

WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
July 19, 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 July 19, 2016 in the 2nd Floor Hearing Room 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.

Bridges recessed the regular meeting and called the scheduled public hearing to order.

Public Hearing – Special Permit for an Open Space Preservation Development – Drakes Landing - 365 Main Street & 34 Meetinghouse Hill Road - William A. Daley and Joseph B., Jr. & Beverly A. Murphey (Owners) - Cottage Advisors (Applicant)

Lucey recused himself from the meeting.

Sarkis read the legal notice.

Bridges recessed the public hearing and stated the Board will take the agenda out of order to hear Item #1 on the agenda having to do with Follinsbee Lane, Cottages at River Hill. He stated the public hearing would re-open immediately after.

Lucey returned to the meeting.

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

Attorney Melissa Robbins spoke on behalf of the applicant. She stated that they are withdrawing their request for removal of the silt fence along the west side of the property (Item 1.c. on the agenda). She then addressed Item 1.a. “Request for Lot Releases”. She stated there are 5 units left to be released from the restrictive covenant. She stated that the Conservation Restriction needs to be recorded prior to the 25th unit being released. She stated they would like to hold off on recording the CR because construction is not entirely done. She asked if the Board would consider putting Unit 18 back under the restrictive covenant and then releasing Unit 28. She stated that they have a closing scheduled soon for Unit 28, but not for Unit 18. She stated an alternative to this would be to ask the Board to allow a minor modification to the Special Permit/Site Plan approval to allow that the CR be recorded prior to the 26th unit being released. She then described the request for a reduction in the Phase III performance bond and the request for a minor modification of the Special Permit/Site Plan approval to modify Infiltration Trench #1.

Sarkis asked Robbins to recap why she is hesitant to put the CR on record. Robbins acknowledges the site work would be done in 60 days or so. She would like to avoid the State monitoring the CR while construction activity is going on. Sarkis noted the CR says it is acceptable to turn the open space over in an unfinished way. Bridges stated he is concerned

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over venturing in to unknown territory. Murphey stated the Board wants to encourage the units get completed and sold. He also wants the developer to meet its obligations. He stated this project is nearing completion and that the easiest and cleanest way is to record the CR and then request lot releases.

John McGrath, 244 Main Street asked about Item 1.c. Bridges stated that request had been withdrawn.

After some discussion Bridges made a motion to Release Unit 28, subject to the developer providing evidence to the Planning Administrator that the CR had been properly recorded. Sarkis seconded the motion and it carried 5-0.

Bridges then took up the request for a Phase III bond reduction. Zambenardi confirmed that the Board's engineer, Meridian Engineering had reviewed and recommended approval of the request.

Bridges made a motion to allow for the requested bond reduction. Cook seconded the motion and it carried 5-0.

Bridges then addressed the minor modification to Infiltration Trench #1. He confirmed with Zambenardi that Meridian had no issue with the change. He then made a motion to find that the requested modification is minor in nature. Murphey seconded the motion and it carried 5-0. Bridges then made a motion to approve the change in substance. Cook seconded the motion and it carried 5-0.

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Bridges called the public hearing back to order.

Lucey recused himself from the meeting.

Applicant Howard "Chip" Hall of Cottage Advisors introduced his team, including Deni Hamel from Cammett Engineering and attorney Mark Johnson

Hamel displayed a plan showing existing conditions on the 26-acre site and pointed out the steep slopes, fields and wetlands. He stated that the proposal includes 2 variations of the Yield Plan: the first option shows a through road to Meetinghouse Hill Road; the second option shows a dead end road, which requires a waiver of the dead end road length. Each plan shows the distance of the centerline of the roadway less than 75-feet from abutting properties to the west. Each Yield Plan shows 32 units on 16 lots. Hamel stated that there was a deep hole and a percolation test on each proposed lot.

John McGrath, 244 Main Street asked the Board to explain a Yield Plan to the public. Bridges explained the Yield Plan process. Brad Buschur of 347 Main Street stated that waivers should not be required for a Yield Plan.

Bridges stated he has a concern about the second Yield Plan. He stated his belief that the road would be too expensive to build.

Cook read the definition of a Yield Plan in the Zoning Bylaw out loud. He stated that a Yield

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Plan should be deemed buildable by using a reasonable application of the rules, which is up to the Board to interpret.

Sarkis noted that most subdivisions require waivers to some extent.

Cook stated that he would grant a waiver of the dead end length in this case in consideration of the impact to abutters on Meetinghouse Hill Road.

Bridges stated that Meridian Associates conducted a peer review of the Yield Plans for compliance with the Zoning Bylaw (including lot area, CBA, slopes, etc.), compliance with the Subdivision Rules and Regulations, review of perc and groundwater test results relative to buildability of each lot, and verification that the plans conform to the Planning Board policy decision that one deep observation hole and one perc test is required for each lot for the purpose of a Yield Plan.

