

**WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
September 15, 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 September 15, 2015 in the Planning Board Office at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Raymond Cook, Brian Murphey, and John Todd Sarkis were present. Planning Administrator Leah Zambarnardi and Associate Member Dennis Lucey were also present. Board Member Rick Bridges was not present.

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

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 Form I, Approval with Covenant Contract

Cook asked for an update on this request. Doug Stockbridge spoke on behalf of the applicant. He stated that the revised As-Builts have been submitted to Meridian Engineering and they are waiting on the final sign off. He stated that the completion of 24 Ridgeway Circle (the affordable unit) is still 2 to 3 weeks away. He stated that the unit has been plastered, but cabinets, flooring, final HVAC and electrical and plumbing hookups, trim and appliances are not yet installed. Zambarnardi stated she visited the unit today and confirmed that Mr. Stockbridge's description of the unit is accurate.

Stockbridge stated he has a buyer for 62 Moody and that they have extended out the Purchase and Sale Agreement several times. He asked the Board to consider releasing 62 Moody and to accept cash to be held in escrow by the Town to guarantee the completion of 24 Ridgeway, not to be released until 24 Ridgeway is complete. He stated this is contrary to the covenant that is in place and he understands he would need to request to amend that document. He noted that he also has a buyer for 24 Ridgeway. He stated that the estimate he received for the remaining work on 24 Ridgeway is approximately \$50,000. Sarkis asked for a line item breakdown of the work with associated costs. Stockbridge stated he can obtain that from Steve Gillis.

Sarkis asked if accepting a bond was possible. Cook stated that Zambarnardi sent an email dated September 8, 2015 to Board members, which she also shared with Stockbridge, indicating that receiving money from the developer to be put in escrow to guarantee construction of a unit is problematic. Zambarnardi stated she looked at the question again today and noted that the special permit regulations indicate the Board may require a bond for non-construction related items, not unit construction. She wondered if the developer offering the money would be looked at differently. Sarkis asked if this would be acceptable from a legal perspective. Zambarnardi noted that this project was also a subdivision approval and a bond could be accepted under the Subdivision Control Law. Cook expressed concern with not having an itemized list, an escrow agreement or amended covenant language to consider.

The Board discussed the matter further and determined they would be willing to accept a payment in lieu of a certificate of occupancy for the affordable unit. They would like to know

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that accepting such a payment is acceptable from a legal perspective. They would also like the applicant to submit a detailed list of pending construction items for 24 Ridgeway with associated costs and a reasonable multiplier, a draft escrow agreement and a draft amendment to the Covenant for the Board's consideration. Board Members requested that Sarkis and Building Inspector Glenn Clohecy review the list. Members expressed concern about the Town having to go ahead and use the escrow to complete the affordable unit if the developer does not fulfill its obligation. Concerns included the Town's cost for hiring labor and the extra time it would take for the Town to complete the unit. They generally concurred that the developer would likely fulfill its obligations.

Cook allowed questions and comments from the public.

Richard Mandeville of 2 Ridgeway Circle stated that there is general consensus among the Trustees that they would like 62 Moody occupied so they can begin collecting assessments. However, if there is an escrow agreement, there has to be an additional assurance that the items not completed by the builder will be written in to that agreement. He noted that the Trustees had to finish a number of items that the builders were responsible for. They would like access to the funds to pay for other items the builder did not complete. Bernadette Gibson of 6 Ridgeway Circle asked about the Town's position on the completion of the project. Zambenardi stated that Meridian performed final inspections and reviewed the As-Built plans and letters submitted by the Management Company on behalf of the Trustees. Meridian has minor corrections for the As-Built. Meridian reviewed the items outlined in the Trustees' letters and found all items except one to be issues with the driveways and not the roadway. The one issue associated with the roadway was a gap in the bituminous berm which has been repaired. Meridian noted that other than the comments outlined in their letter on the As-Built, the site looks excellent.

