

Meeting Minutes

Newbury Planning Board

Wednesday, November 15, 2023

Virtual Meeting via Zoom

FINAL – Approved December 20, 2023

Planning Board Chair Larry Murphy opened the November 15, 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 15, 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.

ANRs/Submissions:

There was no one present to submit the ANR Plan for a proposed lot line change at 44 and 42 Fatherland Drive, so that item was tabled to a future meeting.

Liaison & Meeting Reports:

- Select Board - Taylor stated that the major item on the recent Select Board agenda was a presentation from the Whittier Regional Technical School Superintendent about the high school rebuild project. The Select Board also discussed the Pink House and voted to send a letter to the US Fish & Wildlife Service expressing support for preservation of the house located on Plum Island Turnpike. There will be a public meeting at PITA Hall about the Pink House on Monday December 20, 2023 at 10:30am.
- Zoning Board of Appeals - Murphy reported that the ZBA will be meeting on November 16. The agenda will include two new public hearings: a request from the Sunset Club restaurant for an amendment to a special permit, to install a new pavilion, storage unit, and storage sheds on the property located on the corner of Old Point Road and Plum Island Boulevard on Plum Island; and a request for a variance for the Bittersweet Lane Common Driveway project.
- Conservation Commission - Knight reported that the Commission met last week. There were no projects of relevance to the Planning Board on that agenda.
- MVPC - Taylor reported that the MVPC Commissioners meeting is tomorrow and there will be a discussion on the personnel policy.

Planning Director's Report: Taylor reported that the Select Board has accepted the invitation to join the PB for a joint meeting, to be held on December 6, 2023, to discuss the MBTA legislation zoning. Staff have a planning meeting with MVPC staff on November 16 for the next Housing Production Plan public meeting, scheduled to be held in the Newbury Town Library on Monday, December 11. The Hazard Mitigation Plan update process is also continuing with staff meetings with MVPC planners.

Planning Board Meeting Minutes

- October 18, 2023 - Knight made a motion to approve the October 18, 2023 meeting minutes as submitted. Stohn seconded. Members voted: Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes.
- November 1, 2023 - not yet reviewed.
- November 8, 2023 - not yet reviewed.

Taylor added a few items to the Planner's Report, reminding the Board that the December 6, 2023 joint meeting with the Select Board, to discuss the MBTA Communities Zoning, will be held in person (not on Zoom). She added that Brookline has passed their zoning bylaw amendments to meet compliance with the legislation.

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 announced that there are two public hearings on the agenda tonight and explained the history of the project, saying that some months ago the applicant submitted the definitive subdivision plan for the project at 170 Orchard St. Because a definitive subdivision only requires a simple majority vote to be approved, the 3 PB members who were on the Board at that time of submission remain eligible to vote on the project. Stohn was not a full member when the subdivision hearing opened so is not eligible. The Common Driveway Special permit, however, requires a supermajority vote of the Board (4 out of 5) to be approved. Therefore, the applicants re-noticed and resubmitted the special permit application so that all 4 current voting members of the PB can vote on it.

Knight read the legal notice for the Common Driveway Special Permit. Taylor gave confirmation of the abutter notifications and newspaper publication of the legal notice. Murphy explained that the applicant has granted an extension of time for decision on the application to February 28, 2024. Murphy invited the applicants, Michael McNiff and engineer Bob Griffin to summarize the project.

Griffin shared his screen to provide background on the project, and to share the current revised plan set and other updated information, summarizing the process of the project review with the Board to date.

Murphy asked Board members for any questions. Paicos asked whether there was a fence between the lot lines and the agricultural easement area? Griffin explained there would be a split rail fence at the very north of Lot 4. Paicos asked about paving and lighting. Griffin said they will pave the subdivision road and there will be no new street lights along the road nor at the entrance. Knight and Stohn had no new questions. Murphy no new questions.

Murphy asked if there were any public comments? Tom Frackiewicz of 21 Pearson Drive had submitted written comments that were distributed to the Board in advance of the meeting. He did not have additional comments during the meeting.

Jerry Strazzulla, 172 Orchard Street, asked if this subdivision road will be a private way not a town-owned road? Yes, correct. Will there be sidewalks? No. Will there be some kind of buffer on the other side of the wall next to his property to mitigate any traffic? Griffin said there is no specific screening on the plan right now. Strazzulla

said there are currently some arborvitae, but some additional buffer would be great. Murphy suggested Strazzulla discuss this with Mr. McNiff. There were no other public comments.

