

WEST NEWBURY PLANNING BOARD
Minutes of Meeting
December 2, 2014

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 December 2, 2014 in the Second Floor Hearing Room. Board members Ann Bardeen, Richard Bridges, Raymond Cook, Brian Murphey, Chair, and John Todd Sarkis (arrived late) attended. Associate Member Dennis Lucey and Administrator Jean Nelson were also present.

Call to Order, 7:03 PM.

Cottages at River Hill

The Board began with a list of discussion items for the Cottages.

Murphey asked about the second complaint from the abutter, James DiGiuseppe, 7 Whetstone Street. Murphey had asked Nelson to forward the message to Hall. Hall said he had spoken with DiGiuseppe last night.

In response, Hall has talked with the different crews on site. Nelson said she had learned that the Site Super has been out. Hall said either the Super or Hall has been on site except when he is out of country. Litter has been picked up. Winds may be blowing litter over. Hall had everyone stop work today to pick up the site. He said he might install a green snow fence to keep the litter in. Cook and Murphey agreed that a well managed site makes an impression on everyone. As for noise at 6:30 AM, Hall said nobody is coming to the site in the dark. He said it may be Jackson Lumber but Jackson said the trucks are not arriving to the site early. They use GPS and can track trucks. Hall said he had a good conversation with DiGiuseppe. Bardeen suggested more trash cans and dumpsters for the rubbish.

Delivery to 7 Whetstone Street: Hall said that one delivery was a screw up through the construction manager. The site is now in the USPS database, and there is a mailbox on site. Cook suggested a webcam pointed to the driveway area so Hall could see delivery trucks and the early arrival of trucks.

Damage to driveway: Hall acknowledge that wheels turning scarred the driveway, and there were other scars also so it could be repaved again. He said the quality of paving was not good. If DiGiuseppe feels it is egregious, Cottages will take care of it. Murphey suggested waiting until the Spring.

Construction Inspection Summary: Jay Soucey had asked about the wall in front of the hydrant. The wall sticks out past the hydrant. Something is not installed properly and

Nelson suggested that the Board request an As-Built Plan. Hall spoke to Lewis who said the Water Department's Mike Gootee had marked the location where the hydrant should be. The site was selected by Mike Gootee. Cook asked for a note from Mike Gootee confirming this. Bardeen asked why Mike would do that, and why there was not coordination with LandTech for the layout. Bardeen said things need to be installed according to plan, and if not according to plan, they need to return to the Board to discuss it. Nelson asked if LandTech now has a surveyor, since there was not one when she and Bridges had been at the site previously. As-Built Foundation Plans had been sent to the Building Inspector unstamped. Lorrain said the new surveyor is Jim Peterson. LandTech has always had survey crews, according to Lorrain, but not a Registered Surveyor who could stamp plans.

Access to septic tanks and trail behind Unit 1: the existing slope does not provide access. Hall said 1. they need to walk around the temporary trailer to be able to walk around the unit, and 2. The silt fence is set back from the delineation. Behind the opening in the stone wall has not been finished. So the hill will be cut when the trailer is moved.

Public Hearing to reconsider a vote taken on November 3, 2014 for the Cottages at River Hill. At that meeting the Planning Board voted to deny an Application for Modification to a Special Permit for up to eight two-car garages at the Cottages at River Hill (Follinsbee Lane, Assessors Map U-1, Lot 19, formerly Sullivans Court) by a vote of three in favor and two opposed. A Special Permit requires a 4/5 vote.

The Owner and Applicant, Cottage Advisors LLC, 487 Groton Road, Westford, MA 01886, has requested a reconsideration of the vote.

The Town of West Newbury Town Counsel has opined that reconsideration may take place since the Certificate of Vote for the November 3, 2014 decision has not yet been filed with the Town Clerk.

At 7:30 PM, Murphey opened the Public Hearing. Bridges read the Legal Notice. Sarkis was not present.

Robbins asked how the Board would proceed since Sarkis was not there. Discussion of options took place. It was decided that the Applicant could ask for a continuance to the next meeting, or have the Board act with only four members present. The Applicant chose to continue to the next meeting.

