

Meeting Minutes
Newbury Planning Board
Wednesday, May 17, 2023
Virtual Meeting via Zoom

FINAL - Approved June 7, 2023

Members Present: Larry Murphy (Chair); Peter Paicos; Woody Knight; George Morse; Mary Stohn (Associate Member)

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 Planning Board members present included: Paicos, yes; Morse, yes; Knight, yes; Murphy, yes. Planning staff members Taylor and Grubbs were also present and stated so: Taylor, yes; Grubbs, yes. Murphy welcomed applicants and their representatives.

Opening Statement from Chair: Murphy announced that this May 17, 2023 Open Meeting of the Newbury Planning Board was being conducted remotely in accordance with Chapter 2 of the Acts of 2023, 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, 2025. 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 announced that Leslie Matthews has resigned from the Planning Board due to her election to the Select Board in the Newbury May 9, 2023, election. Murphy acknowledged Matthews' contributions as a member of the Planning Board and thanked her for the same. Murphy turned to the agenda and asked the Planning Board members to give their liaison reports.

A. Liaison Reports: Board members gave brief reports as liaison to the following committees.

- **Select Board:** Matthews was formerly liaison to the Selectboard (SB) so was not in attendance to give her report. Instead Taylor provided a few comments. The next SB meeting will be on May 23. Rob Roseen will be bringing the Conservation Restriction Amendment (CRA) to the SB for their approval at this meeting. The CRA was required as part of the Special Permit conditions of the Borrego solar installation project.
- **Zoning Board of Appeals:** Murphy said the regular meeting will include an agenda item to demolish and construct a new single-family structure at 6 Olga Way on Plum Island.
- **Conservation Commission (CC):** Paicos said the CC met last night and had a light agenda. He announced that starting on July 1, CC meetings will be starting at 6pm instead of 7pm.
- **MVPC:** Taylor stated that the Commissioners meeting is tomorrow. Presentation of the final draft Comprehensive Economic Development Strategy plan will be on the agenda for review and approval. The draft is on the MVPC website for public review.

B. Director's Report:

Taylor said the Town applied for and has received an award for technical assistance from the Mass Housing Partnership (MHP) from the "3A TA" assistance fund to help with meeting requirements of the MBTA legislation for multi-family zoning. MVPC will be the Town's technical consultant. Staff met today with MVPC staff to start talking about scope of work. Katy Lacy from MHP also joined the meeting. The project will be helping the Town with multi-family zoning district selection, drafting a zoning bylaw, and preparation for the Town Meeting article next spring. There is now a MBTA page on the Town website to which materials for the project will be added for the public as the process moves forward. Staff have also met with MVPC staff regarding the Housing Production Plan. There will be meetings with the PB and other stakeholders sometime in June for a housing data presentation. Taylor also informed the PB that the proponents of a development at 7 Larkin Road would like to bring revised plans back to the PB for another informal discussion. Taylor reported that a Common Driveway Special Permit application will be coming to the Board for a property on Bittersweet Lane.

C. Public Hearings:

**Concurrent Public Hearings (continuance) – 170 Orchard Street (Map R20, Lot 43A);
Owner/Applicant: The Estate of Lewis Bulgaris, c/o Dianne Yurkavich**

- 1. Definitive Subdivision Plan Application for "Fields Way," 170 Orchard Street**
- 2. Common Driveway Special Permit Application for Common Driveway serving two lots at proposed "Fields Way" Subdivision, 170 Orchard Street**

Murphy opened the continued concurrent public hearings for 170 Orchard St at 7:15pm and welcomed the applicants. Murphy explained to the applicant that there is now a vacancy on the PB due to Matthews' departure, and their project will need 3 votes for approval of the Subdivision application and will need 4 votes (a unanimous vote by all PB members) for approval of the Special Permit. Griffin said they were prepared to move forward with review by the 4 current PB members.

