

Meeting Minutes
Newbury Planning Board
Wednesday, February 1, 2023
Virtual Meeting via Zoom

Final – Approved at Planning Board Meeting March 1, 2023

Members Present: Peter Paicos (Acting Chair); Woody Knight; George Morse; Leslie Matthews
Members Absent: Larry Murphy
Staff Present: Martha Taylor, Planning Director; Kristen Grubbs, Assistant Planner

Planning Board Chair Larry Murphy was absent so Peter Paicos served as Acting Chair. Paicos opened the Planning Board (PB) meeting at 7:00 p.m. Paicos took a roll call and all board members and staff listed were stated to be present.

Opening Statement from Chair: Paicos announced that this February 1, 2023 Open Meeting of the Newbury Planning Board was being conducted remotely in accordance with Chapter 107 of the Acts of 2022, 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, 2023. 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. Paicos 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. Paicos 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, Paicos turned to the agenda.

A. Appearances/Submissions:

- 1. Tom Zahoruiko, Zendko, LLC: Submission of ANR Plan to create a non-buildable parcel, Parcel A, from Lot #7 (2 Fieldstone Lane, Assessors Map R02, Lot 13G) of the 15 Coleman Road OSRD; Owner/Applicant: Tom Zahoruiko, Zendko, LLC**

At 7:06pm, Paicos welcomed Tom Zahoruiko of 4 High St, North Andover. Zahoruiko asked Planning Director Martha Taylor to display the 2 Fieldstone Lane ANR plan on the shared screen. Zahoruiko explained that this is one of the final steps in his previously permitted Open Space Residential Subdivision (OSRD) project at 15 Coleman Road. He is requesting an “Approval Not Required” endorsement of the plan to carve off the small, unbuildable parcel which includes the “Witchstone” or “Father Stone” historic marker, from Lot 7 (2 Fieldstone Lane). He will then convey this parcel to the Newbury Historical Commission on behalf of the Town

Zahoruiko explained it was relatively straight forward and that he had discussed this conveyance with both the Planning Board and the Historical Commission previously. Taylor explained that this is being done to satisfy one of the conditions in the OSRD approval, to protect the historic stone in perpetuity, and that it was determined that the best way to do this was to convey the parcel in fee to the town’s Historical Commission for their stewardship.

Paicos asked if the PB members had any questions. Morse stated no. Matthews thanked the applicant for protecting this “jewel in our town” and had no questions. Knight stated no questions. Paicos repeated the Board’s thanks for preserving this “noteworthy” piece of the community. Zahoruiko thanked the Board and requested that if the ANR plan could be signed tomorrow that would be very helpful for his project.

Motion: Matthews made the motion to endorse the ANR Plan to create a non-buildable parcel, Parcel A, from Lot #7 (2 Fieldstone Lane, Assessors Map R02, Lot 13G) of the 15 Coleman Road OSRD. Morse seconded the motion. There was no further discussion. Paicos took a roll call vote of the PB members: Morse, Matthews, Knight, Paicos – all yes.

- B. January 2023 Financial Report:** Paicos read the January 2023 financial report into the record.
- C. Planning Director’s Report:** Paicos requested Taylor begin the Planning Director’s report. Taylor stated that the Town’s required Action Plan for compliance with the MBTA Communities Multifamily Zoning legislation was submitted to the State by the January 31st deadline, and the Town now will begin the process of hiring a consultant to assist with development of the MBTA zoning initiative.

Taylor and Paicos then welcomed Kristen Grubbs to her first PB meeting as the Town’s Assistant Planner, having begun employment in this position on January 30. Taylor reported that she and Grubbs visited the active development at 68 Green St and would be conducting site visits of other active PB projects in the next few days.

- D. Public Hearings:** At 7:15pm, Paicos opened the two scheduled Public Hearings, and stated that they would be conducted concurrently:

Concurrent Public Hearings – 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**

Knight read both public hearing notices. Taylor confirmed that the Applicant had provided proof of publication in the *Newburyport Daily News* on January 16 & January 23, 2023, and proof of mailing to the abutters on the certified abutters list.

