

**WEST NEWBURY PLANNING BOARD  
MINUTES OF MEETING  
July 7, 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 7, 2015 in the Planning Board Office at the West Newbury Town Offices, 381 Main Street. Board Members Anne Bardeen, Brian Murphey, and John Todd Sarkis were present. Planning Administrator Leah Zambenardi and Associate Member Dennis Lucey were also present. Board Members Ray Cook and Richard Bridges were not in attendance.

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

Murphey made a motion that in the absence of the Chair and Vice Chair, Sarkis serve as Chair pro tem. Bardeen seconded the motion and it carried 4-0.

**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**

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

Robert Grasso of Engineering Land Services spoke on behalf of the Daley's. He described changes that had been made to the plans including that there would be one additional common driveway to serve the other two lots. He stated that they will now have two common driveways serving a total of four lots and that is the modification. He stated he was in touch with Zambenardi through email and he sat in two meetings with Jean Nelson, who reviewed the plan twice in his presence. He noted that she retired and Zambenardi took over during the process. He stated that there has been a bit of a transition. He said that Zambenardi submitted a list of items she would like shown on the plans. He showed the first common driveway and noted the ANR lot. He showed that the second common driveway as currently proposed. He stated that he re-oriented the homes on lots 1A and 1B at Bardeen's suggestion so the front of the homes would not look into the backyards. He also shortened the driveways. He stated that Mr. Daley asked for another change involving shortening the common driveway serving lots 1 and 1C. Meeting the Board's specifications for common driveways is expensive, so they will revise the plan to have the common driveway go a distance and then bifurcate into the private driveways. The existing turnaround will be removed. The width of the common driveway would be 15-feet, but would widen to 24-feet so that it can split into two directions for the 12-foot wide private driveways.

Murphey asked where the end of the common driveway would be. Grasso stated it would be beyond the tree line. He also spoke to the utility easement that would include underground water, telephone and electric. Murphey stated the Board would need to see this on the plans.

He referred to Zambenardi's emailed comments and noted that the utility easement for the water line would not be needed because it would follow the common driveway easement. He stated that there was an error with the building setbacks, which has been corrected. He stated that they submitted a common driveway maintenance agreement for review by the Board and Town Counsel. He stated that Zambenardi also asked for a profile of the common driveway. He stated there was ambiguity in the regulations about the allowed width of a common driveway. He stated that Zambenardi provided a cross section used for a previous common driveway project which shows a width of 15-feet. He stated that 15-feet in width is better because there less impervious surface and it is less costly to maintain. He stated that Zambenardi also asked that he submit a list of waivers needed from the requirements for common driveway and reduced frontage lot special permits. He stated that he agrees with Zambenardi but he feels the intent of those regulations were for commercial projects, and includes items such as screening. He thinks that the items they are requesting waivers for don't apply to this property. He noted that Mary Daley, Mr. Daley's daughter submitted a letter requesting waivers. He also noted that the ANR plan would have a reference to the decision and the approved special permit plan. Sarkis stated that is fine, so long as we have a letter of request for the waivers. The Board can incorporate those waivers right into the decision. Zambenardi pointed out that the waiver requests are not waivers of the design standards. They are requesting waivers from the requirements to show certain items on the special permit plan (i.e. existing and proposed utilities, floodplain elevation, architectural drawings, etc.).

Murphey asked about the request for a waiver to show utilities. Grasso noted that existing utilities and the proposed water line were shown. He noted that there would probably be underground service for electricity. He stated that National Grid has jurisdiction to change the locations of the line.

