

**WEST NEWBURY PLANNING BOARD  
MINUTES OF MEETING  
August 18, 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 August 18, 2015 in the Planning Board Office at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Richard Bridges, Raymond Cook, Brian Murphey, and John Todd Sarkis were present. Planning Administrator Leah Zambernardi and Associate Member Dennis Lucey were also present.

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

**Continued 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.

Bob Grasso of Engineering Land Services addressed the Board. He described revisions made to the plan since the last public hearing. He spoke with the Massachusetts Department of Transportation (MassDOT) to get feedback on their requirements for the curb cuts. He stated that MassDOT asked for one more site distance for each entrance. He increased the size of the easement between lots 1A and 1B from 20 feet on each side to 30 feet for a total of 60-feet in width. There is no increase in size on the easement for Lots 1 and 1C. He added a new Sheet 3, which shows profiles for both common driveways. There is a 15% grade going on to Main Street between Lots 1A and 1B. The proposal is for the driveway to dip down and then up to the edge of pavement. He stated the grade would go up at 1 percent for 15-feet and then go up at a 12 percent grade to the end of the common driveway. Murphey confirmed with Grasso that he would be reducing the existing grade of 15 percent to 12 percent. Grasso stated that the existing grade in the vicinity of the second common driveway is 10.8 percent and they are proposing 9.6 percent.

Grasso referred to Cook's recent email submission dated August 12, 2015 which describes nearby slopes of interest, a copy of which is in the Planning Board's record.

Cook asked Grasso about MassDOT's feedback. Grasso stated he submitted email correspondence to the Board dated July 30, 2015 from Michael Formichella at MassDOT, which includes attachments showing geometry for standard residential driveway approaches. Grasso stated the Board should disregard the sidewalks shown on these plans as there is no sidewalk on Route 113 in this location. Formichella informed Grasso that MassDOT does not want a grade greater than 15 percent at the intersection of the common driveways with Route 113. He stated that MassDOT's primary concern is that they do not want storm water flowing from the driveways directly onto Route 113. Cook noted for the record that the MassDOT's drawings

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indicate that the slope on an intersecting driveway should be between 5 and 15 percent. Sarkis stated that less of a slope is better and he appreciates the applicant reducing the slope.

Bridges asked if there is any consideration for allowing less than a 12-inch roadway base for the driveways to give the applicant some relief. Cook stated he is reluctant to reduce the depth because it would help reduce the occurrence of frost heaves. Sarkis stated that frost heaves are less of a concern if the soils have no groundwater issues, but that is unknown. Grasso stated they had a perched water table of about 30-inches. Cook and Sarkis concur that 12-inches would then be appropriate.

Sarkis suggested that the Board incorporate into its decision that the applicant does not have to come back to the Board for a modification in the event that MassDOT makes minor tweaks to the plan during its review of the curb cut permit.

Cook then closed the public hearing and reconvened the regular meeting of the Board.

Cook made a motion to approve the request for waivers contained in the letter dated July 6, 2015 from William and Mary Ann Daley with the exception that a waiver from showing the drainage scheme on the plans is no longer needed. Bardeen seconded the motion and it carried 5-0.

Cook made a motion that the Board make the following findings relative to the request by William and Mary Ann Daley for special permits for 3 reduced frontage lots and 2 common driveways at 720 Main Street:

- A. The Planning Board finds that the proposed reduced frontage lots will not interfere with the use and enjoyment of abutting lots and will not adversely affect the neighborhood as the lots are well above the required minimum lot area for the Residence-C Zoning District.
- B. The Planning Board finds that the proposed common driveways provide a reasonable public benefit, which would not otherwise be obtained without use of a common driveway including the reduction in the number of curb openings on Main Street, which would have been in close proximity to the entrance to the Page Elementary School.
- C. The Planning Board also finds that:
  1. The specific site is an appropriate location for the use.
  2. The use developed will not adversely affect the neighborhood.
  3. There will not be an undue nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities have been provided to ensure the proper operation of the proposal.
  4. The proposed use is in harmony with the general purpose of the West Newbury Zoning Bylaw as amended.
  5. The requested use will not overload any public water, drainage, or any other municipal system to such an extent that the requested use or any developed use

in the immediate area or in any other area of the town will be unduly subjected to hazards affecting health, safety or the general welfare.

Cook made a motion to approve the request by William and Mary Ann Daley for 3 reduced frontage lots and 2 common driveways with each serving two lots as described in the applications and plans subject to conditions. Discussion on the motion: Cook distributed a written list of suggested conditions of approval entitled, "Draft Motions for 720 Main Street – revised 8/17/15" to the applicants. Cook summarized the conditions and discussed some of them further with the applicant and other Board members. After the discussion, Murphey seconded the motion and the motion carried 5-0.

