

## Meeting Minutes

### Newbury Planning Board

Wednesday, November 1, 2023

Virtual Meeting via Zoom

#### ***FINAL – Approved December 20, 2023***

Planning Board Chair Larry Murphy opened the November 1, 2023 Newbury Planning Board (PB) meeting at 7:00 p.m. 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 November 1, 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.

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

#### **New Business:**

- Kevin Whitney - 84 Boston Road:
  - Schedule update
  - Request for curbing change from sloped granite to Cape Cod berm at parking area

Applicant Kevin Whitney was on the agenda for a schedule update and a request regarding curbing at his project at 84 Boston Road. Whitney said project is 90% complete: the building is complete; drainage, well, and septic are installed; and binder pavement is in place. Tasks remaining are landscaping and final finish paving, including curbing, to be finished next spring. Whitney is requesting approval for using Cape Cod berm/asphalt curbing for the road and driveway curbs rather than the granite curbing that was shown on the original approved site plan. Whitney said the granite was a suggestion by the engineer originally, but asphalt is what he has always preferred. Murphy asked how Cape Cod berm stands up to trucks and plowing. Whitney said it stands up well. Whitney answered questions regarding the rock piles on the property stating most piles (including those located in the abutting self-storage property) have been removed and the remaining will be crushed through the winter and be gone by spring. He said the tree buffer between the two properties will be installed in the spring. The curbing will also be installed following the landscaping in the spring before the final paving. Murphy asked for a more detailed construction schedule as well as a letter from Whitney's engineer about the curbing change. Taylor passed along a request from the Tree Warden to keep an eye on the roots of the trees bordering the right of way. Whitney said he would keep an eye on the health of the trees and would come back in the spring to ask for the Board's approval for the curbing.

- Tom Zahoruiko – 15 Coleman Road OSRD/Fieldstone Lane OSRD:
  - Request for approval of Record Plan and release of Performance Guarantee

Applicant Tom Zahoruiko was in attendance to request the Board's approval of the final as-built plan for the open space subdivision project at 15 Coleman Road (Fieldstone Way.) The Town's peer engineer, planning staff, and the Planning Board chair did a site walk of the property the week before and have reviewed the final plan set. Zahoruiko has addressed one small encroachment of a workshop building into the septic easement area for one of the homes. The Town's engineer has given final sign off in a review letter for the Planning Board. There will be a final invoice for the peer engineering fee. All improvements have been approved.

**Motion:** Knight moved that the Board approve the project's final as-built plan and release the \$30,000 performance guarantee bond following Zahoruiko's payment of the peer review engineering costs. Stohn seconded. Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes.

- Scott Kinter – Shandel Drive Extension
  - Request for change in form of performance guarantee and partial release/reduction in amount

Applicant Scott Kinter of 233 Shandel Drive was present to update the Planning Board on his project. He stated that the work related to the right-of-way is complete except for a final wearing course on the driveway. Kinter requested a change in the form of the performance guarantee from a bond (\$35,112 current bond) to a cash deposit of \$7,000. This amount was suggested based upon estimates of \$4,000 for final paving and \$2,000 for the final as-built, plus a contingency of \$1,000.

**Motion:** Stohn moved to approve the request to reduce the amount of the performance guarantee from the current bond to \$7,000 cash. Knight seconded the motion. Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes.

- Douglas Deschenes – 217-221 High Road Subdivision/Gadsden Lane: Review and potential approval of:
  - Restatement of Gadsden Lane Homeowners Association Declaration of Trust
  - Declaration of Restrictive Covenants Running with the Land

Murphy announced that there was no one from the project in attendance so asked Taylor to give some background on the request. Taylor explained that in the decision for the Gadsden Lane 217-221 High Road subdivision, there is a condition that the applicant submit the Home Owner's Association Declaration of Trust and the Restrictive Covenants on the land to the Planning Board before the issuance of the first occupancy permit. This was not done, and in fact the documents that were recorded at the Registry had several errors. The applicant is now requesting review and approval of these revised documents. Town Counsel has reviewed the revisions and provided several edits. A restatement of the HOA Declaration of Trust has been completed and the Restrictive Covenants have been presented to the Town for approval. There a few minor final tweaks to be completed following Town Counsel review.

