

**WEST NEWBURY PLANNING BOARD**  
**Minutes of Meeting**  
**July 10, 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 July 10, 2012 in the Planning Board Office. Board members Ann Bardeen, Richard Bridges, Raymond Cook, 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 7:37 PM. Sarkis welcomed Dennis Lucey as the new Associate Member.

**Update on Notice of Intended Conversion Not Involving Sale, 720 Main Street Assessors' Map 10, Lot 250, owned by William L. and Mary Ann Daley**

A letter meeting the requirements of the statute from Frederick L. Nagle, dated June 25, 2012, has been sent to the Board of Selectmen with a copy to the Planning Board.

Nelson related that she had been told that the Board of Selectmen had met in Executive Session to discuss the First Right of Refusal. They had decided to proceed with an Appraisal if the Finance Committee agreed with pursuing acquisition of the property. The Finance Committee reportedly did not support the effort. Although a letter has not yet been sent, the Board of Selectmen most likely will not pursue acquisition of the parcel.

Some Board members felt that this decision was unfortunate, and that it that there is a general mindset against purchasing land, and a lack of staff to pursue grants and make contacts.

Sarkis was asked about the status of the Town Land Working Committee. He said that the analysis and research indicate that the vast majority of parcels owned by the Town consist of wetlands, or have been donated to the Town for open space or other purposes, or have restrictions. They could be sold but probably not developed. The Committee felt that in many cases the cost to effect a sale would exceed a likely sale price.

The committee did not recommend selling the Dunn, Craven, and Mullen properties. Sarkis added that there is a portion of the Page School property, at the back with frontage on Coffin Street, which, if perced successfully, could potentially be built upon for affordable housing purposes or sold as a house lot.

The Committee has not made a final report to the Board of Selectmen. Sarkis is working on completing the spreadsheet, and it was recommended that when it is final, it should be distributed and stored at several offices, such as Selectmen, Planning Board, and Town Clerk, for future reference.

### **Discussion of Inclusionary Housing Bylaw**

The Board discussed a timeline for issuing an RFP for review of the draft Bylaw. The bid response period will be until September 30<sup>th</sup>, and work must be completed within 60 days. A list of consultants was discussed. MVPC may be able to suggest someone in addition to the four names that Nelson has. The RFP will be posted on the Planners List-Serv. Several attorneys who may be able to suggest someone were also listed.

### **Minutes, June 19, 2012**

The Minutes were reviewed and edited.

**Motion** made by Sarkis, seconded by Cook, to approve the Minutes with the edits as discussed. The vote in favor was 4-0.

### **Vouchers and Encumbrances**

Vouchers were signed. Encumbrances for 2012 are \$1000. for Task 1, and \$875. for Task 3 of the COG, Inc., Contract. The Board has not had a response to the letter sent by Sarkis which indicated the contract has expired.

**Motion** made by Cook, seconded by Bardeen, to approve the Encumbrance Request. The vote in favor was 4-0.

### **Update on MIMAP with floodplain areas**

Nelson informed the Board that MVPC has updated the MIMAP program with several options for viewing the FEMA floodplain designated areas. This is a handy tool especially for the Building Inspector, who is the Floodplain Administrator, as well as for other departments. She commended MVPC for performing the work well.

### **Public Hearing to Consider an Application for a Special Permit for a Kennel/Dog Daycare Facility, Zoning Bylaw Section 5.A.3., and Site Plan Review, Section 8.B., 164 Indian Hill Street, Assessors' Map R-18, Lot 26, Elizabeth Wood and Carol Fisher, Owners and Applicants**

At 8:30 PM Sarkis announced that the Public Hearing would begin. Bridges read the Legal Notice, and Sarkis declared that the Public Hearing is now open. He asked those present to state their name and address before speaking, and that questions be addressed to the Board. He stated that the Hearing is being recorded for the purpose of preparing Minutes and for the benefit of Board Member Brian Murphey, who is not present tonight.

Elizabeth Wood and Carol Fisher presented the Application. Wood said that her elderly mother will be coming to live with her family, and she has been looking for a business which she can operate from her home so she can stay at home. There are people in her neighborhood who take care of animals in their homes. The property contains a building behind the house which was used formerly to house various types of animals. Fisher added that it has been used for chickens, goats, and ponies. In the past, the property was an active farm. This will be a family business.

The maximum number of dogs to be cared for at the dog day care facility is twenty. This number came from MSPCA guidelines. Dog waste will be disposed of properly.

Nelson asked the Board if the intent is to have the plan recorded and if so, it will need a signature block.

Donna McGovern identified herself as a West Newbury resident and realtor. She said that she has Renee (Beath's) house listed, and a recent offer had fallen through because the buyers had learned of the potential use of the property across the street. She asked how noise will be abated, and stated that this is an exciting entrepreneurial idea.

Renee Beath, 159 Indian Hill Street, said that she lives across the street. In response to a question, Wood said that the building for the animals is 70 feet long, and there is a run behind the building with a peastone base. Beath asked about the pond, and Wood said that the pond is not on their property.

Wood was asked where the dogs will be allowed outside. She replied that there will be a double security gate for the arrival of the dogs. Owners will park and then walk on the grass to the gate, where the dogs will be greeted. A dog will be introduced to the other dogs one at a time.

They will be adding a door to the back of the building, for exit to the run area. Fisher said that the property drops to the back behind the house, which will help to buffer noise. McGovern said that when dogs see people going by on the street, they will tend to bark. Fisher replied that the building is lower than the house and the street, so dogs will not see people going by. In response to a question from Jennifer Johnson, 59 Georgetown Road, Fisher said that the fenced run area is to the rear of the building. There is a chain link fence that is almost the length of the building, and as wide as the building. Fisher said that the building is made of concrete blocks, which will serve to buffer noise.