Paicos then asked Bob Griffin and Mike McNiff to present the 170 Orchard St project. McNiff gave a brief background and explained that he has been helping the Bulgaris family with planning for the property for the past two years. The family had farmed the land since the 1800s. The parcel is currently enrolled in Chapter 61A tax status for active agriculture. After consideration of a number of options for the property, the current project proposes a 4-lot subdivision. McNiff concluded with the opinion that this is the best outcome for the family and hopefully acceptable to the Town.

Griffin shared his screen to present the application and project plans (documents listed above). The property is a 20.57-acre parcel, located in the agricultural-residential district. As shown on the plans, the lot is long and deep with nearly 2100-foot-long side lot line, wetlands on the SW side, and undeveloped forest located at the back of the lot behind the open field/farm land. In the fall of 2022, the applicant renewed a previously approved wetlands resource delineation (“ANRAD”) with the Newbury Conservation Commission. The applicant said that there is no designated riverfront on the property but it is close.

Griffin explained he had come before the Planning Board last summer for an informal discussion of two conceptual plans, one showing 4 lots and one showing 5 lots. At that time, the Board had expressed a preference for the 4-lot plan over the 5-lot plan. Griffin then proceeded to review the Definitive Subdivision plans on the screen share.

The project proposes:

- A. A new 500-ft long cul-de-sac off of Orchard Street
- B. Four new single-family residences with associated driveways off the new road, septic systems, utilities, and landscaping, served by public water supply
- C. A stormwater management system to treat stormwater runoff from buildings, driveway, and new road
- D. A 500-ft long, 20-ft wide common driveway for Lots 3 and 4

As described in more detail on the application, the project is requesting six waivers:

1. Section 117-18C Environmental Analysis;
2. Section 117-23D General Layout & Dimensions
3. Section 117-21 Street Location & Alignment
4. Section 117-24 Typical Roadway Cross-Section
5. Section 117-35 Sidewalks/Bikeways
6. Section 117-42 Trees

Griffin stated that the existing conditions plan shows the topography of the site as well as the wetlands delineation and 100-foot buffer line. Griffin stated that they intend to file for review of the project by the Conservation Commission after they finish up with the Planning Board review. He explained they intend to save the big tree in the middle of the field area of the parcel, and intend to retain the forested north-east buffer of the property, located behind the Pearson Drive house lots. The new roadway is proposed to be a private way with a homeowner association for maintenance. All lots meet the frontage and lot size requirements, with lot 4 including the excess land for a total of approximately 16 acres.

Griffin displayed the plans for the common driveway to be shared by lots 3 and 4 for approximately 500 ft. He noted that the project team conducted perc testing in the fall of 2022 which was witnessed by the Newbury Health Agent and septic sites were approved by the Board of Health. He explained that the septic for Lot 4 is to be piped behind Lot 3 with the leach field for Lot 4 located behind the Lot 2 house site. He pointed out the hydrant sites and water line shown on the plans. A stormwater management drainage area is proposed to be located near what is labeled as "old ruins" on the site plan, an old foundation from the former barn on the property. He further described the stormwater management plan, infrastructure, and proposed plantings. The stormwater report has been provided to the Planning Board and will also be of interest to the Conservation Commission.

Griffin concluded his presentation saying he was happy to address any questions.

After Griffin finished his presentation, Paicos asked each Planning Board member whether he or she had any questions for the applicant. Morse asked about lighting at the road entrance and thanked the applicant for the presentation.

Matthews asked whether the land is still being farmed and who is farming it. Applicant was not sure but stated it has been planted with corn. Matthews asked additional questions about the width of the road, if fire trucks could pass safely, and about the stormwater management. She asked if a traffic study has been done.

Griffin replied that he did not think a traffic study was warranted as there is good visibility on Orchard St and it is wide enough for the safe entrance and exit for the 4 proposed houses. Matthews asked about the septic system arrangement between Lots 2 & 4. Griffin said that due to the high groundwater table and sandy soils it will be necessary to use pumps and to elevate the septic systems and leach fields.

