

**Meeting Minutes**  
**Newbury Planning Board**  
Wednesday, July 19, 2023  
Virtual Meeting via Zoom

***FINAL – Approved August 2, 2023***

Planning Board Chair Larry Murphy opened the Planning Board (PB) meeting at 7:00 p.m. Murphy took a roll call of Planning Board members present: Paicos, yes; Morse, yes; Knight, yes; Stohn, yes; Murphy, yes. Planning Director Martha Taylor and Assistant Planner Kristen Grubbs were also present and stated so. Murphy welcomed applicants and their representatives.

Opening Statement from Chair: Murphy announced that this July 19, 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 first agenda item.

**A. Liaison/Meeting Reports:**

- Zoning Board of Appeals - Murphy reported that the ZBA will be holding a public hearing for alteration of a conversion of a retail operation into a single-family dwelling with an increase in height on Plum Island.
- Conservation Commission - Knight reported that the Commission is reviewing a few active projects on Plum Island and a few enforcement orders.
- MVPC - Taylor reported that the MVPC Planners Group and Commissioners’ are taking a break from meetings until September.

**B. June 2023 Financial Report:**

Murphy read the Planning Board expenses for the month of June, 2023.

Because there was extra time before the 7:15pm start of the public hearings, Murphy took an item out of order from the agenda and asked Taylor to give her Planning Director’s report.

**C. Planning Director’s Report**

Taylor reported that the Municipal Building Committee gave its final report and recommendations to the Select Board at the Board’s meeting in late June. The Select Board considered a renewed entertainment license for The Sunset Club, and also made several appointments to volunteer committees. Taylor reported that she would be distributing authorization forms to be signed for the Planning Board Chair and Vice Chair to approve expenses and to provide signatures to the Registry of Deeds. She said that she and Grubbs have several upcoming planning meetings with MVPC, including reviewing the Energy Reduction Plan for the Town’s Green Communities applications, housing production planning, and transportation planning.

**D. Planning Board Meeting Minutes**

Not all Board members had reviewed the three sets of Planning Board meeting minutes that had been submitted.

Motion: Paicos made a motion to review the minutes at the next Planning Board meeting on August 2, 2023. Morse seconded. All members voted: Paicos, yes; Morse, yes; Knight, yes; Stohn, yes; Murphy, yes.

After a few minutes, Murphy opened the public hearings at 7:15pm.

**E. Public Hearings:**

- Concurrent Public Hearings (continuances): 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 the 170 Orchard St application and welcomed engineer Bob Griffin to share his screen showing the revised plan. Griffin showed revisions that had been made, including the addition of 4 street trees in the vicinity of Lots 1 and 2, and widening the width of the agricultural access pathway from 14 to 15 feet (a request made by Essex County Greenbelt staff) and slightly modifying the access path location. Griffin explained they had slightly altered the entrance of the new subdivision road and modified the location of the new driveway for #168 Orchard St. off of the subdivision road.

Taylor described the site visit with Greenbelt stewardship staff, Michael McNiff, Taylor, and Grubbs, held on Friday, June 30. Greenbelt had made some requests as described, to provide better access for farm equipment, and also offered to draft the agricultural easement documents. Taylor explained to the PB that Greenbelt also has raised the question of providing public access to the open space parcel across Fields Way, in the event that at some future date the property is not used for agriculture but could be mowed paths through the fields.

McNiff said the attorneys and owners of the property did not want any public access across the private way due to the potential of an increase in traffic and inviting other problems, and also the consequent liability placed on the HOA. McNiff said he had talked with Essex Agricultural School and they would be willing to work with a farmer for the agricultural property.

Murphy asked board members if they had any questions. Paicos said he appreciated all the work that has been done, also appreciates where Greenbelt is coming from. Suggested the applicant needs to work on clarifying the question of public access with Greenbelt. Paicos mentioned other subdivisions in Newbury in which public access has been conveyed.

Morse asked about the wetlands on the property, suggesting they should be protected and not impacted by any public access or future use.

Knight agrees that if the land is not going to be tilled yearly, Greenbelt will want to manage the property as grassland for habitat benefit, and for people to enjoy. He thinks public access is appropriate for the property as an option “B” if the property is not used as active agriculture. Stohn asked for clarification from Knight.

Scott and Valerie, 173 Orchard St: As abutters across the street, the discussion about public access is concerning relative to any added traffic that might come to use the property for recreational use. Murphy commented that the discussion is about a contingency plan.

McNiff expressed additional concerns, particularly about liability and commented that public access is impracticable. Murphy suggested the question of public access is connected to the requirement of public benefit for granting waivers and suggested the applicant continue to work on this with Greenbelt.

David Powell, 5 Kent Way, gave a few comments regarding public access. He said the issue is overblown. Like other properties Greenbelt owns, this would not attract significant use. Powell thinks public use is germane to the considerations of the public interest. Knight stated that there are several Newbury properties with similar, minimal, public access.

Murphy asked if PB members had any additional comments on modifications. Everyone was all set with the modifications. Knight commented that the easement for farm equipment along Lots 3 & 4 could be tight.

Murphy asked about the legal documents that have been submitted. Taylor reviewed the necessary documents and said once submitted they would be reviewed by Town Counsel. McNiff stated they would fine tune the easements and submit them in short order.