Paicos asked if there was going to be any buffer along properties with Pearson Drive? Griffin explained that the existing vegetation would be maintained as a buffer.

Murphy said they could review the common driveway special permit requirements. Taylor pulled those up on her screen and the Board reviewed Section 97-5-3. There were no additional questions nor discussion about the requirements.

Murphy asked about next steps, and mentioned the Town needs to have a performance guarantee in hand from the developers before any plan can be endorsed. The applicants will complete and submit all easements and association documents to the town to be reviewed by Town Counsel. Murphy and the applicants discussed the remaining legal documents, including the draft deed from Greenbelt for the agricultural easement, as well as a homeowner's association deed, drainage easements, a grading plan, an easement for 168 Orchard St across the road, and a utility easement which will be conveyed from the utility company.

There were no other comments or questions. Murphy requested the project be on the agenda for the PB meeting on December 20th, to review a draft decision.

Motion: Paicos moved to continue the public hearing on the 170 Orchard subdivision and special permit to December 20, 2023, at 7:15 on Zoom. Knight seconded. Paicos, yes; Knight, yes; Stohn, yes (voting only on Special Permit); Murphy, yes.

Old Business:

Steve Sawyer, engineer for 105 High Road OSRD project was not in attendance due to being stuck in another meeting, so the Board skipped that item.

New Business:

- The Governor's Academy, Tom Woodruff, Facilities Manager – Request for Approval of Record Plan and Determination of Project Completion

Murphy welcomed Governor's Academy representative Tom Woodruff. He stated that the science building is complete and he has submitted the as-built plan and final plant monitoring report to the Town. The Town's peer review engineer had reviewed the plan and done a site visit and submitted comments. All questions had been answered and the engineers will be completing some minor revisions to the as-built plan. Woodruff said he was happy to answer questions and to have the Board members come for a site visit. Paicos had no questions. Knight asked if the dock will be coming out in the winter - yes. Stohn said she looked forward to a visit. Taylor will schedule that with Governor's, and the Board will review the final plan after.

- Candidate for Open Planning Board Seat: Scott Kinter, 23 Shandel Drive Extension, Newbury

Murphy welcomed Scott Kinter, 23 Shandel Drive, who has submitted a letter of interest to be a candidate for the vacant PB seat. Kinter described his background and professional real estate experience to the Board. Paicos and Knight thanked Kinter for his interest. Stohn asked Kinter if he has had much experience with master plans, and if he agrees with the vision for Newbury that has been laid out by the Town's current plan? Kinter said he will be reading the plan and looks forward to working on the plan with the Board should he be appointed. Murphy

explained that Town Counsel has advised that a candidate be appointed to fill a vacant seat by joint votes of the Select Board and Planning Board.

Motion: Paicos made a motion to recommend to the SB that Kinter be appointed to the PB to fill the vacancy. Knight seconded the motion. All members voted: Paicos, yes; Knight, yes; Stohn, yes; Murphy, yes.

Old Business:

- Steve Sawyer – 105 High Road/Seagate OSRD

Murphy returned to the 105 High Road agenda item. Engineer Sawyer was still not present. Murphy suggested the Board could briefly discuss the modification requests, stating they had held a site visit the week before. He asked the PB members if they thought that any of the items were major modifications that would require a public hearing? PB members said no. Murphy ran through the requested modifications. Board members had no concerns or questions other than those listed below.

- Request for approval of proposed changes to approved OSRD Site Plan, including:
 - 2.5-foot drop in elevation of Unit 9 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

Paicos said that the site work has impacted the trees such that they won’t survive, so would be helpful to have a landscaping plan. He expressed concern about the abutter’s fence that encroaches on the property and felt it needed to be addressed. Murphy, Knight, and Stohn agreed it needs to be resolved.

- Addition of 10’ x 20’ patios at grade within exclusive use areas of Units 1 through 9

The Board felt there was no issue with the patios and that they won’t impact stormwater management.

- Addition of swimming pool within exclusive use area of Unit 4

There were no concerns with the pool location.

Taylor suggested she could draft a decision for a minor modification based upon the discussion tonight, and bring it back to the PB for review and approval at the next meeting.

The Board discussed that the Kinter appointment could be held on November 28th or the December 6th meeting, in person. Stohn asked whether Taylor knows Kinter; she explained they know him from the project he has completed at his property.

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 8:26pm.

Respectfully Submitted,

Kristen Grubbs
Assistant Planner