Knight asked whether the property was enrolled in the real estate tax category of Chapter 61A which is allowed for active agriculture. Griffin stated it is in Chapter 61A and it is up to the owners when to withdraw the property but he thought that would occur after the Planning Board process. Knight asked about the septic systems and about protecting vegetation at the back of the lots where they abut to Pearson Drive houses. Griffin stated that the effluent pipe that runs behind Lot 3 is a 2-inch diameter and won't require much excavation, and that they intend to leave the vegetation in the buffer as it is.

Paicos said he appreciated that the project proposed the new road to be a private way. He also expressed concerns about when the Chapter 61A Notification of Intent to change use will be addressed. He affirmed the Board's interest in preserving abutting forest and buffer areas as protection for the abutters.

Paicos asked Taylor whether the project needs to be reviewed by the Conservation Commission at the same time as the Planning Board review. Taylor stated that generally yes, concurrent review by the two boards is good if possible.

Morse asked additional questions about the septic systems. Paicos asked about the access road and the stone wall along the driveways of the abutters on Orchard St. Griffin said the stone wall is right on the property line. Paicos asked if the 16acre parcel was intended to not be further divided? Griffin confirmed that it was not to be divided further. Paicos asked about the elevated septic areas and Griffin explained they have to be elevated due to Title V regulations but they would try to do some landscaping to screen them. Griffin explained that because this project is new construction they are not eligible for any waivers from the Board of Health.

Paicos asked Taylor if she had any questions or comments. Taylor reiterated PB questions about Chapter 61A and buffer areas. She asked the applicant to provide a planting and landscaping plan for the cul-de-sac island and other areas.

Matthews asked if the stormwater management would address the extensively wet property once the roads and homes are constructed. Griffin explained that the built wetland areas will treat and slow the flow of water across the property.

Taylor summarized comments she had received from other town staff. Written comments from the police chief and fire chief were shared (attached). The DPW director stated his preference for the road staying private. The Health Director stated she did witness the perc tests. The Building Commissioner did not have any comments. The Conservation Agent said the project will need review by the Conservation Commission.

Taylor said she had received one email from a resident at 21 Pearson Drive which had been shared with the Board and the applicant.

Paicos opened up the meeting for public comment.

Channing Howard, as Chair of the Newbury Historical Commission, stated that the stone foundation on the property was part of the original Longfellow family's barn, but that it has no particular architectural importance and the Historical Commission has no jurisdiction on the property.

Howard, as a resident of 61 Central St, expressed concern about the road width and hydrant locations, noting that the road should be 24 feet wide and the fire hydrant should not be located at the intersection of the new road and Orchard Street. Howard also commented that the applicant has asked for 6 waivers and asked the PB to consider if these waivers are in the public interest.

Scott & Valerie Melanson of 173 Orchard St were in attendance. Mr. Melanson commented about the traffic on the road and disagreed with the applicant's comments about not needing a traffic study. He said cars fly up the hill on Orchard Street and it is a dangerous area with many bikers. He also stated they would not be happy with headlights shining directly into their house from cars exiting the proposed new road onto Orchard Street.

Helen Martocchio of 24 Orchard St expressed concerns about traffic and safety.

Howard asked if he could hear the comments from the police chief. Taylor read the comments.

Jerome Strazzulla of 172 Orchard St. asked about the new road layout and whether overgrown and dead trees will all be removed. He stated that the old foundation near the back of his property currently has 18 inches to 2 feet of standing water. He questioned how much water there will be after the area is developed. Griffin responded they will need to clear along the lot line for the roadway and that there will be an infiltration trench to capture water. He said it shouldn't look like a pond but there will be saturated soil. Strazzulla stated he has a dry property now and wants to keep it that way with no new water issues.