Murphy stated the Board had received the revised plan as well as draft Homeowner's Association documents, and asked for the applicants, engineer Bob Griffin and developer Michael McNiff, to give an update on the project. Griffin asked to share his screen and described the project updates. Since the last PB meeting, the applicants held a site walk with the Conservation Commission and attended that board's public hearing. They received an Order of Conditions from the Cons Comm, which included the addition of an agricultural easement drive, located in the wetlands buffer zone, leading to the farmland, Parcel A. Griffin continued to explain how they have addressed the "homework" that the Planning Board had asked them to deal with. They have created a lot line separating the agricultural land from the other lots. This agricultural parcel has no frontage but would have an access easement across the house lots. They are proposing a split rail fence along the boundary between the ag land and the house lot #4. McNiff has had conversations with Essex County Greenbelt and with the farmer Mr. Herrick both of whom are supportive of the active farming continuing on the agricultural parcel. Griffin described the change in frontage and the tighter lot lines for house lots 3 and 4. McNiff filed a work request for moving the telephone pole by Orchard St., and National Grid came out and said they need to replace that pole anyway, and they would move it farther away from the entrance.

Griffin said they had considered the Board's request to have a 3-lot project rather than 4, but said that 3 lots don't work for the seller or for Mr. McNiff due to the cost of the subdivision road. Griffin said that if the PB can't see its way to approving 4 lots, the property will probably go back on the market.

Murphy asked the PB members if they had any comments or questions. Paicos thanked the applicant for doing the homework re: the telephone pole and the lot configuration with the ag land. Paicos asked how the lot lines will

affect the common driveway layout. Morse said he is liking the way the plan is looking and would also like to hear more about the new common driveway layout. Knight agreed. Stohn wondered how much land is in the Parcel A agricultural lot? Answer is the lot is 14 acres of which approximately 7.7 acres are farmed. Griffin said that he thinks Greenbelt likes the plan though they haven't taken any official vote on it. He said they have not finalized arrangements with Greenbelt. There could be a 99-year lease for the ag land or a conveyance of the fee ownership. He said that Greenbelt would prefer a fee simple conveyance of the land.

Murphy asked about the common driveway specs. Griffin said the common driveway is in the same location and is the same length, but has been pushed over a little so as to allow room for the farm road access to travel between the wooded area and the common driveway near Lot 4. Murphy stated that the common driveway special permit criteria requires that there be adequate access to the house lots without a common driveway, and asked if the applicant would demonstrate that access relative to this new iteration of the plan. Griffin showed the access. Murphy asked again whether three lots would work, merging lots 3 and 4 into one house lot with a duplex. McNiff answered, saying he is speaking on behalf of the Trustees of the Trust, clarifying that he is not buying the property. He said that combining lots 3 and 4 would not be feasible due to the requirements and expense of building the road. McNiff said he is hoping this plan as now laid out is a good plan for the Town and for Greenbelt, and, if not, the property will probably go back on the market. McNiff mentioned the abutting parcel, owned separately, could potentially also be conservation land which is of interest to Greenbelt.

Murphy stated that if there were a way to do 3 house lots it would probably simplify things, in that the applicants could get permits for this without needing a special permit for the common driveway, and this would also eliminate the need for the mounded septic system for Lot 4 behind Lot 2. Paicos also asked about consideration of a duplex, suggesting that there has been a demonstrated market for duplexes at other sites in Newbury. Paicos asked if staff had any concerns or comments. Taylor commented that there are still concerns about the common driveway, asking whether there is viable access from its frontage, including safe travel for emergency vehicles, to lots 3 and 4 in the layout for separate driveways in the revised plans. Griffin said he could send a letter to the Board showing the revised layout for the driveways and explaining why they are asking for a common driveway. Taylor reiterated that if you are creating lots on a plan, you need to be able to show that there is viable access from each lot's frontage, and on the May 5 version of the plan, there are questions about the viability of the access from the frontage of Lot 4. Griffin said he would work to tweak the lot lines to make it work. Murphy clarified that no one is suggesting they prefer two parallel driveways but stated that the special permit regulations required that finding for approval. Morse asked if the applicant could address snow storage on the parallel driveway plans. There were no other board member questions. Taylor asked if the applicant could prepare communications for the next meeting that clarifies what and where all of the necessary easements for the project are.

