

Meeting Minutes

APPROVED

Planning Board

Wednesday, January 20, 2021

Virtual Meeting via Zoom

Members Present: Peter Paicos, Chair; Larry Murphy; Leslie Matthews; George Morse; Woody Knight; Mary Stohn (Associate Member)

Staff Present: Martha Taylor, Planning Director; Emily Noble, Planning Board Administrator

P. Paicos opened the Planning Board meeting at 7:01 p.m. and verified that all members and persons expected to be present were present.

He then announced that this January 20, 2021 Open Meeting of the Newbury Planning Board was being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, suspending certain provisions of the Open Meeting Law due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus." He 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. He concluded by stating that each vote taken in the meeting would be conducted by roll call vote.

Following the opening remarks, P. Paicos turned to the first item on the agenda.

A. Tom Zahoruiko, Manager, Zendko, LLC -Submission of OSRD Special Permit and Definitive Subdivision Plan Applications for 7-lot OSRD at 15 Coleman Road, Map R02, Lots 12 & 13; Owner/Applicant: Zendko, LLC, Tom Zahoruiko, Manager

P. Paicos said this submission had been scheduled for this meeting, but will be postponed to February. M. Taylor confirmed and said that she had reviewed the draft submission. She noted that T. Zahoruiko intends to submit the OSRD Special Permit Application and the Definitive Plan Application simultaneously. She said while this is allowed under the By-Law, Applicants typically submit the Definitive Plan application after the OSRD Special Permit has been issued. She said because the Applications will be submitted at the same time, some revisions need to be made to differentiate between the two.

B. Planning Director's Report

M. Taylor said on February 3rd the Board will also be receiving a submission on the 217/221 High Road Definitive Subdivision Plan. She said the time frame for approval will be a little shorter because a Preliminary Plan for this subdivision has already been approved. She said she still has the draft Definitive Plan to review.

She said that several plans will be submitted for endorsement, including 108 Main Street, 68 Green Street, and 23 Shandel Drive Extension. She said she has been working with the Attorneys on the performance covenants for 108 Main and 68 Green. Those may be on the February 3rd agenda as well.

C. Liaison Reports

L. Murphy reported that the Zoning Board of Appeals meets tomorrow night, January 21, 2021. They will be looking at a preliminary Draft Decision for Cricket Lane, the 40B off of Pearson Drive. L. Matthews reported that the Select Board's last meeting included the public hearing for 3 Newburyport Turnpike and that the hearing was continued. M. Taylor had nothing to report on the Merrimack Valley Planning Commission. P. Paicos reported that the Conservation Commission had met the previous night and the main item discussed was proposed modifications to the Wetland Bylaw.

D. Public Hearing (Continuance) –Open Space Residential Development (OSRD) Special Permit Application, 105 High Road, Map R48, Lot 49; Owner: Arthur & Sandra Costonis; Applicant: DePiero, LLC (Continued from December 16, 2020)

P. Paicos said that the Board had received an email from Jill Mann requesting that this hearing be continued. He said there will be no discussion, but that the Board would need to decide on a date for the hearing continuance.

Motion: A motion was made by G. Morse and seconded by W. Knight to continue the Public Hearing – Open Space Residential Development (OSRD) Special Permit Application, 105 High Road, Map R48, Lot 49; Owner: Arthur & Sandra Costonis; Applicant: DePiero, LLC to February 17, 2021 at 7:15 p.m. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes.

E. Public Hearing(Continuance)–Site Plan Review Application for a new office building and site contractor storage, 84 Boston Road (Map R36, Lot 23A); Applicant: K & R Construction Company; Owner: Sled Road, LLC, Kevin Whitney & Ryan Greenwich, Managers (Continued from January 6, 2021)

P. Paicos asked the applicant if they had any new information.

Chris York, Millennium Engineering Inc, said that they don't have any new material to present since the last meeting.

M. Taylor commented on the lighting. She said the Applicant has reduced the lighting to be building mounted only; poles have been eliminated. She said there are three wall mounted light fixtures on the front of the building. She said you can see from the photometric plan that the throw on those is not very big. The ones on the side and the back of the building have a larger throw, but have much less impact than what was proposed before. She said it does look like they are cut off fixtures, the color temperature is 3000. She said that is a warm color as opposed to the higher color temperature, bright white ones.

P. Paicos said the Board conducted a site walk last Friday. All members said that it was useful and informative.

P. Paicos said the NOI for this project will be before Conservation next week. He noted that a lot of site work is being done, including a lot of tree clearing. He said he has expressed concerns about the impact on wildlife, since the project will eliminate a

wildlife corridor. Everything that they can do to mitigate that will be beneficial to the animals.

