

**WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
March 1, 2016**

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 March 1, 2016 in 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. Board Member Richard Bridges was not in attendance. Planning Administrator Leah Zambenardi and Associate Member Dennis Lucey were also present.

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

Subdivision Approval Not Required Plans (SANR's)

- a. Turkey Hill Road (Assessors Map R-19, Parcel 3) – Jennie M. Maskiewicz Trust

Woody Cammett of Cammett Engineering spoke on behalf of the applicant. He stated they proposed to divide their 7.21-acre parcel into 3 lots. He stated that the first lot is under agreement and a notice of intent to sell will be filed with the Town soon pursuant to Chapter 61. Members of the Board confirmed that the lots all had sufficient access and frontage,

Cook made a motion to endorse the plan as one not requiring approval under the Subdivision Control Law. Sarkis seconded the motion and it carried 4-0.

Follinsbee Lane, Cottages at River Hill, Open Space Preservation Development Special Permit and Site Plan Review – Cottage Advisors LLC.

a. *Request for Clarification on “Buffer to Open Space” Areas* – Chip Hall of Cottage Advisors LLC addressed the Board. He stated that John McGrath sent a letter to the Board regarding damage to trees near his property. There was some question about where the property line is and the use areas are. He spoke with Zambenardi and McGrath. He said large branches on trees were damaged behind Unit 30 with a boom. He walked the property with McGrath to talk about what measures to take. He asked the Board for some clarity on the areas notes as “buffer to open space” along the western property line. He thought it was more of a matter of an error by his engineer in the hatching on the plan than an intent to designate that area as a buffer to open space. He stated that buffer area abuts the property line and abutters, not open space. Board members discussed the question and referred to the language in the Zoning Bylaw for these areas. Hall thought the area should just be noted as a setback, not a buffer. Cook stated he viewed that as a clerical error. Sarkis referred to the Bylaw and noted there needs to be a buffer area of 20-feet at the perimeter of the property which should not be disturbed with some limited exceptions. Zambenardi commented that section of the Bylaw about no disturbance only applies to buffers that abut a resource area, not to perimeter of property buffers. Sarkis stated that the section should have been drafted differently so that all buffers have no disturbance. Members noted that the approved plan showed a buffer to open space. Bardeen stated that the question is whether the language on the plan about “Buffer to Open Space” Areas applied to the hatched area abutting the western property boundary. Sarkis stated

West Newbury Planning Board, Minutes, March 1, 2016. Approved May 10, 2016.

that to some degree the language applies. Murphey stated the concern is the abutter could demand a modification to the plan. Murphey stated his general advice is not to put grass all the way up to the property line. Cook stated that Hall could request a vote that the hatching is a clerical error and request a minor modification to amend the hatching or amend the notation. Murphey stated that would be a reasonable fall back request if that becomes an issue. Members generally concurred. Sarkis stated there was some intent to leave some vegetation in that area, not to clear cut.

b. *Request for Minor Modification to Type D Cottage* – Hall stated they are in the final phase and have 5 units left. Three of the units have to be the D Type. To date only 3 “D” Type units have been sold. Feedback from the market was that the exterior elevation was not very well received because of the configuration of the porch and the dormers. To address some of the concerns and comments received, they have modified the design. He described the proposed change to the Board. He stated the small increase in pervious area would not impact the drainage design in a negative way.

Cook made a motion to deem the request by Cottage Advisors LLC for a change to the “Type D Cottage” as a minor modification of the approved plans. Murphey seconded the motion and it carried 4-0.

Cook made a motion to approve the requested change to the “Type D Cottage” in substance, finding that the change does not alter the intent or the conditions of approval. Murphey seconded the motion and it carried 4-0.

Hall asked if the Board would entertain updates on Follinsbee and on 365 Main Street. Cook allowed the agenda to be taken out of order for this purpose. Regarding Follinsbee, Hall stated that they are looking for an Occupancy Permit on the second affordable unit. He stated 16 units are occupied and 22 are sold. They had to do another lottery for the affordable unit. If they have no qualified respondents, it will be open on a first come, first serve basis. Regarding 365 Main Street, Hall stated that their intent is to buy the property and to come back to the Board with an Open Space Preservation Development. Some short term steps need to be taken in order to be able to move ahead which will be discussed first.

