

**WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
July 21, 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 July 21, 2015 in the Planning Board Office at the West Newbury Town Offices, 381 Main Street. Board Members Anne Bardeen, Richard Bridges, Raymond Cook, Brian Murphey, and John Todd Sarkis were present. Planning Administrator Leah Zambenardi and Associate Member Dennis Lucey were also present.

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

Public Hearing to consider Applications for three Reduced Frontage Lots (Section 6.A.1) and a Common Driveway to serve two lots (Section 7.D. Of the Zoning Bylaw) and Request to modify the proposal to be Three Reduced Frontage Lots (Section 6.A.1) and Special Permit for two Common Driveways with each one serving Two Lots (Section 7.D) – 720 Main Street – William and Mary Daley

Cook recessed the regular meeting and called the public hearing to order.

Robert Grasso of Engineering Land Services spoke on behalf of the Daley's. The Daley's daughter, Mary C... was also present on their behalf.

Cook indicated that he and Bridges were absent at the July 7, 2015 meeting and missed only one session of the 720 Main Street public hearing. They both reviewed the audio recording of the July 7th public hearing on this matter and made certifications pursuant to the "Mullen Rule" that they did so.

Grasso stated he submitted revised plans on July 14, 2015 in response to comments he received at the last meeting. He describes the revisions made, including removing the proposed right of way easement on the right side of the plan, adding site distances on Route 113, pursuant to MassDOT standards. He noted that MassDOT requires existing conditions on the plans, therefore he added more details to Route 113 including striping. He stated that he shortened the common driveway on the right side and eliminated the turnaround. He stated the common driveway would be 15-foot wide. He noted that a Sheet 3 was added to the plan set and includes notes on the drainage and a cross section of the common driveway. He stated that the common driveways would have a 15% maximum grade.

Cook asked the Planning Board members for their questions and comments.

Murphey stated that this is a better proposal than the original plans and he thanked the Daley's for their efforts in making amendments.

Cook stated that he is concerned with the maximum 15% grade for the common driveway shown on the plans as it is a very steep grade opening up to Route 113. Grasso stated that grade would help prevent ice accumulation. Sarkis stated that the Zoning Bylaw requires that

West Newbury Planning Board, Meeting Minutes, July 21, 2015. Approved August 4, 2015.

common driveways are designed to the minor road standards in the Subdivision Rules and Regulations. He noted that a 3% leveling area of at least 100-feet is required at the intersection. He also stated that a 10% grade is required thereafter.

Bardeen asked about the status of the proposed open space parcel, but noted that is a peripheral matter and not germane to the Board's decision. Cacciapuoti stated that it has not yet been decided whether the parcel will go to the Town or to Essex County Greenbelt Association.

Cook asked for questions and comments from members of the public. There were none.

Cook referred back to the issue of the common driveway grades at the intersection. A lengthy discussion ensued as to whether a 15% grade is safe for common driveways at their intersection with Route 113. During the discussion the Board generally concurred that requiring a 3% leveling area of at least 100-feet would be unreasonable for the common driveways and that a waiver of the requirement would be in order. The Board could not determine what a safe leveling area and grade would be with the information before them at the meeting. MassDOT standards for residential curb cuts and grade of intersecting driveways was discussed, though the Board did not have definitive information on what those requirements are, available at the meeting. Sarkis pointed out that the Board could not see what the grades of the common driveways would be from the plans that Grasso submitted (other than a maximum of 15%) because a profile of the common driveways was not included in the plan package. During the discussion, Cook expressed sympathy that he did not raise this concern or ask this question earlier during the process. Cook stated that this is a matter of safety and he could not approve the plans without having this concern addressed to the Board's satisfaction. Grasso commented several times during the discussion that the Town's rules for common driveways are ambiguous. Murphey pointed out that MassDOT will need this information when the Daleys submit their application to MassDOT for approval of curb cuts for the common driveways on Route 113. He stated that preparing the drawings now should not be overly cumbersome on the applicant because they will have to prepare them for MassDOT anyway. Toward the conclusion of the discussion the Board and Grasso discussed what information would be needed in order to make the Board comfortable that the grades of the common driveways at the intersection with Route 113 are safe. Options discussed included having an independent review by a consulting engineer on what is an adequate grade or seeking advice from MassDOT engineers on their standards. At the conclusion of the discussion, the Board and Grasso agreed that Grasso would prepare a vertical profile of the common driveway grades and seek the advice of MassDOT as to whether it meets their regulations. The Board concurred that receiving a written confirmation from MassDOT would satisfy their concerns on this.

After discussing the Daley's availability for future meetings, Cook made a motion to continue the public hearing to Tuesday, August 4 in the Planning Board office beginning at 7:00 p.m. The Daley's also consented to waive the time within which the Board has to hold a public hearing on the matter to August 18, 2015. Murphey seconded the motion and it carried 5-0.

