

**WEST NEWBURY PLANNING BOARD**  
**Minutes of Meeting**  
**March 4, 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 March 4, 2014 in the Planning Board Office. Board members Ann Bardeen, Chair, Richard Bridges, Raymond Cook, Brian Murphey, and John Todd Sarkis attended. Associate Member Dennis Lucey and Administrator Jean Nelson were also present.

The meeting was called to order at 7:00 PM.

**ANR Plan, 11 Worth's Lane, Map R-12 Lot 10, Hobson Family Trust, Bob Smith of Cammett Engineering**

Sarkis recused himself from this part of the meeting as he is an abutter to the property.

Bob Smith presented the plan, which the Board then reviewed.

**Motion** made by Bardeen, seconded by Murphey, to endorse the plan as not requiring approval under the Subdivision Control Law. The vote in favor was unanimous. The plan was endorsed.  
Sarkis returned to the meeting.

**ANR Plan, 49/61 Maple Street, Everett G. & Thelma L. Stewart, Map R-10, Lot 4, and Frederick B. Healy and Cynthia MacLachlan, Map R-10, Lot 71, Bob Smith of Cammett Engineering**

It was noted that Lot 4 on the plan does not have adequate frontage or area. Nelson had asked Town Counsel for his opinion on endorsing such a plan which has an existing dwelling on it. Town Counsel had submitted a response which summarized that the addition of property to a non-conforming lot with an existing dwelling does not create a zoning problem.

**Motion** made by Bardeen, seconded by Cook, to endorse the plan as not requiring approval under the Subdivision Control Law. The vote in favor was unanimous. The plan was endorsed, and and Bob Smith left with the mylars.

**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.**

Bardeen opened the continued Public Hearing. She summarized the process for those who are new on the Board or present. She said that the Board drafts the Certificate of Vote, and then it reviews, edits, and revises. The Applicant may make requests, but it is the Board's decision and it has final say. The Certificate of Vote protects the town, future buyers, and the applicant. If Board members don't agree with the Conditions, they may speak up. The Board has been collaborative with Applicant at its discretion. If the Applicant does not like or agree with the conditions, the decision can be appealed. The Board will be voting on Findings in Section 6.B and 8.A for a Special Permit.

A motion is made in the positive. It must be seconded, discussed, then voted. The Public Hearing will be kept open as long as the Board is inclined.

Present for the Applicant were Chip Hall, Applicant, Melissa Robbins, Attorney, Matt Waterman, Engineer, Nick Cracknell, Planner, and Howard Snyder, Landscape Architect

The draft Conditions were reviewed beginning with Stormwater Management. Several versions had been proposed, based on research at the Board's request. Looking at various models, it was decided that Surety for Stormwater Management in a town like West Newbury was not appropriate. Language for emergency situations was discussed. It was decided that the conditions for a private way were applicable to stormwater management, and any other emergency work, as a hold harmless and emergency access section.

The current 1.B. would be moved to a separate section.

Nelson printed the proposed Performance Guarantee section she had drafted which had been on a former version. She read it to those present. It required a Form I to be recorded and units could be released after utilities, first coat, and drainage had been installed to the satisfaction of the Board. She reminded the Board this is not a subdivision, and the Board has more leeway for requirements and bonding.

Robbins had suggested language that would provide for a release of units for Occupancy Permits, and a bond to be posted to secure the remaining elements if they had not been completed. Nelson said that there are many items now hanging on Occupancy Permits and she had prepared a spreadsheet of all of these items to summarize and track them. It would need to be provided to the Building Inspector also. The subsection c. suggested by Robbins would be incorporated into the decision.

Standard Conditions were reviewed. A full color set of prints will be required.

Bardeen suggested that the Board return to the beginning of the Conditions for re-review. Sarkis asked about the water line easement through the road as well, if it needed to be maintained. Robbins said that is included in the water and access

easement. Robbins said it describes the premises and covers everywhere. Sarkis asked if the easements will be recorded with the plan, and Nelson said that is the intent.

Nelson suggested that a line be added to the Trail Easement to indicate that the easement is recorded but will not be built and open to the public until a certain date. McCarron had said that the Trail Easement must be recorded prior to the CR being recorded. Robbins suggested that the Town could hold the Easement until the CR is recorded, but Nelson said that if Hall sells the project, that Easement would not be valid.

Nelson was asked by the Board to check with McCarron to see if the Easement could be recorded with the plan with a caveat that it would be open to the public at a later date.