M. Taylor said she has not received any public comments and there was no one in the audience that wished to comment.

P. Paicos started to review the Site Plan Decision Criteria. M. Taylor pulled this up on her screen.

Chapter 97-9 Special Regulations

- (6) Decision Criteria: The Planning Board shall approve an application for site plan review if it finds that the Applicant has submitted sufficient information from which it can determine that the proposed project will:
 - (a) Minimize:
 - 01) The volume of cut and fill;
 - 02) The number of removed trees 6" caliper or larger;
 - 03) The area of wetland vegetation displaced;
 - 04) Soil erosion;
 - 05) The threat of air and water pollution; and
 - 06) Traffic congestion.
 - (b) Avoid removal of existing stone walls or, where removal is required, minimize length of removal;
 - (c) Provide adequate stormwater management and other utilities consistent with the requirements of Newbury's Stormwater By-Law and the Planning Board's Subdivision Rules and Regulations;
 - (d) Maximize safety for pedestrians and vehicles both on the site and entering onto and egressing from it;
 - (e) Provide adequate access to each structure for fire and emergency service equipment;
 - (f) Minimize obstruction of scenic views from publicly accessible locations;
 - (g) Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
 - (h) Minimize intrusion of glare from headlights and site lighting on surrounding properties;
 - (i) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
 - (j) Prevent contamination of groundwater from any source;
 - (k) Enhance the appearance of the property to the greatest degree possible by means of landscaping and other site amenities;
 - (l) Minimize impacts of the use on adjacent properties through regulation of hours of operation, deliveries, noise, rubbish removal, and on-site storage;
 - (m) Ensure compliance with the provisions of Newbury's Zoning By-Law, including parking and signs.

Notwithstanding the above, regulation of uses and structures referred to in G.L. c. 40A, § 3 (exemptions from zoning) shall be limited to the extent allowed under said section of the General Laws.

P. Paicos then asked each of the Board members for their thoughts on each of these criteria, starting with (a).

L. Murphy said it seems fairly obvious that they are going to come close to clear cutting this lot and doing a lot of cut and fill. He said he wonders if the developer could talk about what they can do to minimize that.

K. Whitney said that they are doing the least they can with the property to make it usable for their needs.

L. Murphy said to the other items under (a) that Conservation would be dealing with the wetlands and he sees no issue with traffic congestion.

G. Morse said he follows suit with L. Murphy's comments.

L. Matthews asked, regarding the cut and fill and removal of trees, whether the Applicant will be able to use any of that material on site, such as ledge as part of the erosion control or drainage system.

K. Whitney said that everything that they will be cutting will be reused on the site. The topsoil will be screened and reused. He said maybe C. York could answer the question about ledge being used for drainage.

C. York said he thinks that some of the ledge will be blasted into such a small size that it can be reused for fill on the site.

K. Whitney said they will also be reusing any boulders they find on site. He said they can use boulders for the shorter retaining walls that do not have to be engineered.

W. Knight said he has no issues.

M. Stohn said she is reassured that attention will be paid to these issues.

P. Paicos asked M. Taylor if she had any concerns. M. Taylor asked K. Whitney to confirm that cut and fill will be balanced, and that nothing is going to be imported to or exported from the site.

K. Whitney said they are intending to use as much as possible. He said he is not sure if they will be able to use all of the rock, since he doesn't know how much they are going to get. There may be a small amount of export. M. Taylor asked for confirmation that he doesn't see the need to bring any fill onto the site. K. Whitney said they would only be bringing in standard building materials. He noted there will be displacement for the foundation and the septic system and that they will be bringing in sand and that sort of material.

M. Taylor said she wants to make sure the Board understands that the site is going to pretty much be leveled and that there will be a nine or ten foot high wall around the wetlands. That is going to be a significant change from the existing grades.

M. Taylor then said she has a question about the grading along the edge at Boston Road and noted that she does not see contours in the right-of-way (ROW) where the grade is going to be brought down. She said this came up in Joe Serwatka's peer review comments, and it is not clear how the grades are going to be blended in from the site into the right-of-way.

C. York said he had originally shown the grading in the ROW but then J. Serwatka had a comment about not showing contours, so he said he showed the grading tying in on their property line. He said it will all be blended in. He brought up the plans on the screen for viewing. M. Taylor said it seemed like some of the contour lines died and she didn't see the contour numbers in that area. C. York went through the contours in that area on the plan.

M. Taylor asked about the two lines that ended without seeming to tie into existing grades. C. York said it is going to be pretty flat in that area.

P. Paicos asked how high the knoll will be between the right of way and the property. C. York replied that it is going to be flat.

M. Taylor said that is what she is getting at – the existing contours are unclear and there is still going to be grading in the ROW.

K. Whitney asked C. York about the grade at the top of the knoll. C. York replied about 30 feet, six feet higher than the road. He said ultimately he should show the 24 foot line into the right of way the way he had it before.