Cook reconvened the regular meeting of the Board.

Sullivans Court Extension, Estate Homes at Rivers Edge, Definitive Plan and Special Permits for 1: Common Driveway to serve 3 lots (Section 7.D.): and 2: 3 Reduced Frontage Lots – Request for Acceptance of Common Driveway Maintenance Covenant

West Newbury Planning Board, Meeting Minutes, July 21, 2015. Approved August 4, 2015.

Zambernardi updated the Board and stated that at the June 16th meeting the Board tabled the approval of the Declaration of Intent to Create Easement and Common Driveway Maintenance Covenant for Lots 2, 3 & 4 and asked for a review from legal counsel. She stated that Tom Neve's attorney amended the document so it is a Common Driveway Maintenance Covenant only. The Board took this up at the July 7th meeting, but tabled it again to afford time for a review by Town Counsel. She stated that Michael McCarron reviewed the document and has no issues with it. Cook made a motion to accept the Common Driveway Maintenance Covenant. Bardeen seconded the motion and it carried 5-0.

Ocean Meadow Definitive Subdivision Plan and OSPD Special Permit – Alyssa M. Gillis – Request for Releases of 24 Ridgeway Circle, 26 Ridgeway Circle and 62 Moody Lane from the Form I, Approval with Covenant Contract

Doug Stockbridge and Stan Checkovitch addressed the Board and stated they are 2 of the 3 partners involved in the project. The 3rd partner, Steve Gillis could not attend. Stockbridge gave Zambernardi a copy of an as-built plan for the septic system. Zambernardi stated she was not expecting this plan and it should be submitted to the Board of Health. Stockbridge submitted a letter to the Board dated July 20, 2015 from Matthew Steinel of Millenium Engineering. The letter indicates that an as-built for the entire project will be completed for review in 2 to 3 weeks. Zambernardi stated that she received a check for \$2,000 from Alyssa Gillis on July 21st to be put in escrow for a peer review of the as-built drawings.

Stockbridge stated they are before the Board tonight requesting releases of 24 and 26 Ridgeway Circle and 62 Moody Lane. Zambernardi noted that a reference to the amendment of the Form I covenant that was recorded in 2012 needs to be added to the release forms. Stockbridge stated that closings are scheduled for each of the units and he discussed the status of each unit during discussion with the Board as follows:

26 Ridgeway Circle: This is an affordable unit. The closing is scheduled for July 30, 2015. The drywall and skim coat is done on this unit.

62 Moody Lane: This is a market rate unit. The closing is scheduled for August 3, 2015.

24 Ridgeway Circle: This is an affordable unit. The closing is scheduled for September 26, 2015. The construction should be done by August 30. The unit is about 5 weeks from being completed.

Bardeen asked Zambernardi about the timing of the release of units as stipulated in the covenants. Zambernardi stated that she located the original covenant and an amendment to the covenant made in 2012. She stated that the amendment speaks to the schedule for releasing affordable units. She also located the former Planning Administrator's notes on the matter which indicate that the last two affordable units must be completed and ready for occupancy prior to the Board releasing the last market rate unit. She stated she is a bit confused about the proposed timing for the release of units because it differs from the records and documents she located. She stated that the Board's approval requires that an as-built plan be filed. She stated that Meridian Engineering will be hired to review the as-built. She noted that the homeowners association has given her a lengthy list of incomplete or insufficient work items. She stated that she would like both the developer and Meridian to review the list and to determine if there are any items in that list that are germane to the Board's approval. She also noted that the Board

West Newbury Planning Board, Meeting Minutes, July 21, 2015. Approved August 4, 2015.

does not hold a performance bond for this project. The last market rate unit is the only surety the Board has right now. She stated this is not new information. She sent Alyssa Gillis an email in early June noting this schedule and the need for an as-built plan.

Checkovitch stated that construction was significantly stalled due to labor issues. There is some discussion with the Board over the developer posting a bond to guarantee the completion of the remaining work.

Bernadette Gibson, Treasurer of the Homeowners Association stated that if the Board opted to release the last market rate unit and accept a bond, the language of the bond should clearly stipulate what work it covers.

Robert Gaus of 14 Ridgeway Circle stated that he does not believe 62 Moody Lane or 26 Ridgeway will be completed in time for the closings.

A resident of 22 Moody Lane commented that there is work within the project that is the responsibility of the developer to complete and/or fix. She gave the Board some examples of incomplete work.

Richard Mandeville, Chairman of the Homeowners Association, 2 Ridgeway Circle stated he does not think it is a good idea to go against the agreement that was made 2-1/2 years ago.

