

**WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
December 1, 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 December 1, 2015 in the Planning Board Office at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Rick Bridges, Raymond Cook and John Todd Sarkis were present. Planning Administrator Leah Zambenardi and Associate Member Dennis Lucey were also present. Board Member Brian Murphey was not in attendance.

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

Subdivision Approval Not Required Plans (SANR's)

No SANR's were submitted.

General Business:

Cook stated that the discussion with Selectmen, etc. would begin at 7:15 p.m. He took the agenda out of order to tackle other agenda items under General Business, until that time.

Vouchers: Cook asked if there are any Vouchers. Zambenardi provided an invoice from Meridian and from herself for her Notary expenses for authorization by the Board.

Correspondence: Cook asked if there was any correspondence the Board should take note of. Zambenardi stated there was not.

Administrative Details: Cook asked about the status of the Massachusetts Downtown Initiative Grant. Zambenardi stated that December 4th is the deadline for submission. She would like to submit it on the 3rd. Members indicated they are still contacting property owners and business owners in the Business District and others in Town they think might be supportive.

Cook asked for an update on a minutes taker. Zambenardi stated she has spoken with Michael Bertino and the Finance Committee about hiring a minutes taker for Planning Board meetings. She intends to ask for this in the FY 2017 budget if the Planning Board is supportive.

Minutes: Cook took up the Meeting Minutes of November 3, 2015. Members begin reviewing the minutes. Cook tabled this item to later in the meeting.

7:15 p.m. Discussion with Selectmen on Downtown Economic Development and Inclusionary Housing Bylaw (Finance Committee, Board of Health, Water Board also invited)

Cook stated there are several items to discuss on this matter. Cook stated that the Board is looking into a Massachusetts Downtown Initiative Grant which would allow us to have a preliminary study done to see how West Newbury's downtown is situated in the market. We would like to know whether the economy would support our working on development in the downtown. He stated that Zambenardi has prepared the grant and Members are helping to collect names of people in the downtown who are supportive of going after the grant. He noted this is not a decision to do anything, this is just an initiative to do a study. He stated that the study dovetails with some things the Board has been talking about over the last few months. He stated the Board has always wanted to be proactive and some big projects have been discussed. He stated the first one is whether or not there is interest to do some serious study on the economic development of downtown. Would the Town be supportive? He stated this involves many things, including finance. He stated that is why we are hoping to hear from the Selectmen and the Finance Committee.

He stated that the other topic, which has been frustrating for the Planning Board for quite some time, is the status of Inclusionary Zoning in West Newbury. He stated that gets into all kinds of issues such as how much housing we have and Chapter 40B. He stated there is an Inclusionary Zoning Bylaw but it is not an ideal Bylaw. He stated that we can improve it and the Board would like to talk through options and get feedback.

Cook asked if there had been any discussion on the Finance Committee about any of these issues. Selectmen David Archibald stated that none have occurred that he is aware of. He stated that the Finance Committee and the Selectmen have ongoing discussions about how we can do something about the tax base and to some degree take the strain off of residential homeowners. He stated that approximately 96 percent of the tax base is residential. He stated that even if the Town doubled its commercial portion, we would still be operating at a small margin. He stated he likes the idea but he does not know ultimately that it would knock down a homeowner's taxes enough to be worthwhile. Cook stated that from an engineering point of view, he looks at our downtown and sees much we could do to make it a friendlier place for starting businesses and for existing businesses to do better than they are doing now. Cook stated that the market analysis is key. He stated that even if there are things we could do, we need to figure out if people in Town want us to do it. Cook stated the improvements range from little things such as creating more parking spaces here and there to larger things such as taking over a part of Route 113 so we can do traffic calming and putting in a package water treatment plant. He stated those are large projects that might raise a controversy. He stated that before we even talk about doing those big things, the fundamental question is addressed by this market analysis. Archibald asked if it is a matter of "if you build it they will come", or is there demand and then you accommodate. Cook stated that you might get lucky if you take the "build it and they will come approach". He stated there have been many places around where they built it and nobody showed up at all. Cook stated he could see a situation where we take over Route 113 and put in traffic calming and everyone hates it.

Elisa Grammer, a member of the Finance Committee, arrived and Cook rehashed the dialogue so far.

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Cook added to the discussion about Inclusionary Zoning noting that there is a legal mechanism in place to keep the cost of the housing lower and then people have to qualify to be able to buy that housing. He stated the other option is that a developer can pay money in lieu of constructing inclusionary housing. He stated that Bylaw has been on the books for some time and that there is money coming in to that account soon from Tom Neve of the Estate Homes Development off Sullivans Court. He stated that the difficulty with that is that we have no mechanism to spend that money.

