

## Meeting Minutes

### Newbury Planning Board

Wednesday, February 15, 2023

Virtual Meeting via Zoom

*Final – Approved April 19, 2023*

**Members Present:** Larry Murphy (Chair), Peter Paicos, George Morse, Leslie Matthews, Woody Knight, Mary Stohn (associate)

**Staff Present:** Martha Taylor, Planning Director; Kristen Grubbs, Assistant Planner

Planning Board Chair Larry Murphy opened the Planning Board (PB) meeting at 7:00 p.m. Murphy took a roll call and all board members and staff listed were stated to be present.

Opening Statement from Chair: Murphy announced that this February 15, 2023 Open Meeting of the Newbury Planning Board was being conducted remotely in accordance with Chapter 107 of the Acts of 2022, which extends the Governor’s March 12, 2020 “Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A § 20,” until March 31, 2023. This Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible *physical* location and allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting. Murphy stated that the Newbury Planning Board was convening by video conference via Zoom, as posted on the Planning Board’s agenda, and provided information on how people could view and join the Zoom meeting and participate when public comment was invited. Murphy then described the ground rules and guidelines for the meeting proceedings and public participation. He concluded by stating that each vote taken in the meeting would be conducted by roll call vote.

Following these opening remarks, Murphy turned to the agenda.

#### **A. Appearances/Submissions:**

- 1. John Paulson, P.L.S., Atlantic Engineering & Survey Consultants: Submission of an ANR Plan for division of 17 Main Street (Assessors Map R19, Lot 53) into four lots; Owner/Applicant: Roam Realty, LLC, Robert O. Cormier, Manager**

At 7:06pm, Murphy welcomed Engineer John Paulson who shared his screen to display a plan for division of the parcel at 17 Main St. from one lot into four. On behalf of owner Robert Cormier of Roam realty, Paulson is requesting an “Approval Not Required” endorsement of the plan. Paulson described the property which currently has one 3-bedroom house. The house will be kept on one of the lots and three more lots will be created, all with frontage and lot area that meet the dimensional requirements of the Zoning Bylaw for single family or two-family homes. Paulson showed the Board where the lots have slopes greater than 15% and stated there are no wetlands on the site. All monuments were field located. Paulson said there are no known easements or rights of way on the property nor previous zoning decisions affecting the property. The house is served by public water from the Byfield Water District and the entire site is in the water supply protection district.

Murphy asked Board members for questions; none were expressed. Taylor asked about slopes at the front of property. Paulson said the current driveway is a little steep but not a problem. Taylor asked about the curve in Main Street and whether that affects sight lines for the driveway locations. Paulson screen-shared his AutoCAD design plan to demonstrate the contours of the property, the locations of the driveways, and locations of the test pits for the proposed septic designs. Morse asked about any issues with stormwater flowing across the lot. Murphy asked about whether the house would be kept;

Paulson said the intention was to keep it. Murphy asked, if there were any issues with sight lines with the driveways, whether he would he consider a common driveway for Lot 3 and 4. Paulson replied he didn't think there would be any issue with sight distances. Matthews said having lived in area she has noticed water collecting along Main St in front of the driveway and further on the property in front of the proposed lots 3 and 4 in the spring and asked Paulson to consider that issue when building.

**Motion:** Morse made the motion to endorse the ANR Plan for division of 17 Main Street (Assessors Map R19, Lot 53) into four lots. Knight seconded the motion. There was no further discussion on the motion. All PB members voted yes in a roll call vote.

**B. New Business:**

- 1. 140R Main Street, Utility Access Road (New Leaf Energy): Request from Robert Roseen, Waterstone Engineering, for approval of proposed modification to road layout to provide a drivable surface for maintenance access to all utility poles at the point of interconnection at the transmission corridor, to accommodate NGRID requirements**

Robert Roseen of Waterstone Engineering displayed a plan from the Special Permit application dated 11/18/22. The plan showed a proposed modification to the road layout previously approved, which is needed to provide a drivable surface for National Grid maintenance access to five additional utility poles at the point of interconnection at the transmission corridor. This is what National Grid needs for access with its bucket trucks. Roseen explained that there would be minimal new grading. The same stone material as used for the access road elsewhere in the area would be added to the area near the five poles. Roseen stated that the area is already cleared and the added uncompacted gravel will not affect stormwater. Taylor has asked if this has been discussed with Conservation Commission. Roseen explained there will be no impact on wetland resources as the area is already cleared and there is no additional impervious area. The area is already approved for the utility corridor. Paicos said this seems like a cleaning up housekeeping kind of item, and wondered if the town's stormwater peer reviewer is comfortable with the modification, could it be handled administratively? Morse asked about the thickness of the layer of stone. Roseen answered the depth is a total of 12 inches with layers of stone; it is the same road surface as used on the rest of the utility road. Roseen stated the property owner would maintain the area around the utility poles as part of the maintenance. Murphy agreed with Paicos's suggestion to handle this administratively.