Motion by Murphey, to continue the Public Hearing to December 16, 2014 at 7:15 PM. The motion was seconded by Cook. The vote in favor was 5-0.

The meeting returned to discussion of various items. Regarding the unfinished space above garages, Murphey said the Board is waiting for a written opinion from the Building Inspector on expansion.

Piles of soil and sand: Hall said stockpiles still being used for drainage. Paul Sevigny has also brought this up to Lewis. Lewis has the tarps to cover the piles by the end of this week if he is finished. Lorrain said they would be covered before the end of next week, and that would depend on the weather.

Mail Stations: Nelson said that Hall had not finished with the mail stations. Hall had brought them up at a previous meeting in September, but did not return in October to discuss them. She had a copy of the first station from Jay Smith, with a picture of the proposed structure, but it did not come from Hall.

Robbins said they will be posts and not mail stations any more. Hall said they will be installed in each phase and they will be in the Use Area. Nelson said that the Board felt it was to be discussed further after the meeting of September 16th, and asked if the Board wanted to see the location. Hall said one is in the EUA for Lot 1. Bardeen said that because it is in the Use Area does not mean the Board does not have an interest. Nelson said that there seems to be a disconnect between Hall and the Board about what is in the Use Area. Robbins said they will return with an actual image and location. Hall said it is not a structure and within the EUA and he wanted an opinion. Bardeen said the Board has an interest. Hall said this does not need a foundation, and Cook said this will need a foundation. Cook said that anything which is installed that is different from the plans that were stamped should come back to this Board. It could be a Minor Modification. Hall said they will return with plans for a general location of the mail stations.

Hall asked where the approved Minor Modification decision stood. Nelson said that the final plans were not submitted for three months, so she could not finish the paperwork which was now awaiting signatures.

Don Bourquard asked the status of the trail to the northwest corner. Hall explained the trail will not be built until the water line extension is done. Nelson said the Trail Easement has been recorded, and Bourquard was welcome to come by and see it.

Stone Walls: Cook brought up whether or not a stone wall is a planting. He said he does not feel a stone wall is a planting. He said that if a stone wall comes up where

not expected, the Board should be informed. If there is a deviation from plan set, the Board needs to see that coming.

Hall said that any landscaping in the EUA is up to him. He had sent an email message to Murphey and Nelson and referenced Condition IV.H.3. Nelson said he is not reading it correctly at all. She read from an email from Hall to Murphey as follows: . [Howard "Chip" Hall] any wall 3' or less is considered a landscape feature and not a structural wall that requires a permit. When we were going through the drafting decision, the board said that they did not want to deal or worry about and the following language was placed in the decision that captured the spirit of this:" H. Landscaping CONDITIONS: 3. Plantings proposed around the individual units are not subject to inspection or approval of the Planning Board and if the Owner fails to plant according to the Landscaping Plans, this shall be considered a private matter between the individual purchasers and the Owner.

Nelson stressed to Hall that it was for plantings. Robbins said that non-architectural stone walls less than 4 feet tall are considered landscaping. She had read that section differently. Robbins said this stone wall is a landscape design, and is therefore aesthetics. Cook said that architectural features are part of the Special Permit. Robbins felt features that are non-architectural items were not under the Board's purview. Murphey said he was not sure that a modification request is needed, but he felt this was not on the plan. Hall said had a choice: fence or stone wall. For this house, he wanted to maximize use of the front porch. Based on the terrain, he needed to have grading with a walkway to it. A short landscape wall instead of a fence was installed. He said it could be used as a replacement for a fence. Fencing created a separation from the semi private and private section. He had asked Robbins for an interpretation of that condition. Murphey asked for a note to be sent when a wall would be used. Bardeen said grading and fencing are on the recorded documents. If the grading changed and required a stone wall to retain, those are not landscaping choices or field decisions that can be made. Cook said that this switching will be amenable, but because all elements are part of Special Permit and Public Hearing process, they need to let the Board know what they want to do, and have the Board say yes. They need to be run by us. Nelson urged the Board to say "this is what we want", rather than saying "I'd like to see...", and Cook agreed that this is what he wants to see. Bridges said is procedural type of thing.