Sarkis questioned whether or not the fenced area is sufficient for the number of dogs. Wood said that when exercised, the dogs will be divided into small and large sized dogs. They will be in the area at different times. The fenced area can also be divided if necessary. Cook added that dogs can be divided by size, age, and temperament. Wood sketched the approximate size of the pen onto the Site Plan.

John Carbone, 152 Indian Hill Street, asked the hours of operation. Wood responded the hours will be from 7 AM to 6 PM, to accommodate the needs of commuters, and on Monday through Friday. Drop-off will be scheduled from 7 AM to 10 AM, and pick up from 4 PM to 6 PM.

Carbone said that the building is lower, and he looks down on it, and he does not see a problem seeing the dogs from the road.

Cook reviewed the Special Permit criteria in Section 8.A.2.f., and said that he felt the Application meets the criteria. He said that he is favorably disposed on all counts. Nelson said that the criteria are reviewed and voted on as Findings for a Special Permit, and will be reviewed again later.

Sarkis asked what alterations will be made to the building. Wood replied that it will be painted, a door added at the back, electrical will be upgraded, insulation will be added, rubber flooring and an air conditioner will be installed. Bardeen asked if windows would be opened and the response from Wood was yes, and that air conditioning is planned.

Cook referred to the noise ordinance, Section 7.A.4. of the Zoning Bylaw, and asked if the Applicants are familiar with it. Fisher responded that when dogs have been busy, they rest and are quiet.

Renee Beath asked if dogs will be kept overnight. Wood responded no, but on occasion a dog may be kept overnight. An overnight dog would be crated. Beath asked about traffic. She said that corner is very busy. Fisher said that not a lot of people will be dropping off at any one time. There is a three hour window for drop-off.

Nelson explained that the Building Inspector had determined that the dog day care is similar to a kennel, which requires a Special Permit under Section 5.A.3. of the Zoning Bylaw. A comment had been made that this could be seen as a home occupation under Section 5.A.2. of the Zoning Bylaw. Nelson clarified, however, that it is the Building Inspector who interprets the Zoning Bylaw, and this has been his call.

Nelson noted that the General Bylaws, Section VI Animal Bylaw, require a Kennel License, and introduced Madelyn Cirinna, Animal Control Officer. Cirinna said that when she lived in West Newbury, she needed a License for her own ten dogs. Massachusetts General Laws require that towns issue a Kennel License. As Animal Control Officer, she can inspect a kennel at any time. She said that her concern is mainly barking dogs. Barking collars can minimize noise, and an owner can refuse to take a barking dog. She is not concerned with the dogs getting loose.

Discussion then took place on the difference between a "license" and a "permit". Cirinna said that a Kennel License is not transferable. She reports to the Board of Selectmen, and they handle complaints if she refers complaints to them. Nelson noted that the Planning Board has previously discussed at a pre-application conference that a Special Permit would also run with ownership, and not with the land. It would expire upon transfer of the property.

Regarding waste management, Wood said that it would be removed by a qualified company. She referred to a company called Duty Calls, which would provide containers and charge a fee to pick up waste. She and her family would pick waste up and put it into the containers, which would be picked up on a regular basis.

Bridges asked about third party liability. Wood said that she is aware that a policy would be needed. Sarkis suggested that she inform the mortgage company of the business also, if permitted. He said that he does not think that it is within the Board's purview to condition liability insurance.

Lucey asked about signage. Sarkis noted that on the Site Plan, the proposed sign is not on the Owner's property. Wood said that it will be moved to the private property on a revised Site Plan. The composition of the sign was described in the Narrative submitted.

The Daily News of Newburyport had invoiced the Planning Board for the Legal Notice in error. A check for the Eagle-Tribune for the Legal Notice was given to Nelson for payment.

Cirinna suggested that the Special Permit could be written to limit the number of dogs allowed to ten, then adjusted to twenty after six months.

Sarkis listed items that he recommended be shown on a revised Site Plan:

- Improvements to the building, such as the new door to be added to the building, upgraded utilities, flooring, painting, etc. (Some of these items will be listed and not shown.)
- The secure transfer area, shown on the plan with dimensions.

- The fenced pen at the back of the building should be added. Nelson noted that the area sketched on the plan during the Hearing had been somewhat small, and that the proposed area could be shown in larger size for future expansion. Sarkis suggested that an envelope with fencing and the height of the fencing be shown.
- The relocation of the sign onto the private property

Bardeen suggested that the number of dogs be initially permitted for ten, with the ability to increase it, as suggested by Cirinna. Fisher said that a huge investment is required to do this properly, and they feel that they need a permit for a maximum of twenty dogs. She and Wood said that they will return with a revised Site Plan for the next meeting.

Bridges asked Cirinna how dog complaints are handled. She responded that she handles them, and that quite often dog issues are not really dog issues. They are issues for other reasons. She said that she applauds the Applicants for filing and handling their proposal in the correct way, and feels that what they are proposing is acceptable. The Board thanked her for taking the time to attend the Hearing, and her valuable input.

Motion made by Sarkis to continue the Public Hearing to July 24, 2012, at 8:15 PM.

### **New Business**

Nelson related that the Attorney General's Office has requested a CD of the new FEMA Maps, and that we do not have a CD. She has ordered a CD from FEMA, but it has not arrived yet. This may delay AG approval of the new Zoning Bylaws.

Motion to adjourn at 10:10 PM.

Submitted by,

Jean Nelson  
Planning Board Administrator

These Minutes were approved by the Planning Board on July 24, 2012.