**Motion:** Paicos made a motion to authorize the Planning Director to handle this request as a field change in consultation with stormwater peer review and the Town's Conservation Agent. Morse seconded. All members voted yes in roll call vote.

- 2. 105 High Road OSRD (Seagate): Request from Mark DePiero for approval of proposed building footprint and grading changes in Exclusive Use Areas 5 (extension of porch to wrap around southeast corner) and 7 (installation of pipe to replace swale) as shown on OSRD Grading/Drainage Plan, Sheet C1.22, prepared by DCI, revision #8, dated 2/2/2023;**

Murphy read the request for modifications to the 105 High Road Open Space Site Plan previously approved by the Board and currently under construction. Engineer Steve Sawyer said things are moving along. Seven of nine homes have been constructed. Sawyer explained the interest they have in creating a larger backyard area for Unit 7 by installing a drainage pipe in lieu of the swale in that area and described the potential impact to the stormwater infrastructure in that part of the lot. Initial

peer review comments from Joe Serwatka indicated that there were some issues with the design of the pipe. Sawyer proposed that he discuss the issues with the Town's peer review stormwater consultant in the field, and then come back to the Board with the proposed modification. Murphy gave Sawyer direction to proceed in this way.

Sawyer described the request to change the building footprint of Lot 5 by extending the porch to wrap around the southeast corner of the house. Sawyer showed the proposed change on the plan and stated this was being done to accommodate the request of a buyer. There were no questions and the Board agreed to consider this as a minor modification.

**Motion:** Morse made the motion to approve the minor modification request to add a wrap-around porch to the building footprint of Lot 5. Matthews seconded the motion. All members voted in favor by roll call vote.

**3. 68 Green Street Subdivision (Farm View Lane):**

**a. Request from Michael Dos Santos for release of Lot 3 from the Restrictive Covenant**

At 8:04pm, Murphy read the request presented by the Farm View Lane development at 68 Green St. and welcomed owner Mike Dos Santos of Crane Properties. Dos Santos explained that they have had a buyer for Lot 3 since the summer and are requesting release of the Lot 3 from the Restrictive Covenant so as to meet the scheduled closing date of March 8. Dos Santos said the road is built, utilities are in place, and the stormwater infrastructure is complete to the satisfaction of the town's peer review. He said that Millennium Engineering is working on the as-built. Murphy said that one of the conditions of the subdivision approval was that the Homeowner's Association documents be completed. Bill Heney stated that the HOA documents are in final form and will be before the Board for approval next month. Taylor mentioned that Town Counsel reviewed the documents and has pointed out an issue with road ownership that needs to be sorted out. Heney said the attorneys have been working on that and expect to have it resolved within the week and ready for Board review in time for the March 1 PB meeting. Murphy wondered whether it would make sense to have both the Release of the Restrictive Covenant on Lot 3 and the HOA documents together on the next PB meeting on March 1. Heney expressed preference that the Board vote on the lot release tonight. After further discussion and review of the documents by the Board, Paicos suggested it would be appropriate to get more clear guidance from Town Counsel. Morse stated he would like to see the HOA documents in advance of approvals. Knight and Matthews and Murphy were all in agreement. Murphy suggested they get all of the documents related to the roadway and the HOA together and bring to the next PB meeting in March. Heney stated that they would withdraw the request for a vote on release of Lot 3 from the Restrictive Covenant.

**b. Request from Michael Dos Santos for release of Lot 2 from the provisions of paragraph #3 of the Restrictive Covenant pertaining to placement of a permanent structure on the lot**

Discussion turned to the request for release of Lot 2 from the provisions of paragraph 3 of the Restrictive Covenant pertaining to placement of a permanent structure on the lot. Heney explained that the PB had previously released Lot 3 and Lot 1 from the provisions of paragraph 3 of restrictive covenant pertaining to placing permanent structures on the lot and that they are now being asked to do the same for Lot 2, so that Crane Properties can begin construction on Lot 2.

**Motion:** Paicos made a motion to release Lot 2 from those provisions of paragraph 3 of the restrictive covenant regarding placement of a permanent structure on the property so as to allow the owner to begin building. Morse seconded the motion. All voted yes in roll call vote.