Murphy asked if there were any public comments. Scott Melanson and Valerie Clark from 173 Orchard St were in attendance. Melanson asked about the location of mailboxes for the subdivision, requesting that that be shown on the next plans.

Griffin asked that the Town review the legal documents that have been sent and let them know any changes or questions, and said he would work on revising the plans. The applicants have submitted a letter granting the PB with an extension of Time for Action until August 1, 2023. Murphy asked for a motion for continuance of the public hearings.

Motion: Morse made a motion to continue the public hearing for the Subdivision Plan to the June 7, 2023, Planning Board meeting at 7:15 p.m. via Zoom. Knight seconded the motion. There was no further discussion. A roll call vote was taken: Paicos, yes; Morse, yes; Knight, yes; Murphy, yes. Stohn was in accord.

Motion: Morse made a motion to continue the Common Driveway Special Permit public hearing to the June 7, 2023, Planning Board meeting at 7:15 p.m. via Zoom. Knight seconded the motion. There was no further discussion. A roll call vote was taken: Paicos, yes; Morse, yes; Knight, yes; Murphy, yes. Stohn was in accord.

Public Hearing (continuance): Site Plan Review Approval Application for construction of a sidewalk extension and pedestrian walkway and related site improvements on the Governor's Academy campus, Byfield, MA, at 313 Newburyport Turnpike (Map R15, Parcel 11) and 306 Middle Road (Map R15, Parcel 5); Owner/Applicant: The Governor's Academy, 1 Elm Street, Byfield, MA

At 7:44pm, Murphy opened the public hearing for the Governor's Academy Site Plan Review Application continued from April 19, 2023 and asked the applicant to bring the Board up to speed on the revisions.

Mark Beaudry from Civilworks New England, opened the presentation. Tom Woodruff Director Facilities at Governor's Academy (TGA) screen shared. Beaudry explained three small changes. Woodruff met with a site contractor on site and made some suggestions for a more environmentally sensitive plan. 1) The walkway was raised up about 6 more inches to provide for more clearance of the path around the boulders. 2) The pathway was routed around the trees to avoid the ledge outcrop and to stay farther away from the tree roots of the two large oak trees. This route mitigates impact to the trees. 3) At the top of the pathway near the Facilities driveway, the Path drops out onto the driveway just above the catch basin. A curb cut will be opened up to catch the stormwater from the facility buildings. Beaudry stated that the changes to the plan are addressing some issues now that they feel might have come up on site during construction. The changes have been reviewed and well received by staff. Beaudry said they understand the project changes will have to go back to the Conservation Commission for approval as well.

Woodruff said he was happy to answer any questions. Taylor stated there had been a site visit which staff attended but no board members. Paicos asked if Woodruff could review the homework the applicant had done about the lighting of the path. Woodruff explained: 1) There could be an amber color for the lights but that would require that more lights would be used along the path and the school would not prefer this. 2) The lights could be set up as motion-activated, however this brings complications because the lights on each side of the road need to be on different switches, and this approach is not reliable. This would not be the school's preference. 3) Regarding the scheduling of the lights, the school feels this would lead to an unsafe condition on the path due to its being used outside of student use, so the school would like to keep the lights on for safety and security reasons during the dusk to dawn hours.

PB Chair Murphy lost his internet connection to the meeting at approximately 8:00pm. Vice Chair Paicos stepped in to lead the discussion and asked if the other Board members had any questions. Morse had no additional questions and appreciated the security concerns being addressed. Knight had no further questions. Stohn had no questions.

Murphy continued to try to rejoin the meeting. There were no questions from the public. Paicos asked Taylor to lead discussion of the Board's site plan review criteria for the Governor's pathway project. She brought the list of the decision criteria up on the shared screen.

- Minimize volume of cut and fill - The Board had no concerns.
- Removing trees - The Board had no concerns.
- Wetland vegetation displaced - The plan has an Order of Conditions already and will go back to the Cons Comm for an amendment.
- Soil erosion - The Board had no concerns.