April Ferraro of Meridian Associates stated that she looked at the Yield Plan in terms of establishing the Basic Maximum Number. She stated that both plans reasonably comply with the Town's requirements. She stated she found two concerns related to buildability. She stated that some of the soil testing data did not get sent to her. She would want to look at it to confirm there is no issue. Secondly, she stated that feedback from the Conservation Commission on the Yield Plans is recommended as both plans require wetland filling.

Murphey stated that the developer should respond to Meridian's request for more information on the soils analysis. Hamel agreed to provide the data to Meridian.

Murphey stated his opinion that Yield Plan #1 is not reasonably or practically buildable. Cook agreed and noted the road through to Meetinghouse Hill Road would require such extensive work, not to mention the negative impact on the abutter, Mrs. Spielvogel.

Glenn Kemper, 3 Merrill Street stated that he agreed with Murphey and stated the Board should have a baseline. He stated that without the soil testing we are not sure what this plan will yield.

Sarkis stated that the Board has worked on its policies and that more data is required to be shown on the Yield Plan than ever before. He stated it seems we are talking about minor points, not major issues. Cook stated that in developing the Bylaw, the intention was to not have a full blown development plan but rather to have a reasonable application of the Bylaws. He stated that now the Bylaw asks for more testing and more thorough engineering to help the Board determine whether the plan would yield 16 lots or not.

Dawn Fusco, 25 River Road stated she is a member of the Conservation Commission. She stated the Commission discussed the road beginning at Meetinghouse Hill Road because they are interested in filling less wetlands.

Ted Ollson of Meetinghouse Hill Road asked questions about the Basic Maximum Number and wetlands.

Bridges stated the Board's intention is to have the Basic Maximum Number correct before the Board moves on to the OSPD layout.

Joan Flink of 368 Main Street stated that 144 cars would be parked at the 32 units. She stated there would be 10 trips per unit per day and that she is concerned about the traffic impact on Main Street and the possibility of a traffic light and the impact on her property directly across

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the street.

Hall addressed Fusco's comments and stated that the wetland along Main Street is a disturbed area. He stated that the other wetland near Meetinghouse Hill Road is likely a naturalized wetland area.

Bridges stated it might be prudent to do a site walk.

Brad Buschur, 347 Main Street stated that there are significant concerns regarding the entrance roadway and he pointed to the grading, sheet flow to the pond and a dam effect. He stated Yield Plan #1 is not practical. He stated that the combined length of road for Yield Plan #2 would be 3,235-feet with 36 units and 3:1 slopes. He stated this is all around unrealistic to build.

Buschur then referred to an academic paper from MIT which opined on the appropriate maximum dead end length. He stated that most dead ends are less than 700-feet and the road lengths are limited based on density. He stated that concentrating all the traffic to one entrance/exit is not preferable. He added that the Institute of Transportation Engineers recommends that the maximum length of dead end road be 1000-feet with no more than 20-units.

Charles Fowle, 371 Main Street addressed wetland filling by the Town for the ballfields and the impact that had on the watershed.

Glenn Kemper, 3 Merrill Street asked the Board to explain the process, in that it would be multi-step. Bridges responded that the Board would first vote on the Yield Plan. They would then look at the broader OSPD plan and this could possibly take 5 to 7 months.

Joan Flink, 368 Main Street asked about the impact to storm water runoff on the Mullen property. Bridges responded that a full engineering report on the storm water would be submitted by the applicant, which would then be reviewed by the Board's engineer.

Johnson addressed the MIT study submitted by Buschur. He stated he has not had an opportunity to read through it, but noted that there is no date and that the Towns referred to in the study are not in the east and might not be relevant when looking at New England developments. Johnson stated that at this point, the Applicant is looking to have the number of lots on the Yield Plan approved. This plan would not be built. He reminded the audience that the concept is to produce the number of units that could be built on the parcel.

John McGrath, 347 Main Street stated that in his experience with a prior OSPD, it took 15 to 16 months for a final sign off on the project from the Planning Board.

Brad Buschur, 347 Main Street stated that the Metropolitan Area Planning Commission (MAPC) referred to and would validate Joseph's study from MIT.

Cook stated that cul de sacs in West Newbury are common. He stated that is different than some surrounding communities. He stated that in recent surveys, a key goal of West Newbury is to preserve rural character. He stated that when the Planning Board evaluates a project and what is best for West Newbury that might vary from what other places do. He stated he is also concerned about traffic and the impact of headlights on homes nearby. Cook stated that developers hesitate to come to West Newbury because the Planning Board is not a "rubber

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stamp” board. He stated that in the end the project might not match what MIT or MAPC endorses.