The conditions of approval read as follows:

1. A restriction shall be placed on the deed for Lots 1A, 1B and 1C as follows: "The subject lot has been approved by a Reduced Frontage Special Permit, and it shall not be further subdivided, reduced in area, and/or changed in size or shape. This restriction shall remain in effect in perpetuity." This restriction is also shown on the approved Special Permit Plan.
2. Covenant restrictions for the proper maintenance of the common driveways by all effected property owners are required as follows:
  - a. The document entitled "Declaration of Easement and Common Driveway Maintenance Covenant" (hereinafter the "Declaration") has been submitted by the Applicant and is hereby approved by the Planning Board.
  - b. A note stating: "See Declaration of Easement and Common Driveway Maintenance Covenant Recorded Herewith" shall be placed on the Title Page of the approved Special Permit Plan.
3. The Town of West Newbury is not responsible for repair, maintenance, plowing or snow and ice control of either of the Common Driveways. This is the responsibility of the owners, and shall be noted in the Declaration as in perpetuity.
4. Future Lot owners shall not petition the Board of Selectmen for repair, maintenance, plowing, or snow and ice control of either of the Common Driveways. This Condition shall be noted in the Declaration as in perpetuity.
5. The Common Driveways shall be constructed in accordance with the plans approved by the Planning Board. Any deviation must be reviewed with and approved by the Planning Board, with the exception that minor changes to the project required by the Massachusetts Department of Transportation shall not require further review and approval by the Planning Board.
6. House numbers for each lot shall be posted at the intersection of the Common Driveways and the private driveways.

7. In compliance with the email dated May 27, 2015 from Michael Gootee to Leah Zambernardi, Lot 1C shall grant an easement for water service purposes to Lot 1. This easement applies to the water line traversing Lot 1C to service Lot 1 as shown on the approved Special Permit Plan.
8. The Planning Board shall retain the services of its outside consultant for construction inspection services at the Applicant's expense. Said services shall guarantee compliance with this Certificate of Vote, the approved Special Permit and ANR plans and the applicable Zoning and Subdivision Bylaws. The Applicant shall establish an Escrow Account for said inspections, with an initial deposit of \$2,000. Any unused funds, with interest, shall be returned to the Applicants upon project completion.
9. Following recording of this Certificate of Vote, the approved Special Permit Plan and the Declaration and prior to application for Building Permits, the Applicant shall submit an Approval Not Required Plan (ANR Plan) to the Planning Board for endorsement. The ANR Plan shall include the following notations:
  - "Lots 1A, 1B and 1C have been approved by a Reduced Frontage Special Permit, and in accordance with Section 6.A.1.f. of the Zoning Bylaw, and it shall not be further subdivided, reduced in area, and/or changed in size or shape."
  - "The Planning Board Certificate of Vote for the Common Driveways and Reduced Frontage Special Permits is recorded at the Southern Essex Registry of Deeds in Book \_\_\_\_, Page \_\_\_\_, and the Plan is recorded in Book \_\_\_\_, Plan \_\_\_\_."
  - "See Declaration of Easement and Common Driveway Maintenance Covenant Recorded Herewith"
10. Lots 1, 1A, 1B and 1C shall not be sold or transferred until all the documents have been recorded at the Registry of Deeds.

**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**

Cook asked for an update on this request. Zambernardi stated that Alyssa Gillis contacted her and asked that the request for releases of 24 Ridgeway and 62 Moody be tabled until the September 1, 2015 meeting.

Cook tabled this item to the September 1, 2015 meeting.

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

**Continued Discussion from June 2, 2015 and August 4, 2015 Meetings: Planning Board Projects and Priorities**

**Inclusionary Housing Bylaw:** Zambernardi distributed a memo dated April 13, 2015 that she composed with her thoughts and suggestions after reviewing the Town's Inclusionary Housing Bylaw. She reviewed the Memo point by point with the Board Members.

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Some of the key topics of the discussion included:

- Streamlining the process by establishing a procedure for demonstrating conformance with the Bylaw. Establishing Rules and Regulations to achieve this was agreeable to Members. Members agreed that some of the provisions within the Bylaw such as terms of affordability and tenant selection procedures are already established and required by the Massachusetts Department of Housing and Community Development (DHCD) for units to be included on the Subsidized Housing Inventory (SHI). Removing these provisions from the Bylaw and referencing DHCD's requirements in the Bylaw and the Rules and Regulations (with sample DHCD approved documents) will simplify the Bylaw and ensure that projects continue to comply with DHCD's standards.
- Members concurred that the Planning Board should be the "Lead Town Entity".
- Members thought that the concept of changing the percentages of required affordable units to include providing homes that are affordable to moderate income individuals should be further explored. An example was to make homes affordable to families earning 120% AMI in the Cambridge-Boston-Quincy Metropolitan Statistical Area (MSA) as opposed to the Lawrence MSA. It was noted that these units would not qualify for the SHI, but they would serve a need in Town for more moderately priced homes. Members recognized that it is difficult for people to qualify for affordable housing. Members were concerned that such an income requirement might be considered discrimination. Cost to the developer for providing affordable housing should be considered. The administrative piece of complying with the Bylaw is expensive. Qualifying people for 120% AMI adds additional expense. Members concurred that discussion on the policy should occur with interested parties such as the Board of Selectmen, Finance Committee, Housing Authority or other housing advocates before going to Town meeting.
- Increasing the threshold from 3 units to 5 to 10 units was discussed. Members were generally concerned that fewer affordable units would be created and less money for affordable housing would be received if the threshold was increased. It would also be a matter of fairness. Further, there would be many smaller developments proposed to avoid the Bylaw.
- There was general consensus that the Bylaw is too complicated as is. There needs to be a simpler way to do this and the Town should re-evaluate its approach. A discussion with the larger community is needed about what that approach should be.
- Providing more options to developers was discussed, including a fee in lieu of, a land donation, and a combination of all the methods. If one method is preferable over another, the Board could make the less desired method allowed only by special permit. The other approach would be to allow flexibility and all methods by right and leave it to the developer to make a workable project and to prove it meets the requirements of the Bylaw. Members concurred that an affordable housing trust is a necessity if we are going to accept land and fees to create units. Members also concurred that the most efficient way to have units created at this point is to require them of the developer.
- Zambarnardi put a neutral question on the MassPlanners listserv asking if any communities used the fee in lieu of option as their preferred or only means. The 6 responses she received discouraged this for reasons including Trusts with funds that are not used.
- Allowing density bonuses or other incentives for providing more affordable housing than required was discussed. Sarkis provided examples of the added cost to developers, which reduces their profit margin. Developers then have to negotiate lower prices for land to be able to offset the costs of providing affordable units, which hurts the sellers.