**c. Review of Landscape Plans:**

- i. Street Trees**
- ii. Entry Garden**

Dos Santos pulled up plans showing the landscaping proposal for the Farm View Lane, developed with Cole Landscaping and in consultation with Taylor following a site visit. He described the plantings along the gravel road, showing eight native white dogwood street trees. There will be granite aprons to the pea-stone driveways and large safety boulders along the circle. At the road entrance there will be boulder walls on each side of the entrance (which had to be removed to build the road), rebuilt to match the stone walls along the road on the abutting properties and integrate with the surrounding neighborhood. Dos Santos described the entry garden shown on the plan. He stated there would be native plants in the garden. Because the area is within the 100-foot buffer of wetlands on the opposite side of Green Street, Dos Santos read a letter from the Town's Conservation Agent that gave approval for placement of the garden and the plantings with certain requirements. The applicant said the proposed mailbox location has been approved by the postmaster. Taylor explained the proposed trees were native not invasive. She said the DPW Director was okay with locating the garden to be at least five feet back from the edge of the pavement for snow plowing. Paicos asked about planting areas between the homes and abutters and expressed the need for buffer areas be worked out. Paicos wondered whether the dogwood trees would be able to live in the small road buffer that has a lot of ledge. Dos Santos said he would submit information once the exact location of the trees was resolved. Murphy asked Taylor if approval of these final landscaping plans could be handled as an administrative matter. Taylor said yes if the Board approves. Stohn and Morse agreed with that way of handling it.

**Motion:** Matthews moved that the Board designate Taylor to approve final landscaping on the site administratively. Knight seconded the motion. All members voted yes in a roll call vote.

**C. Old Business:** Murphy stated there was no Old Business.

**D. Planning Director's Report:** Taylor gave the Director's Report. At 84 Boston Road, the foundation has been poured, clearing and grading is ongoing, drainage work is ongoing, and drilling for the new well will be between March 1-15. K & R anticipate completion in the spring. Taylor is expecting a revised plan from 3 Newburyport Turnpike for the March 1 Board meeting. The 105 High Rd Conservation Restriction is under review. She reminded the Board of the site visit to 170 Orchard Street to be held on Tues February 21 at 11am. Taylor has received peer review comments on the subdivision plan and stormwater management plan and will share those with the Board.

**E. Liaison Reports:**

- Select Board: Matthews reported the Select Board met on Feb. 14. They were two police appointments and other announcements. The bulk of the agenda included a presentation by the Municipal Building Committee Chair, Robert Connors.
- ZBA: Murphy said the ZBA would be meeting Thursday night, February 16, and had two public hearings on the agenda, for 80 Northern Blvd and 16 Green St.

- Conservation Commission: Paicos reported that Governor's Academy is planning a new pedestrian path which will require Commission review, as well as PB Site Plan Review Level 1. The Commission is meeting next week.
- MVPC: Taylor said the MVPC Commissioners would be meeting the next day, February 16, and would be discussing an updated budget for FY'23 and proposed budget for FY'24.

**F. Meeting Minutes:** The Board members received minutes that afternoon but had not had time to review so agreed to put those on the next meeting.

**Motion:** With no further agenda items, Murphy asked for a motion to adjourn the meeting. Morse moved to adjourn the meeting and Matthews seconded. A roll call vote was taken and all members voted in favor.

The meeting was adjourned at 8:37pm.

**Materials reviewed at the meeting:**

- "Plan of Land at 17 Main Street in Newbury, Massachusetts"; prepared by John Paulson, P.L.S., Atlantic Engineering & Survey Consultants, Inc., 97 Tenney Street, Georgetown, MA; prepared for Roam Realty, 64 School Street, Merrimac, MA; dated Fe. 13, 2023
- "Notice of Intent and Special Permit Modification, 140R Main Street, Newbury, MA, C-5.2", prepared by Robert Roseen, Waterstone Engineering, 9 Greta's Way, Stratham, NH", prepared for New Leaf Energy; Notice of Intent Rev 4 dated 11/18/22, proposed minor changes to road layout dated 2/1/2023.
- "OSRD Grading/Drainage Plan, Sheet C1.22" of "Seagate 105 High Road, Newbury, MA Open Space Condominium Layout, Utilities & Stormwater Plan", prepared for DePiero Properties, LLC, Newburyport, MA; prepared by prepared by Stephen Sawyer, Design Consultants Inc, Somerville, MA, revision #8, dated 2/2/2023.
- "Farm View Lane 68 Green Street, Newbury, MA" landscaping plan dated 1/10/2022; drawn by Joseph Klufts checked by Greg Cole.
- "Dos Santos Farm View Lane, Newbury" landscaping plan dated 1/25/2023; prepared by Cole Landscaping, drawn by Joseph Klufts, checked by Greg Cole.

Respectfully Submitted,

Kristen Grubbs  
Assistant Planner