

**WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
October 6, 2015**

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 October 6, 2015 in the Planning Board Office at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Rick Bridges, Raymond Cook, Brian Murphey, and John Todd Sarkis were present. Planning Administrator Leah Zambarnardi and Associate Member Dennis Lucey were also present.

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

Subdivision Approval Not Required Plans (SANR's)

- a. 720 Main Street – William and Mary Ann Daley

Cook noted that the land surveyor, Bob Grasso was not present. Mary Ann Daly was present. Zambarnardi stated that the Board approved a Special Permit for 2 common driveways and 3 reduced frontage lots at 720 Main Street in August. The Daley's have submitted their ANR application and Plan to formalize the division of 720 Main Street into 5 lots (1 lot for the existing home, 3 new building lots and an unbuildable lot). Board Members reviewed the plan.

Cook made a motion that the Planning Board endorse the plan for 720 Main Street drawn by Engineering Land Services, LLC and dated September 17, 2015, as one not requiring approval under the Subdivision Control Law. Sarkis seconded the motion and it carried unanimously.

Public Hearing: Proposed Amendment to West Newbury Zoning Bylaw, Section 6.B.8 "Open Space Preservation Development" – Proposed Article for Special Town Meeting Warrant

Cook recessed the regular meeting of the Board for the scheduled public hearing. Cook stated that the purpose of the meeting is to conduct the required public hearing on the proposed Article. He described the purpose of the public hearing and the changes proposed by the Planning Board to the OSPD Bylaw. He noted the changes are on record in the Planning Board Office and the Selectmen's Office. Cook then asked Members of the Planning Board if they had any input or comments. There were none. Cook then asked for questions or comments from members of the public.

Judy Kauffman, 21 Ridgeway Circle asked why the Board would no longer allow duplexes. Cook stated that currently in a Yield Plan, a property is split into individual lots and duplexes can be placed on every lot. A developer can end up with a very large, basic maximum number. If a developer can have that high basic maximum number from the start, there's less reason for a developer to look at the incentives we have in the Bylaw. He stated that with the proposal, the development would provide the Town with a collateral benefit, such as cottage homes, increased, higher quality open spaces in exchange for increased density. Zambarnardi added that if a project gets built, the outcome could include duplexes or otherwise attached units. She

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stated this provision only applies when you are placing units on lots to determine the basic maximum number. Sarkis clarified this occurs during development of the hypothetical/theoretical plan that shows the basic maximum number. This is not what actually gets built. What gets built could have as many as 4-units in a building by special permit. Cook noted that was the case in Ocean Meadow.

Cook noted that the Subdivision Control Law allows a developer to do a standard subdivision with a sign off from the Planning Board that the development complies with the Board's Rules and Regulations. There are certain cases where a developer has to come to the Board for special permission with a development proposal, i.e. for reduced frontage, lot sizes, amount of pavement, etc. The Board provides incentives to entice the developer to do such developments. He noted that developer could always opt-out of doing an open space development and do a standard subdivision. He gives more examples of incentives available in the Bylaw. He noted that in the end, the developer has to look at doing right by the Town and his/her own bottom line.

Mary Ann Daley, 125 Garden Street asked if the developer would still be able to build duplexes, and how the proposal would impact affordable housing, which the Town wants. Cook stated that anybody can do a duplex unit by right anywhere in Town on a single lot without an OSPD or other special relief. Cook stated the developer always would have the option to do that. Murphey clarified that a developer would still have to come to the Board for subdivision approval. Sarkis agreed with Murphey but noted the use would be by-right. Cook stated that anyone with an existing single-family home in Town could remodel it into a duplex. Daley stated that if a development went in that allowed duplexes and tri-plexes, then there would be more chance for affordable units. Sarkis stated that this does not take away the developer's right to get the maximum number of units from a development. Cook stated that the proposal is essentially to clarify the Bylaw.

Cook made a motion to close the public hearing. Murphey seconded the motion and it carried unanimously.

Cook reconvened the regular meeting.

Ocean Meadow Definitive Subdivision Plan and OSPD Special Permit – Alyssa M. Gillis – Request for Releases of 24 Ridgeway Circle and 62 Moody Lane from the Amendment to Form I, Approval with Covenant Contract and Acceptance of As-Built Plans

Doug Stockbridge and Stan Checkovich spoke on behalf of the applicant. Cook stated that the Board received a list of pending items with costs to complete 24 Ridgeway Circle. Murphey stated this was submitted very late. Cook stated that Bridges visited the unit and shared photos he took with the Board. Stockbridge also sent an Escrow Agreement to ensure the completion of 24 Ridgeway. He noted there were also changes to the Amendment to Form I, Approval with Covenant Contract. Zambenardi stated there are still two open items in the Escrow Agreement. The first is the bond amount. The second is the deadline for construction completion of 24 Ridgeway Circle. Stockbridge added that they sought and received a temporary occupancy for 62 Moody, but the buyer was not interested in moving in before the closing occurred. Zambenardi noted that Glenn Clohecy looked over the cost list and did not see anything out of line. Sarkis asked some questions about the cost list and noted the numbers

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are not too far off. Cook noted the number in the list was \$45,945, which did not seem enough if the Town has to finish the project. Zambenardi stated that the Planning Board should anticipate that the Town will have to pay prevailing wage. Cook stated that the multiplier being discussed is 2 to 2-1/2. Cook asked about the issue with gas lines. Checkovich noted that the gas line would run from the propane tank to the house. Sarkis asked if we need that on an As-Built whereas it is not a municipal utility. Zambenardi stated Charlie Wear from Meridian could identify the beginning and end of the line. Sarkis stated one could reasonably deduce from that where the lines are.