Pete Mack of 168 Orchard St. expressed concerns in regards to the water issues and confirmed the water table is very high. His basement has two sump pumps, cycling on regular basis. He asked how the proposed septic areas will affect groundwater. He attested to issues with traffic, saying the location of the site entrance, up a hill and on a bend at the crest of the hill, currently has issues with oncoming traffic, and there have been a few accidents. Griffin reiterated there shouldn't be any new issues with groundwater and he doesn't feel the new road will be a particularly difficult place to enter the street.

Strazzulla asked about the electric pole at the base of the new road, and Griffin replied it looks like it can remain where it is.

Paicos asked if the PB had any further questions. Matthews said she would like to see a traffic study done for safety reasons. Knight asked if there could also be screening done for the new road for the abutters.

A date for the Planning Board site walk was set for Tuesday, February 21, at 11am. Taylor requested that the applicant have centerline stakes along the roadway. Direct abutters were invited to the site walk which is for information gathering but will have no public discussion.

Seeing no further comments, Paicos asked for a motion to continue the Definitive Subdivision Plan public hearing to March 1, 2023, at 7:15pm. Knight so moved; Matthews seconded. Roll call vote was taken with all members in favor.

Paicos then asked for a motion to continue the Common Driveway Special Permit public hearing to March 1, 2023, at 7:15pm. Morse so moved; Matthews seconded. Roll call vote was taken with all members in favor.

E. New Business:

1. 15 Coleman Road OSRD, Tom Zahoruiko, Manager, Zendko, LLC: Review of deed for Parcel A

Taylor explained she had received a draft of the deed for conveyance of the Parcel A “Witchstone Lot” parcel from the applicant’s attorney and had sent it to the PB members and to Town Counsel for review. The applicant will need to discharge mortgages on the house lot 7, and to amend the home owner’s association documents. Mr. Zahoruiko confirmed that his attorney is in communication with Town Counsel to resolve the issues. The PB members voted to approve the deed pending legal approval and acceptance by the Historical Commission. Matthews made the motion and Knight seconded. Roll call vote was taken with all members in favor.

F. Planning Director’s Report (continued from earlier in the meeting): Taylor completed the Planning Director’s Report with updates about active development projects that will be coming back to the Board for modifications due to on-site construction issues.

G. Liaison Reports:

- Select Board: Matthews reported the recent SB meeting was 5 minutes long with no new topics.
- ZBA: no report because liaison PB member Larry Murphy was not present.
- Conservation Commission: Paicos reported the Commission will be meeting next week.
- MVPC: Taylor said the most recent MVPC Planners meeting included some discussion of the MBTA legislation. She said the regional Hazard Mitigation Plan Update and Housing Production Plan Update will be kicking off soon.

With no further agenda items, Paicos asked for a motion to adjourn the meeting. Matthews moved to adjourn the meeting and Morse seconded. A roll call vote was taken and all members took a voted in favor.

The meeting was adjourned at 8:40pm.

Materials reviewed at the meeting:

- “Plan of Land, 2 Fieldstone Lane, Town of Newbury (Byfield)”; prepared for Owner: Zendko, LLC, 4 High Street, North Andover, MA 01845; surveyed by Joseph I Levesque III, PLS, Levesque Geomatics, Inc. 43 Glendale Road, Sturbridge, MA; dated 12/07/2021
- “Definitive Subdivision Plan for Fields Way,” 170 Orchard Street, Newbury, MA, January 2023; Prepared for Owner/Applicant: The Estate of Lewis Bulgaris, c/o Dianne Yurkavich, 2 Lavalley Lane, Newburyport, MA 01915; prepared by Robert H. Griffin, Griffin Engineering Group, LLC, 495 Cabot Street, 2nd Floor, Beverly, MA 01915; dated 1/4/23.
- “Application for Definitive Subdivision Plan & Common Driveway Special Permit for Fields Way (4-Lot Residential Subdivision), Assessor’s Map R-20, Parcel 43A - 170 Orchard Street”, prepared by Griffin Engineering Group, LLC, dated January 4, 2023.

Respectfully Submitted,

Kristen Grubbs
Assistant Planner