Robbins said her interpretation was that landscaping was open game, and she was told again by Bardeen that the word used was "planting". Lorrain said that back walls as retaining walls were shown on the plans. Nelson asked if the location of the wall on Unit 1 was surveyed, and Lorrain said no. The EUA ends about a foot away from the actual pavement, according to Lorrain.

The developer left the room at approximately 8 PM.

Continued Public Hearing to consider Applications for Definitive Subdivision Plan (M.G.L. 44 §81T-81GG Chapter and Special Permits for ..a Common Driveway Special Permit to serve three lots, Section 7.D., and ..Reduced Frontage Lot Special Permit for three lots, Section 6.A.1., for "Estate Homes at Rivers Edge" land located off Sullivans Court, Assessors Map R-11, Lot 18, in the Residence C Zoning District

Murphey opened the continued Public Hearing at approximately 8:10 PM. Residents present included Bill and Jenna LaSala, Howard Hill, Brian Richard, Tom Horgan, Cindy Sherburne, Patricia Reeser, Don Bourquard, and others.

Neve summarized that he would like to discuss the two site walks that had been conducted, Special Permit criteria, alternative cul-de-sac design, and the culvert repair proposed on Sullivans Court, construction regulations for common driveways, and timelines.

He felt the site walks went well. The extent of the common driveway was walked, and Sullivans Court to Whetstone. He had written a summary which has been submitted. Murphey said they had walked to the furthest site. He asked about the open site of Lot 6 and neighboring houses, and asked if Neve could provide buffering. Neve said he would be happy to provide buffering, but it may impact the view to the river for both parties. He felt it makes sense and is amenable. Murphey said the barn seems to be beyond salvage. Neve said that John Libby came down from Freeport Maine to inspect the barn. The barn has little to no salvage value and is dilapidated beyond economic value to repair.

Murphey asked about the abutter to Lot 2, Turunen. He asked the rationale as to why the house could not be in a different area. Neve said there are many factors in a big picture. He said this is a really good plan and he set the locations for best soils, and sets the grade for the septic systems first. He was asked to move the house and turn it a bit to provide more privacy to the neighbor. He said he has an open door to neighbors. This is the time to bring such things up. Unlike many other developers, when he is finished with a plan he builds according to plan; so he is open to the house location change.

He showed a plan which had been originally submitted, and brought up some alternatives. It has been discussed at the site walk and the DPW Director had asked for a hammerhead instead of a cul-de-sac. He handed out copies to the Board and the audience. He ghosted the former design on the new drawing, and indicated the driveway coming from the cul-de-sac with an easement over a portion of the lot. He

explained a 20' wide roadway, hydrant, water line and stub. Turning movements comply with AASHTO radii. Property lines remain the same. Murphey asked about plowing by the town. Neve said the town would push snow off of the end and the people would take care of the Common Driveway and start taking care of the driveway within the right of way.

The stormwater management basin would be smaller due to less pavement. Neve asked the Board to pick the design that it likes for a cul-de-sac. The difference for him would be \$10,000 to \$15,000 which he said is de minimus. He said this is an important feature. Cook said they are both improvements. He listed pros and cons to each—turning ability for all users, vs. less pavement and retaining rural character. Neve said a cul-de-sac is a better design for plowing, public safety, turning around, etc. Cook said there is less pavement to the drawing on the left [the hammerhead.] Sarkis noted that for anyone coming down Sullivans Court, the cul-de-sac would be better for all turning around. Bardeen agreed they are both improvements.

Neve then presented a plan for replacing the culvert on Sullivans Court. He said the existing structure is a high hat and is in pretty good shape. He said it should be fixed. He proposed that the permit would be through the DPW. An existing 18" corrugated metal pipe runs to a headwall. He said that the pipe is inadequate to take all the water. His site can take on more water through the proposed new culvert. He proposed a 24" HDPE culvert, and an open throat catch basin with an inlet on the flow side, which is the state DPW standard. He proposed a flared end section on his side of the road.

