

Meeting Minutes
Newbury Planning Board
Wednesday, June 7, 2023
Virtual Meeting via Zoom

FINAL – Approved August 2, 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; Knight, yes; Murphy, yes; Stohn, yes. Planning Director Taylor was also present and stated so. (Planning Board member Morse joined at 7:03pm and Assistant Planner Grubbs joined at 7:10pm.) Murphy welcomed applicants and their representatives.

Opening Statement from Chair: Murphy announced that this June 7, 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 turned to the next agenda item, committee liaison reports.

A. Liaison/Meeting Reports:

- **Select Board** – Taylor gave the report for the Select Board. The Board voted to accept a grant of \$341,000 from NOAA, to support a culvert replacement project at Orchard Street. Taylor reminded the Board that this culvert was identified by the Great Marsh Resiliency Planning project as a barrier to flow. Replacement will reduce the flooding of Cart Creek over Orchard St. The Select Board reorganized at their recent meeting, with Greco remaining as Chair, new member DiMaio as Vice Chair, and new member Matthews as Clerk. The Board also approved the Conservation Restriction Amendment for the 140R Main St solar project and it has been recorded at the Registry. The Board approved an agreement with the Town of Merrimac to share the time of the Town’s Conservation Agent: Samantha Holt will now work 25 hours per week for Newbury and 10-15 hours for Merrimac. The Municipal Building Committee will be providing its final report to the Select Board at the June 27th meeting.
- **Zoning Board of Appeals** – Murphy gave the report from the ZBA meeting of May 18th. They approved a Special Permit to demolish and reconstruct a building at 6 Olga Way.
- **Conservation Commission** – Paicos stated that the Commission has now begun starting their meetings at 6pm instead of 7pm.
- **MVPC** – Taylor reported that the next MVPC Commissioners’ meeting will be the third Tuesday of June.

B. Planning Director's Report: Murphy asked Taylor to give her planner's report. Taylor reported that revisions to the draft 2023 Master Plan have been completed by the Town's consultant, and plans are underway for a public meeting to present and discuss the Plan on June 29, 2023, at the Library. The Draft Plan will be posted on the Town website as well as a survey for public input on the vision, goals, and actions. The Plan will be brought back to the Planning Board for adoption in July. The Town developed a scope of work for MVPC to provide technical assistance to Newbury for the MBTA Communities zoning effort. The scope has been sent to Mass Housing Partnership for review. As soon as it has been received back that technical assistance will begin. The applicants for 7 Larkin Road have submitted a revised subdivision plan for informal review by the Planning Board at its next meeting. Staff attended a pre-construction site visit at 140R Main St for the construction of the access road to the solar array project. Construction is scheduled to begin next week and be complete by mid-September.

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**
 - **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**

Murphy opened the continued concurrent public hearings for 170 Orchard St at 7:15pm and welcomed the applicants. The applicants have submitted revised plans showing a reconfiguration of frontage for lots 3 and 4 and a feasibility access plan for the individual driveways for the Common Driveway special permit application. Engineer Griffin shared his screen to talk the Board through the revised plan for the driveways. Griffin explained they had added a new agricultural easement along the common driveway for farm use. After summarizing the plan changes Griffin asked if he could answer any questions.

Murphy asked if Griffin could show and describe all of the easements. Griffin described:

- Multiple drainage easements for the Home Owner's Association to do stormwater management & plowing, etc.: under the common driveway for lots 3 & 4; under a corner of Lot 2; under a corner of Lot 1; and under the private road, Fields Way
- agricultural access easement across Lot 3 and along the common driveway on Lot 4, for the benefit of the access for the farmer (to be determined)

Taylor stated that Essex County Greenbelt Association staff have received the revised plan, and has said they continue to be interested in considering owning the agricultural land depending on the configuration.

Taylor asked Griffin to clarify the agricultural easement area and also the easement for the benefit of the home at #168 Orchard St. Griffin said yes, the owner of 168 Orchard will have a right to access across Fields Way to get to his house lot. The draft easement deed exists but it isn't shown on the plan.

Murphy asked about safety and access for the feasibility plan for the driveways. Taylor sent the plan to the fire department but had not received any comment. Taylor asked Griffin if he had done a sweep path analysis. Griffin said there is enough room for a fire truck to travel the feasibility plan's driveway layout. Taylor asked Griffin how long the frontage for Lot 3 is on this plan. Griffin stated that Lot 3 has 130 feet of frontage.

Murphy asked if Paicos had any questions. Paicos asked Taylor if Greenbelt would weigh in now. She replied that Greenbelt has said they would like the permitting to be completed before they provide any definitive response. Paicos said he had been concerned about the feasibility access but that had been clarified by Taylor's questions.

Murphy asked if Morse had any questions. Morse said he had reviewed the draft easement presented by the applicant and shared a number of comments. He has shared these comments with staff to share with the applicant; these issues will need to be addressed by legal counsel.

Murphy asked if Knight had any questions. Knight said he was looking for clarification about the agricultural easement and about the revised driveway layout for 168 Orchard access. Griffin said they would construct the revised driveway for 168 Orchard St.