**Motion:** Paicos moved to approve the Restatement of Gadsden Lane Homeowners Declaration of Trust and Declaration of Restrictive Covenants Running with the Land, subject to final review and approval by Town Counsel. Stohn seconded. Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes.

#### **Old Business:**

- Potential Zoning Amendments for Spring 2024 Annual Town Meeting:
  - Inclusionary Housing
  - Lot regularity
  - Wireless Communications – Expansion of Tower District

Regarding inclusionary zoning, Taylor explained to the Board that the MBTA legislation for multi-family zoning allows a community to include a requirement that 10% of the units in a multi-family development be deed-restricted as affordable for homeowners with up to 80% of the current Area Median Income (AMI). The Town is considering this for the MBTA zoning and may defer discussion of inclusionary zoning across the town to the housing production planning effort currently underway. The MBTA Zoning proposal will likely come to Town Meeting in the Spring of 2024 while further inclusionary zoning amendments may wait for a later Town Meeting date. Murphy stated he had worked on a draft bylaw based on West Newbury's inclusionary zoning bylaw. Paicos commented he hopes that the Town does not lose track of the pursuit of inclusionary zoning for the Town. Paicos, Knight, Stohn, and Murphy support working on inclusionary zoning and supports focusing on the MBTA zoning affordability requirements for now.

Taylor stated this issue has been on the Board's radar for quite some time due to recent subdivisions that have proposed unusual lot shapes and configuration. The goal is to amend requirements so that new lots that are created are good useable lots, rather than a lot that might include a 2-foot wide 200-foot long segment. Staff are reviewing how other communities have addressed this. It is a complicated issue and will be brought back to the Board after further research.

Taylor stated there was a report completed by a consultant a few years ago that identified a lack of good cell coverage in some areas of the town. The Triton/Middle High School campus and the DPW barn on High Road were identified as possible sites for cell towers to help improve cell service for problem areas. The Board discussed safety concerns regarding having "dead zones" in the town and will consider bringing a revision of the wireless overlay district to Town Meeting, which would allow cell companies to bring proposals to the Town for special permit review. Verizon has expressed some interest in installing new towers in Newbury.

#### **Liaison/Meeting Reports:**

- Select Board - Taylor stated the Select Board has not had any regular meetings in October. A new fire chief was sworn in earlier today (November 1, 2023).
- Zoning Board of Appeals - Murphy reported that the ZBA will be meeting on November 16. The agenda will include a request for a variance by Foley on the Bittersweet Lane Common Driveway project. Also on the agenda is a request from the Sunset Club restaurant for an amendment to a special permit, to install a new pavilion and storage unit and storage sheds on the property located on the corner of Old Point Road and Plum Island Boulevard on Plum Island. This request may also come to the Planning Board for site plan review.
- Conservation Commission - Knight reported that the Commission will be meeting the following week.
- MVPC - Taylor reported that the monthly MVPC Commissioners meeting for October focused on a presentation on transportation planning. The Planners meeting focused on MBTA Communities zoning.

**Planning Director's Report:** Taylor reminded the Board of the upcoming meeting on November 8, 2023, for the Board to review and discuss the final draft Master Plan Update and to consider its adoption. Also the Board is working on scheduling a meeting to focus specifically on the MBTA Communities zoning. There will be a follow-up meeting to the Housing Production Plan Update on December 11. This will be a public meeting facilitated by MVPC and open to all residents. Governor's Academy has submitted an as-built plan to close out the coastal science building project and have offered that the Board come for a site walk. Staff have shared with the Board the schedule for the Citizen's Planning Training Commission (CPTC) workshops if any Board members would like to attend.

**Planning Board Meeting Minutes** – The October 18, 2023 PB Meeting minutes will be reviewed at the next meeting.

**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 7:57pm.

Respectfully Submitted,

Kristen Grubbs  
Assistant Planner