Regarding the drainage, Murphey asked how water is captured running down to Route 113. Grasso stated that the subdivision regulations require show a 1 percent grade so water runs off the driveway in either direction into the grass, which acts as an energy diffuser. Bardeen stated that in general the elevation is higher where the houses are lower than the street. Grasso affirmed. He stated it will be running straight down the driveway off the crown. Sarkis stated that you need to make sure there is construction details. Sarkis stated that he needs to show that shoulders are not above pavement area and that water does runoff onto the land. Grasso stated he could put a note on the plan that the driveways would be about 1/2' above the existing grade. He stated they won't be changing the grades, it is a very gradual slope up to the houses. He stated that if they get a positive outcome from this Board, they will immediately file with MASSDOT for a curb cut permit. Their concern is drainage coming onto Route 113 and site distances. Sarkis questioned how many common driveway permits have been issued in the recent past. He stated he can think of one. He asked if the Planning Board's Subdivision Regulations require a plan and profile for submittal for a common drive. Zambenardi stated she looked at 47 Coffin Street and the information was required for that plan. She referred to the regulations and her June 8<sup>th</sup> email sent to the applicants. Grasso stated he referenced the relevant sections of the Subdivision Rules and Regulations on the plan. Sarkis wanted to know if the common driveway complies with the requirements and if the existing grades already comply with the requirements. He stated that needs to be demonstrated somehow. Sarkis stated it could be a very simple sketch that demonstrates that. He can put a note that the driveway will be paved and built according to certain grades. Murphey suggested that this information be put on the plan now, since MASSDOT will be looking for it anyway. Sarkis needs proof

shown on the plan that the driveway runoff onto Route 113 is adequately dealt with. He stated the only way the Board can accept that is if there is supporting engineering data. Zambenardi stated she looked at the Zoning, which states that common driveways shall be constructed to the standards for minor roads in the Subdivision Regulations. She stated that the Subdivision Regulations allow that the pavement width for common driveways be reduced from 20-feet, which is the minor road standard, to 15-feet. She stated in the past, applicants have demonstrated the adequacy of the common driveway by providing a cross section and a profile. Sarkis stated this does not need to be overly engineered, the Board wants the minimal amount of information to demonstrate that it works.

Grasso mentioned the easement that Mr. Daley will grant to either greenbelt or the Town. He stated that if he gives the easement to Essex County Greenbelt Association (ECGA), then he would leave the easement as shown on the plans. Mr. Daley stated that ECGA has not responded yet. He stated that if the open space land in the back goes to the Town, he would assume eliminating the easement because there would be access from abutting Town property.

Discussion ensued on the potential for the Daley's of getting tax credits for donating the land. Sarkis noted that if the Board conditioned the approval of the special permit upon donating the land, the Daley's might not be able to get tax credits. He stated that this Board should keep this in mind when deciding whether or not to impose conditions. Bardeen stated she did not think that was the intent with this project because the plan had the lot on the plan at the time of application.

Regarding the access easement, Murphey stated his concern that it would sit on the plan for a long time and that the details and intent of it could get lost. Zambenardi stated that in her discussions with ECGA, they indicated the Town might be a more appropriate entity to receive the land as there is abutting Town-owned land on two sides of the property. Zambenardi stated she spoke with the Town's Conservation Agent as to whether the Conservation Commission would be inclined to take it, given the property behind this parcel is under their care and custody. Mr. Smith believed the Conservation Commission would be very interested. Board members suggested that the easement be removed. The owners have an opportunity to create the easement in the future if it is needed.

Zambenardi asked for clarity on the utilities the Board would like shown. The Board indicated it would be a description the electric and telephone. Water is already provided on the plan and there will be no gas service.

Bardeen asked the status of review of the common driveway maintenance covenant. Zambenardi confirmed it has been submitted. She stated she looked at it and does not have an issue with it. She sent it to Town Counsel yesterday, but has not heard back from him on it at this point. Zambenardi asked if they will need to add language about the water service into that easement. Grasso stated it would not. The water service is shown on the plan as part of the driveway and utility easement and would be put into the deeds later on.

Sarkis noticed that the water services would be individual water services within the common driveway easement. Grasso confirmed it would be a common driveway/utility easement in case they want to run the underground electric through that easement.

Bardeen noted that revisions need to be done to the drawing. Zambenardi asked that the revised drawing be submitted by July 14<sup>th</sup> to get on the July 21<sup>st</sup> agenda.

Sarkis asked if the Board needs to discuss the request to modify the proposal. Zambenardi stated she believes the requests were considered concurrently this evening. She does not believe it is a separate application, but a modification of the existing application. She noted that she has drafted a Certificate of Approval which goes through the timeline of the requests being made. The final vote would approve approval of them both. Murphey indicated the Board should be ready to vote on July 21<sup>st</sup>.