- Air and water pollution - The Board had no concerns.
- Traffic congestion - not applicable.
- Disturbance on any current stone walls – not applicable.
- Adequate stormwater management - Taylor said the revised plan needs stormwater review so those peer review comments will be brought back to the Board.
- Maximize safety for pedestrians and vehicles both entering and exiting the property – no concerns
- Adequate access for fire and safety – no concerns
- Minimize obstruction of scenic views from public locations – no concerns
- Minimize visibility of parking areas and storage – not applicable
- Minimize intrusion of glare from headlights or other lights – no concerns
- Minimize unreasonable departure from character and scale of vicinity – no concerns
- Prevent contamination of groundwater – no concerns
- Enhance the appearance of the property – no concerns
- Minimize impacts on adjacent properties – no concerns
- Ensure compliance with bylaw for parking and signage – not applicable

Paicos asked for consensus of the Board if the decision is ready to be drafted? Morse, yes. Knight, yes. Stohn, yes. Paicos said they will wait for peer review and then bring the draft decision back to Board at its next meeting. Taylor suggested the decision could be ready to bring back to the Planning Board on June 7, 2023. Murphy rejoined the meeting at approximately 8:15pm and stated he did not have any additional concerns.

Motion: Knight made a motion to continue the Governor's Academy pathway public hearing to the June 7, 2023, Planning Board meeting at 7:15 p.m. via Zoom. Morse seconded the motion. There was no further discussion. A roll call vote was taken: Paicos, yes; Morse, yes; Knight, yes; Murphy, yes. Stohn was in accord.

D. New Business

- a. **68 Green Street (Farm View Lane):** Request from Michael Dos Santos, Crane Properties, LLC, for Approval of revised Grading Plan for Lot 2

Michael Dos Santos stated that the buyers for Lot 2 are interested in walking off the first floor so have asked to bring up the grade on the lot. Dos Santos explained that the revised grading plan was already approved by the Conservation Commission because the grading is within the wetlands buffer and fence line. Murphy said there was a condition in the Planning Board's decision that grading changes come before the planning director and the Town's peer review. Dos Santos shared the plan on his screen to describe the change. Due to the high water table at the site, the original plan was to have a walk-out basement. The proposed change is to bring in fill and have a walk-out first floor. Dos Santos said that the slope would now be 3:1.

Murphy asked if the Board members had any questions. Paicos asked the applicant to describe the elevations. Dos Santos said the starting grade elevation is 24 feet which will grade down to 15-16 feet. Paicos asked about the markers. Dos Santos said he would meet in the field with the Conservation Agent to discuss the options for a split rail fence or granite markers or boulders to demarcate the wetlands. Taylor said that the town's peer review has received the revised grading plan but has not yet made comments. Morse has no questions. Knight asked whether plan has already gone through Conservation? Yes, it has. Stohn and Murphy had no further questions.

Taylor explained that the peer review engineer had originally been concerned about stormwater on the site, which is why the PB decision had had a condition that the grading plan needed to be submitted to be reviewed.

Motion: Paicos made a motion to get the proposed grading changes to the Town's peer review and the Planning Director for their review and approval. Knight seconded. A roll call vote was taken: Paicos, yes; Morse, yes; Knight, yes; Murphy, yes. Stohn was in accord.

Murphy asked if Paicos would take control of chairing the meeting as he was having problems with his video. Murphy's audio was fine and he stayed on the meeting.

- b. **68 Green Street (Farm View Lane):** Request from Michael Dos Santos, Crane Properties, LLC, Approval to use asphalt instead of gravel for the wearing surface on the driveway for Lot 2

Paicos asked Taylor if the request was a modification of the approved plan. Taylor said yes, that all the driveways on the approved subdivision plan were shown as gravel. Paicos asked his fellow board members to consider that if one driveway gets paved, then other driveways in the subdivision would likely follow suit, and that might have a greater impact on stormwater management across the site. Murphy asked how long the driveway is. Dos Santos answered 600 feet long and 12 feet wide. Murphy said it was starting to sound like a major modification. Paicos asked other Board members their thoughts. Knight said it sounds like a significant modification. Morse said with the amount of pavement involved it might be a major modification. Stohn agreed. Taylor agreed it seems like a significant change from the approved plan.

