

Meeting Minutes

Newbury Planning Board

Wednesday, October 18, 2023

Virtual Meeting via Zoom

FINAL – Approved November 15, 2023

Planning Board Chair Larry Murphy opened the October 18, 2023 Newbury Planning Board (PB) meeting at 7:00 p.m. Murphy shared the very sad news that Planning Board member George Morse passed away on October 8, 2023. Members of the Board expressed condolences to George's family, thanked him for all his years of thoughtful and dedicated service to the Town, and shared heartfelt memories of their colleague.

Murphy took a roll call of Planning Board members present: Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes. Planning Director Martha Taylor and Assistant Planner Kristen Grubbs were present and stated so. Murphy welcomed applicants and their representatives.

Opening Statement from Chair: Murphy announced that this October 18, 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.

Liaison/Meeting Reports:

- Select Board – The Select Board recently considered candidates to fill open Finance Committee seats, but it was not known the outcome of those discussions.
- Zoning Board of Appeals - Murphy reported that the ZBA would be meeting the following night. The agenda includes two hearings, one for a special permit at 19 Independence Way, and another to review and discuss the draft decision for property located at 134 Northern Boulevard.
- Conservation Commission - Knight reported that during its last meeting the Commission granted a Certificate of Compliance to The Governor's Academy for its new coastal science center.
- MVPC – Taylor reported that the monthly MVPC Commissioners meeting for October is the following day and would include a presentation on transportation and cultural initiatives.

September 2023 Financial Report: Murphy read the Planning Board's September report into the record.

At 7:15pm, Murphy turned to the concurrent public hearings for the 170 Orchard St application, and explained that the applicant has requested in writing a continuance of the hearings to November 15, 2023. Due to the loss of Planning Board member George Morse, the Board has only three voting members on these hearings. Because the special permit requires a supermajority of the Board (4 votes), the applicant has decided to continue the hearing to give time to republish the meeting notice. This will allow Board member Mary Stohn to join as a voting member for this project. (Stohn was not a voting member for the original public hearing, due to the fact that the project started when she was an associate member and, in addition, she missed more than one session of the public hearing.)

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

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

Taylor also shared that the current extension for action for the 170 Orchard project is October 29, 2023, but the applicant will be submitting an additional extension in writing.

At 7:19pm, Murphy turned to **New Business**.

Applicant Kevin Whitney was on the agenda for a schedule update and a request regarding curbing at his project at 84 Boston Road. Whitney was not in attendance on the Zoom call so that item was postponed. Murphy requested that staff request a schedule update from the applicant in advance of the next meeting.

Murphy asked if Engineer Steve Sawyer was ready to present for the 105 High Road requests. His request was originally on the agenda at a later time, so that discussion was held for later.

Planning Director’s Report: Taylor reported the final Master Plan Update is in the hands of consultant Emily Innis and the Town will have the final draft in hand by the end of the week. Taylor asked Board members if they would like to hold a special meeting to discuss the final draft and consider adoption. The date for this meeting was set for November 8, 2023.

Taylor also reported on the virtual Housing Production Planning meeting held on Thursday, October 12, 2023. Thirty-five residents had signed up to attend from Newbury; about 15 people attended. Planners from MVPC presented Newbury’s housing data and described the process to develop the five-year update of the Town’s Housing Production Plan. Attendees discussed their housing concerns and questions. These issues include the growth of residents in older age brackets; the desire of these older residents to stay in Newbury and downsize but the lack of housing options; the financial challenges facing communities including school projects; the strategies and options available for the Town to incentivize developers to build the kind of housing that is needed; the ways the Town can support its housing goals including development of an Affordable Housing Trust committee and Trust Fund; and more. Newbury will hold a follow-up, in-person meeting on December 11, 2023, which will provide opportunities for the community to continue to discuss these housing goals, concerns, and strategies. Taylor also gave the Board updates on the status of several permitting projects.

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Motion: Stohn made a motion to approve the September 6, 2023 minutes. Knight seconded. Members voted: Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes.

Motion: Knight made a motion to approve the September 20, 2023 minutes. Stohn seconded. Members voted: Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes.