It was noted that the Board could not vote on this until the documents were reviewed and submitted, and the earliest date for such a vote would be October 6th. Stockbridge stated that he would lose his buyer for 62 Moody if this were the case, noting that this is in no way the fault of the Board. Gibson asked about how Occupancy Permits are handled in Town and she suggested that an Occupancy Permit be permitted to allow the buyer to occupy the unit prior to the closing. The buyer sold their house and is waiting to move in. Stockbridge stated they would be open to that. Sarkis stated that the Board's authority lies with releasing a unit for conveyance, not occupancy. The Board did not opine on this and stated it is the Building Inspector's purview.

Cook tabled this item to the October 6, 2015 meeting.

Cook took the agenda out of order to discuss the amendment to the Open Space Preservation Development Bylaw:

Proposed Amendment to Open Space Preservation Development Bylaw

Cook stated that the Board needs to schedule a public hearing on the matter. After some discussion, Cook made a motion to schedule the public hearing for Tuesday, October 6, 2015 at 7:15 p.m.

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William Daley of 125 Garden Street asked for information about the proposed amendment to the Bylaw. Cook explained changes that had been proposed for the Special Fall Town Meeting.

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.

Cook stated that the Board requested an opinion from Glenn Clohecy on whether the installation of open celled pavers and widening of driveway curbing is in violation of the special permit approval. Clohecy responded in a Memo dated September 10, 2015. The Memo indicated that the curb cut width was not noted on the plan, only a driveway width. He indicated that 18-foot openings are consistent with proper design standards. With regards to the pavers, Clohecy commented that they are a landscaping issue. He suggested that if the Planning Board feels the curb cuts or the parking offsets are a violation of the approved plan, then the Board should require that Cottage Advisors apply for a modification to the approved plan. The memo noted that he would seek clarification from Town Counsel regarding who has authority over the issues. Murphey noted the Zoning Bylaw states that the Building Inspector is the Zoning Enforcement Officer.

Bardeen stated she does not believe that parking is a landscaping issue. She thinks the Board should decide since Clohecy did not weigh in. Cook stated that he thinks the change alters the intent of the conditions of approval. Bardeen stated that the intent was to have one outside off-street spot and one garage spot.

Murphey commented that it is a minor modification but he is not in favor of the substance of the change.

Cook asked the sense of the Board on whether the open-celled pavers for offset parking is a landscaping issue or if it is more than that. Lucey stated that the intent of what was done is not landscaping, it is parking. Members noted that the special permit approval covered both aesthetic issues and how cars are parked on the site. At the time of approval, the Board understood and agreed that there would be parking of cars on the street. Lucey noted that increasing the number of off-street spots changes the site plan and the audience of potential buyers. Cook commented he thinks this is primarily an aesthetics issue, but it is not minor in his opinion. He noted it would look like people parking on the lawn. He questioned how the spots would be shoveled in the winter, noting that the pavers would get torn up and the grass would probably die off. Though he would rather vote it as minor and then vote it down, he feels that it is a major modification.

Cook made a motion that the Planning Board consider the installation of Open-Celled Pavers adjacent to the driveways for overflow parking, described in the letter from LandTech dated August 24, 2015, a minor modification to the approved Special Permit for the Cottages at River Hill. Murphey seconded the motion. Discussion on the motion: Bardeen asked that if the Board found this a major modification, what the sequence of events would be. Cook noted that Cottages could remove the open celled pavers and restore the curbs without needing approvals. Alternatively, Cottages could seek a major modification approval. The Board generally concurred that by making an application, Cottages would be showing a good faith effort to comply and removal of the pavers would not be required unless the Planning Board turned down the substance of the request. Murphey stated a major modification is a lot to go through for a change the Board might not

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approve. Sarkis pointed out that Cottages has not requested a major or minor modification at this point, therefore they are currently in violation of the covenant. The Board determined that Cottages needs to make an application with the Board to not be considered in violation. The Board generally concurred that no more pavers should be installed until the Board receives a request from Cottages and only in the event the request is approved.

Cook called for a vote on the motion. The motion carried 3-1. (Bardeen, Murphey and Sarkis in favor)(Cook in opposition). The Board determined that the Cottages must now apply for a minor modification to the plans. The Board asked that Zambenardi inform Cottages and Glenn Clohecy that the Board does view this as a minor modification. The Board discussed that it might not release more units until this matter is satisfactorily addressed. Further, the Board found that Cottages is in violation of the special permit until they make an application for a modification.