Mr. Gauss of 14 Ridgeway Circle asked if anyone consulted Eastern Propane. Stockbridge confirmed that they did consult with them, but they don't have drawings showing the gas line. Cook noted that Wear said he believes the As-Built is suitable to be accepted by the Planning Board.

Murphey stated the bond amount has to be substantial enough to ensure the developer will do the work. Further, the amount should be substantial enough to cover the Town's expenses in the event it needs to take on completion of the unit.

Zambenardi noted that there was a late discussion between Town Counsel and the developer's attorney and the developer wants to make sure the payment is solely used for covering construction of the unit. The Board further discussed amendments to the Escrow Agreement and a bond amount.

Cook made a motion that the Planning Board release 24 Ridgeway and 62 Moody from the restrictive language in the document entitled "Amendment to Form I, Approval with Covenant Contract". Murphey seconded the motion. Discussion on the Motion: The Board left the motion on the table, then took the following votes.

Cook made a motion to accept the request for a waiver of showing the propane gas lines on the As-Built plans and to accept the final As-Built Plans drawn by Millenium Engineering, with a final revision date of September 29, 2015 noting that Meridian Engineering has recommended approval of these requests. Bardeen seconded the motion. The motion carried unanimously.

Cook made a motion that in lieu of the complete construction of 24 Ridgeway Circle, the Planning Board accept a cash payment of \$112,500 as surety to guarantee its completion. Bridges seconded the motion and it carried unanimously.

The Board then discussed the Escrow Agreement and decided to amend such agreement so that the closing for 62 Moody Lane shall occur on or before November 30, 2015. Further, the construction of 24 Ridgeway Circle shall be completed within 90 days of the closing date of 62 Moody Lane.

Cook then made a motion to accept the Escrow Agreement as discussed and amended, and acknowledging that the \$112,500 shall be used solely for the completion of construction for 24 Ridgeway Circle. Sarkis seconded the motion and it carried unanimously.

Cook made a motion to accept the document entitled "Amendment to Form I Approval with Covenant Contract". Murphey seconded the motion and it carried unanimously.

Cook then called for a vote on the motion to release 24 Ridgeway Circle and 62 Moody Lane from the Amendment to Form I Approval with Covenant Contract. Further discussion on the Motion. Sarkis made a motion to amend this motion to include the stipulation that those units shall be released only upon the execution of the Escrow Agreement and the Form I Approval with Covenant Contract. Bardeen seconded the motion to amend the original motion. This motion carried unanimously. Cook again called for a vote on the motion to release as amended. All members voted in favor and the motion carried.

Follinsbee Lane, Cottages at River Hill, Open Space Preservation Development Special Permit (Section 6.B) and Site Plan Review (Section 8.B) – Cottage Advisors, LLC – Approved March 11, 2014 – Discussion of pervious pavers for additional parking.

a. Request for Minor Modification of Special Permit – Open Celled Pavers

Cook explained the nature of the application, the history of discovery of the issue and the Board's recent discussion. Cook commented that this is a change in the original concept of the development and that it is also an aesthetic problem. He is concerned with the maintenance of these pavers. He commented that it is a clever idea, but he does not like the execution of it and he probably will not vote for it.

Murphey stated he is not in favor of the change. This is not what the Board had in mind when they approved the project. He is disappointed that the developer did not come to the Board for approval of the change. He would not have voted for it then.

Bridges commented that this represents an exposure to the Town. He stated that starting off by allowing this is just inviting future problems.

Cook stated that he thought that once the development is finished, the Association can make modifications.

Murphey disagreed and clarified that they cannot pave the driveways without Town approval of the hydrology changes.

Residents from 3, 7 & 9 Follinsbee Lane submitted emails in support of the change, which are on file in the Planning Board office.

Kathleen Absolom of 2 Follinsbee Lane commented that the pavers are tasteful and functional. She thinks that parking off-street is preferable to parking on-street from a convenience and safety standpoint. She noted this is a private development that will remain that way and the residents within it should have a say.

James Hall, the attorney representing Cottage Advisors speaks to the proposal. His presentation included points including that Cottage Advisors are not in violation of the special permit or of the approved the drainage scheme; it is safer to park off-street as opposed to on-street; density is not increasing; and, they added the pavers to make the development better for the residents within it.

Cook noted that they had public hearings and spent much time on the aesthetics, and the question of off-street vs. on-street parking. He stated in fact that the Board allowed a wider pavement width to accommodate for on-street parking.