Members of the Board tabled the discussion to a future date.

Open Space Preservation Development Bylaw: Board members discussed whether to submit an Article for the October 26<sup>th</sup> Town Meeting Warrant. Articles are due on September 10<sup>th</sup>. Some key points of discussion follow.

Members determined that the Bylaw as written allows the Board discretion on how the open space is handled. The current language gives the Board the authority to deny configurations of open space that do not meet the purposes of the Bylaw. Some language clarifying the setback of the open space to the homes was debated but not decided upon.

Members discussed the information required from the developer to “prove” the basic maximum number shown on the Yield Plan. Board Members decided that the Yield Plan section should be revised to require that the developer provide results on one (1) deep observation hole or one (1) percolation test report per lot in accordance with Title 5 requirements.

Members addressed whether duplexes should be allowed in determining the basic maximum number on the Yield Plan. A lengthy discussion ensued. Members generally concurred that 2 dwelling units per lot should not be allowed when determining the basic maximum number on the Yield Plan. Members generally concurred that increased density should only be incentive based and that density bonuses are already provided for under the Bylaw. Members decide that the Yield Plan section should be revised so that it shall show the maximum number of single family dwelling units that could be built upon a lot. “Single family dwelling units” would replace the current language that states, “lots or dwelling units”. Board members decided to further consider the language and to table the discussion to a future meeting.

Downtown Planning – Review of EO418 Community Development Plan: Members of the Board concurred that the 2004 plan is still relevant. They agree that parking and sewage treatment in the downtown is a barrier to economic development. They discussed the potential for a package treatment facility and parking near the downtown. State ownership and control of Route 113 was also pointed out as an issue. Members decide to look further at other communities for more information on package treatment plants. They table the discussion to a future meeting date.

Set Date and Time for Future Discussion of Sign Bylaw: Cook tabled this discussion to a future meeting date.

### **Revisit Procedure for Chapter 61, 61A, 61B Right of First Refusals**

Cook tabled this matter to a future meeting.

### **General Business**

- Discuss Planning Board Attendance at Future Board of Selectmen Meeting: Murphey stated that he had a conversation with Selectmen Anderson about the Planning Board Members attending a future meeting to introduce Zambenardi, discuss enforcement on larger construction projects and to talk about other issues. Board Members decided to attend the Selectmen’s September 8, 2015 meeting.

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- Cottages at River Hill – Cook stated that he observed the developer had installed pavers next to the driveways of the constructed homes in the development. He stated that this creates a second parking spot. After some discussion, Board members decide to seek Meridian’s opinion on the impact of widening the curb cuts for the driveways and to see what Building Inspector, Glenn Clohecy’s opinion is on the matter.
- Sullivans Court Extension – Zambenardi stated that the water line was recently installed successfully. She also stated that she received a complaint on Saturday, August 15<sup>th</sup> from Cindy Sherburne about construction vehicles being on site outside of allowed construction hours. She alerted Tom Neve about the complaint.
- Minutes: August 4, 2015. Members of the Board reviewed the minutes and made suggested corrections. Cook made a motion to accept the August 4, 2015 minutes as amended. Murphey seconded the motion and it carried 5-0
- Vouchers, Correspondence and Administrative Details: Zambenardi distributed vouchers for payment of Meridian Associates invoices related to the Cottages and Estate Homes Projects. She also gave Cook her timesheet for signature. Zambenardi informed the Board that she had been employed by the Town for more than 90 days. She stated that she is now eligible to take paid time off and asked the Board for approval to take Wednesday September 2 and Thursday September 3<sup>rd</sup> off using a combination of accrued Personal and Vacation time. Board members approved her request. Discussion also occurred regarding the required employee evaluation in the Personnel Bylaw. Cook stated he would work on this and that he and Zambenardi would meet. Zambenardi summarized correspondence recently received by the Board.

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

Submitted by,

Leah J. Zambenardi, AICP  
Planning Administrator