She stated that DPW and the Town Manager are already involved with parking issues behind the Soldiers and Sailors building so this could be brought to them for assistance. Bardeen also inquired as to the issues with the parking behind the Soldiers and Sailors building and Zambernardi provided an update on the issues involved in this at this point in time.

Regarding the October 5th meeting, Zambernardi stated that she will not be in attendance at the meeting, but that there are two items that she would like to have the Planning Board consider for the agenda, the first being the stormwater bylaw draft rules and regulations that will have hopefully been reviewed by her and Stein, and that Hughes and Stein can attend. Second would be a discussion of the Town Planner job description that will be worked on between her, the Town Manager, and Cronin.

Update on the Pentucket maintenance building, Zambernardi stated that the plans haven't been completed, and that they missed the deadline to submit in time for a hearing on October 5th.

Zambernardi provided information on an issue that came up regarding Richard Baker, who lives next to the Gorman Homes property with the Archelaus Hill ANR plan, who observed that some stones were being moved on the stone wall that is in the public way and that he came in to report it as a possible violation of the Scenic Roads Bylaw. She stated that she would forward the pictures to Joslin for assistance.

Adjournment:

Cronin moved to adjourn the meeting at 9:07 p.m.

Seconded by Bardeen.

Roll call vote was taken, and the motion passed 4-0 (Murphey not in attendance)

Respectfully submitted,

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