Murphey stated he was in favor of a few 2-car garages, though he thinks this proposal creates unnecessary clutter and he would not have approved this at any time.

Chip Hall of Cottage Advisors stated he did not think this would be an issue or that it was in the Board's jurisdiction when they installed the pavers. Chris Lorraine of LandTech stated that they were listening to buyers and trying to accommodate their needs.

Sarkis stated he agrees with Attorney Hall's position. He stated he believes the Board does have the authority to approve this as a modification. It is incumbent upon the Board to review issues like this. He stated that the Board approved this project with the understanding that cars would be parked on the street. He does not believe the project, as it was permitted, is in any way unsafe. The units were likely envisioned to have 1 car. He stated that is all in the past and the issue now is that there are more cars needing off-street parking spots than was anticipated. He commented that perhaps there needs to be a more aesthetic solution and the Board should not rule out the possibility of cars parking off-street elsewhere in the development. He noted that some communities limit the number of cars parking on-site. He noted that pavers could be used elsewhere in the development and he asked if the developer had looked at that.

Lorraine stated that they can't park cars in the open space or on open land as part of their special permit.

Cook recalled that overflow parking was not provided for. It was decided at the time that a 24-foot wide road was preferable over doubling up parking off-street.

Bardeen stated that the developer had plenty of time to think about this during the permitting and market research would have told them what was desired. She noted that each home still has two parking spots with extra room for parking on the street.

Cook stated that the street is not attractive now because there are many construction vehicles. Once they are gone, things should improve. Cook also noted that he has not heard from anyone in the public with objections to the pavers. He does not like them, but he will not live in the development. Bardeen noted there is not a resounding groundswell of support either.

Sarkis stated that part of the Board's mission is to preserve the character of the Town. On-street parking is contrary to the character of most of the Town. Some members disagree. Bardeen noted there is on-street parking for the library.

Lucey stated he understands the situation, but he thinks it is a different project than what was approved on paper. The project would have had a different density and calculations. He stated he does not think that the Board would have approved of ½-paved driveways if they had been shown on the plans. He asked what happens when the pavers impact the drainage system or if stone replaces the grass.

Cook made a motion to approve the request. Sarkis seconded the motion. The motion did not carry 1-4. (Sarkis in favor)(Bardeen, Bridges, Cook and Murphey in opposition).

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- b. Request for Acceptance of Interim As-built Plan, Unit Releases from Covenant Not to Convey and Acceptance of Performance Bond

Zambernardi noted that Interim As-Built Plans were received. She stated Meridian sent a letter dated 10/6/15. She stated that Meridian questioned some of the estimates and then she summarized the letter. Lorraine stated that they modified their estimate to reflect Meridian's suggested numbers. They are not in 100 percent agreement with Meridian, but in the interest of timing, they accommodated. They asked if, in return, if rather than the 150% bond adjustment factor, the Board would accept 125%. Murphey asked what the sense of urgency is. Lorraine noted that they need lots released. Hall stated they are asking for releases of Lots 11 and 14, which are scheduled to be delivered at the end of October, Lot 20 - November 16, Lot 16 - end of November, Lot 18 is the affordable unit, and Lot 13 is later. Murphey stated that they should work it out with Meridian and come back at the next meeting. More discussion occurs about what items need to be completed and Hall noted that the majority of the money in the estimate is in Phase III. They are not asking for releases of any of the units in Phase III. The option of releasing Unit 11 and 14 now is discussed. Members opt to table the matter to the October 20th meeting to allow time for Meridian and Millenium to work out the final numbers in the estimate.

Business Item

Lori Spielvogel of 26 Meetinghouse Hill Road stated she was present to see what occurs with the Drake's Landing Preliminary Plan. Board members discussed whether a public hearing is in order for such an application. This matter was otherwise discussed under Administrative Matters later in the meeting.

Continued Discussion on Planning Board Projects and Priorities

Cook stated that Zambernardi sent an invitation out for the November 17th meeting to the Selectmen, the Board of Health and the Finance Committee.

General Business

- Drake's Landing Preliminary Subdivision Plan – 365 Main Street – Cottage Advisors. This item was considered as an Administrative matter as the application was made after finalizing the agenda. Zambernardi stated the Board's task at this meeting is to accept the application, as instructed by Town Counsel. A representative from Cammett Engineering stated that he submitted additional information in response to an email Zambernardi sent to ensure the application is complete. Cook confirmed the Board can't discuss the substance of the plan at all as it has not yet been properly noticed. Board members then acknowledge October 6, 2015 as the receipt date for the plan. They agree to schedule the review for the November 3, 2015 agenda.
- Cottages at River Hill – No updates
- Sullivans Court Extension – No updates.
- Minutes: Review of the minutes was tabled until then next meeting.
- Vouchers, Correspondence and Administrative Details - Cook signed a contract for inspection services with Meridian for 720 Main Street.

The meeting was adjourned at 10:30 p.m.

Submitted by,

Leah J. Zambarnardi, AICP
Planning Administrator