

Meeting Minutes

Newbury Planning Board

Monday, December 20, 2023

Virtual Meeting via Zoom

FINAL – Approved 1-3-24

Planning Board (PB) Chair Larry Murphy opened the December 20, 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; Murphy, yes. PB member Mary Stohn was not present. PB member Scott Kinter was not present at the start of the meeting but joined later. 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 December 20, 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.

Planning Board member Scott Kinter joined the Zoom meeting at 7:05pm. Following these opening remarks, Murphy turned to the first agenda item.

ANRs/Submissions:

Attorney William Heney was present to submit the ANR Plan for a proposed lot line change at 44 and 42 Fatherland Drive.

- William Heney, Heney Law: Submission of ANR Plan for Proposed Lot Line Change between 44 Fatherland Drive, Map R18, Lot 54, and 42 Fatherland Drive, Map R18, Lot 53; Owner/Applicant (44 Fatherland Drive): Mercedes and Patrick Shea; Owner (42 Fatherland Drive): Frances M. and Carl J. Orlandi.

Attorney Heney shared his screen to present and described the proposed transfer of land between the two properties. Board members agreed it was an "approval not required" (ANR) division of land, and had no questions.

Motion: Knight moved to approve and endorse the plan. Paicos seconded. Paicos, yes; Knight, yes; Kinter, yes; Murphy, yes.

November 2023 Financial Report - Murphy read into the record the Planning Board expenses for the month of November, 2023.

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 explained that there were two concurrent public hearings on the agenda tonight for the project at 170 Orchard St. Murphy explained that a Special Permit requires 4 affirmative votes; however, due to PB member Stohn’s absence this evening, there was not a quorum of members in attendance to review the Common Driveway special permit. The Subdivision public hearing was able to be reviewed with the 3 voting PB members present.

Due to the lack of the 4-member quorum for the Special Permit, Murphy continued the Common Driveway Special Permit application to the Planning Board meeting on January 17, 2024, at 7:15pm.

Murphy formally opened the Subdivision public hearing. Taylor shared the screen to review a draft subdivision decision. Taylor summarized the different sections of the decision, walking through the multiple requested waivers in detail. Board members had the opportunity to ask questions and give comments on the draft decision. Taylor reviewed the draft conditions of approval. Taylor and the PB members discussed the additional documents required for the approval, including the performance guarantee, restrictive covenants, and the homeowners’ association documents. Taylor reviewed the requirement in the draft decision for a parcel of the land to be conveyed to a land conservation organization for the open space purposes of agricultural production.

Motion: Paicos moved to continue the 170 Orchard Subdivision Public Hearing to January 17, 2024, at 7:15pm, on Zoom. Knight seconded. Three eligible PB members voted in a roll call vote: Paicos, yes; Knight, yes; and 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**

The applicant for the 7 Bittersweet Common Driveway Special Permit had requested in advance of the meeting to continue the Public Hearing for the project to a future date. Because there was not a quorum of voting PB members present, Murphy continued the 7 Bittersweet Public Hearing to January 17, 2024, at 7:15pm on Zoom.

Old Business:

- Steve Sawyer – 105 High Road/Seagate OSRD: Review of draft Decision regarding requested modifications 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”
 - 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

Engineer Steve Sawyer was present to discuss the requested modification, in particular the details of the landscaping plan for Unit 9. Sawyer stated the trees would be native species, with size 2.5 inch-diameter deciduous trees and 8-10 inch diameter conifers. Sawyer explained the efforts to rectify the accurate property line between Unit 9 and 107 High Rd. Sawyer requested that the easement could be finalized before occupancy permit. This will be discussed at a future meeting once information with the abutting property owner is resolved.

- Potential Zoning Amendments for Spring 2024 Annual Town Meeting:
 - Revised Schedule for Warrant Article Submission & Approval

Taylor reviewed a revised schedule for public hearings leading up to the Spring 2024 Annual Town Meeting, which will be held on April 30, 2024. PB members reviewed the timeline for hearings in February and March for zoning amendment proposals.

- Status Report:
 - MBTA Communities Multifamily Zoning
 - Wireless Communications – Expansion of Tower District

Murphy proposed that the Board meet at its first regular meeting date (Wednesday) in January, in an in-person workshop to discuss the proposed zoning amendments for the MBTA Communities project. The Board set the date and time of this meeting as January 3, 2024, at 3pm in the Select Board Hearing Room.

Taylor summarized recent discussions for the MBTA zoning proposals, describing the direction to focus on two subdistricts in the North of town and two in the South, and to assure adherence to the requirements of the water supply protection district. Design guidelines will be developed for the different subdistricts and can be reviewed along with the draft bylaw in early January.

Taylor updated the Board that Superintendent Brian Forget discussed including Triton Middle-High School-owned parcels in the Wireless Communications District and the School Committee was comfortable with that decision. Adding these parcels would require Town Meeting review and approval of a zoning bylaw amendment to expand the Tower District in the Wireless Communications Overlay District.

New Business:

- 68 Green Street Subdivision (Farm View Lane): Request from Michael Dos Santos, Crane Properties, for:
 - Full release of Lot 1 from the Restrictive Covenant, dated February 16, 2021, recorded at Southern Essex Registry of Deeds, Book 39692, Page 181

Property owner and Crane Properties manager Mike Dos Santos and attorney Bill Heney were in attendance to update the Board on the project, including stormwater improvements, and to request release of the Lot 1 parcel. A letter from Meridian Engineering was submitted on November 22, 2023, describing the work still remaining on the property. The mentioned items have been addressed in the past several weeks. The Town's engineering consultant Joe Serwatka advised that the Town hold \$5,000 for finishing the stormwater management, grading, and site improvements. Lot 2 will still be held in the covenant.

Motion: Knight made a motion to release Lot 1, on the condition that Crane Properties provide \$5,000.00 to be held in escrow as performance guarantee for work remaining to be done as described in the letter from Eric Botterman, Millennium Engineering, dated November 22, 2023. Paicos seconded the motion. All PB members

voted in a roll call: Paicos, yes; Knight, yes; Kinter, yes; Murphy, yes. The Form E release will be signed by the Chair tomorrow morning in advance of the closing (Lot 1 property sale) on Friday.

Liaison & Meeting Reports:

- Select Board - Taylor stated that the last SB meetings included business license renewals and liquor licenses. The Sunset Club had requested renewal of entertainment license with expanded hours. There was also an update from the Lower Green Historic District study committee.
- Zoning Board of Appeals - Murphy reported that the ZBA meeting on December 21 will include two projects: 7 Bittersweet Lane variance request and the Sunset Club's special permit modification request.
- Conservation Commission - Knight reported that the Commission met in an executive session about the Cricket Lanes litigation.
- MVPC - Taylor reported that the recent MVPC Commissioners meeting included an in-person holiday open house.

Planning Director's Report: Taylor reported that review and close-out of the Governor's Academy Science building and Pedestrian Walkway would be in early January.

Planning Board Meeting Minutes - Paicos made a motion to approve the 4 sets of meeting minutes from November 2023 as submitted. Knight seconded. Members voted: Paicos, yes; Knight, yes; Kinter, yes; Murphy, yes.

- November 1, 2023
- November 8, 2023
- November 13, 2023
- November 15, 2023

Motion: Knight moved to adjourn the meeting; Kinter seconded. Members voted: Paicos, yes; Knight, yes; Kinter, yes; Murphy, yes. The meeting was adjourned at 8:46pm.

Respectfully Submitted,

Kristen Grubbs
Assistant Planner