T.J. Melvin, Millennium Engineering, Inc., stated that a paved surface would not be a significant change in terms of permeability; in fact, the change would have a runoff coefficient of 96% (gravel) to 98% (pavement). Murphy suggested that the Town could wait to receive the peer review comments on the stormwater change and then decide whether it would be a major or minor modification. Dos Santos said that he understood the PB's concerns about the request and his team would meet internally and would wait for comments from peer review. Taylor added that the original decision included gravel drives so as to be in character with the rural neighborhood, so that would also be a consideration of the Board. Because this discussion was not a public hearing it can be brought back to a future meeting as needed.

Paicos continued to chair meeting for discussion of two requests for permit extensions as described below.

E. New Business:

- a. **3 Newburyport Turnpike:** Request from T.J. Melvin, Millennium Engineering, Inc., on behalf of Bavaro Family Realty Two, LLC for Extension of Time for Completion of Work to July 2024 (Site Plan Review Approval Granted 5/19/2021)

Motion: Morse made a motion to grant an extension for completion of the work at 3 Newburyport Turnpike until July 31, 2024. Knight seconded. A roll call vote was taken: Morse, yes; Murphy, yes; Knight, yes; Stohn, yes; Paicos, yes.

- b. **84 Boston Road:** Request from T.J. Melvin, Millennium Engineering, Inc., on behalf of K & R Construction Company for Extension of Time for Completion of Work to July 2024 (Site Plan Review Approval Granted 5/19/2021)

Motion: Morse made a motion to grant an extension for completion of the work at 84 Boston Road until July 31, 2024. Knight seconded. A roll call vote was taken: Murphy, yes; Morse, yes; Knight, yes; Stohn, yes; Paicos, yes.

Motion to adjourn: Knight moved to adjourn the meeting. Paicos seconded. The Board took a roll call vote: Paicos, yes; Morse, yes; Knight, yes; Stohn, yes; Murphy, yes. The meeting was adjourned at 8:38pm.

Materials reviewed at the meeting:

- “Definitive Subdivision Plan for Fields Way,” 170 Orchard Street, Newbury, MA, January 2023; Prepared for Owner/Applicant: The Estate of Lewis Bulgaris, c/o Dianne Yurkavich, 2 Lavallee Lane, Newburyport, MA 01915; prepared by Robert H. Griffin, Griffin Engineering Group, LLC, 495 Cabot Street, 2nd Floor, Beverly, MA 01915; dated 1/4/23.
- “Application for Definitive Subdivision Plan & Common Driveway Special Permit for Fields Way (4-Lot Residential Subdivision), Assessor’s Map R-20, Parcel 43A - 170 Orchard Street”, prepared by Griffin Engineering Group, LLC, dated January 4, 2023.
- 170 Orchard Street - Definitive Plan(C-7)-DRAFT-050523
- 170 Orchard Street - Figure 1-LotSketch-DRAFT-050523
- 170 Orchard Street - FullParcel-Aerial-LotSketch-050523
- Proposed Walkway Project, Middle Road, Byfield, MA,” prepared for the Governor’s Academy by Civilworks New England, March 1, 2023 - Revised: May 15, 2023
- The Governor’s Academy Sidewalk_Path PB letter: May 11, 2023
- 68 Green Street (Farm View Lane): Plan of Land showing Lot 2 at 68 Green Street, Millenium Engineering, dated July 28, 2022, Revised 4/14/23 Adjusted Grading Around Foundation
- 3 Newburyport Site Plan Review - Extension Request letter dated 051523
- 84 Boston Road Site Plan Review - Extension Request letter dated 051523

Respectfully Submitted,

Kristen Grubbs
Assistant Planner