Sarkis made a motion to continue the public hearing to Tuesday, July 21 at 7:00 p.m. in the Planning Board offices.

Sarkis reconvened the regular meeting of the Board.

**Follinsbee Lane, Cottages at River Hill, Open Space Preservation Development Special Permit and Site Plan Review – Cottage Advisors, LLC – Approved March 2014 – Request for Minor Modification to modify road grades.**

Chris Lorrain from Land Tech stated that construction is well under way. He stated that as we got to the end of the Phase I construction, we came around the bend on Follinsbee Lane to the pipe coming from the manhole out into the infiltration field and realized that we had a problem at this location. We realized we only had about 6-inches of cover under the road over this pipe. That pipe isn't shown on the profile because it comes out from under the road, from within the road profile itself within the basin. This was an oversight we are looking to remedy. He stated that he can't lower the pipe because of storm water management and the separation from groundwater requirements. As part of the subdivision approval, we received a waiver for a grade of just over 6.3%. Therefore he can't increase the grade at all. He has to maintain the low point where the catch basins and manholes are, but they can be lifted. He stated he can't just put a little more fill in there and increase the grade because of the waiver at 6.3%. He stated they would extend the vertical curve in a certain spot and would pick the road up by 1-foot. The pipe would then have about 16-inches of cover. He would also change the material of the pipe from concrete to ductile iron for a certain stretch. He also looked at how this would impact the septic tanks, driveways, etc. He stated that every house they put in now, he does a unit plan and adjusts the grades for the foundation and the driveways accordingly. He stated he tries to maintain the driveways so we don't have more than a 4% slope on them. When he adjusted the grades of the road, it resulted in having to adjust one unit. Where we had about a 4% grade going into the driveway, we would now have about a 2% grade. The northerly side has no issues as a result of the grade change.

Lucey asked about houses on the north side. Lorrain said there would be an adjustment of about 6-inches. He stated that Lot 20 is adjusted by about 1-foot. Overall the increase in grade helped the situation and dropped the slope of the driveway. Sarkis asked about the toe of the slope and the grade leading to the edge of the wetlands. Lorrain stated that they're coming out further away from the wetlands and do not impact them. He stated we're holding the grade a bit steeper. Sarkis asked if a consistent shoulder would be kept along that part of the road. Lorrain stated yes, but that would be about 3-feet short in that location. Lorrain stated that the closest point of work to the wetlands doesn't change. There will be a 3:1 drop from the existing grade down

to the wetlands. Sarkis asked about a purpose of a sidewalk and whether it connects. Lorrain noted there is a path connecting to it.

Zambernardi stated that Meridian has looked at this and approved it and sent a letter to that effect. She added that the Conservation Commission acknowledged that they are not getting closer to the wetlands with the proposal.

Murphey stated this appears to be a reasonable proposal to address the problem. Sarkis referred to the shoulder and suggested they might park a row of boulders on the edge of the wetlands at the toe of the slope to keep the same grade and shoulder. He noted that the Conservation Commission would have to weigh in on that.

Lucey stated his concern about minor versus major in that the height was an issue with abutters. Lorrain stated that Lot 20 rises 1 foot. He stated that all the units have varying heights. What was shown for Lot 20 in the approval was an A-Unit. It would now be a B2-Unit. Chip Hall of Cottage Advisors LLC stated the difference in height between the 2 types would be about 1-1/2 feet with Unit B2 being shorter. He clarified there were two ridgelines. There would really be no change in height as a result.

Sarkis reiterated maintaining the shoulder and using the boulders. Lorrain agreed to look into it.

Sarkis made a motion to consider the request as a minor modification. Murphey seconded the motion and it carried 4-0.

Sarkis made a motion to accept the changes shown on the plans submitted. Bardeen seconded the motion and it carried 4-0.

Hall asked the Board about field changes and noted that the rules indicate that the Planning Board or its designated agent can make the determination on whether changes are minor field changes. He asked if the Board would designate an agent who can approve minor field changes. Rather than go through the modification process with the Board, because it takes a long time and effects the construction schedule. Members indicate they are not opposed to the request, but they think this should be taken up when a full complement of the Board is present. Generally they think it is a reasonable request because the changes would be reviewed by the Planning Board's engineer and the Planning Administrator.