Presentation and Discussion of MBTA Communities Multifamily Zoning

At 7:28pm, Murphy welcomed Ian Burns and Kayla Rennie from the Merrimack Valley Planning Commission (MVPC) and invited them to begin a presentation regarding the Massachusetts state legislation for municipalities which have MBTA rail stations, or are abutting or near to stations, to establish zoning districts which allow for multi-family development by right. This legislation is informally called “3A” or “MBTA Communities.” Burns walked through slides that described the legislation requirements for Newbury and the consequences if communities do not pass this zoning. He emphasized that the legislation is a *zoning requirement* and NOT a production (or construction) requirement. He also presented compelling data about the shortage of housing supply in the State of Massachusetts over recent decades and currently, and presented demographic data specific to Newbury showing the need for more housing options for smaller-household sizes, including elderly residents seeking to downsize and younger families and first-time home buyers. This housing stock is called “middle housing”; Burns presented images that showed the type of housing stock under consideration. Burns presented a first draft of overlay districts being discussed for this new zoning designation.

The Board members thanked Burns for his thorough and informative presentation and had some questions. Murphy asked whether the legislation addresses the affordability of the housing units, and Burns replied a community can designate that 10% of housing production be required to be affordable, so long as the housing development is economically feasible. Stohn asked if there was any avenue for towns to refute or push back against the regulations. MVPC at this point is not advocating for changes in the density or the regulations. Burns and Taylor described the process the Town went through to provide feedback on the initial round of regulations over the last year and a half. The State responded and reduced the required number of units for Newbury and other small communities.

Stephen Mangion, 21 14th Street, commented that he had concerns about additional housing development due to the severe constraints Newbury has relative to water supply and sewer infrastructure. He also expressed concern for the Town’s sensitive environmental conditions that are not suitable for dense housing. Burns responded that these were good points and reminded the group that this legislation is not a construction mandate. If a site that is zoned for multi-family housing has constraints that make it difficult to build upon, that’s okay. He stated that developers do not get to supersede any local or state environmental restrictions or regulations.

Board Member Paicos commented this was a helpful discussion and there were good options for Newbury to address its housing needs.

The Board expressed an interest in discussing the specific options for Newbury in an in-person, follow up meeting (to be scheduled). Newbury currently has submitted an Action Plan to the State that has the Planning Board bringing these zoning changes to the Annual Town Meeting for consideration in the Spring of 2024, so a follow up meeting will be scheduled soon to keep on track for having warrant articles ready for consideration on that timeline.

New Business:

Murphy returned to the items regarding requests for site plan modifications.

The applicant for 84 Boston Road was not present so that item was tabled to the next Planning Board meeting.

Murphy turned to the discussion of the Seagate Open Space Residential Subdivision project under construction at 105 High Road. Engineer Steve Sawyer, representing owner Maggie DePiero, explained the requests:

- Reduction in elevation of Unit 9 house/garage foundation and first floor

- Changes to materials, height, and layout of block retaining wall between Unit 9 and 107 High Road
- Removal and replacement of trees along property line between Unit 9 and 107 High Road which were identified on approved OSRD Site Plan as “existing to remain”
- Addition of 10’ x 20’ patios at grade within exclusive use areas of Units 1 through 9
- Addition of swimming pool within exclusive use area of Unit 4
- Changes to the landscaping plan

Sawyer answered questions about the trees along southern property line and about changes to the swale and drainage on the property, about the addition of patios to the units’ exclusive use areas, which in Sawyer’s opinion are a small enough area to not impact stormwater drainage calculations; and a request by one of the unit owners to install a pool. Sawyer said the swale will be constructed as designed, as an open channel flow (not piped), and will keep water from flowing off the property onto abutters’ property. Peer engineer has submitted comments to the PB on these modifications.

Board members felt that a site visit would be helpful to see and better understand the requests. The Board will plan to do a site visit with Sawyer the week of November 6 and the requests will be back on the PB agenda on November 15.

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

The meeting was adjourned at 8:45pm.

Materials reviewed at the meeting:

- MVPC Presentation slides on MBTA Communities Multifamily Zoning
- 105 High Road letter from Stephen Sawyer/GM2 Associates, dated September 28, 2023, describing modification requests, attached photographs, and Seagate/105 High Road OSRD Grading/Drainage Plan, C1.21, dated 07-26-2021.

Respectfully Submitted,

Kristen Grubbs
Assistant Planner