

Meeting Minutes
Newbury Planning Board
Wednesday, March 15, 2023
Virtual Meeting via Zoom

Final – Approved April 19, 2023

Members Present: Larry Murphy, (Chair); Peter Paicos; Woody Knight; George Morse; Leslie Matthews

Members Absent: 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 March 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 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.

Appearances/Submissions:

- **Tom Woodruff, The Governor’s Academy: Submission of Level II Site Plan Review Application for Walkway from Middle Road to the Alford Coastal Research Center**

Governor’s Academy Director of Facilities Tom Woodruff explained the purpose of the proposed sidewalk extension and new walkway is to provide safe pedestrian access from the main campus area of the school to the new Alford Coastal Research Center. Engineer Mark Beaudry shared a context plan to describe the project. The applicant has submitted a Notice of Intent filing with the Conservation Commission simultaneously with submittal of the Level II Site Plan Review materials to the Board.

A motion to accept the application was made by Matthews and seconded by Morse. All members voted yes in roll call vote. Matthews made a motion to set the public hearing date of April 19 at 7:15pm, an in-person meeting at the Town Offices. Morse seconded. All members voted yes in a roll call vote.

- **Bob Grasso, Engineering Land Services, LLC – Submission of ANR Plan for Lot Line Adjustments at 2 Marsh Ave., 19 Newbury Neck Road, and 21 Newbury Neck Road**

Engineer Bob Grasso was in attendance to explain the Form A submission for a lot line adjustment for parcels shown on the submitted plan. No new lots are being created; only internal lot lines between the three parcels are being adjusted. All parcels have adequate frontage and lot area. Board members had no questions. Paicos made a motion to endorse the plan. Matthews seconded. All members voted yes in a roll call vote.

Public Hearings – Continued:

- **Concurrent Public Hearings – 170 Orchard Street (Map R20, Lot 43A); Owner/Applicant: The Estate of Lewis Bulgaris, c/o Dianne Yurkovich**
 - **Definitive Subdivision Plan Application for “Fields Way,” 170 Orchard Street**
 - **Common Driveway Special Permit Application for Common Driveway serving two lots at proposed “Fields Way” Subdivision, 170 Orchard Street**

At 7:26pm, Murphy opened the concurrent public hearing. Murphy stated he had reviewed the video of the first hearing of the application, which he had missed, per the Mullin Rule. Murphy asked Paicos to summarize the observations made at the Board’s site visit on February 21.

Engineer Robert Griffin explained the revised plans have addressed comments from the Town’s peer review by engineer Joe Serwatka. They have done additional survey work and filled in questions previously asked regarding the stormwater and drainage questions, as well as other site considerations. Mr. McNiff has spoken to the abutters about concerns, including to the owner of #168 Orchard Street regarding the driveway layout. Griffin shared the revised plans and provided additional information about the soil testing completed, utilities, stormwater management, and other requested information.

Murphy said as part of the Common Driveway special permit review, the Board would like to review the viable access to lot 4 with a separate (not shared) driveway. Morse asked how long the drive is and if there was a limit to the length of the driveway. Taylor showed the plan showing the driveway on the screen which is located within the wetlands buffer zone. Griffin said this would need to be permitted with the conservation commission if it were to be built as designed (not as a common driveway).

Morse asked if the length of the driveway, being 600-700 feet, would require a waiver. Taylor said the driveway length would not be restricted but would require fire and safety review in addition to the conservation commission review. Matthews asked about the location of the fire hydrants and the utility pole at the entrance to the subdivision. Griffin said the pole would not need to be moved. Knight said he did not have questions at this time.

Paicos expressed concerns about the utility pole and the new road, and about the impact of the property’s shallow groundwater table on the house architecture and the stormwater management. He also asked about the arrangement of the septic fields as well as the current agricultural use of the parcel as defined by the Chapter 61A classification.

Murphy asked about the septic system of Lot 4 on the backyard of Lot 2, expressing concerns about the location and whether there was another option. Griffin said they did not have an alternative site with acceptable soils. Paicos expressed concern about the impact to neighbors on Pearson Drive, and said he was not comfortable with the location of the septic systems. Griffin replied the sites met Title V and would be approved by the Board of Health. Matthews asked about the potential for wet basements and the run-off of water relative to the slope of the site, expressing concern about the impact on future homeowners. Murphy asked if the fire department had reviewed the plan, especially the access to the common driveway, and Griffin said to his understanding they were satisfied. Murphy said he would like the submitted maintenance agreement to be reviewed by town counsel. Murphy asked about the shallow groundwater table and drainage of the proposed Fields Way entrance and right-of-way, as had been questioned in the peer review comments. Griffin explained because the right of way is narrow they are constrained to manage the stormwater as proposed. Taylor asking about the foundations of the house and Michael McNiff described the proposed grading and modifications such as perimeter drains, drywells, and/or sump pumps to address the high groundwater table.

There were no questions from members of the public. Murphy asked for a motion to continue the public hearing to April 19, 2023, 7:15pm, for an in-person meeting in the town offices. Knight so moved. Matthews seconded. All members voted yes in a roll call vote.

Murphy then took up New Business, out of order from the agenda due to a request by the 68 Green St applicant.