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

Continued Discussion on Planning Board Projects and Priorities

Cook stated that some options for Inclusionary Housing were presented at recent meetings, including abandoning the Bylaw or amending it to include measures such as requiring that a percentage of affordable units be sold to families making 120% of the area median income. Murphey stated that he believes a broader discussion needs to be held with the Town to see what direction the Board should go. He recalled the Board discussed holding a meeting with the Finance Committee and the Board of Selectmen to achieve this.

Cook stated that both Inclusionary Housing and Downtown Economic Development need to be discussed with the Town. Bardeen thought a working group would be convened to discuss this. Cook stated that after Fall Town Meeting, he would like to invite interested Selectmen and Finance Committee members to discuss these two topics and then decide how to move forward. He would like to present them with several options on Inclusionary Housing and several options on Downtown Economic Development. Cook suggested that it is precipitous to come up with a monetary request at Town meeting for a consultant to do a survey on the downtown issues. He suggested the Board consider this after the public meeting. Sarkis agreed that involving other Boards is wise at this stage of the game. Bardeen added that the Board should also involve the Board of Health. Cook suggested that the Board invite the Board of Selectmen, the Finance Committee and the Board of Health to attend a regular Planning Board meeting to discuss this. The date and time selected were November 17, 2015 from 7:15 to 8:00 p.m.

Recap of September 8, 2015 Board of Selectmen Meeting

Cook stated a recap was reported in the Daily News of Newburyport.

General Business

- Cottages at River Hill – Updates, if any. Cook noted that he sent a note to Glenn Clohecy thanking him for his assistance with enforcing construction hours. Cook noted that Clohecy suggested the Board consider requiring developers to post construction hours at the job sites. This could be placed in the Bylaw or the Conditions of Approval. He suggested that the Board ask developers of current projects to post a sign as a

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courtesy. Lucey suggested that contact information for the developer and the site contractor be included on the sign.

- Sullivans Court Extension – Notification of minor field change approval for overhead electric to serve Lot 5. Cook informed the Board that he received this request from Tom Neve because Neve has not gotten a response back from National Grid on the design for underground utilities. Cook stated that he approved this as a minor field change and that it is not temporary, but will be permanent. Murphey addressed the pipe that was supposed to be replaced in Sullivans Court and questioned the decision made by the DPW Director, Gary Bill, not to replace the pipe. Zambernardi stated an email was sent by Tom Neve, a copy of which is in the record, which discussed why the pipe was not replaced. Members noted that replacement of the pipe was initially requested by Gary Bill. They noted the only documentation they received of this change was an email sent to the Planning Board by the developer. Board Members questioned whether the Selectmen were made aware of this change, as that portion of Sullivans Court is within their jurisdiction. The Board decided to write a memo informing the Selectmen of the change. Sarkis stated he is not questioning Gary Bill's decision. Board Members noted that the memo should inform Selectmen that the Board discussed the existing culvert on Sullivans Court Extension and that it was the Board's understanding that Mr. Neve would replace the culvert. The inlet and the outlet were to be replaced as well. The Board also understood that during the road construction, Gary Bill inspected the existing culvert and determined that the pipe did not need replacing as described in an email from Tom Neve. Further, Gary Bill would replace the catch basin and inlet control and connect any underdrains that exist in and around the basin. Members would like to note that during their public hearing process, the replacement of the culvert was agreed to by Tom Neve. The memo should also indicate that the work, as the Planning Board and the public understood it, is no longer needed and the Planning Board wants to make the Board of Selectmen aware of this as it is not the Planning Board's jurisdiction.
- Planning Board Annual Report: Zambernardi stated that the Board of Selectmen have asked the Town Departments, Boards and Commissions to provide their annual reports by November 10, 2015. Zambernardi will compose a draft for the Board's review.
- Minutes: September 1, 2015. Members of the Board reviewed the minutes and made corrections. Cook made a motion to accept the September 1, 2015 minutes as amended. Murphey seconded the motion and it carried 5-0
- Vouchers, Correspondence and Administrative Details - The Board signed vouchers to issue checks to Meridian Associates for services related to Ocean Meadow, the Cottages and Sullivans Court.

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

Submitted by,

Leah J. Zambernardi, AICP
Planning Administrator