

**WEST NEWBURY PLANNING BOARD**  
**Minutes of Meeting**  
**May 7, 2013**

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 May 7, 2013 in the Planning Board Office and Second Floor Hearing Room. 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 7:03 PM in the Planning Board Office.

**Minutes of April 16, 2013**

The Minutes of April 16, 2013 were reviewed and edited.

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

**Discussion of Associate Member status – Annual Appointment**

Nelson recommended that Lucey's appointment be initiated at this time in order to maintain continuity through the permitting processes taking place.

**Motion** made by Murphey, seconded by Sarkis, to recommend to the Board of Selectmen that Lucey be appointed as Associate Member for another year. The vote in favor was 5-0.

**Coverage while the Office is closed**

Sarkis and Bardeen will handle questions and Agenda preparation while the office is closed.

Cook said that he had contacted the State Ethics Commission regarding his status for the 520 Main Street Public Hearing. He said based on an opinion received, he felt he should recuse himself from the Public Hearing. Sarkis said that if Cook is an abutter to an abutter, that he may be in the same situation. It was decided to discuss the issue at the Public Hearing.

The Board moved to the Second Floor Hearing Room at 7:34 PM.

**Continued Public Hearing to consider an application for a Special Permit for Open Space Preservation Development (Zoning Bylaw §6.B.) and for Site Plan Review (Zoning Bylaw §8.B.) for thirty units of single-family residential housing and related infrastructure at 18 Sullivan's Court.**

Chip Hall, Applicant, Chris Lorain of LandTech, and consultant Nick Cracknell were present for the Applicant. Discussion was based on a review prepared by Meridian Associates dated May 3, 2013. Additional review of Lots 3-6, 11, and 20 had been performed by Charlie Wear. Lorain said that he does not agree with item #1 in the Meridian letter, but the final comment was the systems would work.

Lorain said that the bottom line goal is for the approval of 30 units. He said that the Yield Plan has been revised to show a duplex unit on Lot 18. The Yield Plan then would show 20 lots, and 21 units, which with density bonuses would yield 30 detached single family units. Murphey said that he was troubled that the Applicant is changing the ballgame here. It had been stated in the past that none of the units would be duplex units. Lorain repeated that the end goal is 30 units.

Back to the Meridian review, item #3, Lorain said that the interior curve of the driveway to the house is 8%, and 11.1% on the remaining slope of driveway.

On item #4, Lorain said that the Applicant could propose a driveway or a bridge if the explanation is not acceptable. Cook said that the Yield Plan is to be a reasonable interpretation of the regulations. He is confused with the change in the number on the Yield Plan, since this is not the plan that the Board has been reviewing. He said that he feels that too much time has been spent on the Yield Plan. He said that he has a different interpretation of yield and bonus numbers. He feels it is in the best interest of the Town for the Accessory Bonus units to be as proposed, as detached entities.

Cracknell distributed a letter from Attorney James Hall. It was determined that the letter focuses on the revised Yield Plan, and where the accessory units can be located. Cracknell said that the letter does not address the current situation. He summarized that the accessory units would be freestanding, less than 1000 square feet, and contain two bedrooms. They would be deed restricted to remain that way.

Bardeen said that the form of ownership is irrelevant. She feels that the word "within" in the Bylaw section is key. She does not feel that freestanding units meet the test, and that an added wing could provide the accessory units. She added that she does not feel it is the Board's obligation to help the Applicant get to 30 units. Sarkis said that the density bonuses are subjective and that if he does not support a proposal, he cannot vote in favor of it. Murphey said that he would like to see the units, but feels they can't be justified legally.

Cook suggested that if the Applicant wishes to revise the Yield Plan, the plan for 20 units can be withdrawn, and a new plan would be reviewed. Murphey agreed, and said that he is satisfied with the explanations for Lot 11.

The mix of bedrooms would be two units with two, and 28 units with three. Hall said that the final size breakdown of units depends on the market. Sarkis said that there may be a unit mix as a condition. Hall said that the business model has eight of the large buildings with three bedrooms, and the remaining would smaller size with two and three bedroom units.

Sarkis said that he feels the Yield Plan is legitimate, although not all of the lots would be very desirable. The Density Bonuses are subjective, and the Yield Plan does not entitle the Applicant to the density bonuses. If more than twenty lots are applied for on the Yield Plan, then a revised plan should be filed.

**Motion** made by Cook, seconded by Sarkis, that an acceptable Base Maximum Number for the Yield Plan is 20. The vote in favor was 5-0.

Sarkis opened the Hearing for questions.

John McGrath asked what is the difference is between lot and unit. Cook said that the Bylaw is ambiguous. Regarding the freestanding aspect of the accessory units, McGrath suggested that a breezeway between the two units could suffice. He asked about exterior changes to the units in the future, and gave his opinion that such changes must be approved by a condo association.

Deborah Green, 1 Sullivan's Court, said that she is concerned with the proposed number of 30 units.

**Motion** made by Sarkis, seconded by Bardeen, to continue the Public Hearing to June 4, 2013, at 7:30 PM. The vote in favor was unanimous.

**Public Hearing to consider an application for a Special Permit at 520 Main Street for model aircraft flying, parking, and club gatherings under Zoning Bylaw §5.A.3.c. and 5.A.3.k. and for Site Plan Review, Zoning Bylaw §8.B. Owners are John and Cynthia Adams, 520 Main Street, and Applicant is Cape Ann RC Model Club, 281 Merrimack Street, Lawrence MA 01843.**

At 8:54 PM, Sarkis opened the Public Hearing. Bridges read the Legal Notice. Sarkis read Zoning Bylaw sections 5.A.3.c. and k. for those present.

He stated that two members of the Planning Board may be abutters to abutters of the location. A Special Permit requires a super majority vote, in this case 4 out of 5 members. Cook said that he had sought an opinion from an attorney at the Ethics Commission, who had told him that he is "an abutter to an abutter", and recommended that he recuse himself and leave the room. Cook then left the room. Lucey was designated as a member to act on this Special Permit Application.

Sarkis turned the meeting over to Ann Bardeen, as Vice Chair. Murphey said that the Board can seek an opinion from Town Counsel as to the status of the members, and if the Rule of Necessity may be invoked. Bardeen said that it makes sense for the Hearing to be continued until an opinion can be obtained. She gave the Applicant the option to continue the Public Hearing so that the Board can research the voting status of members with Town Counsel.

Dan Cole, president of Cape Ann RC Model Club conferred with the Club's attorney, Bill Studzinski. Cole said that he would prefer to see the Hearing continued.

**Motion** made by Bardeen, seconded by Murphey, to continue the Public Hearing to May 21, 2013, at 8:15 PM. The vote in favor was 4-0-1 (Lucey voted; Sarkis abstained.)

Board members discussed the questions to be sent to Town Counsel, which are:

..Are Cook and Sarkis abutters to abutters?

..What is a quorum for the Rule of Necessity for a Special Permit?

### **Planning Board Office:**

**Board Reorganization**, customarily held after the election: was deferred to the next meeting.

**Discussion of how to proceed:** Site Plan Review, OSPD, Inclusionary Housing, Signs Bylaws. It was decided to proceed with Site Plan Review for the Fall Town Meeting, and to discuss it on June 16. Outreach should be made to the Board of Selectmen and the Finance Committee. OSPD and Inclusionary Housing revisions are also very important. It was suggested that Lisa Mead may be able to help as a consultant.

Motion to adjourn, 10:15 PM.

Submitted by,

Jean Nelson  
Planning Board Administrator

These Minutes were approved by the Planning Board on June 4, 2013.