New Business:

- **3 Newburyport Turnpike: Request from T.J. Melvin, Millennium Engineering for approval of proposed modifications to approved site plan, as shown on “Site Plan in Newbury, MA showing proposed Site Improvements at 3 Newburyport Turnpike,” prepared by Millennium Engineering, Inc., revised March 8, 2023:**
 - **Change of bio-infiltration basin to rain garden due to existing soil conditions**
 - **Proposed relocation of connection to Newburyport water supply**

Engineer T.J. Melvin shared his screen showing the plan while Taylor explained the proposed changes. Due to soils to the east of the site not being as anticipated, the originally designed infiltration basin would be changed to be a rain garden in the same footprint, with an added outlet to drain the water collected into the wetland. The other change is the location of the connection to the Newburyport public water supply, which would move further south down Route 1 to an existing 8inch water main rather than drilling a new connection across Route 1. Taylor explained the changes would also be reviewed by the Select Board due to the Water Supply Overlay District requiring a special permit from the Select Board. Taylor asked if the applicant has had discussions with Mass DOT. Melvin explained that Newburyport has to ask Mass Dot. Melvin said the two changes also need to be reviewed by the Conservation Commission as an amendment to the Order of Conditions due to proximity to the wetlands.

Murphy asked for a motion to approve the proposed modifications as a field change contingent on review and approval by the other boards, the town’s peer reviewer, and the town planner. Morse so moved. Matthews seconded. All members said yes in a roll call vote.

- **23 Shandel Drive Ext. Subdivision: Request from Scott Kinter for approval of Declaration of Protective Covenants, Easements and Agreements Running with the Land**

Mr. Kinter explained the progress on the project since last being before the Board. They have finished the main house and plan to finish the landscaping by June. Taylor explained Town Counsel has reviewed the homeowners’ documents and approved the documents as now drafted. Paicos made a motion to approve the Declaration of Protective Covenants, Easements, and Agreements Running with the Land, contingent on final review and approval by town counsel. Knight seconded. All members voted yes in a roll call vote.

Old Business:

- **68 Green Street Subdivision (Farm View Lane): Request from Michael Dos Santos, Crane Properties, for:**
 - **Approval of:**
 - **Declaration of Trust, Farm View Lane Homeowners Trust**
 - **Declaration of Common Scheme Restrictions**
 - **Release Deed, Ray L. Andrews and Elizabeth H. Andrews**

Attorney Jennifer DiCarlo was in attendance representing the applicant and explained there had been a lot of back and forth over the last several days with Newbury’s Town Counsel and Taylor, and that as of late that afternoon there was agreement on the language of the homeowners’ documents. Applicant Michael Dos Santos was in attendance and said things were in good shape. Taylor agreed following a lot of back and forth between the attorneys, there were just a few small administrative details left to finalize.

Murphy asked for a motion to approve the Declaration of Trust, the Declaration of Common Scheme Restrictions, and the Consent for the Release Deed for the Andrews, contingent upon final approval of town counsel. Matthews so moved. Morse seconded. All members voted yes in roll call vote.

- **68 Green Street Subdivision (Farm View Lane): Request from Michael Dos Santos, Crane Properties, for:**
 - **Full release of Lot 3 from the Restrictive Covenant, dated February 16, 2021, recorded at Southern Essex Registry of Deeds, Book 39692, Page 181**

Dos Santos explained to the Board that all final items regarding the legal documents and homeowner's association had been resolved. Dos Santos asked for the Release so that the lot can be conveyed. Taylor said the town's peer review engineer had stated the utilities were completed to allow this vote. Murphy asked for a motion to "release lot 3 contingent on final review and approval of the homeowner's association documents by Town Counsel and execution of the same, and to authorize the Chair to sign Form E, the Certificate of Release for Lot 3." Paicos made the motion. Knight seconded. All voted yes in roll call vote.

Planning Director's Report

Taylor explained that public meetings would be back in person as of April 1, 2023 since the legislature's emergency declaration allowing for remote meetings was expiring. Taylor also mentioned a statement that has been released by the Attorney General's Office regarding municipal compliance with the MBTA legislation that she would share with the Board.

Liaison Reports:

- Select Board - Matthews mentioned the joint meeting held on March 7 regarding the municipal building project.
- Zoning Board of Appeals – Murphy said the next ZBA meeting would be tomorrow night.
- Conservation Commission - Paicos said the last Cons Comm meeting was March 7, the same date as the concurrent Planning Board meeting with the Select Board, so he was not able to attend the Commission's meeting.
- MVPC – Taylor mentioned the upcoming Commissioners' meetings and MVPC Planners meetings. In addition, there will be a regional Community Economic Development Strategy (CEDS) meeting next week that Grubbs will be attending for Newbury.

Planning Board Meeting Minutes – Minutes for January 18, 2023 and February 15, 2023 meetings were disseminated. Board members will review them and vote to approve at the next Planning Board meeting.

Motion: Matthews moved to adjourn the meeting. Knight seconded. All voted yes in roll call vote. The Meeting was adjourned at 8:33pm.

Materials reviewed at the meeting:

- Governor's Academy Site Plan Review Application
- ANR Plan for 2 Marsh Ave., 19 Newbury Neck Road, and 21 Newbury Neck Road
- 170 Orchard Street revised plans
- 3 Newburyport Turnpike revised plans

Respectfully Submitted,

Kristen Grubbs
Assistant Planner