Cook said that if the DPW is alright with it, he did not feel it needs Meridian review. Sarkis asked if all work can be within the right of way on the north, and Neve responded yes. He said he would suggest an easement to the Town. He would do this as part of the subdivision approval. He said he would need to replace the culvert in kind, under stream standards, but the Town can apply for the larger culvert. Sarkis asked about setbacks, and Neve said the flow path now is already a wetland.

Bridges asked on the inlet side, what is change as to road grade? Neve said they are only increasing the capacity of the culvert.

Murphey authorized Neve to proceed with Gary Bill.

Neve turned to the Common Driveway cross-section. It differs from that in the Subdivision Regs. Instead of 12" of gravel underneath the roadway, he is proposing 6". The base will be 98% compacted. A 2" binder and 1.5" of top course are proposed for both the extension and the driveway. Neve said that he talked with the DPW who said only shimming will be needed on Sullivans Court. Sarkis asked about

finished grades. Neve said they will not change but the sub-base will change. Sarkis pursued sections to be graded. The plans show a 20' wide road, so the pavement of Sherburne's house would remain where it is. Cook said he would like to keep the width at 16' wide. Neve said if they do that, there would be enough money to pave to Whetstone Street and improve the intersection. Two foot shoulders were discussed, in response to a question from Bardeen. Neve said he does not feel the two foot shoulders are necessary but they are willing to do it if the Board requests it. Neve plans to connect the new driveway for the farmhouse into the revised right of way. He has spoken to the prospective owner about it. There will be a grade difference.

Sarkis asked if there is an opportunity to eliminate any of the fill. He noted that at the end of the right of way, they are in a cut. Cook summarized that there is an existing grade of 10 to 11% in that one location. Neve said there is a hump there and for sight and other reasons, it needs to come down. He referred to a K factor in the regulations, and said they are at a maximum K factor there.

Murphey said he is not in favor of 2' gravel shoulders, and he would be amenable to a Waiver.

Cook asked about moving a driveway on the single lot so that lights do not shine into the abutters house (Sherburne.) He suggested a different location for the driveway, and Neve said the driveway could be moved. He will talk to the designers.

Murphey asked if Neve had received Bill's note regarding a width of 18 feet, and some other improvements. Cook added that Bill prefers a hammerhead. Another point was questioned. Neve said that some of the comments were discussed with Bill when a proposed subdivision had more units.

Bridges asked the road width on the hammerhead. Neve said 20'. Cook said he would like to see the hammerhead and driveway with 16' shown. Neve said that that could be done, but they would need to keep the radii for a large truck. Murphey said the hammerhead will work out there. Bardeen said that she would like to see the 16' wide impact on the detention basins, which are basically a ditch with weeds. Neve said they are bigger in surface area so they will be shallow and can be mowed and landscaped. They are two feet above the water table. Neve said the basin size will not change much.

Murphey asked about treescapes and plantings. Neve said he is a fan of rhododendrons, crab apples, and shorter wider trees. He is a fan of using native species. He said you need to be able to see through trees.

Neve went through the survey plan with the Land Use Table. He reviewed the requirements of the Reduced Frontage Special Permit, which he feels he meets.

Neve had submitted supplemental information where he took the Zoning Bylaw and responded with his comments on the Reduced Frontage criteria. He had done the same for Common Driveways. He said the primary purpose of a Common Driveway is in lieu of a roadway, to minimize the amount of road built, to reduce environmental impacts, and the amount of pavement. His common scheme restrictions will prohibit more than a single family unit. He had submitted a draft Maintenance Agreement, which Nelson said was based on the maintenance agreement for 47 Coffin Street.

Bardeen asked about the former barn lot, which has two driveways. Neve said he thinks he will give the Board a check for the affordable housing unit. Two lots could have been submitted as ANR lots. The remaining four units would result in an \$80,000-\$90,000 check. It would cost more to build the affordable unit.