Cook stated he is glad to have Archibald and Grammer present and he hopes they share what is discussed with their committees. Cook asked if the Finance Committee has thought about the Inclusionary Housing situation and if they have thoughts on that. Grammer stated that they take the recommendations on this from the Planning Board. Cook stated with Chapter 40B, there are mechanisms we can put in place to stave off a 40B development, noting these developments can be friendly or not. He stated that the advantage for a developer undertaking a 40B is that they can bypass some of the local permitting, including local zoning bylaws. He cited some examples of 40B developments. Cook stated that to stave off a 40B development, we need 10 percent of our housing as affordable. He stated that right now we have just over 2 percent. He stated that we can do some things to put off 40B developments, such as a Housing Production Plan. He stated that we put one in place several years ago. If a 40B were to come in, we could point to the Housing Production Plan and show what we are doing on the affordable housing front and it would put off a 40B development for a number of years. If one were to come in now, the State would ask what progress we have made according to our plan. We could show some progress, but we are at risk. Bridges stated that as development continues we get further away from meeting that number. Archibald stated that even with larger developments that create 10 percent Inclusionary Housing, this just maintains the status quo because the denominator is proportionally increasing. Cook stated there are some methods developers use to avoid having to comply with Inclusionary Zoning, such as ANR lots.

Grammer stated the Finance Committee was taken by surprise with the recent expense of replacing the Housing Authority property's roof. She asked how the Housing Authority is related to efforts by the State and the Town to help with affordable housing. Cook and Bridges indicated the Housing Authority is not involved in that aspect. Archibald stated they manage units that they own. They won't build more on their own initiative. Grammer stated there would be money sitting in an account collected from Inclusionary Housing fees. She asked if the Housing Authority could use that money. Cook stated he thought not, because an entity does not exist to decide how the money is spent. Zambenardi spoke to the Inclusionary Housing money being collected as a result of Tom Neve's project. She stated that the Planning Board's Certificate of Vote stipulates that because we don't have a Trust to put the money in or a committee to decide how it is spent, it would go into a gift account earmarked for affordable housing purposes and that the only way it could be spent is with support of the Planning Board. She stated we might also have to get approval from the Town, and that would have to be looked into further. The condition is essentially a placeholder until we establish a Trust. Bardeen envisioned that the Committee established would most likely include a member of the Board of Selectmen, a member of the Finance Committee and a member of the Planning Board. She

stated that there needs to be an advocacy on the local level and she does not see much advocacy happening.

Archibald stated that right now the money might not be enough to buy a parcel, etc. He stated that it could take a while for the account to be big enough. Cook agreed but stated that money could be combined with money from the Community Preservation Act account. Bardeen stated that money in these Trusts can be used for things such as mortgage assistance, leveraging other financing and preservation of deed restrictions. Bardeen stated that the Town needs people involved that know about this. Bridges stated that the creation of a committee would bring us to a more defensible position should an unfriendly 40B try to come in.

Cook stated that the Board has had discussions about the whole concept of Inclusionary Housing. He commented that he and some other members of the Board are philosophically behind it. It brings a broader range of housing into Town and housing for people that work in Town can afford. He commented that from a logistic and administrative point of view it is tortured. He stated there many hoops to jump through for a unit to qualify. Cook stated there are several approaches we could take. The most extreme would be to give up and throw it out, with reasons being that it makes the Town unfriendly toward development. Another approach would be to leave the Bylaw as is because it is producing at some level and we could tweak it somewhat. Cook stated that another approach would be to recognize that meeting the stringent requirements of 40B is unattainable and direct our affordable housing strategy toward having some affordable housing where you have to jump through the State's hoops in order to build it, protect it and get people qualified to live in them. But - perhaps we could also have some other housing which is striking a middle ground that doesn't have the same requirements, but would be for moderate income people (120% area median income).

Some discussion ensued about how Ocean Meadow was created. Sarkis spoke of including more incentives to offset the cost to developers of creating affordable housing units. Sarkis stated he is philosophically not on board with a mandated Inclusionary Zoning Bylaw. He is on board with a zoning mechanisms that would yield a wide variety of housing prices, styles and types. Bridges stated that Sarkis gave a good example of a developer's view of a Town with Inclusionary Bylaws. Sarkis stated that building in towns with Inclusionary Housing requirements skew his numbers of net revenue dramatically and that along with the time associated with permitting would be more cost to a developer and ultimately comes out of the pocket of the former landowner. All the variables of expenses are fixed except for land value. A developer would not likely do or receive funding for a project if the margin of profit does not meet a certain threshold. Cook asked if there were some way to raise the price of the market rate units to offset the land value issue. Sarkis stated that a developer asks the highest value anyway. Sarkis stated the landowner who has kept their property over the years has contributed to the character of West Newbury and is effectively being penalized by Inclusionary regulations. That is really the reasoning for him being philosophically opposed to a mandate because one landowner is subsidizing affordable housing for others. Cook stated the idea of an additional tax would grate on people. Sarkis stated that the unfairness of it is something he does not believe West Newbury should be a part of.

Bardeen stated that the Board also had discussions over what the goals for Inclusionary Housing should be. Is it to stave off 40Bs for ever and ever? Is it that we want to make a lottery of housing available? Or do we want to be in the Town to building housing? Archibald

stated in his experience the Town wants a broader range of demographics, but there is no way we will ever meet 10 percent. Sarkis stated that 40B is flawed and hurts small Towns. Bridges noted that it is a matter of us chasing a goal that is impossible to obtain. Archibald stated that progress toward the goal does count to the State.

