

WEST NEWBURY PLANNING BOARD
Minutes of Meeting
November 20, 2012

Pursuant to a meeting notice posted by the Town Clerk and delivered to all Board members, a meeting of the West Newbury Planning Board was held on November 20, 2012 in the Planning Board Office. Board members Ann Bardeen, Raymond Cook, Richard Bridges, Brian Murphey, and John Todd Sarkis, Chair, attended. Associate Member Dennis Lucey and staff member Jean Nelson were also present.

The Meeting was called to order at 7:32 PM.

Jean's position of CPC Administrative Assistant

Nelson related that she has been hired by the CPC. She asked for the Board's agreement in using resources of the Planning Board Office such as the computer and telephone. Paper for copying is shared by all offices, so is not an expense concern. If a lot of color printing is done, she may purchase a toner cartridge from the CPC budget for the Planning Board. Time for each position will be tracked separately.

Charlie Wear, Meridian Associates, review of his recommendations for Site Plan Review Zoning Bylaw and Regulations

Charlie Wear distributed tracked drafts of the Site Plan Review Bylaw and Regulations. He started with revisions to the Applicability section of the Bylaw, but Nelson said that there was a more up to date version that the Board had worked on, and she will plug that into this draft.

Wear noted that he suggested removing the Major and Minor Project distinction completely. Murphey asked if Wear has dealt with other Bylaws with Major and Minor projects, and Wear said that he has not. He has revised the Pre-Application Conference so that it would be required instead of urged. At that point, the Board could consider Waivers depending on the site and its characteristics, and an Applicant would submit a list of requested Waivers when filing an Application. Wear suggested that the Board could determine if Site Plan Review is not needed, but there was general agreement that the Board does not have that authority. There was also discussion as to whether or not the Board can grant Waivers at the Pre-Application phase.

Nelson said that she feels this leaves too much to the discretion of a Board. Cook said the safeguard for that is that Board members may not be re-elected if they do not deal fairly with Applicants.

Wear also suggested that the threshold for Site Plan Review should be 0 square feet, but even lowering it to 500 square feet from 1000 square feet was possible. His rationale was that the size of a project is not necessarily related to its impact.

The question was asked if the Bylaw addresses drive-thrus, and it was determined that this would require a change in traffic flow. Sarkis suggested that there may be a need

to add "any alteration to existing traffic flow" to Applicability. Nelson noted that if adding parking spaces triggers Site Plan Review, that should be added to Applicability also, since it has been deleted from the current draft.

In the Regulations, Wear noted that Pre-Application Conference appears also. It was decided that it should only be in one document.

Under "Development Guidelines and Performance Standards", it was decided that Performance Standards should also be considered Guidelines. The terms "Standards" begins with b. "Site Lighting Standards", and sections following that should be "Guidelines".

Nelson will make the suggested edits, and the next draft will be discussed at a future meeting. Wear left the meeting at 8:45 PM.

Jack and Amy Foley, 12 Steed Avenue, Pre-Application Conference for potential new filing for a Reduced Frontage Special Permit, and rescission of existing Special Permit

Jack Foley introduced himself and Amy. He related that in 2009 they had applied to the Board for a Reduced Frontage Special Permit, which had been approved, and had subsequently filed an ANR Plan creating two lots.

At the time of the survey, an encroachment has been noted by Cammett Engineering by the abutting Bridge Street parcel. The owner had received a variance from the Board of Appeals to build a garage, and according to Foley, had not built it according to the proposal. In 2010, Foley had requested that the abutter remove a hammock and hammerhead from his property. In 2012, Foley had removed the hammerhead.

The abutter has now filed a suit in Superior Court, citing adverse possession of a 20 foot strip of land along the property lines. They have also received and been granted an injunction.

Foley continued that at this point, his family cannot convert, sell, or get a mortgage on their property. They are paying taxes on two separate lots, and paying legal fees for the suit. The abutter is suing for the strip of land along the common rear lot line which is 20 feet by 275 feet, for a total of 5500 square feet.

Foley submitted a diagram he had created which indicated two options, identified as "Green" and "Purple", and which conform to the new 150 foot circle requirement in the Zoning Bylaw. He said that the Purple gives him the most options. He also suggested that if he could remove the 20 foot strip from the rear of Parcel 2, and sell it to the abutter, that may resolve the dispute. Parcel 2 would still have the minimum area required. Such a plan would be an ANR Plan.

The Board was generally supportive of any of the options. Revising to another option for Reduced Frontage would require a new filing and Public Hearing, and rescission of the existing Special Permit.

Foley asked if the Board could write a letter confirming one of the new plans. Sarkis responded that the Board cannot do that, because it would indicate a decision without the required process. The Minutes can be referred to for the Board's discussion.

Sarkis recommended that Foley test the soils at the back of Parcel 1, to determine conditions for the future area of a leaching field there.

Review of draft Street Acceptance Procedure document

There were no comments to the draft. Nelson said that Bert Knowles is reviewing it.

Discussion of Mechanic Street Acceptance and procedure, and Planning Board role

Don Argyrople will be proposing Acceptance of Mechanic Street Extension for the Annual Town Meeting. Nelson has apprised him of necessary paperwork, and is arranging a site visit for the end of November.

Discussion of proposed Medical Marijuana Treatment Center Zoning Bylaw Amendment in another community

Michael McCarron had forwarded a proposed Zoning Bylaw Amendment from another community. Board members decided that they are not interested in pursuing such a Bylaw at this time.

Review of suggested revisions to OSPD Zoning Bylaw and continued discussion of new model

Nelson had distributed a list of suggested amendments to the OSPD Zoning Bylaw. It was decided that three amendments will be pursued for the Annual Town Meeting: Section 6.B.3, to remove the mandatory filing provision; Section 6.B.8., to refer only to Dwelling Units; and 6.B.13., removing the language of "Any density bonus...", pending a recommendation from Edith Netter.

Nelson had performed an analysis of the formula for calculating units in the new state model, using several West Newbury projects as samples. It was decided that the Board will not pursue the formula model.

Regarding Edith Netter, Sarkis has been working on a Scope for the contract, and asked the Board for a sequence of tasks. He said that Netter has agreed to attend a Planning Board meeting to discuss her findings and recommendations. He has already sent a blank contract to her for review. He will send the Scope to her also, and will get a copy to Nelson for the final contract.

Discussion of Solar Facilities research

Bridges had researched solar facilities in other communities, and Nelson had placed a question on the Planners List-Serv. The question of smaller-size installations is coming up in other communities also. A recent installation in West Newbury has raised questions about setback, height, and visibility. Cook and Murphey said that they do not feel regulation should be pursued at this time. Bridges said that he sees a reasonable compromise could be made, and Lucey felt regulation could be a preventative measure.

It was suggested that Bridges and Lucey attend a meeting of the Energy Advisory Committee to discuss the matter with them.

Review of voting requirements and Mullen Rule Law

This had been a topic at the workshop that Bridges and Lucey had recently attended, so was not further discussed.

Minutes of November 7, 2012.

Motion made by Sarkis, seconded by Bardeen, to approve the Minutes as written. The vote in favor was 4-0-1 (Cook abstained.)

..New Business

The draft Signs bylaw will be reviewed at the next meeting.

Motion to adjourn, 10:25 PM.

Submitted by,

Jean Nelson
Planning Board Administrator

These Minutes were approved by the Planning Board on December 4, 2012