Bardeen said that was all very interesting, but she was really just talking about driveways. There are three close to one another off Sullivans Court. Neve said there will only be one driveway, and the other will disappear. He wants to keep them 50' to 60' apart.

Murphey asked where he stands with the Con Comm. Neve said they have submitted an ANRAD. Some modifications were made. The high tide issue has been checked. The tide comes into the finger and his environmental consultant checked with DEP on the calculations. They were ok'd by DEP. It does not affect the riverfront area and 200' riverfront. Only the subdivision had been submitted so far and not individual lots. Notices of Intent for each lot will be submitted mid-to late December. Lots affected are only 1, 3, 6, 5, and 4. The Board of Health will not be reviewing designs yet.

Murphey asked for comments.

Tom Horgan, 33 River Meadow Place, said that the neighbors have hired an environmental consultant. Concerns were the setback of the detention pond from the wetlands at 50' from the outer edge of the berm. That could have an impact on the drainage plan. He was talking about the far left one. Neve said that is a policy from DEP, and it can be overcome by explaining the benefits of having it closer. His consultants were working on that now.

Howard Hill, 32 River Meadow Place, said this is considered an infiltration pond. DEP Stormwater Policy, Volume 1, lists a 50' setback. He said Meridian did not pick up on it as an infiltration pond.

According to Hall, other stormwater issues from Meridian should be addressed. The Conservation Commission will be holding their meeting on the NOI next week. Wetland boundaries might be altered also. He said he hopes that this Board will hold off on taking any vote until they hear from Conservation.

Hall continued that under 4.2.8.2. of Subdivision Regs, Sullivans Court is already in non-compliance. Why would the board approve a longer dead end street? Murphey said it has been waived in the past, and many projects have had such a Waiver.

Cook said that sometimes a Waiver is granted in order to avoid forcing a connection to the next subdivision. It is pros and cons. Hill said less houses may be a better solution.

Brian Richard, Whetstone Street, gave the Board credit for the work they do. He asked if the Board studies parcels remaining to see how they could be used. This is the last parcel of riverfront land. Cook said that he felt this parcel would have been better protected by an APR. The Open Space Committee helps also. If the Board of Selectmen decides not to buy the land, then the owners have their rights to sell to others. Cook described a situation where an abutter did not approve preserving land at a Town Meeting because he wanted to see more tax revenue.

Hill said the property could be used for deep water wells. He said the Board could suggest a different plan for the property to begin with. Lucey said that each parcel is special. Murphey said the Town can't buy them all. He listed points in the Board's recommendation to the Selectmen for Right of First Refusal. He said if the Selectmen make a decision, then it will go to Town Meeting.

Horgan cited the Cottages, Bill's comments on widening Whetstone, and bringing more people onto Sullivans Court. Cook said that 40 years ago planners were less sensitive, and would have made the connection through from Sullivans and River Meadow. He said people like dead-end roads. He said there are competing interests. Hill suggested less houses in the area.

Hill said the law says all alternatives must be submitted with economic impact studied, and compared with all other subdivisions in the town. He said he has not seen the other alternatives. Murphey asked what law he was referencing. Neve said he is reading the law differently. He said he was approached by Mr. Hughes to send him everything he has submitted electronically. He said it is important to differentiate a policy from a regulation.

Tom Horgan if there is a list of requested Waivers, and it was noted they are in the Application. Murphy said that the list of Waivers will change, such as width of road. Neve said the major Waiver was the length of the dead end road.

Patricia Reeser asked if the Board has considered trails and connections to existing trails, such as that from Cottage Advisors, and along the waterfront, connecting to others. Murphey said that Neve has already offered a walkway to a lookout. The connection to the Cottages trail was shown on the plan. Murphey said the River Meadow people do not want the connection across the town-owned land. Cook said the Selectmen would have to approve a connection of the town owned property. Reeser asked if a meaningful public access to the entire riverbank could be considered. She said this is a priority parcel.