Cook noted that the Housing Production Plan stated the Town would generate a certain number of units per year and we are not near that goal. Unless there is some great push to create units at the local level, we will not meet the goal. Archibald stated there is also a component of neighborhood sentiment. Archibald asked for an overview of the Bylaw. Cook went through the general tenets of the Bylaw.

Bardeen noted someone locally needs to drive the bus for a meaningful increase in affordable units. Bridges stated that there needs to be motivation in Town to drive that bus. He stated there needs to be a commitment by individuals in Town to be on a committee, which has proven difficult with our existing committees. Sarkis stated that such a project would look like a Comprehensive Permit under 40B, which could be considered friendly or unfriendly. Bridges stated the Town could hire a consultant, but there needs to be a driving force within Town. Archibald asked about the amount in the account stating there will be no drive to establish a Trust or move forward with projects until the account is substantial. Zambenardi stated the Town will have \$118,000 in the account once all of the lots in Tom Neve's project are sold. Lucey noted that someone would need two more of those developments to create just one affordable home. Bardeen stated there is money in the CPA fund that has not been spent and that the money could otherwise be used by a nonprofit who has access to other funding sources.

Members discussed other challenges to developing affordable units in Town including neighborhood opposition. Cook stated there has to be an overall support in Town for this. Grammer asked how the Finance Committee could help with this process. Cook stated he is hoping there will be a broader discussion over this in Town. He doesn't know this is the Planning Board's responsibility to push this alone. He stated that if there is agreement between the leaders in Town to push this, then we could better move forward. Archibald asked about developer responses to the current Bylaw. Sarkis indicated the current Bylaw could prevent someone from pulling off a development.

Bridges stated this conversation about housing projects other than 40B circles back to discussion about the Business District and whether it could support residences above retail that aren't necessarily affordable, but more moderately priced. It would be a matter of encouraging more mixed use. The issues of parking, sewer, and public transit come into play. The discussion then led to the idea of a package treatment facility and how it would be funded and sustained. Cook asked if the whole Town would bear that cost or just the businesses. Archibald stated that availability of water is also an issue. Bridges stated that a study could help us get to those answers more quickly and to see whether this Business District could support that. Archibald stated that a study would be beneficial. Grammer stated that the condition of the office and retail spaces in Town aren't conducive for some businesses. She knows an orthodontist who would like to locate in downtown but can't find suitable space. Archibald asked if the grant needs seed money. Zambenardi stated we need to submit an application. Bridges stated that we have to indicate there is some private support. Bardeen stated it is a competitive grant and we might not get it. Zambenardi stated that if we are awarded the grant and as we look at the recommendations and strategies suggested in the resulting study, we would tap those people who were supportive of the study to get their input and feedback.

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Cook thanked everyone who attended and asked them to bring the discussion back to their committees to let them know what the Board is discussing. He said the Board would like to move forward with these issues, but there needs to be support from other leadership in Town. Cook stated that improvements making downtown West Newbury more attractive would still be beneficial to the residents and businesses in Town and people driving through, which is a quality of life benefit. Cook stated that from a financial point of view, it would have an effect on property values. Bridges noted that to make a substantial change that change would need to be voted upon by residents. It wouldn't just be decided by a committee. Cook stated in the end, few people might show up at Town Meeting to make the decision. Sarkis stated that past efforts to expand the business district were not successful. Zambenardi stated that speaks to being proactive and engaging the community before any Town meeting. She also noted we have the potential for 60+ new residential units around our downtown that will create more demand. Sarkis stated that goes back to the market study and if there is a demand for shops and services, they will be built. He noted a study might tell us there is not enough demand now, but there will be one in 20 or so years. A report might come back stating there is a demand but you're not likely to have anything to fulfill the demand because of septic, poor soils, slope issues, parking and small lots. Members discussed the parcels downtown and how they might be configured to be conducive to businesses in demand.

General Business Continued

Minutes: Board members returned to the minutes of November 3, 2015. They made suggested edits. Cook made a motion to accept the minutes as amended. Bardeen seconded the motion and it carried 4-0.

Other Administrative Matters: Bardeen stated that she and Zambenardi would be attending a Greenbelt Forum on Chapter 61, 61A and 61B on December 3, 2015.

Bridges asked Zambenardi if the Board has received an update on the affordable unit construction at Ocean Meadow. Zambenardi stated she reached out to Alyssa Gillis but did not get a response yet.

Sarkis revisited the Inclusionary Housing discussion. He stated that a mandate is almost like a tax. Developers will naturally try to reduce the amount they have to contribute. He stated that an incentive based Bylaw would work better. Cook stated we should look at which incentives would work for us. Bridges and Bardeen speak to how Town Meeting has voted in the past in relation to affordable housing versus open space acquisition.

The meeting was adjourned at 9:00 p.m.

Submitted by,

Leah J. Zambenardi, AICP
Planning Administrator