Members of the Board discussed releasing 26 Ridgeway only. Checkovitch asked if there was any reason why the Board would not release 24 Ridgeway as well at this point. Bardeen stated that the unit has a number of weeks out to completion and they can come back for that. Gibson stated that the Homeowner's Association does not want to delay the release and sale of the affordable units. A resident in the development is moving in to 24 Ridgeway and they are concerned about her having no place to go if the unit is not released by the closing date.

Cook made a motion to release 26 Ridgeway Circle from the language of the restrictive covenant. Murphey seconded the motion and it carried 5-0.

Cook made a motion to release 62 Moody Lane from the language of the restrictive covenant. No one seconded the motion and the motion failed. After some discussion, members of the Board tabled the request to release 62 Moody Lane and 24 Ridgeway Circle until a later date.

Murphey stated that the Board would not be averse to accepting a performance bond. The problem is the Board has no idea what the amount should be. The value of the market rate unit is suggested as a bond amount. Murphey stated that the as-built could help the Board ascertain the bond amount. He also stated the Board would consider an itemized list of work items with associated costs.

Archelaus Hill Road – Tom Morley: Receipt of Legal Opinion From Adam J. Costa on behalf of Tom Morley

Cook stated that the Board received a legal opinion regarding some questions the Board raised during the pre-application conference for this project at the June 2, 2015 meeting. Bardeen stated that this is a very narrowly framed opinion that does not begin to approach the intent of

West Newbury Planning Board, Meeting Minutes, July 21, 2015. Approved August 4, 2015.

the language of the restrictive covenant. Cook stated this opinion is duly noted and the Board will not consider it further unless a formal application is made.

Don Leone of 10 Archelaus Hill Road asked if he could address the Board. He gave the Board a copy of a recorded letter indicating that a covenant is included as a condition of approval of the subdivision. He also stated that GL Chapter 41, Section 81W seems to prevent the lots in the subdivision from being changed if the lots have been sold. Sarkis stated he did not think that is the case. Members stated this is an example of something that Town Counsel would be asked to weigh in on if a formal application was made to the Planning Board.

ANR Plans (if any): Zambenardi stated that no ANR's were submitted.

General Business

- Carryover Items from July 7, 2015 Meeting
 - Designation of Planning Board Agent for Minor Project Field Changes: Zambenardi stated that at the last meeting, Chip Hall of the Follinsbee Lane development had asked if the Board would consider designating an Agent pursuant to the Zoning Bylaws to have power over making determinations over minor field changes. Bardeen stated that only 4 members were present and they tabled the matter until everyone could be present. Zambenardi stated that an option would be to designate Meridian and the Planning Administrator as the Agent. They could consult on changes and make a call on whether it is a field change or whether it is a change that would need to go to the Board for a modification request (whether it be minor or major). She stated that if there is any question, the Agent could ask the Chair for his/her opinion. Cook stated that if there was any question he would most likely bring it to the full Board. After some discussion, Members concur that this approach is acceptable, but stipulated that the following changes would need to go to the Board:
 1. Significant visual impacts.
 2. Storm water calculations and/or storm water management design
 3. Public safety and traffic flow
 4. Material substitutions
- Cottages at River Hill – Updates if any. No updates were given.
- Minutes: June 2, 2015, June 16, 2015 and July 7, 2015. Members of the Board reviewed June 2, 2015 and June 16, 2015 minutes and made suggested corrections. Cook made a motion to accept the June 2, 2015 and June 16, 2015 minutes as amended. Bridges seconded the motion and it carried 5-0 (for the June 2 minutes) and 4-0 (for the June 16 minutes). Note that Bardeen recused herself from reviewing the June 16th minutes. The minutes of the July 7, 2015 minutes were tabled.
- Vouchers, Correspondence and Administrative Details: Zambenardi handed out documents for the Board's signature including a Certificate of Vote for a minor modification to the road grade at Follinsbee Lane granted on July 7th, payroll, and certifications from Bridges and Cook pursuant to the Mullen Rule. Murphey asked for updates on Sullivans Court Extension and recent meetings that were held. Zambenardi stated that there have been 3 recent meetings. The first meeting was an on-site meeting with John Sarkis, Glenn Kemper, Tom Neve and Gary Bill where improvements to Sullivans Court were discussed. (Please refer to the July 7 Planning Board meeting minutes for Sarkis report on that meeting) The second meeting was an on-site meeting

with Tom Neve and his contractors from Fraser, Gary Bill, Michael Gootee and Mark Hemingway and herself. The meeting involved discussing the water line connection, pavement and whether Conservation Commission approval is needed for the roadwork and culvert on Sullivan's Court. The third meeting was a pre-construction conference. (Please refer to the meeting notes in the project file for a report on that meeting)

The meeting was adjourned at 10:00 p.m.

Submitted by,

Leah J. Zambarnardi, AICP
Planning Administrator