Murphey addressed the recent storm events and the impact on Cindy Sherburne on Sullivans Court. Hall stated they have done everything they can. He stated they dug a temporary basin to address runoff during serious events that was approved by Meridian. He said they even put straw waddles and hay bales at Ms. Sherburne's property, but she took them up because she thought it would kill her grass. He is at a loss as to what else can be done. He stated that problems will occur when you get .6 inches of rain in 15 minutes, problems will occur. He stated that when they were doing due diligence on their property, there had been rain and he observed water pouring on to her property and he was concerned that it could have been an intermittent stream – but it is not. He stated that her property is down gradient of 24-acres. Some of the pictures she submitted do not look good. He noted that he made sure he visited her property after the storm events as well and there is no sign of any dirt or debris on her

property from this. Murphey asked if we see anything from an engineering perspective that suggests there are issues. Lorrain stated that as more sites become more stabilized out there, which is starting to occur, this sedimentation issue becomes less and less. He stated that the problem during construction is a bit more and that is why they put in a temporary sedimentation basin and waddles and a silt fence as measures of protection. Then there is a storm event where you get 6/10-inch of rain and this occurs. Murphey stated that it would be an issue if the grading out there was incorrect. If something like this occurred 6-months after construction is completed, that would be a serious issue. Hall stated they dug a 50-foot trench after the first event alongside the pocket park over to our temporary storage and there was not a breach. There is dirt/dust and debris that blows around during construction even though they water 2 to 3 times per day to try and manage it. Murphey stated that these unusual rain events occur. Lucey noted he was down there during the storm and he saw that the water was reasonably clean. He did not observe what was shown in the pictures. Hall noted that she asked to have the waddles picked up from her yard. He stated he would pick them up tomorrow morning. Hall stated that the site manager will be leaving and a new one will come on, Steve Breen.

**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**

Zambernardi updated the Board and stated that 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. She stated she reviewed it and does not have a problem with it. She stated she sent it to Town Counsel for his review but has not yet heard back. Sarkis asked if the Board's acceptance of this document is time sensitive. Zambernardi stated it was not. The Board tabled the item until the next meeting to get Town Counsel's opinion on it.

Sarkis updated the Board on a site visit he had with Mr. Neve, Glen Kemper and Gary Bill on site to discuss Sullivans Court improvements. He stated Ray was not there. He stated there were 2 items Gary had: 1. The Planning Board decision called for 16-foot pavement and 2-foot wide shoulders on either side. The pavement is wider than 16-feet in a number of places, more like 17-feet and 18-feet on average. The pavement narrows down to about 16-feet of pavement at the culvert. He stated that Bill thought it should be 18-feet of pavement. Sarkis stated that 16-foot wide pavement and two, 2-foot shoulders would actually be more disturbance than simply 18-feet of pavement with no shoulder. It is level on both sides of the road anyway. Neve also agreed to improve 100-feet of Whetstone. Neve will also provide a pie shape of pavement to provide a better turning radius on the right side. Neve will extend the two inside radii, to be a more gradual radii than they are. There is a catch basin that Neve will pave around as well. Sarkis clarified with the Board and Zambernardi that the decision does not require 16-feet of pavement. Bardeen clarified that the pavement will neck down to 16-feet at the beginning of Neve's subdivision. Sarkis also noted that the depth of the gravel sub-base for the new subdivision road was waived down from 12-inches to 6-inches during the approval process. Board members ask Zambernardi to research the reasoning behind granting that waiver. Board members also discussed a recent Selectmen's meeting where the Selectmen discussed Sullivans Court improvements and communication between Town Departments with the Selectmen.

Zambernardi stated she has started to send the Selectmen and Gary Bill the Planning Board agendas. She also stated she is sending the Selectmen the Inspection Reports from Meridian.

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

### **General Business**

**Vouchers:** Zambernardi provides vouchers for Planning Board expenses for the Board's signature.

**Correspondence:** There was none.

**Administrative Details:** There were no additional administrative details.

The meeting was adjourned at 9:15 p.m.

Submitted by,

Leah J. Zambernardi, AICP  
Planning Administrator