

WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
July 5, 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 5, 2016 in the Planning Board Office at the West Newbury Town Offices, 381 Main Street. Board Members Ann Bardeen, Richard Bridges, Raymond Cook and John Todd Sarkis were present. Member Brian Murphey was not in attendance. Planning Administrator Leah Zambenardi and Associate Dennis Lucey were also present.

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

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

Sarkis stated there is a well parcel identified on the plan

Zambenardi provided a draft Certificate of Vote to the Planning Board. Members discussed concerns over the conditions of approval as the approval was based on a cursory review. Cook pointed to Meridian's review letter and noted that Meridian recommended

Cook stated the gist of the drafted letter is fine and the Board has plenty of documentation. If this language upset the applicant, Cammett would have objected to it before the review was done. Sarkis stated the result would be to conduct a thorough review, which the applicant did not want. Sarkis noted some issues with the plan that the Board would normally have conditioned if it were a "real" subdivision. Zambenardi stated Meridian did not look at the storm water as part of their review. Sarkis stated he doubts the decision holds legal water. Members asked that Town Counsel look at the draft and make comments to make sure the decision holds legal water.

365 Main OSPD

Zambenardi stated the project was filed last week. She stated the hearing would be July 19th. The ad is in the paper, abutters are being notified and department heads have been asked for comments. She asked the Board if the Board would like to hire Meridian for the peer review and whether she should secure them before the meeting begins. Members decide to hire Meridian to look at the Yield Plan in time for the meeting. Zambenardi stated that at this point, we would have the contract executed by then and perhaps Meridian would attend the meeting. She is not sure their schedule would allow for a review to be done by the 19th. She stated Meridian is familiar with the site and she would notify Cottages of the Board's intent to hire them. Board Members direct Zambenardi to hire Meridian and to look at the Yield Plan if they can in time for the meeting.

John McNamara of 114-118 Maple Street asked about the zoning freeze. Bridges recapped the process to date and explained the zoning freeze process.

Zambernardi noted that she notified the department heads identified in the Bylaw about the project. She asked the Board if they agreed with her notifying the Open Space Committee and the Board of Selectmen about the meeting. Members agreed.

Zambernardi stated she scheduled a meeting with members from the Board of Selectmen, Health, DPW and Conservation Commission and the developer to discuss improvements/amenities the developer would provide for the Carr Post during their project. The meeting would be on July 14th at 6:15 in the Planning Board office.

Lori Spielvogel of Meetinghouse Hill Road asked about the status of the 2-lot definitive plan. Zambernardi stated it has been approved.

Report on FY 2016 Goals and Objectives

Members of the Board discussed work they did to accomplish the stated goals and objectives for FY2016. They instructed Zambernardi to draft a letter, for review by Bridges to send to the Board of Selectmen. The Board then discussed its goals and objectives for FY 2017. They instructed Zambernardi to draft the document for its review.

Subdivision Approval Not Required Plans (SANR's)

Zambernardi stated that no SANR's had been submitted for this meeting.

Discussion of Zoning Bylaw Amendments

Signs – Cook stated that he was able to complete his sign survey and he presented his findings. Members spent an hour discussing the various signs identified and commented on what is and is not appropriate. Members then discussed how to reach out to Business owners so they are not offended or suspicious. Bardeen noted the Board needs to be mindful of how this amendment is presented to businesses and should talk with them before the Board approaches the Finance Committee

Bridges delayed the discussion of Two Family Structures to a future meeting.

General Business:

- Haverhill Bank – No updates.
- Cottages at River Hill– Zambernardi stated she received an inquiry from Melissa Robbins about the timing of filing the Conservation Restriction for the property. Ms. Robbins related to her that upon filing a CR, the State begins monitoring the land. Robbins had stated that although there are provisions in the CR about allowing construction activity to finish up, she would rather wait until all construction is completed to file the CR to avoid conflicts. Board Members were skeptical of the request and Sarkis noted that he has experience with CR's and he has never encountered such an issue. Zambernardi stated that Robbins preferred this route. Zambernardi stated that Robbins also discussed an alternative to with her, if the Board was not inclined to approve this. She noted that the Board's decision on the project requires that the CR be recorded prior to the release of the last 5 lots. Zambernardi stated that Robbins would like to know if the Board would exchange Lot 18, which has been released, for Lot 28. As a result, Lot 18 would go back