P. Paicos asked how that works when someone is going to significantly reduce grades within the right of way.

M. Taylor said that is a discussion she wants to have with James Sarette, DPW Director. She doesn't know if it is something that has to go before the Select Board or if the Planning Board has authority over that.

P. Paicos said he recalled talking about a knoll that Applicant was going to put plantings on to screen the site.

C. York said that they discussed an artificial berm to block the parking lot with some planting once the area was flattened.

M. Taylor said that is not what you are showing right now. C. York said no, that is not shown, but could be shown on the final plans.

M. Taylor said we also have an existing stone wall along the edge of the right-of-way that the Town wants to have retained. K. Whitney said they definitely want to keep the wall as well. M. Taylor said that the work intended for this area needs to be a little more clarified and refined.

L. Matthews asked what the average grade of the property would be when grading was complete. P. Paicos said he believes elevation 24. C. York confirmed. M. Taylor noted that the property is coming down from a high of 32 feet and up from a low of 14 feet.

M. Taylor said a public hearing would be needed for any trees to be removed within the right of way. She said she thinks it would be helpful to show the ones that are of decent caliper that will be coming out in the plan – per the By-Law any tree over six inch caliper to be removed needs to be identified. She said she would follow up with the Tree Warden on his requirements as well.

L. Murphy said in reference to (b) as he recalls there is a stone wall that comes in from the east, he asked what they intend to do. K. Whitney said whatever portion that needs to be removed for grading they intend to put back in place as it is now. P. Paicos clarified that where grading needs to be done, they would be removing the stone wall and recreating it.

In reference to (c), L. Murphy said he assumes the applicant has complied with any comments from the Peer Reviewer. M. Taylor said yes.

In reference to (d), G. Morse asked about the sightlines. C. York said that they have enough clear distance from both driveways, at least 200 feet in both directions. He noted that they are across the street from the Transfer Station exit.

P. Paicos asked if the driveway across from the Transfer Station exit would be an entrance or an exit. K. Whitney said either driveway could be used as an entrance or an exit, but that they had set that one up to be a good exit.

L. Matthews said her view on this is that one driveway should be an entrance and the other an exit and asked why the driveways couldn't be set up to be one way in and one way out. She said that, from the way trucks would maneuver on the site, it makes sense to have the northeasterly driveway be the exit. K. Whitney replied that for trucks it does make sense but for vehicles going into the office the other driveway makes sense as an exit.

L. Matthews said from what she understands the parking out front will not be taken full advantage of. K. Whitney said that is correct.

W. Knight said he only sees the work that will be done in the ROW as helping with sight lines.

In regards to (e) L. Matthews asked if there is going to be a fire hydrant located in the vicinity. K. Whitney replied that as far as he knows there is no fire hydrant on that road

and that there is no Town water in that location. M. Taylor confirmed that there is no public water line in that area. C. York said that they are proposing to have a well.

M. Taylor said she assumes the building is going to be sprinkled. K. Whitney said no, it is under the square footage requirement for that.

G. Morse asked if the Fire Chief has looked at this, because he may want a cistern. K. Whitney said he hasn't had any contact with the Fire Chief. M. Taylor said she has not gotten any comments from the Chief, but that she would reach out.

In reference to (h) G. Morse asked if there was any lighting on the edge of the Landfill. P. Paicos said currently there is not, but maybe there will be once the solar project goes in. M. Taylor said she doesn't recall seeing any lighting on the plans for that.

W. Knight said he was glad to see that the lights are 3K and that they are pointed down.

M. Stohn asked about the relevance of this since there are no surrounding properties. P. Paicos replied that the concern is about light scatter, since that has been an issue with the contiguous property. The impact of sight lighting is weather dependent and lighting affects the night sky.

M. Taylor said in reference to (i) that it might be helpful to have a better rendering of what the color of the building might be, since it is still showing up as pink in the drawings. K. Whitney said he was waiting to move forward with building designs until he got this site plan approved.

L. Murphy asked in reference to (j) whether all comments from their Peer Reviewer had been satisfied. M. Taylor replied yes.

G. Morse asked what (k) means in this context, since the Landfill is across the street. P. Paicos said he thinks some plantings are proposed. C. York said the plans show some landscaping out front, but not too much.

M. Taylor noted that the parking is right up against the building and asked if anyone has concerns about that and if some sort of landscape barrier between the parking area and the building would be appropriate. K. Whitney replied that for maintenance purposes he would prefer to not have a landscape buffer there. He said they are full size parking spaces and there will be enough area to walk in between the vehicles and the building.

Referring to (m), P. Paicos asked if they have discussed signs at all and noted that he didn't recall seeing anything on the plans. M. Taylor said a sign is proposed, but doesn't remember seeing any designs for it. C. York said he just has a note on the plan that shows a sign out front, that just says, "Proposed business sign, shall meet all applicable zoning regulations."