Engineer Woody Cammett showed a plan of the overall site with a 2-lot subdivision. This was submitted as a Preliminary Subdivision Plan and denied. It had been submitted for purposes of freezing the zoning. He stated they would submit the Definitive Plan soon to preserve their zoning freeze as is required by the Statute. He stated the plan shows the road being less than 75-feet from abutting properties. He explained the road would be located as such to preserve the resource area to the greatest extent. He asked for a straw vote of the Board before on whether this is a “compelling reason” pursuant to the Subdivision Rules and Regulations. He stated this is not a waiver request, but a concurrence. Some discussion ensued about the requirements of the Statute in terms of freezing the zoning. Bardeen pointed out that it would make more sense to submit a plan that fully conforms so the Board’s decision is more defensible. Cook stated that if this were ever built, he would prefer that the road be located outside of the resource area as much as possible. He would therefore, in a straw poll, vote yes that there is a compelling reason. Absent other information on the approval process of this, Murphey is uncomfortable giving an approval when we know that is not what will be ultimately built. Sarkis stated that is what the Statute affords property owners and Murphey

West Newbury Planning Board, Minutes, March 1, 2016. Approved May 10, 2016.

acknowledged that but did not agree with it. Zambenardi stated that Hall could file a Definitive Plan and the Board could keep the public hearing open with continuances, therefore allowing the applicant's permitting to occur on an OSPD.

Attorney Mark Johnson stated that they are looking for feedback on whether the location of the road as shown on the Definitive Plan makes sense. At the same time they want to develop an OSPD plan that reflects the location of the road shown on the 2-lot plan.

Cook asked for a sense of the Board. He stated he would be favorable because there would be less impact on the wetlands. Murphey stated he would agree with that, however he is concerned about the formalities. Sarkis asked about the actual plans for the site before he voices his opinion. Bardeen agreed that she would want to see the actual plan. In terms of this particular Definitive Plan and after several meetings, she commented that the Board Members all agreed that this version of the road is better than the previous one. Lucey stated that the location of the road seems to be optimal for the resource areas, however as the plan develops, other issues might such as traffic might arise that could change the Board Members' minds. He is more inclined to this plan than the former one in terms of the 2-lot Definitive Plan.

Cook asked for the initial sketches on the OSPD plan. Cammett showed a concept plan. He stated they have added a Landscape Architect to the team to look at the layout. He stated that the Yield Plan would be 16 lots. The yield would therefore be 32 units. They would have 4 smaller cottages due to the density bonus. There would therefore be 36 single units. They are looking at enhancing the pond as a feature and they would hire a wetlands specialist to work with them through the Conservation Commission process. He stated they would work with the Open Space Committee to locate trails to abutting Town properties. Cook asked about the abutters on Meetinghouse Hill Road. He acknowledged that she is adamantly opposed to a walking trail abutting her property. He stated that on the other hand this issue warrants further discussion. He asked if there would be any potential accommodation for a trail to link south. Cammett stated many of those neighbors are opposed. There are poor site distances, a hill and no sidewalks. Cook stated that the abutters' opinions matter to him, but part of the Board's mission is to encourage connectivity in the trail system. He did not consider that matter closed and noted the land is not owned by the abutters, though they have a right to pass over it for their driveway.

Cammett described dimensions of the road, and noted it would be 2,440 feet in length from Main Street to the cul de sac. Cook asked why the spur was being treated with a 'T' for a turnaround. Cammett stated it was done for the future of the road to be expanded for access to abutting property. Murphey noted the Board had suggested that in a past meeting.

Sarkis asked why they wouldn't use the 16-lot Yield Plan as their Definitive Plan. Cammett and Hall explained that time and expense would be an issue.

Hall stated that if the OSPD is looked upon favorable, they would consider a land swap or something with the abutter on Meetinghouse Hill Road.

Cammett stated this would be a condominium development with exclusive use areas and a common septic system. Murphey stated the project looked interesting.