Neve said the new Riverfront Regulations make this difficult. The bald eagle and sturgeon are impacted along the riverfront. The use must be pretty passive. He will integrate public access and is willing to listen to ideas of this Board deems it appropriate. Don Bourquard said they did walk the site and saw alternatives, and that kids already cut through to River Meadow.

Debra Green, Whetstone Street, said that people whip down the street. She asked if speed bumps can be installed. She asked about Gary Bill's request to widen the road, which Cook clarified would be on the East side. Cook said studies have shown that if you widen a road and smooth out the grades, people will go a lot faster.

Brian Richard asked if Neve is going to pick up paving on Whetstone Street where Cottages left off. Neve said his plan is to improve Sullivans Court in front of the area that he owns. Now there has been talk of other what-ifs. That is not in his plans. He said the Board can negotiate some off-site improvements, but it is all now up in the air. Neve said he has an open door policy and he has not heard from many neighbors.

Cook said he appreciates the fact that everyone is showing up now. Murphey asked Neve where he is with meeting again with the Board. Neve said he would like an idea of the status of the Reduced Frontage and Common Driveway Special Permits. If he gets approval, then he can proceed with Meridian's revisions, the subdivision plan, and road details.

Hill said he would like to hear from the Conservation Commission. Their decisions might affect the location of the ponds. Neve said they won't change. He said that these items are part of the subdivision. Sarkis asked if Neve had considered connecting to River Meadow. It was on a former preliminary plan, but not on this plan. Sarkis asked if Neve had met with the Board of Selectmen regarding this, and he had not.

Nelson brought up the timelines of Subdivision Control Law and Chapter 40A. Their decision dates are not in sync. She explained that a Preliminary Plan had been filed, which established a decision date of January 7th. It was agreed to extend the time for decision on the Subdivision Plan to February 28, 2015.

Murphey polled the Board for their opinions on the Special Permits. Cook said his concern is that he is trying to foresee conditions through the whole development. Nelson said there are criteria for each Special Permit, which the Board can review and base a decision on. There is a sample for such a Special Permit. The Board can also condition a Subdivision. Neve agreed that it then gives him standing to proceed.

Sarkis said that it would be hard for the Board to deny any subdivision for other than technical matters so he agreed that he would do the same if he was in Neve's shoes. He said it is helpful and fair to move the ball downfield. The matters are on the table already, everything is clear. Is it intelligent to have six lots at the end of the very long dead end? It may not always be a dead end. He said there are common driveways all over town that serve 3 lots. He asked if the Reduced Frontage lots block the extension of Sullivans Court. It would be incumbent of the Board members to give Mr. Neve their sense. Bardeen said that is the way it has been handled in the past, and that way the Board reserves their discretionary ability to craft something they can't foresee yet.

Nelson said the Board still has 90 days from the close of the Public Hearing to work out the Special Permit details. Murphey said he will be ready to give his interpretation at the next meeting. He noted that Mr. Neve proceeds at his own risk. Hill said they proceed at their own risk too. Cook said a future developer could sue the town to force the connection, because it was clearly left to be a connection. Hill said the abutters could sue the Town also. Neve said it is not who he is to sue the town.

Motion made by Murphey, seconded by Bridges, to continue the Public Hearing to December 16, 2014, at 9 PM. The vote in favor was unanimous.

Motion made by Cook seconded by Bardeen to grant an extension for Decision for the Definitive Subdivision Plan to February 28, 2015. The vote in favor was unanimous.

RoFR

The Board was not ready yet. Cook has a version which was up to date. He will distribute it.

Signing Documents

The minor modifications for the Cottages at River Hill documents and 12 Steed Avenue were signed.

Planning Board Administrator

Nelson said that Glenn Kemper and Joe Anderson have told her they support upgrading the position. Bardeen said there is a new Job Description which was written last year. Nelson recommended that someone talk to the new Finance Director to initiate the process.

Vouchers were signed.

Bridges asked where one gets the wall seeds.

Motion to adjourn, 10:25 PM.

Submitted by,

Jean Nelson
Planning Board Administrator

These Minutes were approved by the Planning Board on January 20, 2015.