

## **Meeting Minutes**

### **Newbury Planning Board**

Wednesday, September 6, 2023

Virtual Meeting via Zoom

#### ***FINAL – Approved October 18, 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: Peter Paicos, yes; Woody Knight, yes; Mary Stohn, yes; Murphy, yes. Board member George Morse was not present. Planning Director Martha Taylor was present. Assistant Planner Kristen Grubbs was not present. Murphy welcomed applicants and their representatives.

Opening Statement from Chair: Murphy announced that this September 6, 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. Because it was too early to open the 7:15pm public hearing, Murphy turned to the next item on the agenda.

#### **A. Liaison/Meeting Reports:**

- Zoning Board of Appeals - Murphy reported that the most recent ZBA meeting included a continued public hearing for an application on Northern Boulevard to convert a commercial building to residential. This was continued to the next meeting.
- Conservation Commission - Knight reported that the Conservation met last night and reviewed multiple projects. The Commission approved a certificate of compliance for two of the lots at the 15 Coleman Rd subdivision. There was a discussion about the recent sewage overflows in the Merrimack River caused by heavy rainstorms.
- Select Board - Taylor reported that at the last SB meeting the Board approved the Town's Energy Reduction Plan, required as part of Newbury's application to the Green Communities program. Green Communities designation from the State will enable the Town to receive grant funds to support energy efficiency projects throughout town. The Board also approved the community choice power supply aggregation program.
- MVPC - No Commissioners meetings until later in September.

**B. August 2023 Financial Report** – Murphy read into the record the Planning Board expenses for the month of August, 2023.

**C. Planning Director's report** – Taylor updated the Board that the Town has received an updated plan for the 68 Green St development, proposing modifications to the previously discussed stormwater issues. The community engagement portion of the Housing Production Plan will be kicking off with a meeting for the public to be held on October 12. More details to come. MVPC is continuing to provide technical assistance for the MBTA zoning, with updates to be brought to the Board in October. MVPC has also kicked off a regional effort called "Merrimack Valley Vision Zero" which is focused on reducing fatalities and serious accidents in the region caused by traffic crashes. Taylor will join the MV Commissioners on an outing on the Essex River to look at some of the coastal projects underway.

**D. Planning Board Meeting Minutes**

Murphy asked if the Board had had a chance to review the August 16, 2023, PB minutes. Not everyone had, so that item was postponed to the next meeting.

**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

At 7:15pm, Murphy turned to the public hearings on the agenda for the 170 Orchard St application and explained that the applicant has submitted a written request for a continuance of the hearings to September 20, 2023. The subdivision application requires a majority of the Board, which is 3 out of 5 members, and the Special Permit requires a super-majority which is 4 out of 5 members. Because PB member Stohn was not a full member when the project review began, she missed more than one of the public hearings and therefore is ineligible to vote. Because one of the voting PB members, George Morse, is unable to attend the PB meeting due to health issues, there are only 3 members eligible to vote. The developer has requested a continuance to a time when all 4 voting members are in attendance.

**Motion:** Paicos moved that the concurrent public hearings for 170 Orchard St be continued to September 20, 2023, at 7:15pm on Zoom. Knight seconded. All voting members voted: Paicos, yes; Knight, yes; Murphy, yes.

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

At 7:18pm, Murphy opened the public hearing for the 7 Bittersweet Lane Common Driveway Special Permit application from Gage Foley. All four PB members present are eligible to vote on this project. Murphy stated the applicant has submitted revised plans for the project, as well as a letter asking that the Board waive the requirement for the width of the common driveway. The Board also had received comments from the Town’s peer review engineer. Murphy asked the applicant how they wished to proceed. Engineer Steve Sawyer stated it would be good for the Board to discuss the letter concerning the request for a reduction in the driveway width and asked the owner to describe the request. Applicant Gage Foley read his letter into the record. Murphy thanked the applicant and stated many of his points were well taken. However, the requirement for the 16-foot driveway width is not something that can be waived by the Planning Board, as it is a requirement of the Town’s Zoning Bylaw itself. Taylor has reached out to Town Counsel to ask if it can be waived but has not yet heard back. PB members concurred that it would be good to wait to hear from Town Counsel on the matter. The Board reviewed and discussed Sawyer’s most recent plan submission. Sawyer explained the work for the road widening has been shifted to the opposite edge of the drive so as to save the large tree discussed previously, and will add crushed stone to the edge. Sawyer has also submitted easement documents to the Town. Sawyer showed the detail of the driveway plan and stated there has been no change to the crown of the driveway. Stohn asked for clarification about the Fire Department’s comments about the safety of the driveway. Taylor read the Fire Chief’s comments which stated they do not have the ability to enforce anything in regards to the common driveway. Murphy asked for public comments. Steve Mangione commented agreement that the Board should follow the advice of Town Counsel as stated in writing. Taylor put the Findings for the Planning Board Special Permit on the screen and

Murphy led the Board through a discussion. No Board members had concerns about the project as proposed (16-foot driveway) meeting the criteria of the special permit findings. Murphy asked Taylor if she could begin to put together a decision, following the advice of Town Counsel about whether the request requires a variance, which would keep the project moving forward.

**Motion:** Stohn moved that the public hearing for 7 Bittersweet Lane would be continued to September 20, 2023, at 7:15pm on Zoom. Knight seconded. Members voted: Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes.

**F. New Business:** There was no new business.

**G. Old Business:** There was no old business.

**Motion:** Paicos made a motion to adjourn the meeting. Knight seconded. Members voted: Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes. The meeting was adjourned at 7:48pm.

**Materials reviewed at the meeting:**

- Written request from the applicant for the 170 Orchard St. Subdivision and Common Driveway Special Permit applications to continue the Public Hearing to September 20, 2023
- 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;
  - Written Request from the applicant of the 7 Bittersweet Special Permit for the Planning Board to waive the requirement for the 16-foot driveway width, dated September 6, 2023
  - Cover Letter response to peer engineering, dated August 10, 2023, submitted by GM2 Associates C-101 Plan June 21, 2023; Revised August 10, 2023, submitted by GM2 Associates
  - C-102 Detail Sheet, Revised August 10, 2023, submitted by GM2 Associates

Respectfully Submitted,

Kristen Grubbs  
Assistant Planner