Nelson asked when the Applicant would talk to the Conservation Commission about holding the Trail Easement. It has not been submitted to them yet. Robbins said she would do so. It was decided that the trails will be open when the project has been completed. Robbins asked if the CR could be recorded at the end of the project. Nelson said that this should be done prior to the last unit released, as a surety. The Board agreed.

Sarkis asked about patios on the uphill side. It was determined that they will not be built with pervious pavers. Bardeen said it was a matter of the drainage calculations. Nelson confirmed that she had reviewed the drainage calcs with April Ferraro of Meridian and it was not within the capability of the drainage system to handle additional roof drainage from those units. Then it was discussed that patios are not considered impervious, i.e. water could drain through them.

Sarkis noted that the water line easement does not have metes and bounds through the Open Space. Robbins said that a wide berth has been given in a general location. He asked how it is legally described. Robbins said a general description and general location on a plan which is specific enough to show the location will serve this situation. Lorrain said that a 10' to 15' wide swath could be limiting.

Bardeen noted that the easement is near the wetlands, and Nelson told her that is why the Conservation Commission had wanted to see the draft Easement.

The latest draft to the Conditions, separating the explanation from the conditions, was discussed. Sarkis asked the Applicant how they felt about it. Nelson asked Sarkis to ask the Board how they felt. There was a lot of confusion about the revisions to the documents, and the lack of explanation. Sarkis said the only thing that matters to him is the Conditions. Nelson said she could not disagree more, based on her experience working in the office. People question Conditions for years after they are written, and

future board members and employees do not know why a condition was imposed, resulting in much research and questioning.

It was decided that each Condition shall be defined as a Condition, so it is clearly separated from any explanation.

The section called Introduction was reviewed. Revisions had been made to correct errors in areas, language, and to delete EUA references. Robbins said that the length of road should be corrected to 1785 and Nelson asked how it got longer. The response was that it had never been 1777. Cook suggested adding how the length of road was measured. He said he liked the information included in the document, which provided a lot of data.

Sarkis suggested that the Site Plan Review decision could be a separate document, as it has been in most towns. Nelson said that the Board does not have any authority under Site Plan Review in the current Bylaw. Members agreed that the decision should be for both applications together.

Bardeen asked the status of other Boards. The Conservation Commission has asked that the Applicant not return until the Planning Board is finished with the plan. The Applicant had brought a final set of plans to the meeting tonight for review. Robbins agreed with Nelson that the plans are not final until the Board signs them. Nelson said that the plan is not done yet, because notes need to be added to the first page as to documents to be recorded, and the plans will have to be reviewed again. She suggested that Town Counsel and Meridian (mainly for construction) review the documents, and that the plans not be submitted until the Board of Health had approved the wastewater plan, as agreed previously. Robbins said that Meridian will need to review all plans again prior to them being considered final. Discussion continued for approximately 15 minutes more.

Robbins asked the Board to vote on the Special Permit and to endorse the plans later. Cook said he was comfortable with that. It was agreed that these are not the final plans, and that revisions to the plans will be minor. Bardeen said it could be the aim to vote at the next meeting, provided the Conditions are finalized.

Robbins submitted plans dated March 4, 2014, with a letter outlining the revisions that had been made. She asked permission to talk to Town Counsel to talk about the easements. Bardeen asked Nelson to talk with him about the CR and the trail easement. Nelson read the memo from McCarron regarding recording the Trail Easement and the Conservation Restriction.

Nelson reminded everyone that the project could be sold, Hall may not be the person the Board deals with, and that details need to be clear and complete.

Motion made by Bardeen, second by Murphey, to continue the Public Hearing to March 11, 2014 at 7:30 PM.

Due to a conflict, the Board decided to meet on April 22<sup>nd</sup> instead of April 15<sup>th</sup>.

Discussion of Flag Banner Signs, Right of First Refusal, and the Minutes of February 25 was deferred to the next meeting.

Nelson will file paperwork with DHCD for the third unit in Ocean Meadow rather than wait for more units to be issued an Occupancy Permit.

The Attorney General has approved the Site Plan Review Bylaw with many comments.

Signs and Medical Marijuana Bylaws will be goals for the Special Town Meeting in the Fall. A Public Hearing could be held in June.

Nelson commended Ellen Alden for her hard work in helping to clean up the office, the files, and other projects in the office.

Bridges summarized CPC articles that have been discussed to date.

Motion to adjourn 9:45 PM.

Submitted by,

Jean Nelson  
Planning Board Administrator

These Minutes were approved by the Planning Board on May 6, 2014.