West Newbury Planning Board, Minutes, July 5, 2016. Approved August 23, 2016.

under the Covenant not to Convey and Lot 28 would therefore be released. Members were skeptical of this request. Cook stated that if he were asked right now about this he would say “no”. Sarkis stated there would be unforeseen consequences with this. Bridges stated that the Board wants to see the Open Space wrapped up and he sees no benefit to the Town to approve either request. Cook stated this sounds like a major modification request and reiterated that he is opposed. Board members suggested that Robbins make a formal request and provide more information if they want this.

Secondly, Zambenardi noted that John McGrath sent an email that he heard tree cutting during the weekend. In his email, he asked what had occurred and noted the work was outside of the parameters of the conditions of approval for the project. Zambenardi stated that McGrath was not aware of the Board’s recent interpretation on the distinction between buffer to open space and buffer to the perimeter. Bridges stated he met with the site Super. He stated that between units 27 and 31, they had an arborist come in and do some cutting. He observed it had been clear cut. He stated that the trees cut were either significantly diseased or growing horizontally toward the sun and that they would eventually come down. He stated he does not necessarily agree with the clear cutting of the underbrush. He noted that the underbrush would come back. Cook speculated that the developer thought the work would make the properties look better and would make the units easier to sell. Zambenardi referred to a memo she wrote to the file documenting the Board’s interpretation where it notes that clearing of brush and diseased or dead trees is permitted and that the developer should contact the abutter prior to commencing work. Bridges stated he would have preferred the tree work to be more selective and he suggested that in the future the Board be clearer with its conditions. He gave an example that cutting down trees of a certain caliber or greater would have to come back to the Board. He stated that all in all he does not think this situation is too big of a deal. Zambenardi stated that Chairman Bridges wrote a response to McGrath. She stated that McGrath responded that he did not take particular issue with the substance of the modifications recently made. He took issue with not knowing about the work happening beforehand. Zambenardi offered that the best she could do to address that issue would be to add McGrath to her agenda distribution email list. She stated that she is uncomfortable notifying McGrath specifically for issues that do not require a public hearing. She stated this would set a precedent where some abutters would be notified and some would not be notified. She stated her opinion that is unfair to other abutters, abutters to other projects and to the applicant. She stated that during her career, her practice has been to follow the statute and bylaws in terms of when to notify the public of an issue. Bridges stated that another concern with the buffer area is the residents encroaching upon it as time passes.

- Sullivans Court Extension – Zambenardi stated an inspection report issued last week reminded Neve to control dust. Bridges noted that he went to the site to confirm the loam piles had been seeded. He said there was just cast seed, not hydro seeding. Members noted how dry the conditions have been.
- Correspondence: Zambenardi noted that the two Kimball Road lots have been assigned street numbers. She noted an Occupancy Permit was issued for 32 Prospect Street.
- Administrative Details: Zambenardi stated she attended several meetings lately. She went to a regional planning day with Secretary Ash speaking. She learned that bio-manufacturing is a growing industry in the region. She also went to an MAPD meeting on teardowns. She stated that Wellesley and Lexington have had a great number of tear downs and they are trying to regulate them with mechanisms such as floor area ratio and height restrictions. Some other strategies revolved around historic preservation tools such as

single building local historic districts and Neighborhood Conservation Districts. She stated that they NCD's are resident initiated. Demolition delay was noted to not be very effective in many cases. Shrewsbury was also there and they are a more rural community like West Newbury. She stated they have also been experiencing the demolition of older homes on large lots. The lot is typically split up by ANR or subdivision and new homes are constructed on each of the lots. She stated it might be a good idea to look at their zoning. She stated that she attended a webinar on recent cases having to do with takings. She stated that most of the cases came out on the side of the property owner. She noted that Justice Scalia's recent passing has delayed a number of cases.

The meeting was adjourned at 9:40 p.m.

Submitted by,

Leah J. Zambarnardi, AICP
Planning Administrator