Murphy asked Stohn if she had any questions. Stohn asked if there is a backup plan if Greenbelt is not interested in owning the farmland. Griffin said they do not have a backup plan at this point. McNiff said he thinks Greenbelt was excited about it but was not ready to accept it until after the permitting. Griffin said they had spoken to an organic seed company in Maine that expressed interest but he had not pursued it further. Paicos stated this was a good point raised by Stohn and asked Taylor if there should be a condition that specifies these considerations. Taylor said a decision could use similar language to the Board's recent 15 Coleman Rd decision regarding the requirement for open space.

Murphy asked if there were any public comments, and called upon Peter Mack, of 168 Orchard St. Mack said he and his wife have not received any draft of the easement and they would like their attorney to review it. They would like it to affirm that the right to pass be in perpetuity so when property changes hands it goes with the deed. Mack also asked that the new driveway be aligned squarely with the house. Mack said at one point the Board had discussed a traffic study and he wondered if there had been one. Paicos commented the Board did not make a motion to request the traffic study.

Former Planning Board member Leslie Matthews, 111 Main Street, asked for more clarification about the radius of the access for lots 3 and 4 from the cul-de-sac, and whether this was feasible access. Matthews also asked if Essex County Greenbelt were to receive the open space, would they leave it as is or allow a local farmer to continue to farm. Griffin replied that Greenbelt had said they would want to keep the local farmer farming the land or they would otherwise keep it in active agriculture.

Mr. Mack asked about the Home Owner's Association, and whether his house at #168 Orchard St. would be exempt from the HOA in perpetuity. Yes, McNiff replied it would be in perpetuity. Murphy said it was the expectation of the Board that the easement would run with the land.

Murphy asked for a straw poll from the Board if they are comfortable going forward with the 4-lot plan. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

Murphy asked Taylor for guidance on next steps and Taylor suggested Board members review the following requests for waivers:

1. Environmental analysis - Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.
2. General layout and Dimensions (30-foot property line radius at street intersection): Paicos: no; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.
3. Street location (ROW width) - Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes
4. Roadway cross-section - Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes

5. Sidewalks/bikeways - Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes
6. Street trees - Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes

Murphy asked whether the board members are comfortable with the feasible access plan for the two driveways. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

Murphy said there is still a lot of work to do but said it appears the Board is comfortable moving forward with this plan and asked Taylor about drafting the decision. Morse suggested there be an outline of all of the elements to cover in the decision, to assist with drafting the findings and justifications for the waivers and the conditions. Taylor asked if there needed to be more discussion on the common driveway, and commented that the Common Driveway special permit needs to be approved in order that the subdivision plan be approved. Morse asked if Town Counsel would look at the common driveway feasibility study and provide any comments to the Board. Murphy asked for motions to continue the public hearings.

Motion: Morse made a motion to continue the public hearing for the definitive subdivision to June 21, 2023 at 7:15pm via Zoom. Knight seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

Motion: Knight made a motion to continue the public hearing for the Common Driveway Special Permit to June 21, 2023 at 7:15pm via Zoom. Morse seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

- **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 8pm, Murphy opened the public hearing for the Governor's Academy site plan review for a pedestrian walkway. Murphy explained that the Town's peer review engineer had reviewed the small changes in the plan and had found that all the proposed modifications were acceptable. Engineer Mark Beaudry was present to answer any questions and thanked Board for opportunity to review the draft decision which they had found to be acceptable. No Board members had any additional questions or comments and there were no public comments.

Taylor shared the draft decision on the shared screen. Board members had reviewed draft. Taylor walked through the decision, pointing out a few small edits. Murphy asked each Board member if there were any questions or concerns. Everyone was happy with the draft.

Motion: Paicos made a motion to approve the decision as discussed and amended. Morse seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

Motion: Morse made a motion to close the public hearing. Paicos seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

Taylor explained there would be 20 days for the appeal period - 20 calendar days after the decision is filed with the clerk.

- D. Old Business** – There was no old business.
- E. New Business**

Motion: Paicos made a motion to recommend to the Select Board the appointment of Mary Stohn to fill the vacancy as a full member of the Planning Board, which was left by Leslie Matthews when she was elected to the Select Board at the Town election in May. Knight seconded. Paicos yes, Morse yes, Knight yes, Murphy, yes.

Motion: Paicos made a motion to recommend to the Select board that Woody Knight be appointed to fill the seat of the Planning Board member of the Conservation Commission for a term of three years. Morse seconded. Paicos: yes; Morse: yes; Stohn: yes; Murphy, yes.

Motion: Morse made a motion to recommend to the Select Board that Planning Director Taylor be appointed for a one-year term as Newbury representative to MVPC commissioners. Knight seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

Motion: Paicos made a motion to recommend to the Select Board that Murphy be appointed for a one-year term as Newbury's alternate representative to the MVPC commissioners. Knight seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes.

F. Meeting Minutes

Motion: Knight made a motion to approve the May 3rd, 2023 meeting minutes. Morse seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

Motion: Morse made a motion to approve the May 17th, 2023 meeting minutes. Paicos seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

Motion: Knight made a motion to adjourn the meeting. Morse seconded. Paicos: yes; Morse: yes; Knight: yes; Stohn: yes; Murphy, yes.

The meeting was adjourned at 8:17pm.

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; revised 6/1/23.
- Feasible Access Plan for 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 6/1/23.
- Draft Site Plan Review decision for the Proposed Walkway Project, Middle Road, Byfield, MA, prepared for the Governor's Academy, dated 6/7/23.

Respectfully Submitted,

Kristen Grubbs
Assistant Planner