Cook clarified that they are not approving the layout now, they are voicing their inclination.

Johnson asked about the septic system on the Yield Plan. He noted that the Board of Health had approved a shared septic system for the duplex proposal so long as the system was under condominium ownership. He stated they would like to propose a shared septic system to handle effluent from the 16-units on the Yield Plan. He asked if a test pit/deep hole would be required for each lot if this were the case. Cook stated he is not sure they would accept a shared septic system on a Yield Plan. Cook deferred that matter, but stated the Board might not look favorably upon that.

Hall stated that they would propose 2-car garages. They would be looking at 1700 square foot units that are similar in design to some of the cottage units at Follinsbee Lane. He stated they hired a landscape architect from Newburyport and he is confident it would be an attractive plan.

Cook noted this is a public meeting, but not a public hearing. Brad Buscher, an abutter on Main Street stated the Board did not vote on anything and Cook confirmed.

Sarkis stated he would prefer to relocate the road to the side. He stated the Yield Plan they saw earlier was hardly approvable. He would not approve it as a Definitive Plan. He guessed that they would not get Bardeen's vote either. He reiterated that the plan needs to be a valid and approvable plan. Cook stated that the issue of the condominium and septic system with the Yield Plan would not fit with the spirit of the bylaw, even though the Board of Health has approved it.

Cook asked for limited comments from the public. Brad Buscher stated that the Board has been gracious in having these meetings. He stated it is time for the formal process to begin.

Demolition Delay Bylaw – Presentation by Historical Commission, Bob Janes

Cook stated that Mr. Janes can brief the Board. Janes stated copies of the draft were distributed. Murphey stated that the process concerned him. He stated the Selectmen removed this from the warrant just before Fall Town meeting. He did not hear anything about this since until about two weeks ago. He was surprised this is coming forward for the spring. He thought that if they wanted to move forward they should have given this to the Board in November. He also asked if any changes had been made to the draft. Janes confirmed the Selectmen decided not to put it on Fall Town meeting. He can't explain why the Commission waited this long to start talking about the Bylaw. He wanted to have a public meeting/public hearing. He had wanted Chris Skelly from Mass Historical Commission to have an informative meeting to talk about the Bylaw. Skelly can't do that. He stated that they are a small group of 4 people. He stated they are going to the Boards and the Board of Selectmen is going to have a public discussion/input session at their meeting on March 7th. He is not sure this would get on the warrant this spring. Cook stated airing the topic out publicly is a good idea because it is such a heated and passionate topic. Janes spoke to the purpose of the Bylaw, noting there are no protections for historic buildings in West Newbury unless you are in the small historic district. He stated that the Demolition Delay Bylaw will not prevent someone from ultimately tearing down their building. It only delays the demolition. Janes commented that the Town should try to preserve what it can in West Newbury. Cook stated that he agreed with the concept philosophically. Cook stated he has heard concern from people who might have trouble selling

West Newbury Planning Board, Minutes, March 1, 2016. Approved May 10, 2016.

their properties because of the potential for the demolition being delayed. Murphey stated he is concerned that the trigger is buildings that are 100 years old or more, which seems young to him. More discussion ensued about provisions of the Bylaw and success stories from other Towns. Zambenardi noted her experiences working with demolition delay and stated the delay serves as a cooling off period for the property owner and the community to seek alternatives to demolition. Members noted that the Building Inspector should have a shot at reviewing the draft before it is submitted as an Article. The Board suggested a more, well publicized public meeting.

Discussion of Zoning Bylaw Amendments

Signs – Cook stated he incorporated his thoughts into the most recent draft. Members review some of the draft and make comments and edits. Cook stated the Board would take this as well as Two-Family Structures up again at the next meeting.

Minutes

Members deferred review of the February 16th minutes to the next meeting. Cook made a motion to approve the minutes of February 2, 2016. Bardeen seconded the motion and it carried 3-0-1 with Murphy in abstention.

The meeting was adjourned at 9:35 p.m.

Submitted by,

Leah J. Zambenardi, AICP
Planning Administrator