Steve Mangion wondered whether the Board has considered bike use on the property. Paicos suggested since the primary use of the property would be agricultural, it would make sense to leave it to Greenbelt to work out future public use.

Murphy said the current deadline for a decision on the application was August 1<sup>st</sup>, which was not going to be met. He asked if the applicant would consider an extension for the project. This was discussed and an extension was agreed to. A decision was made to extend until September 13, 2023.

Motion: Paicos moved that the concurrent public hearings for 170 Orchard St would be continued to August 16, 2023, at 7:15pm on Zoom. Knight seconded. All members voted: Paicos, yes; Morse, yes; Knight, yes; Stohn, yes; Murphy, yes.

At 8:00pm Murphy opened the public hearing for the 7 Bittersweet Common Driveway Special permit application from Gage Foley. Knight read the legal notice for the public hearing.

- Public Hearing (new): 7 Bittersweet Lane (Map U09, Lot 21B), Common Driveway Special Permit Application; Owner: David W. Foley Sr. and Nancy J. Foley; Applicant: Gage Foley

Murphy read the agenda item and welcomed Engineer Stephen Sawyer of GM2 Associates to present the submission of a Common Driveway Special Permit application from Gage Foley, to provide access to a house lot at 7 Bittersweet Lane. Sawyer explained that the lots at 7, 9, and 11 Bittersweet Lane had been subdivided in 1999 and there is currently a shared driveway accessing houses at #9 and #11. The proposal is to expand the common driveway to include access for an additional home to be built at 7 Bittersweet Lane.

Sawyer shared his screen to show an aerial image, photographs, and other information. The common driveway for the two lots has been in place for some time. Proposal is to build a third home and to bring the common driveway into compliance with the regulations for use as a common driveway for all three homes. There is an order of conditions from the Cons Comm and a permit from the Board of Health for the septic. They will engage an attorney to draft easement documents for PB review.

Paicos asked Sawyer to show the access plan that would be for a single driveway to the house from the Bittersweet Lane frontage. It is allowed under zoning to change from two drives to three using a shared driveway. There is a fire hydrant near the opening of the road. Sawyer explained a 2-foot stone drip edge would make a width of 18 feet which would be passable for two large safety vehicles.

Sarah Goldson of 10 Bittersweet Lane, expressed concern about the 31-inch, 200-year-old oak tree near the entrance. She would not like to see the driveway widened but understands the safety concerns. She is concerned about the trees as a whole being impacted. Sawyer suggested a strategy for using pea stone near the oak tree to protect the tree roots. Taylor suggested consulting an arborist. Gage asked if there is a way to not widen the driveway. Murphy said the application has to meet the standards for common driveways.

The Town hasn't received any written comments on the application. Board members suggested they could drive by and visit site on their own. Sawyer suggested two meetings out would be needed to develop the legal documents and easements and to provide written comments back to the Planning Board following the Town's stormwater peer engineering review.

Motion: Morse moved that the public hearing for 7 Bittersweet Lane would be continued to August 16, 2023, at 7:15pm on Zoom. Stohn seconded. All members voted: Paicos, yes; Morse, yes; Knight, yes; Stohn, yes; Murphy, yes.

#### **F. Master Plan Update: Review of Survey Results and Public Comments, and Discussion of Plan Adoption.**

Murphy welcomed consultant Emily Innes and she thanked the Board for the time. Innes explained the different ways the public have commented on the ways the public has provided input to the draft Master Plan over the past month and thanked everyone who has submitted comments. Innes stated there will be fact checking of quantitative comments, and corrections will be made to the plan and will be brought back to the Board for review. Qualitative comments will be presented in an Appendix document for further and ongoing consideration. Innes shared PowerPoint slides summarizing the public survey comments, the sticky dot prioritization exercise from the June 29 public meeting, and all narrative comments submitted over the weeks since the draft plan was released to the public. Board members will be able to review all comments and the final fact-checked document. The Board decided to hold a separate meeting to discuss the comments and adoption of the plan. Stohn commented that the Board is paying attention and listening and will be working to understand and work with the residents to implement this plan.

#### **G. New Business:**

- 105 High Road: Update on Construction Progress and Schedule: Stephen Sawyer, GM2 Associates

Steve Sawyer gave an update on the construction project at 105 High Road. They have closed on four of the homes, are beginning the landscaping, and foundations are in. There is an updated set of landscape plans. He said they need to provide an updated plan set with changes, which include 10x20 patios but no impact regarding stormwater. He said that it will probably be Spring 2024 before the open space will be open to the public. Sawyer can submit revised plans with any updates and changes for Board review.

Motion: Stohn made a motion to adjourn the meeting. Paicos seconded. All members voted: Paicos, yes; Morse, yes; Knight, yes; Stohn, yes; Murphy, yes. The meeting was adjourned at 9:05pm.

**Materials reviewed at the meeting:**

- Definitive Subdivision Plan, revised 7/12/23, for 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, 2<sup>nd</sup> Floor, Beverly, MA 01915.
- 7 Bittersweet Lane, Newbury, MA, Common Driveway Zoning Plan and Site Plan, prepared for Gage Foley, 31 Pond Street, Amesbury, MA; GM2 Associates, June 21, 2023
- Master Plan presentation slides – Consultant Emily Innes

Respectfully Submitted,

Kristen Grubbs  
Assistant Planner