Hall stated that the access from the Main Street frontage is preferred, though they would be doing an alternatives analysis looking at Meetinghouse Hill Road on the OSPD plan.

Charles Fowle, 371 Main Street stated that there are other accesses from Meetinghouse Hill Road that the developer should explore. He stated that the contour of the land on Main Street with a bad corner and traffic speeds is problematic. He stated there is an outcrop in the road and that unlike other roads, this is a State Highway. He noted that the State has more restrictions and requires more analysis to get approval.

Sarkis asked Ferraro where the wetlands replication is shown on the plans. Ferraro stated that there is no wetland replication shown on the Yield Plan. She stated it is shown on the conceptual grading plans.

Joan Flink, 368 Main Street noted this could adversely impact the Gove and Town properties.

It was noted that the Buschur property could potentially have frontage for 3 lots with the plan.

Sarkis referred to the Board’s interpretation of the suitability of lots. He stated that the plan might accommodate a 1,000 s.f. home, but not a 2,000 s.f. home. He stated a more in depth look is needed so the Board can get a sense of what in reality would be reasonably proposed on the lot.

Bridges stated that the Board should get more clarity on the well parcel and its ownership. He then summarized some pending items to be addressed in time for the next meeting including a response to Meridian, input from the Conservation Commission and information on the well parcel.

Bridges then made a motion to continue the public hearing to August 2, 2016 at 7:00 p.m. Murphey seconded the motion and it carried unanimously.

Endorse Certificate of Vote – Drakes Landing Definitive Subdivision Plan – 365 Main Street and 34 Meetinghouse Hill Road – Cottage Advisors, LLC (Applicant), William Daley and Joseph B. and Beverly A. Murphey (Owners)

Zambernardi stated that the Board had asked that Bridges and she meet with Town Counsel Michael McCarron to discuss the draft Certificate of Vote for the project. She stated that they met on Monday and McCarron made comments and she incorporated the changes into the document before the Board this evening. She stated that McCarron commented that including the applicant’s purpose for filing the plan for a zoning freeze into the decision is not necessary. Zambernardi therefore took that paragraph out. Zambernardi added the list of approved waivers as the Board had requested. Zambernardi added the need for a note change on the plan that Meridian requested as a condition of approval. She stated that McCarron asked that the Board include a condition that the plan not be further subdivided unless the applicant requests a modification to the Definitive Plan from the Planning Board. He said this is implied with the plan approval and gives the decision legal “teeth”. McCarron stated that having the requirement for further review to generate conditions subject to a public hearing does not have those “teeth” in and of itself. He is fine with leaving that requirement in however.

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Zambernardi stated she did not include any additional specific conditions that were brought up at the last meeting such as construction sequencing, the well parcel, paving requirements on Main Street, method of filling, storm water maintenance agreements, etc., for several reasons. She stated that the review conducted was limited to a cursory review and such issues were not reviewed by Meridian nor were they discussed during the public hearing. She stated that she would expect that such conditions would be discussed and accepted if the public hearing is ever opened back up. Sarkis agreed these conditions were not discussed during the hearing. He stated he is uncomfortable with this approach as it does not appear to be an actual approval. He stated that the Board has no certainty that the conditions, which the Board typically imposes on every project, would be met. He noted that there is hardly any chance this project will ever be built or that this decision would ever be appealed. Cook agreed that this project would likely never be built and this is likely a non-issue, just a strategy to freeze the zoning. Cook stated it was a limited cursory review. Zambernardi stated that Meridian did not look at the Storm water Report in its review. She added that Meridian noted in its review that more study would be required if this project ever came to fruition, all of which was discussed during the public hearing. Sarkis stated that he would advise that the Board never take this approach again, and that they require the developer undergo a full review with the Board's engineer if they want an approval.

Board Members then signed the Certificate of Vote.

Lucey returned to the meeting.

General Business

Cottages at River Hill – Murphey referred to the letter sent by John McGrath's attorney on his behalf regarding treatment of the buffer area which abuts his property. Members discussed the letter and decided to forward the letter to both Hall and Meridian. The Board asked that Meridian review the letter and provide a response.

Candace Temple, 24 Follinsbee Lane addressed the Board and expressed her frustrations with the process of purchasing a condominium and with the construction. Marlene Switzer, 11 Follinsbee Lane accompanied Ms. Temple and discussed concerns some of the residents had about finishing up construction and starting up the homeowner's association. Members listened and offered suggestions. Murphey suggested that Switzer contact the president of the association at Ocean Meadow, who has just recently gone through a similar process.

Minutes - Minutes of the May 24th meeting were tabled.

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

Submitted by,

Leah J. Zambernardi, AICP
Planning Administrator