M. Taylor said typically they do get signage design as part of the package. P. Paicos asked if that would be an illuminated sign. K. Whitney replied that they don't plan on an

illuminated sign and that what they would actually like to do is salvage a piece of granite and do an engraved sign. He said that is why they don't really have a design.

L. Murphy said he thought a condition of approval could be that the parking and signage would comply with the Newbury Zoning bylaws.

M. Taylor asked to go back to (l) to talk about hours of operation so that everyone is clear on that. K. Whitney said their typical hours of operation are 6 a.m. to 6 p.m. M. Taylor asked if that would be Monday through Friday. K. Whitney replied yes. M. Stohn asked about weekend hours. K. Whitney replied that for the most part they are closed on weekends, but that he may occasionally go there on weekends to work in his office.

L. Matthews asked whether lighting and seasonal changes would affect the operation's hours. K. Whitney said that they could, but that he wouldn't want to have that as a condition of approval.

P. Paicos asked M. Taylor if she had made a summary of their concerns. She said yes.

P. Paicos said that K. Whitney still has to cross the hurdle of Conservation and noted that the Commission's meeting was scheduled for the next week. He asked the Board if they thought it was appropriate for M. Taylor to start drafting a Decision. All members agreed. G. Morse noted that it should be drafted with the understanding there may be some changes brought in by Conservation.

Motion: A motion was made by L. Murphy and seconded by G. Morse to direct M. Taylor to begin to draft a Decision for the Site Plan Review Application for a new office building and site contractor storage, 84 Boston Road (Map R36, Lot 23A); Applicant: K & R Construction Company; Owner: Sled Road, LLC, Kevin Whitney & Ryan Greenwich, Managers. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes.

Motion: A motion was made by G. Morse and seconded by L. Murphy to continue the Public Hearing - Site Plan Review Application for a new office building and site contractor storage, 84 Boston Road (Map R36, Lot 23A); Applicant: K & R Construction Company; Owner: Sled Road, LLC, Kevin Whitney & Ryan Greenwich, Managers to February 17 at 7:15 p.m.. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes.

F. Proposed Zoning Amendments for Spring 2021 ATM

M. Taylor said that Town Counsel has been retained to do an overhaul of Newbury's Zoning. She said that will be something that takes some time.

In the meantime there are a few items that are critical to get done, including special permit regulations. She said there are some uses that have regulations, but there are a lot of uses allowed by Special Permit, but that there are no specific regulations with which to review them.

She added that there are a couple of amendments that they have had on their table that they tried to put forth last year, including lot dimensions and wireless regulations.

She said that the Annual Spring Town Meeting is tentatively scheduled for April 27, 2021. She noted that with that target date and the process that is set out in Mass. General Law, the Board would need to refer any proposed Zoning Amendments to the Select Board by their February 17, 2021 meeting, which was a tight time frame. She said might be workable for one, or maybe two, amendments.

The Board discussed how to complete drafts of these amendments. They discussed receiving input from the Building Commissioner, Conservation Agent, and Town Counsel.

The Board took a look at the Special Permit Regulations draft.

L. Murphy asked what the term “social structures” meant. He said he thinks it is ambiguous and should be replaced or removed. M. Taylor said she believes the intent was to include more specific surrounding areas to the property, such as a property that is in the commercial highway district but it is on the edge of the residential agricultural district. She agrees that it is ambiguous.

The Board agreed that it should be removed or replaced with more descriptive language. L. Murphy suggested that he review and come back with a few alternatives at the next meeting.

M. Taylor pointed out some other edits that had been made to the document.

M. Taylor said that she would like to get feedback from Town Counsel about the wireless amendments before moving forward. She said there are some valid concerns about wireless coverage in town. The Board discussed some of the issues, such as lack of coverage and placement of towers, that need to be worked out.

G. Planning Board Deadlines

M. Taylor said the other item to discuss was regulations regarding application deadlines. She said part of this involves setting hard and fast deadlines for when materials will be accepted for inclusion on a meeting agenda. The other part is timing for submission of draft applications to M. Taylor for review prior to filing a new application with the Board.

P. Paicos said that L. Murphy had been working on some language. L. Murphy said that in preparing his draft, he looked at the Select Board’s deadlines for Newbury and Andover. He said he is not sure what the Board will have to do to adopt this regulation and whether or not a public hearing would be required.

M. Stohn asked about the exceptions to the deadlines that L. Murphy had put in his draft regulation. L. Murphy said that this could simply state that exceptions would be at the

discretion of the Chair. The Board agreed that this allows for clear parameters with a little bit of wiggle room.

A motion made by L. Matthews and seconded by G. Morse to adjourn the Planning Board meeting at 9:11 p.m. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes.

Respectfully Submitted,

Emily Noble
Planning Board Administrator